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A bill to be entitled

An act relating to the Florida Keys Aqueduct Authority, Monroe County; providing for codification of special laws relating to the Florida Keys Aqueduct Authority; providing legislative intent; codifying, repealing, amending, and reenacting chapters 76-441, 77-604, 77-605, 80-546, 83-468, 84-483, 84-484, 86-419, 87-454, 98-519, 2003-304, and 2003-327, Laws of Florida; providing for liberal construction; providing a savings clause in the event any provision of the act is deemed invalid; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Florida Keys Aqueduct Authority. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the Authority, including all current legislative authority granted to the Authority by its several legislative enactments and any additional authority granted by this act. It is further the intent to preserve all Authority powers and authority in the Florida Keys, including the authority to provide water and wastewater services.

Section 2. Chapters 76-441, 77-604, 77-605, 80-546, 83-468, 84-483, 84-484, 86-419, 98-519, 2002-337, 2003-304, and 2003-327, Laws of Florida, relating to the Florida Keys Aqueduct

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Authority, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Florida Keys Aqueduct Authority is re-created and the charter for the Authority is re-created and reenacted to read:

Section 1. Creation of Authority; boundaries defined.--As of September 15, 1976, the Florida Keys Aqueduct Authority, an independent special district, was re-created and thereafter was the successor agency to the Florida Keys Aqueduct Authority which was abolished by chapter 76-441, Laws of Florida. The Florida Keys Aqueduct Authority is not being re-created by this act or for purposes of section 189.404, Florida Statutes. The primary purpose and function of this Authority shall be to obtain, supply, and distribute an adequate water supply for the Florida Keys and to collect, treat, and dispose of wastewater in the Florida Keys. The geographic jurisdiction of the Authority shall be as provided in this act. The Florida Keys Aqueduct Authority shall be an autonomous public body corporate and politic and have perpetual existence. All lawful debts, bonds, obligations, contracts, franchises, promissory notes, audits, minutes, resolutions, and other undertakings of the Florida Keys Aqueduct Authority are hereby validated and shall continue to be valid and binding on the Florida Keys Aqueduct Authority in accordance with their respective terms, conditions, covenants, and tenor. Any proceedings heretofore begun by the Florida Keys Aqueduct Authority for the construction of any improvements, works, or facilities, for the assessment of benefits and damages, or for the borrowing of money shall not be impaired or

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voided by this act but may be continued and completed in the name of the Florida Keys Aqueduct Authority. The Authority shall include within its territorial boundaries all of the lands within Monroe County, but may procure water outside its boundaries for sale within said boundaries, and may serve customers residing within 1 mile of its pipeline, from its well field at Florida City in Miami-Dade County to the territorial boundary of the Authority.

Section 2. Applicability of certain provisions of Florida law to the Florida Keys Aqueduct Authority.--This act shall give the Authority exclusive jurisdiction over the setting of rates, fees, and charges of, and the connection to and disconnection from, the water system and the sewer system of the Authority as granted by this act and to this extent shall supersede chapter 367, Florida Statutes. Decisions made by the Florida Keys Aqueduct Authority shall not be subject to the Administrative Procedures Act, chapter 120, Florida Statutes.

Section 3. Definitions.--Unless the context shall indicate otherwise, the following words as used in this act shall have the following meanings:

(1) "Authority" means the Florida Keys Aqueduct Authority hereby constituted or if such Authority shall be abolished, any board, commission, or officer succeeding to the principal functions thereof or upon whom the powers given by this act to such Authority shall be given by law.

(2) "Board" means the board of directors of the Florida Keys Aqueduct Authority or, if such Authority shall be abolished, the board, body, or commission succeeding to the

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principal functions thereof or to whom the powers given by this act to the board of directors shall be given by law.

(3) "Department" means the Department of the Navy of the United States of America.

(4) "Bond" includes certificates, and provisions applicable to bonds shall be equally applicable to certificates. "Bond" includes any obligation in the nature of bonds as are provided for in this act as the case may be.

(5) "Cost" when used with reference to any project includes, but is not limited to, the expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction; the cost of surveys, estimates, plans, and specifications; the cost of acquisition, construction, or reconstruction; the cost of improvements, engineering, fiscal, and legal expenses and charges; the cost of all labor, materials, machinery, and equipment; the cost of all lands, properties, rights, easements, and franchises acquired; federal, state, and local taxes and assessments; financing charges; the creation of initial reserve and debt service funds; working capital; interest charges incurred or estimated to be incurred on moneys borrowed prior to and during construction and acquisition and for such period of time after completion of construction or acquisition as the board of directors may determine; the cost of issuance of bonds pursuant to this act, including advertisements and printing; the cost of any election held pursuant to this act and all other expenses of issuance of bonds; discount, if any, on the sale or exchange of bonds; administrative expenses; such other expenses as may be necessary

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or incidental to the acquisition, construction, or reconstruction of any projects or to the financing thereof, or the development of any lands of the Authority; and reimbursement of any public or private body, person, firm, or corporation of any moneys advanced in connection with any of the foregoing items of cost. Any obligation or expense incurred prior to the issuance of bonds in connection with the acquisition, construction, or reconstruction of any project or improvements thereon, or in connection with any other development of land that the board of directors of the Authority shall determine to be necessary or desirable in carrying out the purposes of this act, may be treated as part of such cost.

(6) "Project" means any development, improvements, property, utility, facility, works, enterprise, service, or convenience that the Authority is authorized to construct, acquire, undertake, or furnish for its own use or for the use of any person, firm, or corporation owning, leasing, or otherwise using the same for any profit or nonprofit purpose or activity and shall include without limitation such repairs, replacements, additions, extensions, and betterments of and to any project as may be deemed necessary or desirable by the board of directors to place or to maintain such project in proper condition for the safe, efficient, and economic operation thereof.

