

**HARTMAN & ASSOCIATES, INC.**

engineers, hydrogeologists, surveyors & management consultants

**PRINCIPALS**  
 James J. Conroy, P.E.  
 Charles W. Drake, P.E.  
 Gerald G. Heston, P.E.  
 Mark T. Lutz, P.E.  
 Mark A. Olson, P.E.  
 Frank E. Schuch, Jr., P.E.  
 William D. Mueser, III

**SENIOR CONSULTANTS**  
 C. Zachary Patterson  
 Nancy J. Miller, C.P.M.

**ASSOCIATES**  
 Jeffery A. Anderson, P.E.  
 Joseph E. D'Amico, P.E.  
 Robert K. Fisher, III  
 John D. Long, P.E.  
 James P. Madsen, P.E.  
 P. J. Eastman, III  
 Anna L. Ocker, P.E.  
 Andrew T. Woodcock, P.E.  
 Lawrence P. Jordan, P.E.  
 Joseph M. G. Smith, P.E.  
 Terrell C. White, III

REC'D  
 SERVICE  
 99 APR 30

April 28, 1999

HAI #97-549.03

Mr. Cleveland Ferguson  
 Florida Public Service Commission  
 2540 Shumard Oak Boulevard  
 Tallahassee, Florida 32399-0850

981100 - WES

APR 30 1999  
 LEGAL DIVISION

**Subject: Transfer of Lake N' Golf Estates Water and Wastewater Certificate**

Dear Mr. Ferguson:

The city of Winter Haven is in the process of acquiring the water and wastewater system of Lake 'N Golf Estates. Pursuant to this transaction please find enclosed the following information:

- Application for Transfer to Governmental Authority (1 original and 5 copies)

It is our understanding that the utility is in the process of obtaining a grandfather certificate from the Commission and therefore no original certificate or regulatory fee assessment form can be submitted at this time. When such information comes available, it will be forwarded.

If you have any questions or require any further information please do not hesitate to call.

Very truly yours,

**Hartman & Associates, Inc.**

*Andrew T. Woodcock*  
 Andrew T. Woodcock, P.E.  
 Project Manager

AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMU \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 LEG   I    
 MAS \_\_\_\_\_  
 GPC \_\_\_\_\_  
 RFR \_\_\_\_\_  
 SEC   I    
 QTR \_\_\_\_\_

W/cb/97-549.03/corresp/Ferguson.doc

**cc:** Dale Smith, Public Works Director, City of Winter Haven  
 Stuart Artman, P.E., City of Winter Haven  
 Robert W. Arnold Sr., Lake 'n Golf Estates Utilities

FLORIDA PUBLIC SERVICE COMMISSION

INSTRUCTIONS FOR COMPLETING  
~~APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY~~  
(Section 367.071, Florida Statutes)

General Information

The attached form has been prepared by the Florida Public Service Commission to aid utilities under its jurisdiction to file information required by Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code. Any questions regarding this form should be directed to the Division of Water and Wastewater, Bureau of Industry Structure and Policy Development (850) 413-5900.

Note that, pursuant to Section 367.071(4)(a), Florida Statutes, a governmental authority, prior to taking any official action, shall request from the utility or the Commission the most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

Instructions

1. Fill out the attached application form completely and accurately.
2. Complete all the items that apply to your utility. If an item is not applicable, mark it "N.A.". Do not leave any items blank.
3. Notarize the completed application form.
4. Return applicable regulatory assessment fee and form with the application.
5. Return utility's original certificate(s) with the application for transfer.
6. The original and five copies of the completed application and attached exhibits; one copy of each territory and system map (if applicable); the original and two copies of the proposed tariff sheet(s) (if applicable); the appropriate regulatory assessment form(s) and fee(s); and the original certificate(s) should be mailed to:

Director, Division of Records and Reporting  
Florida Public Service Commission DOCUMENT NUMBER DATE  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850 05616 MAY-48

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B) The name, address and telephone number of a representative of the utility to contact concerning this application:

Robert N. Arnold, Sr. (941) 965-9549

Name Phone No.

534 Somerset Drive  
Street address:

Auburndale FL 33823  
City State Zip Code

C) The full name, address and telephone number of the governmental authority:

Winter Haven  
Name of utility

(941) 291-5850 (941) 291-5211  
Phone No. Fax No.

550 Seventh Street, SW  
Office street address

Winter Haven FL 33880  
City State Zip Code

P.O. Box 2277  
Mailing address if different from street address

Internet address if applicable

D) The name, address and telephone number of a representative of the governmental authority to contact concerning this application:

Dale Smith (941) 291-5850  
Name Phone No.

550 Seventh Street, SW  
Street address

Winter Haven FL 33880  
City State Zip Code

**PART II FINANCIAL INFORMATION**

- A) Exhibit A - A copy of the contract pursuant to Rules 25-30.037(4)(c) and (d), Florida Administrative Code.
- B) Exhibit B - A statement regarding the disposition of customer deposits and the accumulated interest thereon.
- C) Exhibit C - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.
- D) Exhibit D - A statement that the buyer (governmental authority) obtained from the utility or the Commission the utility's most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.
- E) Indicate the date on which the buyer proposes to take official action to acquire the utility:

June 1, 1999

If only a portion of the utility's facilities is being transferred, a revised territory description and map of the utility's remaining territory must be provided, as discussed in PART III, below.

**IF THE UTILITY'S ENTIRE FACILITIES ARE BEING TRANSFERRED, PLEASE DISREGARD PART III OF THIS APPLICATION FORM.**

**PART III CERTIFICATION**

A) **TERRITORY DESCRIPTION**

Exhibit N/A - An accurate description of the utility's revised territory. If the water and wastewater territory is different, provide separate descriptions.

**Note:** Use the Survey of Public Lands method (township, range, section, and quarter section), if possible, or a metes and bounds description. Give the subdivision or project name. The description should **NOT** refer to land grants or plat books, but may use geographic boundaries (i.e., road right-of-ways, railroads, rivers, creeks, etc). The object is to make the description as brief, but as accurate as possible.

B) TERRITORY MAPS

Exhibit N/A - One copy of an official county tax assessment map or other map showing township, range and section with a scale such as 1"=200' or 1"=400' on which the remaining territory is plotted by use of metes and bounds or quarter sections and with a defined reference point of beginning. If the water and wastewater territory is different, provide separate maps.

C) TARIFF SHEETS

Exhibit N/A - The original and two copies of tariff sheet(s) revised to show correct service territory. Please refer to Rules 25-9.009 and 25-9.010, Florida Administrative Code, regarding page numbering of tariff sheets before preparing the tariff revisions. (Pages 9-10.) Sample tariff sheets are attached. (Pages 11-14.)

PART IV AFFIDAVIT

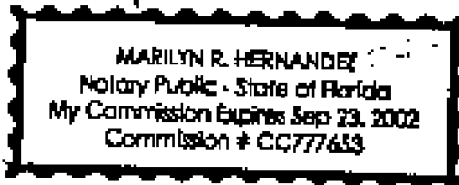
I, ROBERT W. ARNOLD SR. (applicant) do solemnly swear or affirm that the facts stated in the foregoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitute a complete statement of the matter to which it relates.

BY: Robert W. Arnold Sr.  
Applicant's Signature

ROBERT W. ARNOLD SR.  
Applicant's Name (Typed)

\_\_\_\_\_  
Applicant's Title \*

Subscribed and sworn to before me this 19th day  
of April 1999.



Marilyn R. Hernandez  
Notary Public

\* If the applicant is a corporation, the affidavit must be made by the president or other officer authorized by the by-laws of the corporation to act for it. If the applicant is a partnership or association, a member of the organization authorized to make such affidavit shall execute same.



