

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Authority )  
to Transfer the Facilities of )  
the Sebring Lakes Subdivision of )  
HEARTLAND UTILITIES, INC. )  
in Highlands County, Florida to )  
AQUASOURCE UTILITY, INC. )  
\_\_\_\_\_ )

Docket No. 011401-WU

JOINT APPLICATION OF AQUASOURCE UTILITY, INC.  
AND HEARTLAND UTILITIES, INC.  
FOR AUTHORITY TO TRANSFER FACILITIES

AQUASOURCE UTILITY, INC. (hereinafter referred to as "AquaSource" or "Buyer") and HEARTLAND UTILITIES, INC. ("Heartland" or "Seller"), by and through their undersigned attorneys and pursuant to the provisions of Rule 25-30.037, Fla. Admin. Code and Section 367.071, Fla. Stat., file this Joint Application for authority to transfer the facilities serving the Sebring Lakes Subdivision currently owned by Heartland to Buyer. In support of this Application, Seller states:

1. The complete name and address of the Seller, is:

Heartland Utilities, Inc.  
Post Office Box 1991  
Sebring, FL 33871-1991

2. The complete name and address of the Buyer is:

AquaSource Utility, Inc.  
c/o DQE  
400 Fairway Drive, Suite 400  
Coraopolis, PA 15108-3190

DOCUMENT NUMBER-DATE

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FDSC-COMMISSION CLERK

3. The name and address of the person authorized to receive notices and communications in respect to this application is:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
2548 Blaiirstone Pines Drive  
Tallahassee, Florida 32301  
mfriedman@rsbattorneys.com

4. Buyer is a Texas corporation authorized to do business in Florida on August 25, 1998.

5. The names and addresses of Buyer's corporate officers and directors are as follows:

Frank A. Hoffman, President  
Anthony J. Villiotti, Vice-President/Chief Financial Officer  
James A. Lahtinen, Vice President  
Martin J. Stanek, Vice President  
200 Corporate Center Drive, Suite 300  
Coraopolis, PA 15108

6. Buyer currently holds the following Water and Wastewater Certificates in Florida:

A. 424-W, Highlands County  
503-S and 585-W, Polk County  
371-S and 441-W, Lake County

B. AquaSource owns the following utilities which hold Certificates in Florida:

Arredondo Utility Company, Inc.  
Crystal River Utilities, Inc.  
Jasmine Lakes Utilities Corporation  
Lake Suzy Utilities, Inc.  
Ocala Oaks Utilities, Inc.

C. Further, AquaSource owns the following utilities in non-Commission regulated counties: Peace River Heights system (Hardee County); Dolomite Utilities, Inc. (Sarasota County); Longwood Run Utilities, Inc. (Sarasota County), Kensington Park Utility, Inc. (Sarasota County), and Crystal River Utilities, Inc. (Citrus County).

7. A copy of the Asset Purchase Agreement, which includes the purchase price, terms of payment, and a list of the assets purchased and liabilities assumed and not assumed and disposition of customer deposits and interest thereon is attached hereto as Exhibit "A". This purchase is expected to close within the next 30 days.

8. There are no guaranteed revenue contracts, developer agreements, customer advances, debt of the utility, and leases that must be disposed of in association with the transfer of the Utility.

9. Buyer will purchase Seller's water system serving the Sebring Lakes Subdivision in a cash transaction financed by its parent, DQE, Inc. A copy of DQE, Inc.'s financial statements are attached hereto as Exhibit "B". In the interests of brevity, the Notes to the financial statements are not included but are available at: [www.dqe.com/investors/annual/2000.pdf](http://www.dqe.com/investors/annual/2000.pdf).

10. The transfer of the water facilities of Seller to Buyer is in the public interest for the following reasons:

(i) AquaSource and its experienced staff have been providing operation, maintenance and management services for municipal and private water utilities for more than 25 years. It has been operating in Florida since 1999. It is constantly expanding its technical capabilities and is implementing improved quality control, maintenance management, and training and safety programs. These improvements provide direct tangible benefits to utilities owned and operated by AquaSource and municipal utilities served by AquaSource. It currently provides water and wastewater service to a customer population of over 1 million individuals.

(ii) Buyer has the financial resources to provide real and significant benefits to the utility customers as the Utility's capital or operational needs demand. Therefore, the Buyer has the technical capability and the financial ability to efficiently and effectively provide high quality water service to the utility service area and the customers therein. Buyer will fulfill the commitments, obligations and representations of the Seller with regard to utility matters. For all the above stated reasons, it is in the public interest to grant approval of the transfer to Buyer.

11. The Sebring Lakes Subdivision was certificated to Seller by Order No. PSC-98-0797-FOF-WU and has never had its rate base set.

12. There is no proposal at this time for inclusion of an acquisition adjustment resulting from the current transfer.

13. The books and records of the Seller are available for inspection by the Commission and are adequate for the purposes of establishing rate base of the water system.

14. Seller will cooperate with Buyer in providing to the Florida Public Service Commission any information necessary in order for the Commission to evaluate the Utility's rate base since its last rate case referenced above.

15. After reasonable investigation, the Buyer has determined that the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by Florida Department of Environmental Protection ("DEP").

16. As part of the transfer of the utility assets, ownership of all Utility land is to be transferred to the Buyer pursuant to the Asset Purchase Agreement. A copy of the unexecuted Deed is attached to the Asset Purchase Agreement. A recorded copy of the deed transferring this property to Buyer will be filed within 30 days of Closing.

17. All outstanding regulatory assessment fees due for the year ended December 31, 2000 have been paid by Seller. Seller will be responsible for payment of all regulatory assessment fees through Closing. Buyer will be responsible for payment of all regulatory assessments fees due for revenues due from the date of Closing forward. No other fines or refunds are owed.

18. The legal description of the territory in question is attached hereto as Exhibit "C".

19. The original and two copies of revised Tariff Sheets reflecting the change in ownership are attached hereto as Composite Exhibit "D".

20. Water Certificate Number 424-W will be late filed.

21. An Affidavit that the actual notice of the application was given to the entities on the list provided by the Commission in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, is filed herewith as Exhibit "E".

22. An Affidavit that the actual notice of the application was given to the each customer in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, is filed herewith as Exhibit "F".

23. An Affidavit that the notice of the application was published once in a newspaper of general circulation in the territory in accordance with Rule 25-30.030, Florida Administrative Code, will be filed as Late Filed Exhibit "G".

24. The water system has the capacity to serve less than 500 ERCs. Pursuant to Rule 25-30.020(c), Florida Administrative Code, the appropriate filing fee is \$750.

Respectfully submitted on this  
30th day of October, 2001, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877-6555

By:   
MARTIN S. FRIEDMAN

aqua\heartland\transfer.app

**AFFIDAVIT**

STATE OF Pennsylvania

COUNTY OF Allegheny

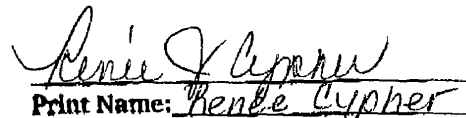
I, Martin J. Stanek, do solemnly swear or affirm

that the facts stated in the foregoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitute a complete statement of the matter to which it relates.

**FURTHER AFFIANT SAYETH NAUGHT.**



Sworn to and subscribed before me this 19th day of October, 2001, by Martin J. Stanek, who is personally known to me ~~or who provided~~ as identification.



Print Name: Renee Cypher

**NOTARY PUBLIC**

**My Commission Expires:**

Notarial Seal  
Renee J. Cypher, Notary Public  
Moon Twp., Allegheny County  
My Commission Expires Sept. 22, 2005  
Member, Pennsylvania Association of Notaries



**ASSET PURCHASE AGREEMENT**

Among

**HEARTLAND UTILITIES, INC.,**

**ITS STOCKHOLDERS**

and

**AQUASOURCE UTILITY, INC.**

**September 10, 2001**



## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement"), made as of the 10<sup>th</sup> day of September, 2001, by and among (i) HEARTLAND UTILITIES, INC., a Florida corporation ("Seller"); (ii) HOWARD SHORT and COLLEEN SHORT (collectively, "Stockholders"); and (iii) AQUASOURCE UTILITY, INC., a Texas corporation ("Buyer").

### RECITALS:

- A. Seller owns and operates a potable water production, treatment, storage, transmission and distribution system known as "Sebring Lakes Utility" (the "System"), which services Sebring, Highlands County, Florida.
- B. Stockholders own all of the issued and outstanding shares of capital stock of Seller.
- C. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, substantially all of the assets of the System, on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### SECTION 1

#### DEFINITIONS

The following terms when used in this Agreement shall have the meanings assigned to them below:

"Adjustment Amount" has the meaning specified in Section 10.2(b).

"Adjustment List" has the meaning specified in Section 10.2(b).

"Affiliate" of any Person means any other Person (a) that directly or indirectly controls, is controlled by, or is under direct or indirect common control with, the first Person, or (b) any interests of which are owned, in whole or in part, directly or indirectly, by the first Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controls," "controlled by," and "under direct or indirect control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of the Person, whether through the ownership of voting securities or by contract or otherwise.

"Arbitrator" has the meaning specified in Section 10.2(b).

“Asset Schedule” has the meaning specified in Section 2.1(a).

“Assigned Contracts” has the meaning specified in Section 2.1(d).

“Assumed Obligations” has the meaning specified in Section 2.3.

“Bill of Sale” has the meaning specified in Section 11.2(a).

“Business” means the operation of the System by Seller.

“Buyer Transaction Documents” has the meaning specified in Section 12.1.

“Buyer’s Adjustment Amount” has the meaning specified in Section 10.2(b).

“Closing” means the consummation of the transactions contemplated by this Agreement in accordance with the provisions of Section 11.1.

“Closing Date” has the meaning specified in Section 11.1.

“Closing Statement” has the meaning specified in Section 11.2(a).

“Code” means the Internal Revenue Code of 1986, as amended.

“Contracts” has the meaning specified in Section 4.9.

“Damages” has the meaning specified in Section 14.1.

“Environmental Claims” means and includes, without limitation: (a) claims, demands, suits, causes of action for personal injury or lost use of property, or consequential damages, to the extent any of the foregoing arise directly or indirectly out of Environmental Conditions; (b) actual or threatened damages to natural resources; (c) claims for the recovery of response costs, or administrative or judicial orders directing the performance of investigations, response or remedial actions under CERCLA, RCRA or other Environmental Laws; (d) a requirement to implement “corrective action” pursuant to any order or permit issued pursuant to RCRA; (e) claims for restitution, contribution or equitable indemnity from third parties or any governmental agency; (f) fines, penalties or Liens against property; (g) claims for injunctive relief or other orders or notices of violation from Governmental Authorities; and (h) with regard to any present or former employees, exposure to or injury from Environmental Conditions.

“Environmental Conditions” means conditions of the environment, including the ocean, natural resources (including flora and fauna), soil, surface water, ground water, any present or potential drinking water supply, subsurface strata or the ambient air, relating to or arising out of the use, handling, storage, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, pouring, emptying, discharging, injecting, escaping, leaching, disposal, dumping, or threatened release of Hazardous Materials by Seller. With respect to claims by employees,

Environmental Conditions also includes the exposure of Persons to Hazardous Materials within work places on any real estate owned or occupied by Seller.

“Environmental Laws” has the meaning specified in the definition of Hazardous Materials.

“Environmental Noncompliance” means, but is not limited to: (a) the release or threatened release as a result of the activities of Seller of any Hazardous Materials into the environment, any storm drain, sewer, septic system or publicly owned treatment works, in violation of any effluent emission limitations, standards or other criteria or guidelines established by any federal, state or local law, regulation, rule, ordinance, plan or order; (b) any facility operations, procedures, designs, etc. which do not conform to the statutory or regulatory requirements of the CAA, the CWA, the TSCA, the RCRA or any other Environmental Laws intended to protect public health, welfare and the environment; and (c) any condition noted in any environmental site assessments, studies, tests or reports performed or commissioned for the Real Property which is concluded therein to create or cause to exist a recognized environmental condition (or words of similar import) or to pose an environmental risk.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Escrow Amount” means \$5,000.

“Estimated Proration Schedule” has the meaning specified in Section 10.2(a).

“Excluded Assets” has the meaning specified in Section 2.2.

“GAAP” means generally accepted accounting principles in effect in the United States of America from time to time applied on a consistent basis during the periods involved.

“Governmental Authority” means any government, whether federal, state or local, or any other political subdivision thereof, or any agency, tribunal or instrumentality of any such governmental or political subdivision, or any other Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

“Hazardous Materials” means hazardous wastes, hazardous substances, hazardous constituents, toxic substances or related materials, whether solids, liquids or gases including but not limited to substances defined as “PCBs,” “hazardous wastes,” “hazardous substances,” “toxic substances,” “pollutants,” “contaminants,” “radioactive materials,” “petroleum,” or other similar designations in, or otherwise subject to regulation under, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (“CERCLA”), 42 U.S.C. § 9601 et seq.; the Toxic Substance Control Act (“TSCA”), 15 U.S.C. § 2601 et seq.; the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 9601; the Clean Water Act (“CWA”), 33 U.S.C. § 1251 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Clean Air Act (“CAA”), 42 U.S.C. § 7401 et seq.; or any similar state law; and in the plans, rules, regulations or ordinances adopted, or other criteria and guidelines promulgated pursuant to the preceding laws or other similar laws, regulations, rules or ordinances now in effect (collectively, the “Environmental Laws”); and any other substances,

constituents or wastes subject to environmental regulations under any applicable federal, state or local law, regulation or ordinance.

“Indebtedness for Borrowed Money” means (a) all indebtedness of Seller in respect of money borrowed (including, without limitation, indebtedness which represents the unpaid amount of the purchase price of any property), (b) all indebtedness of Seller evidenced by a promissory note, bond or similar written obligation to pay money, (c) all indebtedness guaranteed by Seller or for which Seller is contingently liable, including, without limitation, guaranties in the form of an agreement to repurchase or reimburse, and any commitment by which any such Person assures a creditor against loss, including contingent reimbursement obligations with respect to letters of credit, and (d) all monetary obligations of Seller under any lease or similar arrangement, which obligations would be classified and accounted for as capital obligations on a balance sheet of Seller under GAAP.

“Indemnitee” has the meaning specified in Section 14.3.

“Indemnitor” has the meaning specified in Section 14.3.

“Intellectual Property” has the meaning specified in Section 2.1(e).

“Lien” means any mortgage, pledge, hypothecation, assignment, encumbrance, claim, easement, transfer restriction, lien (statutory or otherwise) or security interest of any kind or nature whatsoever.

“Notice of Disagreement” has the meaning specified in Section 10.2(b).

“Obligations” means, without duplication, all (a) Indebtedness for Borrowed Money, (b) accrued taxes, accounts payable, accrued liabilities and all other liabilities and obligations of the type normally required by GAAP to be reflected on a balance sheet, (c) commitments by which Seller assures a creditor against loss, including the face amount of all letters of credit and, without duplication, all drafts drawn thereunder, (d) obligations guaranteed in any manner by Seller, (e) obligations under capitalized leases in respect of which obligations Seller is liable, contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person assures a creditor against loss, (f) obligations under acceptance facilities, (g) obligations secured by a Lien on property of Seller, (h) obligations under interest rate or currency exchange or swap agreements, (i) unsatisfied obligations for “withdrawal liability” to a “multiemployer plan” as such terms are defined under ERISA, (j) indebtedness issued or obligation incurred in substitution or exchange for any Obligations, (k) costs or expenses incurred by Seller of any nature, whether or not currently payable, and (l) other liabilities or obligations of Seller, in each of the foregoing instances whether absolute or contingent, known or unknown, and whether or not normally required by GAAP to be reflected on a balance sheet.

“Permits” has the meaning specified in Section 2.1(f).

“Permitted Exceptions” means those certain title exceptions which do not affect the Real Property in any material respect and which are acceptable to Buyer in its reasonable discretion.

“Person” means an individual, corporation, partnership, joint venture, joint stock company, association, trust, business trust, unincorporated organization, Governmental Authority, or any other entity of whatever nature.

“Personal Property” has the meaning specified in Section 2.1(a).

“PSC” means the Florida Public Service Commission.

“PSC Application” has the meaning specified in Section 10.1.

“Purchased Assets” has the meaning specified in Section 2.1.

“Purchase Price” has the meaning specified in Section 3.1.

“Real Property” has the meaning specified in Section 2.1(b).

“Regulatory Approval” means the approval by the PSC of the sale of the Purchased Assets and the System to Buyer, which approval shall be on terms and conditions acceptable to Buyer in its sole discretion.

“Seller Transaction Documents” has the meaning specified in Section 13.1.

“Seller’s Disclosure Schedule” has the meaning specified in Section 4.3.

“Supplemental Financial Statements” has the meaning specified in Section 6.9.

“System” has the meaning specified in the recitals to this Agreement.

“Taxes” means all taxes, charges, fees, levies, or other assessments, including income, gross receipts, excise, property, sales, transfer, license, payroll, and franchise taxes, any taxes required by law to be withheld, and any taxes payable as a result of the consummation of the transactions contemplated by this Agreement, which taxes are imposed by any Governmental Authority; and such term shall include any interest, penalties, or additions to tax attributable to such assessments.