(7) "Water system" means any existing or proposed plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of

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sources, treatment, desalination, or purification and distribution of water for public or private use and, without limiting the generality of the foregoing, includes dams, reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all real and personal property and any interests therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof. It shall embrace wells for supplying water located or to be located on the Florida mainland, including a pipeline or aqueduct from such wells to a point at or near the City of Key West, and shall include the water distribution system acquired by the Authority from the City of Key West, and any interest the Authority may have in and to the water supply system or any part thereof by contract with the department.

(8) "Sewer system" means any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, without limitation, industrial wastes resulting from any processes of industry, manufacture, trade, or business or from the development of any natural resources, and, without limiting the generality of the foregoing, shall include treatment plants, pumping stations, lift stations, valve, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances

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and equipment, all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith, and all real and personal property and any interest therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof. The terms "wastewater" and "wastewater system" shall be construed as synonymous with the terms "sewer" and "sewer system" for all purposes under this act.

Section 4. Board of directors; organization; qualification; term of office; quorum.--The Board of Directors of the Florida Keys Aqueduct Authority shall be the governing body of the Authority and shall, subject to the provisions of this act, exercise the powers granted to the Authority under this act. The board of directors shall consist of five members appointed by the Governor who shall each represent one of five districts which shall be conterminous with the districts of the Board of County Commissioners of Monroe County. Each member of the board of directors shall be a registered elector within Monroe County and shall have been a resident of the district for 6 months prior to the date of his or her appointment. The members shall be appointed by the Governor for terms of 4 years each, except that any appointment to fill a vacancy shall be for the unexpired portion of the term. The board shall elect any one of its members as chair and shall also elect any one of its members as secretary-treasurer. A majority of the members of the board shall constitute a quorum. No vacancy in the board shall impair the right of a quorum to exercise all the rights and

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perform all of the duties of the board. All members of the board shall be required to be bonded. Any vacancy occurring on the board shall be filled by appointment by the Governor for the duration of the unexpired term.

Section 5. Records of board of directors.--The board of directors shall keep a permanent record book entitled "Record of Governing Board of Florida Keys Aqueduct Authority" in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and bonds given by employees and any and all acts, which book shall at reasonable times be open to public inspection. Such record book shall be kept at an office or other regular place of business maintained by the board of directors in Monroe County. The board shall keep a current inventory of all real and tangible personal property owned or leased by the Authority in the above referenced record book.

Section 6. Compensation of the board.--Each member shall be entitled to receive for such services a fee of \$337 per meeting, not to exceed 3 meetings per month. In addition, each board member shall receive reasonable expenses which shall not be in excess of the amounts provided by law for state and county officials in chapter 112, Florida Statutes. The compensation amount for the members of the board provided for in this section shall be adjusted annually based upon the index provided for pursuant to section 287.017(2), Florida Statutes.

Section 7. Bonds; depositories; fiscal agent; budget.--

(1) Each member of the board of directors shall execute a bond to the Governor in the amount of \$10,000 with a qualified surety to secure his or her faithful performance of his or her

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powers and duties. The board of directors shall require a certified audit of the books of the Authority at least once a year at the expense of the Authority. Such audit shall be available for public inspection and a notice of the availability of the audit shall be published in a newspaper published in Monroe County at least once within 6 months after the end of each fiscal year. The legislative auditor may audit the Authority at any time.

(2) The board of directors is authorized to select depositories in which the funds of the board and of the Authority shall be deposited. Any banking corporation organized under the laws of the state or under the National Banking Act doing business in the state upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

(3) The board of directors may employ a fiscal agent who shall be either a resident of the state or a corporation organized under the laws of this or any other state and who shall assist in the keeping of the books, the collection of fees, and the remitting of funds to pay maturing bonds and coupons and perform such other or additional services and duties as fiscal agent and receive such compensation as the board of directors may determine.

(4) The board of directors shall cause a copy of the proposed budget of the Authority to be published in a newspaper published in Monroe County at least once not later than 60 days prior to the date the fiscal year begins. The board shall hold a

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public hearing and adopt such budget at least 30 days prior to such date.

Section 8. Powers and duties of the board of directors.--Except as otherwise provided in this act, all of the powers and duties of the Authority shall be exercised by and through the board of directors. Without limiting the generality of the foregoing, the board shall have the power and authority to:

(1) Employ engineers, contractors, consultants, attorneys, auditors, agents, employees, and representatives, as the board of directors may from time to time determine, on such terms and conditions as the board of directors may approve, and fix their compensation and duties.

(2) Maintain an office at such place or places as it may designate.

(3) Enter or direct entry upon any lands, premises, waters, or other property subject to the requirements of due process as to privately owned property.

(4) Execute all contracts and other documents, adopt all proceedings, and perform all acts determined by the board of directors as necessary or advisable to carry out the purposes of this act. The board may authorize the chair or vice chair to execute contracts and other documents on behalf of the board or the Authority. The board may appoint a person to act as general manager of the Authority having such official title, functions, duties, and powers as the board may prescribe. The general manager shall not be a member of the board.

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Section 9. Powers of the Authority.--In addition to and not in limitation of the powers of the Authority, it shall have the following powers:

(1) To sue and be sued by its name in any court of law or in equity.

(2) To adopt and use a corporate seal and to alter the same at pleasure.