## **EXHIBIT A**

**A copy of the contract pursuant to Rules 25-30.037 (4) (c) and (d),  
Florida Administrative Code.**

- **Agreement for Purchase and Sale of Utility System**

THE CITY OF WINTER HAVEN, FLORIDA  
AND  
ROBERT W. ARNOLD, SR.  
AGREEMENT FOR PURCHASE AND SALE OF  
UTILITY SYSTEM

February 22, 1999

THE CITY OF WINTER HAVEN, FLORIDA

AND

ROBERT W. ARNOLD, SR.

AGREEMENT FOR PURCHASE AND SALE  
OF UTILITY SYSTEM

THIS AGREEMENT, made and entered into this \_\_\_\_ day of February, 1999, by and between the City of Winter Haven, Florida, a municipal corporation of the State of Florida (hereafter "CITY"), and ROBERT W. ARNOLD, SR. (hereafter "SELLER").

RECITALS

1. SELLER owns and operates the Utility System in Winter Haven, Polk County, Florida. The rates and charges are regulated by the Public Service Commission ("PSC").
2. SELLER is willing to sell the Water and Wastewater Systems (collectively, "Utility System"), to the CITY, and the CITY is willing to purchase the Utility System from the SELLER.
3. The CITY has held a public hearing on the proposed purchase of the SELLER'S Utility System and, after consideration, at a minimum, of all the factors enumerated in Section 180.301, Florida Statutes (1999), has determined that such purchase is in the public interest. As part of that process the CITY has examined the Utility System's physical assets, regulatory compliance, the existing financial structure, and the long-range needs and goals of the CITY relative to the provision of water and wastewater service to its present and future customers.
4. The CITY and SELLER are empowered to be bound by the terms and conditions set forth in this Agreement.

ACCORDINGLY, in consideration of the above recitals and benefits to be derived from the mutual observation of the covenants contained herein, and other good and valuable consideration the receipt and sufficient of which are hereby acknowledged by the CITY and SELLER, the CITY and SELLER agree as follows:

**SECTION 1. RECITALS.** The above recitals are true and correct, and form a material part of this Agreement.

**SECTION 2. DEFINITIONS.** The CITY and SELLER agree that in construing this Agreement, the following words, phrases, and terms shall have the following meanings unless the context requires otherwise:

- 2.1 "Accounts Receivable" are those billed amounts which customers have not paid as of the Closing Date.
- 2.2 "Closing Date" or "Closing" shall mean the date as set forth herein on which the purchase and sale of the Purchased Assets is finalized and title to all such Purchased Assets is transferred from SELLER to CITY, as provided in this Agreement.
- 2.3 "Commitment" shall mean the title commitment to be obtained by CITY with respect to the Real Property purchased by the City as provided in this Agreement.
- 2.4 "Easements" means those rights, privileges, easements, licenses, prescriptive rights, rights-of-way, and rights to use public and private roads, highway, streets, and other areas owned and/or used by SELLER in connection with the construction, reconstruction, installation, maintenance and operation of the Utility System which are to be purchased by CITY as part of the Purchased Assets.
- 2.5 "Purchased Assets" means all that real, personal and intangible property which forms the Utility System as further delineated in this Agreement which are to be sold by SELLER to CITY pursuant to this Agreement.
- 2.6 "Real Property" means the real property described in Exhibit "A" to this Agreement which will be part of the Purchased Assets being sold by SELLER to CITY pursuant to this Agreement.
- 2.7 "Utility System" means collectively the water system and wastewater system as defined herein.
- 2.8 "Water System" means the entire water production, storage, treatment, transmission and distribution system (including records, rights, permits and licenses, and consumable items) currently owned and utilized by SELLER in Winter Haven, Polk County, Florida, in its water service and which forms part of the basis of the Purchased Assets.

- 2.9 "Wastewater System" means the entire wastewater collection and pumping station system (including records, rights, permits, licenses and consumable items) currently owned and utilized by SELLER in Polk County, Florida in its wastewater service and which forms part of the basis of the Purchased Assets.

**SECTION 3. PURCHASE AND SALE OF WATER AND WASTEWATER SYSTEMS ASSETS.** The SELLER, pursuant to the circumstances noted in the Recitals above, agrees to sell the CITY agrees to buy the Utility System, consisting of the real, personal and mixed property used or held for use in connection with the Utility System, hereafter referred to as the "Purchased Assets". The Purchased Assets shall not include the Excluded Assets described in Subsection 4.7 below.

**SECTION 4. PURCHASED ASSETS.** On the Closing Date, SELLER shall sell, assign, transfer, convey and deliver to CITY, and CITY shall purchase, accept and pay for all of the right, title and interest, in and to the following property and assets:

- 4.1 **Real Property.** The Real Property and interests in Real Property, owned by the SELLER, as described in Exhibit "A" hereof, whereupon water production, storage, treatment, transmission, pumping, distribution facilities, well, and other water facilities are located.
- 4.2 **Easements and Other Rights.** All rights, privileges, easements, licenses, prescriptive rights, rights-of-way, and rights to use public and private roads, highways, streets and other areas owned and/or used by the SELLER in connection with the construction, reconstruction, installation, maintenance and operation of the Utility System and the Purchased Assets (collectively referred to as the "Easements"). Certain Easements are more particularly described in Exhibit "B" hereof.
- 4.3 **Plant and Other Facilities.** The following assets owned by the SELLER and used or held for use in connection with the Utility System, including all water production, treatment plant, storage, treatment, transmission, distribution, pumping, and other water facilities and all wastewater collection, transmission and pumping facilities, collection and transmission pipes or facilities, valves, meters, service connections, and all other water and/or wastewater service connections, and all other water and wastewater physical facilities and property installations in use in connection with the operation of the Utility System by the SELLER (also as generally described in Exhibit "C").

- 4.4 **Customer Records and Suppliers Lists; Plans and Specifications.** All current customer records and supplier lists, as-built surveys and water and sewer plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, any and all reproducible documents, mylars, sepias, and other original documents used or held for use with the Utility System, accounting and customer records and all other information and business records in possession of the SELLER that relate to the operation of the Utility System. The SELLER may make copies of its books, plans and records, at its expense, before transferring the original or copies of the books, plans and records, at its expense, before transferring the original or copies of the books, plans and records to the CITY. These documents shall include any such documents related to work-in-progress, if any.
- 4.5 **Permits, Licenses, and Approvals, Leases and Other Rights.** Subject to all necessary regulatory approvals and to all conditions, limitations or restrictions contained therein, all existing original certificates, permits, and other governmental authorizations and approvals, leases, or other rights of any kind in the possession of SELLER necessary to operate and maintain the Utility System in accordance with all governmental requirements. These certificates, permits, and approvals shall include any such certificates, permits, and approvals related to work-in-progress, if any.
- 4.6 **Service Area/Customers.** The SELLER shall transfer all rights for service to the CITY within the area described in Exhibit "B" for the Utility System and inclusive of all customers as shown on Exhibit "D".
- 4.7 **Excluded Assets.** The following assets of SELLER regarding this Utility System shall not be included in the assets conveyed to CITY as part of the Purchased Assets:
- a. SELLER'S cash and SELLER'S bank account;
  - b. SELLER'S accounts receivable;
  - c. Federal, State, or Local Tax or other deposits (excluding customer deposits) maintained by SELLER with any governmental authority or utility for SELLER'S use and benefit.

## **SECTION 5. PURCHASE PRICE AND PAYMENT.**

The CITY agrees to pay to SELLER on the Closing Date, and the SELLER agrees to accept for the Utility System consideration in the amount of One Hundred Eight Thousand Dollars (\$108,000.00).