## SECTION 2

### PURCHASE AND SALE OF ASSETS

2.1 Purchase and Sale of Purchased Assets. Subject to the terms and conditions of this Agreement, and on the basis of the representations, warranties, covenants and agreements contained in this Agreement, at the Closing, Seller agrees to sell, assign and convey to Buyer, and Buyer agrees to purchase, acquire and accept from Seller, all of the Purchased Assets. The “Purchased Assets” consist of:

(a) All the tangible personal property, improvements and fixtures of every kind or nature used or useful in the operation of the System in the ordinary course of business (the "Personal Property"), including, without limitation, the equipment, machinery, supplies, inventories, water plant, distribution system, wells, booster pumps, ground storage tanks, hydro tanks, meters, valves, piping, water mains, and other personal property described on Schedule 2.1 to this Agreement (the "Asset Schedule");

(b) All of the right, title and interest of Seller in and to any real property used or useful in the operation of the System in the ordinary course of business which are described on the Asset Schedule including, without limitation, fee simple interest in the well and plant site (consisting of approximately 8 to 10 building lots) with public roadway access thereto and necessary easements and/or rights-of-way for the distribution system and well sanitary control (the "Real Property");

(c) All of the right, title and interest of Seller in and to any water rights relating to the Real Property;

(d) All of the right, title and interest of Seller in and to those contracts, leases, licenses, memberships, agencies, permits and agreements to which Seller presently is a party or an assignee of a party which are described on the Asset Schedule (the "Assigned Contracts");

(e) All of the copyrights, trademarks, trade names, patents and other similar rights, including applications and registrations therefor, used in connection with the past or present operation of the System in which Seller has any right, title or interest, including, without limitation, those items listed on the Asset Schedule (collectively, the "Intellectual Property");

(f) All of the licenses, permits, certificates, registrations, authorizations, approvals, franchises and similar rights obtained from Governmental Authorities, a complete list of which is included on the Asset Schedule (collectively, the "Permits");

(g) All accounts and notes receivable of Seller with respect to the Business;

(h) All customer accounts, service territories and water service rights of the Business;

(i) All books, records and accounts relating to the operation of the System, subject to the right of Seller to make and retain photocopies thereof for Seller's personal use and reference and to obtain access to such books, records and accounts in accordance with the provisions of Section 2.2(a); and

(j) All other assets owned by Seller which are used or useful in connection with the operation of the System, real and personal, tangible and intangible.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, it is expressly understood and agreed that there shall be excluded from the assets transferred or assigned to Buyer the following (collectively, the "Excluded Assets");

- (a) Except to the extent included in Section 2.1(i), all of Seller's corporate books and records and other documents relating to the internal corporate affairs of Seller, and all other corporate records or files of Seller not relating to the business or operation of the System;
- (b) All cash, cash equivalents or similar type investments held by Seller, such as certificates of deposit, treasury bills and other marketable securities on hand as of the Closing;
- (c) Assets not used or useful in connection with the operation of the System; and
- (d) Assets specifically identified on Schedule 2.2 to this Agreement.

Notwithstanding the foregoing, any asset which is described above but which is actually listed on the Asset Schedule shall be a Purchased Asset and not an Excluded Asset.

2.3 Obligations. Buyer shall not assume, and shall purchase the Purchased Assets free and clear of, any and all Obligations of Seller, except that Buyer shall assume those Obligations of Seller (a) arising from and after the Closing Date (other than any liability or obligation for breach or default which occurred prior to the Closing Date) pursuant to each of the Assigned Contracts and (b) to provide utility services in connection with Buyer's operation of the Business from and after the Closing (collectively, the "Assumed Obligations").

### SECTION 3

#### PURCHASE PRICE

3.1 Purchase Price. The purchase price for the Purchased Assets shall be \$90,000, subject to adjustment as provided in Section 10.2 (the "Purchase Price"). At the Closing, Buyer shall deliver to Seller the Purchase Price, less the Escrow Amount, in cash by wire transfer of immediately available funds.

3.2 Escrow Amount. As security for the obligations of Seller and Stockholders under Section 14.1 (including without limitation obligations under Section 10.2), at the Closing Buyer shall set aside and hold in escrow the Escrow Amount.

(a) Buyer may set off against the Escrow Amount any Damages which it is entitled to recover under Section 14.1 (including without limitation Damages relating to Section 10.2), subject, however, to the following terms and conditions:

(i) Buyer shall give written notice to Seller and Stockholders of Buyer's claim for Damages, which notice shall comply with the requirements of Section 14.3; and

(ii) Such setoff shall be effected on the later to occur of the expiration of 10 days from the date of such notice or, if such claim is contested, the date the dispute is resolved.



(b) Buyer shall deliver to Seller no later than the first anniversary of the Closing Date any Escrow Amount then held in escrow unless there then remains unresolved any claim for Damages as to which notice has been given as provided in this Section, in which event a portion of the Escrow Amount which is deemed necessary to cover such claim(s) shall remain in escrow until such claims(s) shall have been resolved.

(c) The remedies provided for in this Section shall be in addition to and not in lieu of any other remedies available to Buyer under this Agreement. The size of the Escrow Amount shall not limit Buyer's ability to recover Damages from Seller.

(d) Buyer shall hold the Escrow Amount in an interest-bearing account. Interest earned on the Escrow Amount shall be added to, and be deemed part of, the Escrow Amount.

3.3 Allocation of the Purchase Price. The parties hereto shall report the transactions contemplated by this Agreement for federal and state tax purposes in a manner consistent with the allocation of the Purchase Price mutually agreed upon by Buyer and Seller.

## SECTION 4

### REPRESENTATIONS AND WARRANTIES OF SELLER AND STOCKHOLDERS

In connection with the purchase and sale of the Purchased Assets under this Agreement and in order to induce Buyer to enter into and consummate the transactions contemplated by this Agreement, Seller and Stockholders jointly and severally make the following representations and warranties to Buyer, as of the date of this Agreement and as of the date of the Closing (except for representations and warranties expressly and specifically relating to a time or times other than the date hereof or thereof, which shall be made as of the specified time or times):

4.1 Organization and Qualification. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida, and has full corporate power and authority (a) to own its assets and properties and to conduct the Business and (b) to enter into this Agreement and to consummate the transactions contemplated hereby. Seller has full power, authority and legal right and all necessary approvals, permits, licenses and authorizations to own its properties and to conduct the Business. Seller's place of business is located in the State of Florida. Seller does not own, of record or beneficially, or have the right or obligation to acquire, any capital stock or equity interest or investment in any Person. Stockholders own all of the issued and outstanding shares of capital stock of Seller.

4.2 Authority. The execution and delivery of this Agreement by Seller, the performance by Seller of its covenants and agreements hereunder and the consummation by Seller of the transactions contemplated hereby have been duly authorized by all necessary corporate action. This Agreement constitutes the valid and legally binding agreement of Seller and Stockholders, enforceable against each of them in accordance with its terms.

4.3 No Legal Bar; Conflicts. Neither the execution and delivery of this Agreement by Seller or Stockholders, nor the consummation of the transactions contemplated hereby by Seller or Stockholders, (a) violates or will violate any provision of the organizational documents of Seller; (b) violates or will violate any law, rule, regulation, writ, judgment, injunction, decree, determination, award or other order of any Governmental Authority; or (c) violates or will violate, or conflicts with or will conflict with, or will result in any breach of any of the terms of, or constitutes or will constitute a default under or results in or will result in the termination of or the creation or imposition of any Lien pursuant to, the terms of any contract, commitment, agreement, understanding or arrangement of any kind to which Seller or any Stockholder is a party or by which Seller, any Stockholder or any of the assets of Seller or any Stockholder is bound. Except for the Regulatory Approval and the consents disclosed in Schedule 4.0 to this Agreement ("Seller's Disclosure Schedule"), no consents, approvals or authorizations of, or filings with, any Governmental Authority or any other Person are required in connection with the execution and delivery of this Agreement by Seller and Stockholders and the consummation of the transactions contemplated hereby by Seller and Stockholders.

4.4 Financial Statements. Seller has delivered to Buyer the following financial statements with respect to the System: (a) the balance sheet as of December 31, 2000 and the related financial statements for the year then ended; and (b) the monthly financial statements for each month in 2000 and the first six months of 2001. Each of the foregoing financial statements (including in all cases the notes thereto, if any) (i) is accurate and complete in all material respects, (ii) is consistent in all material respects with the books and records of Seller (which, in turn, are accurate and complete in all material respects), (iii) fairly presents in all material respects the financial condition and results of operations of Seller as of the dates and for the periods set forth therein and (iv) is prepared and is consistent with the "Uniform System of Accounts for Class C Water Utilities" promulgated by the National Association of Regulatory Utility Commissioners.

4.5 Absence of Certain Changes. From January 1, 2001 until the date of this Agreement, except as disclosed in Seller's Disclosure Schedule, there has not been any (a) material adverse change in the condition of the System, financial or otherwise, or in the results of operations, assets, liabilities, business or prospects of the System; (b) damage or destruction, whether or not insured, affecting the business operations of the System; (c) labor dispute or threatened labor dispute involving any of the employees of the System; (d) actual or threatened dispute pertaining to the System with any material provider of software, hardware or services; (e) material change in the customary methods of operations of the System; (f) except in the ordinary course of business or to the extent not material to the Business or financial condition of the System, sale or transfer of any tangible or intangible asset used or useful in the operation of the System, mortgage, pledge or imposition of any Lien on any such asset, lease of real property, machinery, equipment or buildings with respect to the System entered into or modification, amendment or cancellation of any of its existing leases relating to the System, or cancellation of any debt or claim; or (g) liability or obligation (contingent or otherwise) incurred under agreements or otherwise, except current liabilities entered into or incurred in the ordinary course of business consistent with past practices.

4.6 Taxes. Except as disclosed in Seller's Disclosure Schedule, Seller has filed or caused to be filed on a timely basis all federal, state, local and other tax returns, reports and

declarations required to be filed by it with respect to the System and has paid all Taxes (including, but not limited to, income, franchise, sales, use, unemployment, withholding, social security and workers' compensation taxes and estimated income and franchise tax payments, penalties and fines) reflected as due on such returns, reports or declarations (whether or not shown on such returns, reports or declarations), or pursuant to any assessment received by it in connection with such returns, reports or declarations. All such returns, reports and declarations filed by or on behalf of Seller are true, complete and correct in all material respects. No deficiency in payment of any Taxes for any period has been asserted against Seller by any taxing authority which remains unsettled as of the date hereof, no written inquiries have been received by Seller from any taxing authority with respect to possible claims for taxes or assessments, and there is no basis for any additional claims or assessments for Taxes. Since December 31, 2000, Seller has not incurred any liability for Taxes which materially affect the operation of the System other than in the ordinary course of business. All Taxes attributable to the System or its income, operations or properties accruing up to and including the Closing have been or will be paid when due regardless of whether such Taxes are due and payable as of the Closing.

4.7 Asset Schedule. The Asset Schedule includes complete and accurate (a) listings of all Real Property; (b) listings of all Personal Property valued at \$100 or more; (c) listings of all Assigned Contracts, none of which requires any consent of third parties in connection with the transactions contemplated hereby, except otherwise as indicated in Seller's Disclosure Schedule; (d) listings of all of the Intellectual Property; and (e) listings of all of the Permits, all of the foregoing of which will, as of the Closing, be owned and/or held by Seller as reflected in the Asset Schedule.

4.8 Title to and Condition of Property.

(a) Title. Subject to the Permitted Exceptions, Seller will as of the Closing have good, marketable and exclusive title to and undisputed possession of all of the real, personal and tangible property and improvements included in the Purchased Assets. The Purchased Assets are now held free and clear of all Liens. Subject to the Permitted Exceptions, the Purchased Assets will, as of the Closing, be free and clear of all Liens.

(b) Condition. The Personal Property is structurally sound, in good operating condition, ordinary wear and tear excepted, adequate and suitable for the operation of the System as they are currently being operated, and in proper condition and repair so that the System can operate according to its Permits, the rules, regulations and policies of the PSC and in all other respects in compliance with applicable federal, state and local laws.

(c) Insurance. The Personal Property included among the Purchased Assets is and will be insured through the Closing Date in amounts adequate to replace or repair any casualty or other insurable loss to any of such property.

(d) Sufficiency of Assets. The Purchased Assets include all of the assets, of a sufficient nature, condition and quantity, necessary to permit Buyer to efficiently operate the System immediately upon the Closing. Seller has not, since December 31, 2000, removed any material item of Personal Property from the System other than removals in the ordinary course of business which were not done in contemplation of the transactions contemplated hereby.

(e) Real Property Leases. Seller does not lease, and has not leased within the past year, any real property used or useful in the operation of the System.

(f) Real Property.

(i) The Asset Schedule contains an accurate description of the location of each parcel of the Real Property and the type of facility located on each such parcel. Seller will as of the Closing have good and marketable title to the Real Property, in fee simple, subject only to the Permitted Exceptions.

(ii) None of the Real Property is subject to any covenant or restriction preventing or limiting in any respect the consummation of the transactions contemplated hereby. Seller's right, title and interest in and to the Real Property will at the Closing be held by Seller free and clear of all Liens except the Permitted Exceptions.

(iii) The use for which the Real Property is zoned permits the use thereof for the Business consistent with past practices. The use and occupancy of the Real Property by Seller are in compliance with all regulations, codes, ordinances and statutes applicable to Seller and the Business, and Seller has not received any notice asserting any material violation of sanitation laws and regulations, occupational safety and health regulations, or electrical codes.

(iv) There are no condemnation proceedings or eminent domain proceedings of any kind pending or, to the best of the knowledge of Seller and Stockholders, threatened against the Real Property.

(v) All of the Real Property is occupied under a valid and current certificate of occupancy or similar permit. There are no facts that would prevent the Real Property from being occupied and used by Buyer after the Closing Date in the same manner as immediately prior to the Closing.

(vi) The Real Property constitutes all of the real property which is owned by Seller and which is or will prior to Closing be used in the operation of the System.

4.9 Contractual and Other Obligations. Set forth in the Asset Schedule is a listing of all (a) contracts, agreements, licenses, leases, arrangements and other documents used in connection with the present operation of the System to which Seller is a party or by which Seller or any of the assets of Seller are bound (including, in the case of loan agreements, a description of the amounts of any outstanding borrowings thereunder and the collateral, if any, for such borrowings); (b) uncompleted orders for the purchase by Seller of materials, supplies, equipment and services for the requirements of the System existing as of the date hereof and with respect to which the remaining obligation of Seller is in excess of \$100; and (c) contingent contractual obligations and liabilities of Seller known to Seller existing as of the date hereof (all of the foregoing, collectively, the "Contracts"). Each of the Contracts is designated in the Asset Schedule either as an Assigned Contract, or as a Contract that will not be assigned to Buyer. Neither Seller nor, to the best of the knowledge of Seller and Stockholders, any other Person is in default in the performance of any

covenant or condition under any Contract and no claim of such a default has been made and no event has occurred which with the giving of notice or the lapse of time would constitute such a default under any covenant or condition under any Contract. Seller is not a party to any Contract which would terminate or be adversely affected by the consummation of the transactions contemplated by this Agreement. Originals or true, correct and complete copies of all of the Assigned Contracts have been provided to Buyer.

4.10 Compensation. Set forth in Seller's Disclosure Schedule is a list of (a) all agreements between Seller and its employees or other Persons providing services for compensation with regard to the System, whether individually or collectively, and (b) all employees of Seller or other Persons providing services for Seller with respect to the System entitled to receive annual compensation in excess of \$5,000 and their respective positions, job categories and salaries. The transactions contemplated by this Agreement will not result in any liability for severance pay to any such employee or other Person. Seller has not informed any such employee or other Person that such Person will receive any increase in compensation or benefits or any ownership interest in Seller or the Business. Except as disclosed in Seller's Disclosure Schedule, all current employees of Seller are "at will" employees and may be terminated at any time, without liability or obligation, except the payment of normal compensation accrued up to the time of termination of employment.

4.11 Employee Benefit Plans.

(a) Seller does not maintain or sponsor, and is not required to make contributions to or to pay benefits from, any pension, profit-sharing, savings, bonus, incentive or deferred compensation, severance pay, medical, life insurance, welfare or other employee benefit plan which affects the employees working, or who formerly worked, at the System, except as set forth in Seller's Disclosure Schedule. None of the plans, funds, policies, programs, arrangements or understandings of Seller is a "multiemployer plan" (within the meaning of Section 3(37) of ERISA). Seller's Disclosure Schedule fully discloses all of the plans, funds, policies, programs, arrangements or understandings, whether oral or written, sponsored or maintained by Seller pursuant to which any employee or former employee of the System (or any dependent or beneficiary of any such employee) might be or become entitled to (1) retirement benefits; (2) severance or separation from service benefits; (3) incentive, performance, stock, share appreciation or bonus awards; (4) health care benefits; (5) disability income or wage continuation benefits; (6) supplemental unemployment benefits; (7) life insurance, death or survivor's benefits; (8) accrued sick pay or vacation pay; (9) any type of benefit offered under any arrangement subject to characterization as an "employee benefit plan" within the meaning of section 3(3) of ERISA; or (10) benefits of any other type offered through any arrangement that could be characterized as providing for additional compensation or fringe benefits. As to any such plan, fund, policy, program, arrangement or understanding, all of the following are true with respect to the System: (A) all amounts due as contributions, insurance premiums and benefits to the date hereof have been fully paid by Seller; (B) all applicable requirements of law have been observed with respect to the establishment, operation and, if applicable, the termination thereof, and all applicable reporting and disclosure requirements have been timely satisfied; (C) no claim or demand has been made by any employee (or beneficiary or dependent of any employee) for benefits (other than routine claims for benefits), or by any taxing authority for taxes or penalties which has not been satisfied in full or which may be or become subject to litigation or arbitration; (D) any such plan represented by Seller to be a

“qualified” retirement plan satisfies, in both form and operation, the applicable requirements of Section 401(a) of the Code; and (E) any such plan may be terminated at any time without material liability resulting from such action. Seller will continue to maintain its 401(k) plan, if any, after the Closing for so long as necessary to comply with applicable law. Seller’s 401(k) plan, if any, is “qualified” under the Code, and Seller has received a favorable determination letter from the Internal Revenue Service with respect to such plan, if any.