(3) To acquire property, real, personal, or mixed within or without its territorial limits in fee simple or any lesser interest or estate by purchase, gift, devise, or lease on such terms and conditions as the board of directors may deem necessary or desirable and by condemnation (subject to limitations herein below). The Authority shall provide information and assistance to Monroe County for use in preparing its comprehensive plan with respect to the availability of water and wastewater facilities. Except in cases of emergency, the purchase of sole source items, or when the board determines that delay would be detrimental to the interests of the Authority, equipment shall be purchased in accordance with part I of chapter 287, Florida Statutes. All provided that the board of directors determines that the use or ownership of such property be necessary in the furtherance of a designated lawful purpose authorized under the provisions of this act. However, the Authority may purchase equipment or material without competitive bid, regardless of price, when the manufacturer of such equipment or material refuses to bid on the equipment or material and the board determines that the public interest would be served and substantial savings would result if the equipment

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or material were purchased directly from the manufacturer. In all such cases the board shall enter a record of such purchase in the "Record of Governing Board of Florida Keys Aqueduct Authority." The Authority is specifically excluded from the provisions of section 253.03(6), Florida Statutes, and has the authority to hold title to property in its own name and to acquire easements or rights-of-way, with or without restrictions, within or without the limits of the Authority. The state may convey to the Authority rights-of-way over any of the lands and structures belonging to the state or any of its agencies for the purpose of constructing, maintaining, supplying, establishing, and regulating the works and projects involved in the wastewater system or the water supply and distribution systems authorized by this act. To mortgage, hold, manage, control, convey, lease, sell, grant, or otherwise dispose of the same and any of the assets and properties of the Authority without regard to chapter 273, Florida Statutes.

(4) Whenever deemed necessary or desirable by the board of directors, to lease as lessor or lessee, to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the Authority is authorized to undertake and facilities or property of any nature for the use of the Authority to carry out any of the purposes of the Authority.

(5) The Authority shall in its discretion have the power upon resolution duly passed to insure its property in accordance with the State Risk Management Trust Fund as provided by chapter 284, Florida Statutes.

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(6) To exercise within or without the territorial limits of the Authority the right and power of eminent domain in all cases and under all circumstances provided for in chapter 73, Florida Statutes, and amendments thereto. In addition to and not in limitation of the foregoing, the Authority may also exercise the right and power of eminent domain for the purpose of condemning any real, personal, or mixed property, public or private, including, without limitation, the property owned by any political body or municipal corporation which the board of directors shall deem necessary for the use of, construction, or operation of any of the projects of the Authority or otherwise to carry out any of the purposes of the Authority. The power of condemnation shall be exercised in the same manner as now provided by the general laws of the state. In any proceeding under this act or under chapter 73, Florida Statutes, for the taking of property by eminent domain or condemnation, the board of directors is authorized to file declaration of taking immediate possession of the property before the final trial by making deposit as to value as provided by the general statutes, and shall have all of the benefits provided by chapters 73 and 74, Florida Statutes, and amendments thereto, or any other statutes of the state which give the right to immediate taking and possession. No public or private body and no agency or authority of the state or any political subdivision thereof shall exercise the power of eminent domain or condemnation with respect to any of the properties, easements, or rights owned by the Authority and lying within the Authority's jurisdiction,

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except with the concurrence of the board of directors of the Authority which shall not be unreasonably withheld.

(7) To own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve water systems; to regulate the use of and supply of water including rationing, and regulations to enforce rationing, within the Authority boundaries, and pipes and water mains, conduits or pipelines, in, along, or under any street, alley, highway, or other public places or ways within or without the boundaries of the Authority when deemed necessary or desirable by the board of directors in accomplishing the purposes of this act.

(8) To issue bonds or other obligations authorized by the provisions of this act or any other law or any combination of the foregoing to pay all or part of the cost of the acquisition or construction, reconstruction, extension, repair, improvement, maintenance, or operation or any project or combination of projects. To provide for any facility, service, or other activity of the Authority and to provide for the retirement or refunding of any bonds or obligations of the Authority or for any combination of the foregoing purposes.

(9)(a) To purchase, construct, and otherwise acquire and to improve, extend, enlarge, and reconstruct a sewage disposal system or systems and to purchase and/or construct or reconstruct sewer improvements and to operate, manage, and control all such systems so purchased and/or constructed and all properties pertaining thereto and to furnish and supply sewage collection and disposal services to any municipalities and any persons, firms, or corporations, public or private; to prohibit

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or regulate the use and maintenance of outhouses, privies, septic tanks, or other sanitary structures or appliances within the Authority boundaries, provided that prior to prohibiting the use of any such facilities adequate new facilities must be available; to prescribe methods of pretreatment of waste not amenable to treatment; to refuse to accept such waste when not sufficiently pretreated as may be prescribed and to prescribe penalties for the refusal of any person or corporation to so pretreat such waste; to sell or otherwise dispose of the effluent, sludge, or other by-products as a result of sewage treatment and to construct and operate connecting or intercepting outlets, sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, or under any street, alley, or highway, within or without the Authority boundaries when deemed necessary or desirable by the board of directors in accomplishing the purposes of this act, with the consent of the agency owning or controlling same. All such regulation herein authorized shall comply with the standards and regulations pertaining to same as promulgated by the Department of Health and by the Department of Environmental Protection.

