

OPC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by AquaSource Utility,)
Inc., holder of Certificate Nos. 565-W and)
493-S in Charlotte County, for transfer)
of facilities to Charlotte County, and)
cancellation of Certificate Nos. 565-W)
and 493-S.)
_____)

Docket No.: 001788-WS

**APPLICATION FOR TRANSFER OF
FACILITIES TO CHARLOTTE COUNTY**

Applicant, AquaSource Utility, Inc. (“AquaSource”), files this its Application for Transfer of Water and Wastewater Facilities to Charlotte County, Florida (“County”), pursuant to Section 367.071(4), Florida Statutes, and Rule 25-30.038(4), Florida Administrative Code, and states:

1. The name and address of the Utility is:

AquaSource Utility, Inc.
200 Corporate Center Drive, Suite 300
Coraopolis, Pennsylvania 15108

2. AquaSource operates in Charlotte County pursuant to Certificate No. 565-W and Certificate No. 493-S.

3. The name and address of AquaSource’s authorized representative, for purposes of this application, is:

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

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15946 DEC 13 8
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4. Charlotte County is exempt from regulation by the Commission pursuant to Section 367.022(2), Florida Statutes.

5. Applicant herewith files with this Commission its Application for transfer of all of its utility assets to Charlotte County (“Application”). On December 15, 2000, AquaSource intends to close the sale and Charlotte County intends to purchase certain Purchased Assets pursuant to and as more particularly described in that certain Rotonda West Utility System Asset Acquisition Agreement between AquaSource and the County which was adopted October 24, 2000. A copy of the Rotonda West Utility System Asset Acquisition Agreement (“Purchase and Sale Agreement”) is attached to this Application as Exhibit “A”, and is incorporated by reference herein.

6. Charlotte County obtained from the Florida Public Service Commission and AquaSource the then most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction applicable to the Purchased Assets, as was required by Section 125.3401, Florida Statutes, and Rule 25-30.038(4)(e), Florida Administrative Code. Charlotte County has complied with the requirements of Section 125.3401, Florida Statutes.

7. Customer deposits and the interest thereon have been credited to Charlotte County as provided in the Purchase and Sale Agreement, Section 5.05(B).

8. All regulatory assessment fees for AquaSource have been paid in full. Regulatory assessment fees for 2000 will be paid by AquaSource in connection with the payment of such fees for other systems it owns which are subject to the Commission’s jurisdiction.

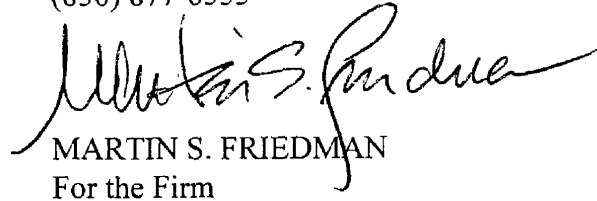
9. There are no fines or refunds owed.

WHEREFORE, the Applicant requests that this Commission:

1. Approve the transfer of water and wastewater facilities as set forth in this Application to Charlotte County as a matter of right, pursuant to Section 367.071, Florida Statutes; and
2. Grant such other relief as is appropriate.

Respectfully submitted this 13th day of
December, 2000, by:

Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555



MARTIN S. FRIEDMAN
For the Firm

aqua\rotonda\transferCharlotte.app

Agreement #2000-062
(X Resolution #2000-147)

11/10-3

Execution Copy: 11/08/00

**ROTONDA WEST UTILITY SYSTEM ASSET
ACQUISITION AGREEMENT**

By and Between

CHARLOTTE COUNTY, FLORIDA,

and

AQUASOURCE UTILITY, INC.

Adopted

October 24, 2000

CERTIFIED, TRUE COPY
OF THE ORIGINAL
BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT
CHARLOTTE COUNTY, FLORIDA

BY: *Alison F. Rice*
DEPUTY CLERK



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**ROTONDA WEST UTILITY SYSTEM
ASSET ACQUISITION AGREEMENT**

THIS AGREEMENT, is made and entered into as of this 24th day of October, 2000, by and between Charlotte County, Florida, a political subdivision of the State of Florida (the "County"), and AquaSource Utility, Inc., a Texas corporation (hereinafter "AquaSource").