(b) Seller has no obligation to provide health or other welfare benefits to former, retired or terminated employees, except as specifically required under Section 4980B of the Code. Seller has complied with any applicable notice and continuation requirements of Section 4980B of the Code and the regulations thereunder.

4.12 Labor Relations. There have been no material violations of any federal, state or local statutes, laws, ordinances, rules, regulations, orders or directives with respect to the employment of individuals by, or the employment practices or work conditions of, Seller, or the terms and conditions of employment, wages (including overtime compensation) and hours. Seller is not engaged in any unfair labor practice or other unlawful employment practice and there are no charges of unfair labor practices or other employee-related complaints pending or, to the best of the knowledge of Seller and Stockholders, threatened against Seller before the National Labor Relations Board, the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, the Department of Labor or any other Governmental Authority. There is no strike, picketing, slowdown or work stoppage or organizational attempt pending against or, to the best of the knowledge of Seller and Stockholders, threatened against or involving the System. No issue with respect to union representation is pending or, to the best of the knowledge of Seller and Stockholders, threatened with respect to the employees of the System.

4.13 Increases in Compensation or Benefits. Subsequent to December 31, 2000, there have been no increases in the compensation payable or to become payable to any of the employees of Seller who work solely at the System, nor has Seller paid or provided for any awards, bonuses, stock options, loans, profit-sharing, pension, retirement or welfare plans or similar or other payments or arrangements for or on behalf of such employees in each case other than (a) reasonable and customary increases made by Seller in the ordinary course of business, (b) pursuant to currently existing plans or arrangements set forth in Seller’s Disclosure Schedule or (c) as was required from time to time by governmental legislation affecting wages. The vacation policy of Seller is set forth in Seller’s Disclosure Schedule. No employee of Seller who works solely at the System is entitled to vacation time in excess of two weeks during the current calendar year and no such employee has any accrued vacation time with respect to any period prior to the current calendar year, except as set forth in Seller’s Disclosure Schedule.

4.14 Insurance. Seller maintains insurance policies covering all of its properties and assets and the various occurrences which may arise in connection with the operation of the System, each of which policies is summarized in Seller’s Disclosure Schedule. True, correct and complete copies of such policies have been provided to Buyer. Such policies are in full force and effect and all installments of premiums due thereon have been paid in full. Seller has complied with the provisions of such policies. There are no notices of any pending or threatened termination or premium increases with respect to any of such policies. There has been no casualty loss or

occurrence which may give rise to any claim of any kind not covered by insurance and Seller is not aware of any casualty occurrence which may give rise to any claim of any kind not covered by insurance. No third party has filed any claim against Seller for personal injury or property damage of a kind for which liability insurance is generally available which is not fully insured, subject only to the standard deductible.

4.15 Litigation; Disputes. Except as set forth in Seller's Disclosure Schedule, there are no claims, disputes, actions, suits, investigations or proceedings pending or, to the best of the knowledge of Seller and Stockholders, threatened against or affecting Seller or the System, and, to the best of the knowledge of Seller and Stockholders, there is no basis for any such claim, dispute, action, suit, investigation or proceeding. Seller has no knowledge of any default under any such action, suit or proceeding. Seller is not in default in respect of any judgment, order, writ, injunction or decree of any Governmental Authority with respect to the operation of the System.

4.16 Environmental.

(a) Prior to the execution of this Agreement, Seller has provided to Buyer a true and correct copy of all environmental site assessments, studies, tests, reports and communications relating to the Real Property.

(b) Except as disclosed on Seller's Disclosure Schedule, (i) there are no conditions, facilities, procedures or any other facts or circumstances that constitute Environmental Noncompliance on any of the Real Property and (ii) there is not constructed, placed, deposited, stored, disposed of, nor located on any of the Real Property any asbestos in any form that has released or, unless disturbed, threatens to release airborne asbestos fibers in excess of applicable local, state and federal standards.

(c) Except as disclosed on Seller's Disclosure Schedule, no structure, improvements, equipment, fixtures, activities or facilities located on any of the Real Property uses Hazardous Materials except those used in the ordinary course of the Business and in compliance with applicable Environmental Laws.

(d) Except as specifically described on Seller's Disclosure Schedule, there have been no releases or threatened releases of Hazardous Materials into the environment, or which otherwise contribute to Environmental Conditions arising solely from the activities of Seller, or to the best of the knowledge of Seller and Stockholders arising from any other activities, except to the extent that such releases or threatened releases do not constitute a condition of Environmental Noncompliance relating to any of the Real Property.

(e) Except as disclosed on Seller's Disclosure Schedule, there are no underground storage tanks, or underground piping associated with tanks, used for the management of Hazardous Materials at any of the Real Property and there are no abandoned underground storage tanks at any of the Real Property.

(f) Seller is not subject to any Environmental Claims, no Environmental Claims have been threatened, nor, to the best of the knowledge of Seller and Stockholders, is there any basis for any such Environmental Claims.

#### 4.17 Permits; Compliance with Applicable Law.

(a) General. Seller is not in default under any, and has complied with all, statutes, ordinances, regulations, orders, judgments and decrees of any Governmental Authority applicable to it or to the Business or the assets and properties of Seller as to which a default or failure to comply might result in any material adverse change in the condition, financial or otherwise, assets or properties of Seller or the Business. Seller has no knowledge of any basis for assertion of any violation of the foregoing or for any claim for compensation or damages or otherwise arising out of any violation of the foregoing. Seller has not received any notification of any asserted present or past failure to comply with any of the foregoing which has not been satisfactorily responded to in the time period required thereunder.

(b) Permits. Set forth in the Asset Schedule are complete and accurate lists of all of the Permits held by Seller and applicable to the System. The System is operating in accordance with the Permits and in compliance with the rules, regulations and policies of the PSC. The Permits are all of the permits, licenses, approvals, franchises, notices and authorizations required for the conduct of the Business. All of the Permits are in full force and effect, and Seller has not engaged in any activity which would cause or permit revocation or suspension of any such Permit, and no action or proceeding looking to or contemplating the revocation or suspension of any such Permit is pending or threatened. There are no existing defaults or events of default or events or state of facts which with notice or lapse of time or both would constitute a default by Seller under any such Permit. There is no default or claimed or purported or alleged default or state of facts which with notice or lapse of time or both would constitute a default on the part of any party in the performance of any obligation to be performed or paid by any party under any Permit. Except for the Regulatory Approval and as set forth in Seller's Disclosure Schedule, the consummation of the transactions contemplated hereby will in no way affect the continuation, validity or effectiveness of the Permits, or require the consent of any Governmental Authority. Except as set forth in Seller's Disclosure Schedule, Seller is not required to be licensed by, and is not subject to the regulation of, any Governmental Authority by reason of the Business.

4.18 Intellectual Property. The use of the Intellectual Property in connection with the operation of the System and in a manner consistent with past practices does not infringe upon the proprietary rights of any other Person. Buyer will, upon consummation of the transactions contemplated by this Agreement, possess adequate rights, licenses and other authority to use the Intellectual Property used by Seller in the operation of the System following the Closing in the manner now operated, to the best knowledge of Seller and Stockholders, without infringement or unlawful or improper use of any of the Intellectual Property. No current or former stockholder, partner, member, director, officer or employee of Seller has any interest in any of the Intellectual Property, all of which will, as of the Closing, be free and clear of all Liens. Seller has no knowledge of any infringement by any Person upon the rights of Seller with respect to the Intellectual Property. Seller has not granted any outstanding licenses or other rights to any of the copyrights, trademarks, trade names, patents or other similar rights with regard to any of the Intellectual Property.



4.19 Books and Records. The books of account of Seller fairly and accurately reflect in all material respects its income, expenses, assets and liabilities and have been maintained in accordance with good business practices. All of such books and records, to the extent included within the Purchased Assets, will be located on the date of the Closing on the business premises of the System.

4.20 Receivables. All accounts and notes receivable included in the Purchased Assets are (a) bona fide claims against customers or other debtors for services performed, commodities delivered or other charges, (b) subject to no defenses, set-offs or counterclaims and (c) collectible in the ordinary course, subject to Seller's normal reserve for bad debts as reflected in Seller's financial statements.

4.21 Related Party Obligations. Except as set forth on Seller's Disclosure Schedule, no officer, director, shareholder, partner, member or Affiliate of Seller, or any individual related by blood or marriage to any such Person, or any entity in which any such Person owns any beneficial interest, is a party to any agreement, contract, commitment, promissory note, loan, any other actual or proposed transaction with Seller, or has any material interest in any material property used by Seller, which is material to the operation of the System.

4.22 Disclosure. To the best knowledge of Seller and Stockholders, no representation or warranty made under this Section 4 and none of the information furnished by Seller or Stockholders set forth in this Agreement or in the schedules or exhibits to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements in this Agreement or in the schedules or exhibits to this Agreement not misleading.

## SECTION 5

### REPRESENTATIONS AND WARRANTIES OF BUYER

In connection with the purchase and sale of the Purchased Assets under this Agreement and in order to induce Seller and Stockholders to enter into and consummate the transactions contemplated by this Agreement, Buyer makes the following representations and warranties to Seller and Stockholders, as of the date of this Agreement and as of the date of the Closing (except for representations and warranties expressly and specifically relating to a time or times other than the date hereof or thereof, which shall be made as of the specified time or times):

5.1 Organization and Qualification. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, and has full corporate power and authority (a) to own its assets and properties and to conduct its business and (b) to enter into this Agreement and consummate the transactions contemplated hereby. Buyer has full power, authority and legal right and all necessary approvals, permits, licenses and authorizations to own its properties and to conduct its business. Buyer is duly qualified to do business as a foreign corporation in, and is in good standing under the laws of, the State of Florida.

5.2 Authority. The execution and delivery of this Agreement by Buyer, the performance by Buyer of its covenants and agreements hereunder and the consummation by Buyer of the transactions contemplated hereby have been duly authorized by all necessary corporate action. This Agreement constitutes the valid and legally binding agreement of Buyer, enforceable against it in accordance with its terms.

5.3 No Legal Bar; Conflicts. Neither the execution and delivery of this Agreement by Buyer, nor the consummation of the transactions contemplated hereby by Buyer, (a) violates or will violate any provision of the Articles of Incorporation or Bylaws of Buyer; (b) violates or will violate any law, rule, regulation, writ, judgment, injunction, decree, determination, award or other order of any Governmental Authority; or (c) violates or will violate, or conflicts with or will conflict with, or will result in any breach of any of the terms of, or constitutes or will constitute a default under or results in or will result in the termination of or the creation or imposition of any Lien pursuant to the terms of, any contract, commitment, agreement, understanding or arrangement of any kind to which Buyer is a party or by which Buyer or any of the assets of Buyer is bound. Except for the Regulatory Approval and the consents disclosed in Seller's Disclosure Schedule, no consents, approvals or authorizations of, or filings with, any Governmental Authority or any other Person are required on the part of Buyer in connection with the execution and delivery of this Agreement by Buyer and the consummation of the transactions contemplated hereby by Buyer.

## SECTION 6

### AFFIRMATIVE COVENANTS OF SELLER

From and after the date of this Agreement and until the Closing, Seller covenants and agrees with Buyer to:

6.1 Compliance With Law. Comply with all applicable laws and regulations required for the valid and effective consummation of the transactions contemplated hereby.

6.2 Payment of Obligations. Fully discharge all Obligations of Seller, except the Assumed Obligations, on a timely basis.

6.3 Access. Afford Buyer and its authorized representatives, upon reasonable notice to Seller, reasonable access during normal business hours to the System and the System's employees, and permit Buyer and its authorized representatives to examine all operations, equipment, properties and other assets, logs, books, relevant records, contracts and documents of Seller pertinent to the System; provided, however, that in each instance mutually satisfactory arrangements shall be made in advance in order to avoid interruption and to minimize interference with the normal business and operations of the System.

6.4 Preservation of Organization. Operate the Business in the ordinary course, consistent with good utility business practices, and exercise all reasonable efforts to preserve the business organization of the System intact, and assist Buyer, as and when requested by Buyer, to

preserve the present relationships of the System with employees, suppliers and customers and others having business relationships with the System.

6.5 Books and Records. Maintain the books and records of Seller in accordance with good business practices, on a basis consistent with past practices, and promptly make available to Buyer the books, records, tax returns, leases, contracts and other documents or agreements material to the System as Buyer, its counsel, accountants or other authorized representatives may from time to time reasonably request.

6.6 Employees. Pay as and when the same shall become due and payable any amounts owed by Seller to its employees who have performed services up to the time of Closing, whether fixed or accrued, for wages, vacation pay, sick pay, severance pay, employee benefits, damages and otherwise.

6.7 Compliance with Laws. Comply with the Permits and with the rules, regulations and policies of the PSC, and with all other laws, ordinances, regulations, rules and orders of any Governmental Authority applicable to Seller or to the System.

6.8 Taxes. File all federal, state and municipal tax returns, reports and declarations required to be filed by Seller prior to the Closing, and satisfy all Taxes related thereto, and either pay in full on or before the Closing or effect a proration pursuant to Section 10.2 for all accrued taxes attributable to Seller, or its income, operations or properties, accruing through the Closing, regardless of whether such Taxes otherwise would have been then due and payable.

6.9 Supplemental Financial Statements. Seller shall provide Buyer with copies of the monthly unaudited balance sheets and income statements applicable to the System prepared by Seller in the ordinary course of business commencing with the month ended July 31, 2001 until the Closing Date (collectively, the "Supplemental Financial Statements"). Seller shall provide such Supplemental Financial Statements to Buyer promptly upon such Supplemental Financial Statements becoming available to Seller. The Supplemental Financial Statements shall be subject to the representations and warranties as set forth in Section 4.4.

6.10 Consents. Obtain, not more than 60 days after the date of this Agreement and prior to the Closing (except as provided in Section 10.11), the consent and approval (in a form reasonably acceptable to Buyer) of any third parties whose consent or approval is necessary in connection with the consummation of the transactions contemplated hereby, with respect to the Permits and the Assigned Contracts set forth on Seller's Disclosure Schedule and requiring such consent. If any such consent or approval is not obtained, Seller will use commercially reasonable efforts (not involving the payment of money to any Person) to secure an arrangement satisfactory to Buyer intended to provide for Buyer following the Closing the benefits under each Permit and Assigned Contract for which such consent or approval is not obtained; provided, however, that Buyer shall have the right to terminate this Agreement or to seek damages or other remedies from Seller and Stockholders as a result of any failure by Seller to obtain any such consent or approval if alternative arrangements are not reasonably satisfactory to Buyer. Nothing in this Agreement will constitute an assignment or transfer or an attempted assignment or transfer of any Permit or Assigned Contract which by its terms or under applicable law or governmental rules or regulations requires the consent

or approval of a third party (including, without limitation, a Governmental Authority) unless such consent or approval is obtained.

6.11 Further Information. Furnish to Buyer prior to the Closing such financial (including tax), legal and other information with respect to Seller and the System as Buyer or its authorized representatives may from time to time reasonably request.

6.12 Notice. Promptly notify Buyer in writing upon the occurrence or the nonoccurrence of any event which does then, or which upon the passing of time or the giving of notice would, constitute a breach of or default under, or render misleading or untrue in any material respect, any agreement, covenant, representation or warranty of Seller or Stockholders set forth in this Agreement.

6.13 Phase I Site Assessments. Seller shall cooperate with Buyer if Buyer elects, in its sole discretion and at its sole cost and expense, to perform or commission Phase I Site Assessments of the Real Property and/or such other studies, tests or reports of the Real Property as Buyer may desire. If any of the assessments, studies, tests or reports indicate that any Real Property contains one or more conditions of Environmental Noncompliance, Seller shall promptly commence remedial action to cure the conditions, and shall cure the conditions, prior to Closing.

6.14 Title Insurance and Surveys. Prior to Closing, Seller shall cause each parcel of the Real Property to be surveyed by a registered professional surveyor (who shall be reasonably acceptable to Buyer) and Seller shall cause ALTA surveys (which shall be in form satisfactory to remove the standard survey exception from the Owner's and Mortgagee's title insurance policies) to be delivered to Buyer at least 10 days prior to Closing. The cost and expense of all such surveys shall be borne by Buyer. In addition, Seller shall cooperate with Buyer in obtaining, at or prior to Closing, title insurance on the Real Property from a nationally recognized title insurance company acceptable to Buyer in its reasonable judgment. Not later than 30 days prior to Closing, Seller shall furnish to such title insurance company such documentation as may be reasonably required by it to issue extended Owner's and Mortgagee's title insurance policies which shall additionally be without exception as to the capacity, authority and execution of instruments by Seller.