(b) The Authority shall have the power to create sewer districts comprising any area within the geographic boundaries of the Authority. However, the boundaries of any such sewer district shall not be established until approved by majority vote of the Board of County Commissioners of Monroe County, after a public hearing duly noticed and advertised. Any portion or portions of the sewer system within a district and of benefit to the premises or land served thereby shall be deemed

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improvements and shall include, without being limited to, laterals and mains for the collection and reception of sewage from premises connected therewith, local or auxiliary pumping or lift stations, treatment plants or disposal plants, and other pertinent facilities and equipment for the collection, treatment, and disposal of sewage. The board may impose fees and charges sufficient to obtain bond or other financing for sewer projects. Such charges shall be a lien upon any such parcel of property superior and paramount to any interest except the lien of county or municipal taxes and shall be on a parity with any such taxes. All operational and financial records of each district shall be separately maintained and open to public inspection.

(c) To exercise exclusive jurisdiction, control, and supervision over any sewer systems owned or operated and maintained by the Authority and to make and enforce such rules and regulations for the maintenance and operation of any sewer systems as may be in the judgment of the Authority necessary or desirable. However, such jurisdiction shall not conflict with chapter 403, Florida Statutes, and rules of the Department of Environmental Protection.

(d) To restrain, enjoin, or otherwise prevent the violation of this law or of any resolution, rules, or regulations adopted pursuant to the powers granted by this law.

(e) To require and enforce the use of its facilities whenever and wherever they are accessible.

(f) To approve or disapprove all subdivision plats and to provide for compliance with sewer standards, rules, and

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regulations. No subdivision plat or property located within the geographic boundaries of the Authority shall be recorded until approval of the board is obtained. The board shall have the power to require a surety bond from any developer to ensure compliance with sewer requirements of the board.

(g) In addition to the other provisions and requirements of this law, any resolution authorizing the issuance of revenue bonds, assessment bonds, or any other obligations issued hereunder may contain provisions and the Authority Board is authorized to provide and make covenants and agree with several holders of such bonds as to:

1. Reasonable deposits with the Authority in advance to ensure the payments of rates, fees, or charges for the facilities of the system.

2. Discontinuance of the services and facilities of any water system for delinquent payments for sewer services and the terms and conditions of the restoration of such service.

3. Contracts with private or public owners of sewer systems not owned and operated by the Authority for the discontinuance of service to any users of the sewer systems.

4. Regulate the construction, acquisition, or operation of any plant, structure, facility, or property which may compete with any sewer system.

5. The manner and method of paying service charges and fees and the levying of penalties for delinquent payments.

6. Any other matters necessary to secure such bonds and the payment of such principal and interest thereof.

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(h) In the event that fees, rates, and charges for services and facilities of any sewer system shall not be paid as and when due, the Authority shall be empowered to discontinue furnishing water services as provided in section 16 of this act.

(i) Any sewer systems within the geographic boundaries of the Authority may be combined into a single consolidated system for purposes of financing or of operation and administration or both. However, no water system may be combined with any sewer system for purposes of financing.

(j) The Authority is hereby authorized to adopt by reference and utilize or take advantage of any of the provisions of chapters 100, 153, 159, and 170, Florida Statutes.

(k) The Authority shall have power to contract with any person, private or public corporation, the State of Florida, or any agency, instrumentality or county, municipality, or political subdivision thereof, or any agency, instrumentality or corporation of or created by the United States of America, with respect to such wastewater system or any part thereof. The Authority shall also have power to accept and receive grants or loans from the same, and in connection with any such contract, grant or loan, to stipulate and agree to such covenants, terms, and conditions as the governing body of the Authority shall deem appropriate.

(l) To make or cause to be made such surveys, investigations, studies, borings, maps, drawings, and estimates of cost and revenues as it may deem necessary, and to prepare and adopt a comprehensive plan or plans for the location,

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relocation, construction, improvement, revision and development of the wastewater system.

(m) That subject to covenants or agreement with bondholders contained in proceedings authorizing the issuance of bonds pursuant to this act, the Authority shall have the power to lease said wastewater system or any part or parts thereof, to any person, firm, corporation, association, or body, upon such terms and conditions and for such periods of time as shall be determined by the governing body. The Authority shall also, whenever desirable, have power to grant permits or licenses in connection with any of the facilities of such wastewater system, and shall have full and complete power to do all things necessary and desirable for the proper and efficient administration and operation of such wastewater system and all parts thereof. The Authority shall also have power, whenever deemed necessary or desirable and subject to covenants and agreements with bondholders, to lease from any person, firm, corporation, association, or body, any facilities of any nature for such wastewater system.

(n) That charges shall be levied by the Authority against its own books or against Monroe County with respect to providing any facilities or services rendered by such wastewater system to the Authority or to Monroe County or to any other political subdivision or public body or agency which receives wastewater system services, or to any department or works thereof, at the rate or rates applicable to other customers or users taking facilities or services under similar conditions. Revenues

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derived from such facilities or services so furnished shall be treated as all other revenues of the wastewater system.

(o) Neither Monroe County, nor any municipality or special district therein, shall exercise any present or future power, pursuant to law, to interfere with the Authority's jurisdiction and operation of the wastewater system in such a manner as to impair or adversely affect the covenants and obligations of the Authority under agreement relating to its bonds or other debts.