WITNESSETH:

WHEREAS, AquaSource Utility, Inc., owns and operates a potable water supply, treatment, and distribution system and wastewater collection, transmission, treatment, disposal and reuse system in Charlotte County, Florida; and

WHEREAS, the County has the power and authority to provide potable water, wastewater and reuse infrastructure and service within Charlotte County; and

WHEREAS, the County has held a public hearing on the proposed purchase and sale of all or substantially all of the Rotonda West Utility System water and wastewater utility assets owned by AquaSource in Charlotte County, Florida, and made a determination that such a purchase and sale is in the public interest; and

WHEREAS, the County, in determining if such a purchase and sale is in the public interest considered, at a minimum, all of the factors referenced in section 125.3401, Florida Statutes; and

WHEREAS, the County desires to acquire substantially all of the assets which are used and available for use by AquaSource in providing services through Rotonda West Utility System, its water and wastewater utility system in Charlotte County, Florida, and AquaSource has consented to sell those assets to the County in lieu of threatened eminent domain;

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with \$10 and other good and valuable consideration exchanged between the parties, the parties to this Rotonda West Utility System Asset Acquisition Agreement do undertake, promise and agree for themselves, their permitted successors and assigns as follows: _____

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Rotonda West Utility System Asset Acquisition Agreement, the following terms shall have the meanings as defined herein unless the context requires otherwise:

"Agreement" means this Rotonda West Utility System Asset Acquisition Agreement, including any amendments and supplements hereto executed and delivered in accordance with the terms hereof.

"AquaSource" means AquaSource Utility, Inc., a Texas corporation, and its successors.

"Board" means the Board of County Commissioners of Charlotte County, Florida.

"County" means Charlotte County, a charter county and a political subdivision of the State of Florida.

"Easements" means all rights, privileges, easements, licenses, prescriptive rights, rights-of-ways, and rights to use public and private roads, highways, streets, railroads and other areas owned or used by AquaSource in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Utility System or the Purchased Assets.

"Equivalent Residential Connection Unit" or "ERC" means the standard unit used to calculate demand upon either water or wastewater system capacity, based respectively

upon usage of 225 gallons per day of water treatment capacity or 190 gallons per day of sewage disposal capacity.

"Excluded Assets" means those assets, business properties, rights, obligations or liabilities, both tangible and intangible, of AquaSource described in Appendix N hereto which shall not be and are not to be sold, conveyed, transferred to or assumed by the County pursuant to this Agreement.

"Purchased Assets" means all or substantially all of the water and wastewater utility assets owned by AquaSource in Charlotte County, Florida, as described and referenced in Section 3.02(A) hereof.

"Permitted Exceptions" means those title exceptions described in Appendix O hereto.

"Transaction Cost" means the costs, fees and expenses incurred by the County in connection with the acquisition of the Utility System or the Purchased Assets, issuance of bonds or the use of any other interim financing alternative contemplated in Section 4.03 hereof, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel; (C) the discount taken by the underwriter; (D) the fees and disbursements of the County's financial advisor; (E) the fees and disbursements of the County's consulting engineers; (F) the fees and disbursements of the County's water and wastewater counsel and consultants; and (G) any other costs of a similar nature incurred in connection with consummation of this Agreement.

"Utility System" means the potable water supply, treatment, storage, and distribution systems and wastewater collection, transmission, treatment, disposal and reuse systems owned by AquaSource, and sometimes commonly referred to as the "Rotonda," or "Rotonda West" utility system, which provide services within Charlotte County, Florida.

SECTION 1.02. CONSTRUCTION AND INTERPRETATION.

(A) Words that indicate a singular number shall include the plural in each case and vice versa, and words that import a person shall include legal entities, firms and corporations.

(B) The terms "herein," "hereunder," "hereby," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of execution of this Agreement; and the term "hereafter" shall mean on or after the initial date of execution of this Agreement.

(C) The terms "knowledge" or "known" means the knowledge of the party to the actual current recollection of those persons within said organization or entity who have given substantive attention to the transaction and does not include constructive knowledge of matters or information. For the purposes of this Agreement, the persons with AquaSource who have given substantive attention to the transaction are its officers and management personnel who consist of Frank Hoffmann, Robert Gaipo, Martin Stanek, Jon Evans and Thomas (Hugh) Sumrall.

(D) Words that reference only one gender shall include all genders.

(E) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other parties to this Agreement. This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 1.03. INCORPORATION. The appendices hereto and each of the documents referred to therein are incorporated and made a part hereof in their entirety by reference.