At closing, proceeds from the purchase shall be utilized to satisfy that certain mortgage executed by SELLER in favor of WRH Enterprises, Inc. in the approximate amount of \$80,000.00 and presently constitutes a lien against the Utility System. Payment shall be made by the closing agent, in the pay-off amount, to be determined as of the date of closing. Also, at the time of closing, there shall be a deduction from the purchase price, and a credit to the CITY, equal to a pro rata portion of prepaid water and sewer charges and fees for the period of February 1, 1999 to January 31, 2000, which have been billed to the Utility System customers and are payable to SELLER. CITY shall not be liable nor responsible for the collection of said charges and fees for the benefit of SELLER and SELLER hereby holds CITY harmless for same. The pro-rata deduction, and credit, shall be based upon the amount of days remaining in the time period set forth above, after closing, for which the CITY is obligated to supply the Utility System customers with water and sewer services for which said customers have already been billed by SELLER. Said customers have been billed a total of \$48,000.00 by SELLER. Therefore, if closing occurs on June 1, 1999 the amount of deduction and credit to CITY shall be \$32,219.17. The exact deduction and credit to CITY shall be determined as of the date of closing.

The SELLER shall have the right to pursue collection of any billed but unpaid charges subsequent to closing. In the event any amounts billed by SELLER are received by CITY, subsequent to closing, CITY shall within ten days of receipt remit payment to SELLER.

The above adjustments to be made at closing shall be in addition to those normally and customarily made at closing, including, but not limited to, those related to: real property taxes, intangible taxes, title insurance, etc.. Unless otherwise specified in this Agreement, these costs shall be borne by the party customarily responsible for same in standard Florida real estate transactions. Each party shall bear their own attorneys fees.

The parties hereto realize and contemplate that, in light of the adjustments set forth above, SELLER, may be required to make a cash settlement payment, at the time of closing, in order to close the transaction.

**SECTION 6. TITLE EVIDENCE.** The cost of title insurance shall be borne by the SELLER. Attorney Robert J. Stambaugh, Esquire, shall issue a title commitment and policy for an Owner's ALTA Form B Marketability Policy in favor of the CITY in the amount of the highest insurable value as permitted by Attorneys'

Title Insurance Fund, Inc., licensed in Florida on all Real Property being conveyed to CITY.

As to the Easements being purchased, the CITY shall be permitted to examine the title to each Easement held or to be created by the SELLER. Upon completion of the title examinations of the Easements by the CITY, the CITY and SELLER agree to review the marketability of title of each title examined and if said title is marketable, the SELLER agrees to transfer, or caused to be transferred, to the CITY said Easement with full warranties. In the event title to said Easement, is not marketable, within fifteen (15) days of being notified of the condition of title to the said Easements, the CITY shall notify the SELLER, in writing, specifying the defects to title. Thereupon, the SELLER shall have thirty (30) days to remove the defect from said title and produce marketable title. If the SELLER is unable to produce marketable title within thirty (30) days, then the CITY shall have the right to accept title "as is" or the CITY may terminate this Agreement without liability by either party to the other. In the event, the SELLER is unable to cure the defects in title to the Easement, then, the SELLER or grantor shall specially warrant title to said Easements representing that the SELLER or grantor has committed no act that would result in the placement of a mortgage, lien, claim or other encumbrance of an type or nature on said Easements. In the event, the CITY chooses not to perform a title examination on any particular Easement, or it cannot be determined if the SELLER or grantor currently has title to said Easement in its name, then the SELLER'S or grantor's Easement rights shall be transferred to the CITY without any warranty of title.

When the SELLER conveys marketable title, said title shall be subject only to the title exceptions set forth below.

Payment for title searches and policy will be deducted from SELLER'S proceeds at closing.

6.1 Exceptions to Title. If permitted, the Commitment shall show the SELLER to be (i) vested with fee simple title to the Real Property shown on Exhibit "A" and (ii) vested with valid Easement interests for the Easements described on Exhibit "B", and any other Easements requested by the City subject to the following (the "Permitted Exceptions"):

(1) Ad valorem real estate taxes and assessments for the year 1999 and subsequent years;

(2) Restrictions set out in the recorded plats of subdivisions covered by the Utility System.



(3) Restrictions and easements of record (except liens, encumbrances, or mortgages) that do not impair, restrict, or inhibit the present use of or improvement to the property as permitted by applicable zoning and land use regulations presently in effect and that are not coupled with a forfeiture or reversionary provision; and

(4) All laws, ordinances, and governmental regulations, including, but not limited to, all applicable building, zoning, land use and environmental ordinances, regulations, restrictions, prohibitions, and other requirements, none of which will prevent or hinder the present use of the Real Property and Easements.

6.2 Status of Title. As to the Real Property, the CITY shall have fifteen (15) days from the receipt of the Title Commitment within which to examine same. If the CITY finds title, as shown on the Commitment, to be defective, (i.e., matters which render title unmarketable in accordance with the title standards adopted by the Florida Bar and are not Permitted Exceptions, the CITY shall within fifteen (15) days notify the SELLER in writing specifying the defect(s), provided that if the CITY fails to give the SELLER written notice of defect(s), the defects shown in the Commitment shall, anything in this Agreement notwithstanding, be deemed to be waived as title objections to closing this transaction and the SELLER shall be under no obligation whatsoever to take any corrective action with respect to same nor to warrant title to same in its statutory warranty deed of conveyance. If the CITY has given the SELLER timely written notice of defect(s) and the defect(s) render the title other than as required by this Agreement, the Seller shall use its reasonable efforts to cause such defects to be cured by the Closing Date. In the event that defects are timely raised and the SELLER, after exercising all reasonable efforts, cannot clear same prior to the Closing Date, then, in that event, the CITY shall have the right to purchase the Real Property in its then existing condition of title, or to rescind and terminate this Agreement without liability by either party to the other. Notice of such election shall be given to by the CITY to the SELLER, in writing, as contemplated in this Agreement, within the time herein prescribed.

6.3 Deletion of Standard Exceptions. SELLER will execute at or prior to Closing, in favor of the title insurance company, the standard form no-lien affidavit, possession affidavit and "Gap" affidavit to allow the title Company to delete all standard

exceptions addressed by such affidavits. CITY can have standard survey exception deleted by providing, at its sole expense, a survey of Real Property.

**SECTION 7. REPRESENTATIONS AND WARRANTIES OF SELLER.** The SELLER represents and warrants to CITY that:

- 7.1 **Standing And Power.** The SELLER has all requisite power and authority to own, lease and convey the assets and real property that comprise the Utility System, and to conduct its businesses related thereto as it is currently being conducted.
- 7.2 **Authority of Agreement.** The SELLER has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been duly authorized by all action required to be taken by the SELLER, has been duly executed and delivered by the SELLER, and constitutes a valid and binding obligation of the SELLER, enforceable in accordance with its terms.
- 7.3 **Good and Marketable Title.** Subject to the Permitted Exceptions, the SELLER has, to the best of SELLER'S knowledge, good and marketable title to the Purchased Assets with the exception of the Easements.
- 7.4 **No Liens or Encumbrances.** Except as otherwise specifically set forth in this Agreement or as may be released prior to the Closing Date, there are, to the best of SELLER'S knowledge, no mortgages, liens, claims or encumbrances of any type or nature upon or against the Purchased Assets including, but not limited to, mortgages, financing statements, or security instruments filed under the Uniform Commercial Code either in the county where the Real Property is located or with the Secretary of State. This representation and warranty shall not apply to Easements, except that SELLER specially warrants that the SELLER has committed no act that will result in a mortgage, lien, claim, or encumbrances of any type or nature on the Easements. The SELLER is in exclusive ownership, possession, and control of the Purchased Assets except for Easements and SELLER at Closing shall deliver possession and control of the Purchased Assets to the CITY.
- 7.5 **Litigation.** The SELLER has not been served with, nor is he aware of any actions, suits, or proceedings at law or in equity, pending against the SELLER before any federal, state, municipal

or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Utility System or any of the Purchased Assets or the SELLER'S right and ability to make and perform this Agreement; nor is the SELLER aware of any facts which to his knowledge are likely to result in any such action, suit or proceeding. Except as has been previously disclosed to CITY, as described on Exhibit "E" hereof, the SELLER is not in default with respect to any permit, approval order or decree of any court or of any administrative or governmental agency or instrumentality affecting the Utility System or any of the Purchased Assets. The SELLER agrees and warrants that it shall have a continuing duty to disclose the existence and nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to the operation of the Utility System.