(p) The Authority shall have exclusive jurisdiction over the administration, maintenance, development, and provision of wastewater system services in Monroe County with the exception of the Key Largo Wastewater Treatment District as defined in chapter 2002-337, Laws of Florida, consisting of Key Largo, including all lands east of Tavernier Creek, including Tavernier, Key Largo, and Cross Key, but excluding Ocean Reef, the City of Key West, the City of Key Colony Beach, the City of Layton, and Islamorada, Village of Islands unless such areas shall choose to grant the Authority such jurisdiction, and the Authority's wastewater system authorized hereunder shall be the exclusive provider of wastewater system services and no franchise or grant of power to any other entity or provider shall be lawful unless preapproved by the Authority. The Authority shall have the power to regulate the use of, including prohibiting the use of or mandating the use of, specific types of wastewater facilities and, notwithstanding any other provisions hereof, shall be authorized to prescribe the specific type of wastewater treatment facility or measures required to be utilized within the boundaries of the Authority, including, but

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not limited to, requiring the use of septic tanks in lieu of cess pits, the mandatory hook up to specific wastewater treatment plants, requiring upgrades be undertaken to on site wastewater systems, and any other combination of the foregoing in order to manage effluent disposal and wastewater matters.

(10) In addition to the powers specifically provided in this chapter, the Authority shall have the power to own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve such other related projects as the board of directors may in its discretion find necessary or desirable to accomplish the primary purpose of this act which is to supply water and sewer services and facilities to the Florida Keys. The Authority is hereby authorized to adopt by reference and utilize or take advantage of any of the relevant provisions of chapter 100, chapter 153, chapter 159, or chapter 170, Florida Statutes.

Section 10. Rules.--Upon reasonable advance notice to the public and an opportunity for all persons to be heard on the matter, the board shall adopt bylaws, rules, resolutions, regulations, and orders prescribing the powers, duties, and functions of the members of the board and employees of the Authority, the conduct of the business of the Authority, the maintenance of records of the Authority, and shall adopt administrative rules and regulations with respect to any of the projects of the Authority.

Section 11. Exercise by Authority of powers within municipalities.--The Authority shall have the power to exercise any of its rights, powers, privileges, and authorities in any and all portions of the geographical limits of the Authority

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lying within the boundaries of any municipal corporation or other political subdivision, heretofore or hereafter created or organized, whose boundaries lie wholly or partly within the geographic limits of the Authority, to the same extent and in the same manner as in areas of the Authority not incorporated as part of a municipality or other political subdivision.

Section 12. Furnishing facilities and services within the Authority territory.--

(1) The Authority shall have the power to construct, maintain, and operate its projects within the geographic limits of the Authority, including any portions of the Authority located inside the boundaries of any incorporated municipalities or other political subdivisions and to offer, supply, and furnish the facilities and services provided for in this act.

(2) The Authority shall have the power to collect fees, rentals, and other charges from persons, firms, corporations, municipalities, counties, the Federal Government, the department, political subdivisions, and other public or private agencies or bodies within the geographic limits of the Authority and for the use of the Authority itself.

Section 13. Maintenance of projects across rights-of-way.--The Authority shall have the power to construct and operate its projects in, along, or under any streets, alleys, highways, or other public places or ways, and across any drain, ditch, canal, floodwater, holding basin, excavation, railroad right-of-way, track, grade, fill, or cut. However, just compensation shall be paid by the Authority for any private property taken or damaged by the exercise of such power.

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Section 14. Fees, rentals, and charges; procedure for adoption and modification; minimum revenue requirements.--

(1) The Authority shall have the power to prescribe, fix, establish, and collect rates, fees, rentals, or other charges (hereinafter sometimes referred to as revenue) and to revise the same from time to time for the facilities and services furnished or to be furnished by the Authority and to provide for reasonable penalties against any user for any such rates, fees, rentals, or other charges that are delinquent.

(2) Such rates, fees, rentals, and charges shall be just and equitable and, except as provided herein, uniform for users of the same class and, where appropriate, may be based or computed either upon the amount of service furnished or upon the number or average number of persons working or residing or working or otherwise occupying the premises served or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors as may be determined by the board of directors on an equitable basis. The Authority may prescribe, fix, and establish a special lower rate, fee, rental, or other charge on the residential account of any person who is 60 years of age or older or a totally and permanently disabled American veteran on the date of application, who meets the low income standards adopted by the board and who applies for such special lower rate, fee, rental, or other charge between the months of January and December, inclusive, of each year. As used in this section "residential account" means an account for a person residing in a house, mobile home, condominium, apartment, or other housing unit. The

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application shall include the submission of an affidavit stating that the applicant is 60 years of age or older or a totally and permanently disabled American veteran . The submission of the affidavit shall be prima facie evidence of the applicant's age or disability. The application shall also include the annual income of the applicant.

(3) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues at least sufficient to provide for the items hereinafter listed but not necessarily in the order stated:

(a) To provide for all costs, expenses of operation, and maintenance of such facility or service for such purpose.

(b) To pay, when due, all bonds and interest thereon for the payment of which such revenues are or shall have been pledged or encumbered, including reserves for such purposes.

(c) To provide for any other funds which may be required on the resolution or resolutions authorizing issuance of bonds pursuant to this act.

(4) No rate, fee, rental, or other charge may be established resulting in increased costs for service to the customer nor may any rate, fee, rental, or other charge be increased by the Authority until a public hearing has been held relating to the proposed increase in the City of Key West, and in the Marathon and the upper Keys areas. However, if the proposed rule affects wastewater only in a single wastewater district and affects rates, fees, or other charges that could result in increased costs of service to the customer, no rate, fee, rental, or other charge may be increased by the Authority

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until two advertised public hearings have been held relating to the proposed increase at a site convenient to the public located in the district area. Such public hearings shall not occur within 15 days of each other.