SECTION 1.04. SECTION HEADINGS. Any headings preceding the texts of the several Articles, Sections, Appendices, or Exhibits in this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for the convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

ARTICLE II

REPRESENTATIONS

SECTION 2.01. REPRESENTATIONS OF THE COUNTY. The County makes the following representations, which shall survive any closing hereunder.

(A) The County is duly organized and validly existing as a ~~non~~ charter county and a political subdivision of the State of Florida.

(B) The County has full power and authority to enter into the transactions contemplated by this Agreement.

(C) The County has fulfilled and complied with the provisions of section 125.3401, Florida Statutes, relative to the purchase and sale of a water, wastewater or reuse utility by a county, or will do so prior to closing.

(D) To the best of its knowledge and belief after due inquiry, the County is not in default under any provisions of the laws of the State of Florida material to the performance of its obligations under this Agreement. The Board has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by other parties hereto, this Agreement constitutes a valid and legally binding obligation of the County, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion of a court of competent jurisdiction in accordance with general principles of equity.

(E) To the best of the County's knowledge and belief after due inquiry, the authorization, execution and delivery of this Agreement and the compliance by the County with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order, or any provision of the Constitution of the State of Florida, or the laws of the State of Florida relating to the County or its affairs, or any ordinance, resolution, agreement, lease, or other instrument to which the County is subject or by which it is bound.

(F) There is no action, suit, investigation, or proceeding pending or, to the County's knowledge and belief, threatened against or affecting the County, at law or in equity or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency or instrumentality, wherein any decision, ruling or finding would adversely affect the transactions contemplated hereby or which in any way would adversely affect the validity of this Agreement or any other agreement or instrument to which the County is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

(G) No sales commissions, consultant's fee's or finder's fees are or shall be due or payable from AquaSource in connection with transactions contemplated herein as a result of any claim from any broker, salesman, consultant or finder claiming by, through or under the County in connection with the transactions contemplated herein.

SECTION 2.02. REPRESENTATIONS OF AQUASOURCE.

AquaSource makes the following representations, which shall survive any closing hereunder for a period of one (1) year.

(A) AquaSource Utility, Inc., is a corporation, duly organized, validly existing in and good standing in the State of Texas, and is duly authorized to do business in the State of Florida and has all requisite corporate power and authority to enter into and fully perform this Agreement. All of the shares of AquaSource are owned, controlled and held by AquaSource Inc., a Delaware corporation, and the Purchased Assets do not represent all or substantially all of the assets of AquaSource.

(B) All necessary corporate action on the part of AquaSource relating to the direction and authorization of AquaSource's execution, delivery and performance of this Agreement have been duly taken, and this Agreement will be valid and enforceable against AquaSource, in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion of a court of competent jurisdiction in accordance with the general principles of equity.

(C) There is no action, suit, investigation, or proceeding pending or, to AquaSource's knowledge and belief, threatened against or affecting AquaSource, at law or in equity or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency or instrumentality, wherein any decision, ruling or

finding would adversely affect the transactions contemplated hereby or which in any way would adversely affect the validity of this Agreement or any other agreement or instrument to which AquaSource is a party which is used or contemplated for use in the consummation of the transactions contemplated hereby.

(D) To the best of AquaSource's knowledge and belief after due inquiry, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated, nor compliance with the terms and provisions of such instruments will (1) violate the provisions of any applicable law or any applicable order or regulation of any governmental authority having jurisdiction over AquaSource, and (2) conflict with or result in a material breach of any terms, conditions or provisions of any agreement or instrument to which AquaSource is now a party, or constitute a default thereunder.

(E) AquaSource has good and marketable fee simple title to the Purchased Assets and, at closing, shall have the power and authority to deliver sole and exclusive possession of the Purchased Assets to the County free and clear of all encumbrances or secured interests, subject only to the Permitted Exceptions.

(F) No sales commissions, consultant's fee's or finder's fees are or shall be due or payable from the County in connection with transactions contemplated herein as a result of any claim from any broker, salesman, consultant or finder claiming by, through or under AquaSource in connection with the transactions contemplated herein.

(G) To the best of AquaSource's knowledge and belief, AquaSource possesses an enforceable interest in all Easements physically used by it in providing water, wastewater or reuse utility services at the time of execution hereof and none of such easement interests prohibit assignment or require the grantor's, or current fee owner's, consent to an assignment to the County.