6.15 Transfer Taxes and Expenses. Any and all realty or other transfer taxes and documentary stamps payable to the State of Florida or any other Governmental Authority in connection with the transfer of the Real Property or the other Purchased Assets shall be shared equally and paid in equal parts by Seller, on the one hand, and Buyer, on the other. Seller shall be responsible for the cost of (a) deed preparation, (b) all matters of title clearance, (c) any necessary subdivision or lot-split and (d) title insurance premiums. Buyer shall be responsible for the cost of recording the deeds.

## SECTION 7

### NEGATIVE COVENANTS OF SELLER

From and after the date of this Agreement and until the Closing, Seller covenants and agrees not to take, or not to cause to be taken, any of the following actions without Buyer's prior approval, which may not be unreasonably withheld:

7.1 Sales, Transfers and Liens. Make any sale, transfer, assignment, conveyance, mortgage, hypothecation, encumbrance or other placement of any Lien on any of the Purchased Assets, except in the ordinary course of business, which do not materially interfere with the operations of the System, and which in the case of a sale, transfer or assignment, is replaced with an asset of equal or greater value, and, in the case of a conveyance, mortgage, hypothecation, encumbrance or other Lien, is released at or prior to the Closing.

7.2 Assumed Obligations. Amend, terminate or renew any of the Assumed Obligations (including any renewal or termination resulting from the failure to provide, after the date of this Agreement, timely notice of nonrenewal or termination as required by the terms of any of the Assumed Obligations).

7.3 Breaches; Defaults. Do any act or omit to do any act, or permit any act or omission to occur, that will cause a breach of any contract, commitment or obligation of it or them in any respect that would have a material adverse effect on the Purchased Assets or the business operations of the System as presently conducted.

7.4 Obligations. Incur any Obligations except in the ordinary course of business in a manner consistent with past practices.

7.5 Salary Increases. Increase any salary, other payments, disbursement or distributions in any manner or form to any employees of Seller except (a) in the ordinary course of business consistent with past practices or (b) in accordance with the existing terms of contracts entered into prior to the date of this Agreement.

7.6 Non-Solicitation. Directly or indirectly solicit or negotiate with any Person (other than a party hereto) or accept any proposal to acquire Seller or the System in whole or in part, including without limitation an acquisition of all or substantially all of the assets of Seller or equity in Seller.

## SECTION 8

### COVENANTS OF STOCKHOLDERS

From and after the date of this Agreement and until the Closing, Stockholders hereby jointly and severally covenant and agree with Buyer as follows:

8.1 Compliance With Law. Stockholders shall comply with all applicable laws and regulations required for the valid and effective consummation of the transactions contemplated by this Agreement.

8.2 Notice. Stockholders shall promptly notify Buyer in writing upon the occurrence or the non-occurrence of any event which does then, or which upon the passing of time or the giving of notice would, constitute a breach of or default under, or render misleading or untrue in any material respect, any agreement, covenant, representation or warranty of Seller or Stockholders set forth in this Agreement.

8.3 Non-Solicitation. Stockholders shall not, directly or indirectly, solicit or negotiate with any Person (other than a party hereto) or accept any proposal to acquire Seller or the System in whole or in part, including without limitation an acquisition of all or substantially all of the assets of Seller or any equity in Seller.

## SECTION 9

### COVENANTS OF BUYER

From and after the date of this Agreement and until the Closing, Buyer covenants and agrees with Seller and Stockholders as follows:

9.1 Compliance With Law. Buyer shall comply with all applicable laws and regulations required for the valid and effective consummation of the transactions contemplated by this Agreement.

9.2 Notice. Buyer shall promptly notify Seller in writing upon the occurrence or the non-occurrence of any event which does then, or which upon the passing of time or the giving of notice would, constitute a breach of or default under, or render misleading or untrue in any material respect, any agreement, covenant, representation or warranty of Buyer set forth in this Agreement.

## SECTION 10

### ADDITIONAL COVENANTS OF THE PARTIES

10.1 Regulatory Approval. As promptly as practicable after the date of this Agreement, but in no event later than 45 days after the date of this Agreement, Seller and Buyer shall file a joint application with the PSC (the "PSC Application") requesting the Regulatory Approval. The parties agree that they shall prosecute the PSC Application (and shall cooperate with each other in the timely prosecution thereof), in good faith and with due diligence, and within the time allowed therefor by the rules and regulations of the PSC. Seller and Buyer shall each take all necessary actions on its part to obtain the Regulatory Approval. Buyer shall pay the filing fee, if any, for the PSC Application. All other costs and expenses incurred by each party in connection with the filing and prosecution of the PSC Application shall be paid by the party incurring the cost or expense.

10.2 Proration of Income and Expenses. All income and expenses arising from the conduct of the business and operation of the System shall be prorated between Buyer and Seller as of the Closing Date in accordance with GAAP. Such prorations shall be based upon the principle that Seller shall be entitled to all income earned and shall be responsible for all liabilities and obligations incurred or accruing in connection with the operation of the System until the Closing Date, and Buyer shall be entitled to all income earned and be responsible for such liabilities and obligations incurred or accruing in connection with its operation of the System thereafter. Such prorations shall include, without limitation, all ad valorem, real estate and other property Taxes (but excluding taxes arising by reason of the transfer of the Purchased Assets as contemplated hereby, which shall be paid as set forth in Section 6.15), business and license fees, wages and salaries of employees, utility expenses, liabilities and obligations under all Assigned Contracts, rents, security deposits and similar prepaid and deferred items, and all other expenses attributable to the ownership and operation of the System. To the extent not known, real estate Taxes shall be apportioned on the basis of Taxes assessed for the preceding year, with, at the request of either Seller or Buyer, a reapportionment as soon as the new tax rate and valuation can be ascertained, which covenant shall survive the Closing.

(a) Within three days prior to the Closing Date, Seller shall deliver to Buyer a schedule setting forth Seller's reasonable good faith estimates of all proration items, including all estimated accrued income and liabilities (the "Estimated Proration Schedule"), based upon the principles described above. The Purchase Price paid at Closing shall be adjusted in accordance with the Estimated Proration Schedule.

(b) Within 60 days after the Closing Date, Seller shall prepare and deliver to Buyer an itemized list (the "Adjustment List") of its determination of all proration items based upon the proration principles described above. Such list shall show the net amount of the increase or decrease, as applicable, to the Purchase Price paid at Closing (the "Adjustment Amount"). The Adjustment List shall be conclusive and binding upon Buyer unless Buyer provides Seller with written notice of objection (the "Notice of Disagreement") within 60 days after Buyer's receipt of the Adjustment List, which notice shall state the adjustments proposed by Buyer (the "Buyer's Adjustment Amount"). Seller shall have 15 days from receipt of a Notice of Disagreement to accept or reject the Buyer's Adjustment Amount. If Seller rejects the Buyer's Adjustment Amount and the amount in dispute exceeds \$1,000, within 10 days thereafter the dispute shall be submitted for determination by a reputable accounting firm mutually agreed upon by Seller and Buyer (the "Arbitrator"), with instructions that such determination shall be made within 30 days after submission to the Arbitrator, and the Arbitrator's determination shall be final, conclusive and binding on Seller and Buyer. Buyer and Seller agree to share equally the cost and expenses of the Arbitrator, but each party shall bear its own legal and other expenses, if any. If the amount in dispute is equal to or less than \$1,000, such amount shall be divided equally between Buyer and Seller. Payment by Buyer or Seller, as the case may be, of the Adjustment Amount determined pursuant to this Section 10.2 shall be made by wire transfer within 15 days after the last to occur of (i) Buyer's acceptance of the Adjustment List or failure to give Seller a timely Notice of Disagreement; (ii) Seller's acceptance of the Buyer's Adjustment Amount or failure to reject the Buyer's Adjustment Amount within 15 days of receipt of a Notice of Disagreement; (iii) Buyer's rejection of the Adjustment Amount in

the event the amount in dispute equals or is less than \$1,000; and (iv) notice to Seller and Buyer of the resolution of the disputed amount by the Arbitrator in the event that the amount in dispute exceeds \$1,000.

10.3 Brokerage. Seller, Stockholders and Buyer represent and warrant to each other that no Person has provided services as a broker, agent or finder in connection with the transactions contemplated by this Agreement. Seller, Stockholders and Buyer shall each indemnify and hold harmless the other for any and all claims or expenses, including attorneys' fees, asserted by any Person purporting to act on behalf of the respective indemnitor as a broker, agent or finder in connection with the transactions contemplated by this Agreement.

10.4 Risk of Loss. If any loss or damage to any of the Purchased Assets occurs prior to the Closing (i) which has an adverse effect on the System and (ii) such loss or damage is not susceptible of repair, replacement or restoration with sufficient, collectible insurance proceeds available for such purposes or by Seller at its sole cost and expense to the same condition as existed before such loss or damage, then the parties shall adjust the Purchase Price to reflect the diminution in value of the System attributable to the impairment of such assets or, alternatively, Buyer may elect to terminate this Agreement.

10.5 Actions With PSC. In the event any investigation, order to show cause, notice of violation, notice of apparent liability or a forfeiture, complaint, petition to deny or informal objection is instituted or filed against Seller (whether in connection with the proceedings to approve the PSC Application or otherwise), Seller shall promptly notify Buyer in writing of such occurrence and shall thereafter immediately take all reasonable measures to contest the same in good faith and seek the removal or favorable resolution of such action, order, notice or complaint.

10.6 Employees. Notwithstanding anything to the contrary in this Agreement, Buyer shall not be obligated to employ any person employed by Seller at or prior to the Closing.

10.7 Cooperation. During the seven-year period immediately following the Closing, Buyer shall cooperate with Seller in providing Seller all information reasonably requested and permitting Seller access to all records relating to the period of ownership of the System by Seller prior to the Closing. The cost and expense in providing or permitting access to information hereunder shall be borne by Seller. Seller, as a condition to being provided with access to information hereunder, shall, at the request of Buyer, execute a confidentiality agreement in form and substance acceptable to Buyer in its reasonable discretion. Notwithstanding the foregoing, Buyer may discard any such records during such seven-year period if (i) Buyer notifies Seller of Buyer's intent to discard such records and (ii) Seller does not, within 10 days after receipt of such notice, retrieve such records from Buyer's premises.

10.8 Public Announcements. Buyer, on the one hand, and Seller and Stockholders, on the other, will consult with each other before issuing, and provide each other the opportunity to review, comment upon and concur with, any press release or other public statement with respect to the transactions contemplated by this Agreement, and shall not issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable law, court process or by obligations pursuant to any listing agreement with any national securities exchange or



the National Association of Securities Dealers, Inc. The parties agree that the initial press release to be issued with respect to the transactions contemplated by this Agreement shall be in the form heretofore agreed to by the parties.

10.9 No Inconsistent Action. No party hereto shall take any action (a) inconsistent with its obligations under this Agreement or (b) that would hinder or delay the consummation of the transactions contemplated by this Agreement.

10.10 Restrictive Covenants. To assure that Buyer will realize the value and goodwill inherent in the Purchased Assets, Seller and Stockholders jointly and severally agree with Buyer that neither Seller nor any of its Affiliates, nor any Stockholder, shall:

(a) directly or indirectly, for a period of three years following the Closing Date, engage in (as an owner, director, officer, employee, consultant or otherwise), or acquire or retain any financial interest in, any business which is similar to or competes with the Business anywhere in the service territory served by the Business;

(b) directly or indirectly, for a period of three years following the Closing Date, solicit the employment or engagement of or otherwise entice away from the employment of Buyer or any of its Affiliates any Person who is employed by Buyer or any of its Affiliates in Highlands County, Florida or any county contiguous thereto; or

(c) directly or indirectly, at any time following the Closing Date, in any way utilize, disclose, copy, reproduce or retain in its, his or her possession any of the customer lists, books and records or other proprietary information included in the Purchased Assets (except as otherwise permitted herein).

Seller and Stockholders agree and acknowledge that the restrictions contained in this Section are reasonable in scope and duration and are necessary to protect Buyer after the Closing Date. If, however, any provision of this Section, as applied to any party or to any circumstances, is adjudged by a court to be invalid or unenforceable, the same will in no way affect any other provision of this Section or any other part of this Agreement, the application of such provision in any other circumstances or the validity or enforceability of this Agreement. If any such provision, or any part thereof, is held to be unenforceable because of the duration of such provision or the area covered thereby, the parties agree that the court making such termination will have the power to reduce the duration and/or area of such provision, and/or to delete specific words or phrases, and in its reduced form such provision will then be enforceable and will be enforced. Upon breach of any provisions of this Section, Buyer will be entitled to injunctive relief, since the remedy at law would be inadequate and insufficient. In addition, Buyer will be entitled to such damages as it can show it has sustained by reason of such breach.

10.11 Closing Prior to Regulatory Approval. As permitted by applicable Florida law, Seller and Buyer desire to close the transactions contemplated hereby prior to obtaining the Regulatory Approval, subject to the satisfaction of the conditions set forth in Sections 12 and 13. If the Closing occurs but the PSC does not issue an order approving the Application which

becomes non-appealable within 36 months after the Closing Date, Seller at Buyer's option, shall repurchase the System from Buyer on the following terms and conditions:

(a) Buyer shall give written notice to Seller within 30 days after the date the PSC's order not to approve the Application has become non-appealable or the expiration of such 36-month period, whichever is earlier, of its requirement for repurchase and such notice shall state the closing date for the repurchase of the System (the "Repurchase Closing Date"), which shall not be less than 30 days after the giving of such notice.

(b) The repurchase price to be paid by Seller on the Repurchase Closing Date shall be equal to the Purchase Price.

(c) On the Repurchase Closing Date, title to the real property acquired by Buyer pursuant to this Agreement, together with the improvements thereon, shall be conveyed by Buyer to Seller by a deed, all easement rights granted to Buyer hereunder shall be assigned to Seller by recorded instrument, and the remaining Purchased Assets shall be transferred by Buyer to Seller by a bill of sale. The foregoing conveyances, assignments and transfers shall be subject only to those matters to which the Purchased Assets were subject on the Closing Date.

(d) Real estate taxes, accounts receivable, and allocation of revenues and expenses for current periods with respect to the System shall be prorated on the Repurchase Closing Date.

(e) On the Repurchase Closing Date, Buyer shall assign to Seller, and Seller shall assume, the Assigned Contracts, if still in effect, and the Permits.

(f) In the event that the material provisions of this Agreement are not approved by the PSC, then for purposes of this Section, Buyer shall have the right to give notice of repurchase as contemplated by Section 10.11(a).

(g) Seller and Buyer agree to negotiate in good faith to amend the terms of this Agreement during the 30-day period following the date on which the PSC's order not to approve the Joint Application has become non-appealable, with the intent to resubmit the Application to the PSC for approval; provided, however, that the parties acknowledge that Buyer shall have the rights under this Section 10.11 in the event that this Agreement cannot be amended to the mutual satisfaction of the parties.

## SECTION 11

### THE CLOSING

11.1 Closing Date. The Closing shall occur on a date selected by Buyer which is not less than 30 days nor more than 60 days after the date of this Agreement. The Closing shall occur through the mail on the date of the Closing (the "Closing Date"), or at such place and time as the parties may mutually agree.

11.2 Closing Documents. At the Closing:

items: (a) Seller and Stockholders shall execute and/or deliver to Buyer the following

(i) a Bill of Sale, Assignment and Assumption Agreement, substantially in the form of Exhibit A hereto (the “Bill of Sale”);

(ii) a Deed for each parcel of Real Property, substantially in the form of Exhibit B hereto;

(iii) a bring-down certificate as contemplated by Section 13.1, in the form of Exhibit C hereto;

(iv) a good standing certificate as contemplated by Section 13.3;

(v) a secretary’s certificate as contemplated by Section 13.4, substantially in the form of Exhibit D hereto;

(vi) all required consents as contemplated by Section 13.6;

(vii) a Closing Statement acknowledging receipt of the Purchase Price, less the Escrow Amount (the “Closing Statement”); and

(viii) such other certificates, instruments and documents as Buyer may have requested pursuant to Section 13.3.

items: (b) Buyer shall execute and/or deliver to Seller and Stockholders the following

(i) the Purchase Price, less the Escrow Amount;

(ii) the Bill of Sale;

(iii) a bring-down certificate as contemplated by Section 12.1, in the form of Exhibit E hereto;

(iv) good standing certificates as contemplated by Section 12.3;

(v) a secretary’s certificate as contemplated by Section 12.4, substantially in the form of Exhibit F hereto;

(vi) the Closing Statement; and

(vii) such other certificates, instruments and documents as Seller and Stockholders may have requested pursuant to Section 12.3.

## SECTION 12

### CONDITIONS TO SELLER'S AND STOCKHOLDERS' OBLIGATION TO CLOSE

The obligation of Seller and Stockholders to consummate the transactions contemplated by this Agreement at the Closing is subject to the following conditions precedent, any or all of which may be waived by Seller and Stockholders in their sole discretion:

12.1 Representations, Warranties and Covenants. The representations and warranties of Buyer contained herein shall be true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the Closing with the same effect as though all such representations and warranties were made at and as of the Closing (except for representations and warranties expressly and specifically relating to a time or times other than the Closing, which shall be true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the time or times specified). Buyer shall have complied with all of its covenants and agreements contained herein which were to be complied with at or prior to the Closing. Buyer shall have delivered to Seller and Stockholders a certificate to that effect, dated the Closing Date, signed by an officer of Buyer.