Section 15. Recovery of delinquent charges.--In the event that any of the rates, fees, rentals, charges, or delinquent penalties shall not be paid as when due and shall be in default for 30 days or more, the unpaid balance thereof and all interest accrued thereon together with attorneys' fees and costs may be recovered by the Authority in a civil action and in accordance with any covenant in any bond indenture of the Authority. The board shall have the authority to impose a service charge in accordance with section 832.07(1)(a), Florida Statutes upon the maker or drawer of any check, draft, or order in payment of any such rate, fee, rental, charge or delinquent penalty, for which payment is refused by the drawee because of lack of funds or credit.

Section 16. Discontinuance of service.--In the event that the fees, rentals, or other charges for the services and facilities of any project are not paid when due, the board of directors shall have the power to discontinue and shut off the same until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off or discontinuance and the restoration of such services and facilities, are fully paid, and for such purposes may enter on any lands, waters, and premises of any person, firm, corporation, or other body, public or private. Such delinquent fees, rentals, or other charges together with interest,

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penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorneys' fees and other expenses may be recovered by the Authority by suit in any court of competent jurisdiction. The Authority may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

Section 17. Remedies.--Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State of Florida or granted hereunder or under such resolution or trust indenture, and may enforce or compel performance of all duties required by this act or by such resolution or trust indenture to be performed by the Authority or any officer thereof, including the fixing, charging, and collecting of rates and other charges for both water furnished by the waterworks system and wastewater treatment furnished by the wastewater system.

Section 18. Receiver.--

(1) In the event that the Authority shall default in the payment of the principal of or the interest on any of the bonds as the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 45 days, or in the event that the Authority or the officers,

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agents, or employees of the Authority shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the bonds, any holder of bonds, subject to the provisions of the resolution authorizing the same or the trust indenture, or the trustee therefor, shall have the right to apply in any appropriate judicial proceeding to the Circuit Court in any court of competent jurisdiction, for the appointment of a receiver of the waterworks system, excluding however, the aqueduct, whether or not all bonds shall have been declared due and payable and whether or not such holder or trustee is seeking or has sought to enforce any other right or to exercise any other remedy in connection with such bonds, and, upon such application, the court may appoint such receiver.

(2) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of such portion of the waterworks system and may exclude the Authority, its officers, agents, and employees and all persons claiming under them, wholly therefrom and shall have, hold, use, operate, manage, and control the same in the name of the Authority or otherwise, as the receiver may deem best, and shall exercise all the rights and powers of the Authority with respect thereto as the Authority itself might do. Whenever all defaults shall have been cured and made good, the court may, in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of such property to the Authority. The

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same right to secure the appointment of a receiver shall exist upon any subsequent default as hereinabove provided.

(3) Notwithstanding anything in this section to the contrary, any such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the Authority and useful for the waterworks system, and the authority of any such receiver shall be limited to the operation and maintenance of such portion of the system as may be placed in receivership and no court shall have jurisdiction to enter any order or decree requiring or permitting such receiver to sell, mortgage, or otherwise dispose of any such assets.

Section 19. Agreements with public and private parties concerning the furnishing of facilities and services.--The Authority shall have the power to enter into agreements with any person, firm, or corporation, public or private, for the furnishing by such person, firm, or corporation of any facilities and services of the type provided for in this act to the Authority, and for or on behalf of the Authority to persons, firms, corporations, and other public or private bodies and agencies to whom the Authority is empowered under this act to furnish facilities and services.

Section 20. Exclusive jurisdiction of projects and finances.--

(1) The board of directors shall have exclusive jurisdiction and control, except as otherwise provided herein and as to the quality and manner of discharge of effluent, over the projects of the Authority without limitation as to

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expenditures and appropriations except to the extent otherwise provided in this act and to the extent that the board of directors may by agreement with any other public or private body authorize the same to exercise jurisdiction or control of any of the projects of the Authority. It shall not be necessary for the Authority to obtain any certificate of convenience or necessity, franchise, license, permit, or authorization from any bureau, board, commission, or like instrumentality of the state or any political subdivision thereof in order to construct, reconstruct, acquire, extend, repair, improve, maintain, or operate any project and the rates, fees, or other charges to be fixed and collected with respect to the facilities and service of the Authority shall not be subject to supervision, regulation, or the rate-setting power of any bureau, board, commission, or other agency of the state or any political subdivision thereof.

(2) Except as otherwise provided in this act, the budget and finances of the Authority, including without limitation expenditures and appropriations, and the exercise by the board of directors of the powers herein provided, shall not be subject to the requirements or limitations of chapter 216, Florida Statutes.

Section 21. Revenue bonds.--

(1) The Authority shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by or payable from the gross amount or net pledge of the revenues to be derived from any project or combination of projects from the rates, fees, or other charges

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to be collected from the users of any project or projects from any revenue-producing undertaking or activity of the Authority or from any other source or pledged security. Such bond shall not constitute an indebtedness of the Authority.

(2) Any two or more projects may be combined and consolidated into a single project and may thereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one or more such projects separately or to finance two or more such projects regardless of whether such projects have been combined and consolidated into a single project. If the board of directors deems it advisable, the proceedings authorizing such revenue bonds may provide that the Authority may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the Authority, and that revenue bonds to be thereafter issued by the Authority shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and limitations as shall be provided and may further provide that the revenues to be derived from the subsequent projects shall at the time of the issuance of such parity revenue bonds be also pledged to the holders of any revenue bonds theretofore issued to finance the revenue undertakings which are later combined with such subsequent projects. The Authority may pledge for the security of the revenue bonds a fixed amount without regard to any proportion of the gross revenues of any project.