7.6 Leases. None of the Purchased Assets are subject to any interest of any other party, except as specifically set forth in Agreement.

7.7 No Governmental Violations. Except as has been previously disclosed to CITY, as described on Exhibit "E" hereof, the SELLER is not aware and has not been notified of the existence of any violations or any governmental rules, regulations permitting conditions or other governmental requirements applicable to the ownership, maintenance or operation of the Utility System.

7.8 No Record Violations. The SELLER is not aware and has not been notified of any restrictions or conditions of record which would adversely affect the use of the Utility System on the Real Property or Easements as described in the Agreement.

7.9 Absence of Changes. After the date of the execution of this Agreement, the SELLER shall not:

(1) undergo any change in its condition of properties, assets, liabilities, business or operations other than changes in the ordinary course of business which are not, either in any case or in the aggregate, materially adverse to the operation of the Utility System;

(2) dispose or create debt concerning any of the Utility System's assets or properties except in the furtherance of this Agreement, except in the ordinary course of business and

except with the CITY'S consent, which shall not be unreasonably withheld, delayed or conditioned;

(3) subject to available administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative or judicial procedures or proceedings applicable to particular permits, intentionally fail to comply with all Utility System's permit requirements; and

(4) fail to seek or obtain any necessary permit extensions or renewals so that said permits are valid, extended or seeking extension as of the Closing Date.

- 7.10 **Disclosure.** No representation or warranty made by the SELLER in this Agreement contains any untrue statement of material facts or omits to state any material fact required to make the statements herein contained not misleading. Should the SELLER become aware that any of the representations or warranties of CITY provided for herein are, or may reasonably be, materially untrue or incorrect, SELLER will promptly advise the CITY of same, in writing, specifying in reasonable detail the reasons why the SELLER believes such representations or warranties of CITY are, or may reasonably be, untrue or incorrect.
- 7.11 **Survival of Covenants.** SELLER agrees that its representations and warranties set forth herein are true and correct as of the date of the execution hereof, shall be true and correct at the time of the Closing Date, and shall survive the Closing Date.
- 7.12 **EBRTA.** The SELLER is not a "foreign person" within the meaning of the United States tax laws and to which reference is made in Section 1445(b)(2) of the Internal Revenue Code. On the Closing Date, the SELLER shall deliver to the CITY as certificate to such effect.
- 7.13. **All Necessary Governmental Permits and Approvals.** As of the Closing Date, the SELLER warrants that he shall transfer to the CITY all necessary governmental permits and approvals such that the CITY can operate the water and wastewater systems at their respective permitted volume capacities.
- 7.14 **No Violation by Virtue of Execution.** The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government, or any indenture, agreement, or other instrument to which the SELLER is a party, or by which it is bound.

- 7.15 **No CERCLA Violations.** With respect to the Real Property portion of the Purchase Asset's the SELLER has complied with, and the SELLER has not violated, in connection with the ownership, use, maintenance, or operation of the Real Property or the Purchased Assats, applicable environmental, federal, state, county, or local laws relating to pollution or protection of the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, or the Toxic Substance Control Act ("Environmental Laws"), The SELLER has not authorized the placing or depositing of hazardous substances on the Real Property portion of the Purchased Assets except, if at all, in accordance with the applicable Environmental Laws, and the SELLER has no actual knowledge of any hazardous substance having been, or currently being, placed or deposited on the premises except in accordance with such Laws.
- 7.16 **Location of Plants.** The water plant and well used in the operation of the Utility System are located on the Real Property as identified in Exhibit "A", and the use of such water plant and well on the Real Property does not violate any zoning certifications, special exceptions or variances in a manner which would prohibit or materially.
- 7.17 **No Construction.** There is no construction work in progress on the Purchased Assats.
- 7.18 **Information and Documents Provided.** SELLER has provided all documents and information requested in furtherance of this Agreement by CITY in relation to the Utility System and Purchased Assats which are available or can be reasonably available to SELLER.

**SECTION 8. CONDUCT PENDING CLOSING.** The SELLER covenants that pending closing.

- 8.1 **Business Conduct.** Except as otherwise consented to in writing by CITY, whose consent shall not be unreasonably withheld, delayed or conditioned, for the period beginning on the date of execution of this Agreement and ending on the Closing Date, SELLER shall:

- (1) operate the Utility System in, and only in, the usual, regular and ordinary course and nevertheless comply with all applicable governmental requirements and law;
- (2) maintain all of the Utility System's material structures, equipment, permits, Real Property, Easements and other tangible personal property in good repair, order and condition, except for depletion, depreciation, ordinary wear and tear and damage by unavoidable casualty;
- (3) keep in full force and effect insurance comparable in amount and scope of coverage to insurance now carried by it for the Utility System,
- (4) perform in all material respects all of its obligations under agreements, contracts and instruments relating to or affecting the Utility System's properties, assets and operation;
- (5) subject to available, administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative judicial procedures or proceedings applicable to particular permits, comply in all material respect with all statutes, laws, ordinances, rules and regulations applicable to it and to the operation of the Utility System.
- (6) promptly advise the CITY, in writing, of any material change which adversely affects the operation of the Utility System;
- (7) not enter into any transaction, including without limitation, the purchase with an associated debt, sale or exchange of property, which relates to the Utility System, except in furtherance of this Agreement with the CITY.
- (8) subject to available administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative or judicial procedures or proceedings applicable to particular permits, comply with all Utility System permit requirements and obtain or seek all necessary permit extensions or renewals with no additional operational or capital obligations such that said permits or applications are valid as of the Closing Date.

8.2 **Risk of Loss.** The SELLER shall bear the risk of loss, damage or destruction of the Purchased Assets by fire or other casualty prior to and including the Closing Date, if any portion of the

Purchased Assets is damaged by fire, act of God or other casualty before the Closing Date, the CITY shall have the option of (1) taking the Purchase Assets as is, without reduction in price, together with the SELLER'S assignment to the CITY of all rights under its insurance policies and all of the insurance proceeds, if any, or (2) taking the Purchased Assets, as is, with a reduction in price, mutually agreed to by SELLER and CITY, or (3) terminating this Agreement without liability by either party to the other.