12.2 No Litigation. No injunction relating to any action, suit or proceeding against Seller or any Stockholder relating to the consummation of any of the transactions contemplated by this Agreement or any action by any Governmental Authority shall have been issued.

12.3 Other Certificates. Seller and Stockholders shall have received certificates as to the good standing of Buyer in the States of Texas and Florida, each as of a date not more than 20 days before the Closing, and such other certificates, instruments and other documents, in form and substance satisfactory to Seller and Stockholders, as Seller and Stockholders shall have reasonably requested in connection with the transactions contemplated hereby.

12.4 Corporate Action. All corporate action necessary to authorize the execution, delivery and performance by Buyer of this Agreement and the transactions contemplated hereby shall have been duly and validly taken by Buyer, and Buyer shall have delivered to Seller and Stockholders certified copies of the resolutions of Buyer's board of directors authorizing the execution and performance of this Agreement and authorizing or ratifying the acts of its officers and employees in carrying out the terms and provisions of this Agreement.

## SECTION 13

### CONDITIONS TO BUYER'S OBLIGATION TO CLOSE

The obligation of Buyer to consummate the transactions contemplated by this Agreement at the Closing is subject to the following conditions precedent, any or all of which may be waived by Buyer in its sole discretion:

13.1 Representations, Warranties and Covenants. The representations and warranties of Seller and Stockholders contained herein shall be true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the Closing with the same effect as though all such representations and warranties were made at and as of the Closing (except for representations and warranties expressly and specifically relating to a time or times other than the Closing, which shall be true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the time or times specified). Seller and Stockholders shall have complied with all of their respective covenants and agreements contained herein which were to be complied with at or prior to the Closing. Seller and Stockholders shall have delivered to Buyer a certificate to that effect, dated the Closing Date, signed by an officer of Seller and by each Stockholder.

13.2 No Litigation. No injunction relating to any action, suit or proceeding against Seller, any Stockholder or Buyer relating to the consummation of any of the transactions contemplated by this Agreement shall have been issued, and no action, suit or proceeding with respect thereto shall be pending or threatened.

13.3 Other Certificates. Buyer shall have received a certificate as to the good standing of Seller as a corporation in the State of Florida as of a date not more than 20 days before the Closing, and such other certificates, instruments and other documents customary for transactions of the nature provided for in this Agreement, in form and substance reasonably satisfactory to Buyer, as Buyer shall have reasonably requested in connection with the transactions contemplated by this Agreement.

13.4 Authorizing Action. All action necessary to authorize the execution, delivery and performance by Seller of this Agreement and the transactions contemplated hereby shall have been duly and validly taken by Seller, and Seller shall have delivered to Buyer certified copies of the resolutions of the Stockholders and the board of directors of Seller authorizing the execution and performance of this Agreement and authorizing or ratifying the acts of their officers and employees in carrying out the terms and provisions of this Agreement.

13.5 Lien Searches. Buyer shall have received, at Buyer's expense, lien (including UCC and tax) and judgment (including litigation) searches from the appropriate county and state agencies showing all Liens on the Purchased Assets, which searches shall be conducted not more than 30 days prior to the Closing. Such searches shall include the name of Seller, Stockholders, predecessors of any of the foregoing during the past five years and any other names under which Seller or Stockholders has done business during the past five years.

13.6 Consents. Except as provided in Section 10.11, all consents required in connection with the transactions contemplated hereby shall have been obtained.

13.7 Due Diligence. Buyer shall have completed, to its satisfaction in its sole discretion, its due diligence review of the Business, the System and the Purchased Assets, including, without limitation, its review of financial, operational, regulatory and legal matters.

## SECTION 14

### INDEMNIFICATION

14.1 Indemnification by Seller and Stockholders. Subject to the limitations and procedures set forth in this Section 14, Seller and Stockholders shall jointly and severally indemnify and hold harmless Buyer from and against all losses, claims, demands, damages, liabilities, obligations, costs and/or expenses, including, without limitation, reasonable fees and disbursements of counsel (hereinafter referred to collectively as "Damages"), which are sustained or incurred by Buyer, to the extent that such Damages are sustained or incurred by reason of (a) the breach of any of the obligations or covenants of Seller or Stockholders in this Agreement; (b) the breach of any of the representations or warranties made by Seller or Stockholders in this Agreement; (c) the ownership or operation of the System and the Business prior to the Closing; (d) any Obligation of Seller other than the Assumed Obligations; (e) any liability resulting from the waiver of applicable bulk sales laws; or (f) any claim, dispute, litigation, non-compliance, problem or other issue disclosed in Seller's Disclosure Schedule.

14.2 Indemnification by Buyer. Subject to the limitations and procedures set forth in this Section 14, Buyer shall indemnify and hold harmless Seller and Stockholders from and against any and all Damages which are sustained or incurred by Seller and Stockholders, to the extent that such Damages are sustained or incurred by reason of (a) the breach of any of the obligations or covenants of Buyer in this Agreement; (b) the breach of any of the representations or warranties made by Buyer in this Agreement; or (c) the ownership or operation of the System and the Business by Buyer following the Closing (except, in any such case, to the extent such Damages relate to matters covered by Section 14.1).

14.3 Procedure for Indemnification. In the event that any party to this Agreement shall incur any Damages in respect of which indemnity may be sought by such party pursuant to this Section 14 or any other provision of this Agreement, the party indemnified hereunder (the "Indemnitee") shall notify the party providing indemnification (the "Indemnitor") promptly. In the case of third party claims, such notice shall in any event be given within 15 days of the filing or assertion of any claim against the Indemnitee stating the nature and basis of such claim; provided, however, that any delay or failure to notify any Indemnitor of any claim shall not relieve it from any liability except to the extent that the Indemnitor demonstrates that the defense of such action has been materially prejudiced by such delay or failure to notify. In the case of third party claims, the Indemnitor shall, within 10 days of receipt of notice of such claim, notify the Indemnitee of its intention to assume the defense of such claim. If the Indemnitor assumes the defense of the claim,

the Indemnitor shall have the right and obligation (a) to conduct any proceedings or negotiations in connection therewith and necessary or appropriate to defend the Indemnitee, (b) to take all other required steps or proceedings to settle or defend any such claims, and (c) to employ counsel to contest any such claim or liability in the name of the Indemnitee or otherwise. If the Indemnitor shall not assume the defense of any such claim or litigation resulting therefrom, the Indemnitee may defend against any such claim or litigation in such manner as it may deem appropriate and the Indemnitee may settle such claim or litigation on such terms as it may deem appropriate, and assert against the Indemnitor any rights or claims to which the Indemnitee is entitled. Payment of Damages shall be made within 10 days of a final determination of a claim.

A final determination of a disputed claim shall be (a) a judgment of any court determining the validity of disputed claim, if no appeal is pending from such judgment or if the time to appeal therefrom has elapsed, (b) an award of any arbitration determining the validity of such disputed claim, if there is not pending any motion to set aside such award or if the time within to move to set such award aside has elapsed, (c) a written termination of the dispute with respect to such claim signed by all of the parties thereto or their attorneys, (d) a written acknowledgment of the Indemnitor that it no longer disputes the validity of such claim, or (e) such other evidence of final determination of a disputed claim as shall be acceptable to the parties.

#### 14.4 Survival.

(a) Seller and Stockholders. Each of the representations and warranties made by Seller and Stockholders in this Agreement shall survive for a period of 24 months after the Closing Date, notwithstanding any investigation at any time made by or on behalf of Buyer, and upon the expiration of such 24-month period such representations and warranties shall expire except as follows: (i) the representations and warranties contained in Sections 4.6 and 4.11 shall expire at the time the period of limitations expires for the assessment by the taxing authority of additional Taxes with respect to which the representations and warranties relate; (ii) the representations and warranties contained in Sections 4.16 and 4.17 shall expire at the time the latest period of limitations expires for the enforcement by an applicable Governmental Authority of any remedy with respect to which the particular representation or warranty relates; and (iii) the representations and warranties contained in Sections 4.1, 4.2, 4.3, 4.8(a) and 4.8(f)(ii) shall not expire but shall continue indefinitely. No claim for the recovery of Damages may be asserted by Buyer against Seller, Stockholders or their successors in interest after such representations and warranties shall thus expire; provided, however, that claims for Damages first asserted in writing within the applicable period shall not thereafter be barred.

(b) Buyer. Each of the representations and warranties made by Buyer in this Agreement shall survive for a period of 24 months after the Closing Date, notwithstanding any investigation at any time made by or on behalf of Seller and Stockholders, and upon the expiration of such 24-month period such representations and warranties shall expire, except that the representations and warranties contained in Sections 5.1, 5.2 and 5.3 shall not expire but shall continue indefinitely. No claim for the recovery of Damages may be asserted by Seller or Stockholders against Buyer or its successors in interest after such representations and warranties shall thus expire; provided, however, that claims for Damages first asserted in writing within the applicable period shall not thereafter be barred.

14.5 Other Indemnification Rights. To the extent other provisions of this Agreement or applicable law provide for indemnification, the indemnification rights provided for in this Section 14 are in addition to those other provisions or applicable law, but no party may recover more than once for the same events or amounts.

## SECTION 15

### TERMINATION OF AGREEMENT; ADDITIONAL REMEDIES

15.1 Manner. This Agreement and the transactions contemplated hereby may be terminated prior to completion of the Closing:

- (a) by mutual written consent of Buyer, Seller and Stockholders;
- (b) by Buyer, upon providing written notice to Seller and Stockholders, if as of the time set for Closing any of the conditions in Section 13 has not been satisfied or waived by Buyer in writing, provided Buyer is not then in material breach of this Agreement;
- (c) by Seller and Stockholders, upon providing written notice to Buyer, if as of the time set for Closing any of the conditions in Section 12 has not been satisfied or waived by Seller and Stockholders in writing, provided Seller and Stockholders are not then in material breach of this Agreement;
- (d) by Seller and Stockholders, upon providing written notice to Buyer, if Buyer fails to consummate the transactions contemplated hereunder after all conditions in Section 13 have been satisfied, provided Seller and Stockholders are not then in material breach of this Agreement;
- (e) by Buyer, upon providing written notice to Seller and Stockholders, if Seller and Stockholders fail to consummate the transactions contemplated hereunder after all conditions in Section 12 have been satisfied, provided Buyer is not then in material breach of this Agreement;
- (f) subject to Section 10.1, by either party upon denial by the PSC of the PSC Application; or
- (g) by either party if any court of competent jurisdiction in the United States or any other United States governmental body shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other actions shall have become final and non-appealable (provided that such party is not then in material breach of this Agreement).

15.2 Remedies. The termination of this Agreement will in no way limit any obligation or liability of any party based upon or arising from a breach or default by such party with respect to any of its representations, warranties or covenants contained in this Agreement.



15.3 Specific Performance. The parties recognize and agree that Buyer has relied on this Agreement and expended considerable effort and resources related to the transactions contemplated hereunder, that the rights and benefits conferred upon Buyer herein are unique, and that damages may not be adequate to compensate Buyer in the event Seller or any Stockholder improperly refuses to consummate the transactions contemplated hereunder. The parties therefore agree that Buyer shall be entitled, at its option and in lieu of terminating this Agreement pursuant to Section 15.1, to have this Agreement specifically enforced by a court of competent jurisdiction; provided, however, that Buyer may not specifically enforce this Agreement if it has previously terminated this Agreement.

## SECTION 16

### GENERAL

16.1 Survival of Representations and Warranties. Each representation and warranty herein contained shall survive the Closing as provided in Section 14.4, notwithstanding any investigation at any time made by or on behalf of any party to this Agreement.

16.2 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws, and not the laws of conflicts, of the State of Florida.

16.3 Notices. Any notices or other communications required or permitted under this Agreement shall be delivered personally or sent by registered or certified mail, postage prepaid, delivered by overnight delivery or sent by facsimile, addressed as follows:

To Buyer:	AquaSource Utility, Inc. Cherrington Corporate Center Suite 300 200 Corporate Center Drive Moon Township, PA 15108 Attn: Martin J. Stanek, Esq. Fax: (412) 393-3610
With a copy to:	Eckert Seamans Cherin & Mellott, LLC 600 Grant Street 44th Floor Pittsburgh, PA 15219 Attn: Gregory A. Weingart, Esq. Fax: (412) 566-6099
To Seller or Stockholders:	Heartland Utilities, Inc. 4923 Regency Drive Sebring, FL 33876 Attn: Howard Short Fax: (863) 655-4313

With a copy to: Knowlton H. Shelnut, Jr., Esq.  
1525 South Florida Avenue, Suite 1  
Lakeland, FL 33803  
Fax: (863) 683-6172

or such other addresses as shall be similarly furnished in writing by either party. Such notices or communications shall be deemed to have been given as of the date of personal delivery, or if mailed, the date the return receipt is signed or the date on which delivery is refused, or if delivered by overnight delivery or facsimile, on the date of receipt.

16.4 Entire Agreement. This instrument supersedes all prior communications, understandings and agreements of or among the parties with respect to the subject matter of this Agreement and contains the entire agreement among the parties with respect to the transactions contemplated in this Agreement.

16.5 Headings. The headings of this Agreement are inserted for convenience only and shall not constitute a part of this Agreement.

16.6 Schedules; Exhibits. All schedules and exhibits annexed to this Agreement are hereby incorporated in this Agreement by this reference.

16.7 Expenses. Each party shall bear its own costs and expenses incurred by it in connection with the transactions pursuant to this Agreement.

16.8 Amendment. This Agreement may be amended, modified or superseded, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed on behalf of all of the parties or, in the case of a waiver, by the party waiving compliance.

16.9 Waiver. The failure of any party at any time or times to require performance of any provision of this Agreement shall in no manner affect the right to enforce that provision or any other provision of this Agreement at any time thereafter.

16.10 Assignment. Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned by Seller or Stockholders without the prior written consent, in its sole discretion, of Buyer, or by Buyer without the prior written consent, in their sole discretion, of Seller and Stockholders; provided, however, that Buyer may assign its rights and obligations under this Agreement to (a) an Affiliate of Buyer or (b) a prospective purchaser of all or substantially all of the assets of Buyer. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and no other Person shall have any right, benefit or obligation under this Agreement.

16.11 Attorneys' Fees. In the event of any action arising out of this Agreement, the prevailing party shall be entitled to recover its costs, expenses and reasonable attorney's fees incurred in connection with the dispute from the other party.

16.12 Further Assurances. After the Closing, Seller and Stockholders shall execute and deliver, without additional expense to Buyer, such additional documents as are reasonably necessary to consummate, effectuate or evidence the transactions contemplated hereby.

16.13 Bulk Sales Compliance. The parties hereby waive compliance with the provisions of the bulk sales law of the State of Florida, if any.

16.14 Counterparts; Fax Signatures. This Agreement may be executed in one or more counterparts, each of which together shall constitute a single instrument. Signatures on this Agreement transmitted by facsimile shall be deemed to be original signatures for all purposes of this Agreement.

[Signatures appear on the following pages]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

HEARTLAND UTILITIES, INC.

By: Howard Short  
Title: PRESIDENT

Howard Short  
Howard Short

Colleen Short  
Colleen Short

AQUASOURCE UTILITY, INC.

By: Frank Hoffmann  
Title: PRESIDENT

## INDEX OF SCHEDULES AND EXHIBITS

Schedule 2.1	-	Asset Schedule
Schedule 2.2	-	Excluded Asset Schedule
Schedule 4.0	-	Seller's Disclosure Schedule
Exhibit A	-	Bill of Sale
Exhibit B	-	Deed
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Exhibit D	-	Seller's Secretary's Certificate
Exhibit E	-	Buyer's Bring-Down Certificate
Exhibit F	-	Buyer's Secretary's Certificate



**SCHEDULE 2.1**

**ASSET SCHEDULE**

Section 2.1(a)  
PERSONAL PROPERTY

One 10,000 gallon pressure tank and accessories

One 15,000 gallon ground storage tank and accessories including a cascade aerator

Two 20-HP high service pumps including electrical controls, valves, and metering equipment

Two 10 x 6 wells drilled 1200' deep with 20-HP submersible pumps

2300' 2" PVC pipe including valves and fittings

2050' 4" PVC pipe including valves and fittings

11,740' 6" PVC pipe including valves and fittings

One Irrigation system

One Security system

One Polyphosphate feed system

One Gas Chlorination system

43 services including meters and accessories

Fence and landscaping



Section 2.1(a)  
PERSONAL PROPERTY (CONT.)

SEBRING LAKES

- 2 Floats for ground storage tank
- 1 4" gate valve
- 3 6" valve covers
- 50' gas chlorine tubing
- 1 6" stainless steel repair clamp
- 2 3" MJ solid sleeves
- 2 6x1 tapping saddles
- 2 6x2 tapping saddles
- 2 4x1 tapping saddles
- 4 2x1 tapping saddles
- 2 4" C-900 knock on
- 2 6" C-900 knock on
- Misc. PVC pipe fittings 3/4", 1", 1 1/2", 2"
- 1 2" x 2" valve key
- 1 Valve key for 2" gate valve
- 1 Curb stop key
- 1 Fire hydrant wrench
- Misc. galv. fittings

**Section 2.1(b)**  
**REAL PROPERTY**

Pump house building and the following described land:

Lots 1 through 6, inclusive, and Lots 49 through 54, inclusive, Block 6, SEBRING LAKES, UNIT ONE, according to the plat thereof as recorded in Plat Book 6, Page 47, Public Records of Highlands County, Florida.