(H) To the best of AquaSource's knowledge and belief, no present possessory interest in any real or personal property used by AquaSource as of the date of execution hereof has automatically terminated or reverted to the grantor thereof as a result of any failure to continuously use such property for water or wastewater utility purposes; nor is AquaSource aware of any claim, whether actual or threatened, of any such reversion.

(I) Appendix C, attached hereto, is a schedule of all plans and specifications known to AquaSource which substantially describe the Utility System's water and wastewater plants, major water transmission and distribution facilities, lift or pump stations, wastewater collection system and major transmission and reuse facilities.

(J) Appendix D, attached hereto, is a schedule of all existing third party warranties that relate to completed or in-progress construction, if any.

(K) Appendix E, attached hereto, is a schedule of all current or active permits, applications or other documents issued by or delivered to applicable governmental authorities, together with effective dates and any expiration dates which authorize the operation of the Utility System's water and wastewater treatment facilities by AquaSource.

(L) Appendix F, attached hereto, is a location map of the Utility System which generally depicts the areas served by the Utility System.

(M) Appendix G, attached hereto, is an inventory of the equipment, vehicles, tools, parts, laboratory equipment, computer equipment and other personal property, other than the Excluded Assets, used by AquaSource in connection with the operation of Utility System.

(N) Appendix H, attached hereto, is a schedule of all operating and vendor contracts affecting the Utility System.

(O) Appendix I, attached hereto, is a schedule of all executory reuse or effluent disposal agreements entered into by AquaSource, or its predecessors, for sale or reuse of effluent delivered through the Utility System.

(P) Appendix J, attached hereto, is a schedule of all executory agreements, sometimes referred to as developer agreements, entered into by AquaSource, or its predecessors, and owners or developers of real property for the provision of water or wastewater disposal services through the Utility System, if any.

(Q) Appendix K, attached hereto, is a schedule, with respect to all executory agreements, if any, under which AquaSource as the owner of the Utility System has any continuing or outstanding water, wastewater or reuse service obligations as of the date of execution hereof, which shows the total number of (1) contractual connections; (2) contractual connections paid for and not yet connected; (3) contractual connections not yet

paid for and not yet connected; and (4) any contractual connections for which AquaSource has or expects to begin collecting a periodic minimum or base charge prior to closing.

(R) Appendix L, attached hereto, is a schedule of all other agreements entered into between AquaSource, its predecessors, or third parties which would reasonably be considered to be an encumbrance upon the Purchased Assets, including without limitation, any leasehold agreements or oral agreements, if any. If any oral agreements exist, they shall be so identified by AquaSource with a narrative of the terms thereof included.

(S) Appendix M, attached hereto, is a schedule of all current tariffs that collectively represent the most current schedule of rates, fees and charges that AquaSource is authorized to impose.

(T) AquaSource has not been cited nor notified, and is not, after due inquiry, aware of any violation of any governmental rule, regulation, permitting condition, or other governmental requirement of any type or nature applicable to the ownership, maintenance, construction or operation of the Utility System, nor is AquaSource aware of any conditions which by reason of the passing of time or the giving of notice by the appropriate governmental agency would constitute such a violation, except that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW).

(U) No employment contract exists under which AquaSource is the employer that cannot be canceled within 30 days notice or less and without payment of any consideration of such cancellation.

(V) To the best of AquaSource's knowledge and belief, the subject water and wastewater plants, facilities and appurtenances are located on real property which has been zoned by appropriate authorities under zoning certifications, special exceptions or variances which will permit the respective use of such parcels for water and wastewater utility purposes.

(W) To the best of AquaSource's knowledge and belief, the real property and easement or property use rights to be conveyed to the County hereunder are in compliance with, and AquaSource has not violated, in connection with its ownership, use, maintenance, or operation of the Utility System, 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, and the Resource Conservation and Recovery Act, except as evidenced by that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW). AquaSource has not authorized the placing or depositing of hazardous substances on the real estate and easements to be conveyed to the County except, if at all, in accordance with applicable law, and AquaSource has no actual knowledge of any

hazardous substance having been, or currently being, placed or deposited on said real property and easements except in a lawful manner, except as referenced in that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW).

(X) There are no facts actually known to any licenced operator, officer or manager of AquaSource materially affecting the physical condition of the Utility System which are not readily observable and which have not been disclosed or provided to the County in connection with this transaction or otherwise.