- 8.3 **No Transfers or Encumbrances.** From and after the date of the execution of this Agreement, SELLER will not, without the prior written consent of the CITY, which shall not be unreasonably withheld, dispose of, hypothecate, or encumber any of the Purchased Assets, with the exception of any transactions occurring in the ordinary course of SELLER'S business.
- 8.4 **Access to Records.** The SELLER will at all times cooperate by providing reasonable access, upon prior written notice (not less than forty-eight (48) hours in advance), to their records and facilities applicable to the Utility System for inspection to assist in acquainting the CITY'S operating and administrative personnel in the operation of the Utility System; provided, however, that no such inspection shall materially interfere with the operation of the Utility System or the day to day activities of the SELLER'S personnel.
- 8.5 **Performance of Closing Conditions.** The SELLER shall perform all of the conditions to closing which should be performed by the SELLER prior to the Closing Date as provided herein.
- 8.6 **Insurance.** Prior to closing, the SELLER shall maintain adequate fire and extended coverage insurance to cover the cost of any repairs to the Purchased Assets that may be required by casualty damage.
- 8.7 **Examination and Inspection.** The SELLER will permit reasonable examination by the CITY'S authorized representatives of all existing contractual obligations, physical systems, assets, real estate, rights-of-way, easements and inventories which are utilized by the SELLER in connection with the Utility System. No such examination by the CITY'S authorized representatives shall interfere with the SELLER'S operations of the Utility System or the day to day operations of the SELLER'S personnel. The SELLER shall make these assets and records available for

examination by the CITY'S authorized representatives at reasonable times and upon request from the CITY. Such facilities will be properly maintained by the SELLER within the custom and usage of the water and wastewater industry in Florida until the Closing Date.

**SECTION 9. REPRESENTATIONS AND WARRANTIES OF CITY.** The CITY represents and warrants to the SELLER, as follows:

- 9.1 **Organization, Standing and Power of CITY.** The CITY is a municipal corporation duly chartered and validly existing under the laws of the State of Florida and has all requisite municipal power and authority to enter into this Agreement, to own and lease real and personal property, and to carry out and perform the terms and provisions of this Agreement.
- 9.2 **Disclosure.** No representation or warranty made by the CITY in this Agreement contains or will contain any untrue statement of material facts or omits or will omit to state any material fact required to make the statements herein contained not misleading. Should the CITY become aware that any of the representations or warranties of SELLER provided for herein are, or may reasonably be, materially untrue or incorrect, CITY will promptly advise the SELLER of same, in writing, specifying in reasonable detail the reasons why the CITY believes such representations or warranties of SELLER are, or may reasonably be, untrue or incorrect.
- 9.3 **Litigation.** There are no actions, suits, or proceedings at law or in equity, pending against the CITY before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the CITY'S ability to enter into and perform this Agreement. The CITY shall have the continuing duty to disclose up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to its ability to perform its obligations under the Agreement.
- 9.4 **Public Interest.** The CITY has fulfilled and complied with the provisions of Section 180.301, Florida Statutes (1999), relative to the purchase and sale of SELLER'S utility system prior to the CITY'S execution of this Agreement.



- 9.5 **Performance of Closing Conditions.** The CITY shall perform all of the conditions to closing which should be performed by the CITY prior to the Closing Date as provided herein.
- 9.6 **Survival of Covenants.** The CITY agrees that its representation and warranties set forth herein are true and correct as of the date of the execution hereof, shall be true and correct at the time of the Closing Date, and shall survive the Closing Date.
- 9.7 **Delivery of Resolution.** The CITY will deliver to SELLER a certified copy of a resolution of the CITY COMMISSION approving the CITY'S execution and performance of this Agreement with five (5) business days of CITY'S execution hereof.
- 9.8 **No Conflicts.** The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government, the charter of the CITY, or any administrative regulation or decree, or any provision of the Constitution or the laws of the State of Florida relating to the CITY or its affairs or any ordinance, resolution, agreement, indenture, lease, or other instrument to which the CITY is a party, subject or by which it is bound.
- 9.9 **Police Power.** The CITY shall after closing fulfill the SELLER'S obligations to furnish water and wastewater service as of the date of Closing. The CITY shall serve all existing customers who comply with ordinances and resolutions of the CITY.
- 9.10 **CITY Actions.** The CITY shall take no action inconsistent with its express obligations under the terms and conditions of this Agreement. The CITY further covenants that all its express obligations under the terms and conditions of this Agreement shall survive the Closing Date.
- 9.11 **Inspections.** All inspections of the Utility System by the CITY or its representatives performed pursuant to this Agreement shall not materially interfere with the operation of the Utility System or the day-to-day activities of the SELLER'S personnel.

**SECTION 10. ADDITIONAL CONDUCT PENDING CLOSING.** The CITY and the SELLER covenant with each other that pending the closing on this transaction, neither shall obstruct, hinder or interfere in the operation of the Utility System by the SELLER or with the processing and consideration by governmental agencies of any applications or petitions filed by the SELLER or CITY that are related to the

Utility System. SELLER shall execute all necessary documents to assist in securing necessary governmental approval(s) for the renewal, expanded use, and transfer of said permit, and shall use its best efforts to assist the CITY in obtaining all such necessary governmental approvals.

**SECTION 11. ADJUSTMENTS AND PRORATIONS: CLOSING COSTS.** At the time of closing, the parties covenant and agree that the adjustments shall be made as set forth in Section 5 of this Agreement:

- 11.1 **Real and Personal Property Taxes.** Real and personal property taxes for 1999 on all real and personal property which is being conveyed by the SELLER to the CITY, shall be prorated as of 11:59 p.m. of the Closing Date and shall be paid by the SELLER. The CITY shall not be charged with proration of any ad valorem taxes.
- 11.2 **Invoices Prior to Closing.** The SELLER shall request all of its suppliers and vendors to submit final invoices for services, materials, and supplies, including electricity for the period up to and including the Closing Date. The SELLER shall be responsible for, and shall provide to the CITY, upon request, evidence of the payment of all such invoices.
- 11.3 **Time of Proration.** All adjustments and prorations shall be calculated as of 11:59 p.m. of the Closing Date.
- 11.4 **Corrective Instruments.** All costs of recording any releases, satisfactions or corrective instruments, if any, shall be paid by SELLER.
- 11.5 **Special Assessments.** Certified, confirmed or ratified special assessments or municipal liens prorated as of the date of Closing, will be paid by SELLER.
- 11.6 **Taxes or Regulatory Assessments.** Any taxes on gross receipts or regulatory assessment fees incurred by SELLER
- 11.7 **Customer Deposits.** Existing customer deposits shall be transferred by SELLER to the CITY as the Closing Date. A final, updated list listing of the customer deposits by Individual name and aggregate total shall be provided by the SELLER to the CITY at the Closing Date.

- 11.8 Utility Bills. The bills for electricity and other utility services for the month in which this Closing shall take place shall be prorated between the parties at Closing and arrangements made for the appropriate utilities to bill CITY for services rendered subsequent to the Closing.
- 11.9 Other Prior Bills. All bills for other services, materials and supplies rendered in connection with the operation of the Utility System prior to the Closing Date shall be paid by SELLER.
- 11.10 Documentary Stamps. All documentary stamps, on the deeds of conveyance of Real Property and Easements included in the Purchased Assets, shall be paid by the SELLER.
- 11.11 Title Insurance. The Title Insurance and all related costs shall be paid by the SELLER.

**SECTION 12. INDEMNITIES.** Except as otherwise provided for in this Agreement, the SELLER shall indemnify and hold the City, its representative agents and employees harmless from and against any and all claims, liability, demands, damages, surcharges, refunds, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including damage to property or property rights that may arise from or are related to third party claims arising from or related to acts, errors, or omissions of the SELLER, its agents, employees, servants, licensees, invitees, or contractors or by any person under the control or direction of the SELLER arising out of (1) its operation, maintenance, or management of the Utility System up to and including the Closing Date, (2) any other local, state, or federal enforcement case that may be later filed after the Closing Date related to alleged or actual violations of local, state or federal laws, rules, ordinances, policies, or requirements that occurred prior to or on the Closing Date. In addition, SELLER shall indemnify and hold the CITY, its representatives, agents, and employees harmless from environmental pollution on the Closing Date located within the property shown on Exhibit "A".