Together with the following easements, all recorded in the Public Records of Highlands County, Florida:

1. Wellhead Protection Easement recorded in Official Records Book 1426, page 1363;
2. Wellhead Protection Easement recorded in Official Records Book 1426, page 1365;
3. Wellhead Protection Easement recorded in Official Records Book 1426, page 1368;
4. Wellhead Protection Easement recorded in Official Records Book 1426, page 1371;
5. Wellhead Protection Easement recorded in Official Records Book 1426, page 1374;
6. Wellhead Protection Easement recorded in Official Records Book 1426, page 1377;
7. Wellhead Protection Easement recorded in Official Records Book 1426, page 1380;
8. Wellhead Protection Easement recorded in Official Records Book 1426, page 1383;
9. Wellhead Protection Easement recorded in Official Records Book 1426, page 1386; and
10. Easement Deed recorded in Official Records Book 1374, page 629.

**Section 2.1(d)**  
**ASSIGNED CONTRACTS**

Alarm Monitoring Service Agreement dated April 29, 1999, with Central Security & Electronics, Inc. Seller shall obtain the consent of Central Security & Electronics, Inc. to assign such contract prior to Closing.

**Section 2.1(e)**  
**INTELLECTUAL PROPERTY**

None

**Section 2.1(f)**  
**PERMITS**

1. Public Service Commission Certificate No. 420-W.
2. Public Service Commission Second Revised Tariff Sheets for Certificate No. 420-W.
3. Public Service Commission Order Amending Certificate No. 420-W.
4. Public Service Commission Residential Service Rate Schedule RS (effective date of December 31, 2000).
5. FDEP Notice of Permit Issuance, Permit No. 147491-001-WC.
6. FDEP Permit/Cert. No. 147491-001-WC (issued December 17, 1998).
7. FDEP Monthly Operation Reports for January, 2000, through Closing.
8. SFWMD Water Use General Permit No. 2011768.00 (issued June 22, 1998).
9. Highlands County Blanket Utility Maintenance Permit (approved December 29, 2000). Seller shall cause such permit to be extended/renewed prior to Closing.
10. Highlands County Blanket Utility Service Drop Permit (approved December 29, 2000). Seller shall cause such permit to be extended/renewed prior to Closing.

Note: Consent is required to assign each of the Permits to Buyer. Except as provided in Section 10.11 of the Asset Purchase Agreement, Seller shall obtain such consents prior to Closing.

**SCHEDULE 2.2**

**EXCLUDED ASSET SCHEDULE**

Computer  
Work Station  
Fax Machine  
Copy Machine  
Typewriter  
All misc. office furniture and office supplies  
All misc. hand tools

## SCHEDULE 4.0

### SELLER'S DISCLOSURE SCHEDULE

1. Section 4.3: None.
2. Section 4.5: None.
3. Section 4.6: None.
4. Section 4.7: None.
5. Section 4.10: None. (Stockholders, who are the Seller's only employees, will not become employees of the Buyer after Closing).
6. Section 4.11: None.
7. Section 4.13: None.
8. Section 4.14: Refer to Insurance Reports compiled by Heacock Insurance Group, Inc. (dated 11/13/2000), which was previously furnished to Buyer.
9. Section 4.15: None.
10. Section 4.16: None.
11. Section 4.17: In addition to the Regulatory Approval, there must be compliance with all requirements of the Governmental Authority issuing each Permit as well as the business occupational license laws and ordinances of the City of Sebring and the County of Highlands, Florida, together with the authorization of a foreign entity to transact business in Florida by the Florida Secretary of State. Seller is licensed by, and is subject to the regulation of each Governmental Authority and other Person referred to above.
12. Section 4.21: None.





**BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT (“Bill of Sale”) is made and entered into as of \_\_\_\_\_, 2001 between HEARTLAND UTILITIES, INC., a Florida corporation (“Assignor”), and AQUASOURCE UTILITY, INC., a Texas corporation (“Assignee”), pursuant to the terms of that certain Asset Purchase Agreement dated as of September 10, 2001 among Assignor, its stockholders and Assignee (the “Agreement”). Capitalized terms used herein which are defined in the Agreement shall have the meanings assigned to them therein unless otherwise defined herein.

1. For good and valuable consideration, receipt of which is hereby acknowledged, Assignor does hereby sell, convey, transfer, assign and deliver to Assignee, and its successors and assigns, free and clear of any Liens, the Purchased Assets.

2. Assignee does hereby accept the foregoing sale, conveyance, transfer, assignment and delivery of the Purchased Assets and does hereby assume and agree to pay, perform and discharge, when lawfully due, the Assumed Obligations.

Assignor hereby covenants that, from time to time after delivery of this Bill of Sale, at Assignee’s request and without further consideration, Assignor shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, any and all such further acts, instruments and other things or writings reasonably requested by Assignee in order to evidence and effectuate the consummation of any of the transactions contemplated by this Bill of Sale.

Notwithstanding anything contained in this Bill of Sale to the contrary, the terms and provisions of the Agreement (including without limitation any representations or warranties of Assignor relating to the Purchased Assets) shall survive the delivery of this Bill of Sale as provided in the Agreement. This Bill of Sale shall, in all events, be construed so that none of the Assumed Obligations shall be expanded, increased, broadened or enlarged as to rights or remedies which third parties would have had against Assignor or Assignee had this Bill of Sale not been executed and delivered. This Bill of Sale neither expands upon nor limits the rights, benefits, responsibilities, liabilities and obligations of Assignor and Assignee provided in and under the Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Bill of Sale to be executed as of the date first written above.

HEARTLAND UTILITIES, INC.

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

AQUASOURCE UTILITY, INC.

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

**WARRANTY DEED**

Mail to:  
Name:  
Address:  
This instrument prepared by:  
Address:  
Property appraisers parcel identification (Folio number(s)):  
  
Grantee's FEIN:

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This Warranty Deed, made the \_\_\_ day of \_\_\_\_\_, 2001, by **HEARTLAND UTILITIES, INC.**, a Florida corporation, hereinafter called the Grantor,

whose address is 4923 Regency Drive, Sebring, Florida 33875,

TO

**AQUASOURCE UTILITY, INC.**, a Texas corporation, hereinafter called the Grantee,

whose address is Cherrington Corporate Center, Suite 300, 200 Corporate Center Drive, Moon Township, Pennsylvania 15108.

The Grantor, for and in consideration of the sum of \$\_\_\_\_\_ and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains and sells unto the Grantee all that certain land, situate in **HIGHLAND COUNTY, STATE OF FLORIDA**, viz:

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To have and to hold, the same in fee simple forever.

And the Grantor hereby covenants with the Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2000.

In witness whereof, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered  
in the presence of:

HEARTLAND UTILITIES, INC.

\_\_\_\_\_  
Witness signature (as to Grantor)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness signature (as to Grantor)

\_\_\_\_\_  
Printed Name

State of \_\_\_\_\_ )

County of \_\_\_\_\_ )

I hereby certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_, known to me to be the person herein described and who executed the foregoing instrument, who acknowledged before me that he/she executed the same, and an oath was not taken.

(Check one:) [ ] said person is personally known to me.  
[ ] said person provided the following type of identification:  
\_\_\_\_\_

Witness my hand and official seal in the county and state  
last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

Notary signature

\_\_\_\_\_

\_\_\_\_\_  
Printed Notary signature

Notary rubber stamp seal

**CERTIFICATE  
OF  
HEARTLAND UTILITIES, INC.  
AND ITS  
STOCKHOLDERS**

The undersigned, \_\_\_\_\_, hereby certifies that he is the \_\_\_\_\_ of Heartland Utilities, Inc., a Florida corporation ("Seller"), and the undersigned, Howard Short and Colleen Short (collectively, "Stockholders"), hereby certify that they are the stockholders of Seller, and each further certifies that:

1. This Certificate is delivered pursuant to Section 13.1 of that certain Asset Purchase Agreement dated as of September 10, 2001 among Seller, Stockholders and AquaSource Utility, Inc. (the "Asset Purchase Agreement"). Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

2. The representations and warranties of Seller and Stockholders contained in the Asset Purchase Agreement are true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the Closing with the same effect as though all such representations and warranties were made at and as of the Closing (except for representations and warranties expressly and specifically relating to a time or times other than the Closing, which are true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the time or times specified).

3. Seller and Stockholders have complied with all of their respective covenants and agreements contained in the Asset Purchase Agreement which were to be complied with at or prior to the Closing.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the undersigned have executed and delivered this  
Certificate as of \_\_\_\_\_, 2001.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Howard Short

\_\_\_\_\_  
Colleen Short

**SECRETARY'S CERTIFICATE  
OF  
HEARTLAND UTILITIES, INC.**

The undersigned, \_\_\_\_\_, hereby certifies that he is the Secretary of Heartland Utilities, Inc., a Florida corporation ("Seller"), and further certifies that:

1. This Secretary's Certificate is delivered pursuant to Section 13.4 of that certain Asset Purchase Agreement dated as of September 10, 2001 among Seller, its stockholders and AquaSource Utility, Inc.

2. Attached hereto as Annex A is a true and correct copy of resolutions duly adopted by the board of directors and stockholders of Seller on \_\_\_\_\_, 2001, all of such resolutions being in full force and effect on the date hereof.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Secretary's Certificate as of \_\_\_\_\_, 2001.

\_\_\_\_\_  
\_\_\_\_\_, Secretary

Resolutions Adopted by Board of Directors and Stockholders  
of  
Heartland Utilities, Inc.



**OFFICER'S CERTIFICATE  
OF  
AQUASOURCE UTILITY, INC.**

The undersigned, Martin J. Stanek, hereby certifies that he is the Vice President and General Counsel of AquaSource Utility, Inc., a Texas corporation ("Buyer"), and further certifies that:

1. This Officer's Certificate is delivered pursuant to Section 12.1 of that certain Asset Purchase Agreement dated as of September 10, 2001 among Heartland Utilities, Inc., its stockholders and Buyer (the "Asset Purchase Agreement"). Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

2. The representations and warranties of Buyer contained in the Asset Purchase Agreement are true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the Closing with the same effect as though all such representations and warranties were made at and as of the Closing (except for representations and warranties expressly and specifically relating to a time or times other than the Closing, which are true and correct in all material respects (determined without regard to materiality qualifications within all such representations and warranties) at and as of the time or times specified).

3. Buyer has complied with all of its covenants and agreements contained in the Asset Purchase Agreement which were to be complied with at or prior to the Closing.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Officer's Certificate as of \_\_\_\_\_, 2001.

---

Martin J. Stanek, Vice President and  
General Counsel

**SECRETARY'S CERTIFICATE  
OF  
AQUASOURCE UTILITY, INC.**

The undersigned, Martin J. Stanek, hereby certifies that he is the Secretary of AquaSource Utility, Inc., a Texas corporation ("Buyer"), and further certifies that:

1. This Secretary's Certificate is delivered pursuant to Section 12.4 of that certain Asset Purchase Agreement dated as of September 10, 2001 among Heartland Utilities, Inc., its stockholders and Buyer.

2. Attached hereto as Annex A is a true and correct copy of resolutions duly adopted by the board of directors of Buyer on \_\_\_\_\_, 2001, all of such resolutions being in full force and effect on the date hereof.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Secretary's Certificate as of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Martin J. Stanek, Secretary

Resolutions Adopted by Board of Directors  
of  
AquaSource Utility, Inc.

WHEREAS, the Company desires to acquire substantially all of the assets of Heartland Utilities, Inc. (“Seller”) relating to the operation of the water system and facilities known as “Sebring Lakes Utility” located in Sebring, Highland County, Florida (the “Asset Acquisition”); and

WHEREAS, the aggregate consideration payable to Seller in connection with the Asset Acquisition shall be approximately \$90,000 in cash.

NOW, THEREFORE, BE IT RESOLVED, that the Asset Acquisition is hereby approved and ratified in all respects; and

FURTHER RESOLVED, that the President, any Vice President and the Secretary of the Company (collectively, the “Authorized Officers”), and each of them, are hereby authorized and directed to execute and deliver, on behalf of the Company, an Asset Purchase Agreement among the Company, Seller and the stockholders of Seller relating to the Asset Acquisition (the “Asset Purchase Agreement”), in the form, and with such changes therein, as such Authorized Officer(s) may approve, such approval to be conclusively evidenced by such execution; and

FURTHER RESOLVED, that the Authorized Officers, and each of them, are hereby authorized and directed (i) to consummate, on behalf of the Company, all of the transactions contemplated by the Purchase Agreement; (ii) to execute, deliver and file, on behalf of the Company, any and all such other agreements and instruments contemplated by the Purchase Agreement, including without limitation the Bill of Sale, Lease Assignment and Deed referenced in the Purchase Agreement (each in the form, and with such changes therein, as such Authorized

Officer(s) may approve, such approval to be conclusively evidenced by such execution); (iii) to perform, on behalf of the Company, such other acts as may be necessary, appropriate or desirable in order to permit the Company to perform its obligations and derive its benefits under the Purchase Agreement; and (iv) to carry out the purposes and intent of the Purchase Agreement and each of the agreements and instruments contemplated thereby, all as determined by such Authorized Officer(s) in his, her or their discretion, such determination to be conclusively evidenced by such execution or other act; and

FURTHER RESOLVED, that the actions of the officers of the Company undertaken on behalf of the Company in connection with the transactions described in the Purchase Agreement are hereby approved, adopted and ratified in all respects; and

FURTHER RESOLVED, that the Authorized Officers, and each of them, are hereby authorized and empowered, on behalf of the Company, to perform all other acts and things, and to execute, deliver and file all documents and instruments, as such Authorized Officer(s) may deem necessary or desirable, in their discretion, to carry out the foregoing recitals and resolutions.

COMPOSITE EXHIBIT "B"

(Buyer's Financial Statement)

Statement of Consolidated Income and Comprehensive Income

		(Thousands of Dollars, Except Per Share Amounts)		
		Year Ended December 31,		
		2000	1999	1998
OPERATING REVENUES	Electricity sales	\$1,029,247	\$1,093,537	\$1,126,789
	Water sales	112,151	101,613	30,941
	Propane sales	53,721	9,495	—
	Other	132,485	136,556	96,821
	<i>Total Operating Revenues</i>	<i>1,327,604</i>	<i>1,341,201</i>	<i>1,254,551</i>
OPERATING EXPENSES	Fuel and purchased power	347,859	225,182	262,560
	Other operating	413,531	437,679	343,442
	Maintenance	50,623	75,400	74,908
	Depreciation and amortization	343,232	196,319	219,920
	Taxes other than income taxes	68,070	87,779	81,318
	<i>Total Operating Expenses</i>	<i>1,223,315</i>	<i>1,022,359</i>	<i>982,148</i>
OPERATING INCOME	Operating Income	104,289	318,842	272,403
OTHER INCOME	Other Income	227,727	152,003	134,801
	Interest and Other Charges	123,610	158,707	109,534
	Income Before Income Taxes, Extraordinary Item and Cumulative Effect of Accounting Change	208,406	312,138	297,670
	Income Taxes	70,350	110,722	100,982
	Income Before Extraordinary Item and Cumulative Effect of Accounting Change	138,056	201,416	196,688
	Extraordinary Item — Net of Tax	—	—	(82,548)
	Cumulative Effect of Change in Accounting Principle — Net	15,495	—	—
NET INCOME	Net Income	153,551	201,416	114,140
COMPREHENSIVE INCOME	Other Comprehensive Income:			
	Unrealized holding gains (losses), net of tax of \$14,337, \$1,081, and \$(2,445)	26,625	1,540	(3,448)
	Comprehensive Income	\$ 180,176	\$ 202,956	\$ 110,692
	Dividends on Preferred Stock	(806)	1,569	866
	Comprehensive Earnings Available for Common Stock	\$ 180,982	\$ 201,387	\$ 109,826
Average Number of Common Shares Outstanding (Thousands of Shares)		63,348	75,463	77,683
EARNINGS PER SHARE	Basic Earnings Per Share*	\$ 2.44	\$ 2.65	\$ 1.46
	Diluted Earnings Per Share**	\$ 2.39	\$ 2.62	\$ 1.46
	Comprehensive Earnings Per Share*	\$ 2.86	\$ 2.67	\$ 1.42
	Diluted Comprehensive Earnings Per Share**	\$ 2.80	\$ 2.64	\$ 1.42
DIVIDENDS DECLARED	Dividends Declared Per Share of Common Stock	\$ 1.62	\$ 1.54	\$ 1.46

\* Includes \$0.25 related to the cumulative effect of a change in accounting principle in 2000 and the \$(1.06) PUC restructuring charge in 1998.

\*\* Includes \$0.24 related to the cumulative effect of a change in accounting principle in 2000 and the \$(1.03) PUC restructuring charge in 1998.

See notes to consolidated financial statements.