ARTICLE III

PURCHASE AND SALE OF ASSETS

SECTION 3.01. PURCHASE AND SALE COVENANT. At closing, the County shall purchase and AquaSource shall sell and convey the Purchased Assets to the County upon the terms and subject to the conditions set forth in this Agreement.

SECTION 3.02. PURCHASED ASSETS.

(A) The Purchased Assets, exclusive of the Excluded Assets, shall include those assets, business properties, and rights both tangible and intangible, that AquaSource owns or uses in conjunction with the operation of the Utility System, or any ownership interest which it has or hereafter acquires, relating thereto, including the following:

(1) All real property and interests, whether recorded in the public records or not, in real property owned, used or available to AquaSource as described in Appendix A hereof.

(2) All water and wastewater, including reuse and reclaimed water, treatment plants, wells, collection, transmission, distribution, pumping, effluent and disposal facilities of every kind and description whatsoever including without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, controls, tanks, distribution, collection or transmission pipes or facilities, valves, meters, service connections, and all other physical facilities and property installations used in the operation of the Utility

System, together with an assignment of all existing and assignable third party warranties that relate to completed or in progress construction, if any.

(3) All equipment, vehicles, tools, parts, laboratory equipment, and other personal property owned or used by AquaSource in connection with the operation of the Utility System including, without limitation the personalty described in Appendix G of this Agreement.

(4) All Easements in favor of AquaSource or its predecessors in interest to the Utility System, including but not limited to, the Easements to be more particularly described in Appendix B of this Agreement.

(5) All current customer records and supplier lists, as-built surveys and water, wastewater and reuse plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, maintenance and operating manuals, engineering reports, calculations, computer models and studies, accounting, budget and business records and all other information controlled by or in the possession of AquaSource, in each case to the extent such item specifically relates to the description and operation of the Utility System, inclusive of all pertinent computer records which are used in the operation of the Utility System for billing or customer record keeping purposes. All information referred to in this subsection (A)(5) shall be provided by original format or readily reproducible or delivered in a reproducible format.

(6) To the extent assignable, all necessary regulatory approvals subject to all conditions, limitations or restrictions contained therein; all existing permits and other governmental authorizations and approvals of any kind necessary to construct, operate, expand, and maintain the Utility System according to all governmental requirements, to be more specifically described in Appendix E to this Agreement.

(7) All rights and obligations of AquaSource relating to the Purchased Assets or the Utility System under any existing or proposed agreements and contracts herein specifically disclosed to the County which the County, in its sole discretion, chooses to assume at closing.

(B) Except as expressly provided for herein, AquaSource makes no representations as to the condition of the Purchased Assets, and the County shall accept title thereto in "as is, where is" condition with no warranty either express or implied, including, without limitation, the implied warranties of merchantability or fitness for a particular purpose or use.

(C) The Purchased Assets shall be conveyed by AquaSource to the County subject to the Permitted Exceptions, but otherwise free and clear of all liens or encumbrances.

(D) The Purchased Assets do not and shall not include the Excluded Assets. The Excluded Assets are more particularly described in Appendix N hereto.

SECTION 3.03. PURCHASE PRICE AND CONSIDERATION FOR SALE.

(A) The purchase price shall be *\$23,750,000*, subject to the terms and prorations as provided herein, and shall be payable by the County to AquaSource in immediately available funds at closing.

(B) Notwithstanding any other provision in this Agreement, and as additional consideration for the purchase and sale contemplated herein (1) AquaSource hereby agrees to hold harmless and indemnify the County from any cost, loss, or damage suffered by the County as the result of any action or claim for any sales commission or finder's fees which become due or payable by, through or under AquaSource as a result hereof, including, but not limited to, any costs for attorneys fees, and (2) the County hereby agrees to hold harmless and indemnify AquaSource from any cost, loss, or damage suffered by AquaSource as the result of any action or claim for any sales commission or finder's fees which become due or payable by, through or under the County as a result hereof, including, but not limited to, any costs for attorneys fees.

ARTICLE IV

CONDITIONS PRECEDENT TO CLOSING

SECTION 4.01. PUBLIC INTEREST DETERMINATION. At or prior to execution hereof, County shall act to consider the public interest provisions of Section 125.3401, Florida Statutes.

SECTION 4.02. FINANCIAL DUE DILIGENCE.