Section 22. Refunding bonds.--The Authority shall have the power to issue bonds to provide for the retirement or refunding

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of any bonds or obligations of the Authority that at the time of such issuance are or subsequently thereto become due and payable or that at the time of issuance have been called or will be subject to call for redemption within 10 years thereafter or the surrender of which can be procured from the holders thereof at prices satisfactory to the board of directors. Refunding bonds may be issued at any time when in the judgment of the board of directors such issuance will be advantageous to the Authority. The board of directors may, by resolution, confer upon the holders of such refunding bonds all rights, powers, and remedies to which the holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which said refunding bonds are issued.

Section 23. Lien of pledges.--All pledges of revenues and assessments made pursuant to the provisions of this act shall be valid and binding from the time when such pledges are made. All such revenues and assessments so pledged and thereafter collected shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof.

Section 24. Issuance of bond anticipation notes.--In addition to the other powers applied for in this act and not in limitation thereof, the Authority shall have the power at any time and from time to time after the issuance of any bonds of the Authority shall have been authorized, to borrow money for

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the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal amount not in excess of the authorized maximum amount of such bond issues. Such notes shall be in such denominations and bear interest at such rate or rates, mature at such time or times not later than 5 years from the date of issuance and be in such form and executed in such manner as the board of directors shall prescribe. Such notes may be sold at either public or private sale or if such notes shall be renewable, notes may be exchanged for notes then outstanding on such terms as the board of directors shall determine. Said notes shall be paid from the proceeds of such bonds when issued.

Section 25. Short term borrowing.--The Authority at any time may obtain loans in such amount and on such terms and conditions as the board of directors may approve for the purpose of paying any of the expenses of the Authority or any costs incurred or that may be incurred in connection with any of the projects of the Authority, which loan shall have a term not exceeding 3 years from the date of issuance thereof and may be renewable for a like term or terms, shall bear interest not in excess of the prevailing rate available for loans of similar terms and amounts at commercial lending institutions licensed by the Federal Government or the State, may be payable from and secured by a pledge of such funds, revenues, and assessments as the board of directors may determine. For the purpose of defraying such costs and expenses the Authority may issue negotiable notes, warrants, and other evidences of debts signed

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on behalf of the Authority by any one of the board of directors to be authorized by the board.

Section 26. Trust agreements.--In the discretion of the board of directors, any issue of bonds may be secured by a trust agreement by and between the Authority and a corporate trustee or trustees which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreements may pledge the revenues to be received from any projects of the Authority and may contain such provision for protecting and enforcing the rights and remedies of the bondholders as the board of directors may approve, including without limitation covenants setting forth the duties of the Authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any project, the fixing and revising of the rates, fees, and charges and the custody safeguarding and application of all moneys, and for the employment of counseling engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, and operation. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board of directors may provide for the payment of proceeds from

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the sale of the bonds and the revenues of any project to such officer, board, or depositories as it may designate for the custody thereof, and for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provision of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

Section 27. Sale of bonds.--Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds shall be sold at public sale after advertisement, but not in any event at less than 95 percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Bonds may be delivered as payment by the Authority of the purchase price or lease of any project or part thereof or a combination of projects or parts thereof or as the purchase price or exchanged for any property, real, personal or mixed, including franchises or services rendered by any contractor, engineer, or other person at one time or in blocks from time to time and in such manner and upon such terms as the board of directors in its discretion shall determine.

Section 28. Authorization and form of bonds.--The Board may by resolution authorize the issuance of bonds on either a negotiated or competitive bid basis, fix the aggregate amount of bonds to be issued, the purpose or purposes for which the moneys derived therefrom shall be expended, the rate or rates of interest. The denomination of bonds, whether or not the bonds

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are to be issued in one or more series, the date or dates thereof, the date or dates of maturity, which shall not exceed 40 years from their respective dates of issuance, the medium of payment, place or places within or without the state where payment shall be made, registration, privileges (whether with or without premium), the manner of execution, the form of the bonds, including any interest coupons to be attached thereto, the manner of execution of bonds and coupons, and any and all other terms, covenants and conditions thereof, and the establishment of reserve or other funds.

Section 29. Interim certificates, replacement certificates.--Pending the preparation of definitive bonds, the board of directors may issue interim certificates or receipts or temporary bonds, in such form and with such provision as the board of directors may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board of directors may also provide for the replacement of any bonds which shall become mutilated or be lost or destroyed.

Section 30. Negotiability of bonds.--Any bond issued under this act and any interim certificate, receipt, or temporary bond shall, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant, the U.C.C. and the laws of the State of Florida.

Section 31. Bonds as legal investment or security.--Notwithstanding any provisions of any other law to the contrary, all bonds issued under provisions of this act

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shall constitute legal investments for savings banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries, and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute securities which may be deposited by banks or trust companies as security for deposit of the state, county, municipal, or other public funds, or by insurance companies.

Section 32. Validity of bonds.--Any bonds issued by the Authority shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defects in the proceedings for the issue and sales thereof. However, the Authority is not required to obtain approval of the Bond Review Board as provided by chapter 215, Florida Statutes.

Section 33. Pledge by the State of Florida to the bondholders of the Authority and to the Federal Government.--The State of Florida pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the Authority, to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy rentals, rates, fees, or other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, that it will not in any way impair the rights or remedies of the holders, and that it will not modify in any way the exemption for taxation provided in the act, until all such bonds, together with interest thereon, and all costs and expenses in connection with any action or proceeding by or

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on behalf of such holders, are fully met and discharged. The State of Florida pledges to and agrees with the Federal Government that in the event the Federal Government or any agency or authority thereof shall construct or contribute any funds, materials, or property for the construction, acquisition, extension, improvement, enlargement, maintenance, operation, or furnishing of any project of the Authority, or any part thereof, the state will not alter or limit the rights and powers of the Authority in any manner which would be inconsistent with the continued maintenance and operation of such project, or any part thereof, on the improvement thereof, or which would be inconsistent with due performance of any agreement between the Authority and the Federal Government, and the Authority shall continue to have, and may exercise, all powers herein granted so long as the board of directors may deem the same necessary or desirable for carrying out the purposes of this act and the purposes of the Federal Government in the construction, acquisition, extension, improvement, enlargement, maintenance, operation, or furnishing of any projects of the Authority or any part thereof.