To the extent permitted by law, without waiving sovereign immunity and except as otherwise provided for in this Agreement and subject to Section 768.28, F.S., the CITY shall indemnify and hold the SELLER, its representatives, agents and employees harmless from and against any and all third party claims, liability, demands, damages, surcharges, refunds, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including damage to property or property rights that may arise from or which are related to the acts, errors, or omissions of the CITY, its agents, employees, servants, licensees, invitees, or contractors or by any person under the control or direction of the CITY arising out of (1) its operation, maintenance, or management of the Utility System subsequent to the Closing Date, (2) any other local, state, or federal enforcement case that may be later filed after

the Closing Date related to alleged or actual violations of local, state or federal laws, rules, ordinances, policies, or requirements that occurred subsequent to the Closing Date, related to the Utility System, (3) CITY'S operations pursuant to Section 17 of this Agreement.

### **SECTION 13. CLOSING.**

The place of closing shall be in Polk County at the offices of Antonello, Fegers & Cea, and such closing shall occur on or before June 1, 1999, (the "Closing Date") or as soon as practicable after satisfaction of all conditions precedent as set forth in this Agreement. The parties may mutually agree to alter the Closing Date upon written addendum to this agreement. Closing of this transaction is contingent on Florida Public Service Commission approval.

### **SECTION 14. CLOSING DOCUMENTS AND PROCEDURES.**

14.1 **Deliveries from SELLER.** The following documents shall be delivered by the SELLER to the CITY for a reasonable opportunity to review and shall be executed on the Closing Date:

(1) Warranty deeds to all of the Real Property owned by the SELLER as described in Exhibit "A" conveying to the CITY all of the SELLER'S right, title and interest in all such property and warranting that such Real Property is free and clear of all liens, claims and encumbrances other than Permitted Exceptions, as that term is defined in Subsection 6.1 hereof.

(2) Instruments of conveyance, in appropriate recordable form, of all the Easements conveying to the CITY all of its right, title and interest in all such Easements, together with all utility improvements thereto, these instruments of conveyance shall be by assignment or deed with appropriate warranties as set forth in Section 6.0.

(3) General assignment to and assumption by the CITY of all other interests in the Property, together with a general assignment of all Contracts, Agreements, permits and approvals as provided for and in the manner specified in this Agreement.

(4) Bills of sale or other documents of assignment and transfer, with full warranties of title as specified in this Agreement, to all Utility System Assets set forth herein;

(5) Copies of all business records sold to the CITY hereby (originals thereof to be delivered at Closing);

(6) Copies of all permits, governmental authorizations and approvals, together with applications for transfer approvals from any and all agencies that have issued said permits, authorizations, and approvals (originals thereof to be delivered at Closing);

(7) Standard no-lien affidavit in a form reasonably required by the title Company as to realty and personally insuring against any liens, claims or encumbrances upon the Purchased Assets;

(8) Schedule of the customer service security deposits as of the Closing Date as described herein;

(9) A "non-foreign" affidavit or certificate pursuant to Section 1445 of the Internal Revenue Code;

(10) Such other affidavits and acknowledgments as the title company shall reasonably request in order to cause the title company to issue the policy evidencing marketable title as contemplated herein,

(11) A SELLER'S certificate confirming that the SELLER'S warranties hereunder are true and correct as of the Closing Date;

(12) Evidence of insurance as contemplated by Subsection 6.1(3) hereof; and

(13) Such other instruments and documents, in form approved by the CITY'S counsel as may be reasonably required in order to transfer ownership and possession of the Purchased Assets to the CITY, provided that none of such documents shall result in any additional liability on the part of SELLER not otherwise provided for in this Agreement.

(14) On the Closing Date SELLER shall deliver federal funds to the CITY as contemplated in Section 5 of this Agreement.

**14.2 Deliveries from the CITY.** On the Closing Date, the CITY shall pay that certain mortgage as contemplated in Section 5 of this Agreement. The CITY shall also deliver at Closing: (a) such affidavits and acknowledgments as the title Company shall reasonably request in

order to cause said title Company to issue a title insurance policy evidencing a marketable title in CITY; (b) a CITY Officer's Certificate confirming that the warranties of CITY'S set forth in this Agreement applicable to the Closing are true and correct as of the Closing; and (c) such other instruments and documents as SELLER'S Counsel may reasonably require, in form approved by CITY'S Counsel, in order to transfer possession and control of the Purchased Assets to CITY, provided that none of such documents shall result in any additional liability on the part of CITY not otherwise provided for in this Agreement.

**SECTION 15. RESPONSIBILITY FOR PROFESSIONAL FEES AND COSTS.**

Each party hereto shall be responsible for its own attorneys' fees, engineering fees, accounting fees and other costs in connection with the preparation and execution of this Agreement, the closing of the transaction contemplated herein and in connection with any judicial and administrative proceedings related to the acquisition of the Utility System.

**SECTION 16. PUBLIC SERVICE COMMISSION APPROVAL.**

SELLER shall apply for approval by the Florida Public Service Commission for transfer of the Purchased Assets from SELLER to CITY. SELLER agrees to pay all fees and costs incurred by SELLER incident to such dealings with the Florida Public Service Commission. It is agreed that CITY shall, at no cost or expense to SELLER, apply every reasonable effort to cooperate with SELLER to obtain approval from the Florida Public Service Commission and will, at no cost or expense to SELLER, render all reasonable assistance to SELLER necessary to obtain such approval.

**SECTION 17. LICENSE AND/OR EASEMENT FOR PERIOD OF TIME.**

As soon as is practicable, following the execution of this Agreement by both parties, SELLER shall grant to CITY a license and/or easement for period of time in and over that property described in pages 1 through 4 of Exhibit "B" hereof. The license and or easement shall be granted for the purpose of permitting the CITY to place water and/or sewer pipes within said property for immediate use by the CITY on the date of closing. Such license and/or easement shall be drafted and prepared to achieve this purpose. Such license and/or easement shall further provide that in the event the closing of this transaction does not take place, that such license and/or easement shall expire immediately after the CITY has had a reasonable period of time to remove any pipe which it may have installed and return the property to its original condition.

**SECTION 18. CLOSING CONDITIONED ON CITY PERMITS AND CONNECTION TO CITY'S EXISTING SYSTEMS.**

The closing of the transaction set forth in this Agreement is conditioned upon the CITY first receiving the necessary permits from the appropriate government authorities and/or the approved transfer of existing permits from SELLER to CITY in order for CITY to bring the Utility

System "on line" with the CITY'S existing systems and actual connection of the Utility System to the CITY'S existing systems.

**SECTION 19. COMMISSIONS.** The SELLER and the CITY warrant to the other that the transaction contemplated by this Agreement is a direct, private transaction between the SELLER and the CITY without the use of a broker or commissioned agent by either party.

**SECTION 20. FURTHER ASSURANCES.** Each of the parties hereto agrees that, from time to time, upon the reasonable request of the other party and at the expense of the requesting party, without further consideration, it shall execute and deliver to the requesting party any and all further instruments, affidavits, conveyances and transfers as may be reasonably required to carry out the provisions of this Agreement.

**SECTION 21. NOTICES; PROPER FORM.** Any notices required or allowed to be delivered hereunder shall be in writing and may either be (1) hand delivered, (2) sent by recognized overnight courier (such as Federal Express) or (3) mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith.