(A) Within 5 days after entering into this Agreement, AquaSource shall prepare, at its expense, and deliver to the County a written billing analysis of all revenues of the Utility System for the 12 month period ending August 31, 2000. Said billing analysis shall be prepared in accordance with generally accepted utility practices as if prepared for a rate application.

(B) The County shall have the opportunity to examine the billing analysis and cause to be prepared at its expense a due diligence investigation of the revenues of the Utility System by a County rate consultant or fiscal agent selected by it and AquaSource shall reasonably and timely cooperate in such an endeavor. In the event the County, in its sole discretion, determines that the anticipated revenues developed by the County from billing analysis and the County's financial due diligence examination do not support and verify the County's assumptions and conclusions or the County is otherwise not satisfied with the results of its financial due diligence examination, the County shall have the option of either

(1) waiving this condition precedent to closing, or (2) canceling this Agreement, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

SECTION 4.03. FINALIZING ENGINEERING DUE DILIGENCE. The County shall have the opportunity to cause at its expense a final due diligence investigation of the Utility System and the Purchased Assets and AquaSource shall reasonably and timely cooperate in such an endeavor. In the event the County, in its sole discretion, determines that the required aggregate expenditure for capital improvement and renewal and replacement of Purchased Assets cannot support the purchase price or the County is otherwise not satisfied with the results of its engineering due diligence examination, the County shall have the option of either (1) waiving this condition precedent to closing, or (2) canceling this Agreement, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

SECTION 4.04. FINANCING.

(A) The County agrees to use reasonable efforts to obtain financing (based upon the current AquaSource water, wastewater and reuse rates for the Utility System payable solely from the net revenues of the Utility System), in a principal amount sufficient with other available funds to fund (a) the purchase price set forth in Section 3.03(A) hereof, after prorations as provided herein, if any, (b) the County's estimate of any other required improvements to the Utility System, and (c) payment of the Transaction Cost. The County's obligation to close the transactions contemplated in this Agreement shall be and is expressly

conditioned upon the issuance of such obligations. In the event the County, in its sole discretion, determines that such financing (upon terms satisfactory to the County) cannot be obtained on or prior to the anticipated date of closing hereunder, the County shall have the option of canceling this Agreement, whereupon the County and AquaSource shall release one another of all further obligations hereunder.

(B) The County expects to use interim financing to obtain the financing addressed in subsection (A) of this section; however, such determination shall be solely within the County's discretion. Under no circumstances whatsoever shall the exploration of any interim financing alternative be interpreted or construed to require the County to utilize interim financing to provide funds to close the transaction contemplated in this Agreement and, notwithstanding the availability of any interim financing, the County shall retain its sole discretion to determine that satisfactory financing is not available on or prior to closing, and its right to exercise its option to cancel this agreement as provided in subsection (A) of this Section 4.04.

SECTION 4.05. ENVIRONMENTAL ASSESSMENT.

(A) The County shall have the right to cause an environmental assessment of the real property to be conveyed hereunder. The environmental assessment shall be in general accordance with the scope and limitations of the American Society for Testing and Materials Designation: E 1527-00 (Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process). Any such environmental assessment, together with

a written declaration from an environmental consultant acceptable to AquaSource, shall verify that the real property and other facilities to be conveyed hereunder appear to be in compliance with all applicable state and federal environmental laws, and that the facilities and property surrounding the facilities are free of unlawful contamination and, if necessary, provide an itemized estimate of all costs associated with bringing the subject real property and facilities into compliance and the response cost for clean-up, removal and remediation. If requested, the environmental consultant shall demonstrate its qualifications to the satisfaction of AquaSource. The environmental consultant's qualifications shall be presumptively established if the project manager is a professional engineer who is registered and in good standing with the State of Florida, or a certified environmental professional by the National Association of Environmental Professionals or some other like national professional organization. AquaSource's acceptance of the environmental consultant shall not be unreasonably withheld. The environmental assessment shall be the County's expense.

(B) The environmental assessment is expected to be completed within 15 days after this Agreement is entered into and, time permitting, delivered to the County and AquaSource, not less than 15 days prior to closing. The receipt of an environmental assessment shall be a condition precedent to closing, unless waived by the County.