Section 34. Contracts, grants, and contributions.--The Authority shall have the power to make and enter into all contracts and agreements necessary or incidental to the performance or functions of the Authority and the execution of its powers, and to contract with, and to accept and receive grants or loans of money, material, or property from any person, private or public corporation, the State of Florida, or any agency or instrumentality thereof, any county, municipality, or

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other political subdivision, or any agency, instrumentality, or corporation of or created by the United States of America, or the United States of America, as the board of directors shall determine to be necessary or desirable to carry out the purpose of this act, and in connection with any such contract, grant, or loan to stipulate and agree to such covenants, terms, and conditions as the board of directors shall deem appropriate.

Section 35. Tax exemption.--As the exercise of the powers conferred by this act to effect the purposes of this act constitute the performance of essential public functions, and as the projects of the Authority will constitute public property used for public purposes, all assets and properties of the Authority and all bonds issued hereunder and interest paid thereon and all fees, charges, and other revenues derived by the Authority from the projects provided for by this act shall be exempt from all taxes by the state or any political subdivision, agency, or instrumentality thereof, except that this exemption shall not apply to interest earnings subject to taxation under chapter 220, Florida Statutes.

Section 36. Construction of Authority projects.--The board of directors shall have the power and authority to acquire, construct, reconstruct, extend, repair, improve, maintain, and operate any of the projects of the Authority, and to that end to employ contractors, to purchase machinery, to employ men to operate the same, and directly to have charge of and construct the projects of the Authority in such manner as the board of directors may determine . The Authority may undertake any such construction work with its own facilities, without public

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advertisement for bids. The board of directors shall not be permitted to let contracts for projects of the Authority or for purchases without public advertising and the receiving of bids in accordance with such terms and conditions of chapter 287, Florida Statutes. The board of directors shall let contracts to the lowest responsible bidder. However, the board may, in its discretion, reject any and all bids.

Section 37. Enforcement and penalties.--The board of directors or any aggrieved person may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to enjoin or restrain any person violating the provisions of this act and any bylaws, resolutions, regulations, rules, codes, and orders adopted under this act, and the court shall, upon proof of such violation, have the duty to issue forthwith such temporary and permanent injunctions as are necessary to prevent such further violations thereof.

Section 38. Investment of funds.--The board of directors may, in its discretion, invest funds of the Authority in:

(1) Direct obligations of or obligations guaranteed by the United States of America or for the payment of principal and interest of which the faith and credit of the United States is pledged;

(2) Bonds or notes issued by any of the following Federal agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Banks System; Federal Land Banks; or the Federal National Mortgage Loan Association (including the

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debentures or participating certificates issued by such association);

(3) Public housing bonds issued by public housing authorities and secured by a pledge of annual contributions under an annual contribution contract or contracts with the United States of America;

(4) Bonds or other interest-bearing obligations of any county, district, city, or town located in the State of Florida for which the credit of such political subdivision is pledged;
or

(5) Any investment authorized for insurers by chapter 625, Florida Statutes, inclusive and amendments thereto.

Section 39. Fiscal year of the Authority.--The board of directors has the power to establish and from time to time redetermine the fiscal year of the Authority.

Section 40. Severability of provision.--If any section, clause, sentence, amendment, or provision of this act or the application of such section, clause, sentence, amendment, or provision to any person or bodies or under any circumstances shall be held to be inoperative, invalid, or unconstitutional, the invalidity of such section, clause, sentence, amendment, or provision shall not be deemed held or taken to affect the validity or constitutionality of any of the remaining parts of this act, or amendments hereto, or the application of any of the provisions of this act to persons, bodies or in circumstances other than those as to which it or any part thereof shall have been held inoperative, invalid, or unconstitutional, and it is intended that this act shall be construed and applied as if any

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section, clause, sentence, amendment, or provision held inoperative, invalid, or unconstitutional had not been included in this act.

Section 41. Liberal construction.--The provisions of this act shall be liberally construed to effect its purposes and shall be deemed cumulative, supplemental, and alternative authority for the exercise of the powers provided herein.

Section 42. Notice.--It is found and determined that notice of intention to apply for this legislation was given in the time, form, and manner required by the Constitution and Laws of the State of Florida. Said notice is found to be sufficient and is hereby validated and approved.

Section 43. All actions of the Authority occurring prior to the effective date of this act are hereby ratified.

Section 4. Chapters 76-441, 77-604, 77-605, 80-546, 83-468, 84-483, 84-484, 86-419, 98-519, 2002-337, 2003-304, and 2003-327, Laws of Florida, are repealed.

Section 5. Rule making.--The Florida Keys Aqueduct Authority Board, as constituted herein, and any successor agency or board may adopt rules necessary to meet environmental requirements imposed by federal agencies as a condition of funding. Rules adopted by the Florida Keys Aqueduct Authority prior to effective date of this act, contained in Part 7 of the Rules of the Florida Keys Aqueduct Authority are hereby affirmed as a valid exercise of delegated legislative authority.

Section 6. This act shall take effect upon becoming a law.