**Consolidated Balance Sheet**

		(Thousands of Dollars)	
		As of December 31,	
		2000	1999
<b>ASSETS</b>	<b>Current Assets:</b>		
	Cash and temporary cash investments	\$ 15,807	\$ 54,229
	Receivables:		
	Electric customer accounts receivable	134,187	82,314
	Other electric utility receivables	16,578	32,582
	Water customer accounts receivable	17,260	17,851
	Other receivables	80,231	60,781
	Less: Allowance for uncollectible accounts	(11,861)	(9,280)
	<b>Total Receivables – Net</b>	<b>236,395</b>	<b>184,248</b>
	Materials and supplies (at average cost):		
	Operating and construction	24,077	37,536
	Coal	—	17,705
	<b>Total Materials and Supplies</b>	<b>24,077</b>	<b>55,241</b>
	Income tax asset	91,438	—
	Other current assets	21,109	81,939
	<b>Total Current Assets</b>	<b>388,826</b>	<b>375,657</b>
	<b>Long-Term Investments:</b>		
	Leveraged leases	442,608	409,461
	Gas reserves	104,664	89,390
	Affordable housing	65,885	79,752
	Available-for-sale securities	55,979	6,921
	Other leases	16,294	17,162
	Other	75,278	36,598
	<b>Total Long-Term Investments</b>	<b>760,708</b>	<b>639,284</b>
	<b>Property, Plant and Equipment:</b>		
Electric plant in service	1,854,013	3,856,719	
Water plant in service	239,758	158,219	
Propane distribution plant	41,889	40,628	
Construction work in progress	59,100	84,313	
Other	216,557	221,393	
Gross property, plant and equipment	2,411,317	4,361,272	
Less: Accumulated depreciation and amortization	(704,246)	(2,541,236)	
<b>Total Property, Plant and Equipment – Net</b>	<b>1,707,071</b>	<b>1,820,036</b>	
<b>Other Non-Current Assets:</b>			
Transition costs	396,379	2,008,171	
Regulatory assets	326,581	224,002	
Divestiture costs	—	218,653	
Other	286,408	315,158	
<b>Total Other Non-Current Assets</b>	<b>1,009,368</b>	<b>2,765,984</b>	
<b>Total Assets</b>	<b>\$ 3,865,973</b>	<b>\$ 5,600,961</b>	

See notes to consolidated financial statements.

**LIABILITIES AND  
CAPITALIZATION**

		(Thousands of Dollars)	
		As of December 31,	
		2000	1999
<b>Current Liabilities:</b>			
Current debt maturities	\$	89,519	\$ 469,248
Notes payable		2,504	342,804
Accounts payable		144,306	106,143
Accrued liabilities		61,015	32,970
Dividends declared		26,037	31,427
Other		27,193	1,051
<b>Total Current Liabilities</b>		<b>350,574</b>	<b>983,643</b>
<b>Non-Current Liabilities:</b>			
Deferred income taxes – net		852,695	1,042,311
Deferred income		116,803	126,434
Pension trust liability		83,175	63,760
Warwick Mine liability		40,110	49,308
Other		48,159	82,381
<b>Total Non-Current Liabilities</b>		<b>1,140,942</b>	<b>1,364,194</b>
<b>Commitments and Contingencies (Notes B through N)</b>			
<b>Capitalization:</b>			
<b>Long-Term Debt</b>		<b>1,349,298</b>	<b>1,633,077</b>
<b>Preferred and Preference Stock:</b>			
DQE preferred stock		17,361	42,170
Preferred stock of subsidiaries		212,608	215,608
Preference stock of subsidiaries		18,028	25,279
Total preferred and preference stock before deferred employee stock ownership plan (ESOP) benefit		247,997	283,057
Deferred ESOP benefit		(6,583)	(10,875)
<b>Total Preferred and Preference Stock</b>		<b>241,414</b>	<b>272,182</b>
<b>Common Shareholders' Equity:</b>			
Common stock – no par value (authorized – 187,500,000 shares; issued – 109,679,154 shares)		994,834	994,935
Retained earnings		1,007,739	953,785
Treasury stock (at cost) (53,793,330 and 37,912,995 shares)		(1,247,287)	(602,689)
Accumulated other comprehensive income		28,459	1,834
<b>Total Common Shareholders' Equity</b>		<b>783,745</b>	<b>1,347,865</b>
<b>Total Capitalization</b>		<b>2,374,457</b>	<b>3,253,124</b>
<b>Total Liabilities and Capitalization</b>	<b>\$</b>	<b>3,865,973</b>	<b>\$5,600,961</b>

See notes to consolidated financial statements.



**Statement of Consolidated Cash Flows**

		(Thousands of Dollars)		
		Year Ended December 31,		
		2000	1999	1998
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>	Net income	\$ 153,551	\$ 201,416	\$ 114,140
	Principal non-cash charges (credits) to net income:			
	Depreciation and amortization	343,232	196,319	219,920
	Capital lease, nuclear fuel and investment amortization	35,904	60,470	80,574
	Cumulative effect of a change in accounting principle, net	(15,495)	—	—
	Extraordinary item, net of tax	—	—	82,548
	Investment income	(33,000)	(79,747)	(111,904)
	Gain on disposition of investments	(69,533)	(44,027)	(6,809)
	Deferred taxes	(109,006)	73,461	119,945
	Changes in working capital other than cash	107,407	(58,057)	(34,271)
	Other	(81,903)	5,644	(101,076)
	<b><i>Net Cash Provided from Operating Activities</i></b>	<b>331,157</b>	<b>355,479</b>	<b>363,067</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>	Proceeds from sale of generation assets, net of federal income tax payment of \$157,424	1,547,607	—	—
	Proceeds from sale of investments, net of federal income tax payment of \$52,784, \$17,611, and \$2,724	233,909	125,483	4,085
	Acquisition of propane companies	—	(63,364)	—
	Acquisition of water companies	(11,059)	(133,023)	(122,007)
	Other acquisitions	(32,000)	—	—
	Funding of nuclear decommissioning trust	—	(59,861)	(8,878)
	Divestiture costs	(78,752)	(47,449)	—
	Long-term investments	(84,246)	(29,671)	(60,017)
	Capital expenditures	(150,046)	(147,236)	(190,548)
	Other	(19,080)	(11,506)	(22,466)
		<b><i>Net Cash Provided from (Used in) Investing Activities</i></b>	<b>1,406,333</b>	<b>(366,627)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>	Issuance of debt	149,746	386,624	140,000
	Increase in notes payable	—	342,804	—
	Beaver Valley lease termination	—	(277,226)	—
	Dividends on common and preferred stock	(99,597)	(117,302)	(114,218)
	Reduction of commercial paper	(342,804)	—	—
	Repurchase of common and preferred stock	(665,372)	(216,713)	(14,155)
	Reductions of long-term obligations:			
	Capital leases	(110)	(42,423)	(12,897)
	Long-term debt	(814,236)	(90,667)	(198,272)
	Other	(3,539)	(27,896)	(11,930)
		<b><i>Net Cash Used in Financing Activities</i></b>	<b>(1,775,912)</b>	<b>(42,799)</b>
	Net decrease in cash	(38,422)	(53,947)	(248,236)
	Cash, beginning of period	54,229	108,176	356,412
	Cash and temporary cash investments at end of year	\$ 15,807	\$ 54,229	\$ 108,176
<b>Supplemental Cash Flow Information</b>				
<b>CASH PAID DURING THE YEAR</b>	Interest (net of amount capitalized)	\$ 109,918	\$ 100,083	\$ 91,462
	Income taxes	\$ 162,748	\$ 35,108	\$ 27,978

See notes to consolidated financial statements.

Statement of Consolidated Retained Earnings

	(Thousands of Dollars)		
	As of December 31,		
	2000	1999	1998
Balance at beginning of year	\$ 953,785	\$ 869,671	\$ 869,749
Net income	153,551	201,416	114,140
Dividends declared	(99,597)	(117,302)	(114,218)
<b>Balance at End of Year</b>	<b>\$ 1,007,739</b>	<b>\$ 953,785</b>	<b>\$ 869,671</b>

See notes to consolidated financial statements.

WATER SERVICE AREA FOR SEBRING LAKES

A PORTION OF SEBRING LAKES UNIT 1-A, 1-B, 2-A, 2-B, AND 2-C LOCATED IN HIGHLANDS COUNTY, FLORIDA, SECTIONS 3 AND 4, TOWNSHIP 36 SOUTH, RANGE 29 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 36 SOUTH, RANGE 29 EAST, THENCE NORTH 00 [degree] 29' 23" EAST ALONG THE EAST LINE OF SECTION 3 A DISTANCE OF 1298.93 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 27, THENCE NORTH 31 [degrees] 32' 59" WEST ALONG THE WESTERLY [\*9] RIGHT-OF-WAY LINE OF U.S. HIGHWAY 27 A DISTANCE OF 400 FEET MORE OR LESS TO A POINT ON THE NORTH LINE OF JOSEPHINE CREEK AND FOR A POINT OF BEGINNING: THENCE CONTINUE NORTH 31 [degrees] 32' 59" WEST ALONG SAID WEST RIGHT-OF-WAY LINE U.S. HIGHWAY 27 A DISTANCE OF 1264.43 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 1/2 OF SECTION 3; THENCE SOUTH, 89 [degrees] 41' 36" WEST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF SECTION 3 A DISTANCE OF 3155.71 FEET TO THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHWEST 1/4 THENCE NORTH 0 [degree] 53' 45" EAST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHWEST 1/4 A DISTANCE OF 669.33 FEET, TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE SOUTH 89 [degrees] 46' 12" WEST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 1331.90 FEET TO A POINT ON THE WEST LINE OF SECTION 3; THENCE NORTH 1 [degree] 01' 32" EAST ALONG THE WEST LINE OF SECTION 3 A DISTANCE OF 2013.48 FEET TO THE NORTHWEST CORNER OF SECTION 3; ALSO BEING THE NORTHEAST CORNER OF SECTION 4; THENCE SOUTH 89 [degrees] 55' 46" WEST ALONG THE NORTH LINE OF SECTION 4 FOR A DISTANCE OF 570 FEET TO A POINT [\*10] ON THE EASTERLY LINE OF JOSEPHINE CREEK; THENCE RUN SOUTHWESTERLY ALONG THE EASTERLY LINE OF JOSEPHINE CREEK A DISTANCE OF 2,400 FEET, MORE OR LESS, THENCE SOUTHERLY ALONG THE EASTERLY LINE OF JOSEPHINE CREEK A DISTANCE OF 900 FEET; THENCE EASTERLY ALONG THE NORTHERLY LINE OF JOSEPHINE CREEK A DISTANCE 8,100 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.  
CONTAINING 250 ACRES MORE OR LESS.

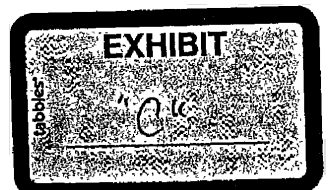


EXHIBIT "D"

TARIFFS

AQUASOURCE UTILITY, INC.  
WATER TARIFF - HIGHLANDS COUNTY

SECOND REVISED SHEET NO. 3.4  
CANCELS FIRST REVISED SHEET NO. 3.4

TERRITORY AUTHORITY

HIGHLANDS COUNTY

CERTIFICATE NUMBER - 424-W

COUNTY - HIGHLANDS

COMMISSION ORDER(S) APPROVING TERRITORY SERVED -

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
12989	02/13/84	830083-WU	Grandfather Certificate
PSC-00-1389-PAA-WU	07/31/00	991001-WU	Transfer of Certificate (AquaSource Utility, Inc.)
PSC-01-0631-FOF-WU	03/14/01	001585-WU	Amendment of Certificate  Transfer & Amendment (Sebring Lakes System)

(Continued to Sheet No. 3.4.1)

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

(Continued from Sheet No. 3.4)

DESCRIPTION OF TERRITORY SERVED

HIGHLANDS COUNTY

LAKE JOSEPHINE SYSTEM

TOWNSHIP 35 SOUTH, RANGE 29 EAST

The southeast 1/4 of the southeast 1/4 of Section 28, the southwest 1/4 of Section 27, the east 1/2 of Section 31, all of Sections 32 and 33, the northwest 1/4 and the northwest 1/4 of the southwest 1/4 of Section 34, less the westerly 305' of the northwest 1/4 of the southwest 1/4 of Section 27, Township 35 South, Range 29 East.

SEBRING LAKES SYSTEM

A portion of Sebring Lakes Unit 1-A, 1-B, 2-A, 2-B and 2-C located in Highlands County, Florida, Sections 3 and 4, Township 36 South, Range 29 East, being more particularly described as follows:

Commence at the Southeast corner of Section 3, Township 36 South, Range 29 East, Thence North 00°29'23" East along the East line of Section 3 a distance of 1298.93 feet to a point on the westerly right of way line of U.S. Highway 27, Thence North 31°32'59" West along the Westerly right of way line of U.S. 27 a distance of 400 feet more or less to a point on the north line of Josephine Creek and for a Point of Beginning: Thence continue North 31°32'59" West along said West right of way line U.S. Highway 27 a distance of 1264.43 feet to a point on the north line of the South 1/2 of Section 3; thence South 89°41'36" West along the North line of the South 1/2 of Section 3 a distance of 3155.71 feet to the Southeast corner of the West 1/2 of the Northwest 1/4 thence North 0°53'45" East along the East line of the West 1/2 of the Northwest 1/4 a distance of 669.33 feet to the Northeast corner of the South 1/2 of the Southwest 1/4 of the Northwest 1/4; thence South 89°46'12" West along the North line of the South 1/2 of the Southwest 1/4 of the Northwest 1/4 a distance of 1331.90 feet to a point on the West line of Section 3; thence North 1°01'32" East along the West line of Section 3 a distance of 2013.48 feet to the Northwest corner of Section 3; also being the Northeast corner of Section 4; thence South 89°55'46" West along the North line of Section 4 for a distance of 570 feet to a point on the easterly line of Josephine Creek; thence run southwesterly along the easterly line of Josephine Creek a distance of 2,400 feet, more or less, thence southerly along the easterly line of Josephine Creek a distance of 900 feet; thence easterly along the northerly line of Josephine Creek a distance of 8,100 feet, more or less, to the Point of Beginning.

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

COMMUNITIES SERVED LISTING

HIGHLANDS COUNTY

<u>COUNTY</u> <u>NAME</u>	<u>DEVELOPMENT</u> <u>NAME</u>	<u>RATE</u> <u>SCHEDULES</u> <u>AVAILABLE</u>	<u>SHEET NO.</u>
Highlands	Lake View Village	GS, RS	13.3, 14.3
Highlands	Lake Josephine Heights	GS, RS	13.3, 14.3
Highlands	Sebring Lakes	GS, RS, MS	13.3.1, 14.3.1, 15.3

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

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General Service, GS	
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Lake County - Forty Eight Estates . . . . .	13.1.2
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Lake County - King's Cove . . . . .	20.1.1
Lake County - Summit Chase Villas . . . . .	20.1
Lake County - Tavares Ridge . . . . .	20.1
Polk County . . . . .	20.2

FRANK HOFFMANN  
 Issuing Officer

PRESIDENT  
 Title



GENERAL SERVICE -- HIGHLANDS COUNTY

RATE SCHEDULE GS

AVAILABILITY - Available throughout Lake View Village and Lake Josephine Heights in Highlands County.

APPLICABILITY - For water service to all Customers for which no other schedule applies.

LIMITATIONS - Subject to all of the Rules and Regulations of this Tariff and General Rules and Regulations of the Commission.

BILLING PERIOD - Monthly

<u>RATE</u> -	<u>METER SIZE</u>	<u>BASE FACILITY CHARGE</u>
	5/8" x 3/4"	\$ 8.60
	3/4"	12.90
	1"	21.48
	1 1/2"	42.98
	2"	68.76
	3"	137.53
	4"	214.89
	6"	429.77

Gallonage Charge  
Per 1,000 Gallons \$ 1.64

MINIMUM CHARGE - Applicable Base Facility Charge

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days written notice is mailed to the Customer, separate and apart from any other bill, service may then be discontinued.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

GENERAL SERVICE -- HIGHLANDS COUNTY

RATE SCHEDULE GS

- AVAILABILITY - Available throughout Sebring Lakes Subdivision in Highlands County.
- APPLICABILITY - For water service to all Customers for which no other schedule applies.
- LIMITATIONS - Subject to all of the Rules and Regulations of this Tariff and General Rules and Regulations of the Commission.
- BILLING PERIOD - Monthly

<u>RATE</u> -	<u>METER SIZE</u>	<u>BASE FACILITY CHARGE</u>
	5/8" x 3/4"	\$ 7.44
	3/4"	11.15
	1"	18.59
	1 1/2"	37.18
	2"	59.49
	3"	118.98
	4"	185.90
	6"	371.80
	Gallonage Charge	
	Per 1,000 Gallons	\$ 1.68

- MINIMUM CHARGE - Applicable Base Facility Charge
- TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days written notice is mailed to the Customer, separate and apart from any other bill, service may then be discontinued.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

RESIDENTIAL SERVICE -- HIGHLANDS COUNTY

RATE SCHEDULE RS

AVAILABILITY - Available throughout the Lake View Village and Lake Josephine Heights in Highlands County.

APPLICABILITY - For water service for all purposes in private residences and individually metered apartment units.

LIMITATIONS - Subject to all of the Rules and Regulations of this Tariff and General Rules and Regulations of the Commission.

BILLING PERIOD - Monthly

<u>RATE</u> -	<u>METER SIZE</u>	<u>BASE FACILITY CHARGE</u>
	5/8" x 3/4"	\$ 8.60
	3/4"	12.90
	1"	21.48
	1 1/2"	42.98
	2"	68.76
	3"	137.53
	4"	214.89
	6"	429.77

Gallonage Charge  
Per 1,000 Gallons \$ 1.64

MINIMUM CHARGE - Applicable Base Facility Charge

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days written notice is mailed to the Customer, separate and apart from any other bill, service may then be discontinued.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

RESIDENTIAL SERVICE -- HIGHLANDS COUNTY

RATE SCHEDULE RS

AVAILABILITY - Available throughout the Sebring Lakes Subdivision in Highlands County.