(C) If the environmental consultant's aggregate estimate of the costs associated with bringing the subject real property and facilities into compliance with applicable environmental laws and the response costs for clean-up, removal, and remediation is in

excess of \$50,000 (exclusive of any costs associated with that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW), then the County shall have the option of (1) waiving this condition precedent to closing and accepting the property as it then is, or (2) canceling this Agreement prior to closing, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

SECTION 4.06. SURVEY. The County shall have the option to order a survey of any or all property being insured by the title insurance policies hereunder. Such survey shall be the County's expense. Any such survey shall, (A) time permitting, be received not less than 15 days prior to closing and updated thereafter as required by the title insurer; (B) be satisfactory and sufficient for the title insurer to delete the standard exceptions of title insurance coverage concerning encroachments, overlays, boundary line disputes or any other adverse matter which would be disclosed by an accurate survey; (C) be certified as of the current date to the County, AquaSource, the title insurer or any other parties requested by the County; and (D) show the location of all improvements and easements. AquaSource may at its sole expense elect to resolve adverse matters disclosed by such a survey so that such matters may be removed as an exclusion to coverage on the title insurance commitment. If AquaSource refuses or fails to resolve such adverse matters prior to closing, the County shall have the option of either (1) waiving this condition precedent to closing, and accepting

the property as it then is, or (2) canceling this Agreement prior to closing, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

SECTION 4.07. TITLE VERIFICATION.

(A) Within 5 days after entering into this Agreement, the County shall order a title certificate or commitment for an ALTA form owner's title insurance policy for the full insurable value of the estate or interests to be insured as determined by the County. Time permitting, the title research information shall be delivered to the County, with a copy to AquaSource, not less than 15 days prior to the escrow closing as provided for in Section 5.09(A) hereof. Subject to subsection (E) of this section, any encumbrances or defects in title must be removed from any title insurance commitment prior to closing and the subsequent title insurance policy issued free and clear of encumbrances, title defects, materialman's liens or other adverse matters, created or potentially created by AquaSource, with the exception of (1) taxes for the current year which are not yet due and payable, (2) the Permitted Exceptions reflected in the schedule attached hereto as Appendix O, and (3) any encumbrance of or created by the County, including any instruments evidencing debt executed by the County at closing.

(B) The estate or interests to be insured by any title insurance policy shall consist of all real property and insurable Easements identified in Appendices A and B hereof or otherwise identified and included within any endorsement to a title insurance commitment within 180 days of closing.

(C) At closing the owner's title insurance commitment shall show marketable title to the insured estate or interests vested in the County. All premiums charged for the issuance of the owner's title insurance commitment and policy shall be the County's expense.

(D) The County shall select a title insurer willing to issue the owner's title insurance policy for a premium which shall not exceed the minimum rate promulgated by the Florida Insurance Commissioner. Nothing herein shall preclude the County from selecting its own counsel to act as an agent for the title insurer in conjunction with the issuance of the title insurance policy.

(E) Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. The County shall have 5 days from receiving the title commitment or any endorsement thereto to examine it. If title is found defective or the title commitment reflects title exceptions other than those shown on the schedule attached hereto as Appendix O, the County shall thereafter within 5 days, notify AquaSource in writing specifying the defects. If the defects render the title unmarketable, AquaSource shall, time permitting, have no more than 30 days from receipt of notice within which to remove the defects, failing which the County shall have the option of either (1) accepting title as it then is, or (2) canceling this Agreement prior to closing, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

(F) Within 5 days after entering into this Agreement, the County shall order a search of the Official Records of Charlotte County, Florida and the records of the Secretary of State for uniform commercial code financing statements evidencing a secured interest in the Purchased Assets. Such search shall be the County's expense. Time permitting, the results of such a search shall be delivered to the County, with a copy to AquaSource, not less than 15 days prior to closing. Any secured interests in the Purchased Assets must be paid off, released or terminated at AquaSource's expense. In the event all secured interests in the Purchased Assets are not paid off, released or terminated at or prior to closing as contemplated herein, the County shall also have the option of canceling this Agreement, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

SECTION 4.08. ENGLEWOOD WATER DISTRICT INTERLOCAL AGREEMENT. The parties acknowledge that AquaSource and the Englewood Water District are currently negotiating a revision to that certain Interlocal Agreement between the Englewood Water District and AquaSource's predecessor, dated October 24, 1995. Any modification to said agreement shall be in writing, satisfactory to the County, and subject to the provision of documentation acceptable to the County received from the Englewood Water District which recognizes the County's assumption thereof. If the County determines, in its sole discretion, that such Interlocal Agreement, any modification thereof, or any documentation to be received from the Englewood Water District is not acceptable or

sufficient for the County's purposes, the County shall have the option of either, (1) accepting and assuming the Interlocal Agreement as it then is, or (2) canceling this Agreement prior to closing, thereupon the County and AquaSource shall release one another from all further obligations thereunder.