**SELLER:** Robert W. Arnold, Sr.  
534 Somerset Drive  
Auburndale, FL 33823

With Copy to:

Robert Stambaugh, Esquire  
Post Office Box 9498  
Winter Haven, FL 33883-9498

**CITY:** Mr. Carl Cheatham, City Manager  
City of Winter Haven  
Post Office Box 2277  
Winter Haven, FL 33883

With a copy to:

Robert J. Antonello, Esq.  
Antonello, Fegers & Cea  
Attorneys at Law  
Post Office Box 7692  
Winter Haven, Florida 33883-7692

Notices personally delivered by hand or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (3) days after deposit in the U.S. mail.

**SECTION 22. ENTIRE AGREEMENT.** This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

**SECTION 23. AMENDMENT.** Amendments to and waivers to the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

**SECTION 24. DISCLAIMER OF THIRD PARTY BENEFICIARIES.** This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

**SECTION 25. BINDING EFFECT.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and nominees of the CITY and the SELLER.

**SECTION 26. TIME OF THE ESSENCE.** Time is hereby declared of the essence in the performance of each and every provision of this Agreement.

**SECTION 27. APPLICABLE LAW.** This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

**SECTION 28. RADON GAS.** RADON GAS IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

**SECTION 29. SURVIVAL OF AGREEMENTS.** All agreements of the parties set forth in this Agreement shall survive the Closing.

**SECTION 30. MISCELLANEOUS.**



30.1 In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

30.2 In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels,

30.3 In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, the use of any gender shall be held to include every other and all genders, and captions and paragraph headings shall be disregarded.

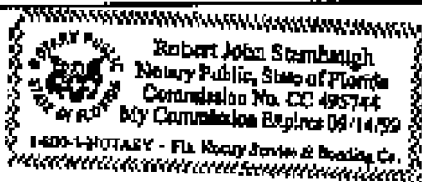
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

Signed, sealed and delivered  
in the presence of:

  
ROBERT W. ARNOLD, SR.

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 22<sup>nd</sup>  
day of February, 1999 by Robert W. Arnold, Sr.  
of \_\_\_\_\_



AFFIX NOTARY STAMP

  
Signature of Notary Public

\_\_\_\_\_  
(Print Notary Name)  
My Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_

\_\_\_\_ Personally known, or  
\_\_\_\_ Produced Identification  
Type of Identification Produced: \_\_\_\_\_

BY:   
MAYOR - CITY COMMISSIONER

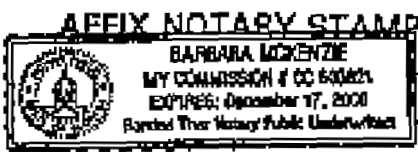
ATTEST:

BY: Sarah K. Thumalt  
~~Secretary/Clerk~~ City Clerk

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 26th day of February, 1999, by Scott R. Girouard, as Mayor/Commissioner of the CITY OF WINTER HAVEN, FLORIDA, and acknowledged before me that he executed the foregoing instrument of behalf of the CITY OF WINTER HAVEN, FLORIDA.

Barbara McKenzie  
Signature of Notary Public  
Barbara McKenzie  
(Print Notary Name)  
My Commission Expires: 12/17/00  
Commission No.: CC 606821



Personally Known, or  
 Produced Identification  
Type of Identification Produced: \_\_\_\_\_

FOR THE USE AND RELIANCE OF  
the CITY OF WINTER HAVEN, FLORIDA.  
APPROVED AS TO FORM.

Robert J. Antonello, 1999.  
Robert J. Antonello  
Robert J. Antonello, Esq., City Counsel

City of Winter Haven  
CERTIFIED TO BE A TRUE COPY

## LEGAL DESCRIPTION

### Lake 'N Golf Tract "A" Water Plant Site

Tract "A" and that part of 25 foot Buffer Zone lying West and South of said Tract "A" of Lake 'N Golf Estates Addition subdivision, as recorded in Plat Book 80, Page 16 of the Public Records of Polk County, Florida; All lying within Section 01, Township 28 South, Range 26 East, in Polk County, Florida.

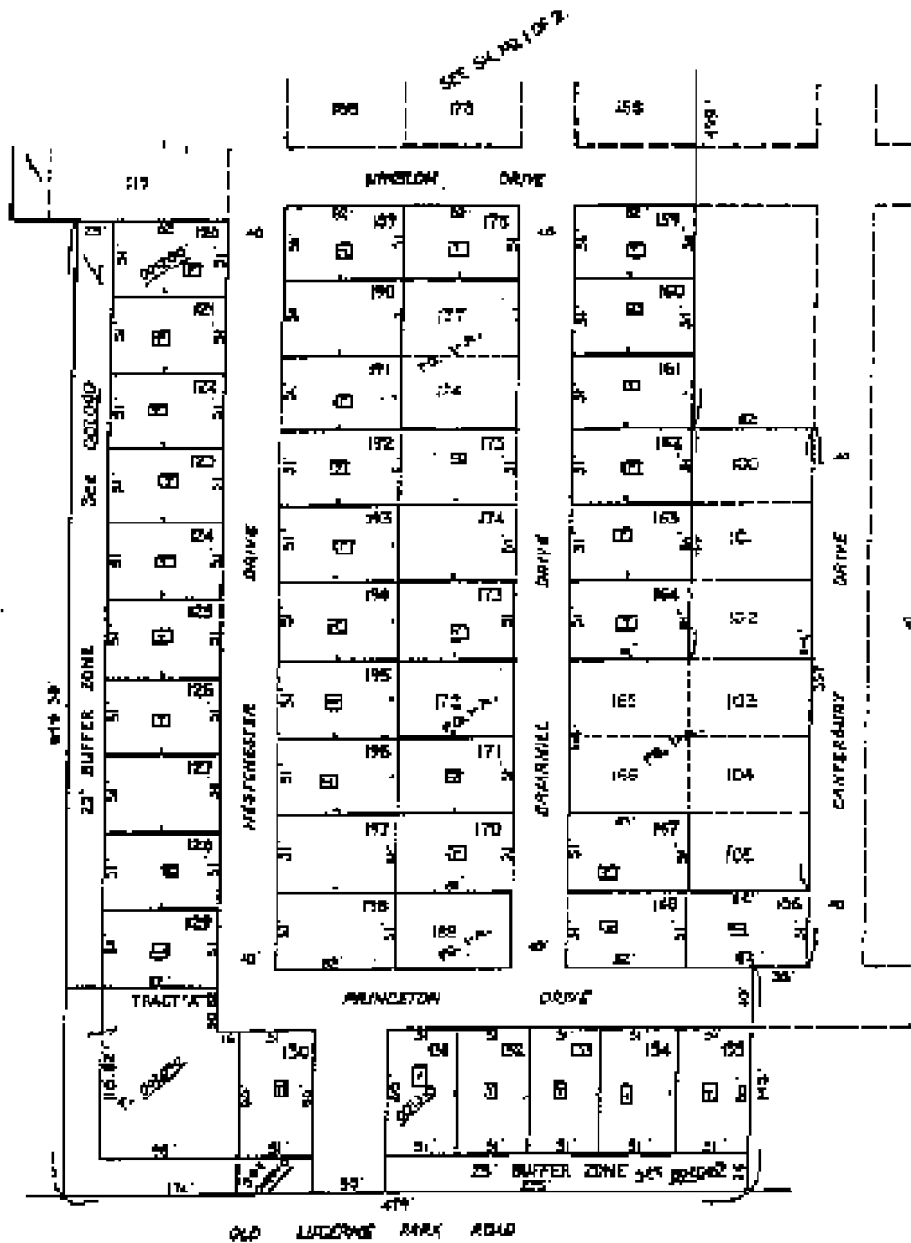
LAKE 'N GOLF ESTATES ADDITION - 521032  
P.B. 80, PG. 16.

SH. NO. 2 OF 2.