APPLICABILITY - For water service for all purposes in private residences and individually metered apartment units.

LIMITATIONS - Subject to all of the Rules and Regulations of this Tariff and General Rules and Regulations of the Commission.

BILLING PERIOD - Monthly

<u>RATE</u> -	<u>METER SIZE</u>	<u>BASE FACILITY CHARGE</u>
	5/8" x 3/4"	\$ 7.68
	3/4"	11.51
	1"	19.18
	1 1/2"	38.36
	2"	61.38
	3"	122.76
	4"	191.81
	6"	383.63

Gallonage Charge  
Per 1,000 Gallons \$ 1.74

MINIMUM CHARGE - Applicable Base Facility Charge

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days written notice is mailed to the Customer, separate and apart from any other bill, service may then be discontinued.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

MULTI-RESIDENTIAL SERVICE -- HIGHLANDS COUNTY

RATE SCHEDULE MS

AVAILABILITY - Available throughout Sebring Lakes Subdivision in Highlands County.

APPLICABILITY - For water service for all master-metered residential Customers including, but not limited to, Condominiums, Apartments, and Mobile Home Parks.

LIMITATIONS - Subject to all of the Rules and Regulations of this Tariff and General Rules and Regulations of the Commission.

BILLING PERIOD - Monthly

<u>RATE</u> -	<u>METER SIZE</u>	<u>BASE FACILITY CHARGE</u>
	5/8" x 3/4"	\$ 7.45
	Full 3/4"	11.17
	1"	18.62
	1 1/2"	37.25
	2"	59.60
	3"	119.20
	4"	186.24
	6"	372.49
	Gallonage Charge	
	Per 1,000 Gallons	\$ 1.68

MINIMUM CHARGE - Applicable Base Facility Charge

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days written notice is mailed to the Customer, separate and apart from any other bill, service may then be discontinued.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

CUSTOMER DEPOSITS -- HIGHLANDS COUNTY  
SEBRING LAKES SUBDIVISION

ESTABLISHMENT OF CREDIT - Before rendering water service, the Company may require an Applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the Customer from complying with the Company's rules for prompt payment. Credit will be deemed so established if the Customer complies with the requirements of Rule 25-30.311, Florida Administrative Code.

AMOUNT OF DEPOSIT - The amount of initial deposit shall be the following according to meter size:

	<u>Residential</u>	<u>General Service</u>
5/8" x 3/4"	\$ <u>30.00</u>	\$ <u>54.00</u>
1"	<u>48.00</u>	<u>72.00</u>
1 1/2	<u>80.00</u>	<u>140.00</u>
2"	<u>TWICE MONTHLY ESTIMATED BILL</u>	

ADDITIONAL DEPOSIT - Under Rule 25-30.311(7), Florida Administrative Code, the Company may require a new deposit, where previously waived or returned, or an additional deposit in order to secure payment of current bills provided.

INTEREST ON DEPOSIT - The Company shall pay interest on Customer deposits pursuant to Rules 25-30.311(4) and (4a). The Company will pay or credit accrued interest to the Customer's account during the month of September each year.

REFUND OF DEPOSIT - After a residential Customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the Company shall refund the Customer's deposit provided the Customer has met the requirements of Rule 25-30.311(5), Florida Administrative Code. The Company may hold the deposit of a non-residential Customer after a continuous service period of 23 months and shall pay interest on the non-residential Customer's deposit pursuant to Rules 25-30.311(4) and (5), Florida Administrative Code.

Nothing in this rule shall prohibit the Company from refunding a Customer's deposit in less than 23 months.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

FRANK HOFFMANN  
Issuing Officer

PRESIDENT  
Title

SERVICE AVAILABILITY FEES AND CHARGES -- HIGHLANDS COUNTY  
 LAKE JOSEPHINE HEIGHTS AND LAKE VIEW VILLAGE

(Refer to Service Availability Policy)

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>SHEET NO./RULE NO.</u>
<u>Back Flow Preventor Installation Fee</u>		
5/8" x 3/4" S		
1" . . . . .	\$	
1 1/2" . . . . .	\$	
2" . . . . .	\$	
Over 2" . . . . .		[1]
<u>Customer Connection (Tap-in) Charge</u>		
5/8" x 3/4" . . . . .	\$	
1" . . . . .	\$	
1 1/2" . . . . .	\$	
2" . . . . .	\$	
Over 2" . . . . .		[1]
<u>Guaranteed Revenue Charge</u>		
With Prepayment of Service Availability Charges		
Residential per ERC/month (___ GPD) . . . . .	\$	
All others per gallon/month . . . . .	\$	
Without Prepayment of Service Availability Charge		
Residential per ERC/month (___ GPD) . . . . .	\$	
All others per gallon/month . . . . .	\$	
<u>Inspection Fee</u> . . . . .		[1]
<u>Main Extension Charge</u>		
Residential per ERC (___ GPD) . . . . .	\$	
All others per gallon/month . . . . .	\$	
or		
Residential per lot (___ foot frontage) . . . . .	\$	
All others per foot frontage . . . . .	\$	
General Service . . . . .	\$	
<u>Meter Installation Fee</u>		
5/8" x 3/4" . . . . .	\$ 600.00	
1" . . . . .	\$	
1 1/2" . . . . .	\$	
2" . . . . .	\$	
Over 2" . . . . .		\$[1]
<u>Plan Review Charge</u> . . . . .		\$[1]
<u>Plant Capacity Charge</u>		
Residential per ERC (___ GPD) . . . . .	\$	
All others per gallon \$		
<u>System Capacity Charge</u>		
Residential per ERC (350 GPD) . . . . .	\$	
All others per gallon . . . . .	\$	

[1] Actual Cost is equal to the total cost incurred for services rendered.

EFFECTIVE DATE -

TYPE OF FILING - Transfer

NOTE: PURSUANT TO ORDER 12989, ISSUED FEB. 3, 1984, THE SYSTEM CAPACITY CHARGE COVERS CONNECTION TO MAIN LINE & METER INSTALLATION

FRANK HOFFMANN  
 Issuing Officer

PRESIDENT  
 Title

SERVICE AVAILABILITY FEES AND CHARGES -- HIGHLANDS COUNTY  
SEBRING LAKES SUBDIVISION

(Refer to Service Availability Policy)

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>SHEET NO./RULE NO.</u>
<u>Back Flow Preventor Installation Fee</u>		
5/8" x 3/4" S		
1" . . . . .	\$	
1 1/2" . . . . .	\$	
2" . . . . .	\$	
Over 2" . . . . .	Actual Cost	[1]
<u>Customer Connection (Tap-in) Charge</u>		
5/8" x 3/4" . . . . .	\$Included in meter installation fee	
1" . . . . .	\$	
1 1/2" . . . . .	\$	
2" . . . . .	\$	
Over 2" . . . . .	Actual Cost	[1]
<u>Guaranteed Revenue Charge</u>		
With Prepayment of Service Availability Charges		
Residential per ERC/month (___ GPD) . . . . .	\$NA	
All others per gallon/month . . . . .	\$	
Without Prepayment of Service Availability Charge		
Residential per ERC/month (___ GPD) . . . . .	\$	
All others per gallon/month . . . . .	\$	
<u>Inspection Fee</u> . . . . .	Actual Cost	[1]
<u>Main Extension Charge</u>		
Residential per ERC (___ GPD) . . . . .	\$Actual Cost	
All others per gallon/month . . . . .	\$	
or		
Residential per lot (___ foot frontage) . . . . .	\$NA	
All others per foot frontage . . . . .	\$	
General Service . . . . .	\$	
<u>Meter Installation Fee</u>		
5/8" x 3/4" . . . . .	\$ 500.00	
1" . . . . .	\$ 500.00 + meter cost in excess	
1 1/2" . . . . .	\$ " of 3/4 meter	
2" . . . . .	\$ "	
Over 2" . . . . .	\$Actual Cost	[1]
<u>Plan Review Charge</u> . . . . .	\$Actual Cost	[1]
<u>Plant Capacity Charge</u>		
Residential per ERC (___ GPD) . . . . .	\$Included in meter installation fee	
All others per gallon \$		
<u>System Capacity Charge</u>		
Residential per ERC ( <u>350</u> GPD) . . . . .	\$Included in meter installation fee	
All others per gallon . . . . .	\$	

[1] Actual Cost is equal to the total cost incurred for services rendered.

EFFECTIVE DATE -  
TYPE OF FILING - Transfer

FRANK HOFFMANN  
 Issuing Officer

PRESIDENT  
 Title




AFFIDAVIT OF MAILING

STATE OF FLORIDA

COUNTY OF LEON

Before me, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared BRONWYN MODERAU, who, after being duly sworn on oath, did depose on oath and say that she is the secretary of Martin S. Friedman, attorney for AquaSource Utility, Inc. and that on October 30, 2001, she did send by certified mail, return receipt requested, a copy of the notice attached hereto to each of the utilities, governmental bodies, agencies, or municipalities, in accordance with the list provided by the Florida Public Service Commission, which is also attached hereto.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Bronwyn Moderau

Sworn to and subscribed before me this 30th day of October, 2001, by Bronwyn Moderau, who is personally known to me.

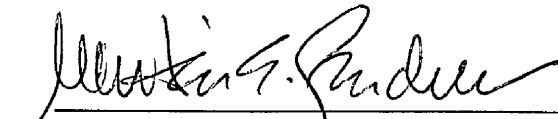
  
\_\_\_\_\_  
Print Name  
NOTARY PUBLIC  
My Commission Expires:

EXHIBIT "E"



Martin S. Friedman  
MY COMMISSION # CC928326 EXPIRES  
August 16, 2004  
BONDED THRU TROY FAIN INSURANCE

**NOTICE OF APPLICATION FOR A TRANSFER  
OF FACILITIES  
LEGAL NOTICE**

Notice is hereby given on October 30, 2001, pursuant to Section 367.071, Florida Statutes, of the application for transfer of the facilities of Sebring Lakes Subdivision of Heartland Utilities, Inc. to AquaSource Utilities, Inc. providing water service to the following described territory in Highlands County, Florida:

A portion of Sebring Lakes Unit 1-A, 1-B, 2-A, 2-B and 2-C located in Highlands County, Florida, Sections 3 and 4, Township 36 South, Range 29 East, being more particularly described as follows:

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Any objection to the said application must be made in writing and filed within thirty (30) days from this date to the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oaks Boulevard, Tallahassee, FL 32399-0850. A copy of said objection should be mailed to the attorney for the applicant who is: Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, FL 32301.

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
10/15/2001-12/13/2001

UTILITY NAME

MANAGER

HIGHLANDS COUNTY

AQUASOURCE UTILITY, INC. (WU827)  
% DQE, INC  
400 FAIRWAY DRIVE, SUITE 400  
CORAPOLIS, PA 15108-3190

RICHARD S. HERSKOVITZ  
(412) 393-3662

BUTTONWOOD BAY WATER & SEWER COMPANY, LLC (WS387)  
% ROSE, SUNDBSTROM & BENTLEY, LLP  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FL 32301-5915

MARTIN S. FRIEDMAN  
(850) 877-6555

C & H UTILITIES, INC. (SU526)  
P. O. BOX 1088  
SEBRING, FL 33871-1088

WENDELL L. FAIRCLOTH  
(941) 471-1400

C & H UTILITIES, INC. (WU649)  
P. O. BOX 1088  
SEBRING, FL 33871-1088

WENDELL L. FAIRCLOTH  
(941) 471-1400

COUNTRY CLUB OF SEBRING (WS654)  
3035 WYNSTONE DRIVE  
SEBRING, FL 33875-4745

R. GREG HARRIS  
(863) 385-6330

CREOLA, INC. (SU658)  
P. O. BOX 1346  
SEBRING, FL 33871-1346

DAVID L. HICKMAN  
(863) 385-0981

CWS COMMUNITIES LP D/B/A CRYSTAL LAKE CLUB (WS831)  
533 EAST CRYSTAL LAKE DRIVE  
AVON PARK, FL 33825-9739

GENA F. LARISON  
(863) 385-7727

DAMON UTILITIES, INC. (WS551)  
47 LAKE DAMON DRIVE  
AVON PARK, FL 33825-8902

LISA DAVIS  
(863) 453-0773

FAIRMOUNT UTILITIES, THE 2ND, INC. (SU648)  
P. O. BOX 488  
AVON PARK, FL 33826-0488

ROGER E. MILLER  
(941) 385-8542

FLORIDA WATER SERVICES CORPORATION (WS618)  
P. O. BOX 609520  
ORLANDO, FL 32860-9520

FREDERICK W. LEONHARDT  
(407) 598-4152

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
10/15/2001-12/13/2001

UTILITY NAME

MANAGER

HIGHLANDS COUNTY (continued)

HARDER HALL - HOWARD, INC. (SU644) 122 EAST LAKE DRIVE BLVD. SEBRING, FL 33872-5018	PAUL E. HOWARD (941) 382-8725
HEARTLAND UTILITIES, INC. (WU566) P. O. BOX 1991 SEBRING, FL 33871-1991	HOWARD SHORT (863) 655-4300
HIGHLANDS RIDGE UTILITIES, LLC (WS844) 3003 EAST FAIRWAY VISTA DRIVE AVON PARK, FL 33825-6001	MICHAEL T. DICK (407) 333-1000
HIGHLANDS UTILITIES CORPORATION (SU299) 720 U.S. HIGHWAY 27 SOUTH LAKE PLACID, FL 33852-9515	DIXON PUGH (863) 465-1296
HOLMES UTILITIES, INC. (WU760) 760 HENSCRATCH ROAD LAKE PLACID, FL 33852-8397	DANIEL HOLMES (941) 465-6044 OR -6911
LAKE PLACID UTILITIES, INC. (WS709) % UTILITIES, INC. 200 WEATHERSFIELD AVENUE ALTAMONTE SPRINGS, FL 32714-4099	DONALD RASMUSSEN (407) 869-1919
LANDMARK ENTERPRISES, INC. (SU686) 62 LAKE HENRY DRIVE LAKE PLACID, FL 33852-6000	DAVID S. PLANK (941) 382-3030
PLACID LAKES UTILITIES, INC. (WU193) 2000 JEFFERSON AVENUE, NORTH LAKE PLACID, FL 33852-9749	ROLAND TOBLER (863) 465-0345
SEBRING RIDGE UTILITIES, INC. (WS345) 3625 VALERIE BLVD. SEBRING, FL 33870-7814	CHRISTOPHER F. MILLER (863) 385-8542

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
10/15/2001-12/13/2001

UTILITY NAME

MANAGER

GOVERNMENTAL AGENCIES

CENTRAL FL. REGIONAL PLANNING COUNCIL  
P.O. BOX 2089  
BARTOW, FL 33831

CLERK, BOARD OF COUNTY COMMISSIONERS, HIGHLANDS COUNTY  
590 SOUTH COMMERCE AVENUE  
SEBRING, 33870-3867

DEP SOUTH DISTRICT  
2295 VICTORIA AVE., SUITE 364  
FORT MYERS, FL 33901

MAYOR, CITY OF AVON PARK  
110 EAST MAIN STREET  
AVON PARK, FL 33825-3945

MAYOR, CITY OF SEBRING  
368 SOUTH COMMERCE AVENUE  
SEBRING, FL 33870-3606

MAYOR, TOWN OF LAKE PLACID  
50 PARK DRIVE  
LAKE PLACID, FL 33852-9693

S.W. FLORIDA WATER MANAGEMENT DISTRICT  
2379 BROAD STREET  
BROOKSVILLE, FL 34609-6899

SO. FLORIDA WATER MANAGEMENT DISTRICT  
P.O. BOX 24680  
WEST PALM BEACH, FL 33416-4680

LIST OF WATER AND WASTEWATER UTILITIES IN HIGHLANDS COUNTY

(VALID FOR 60 DAYS)  
10/15/2001-12/13/2001

UTILITY NAME

MANAGER

STATE OFFICIALS

STATE OF FLORIDA PUBLIC COUNSEL  
C/O THE HOUSE OF REPRESENTATIVES  
THE CAPITOL  
TALLAHASSEE, FL 32399-1300

DIVISION OF RECORDS AND REPORTING  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

AFFIDAVIT OF MAILING

STATE OF FLORIDA  
COUNTY OF LEON

Before me, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared Bronwyn Moderau, who, after being duly sworn on oath, did depose on oath and say that she is the secretary of Martin S. Friedman, the attorney for AquaSource Utilities, Inc. and that on October 30, 2001, she did send by first class U.S. Mail a copy of the notice attached hereto to the Utility's customers.

FURTHER AFFIANT SAYETH NAUGHT.

By: Bronwyn Moderau  
Bronwyn Moderau

Sworn to and subscribed before me this 30th day of October, 2001, by Bronwyn Moderau, who is personally known to me or who provided as identification.

Martin S. Friedman  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:



Martin S. Friedman  
MY COMMISSION # CC928526 EXPIRES  
August 16, 2004  
BONDED THRU TROY FAIN INSURANCE, INC.

EXHIBIT "F"

**NOTICE OF APPLICATION FOR A TRANSFER  
OF FACILITIES  
LEGAL NOTICE**

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EXHIBIT "G"

WILL BE LATE FILED

(Affidavit of Newspaper Publication)