EXHIBIT 'A'  
PAGE 2 OF 2  
CITY OF WINTER HAVEN/ARNOLE ADDITION

Sec. 1, Twp. 28 N. R. 26

Area 12.751  
Acrel No.  
Map No. 100-110  
BY JAMES L. RODEN



PL. 1-2

JAMES L. RODEN

REVIEWED BY THE OFFICE OF  
JAMES L. RODEN  
POLK COUNTY PROPERTY APPRAISER

## LEGAL DESCRIPTION

### Lake 'N Golf Tract "B" Lift Station Site Easement

That part of Tract "B" of Lake 'N Golf Estates Addition subdivision, as recorded in Plat Book 30, Page 16 of the Public Records of Polk County, Florida, described as follows: Begin at the Northeast Corner of Lot 183; Thence North 89°57'42" West, 40 feet; Thence North 00°02'18" East, 40 feet; Thence South 89°57'42" East, 40 feet; Thence South 00°02'18" West, 40 feet to the Point of Beginning; All lying within Section 01, Township 28 South, Range 26 East, in Polk County, Florida.

## LEGAL DESCRIPTION

### Lake N Golf Utilities Easement

The West 25 feet lying adjacent to Lots 108 through 129 of Lake N Golf Estates Addition subdivision, as recorded in Plat Book 80, Page 16 of the Public Records of Polk County, Florida; All lying within Section 01, Township 28 South, Range 26 East, in Polk County, Florida; but not less than the east 15 feet thereof.

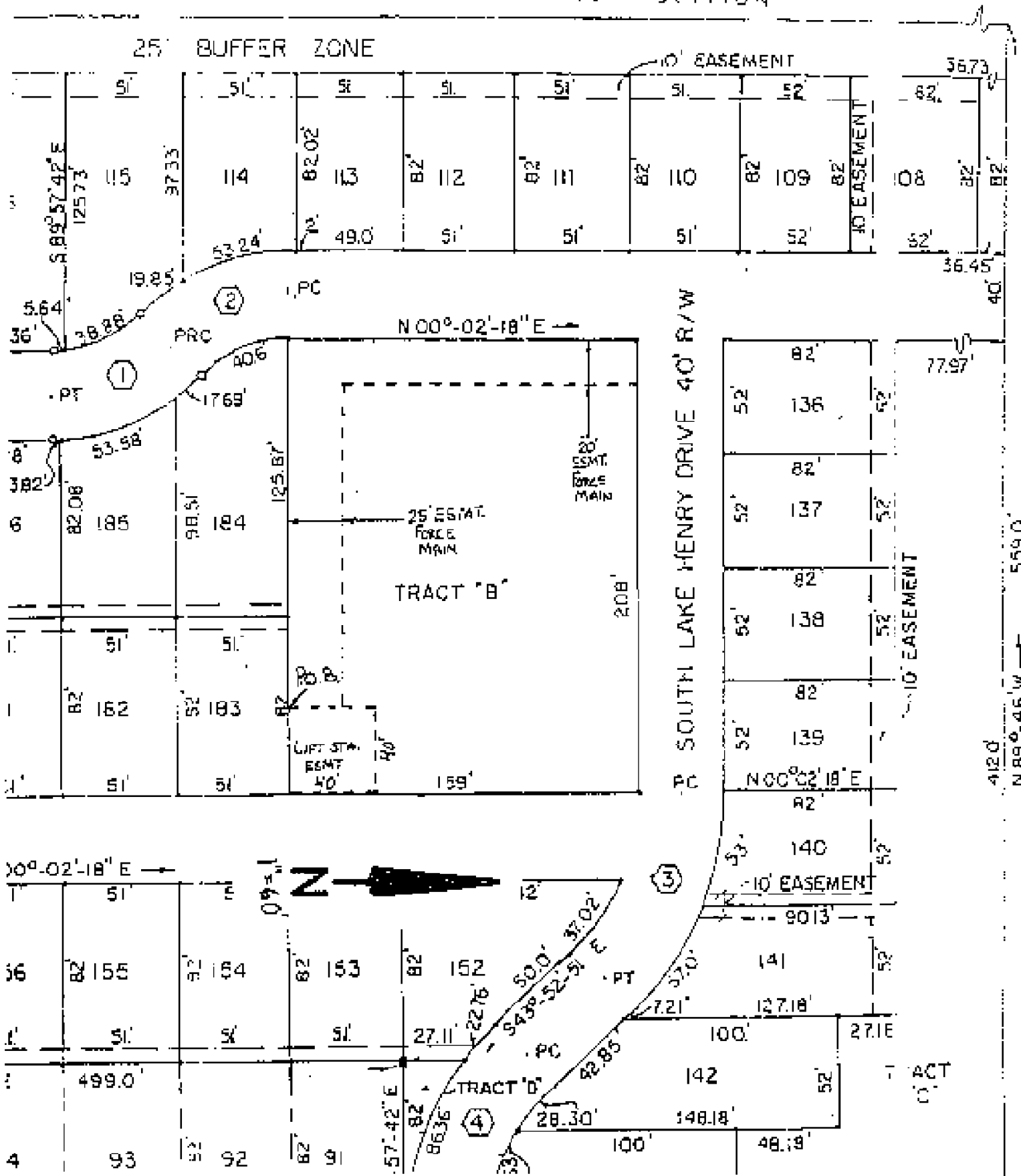
## LEGAL DESCRIPTION

### Lake 'N Golf Tract "B" Force Main Easement

That part of Tract "B" of Lake 'N Golf Estates Addition subdivision, as recorded in Plat Book 80, Page 16 of the Public Records of Polk County, Florida, described as follows; Commence at the Northeast Corner of Lot 183; Thence North 89°57'42" West, 40 feet to the Point of Beginning; Thence continue North 89°57'42" West, 168 feet; Thence North 00°02'18" East, 159 feet; Thence South 89°57'42" East, 20 feet; Thence South 00°02'18" West, 134 feet; Thence South 89°57'42" East, 148 feet; Thence South 00°02'18" West, 25 feet to the Point of Beginning; All lying within Section 01, Township 28 South, Range 26 East, in Polk County, Florida.

LAKE W GOLF ESTATES ADDITION

25' BUFFER ZONE





**EXHIBIT "C"**

1. All water distribution and sanitary collection pipes, valves and meters located within any and all public easements and/or public rights-of-way as shown on Exhibit "B" and all other such pipes, valves and meters utilized in the operation of the Utility System whether or not located in said easements and/or rights-of-way.
2. Well permits and any and all rights to water supply well located on or about the area described in Exhibit "A".
3. Property described in Exhibit "A".
4. Easements described in Exhibit "B".
5. The Sanitary Lift Station located on property described at page 1 of Exhibit "B".
6. The concrete block building, hydromatic tank, chlorination system and the well pump located on the property described in Exhibit "A".

EXHIBIT "D"

CITY OF WINTER HAVEN/ARNOLD AGREEMENT

EXHIBIT "D"

LAKE 'N GOLF ESTATES  
WATER/SEWER CUSTOMER LIST

EXHIBIT "E"

CITY OF WINTER HAVEN/ARNOLD AGREEMENT

EXHIBIT "E"

**SECTION 7.5 Disclosures**

## **EXHIBIT B**

### **Disposition of Customer Deposits**

- **Per Section 11.7 of the Agreement for Purchase and Sale (Exhibit A), customer deposits will be transferred by Seller to the City at the closing date.**

## **EXHIBIT C**

A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.

## **EXHIBIT D**

Statement from Governmental Authority, regarding the most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

- On February 22, 1999 the City of Winter Haven held a public hearing pursuant to Florida Statutes 180.301 regarding public interest of the utility purchase. The hearing included consideration of the most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.