SECTION 4.09. ESTOPPEL CERTIFICATES.

(A) Within 25 days after entering into this Agreement, AquaSource shall send by certified mail, return receipt requested, an estoppel certificate, in substantially the form attached hereto as Appendix Q, to all parties having any right under the agreements described in Appendices H, I, J and L hereto. Simultaneously, a copy of any such transmittals shall be sent to the County.

(B) Notwithstanding any provision herein to the contrary, the County shall not be obligated to close nor required to assume any obligation, liability or responsibility to any person or entity claiming an interest or right under any agreement to be assumed by the County hereunder unless AquaSource obtains and provides to the County an estoppel certificate acceptable to the County in substantially the form attached hereto as Appendix Q, from each such person or entity at or prior to closing hereunder. With regard to (1) any agreement not timely disclosed in Appendices H, I, J or L hereto, (2) any agreement not to be assumed by the County hereunder, or (3) any agreement to be assumed by the County hereunder as indicated in Appendices H, I, J and L for which AquaSource fails to timely provide an estoppel certificate acceptable to the County as provided for in this section,

AquaSource shall hold harmless and indemnify the County from any claim, loss or damage, including attorney fees and costs actually incurred by the County, arising from any person or entity, or their successors, making a claim under any such agreement entered into by AquaSource or its predecessors which relates to the Utility System, the Purchased Assets, or the County's subsequent alleged provision of service or operation of the Utility System in contravention of any such agreement. In the event of any such claim arising, the County shall notify AquaSource and afford AquaSource the opportunity to settle the claim or defend any action with counsel of its choice. The County shall have no obligation to assume any agreement relating to the provision of uniforms or allied products more particularly described in items (A) and (F) in Appendix H hereto. The County expects and agrees to assume each of the agreements disclosed in Appendices H, I, J and L hereto subject to the provisions of this Section and each such agreement, unless mutually agreed otherwise by the parties, shall be expressly assigned by AquaSource and assumed by the County at closing. However, if the County determines, in its sole discretion, that the obligation, liability or responsibility to any person or entity under any of the foregoing agreements is not acceptable, the County may cancel this Agreement prior to closing, thereupon the County and AquaSource shall release one another from all further obligations hereunder.

SECTION 4.10. TRANSFER OF PERMITS. Within 5 days after the execution of this Agreement, AquaSource shall commence all requisite action to apply for and cause the transfer of the permits and governmental approvals described in Appendix E hereof, including, but not limited to the procedures referenced in Rule 62-4.120, Florida

Administrative Code, 40 C.F.R. § 122.63(d) (1980) and 47 C.F.R. § 73 (1980) and shall use all reasonable efforts to obtain the transfer of such permits. The County shall timely cooperate and provide all reasonably necessary assistance in this endeavor. Upon transfer, the County shall assume all obligations under the permits and governmental approvals necessary for the continued operation of the Utility System. If AquaSource and the County are unable to effectuate the transfers or approvals prior to closing, the County shall have the option of either (1) closing, causing the transfers or approvals, and thereafter AquaSource shall, subject to the following limitations, reimburse the County in an amount equal to all actual and verifiable costs experienced by the County in effectuating the transfer of such permits or securing alternative permits, or (2) canceling this Agreement prior to closing, thereupon the County and AquaSource shall release one another of all further obligations hereunder. Provided, however that (a) the County shall not seek nor be entitled to reimbursement for any costs incurred during the period ending sixty (60) days after closing, and (b) the maximum aggregate obligation of AquaSource under this Section shall not exceed \$12,500.

SECTION 4.11. DEADLINE TO CLOSE AND DISBURSE.

(A) Closing is expected to occur between November 1, 2000 and December 1, 2000. However, notwithstanding any other provision in this Agreement, closing and disbursement to AquaSource of the purchase price described in Section 3.03, subject to the terms, adjustments and prorations as provided herein, shall occur on or before December 20,

2000, or AquaSource shall have the option of (1) waiving this condition precedent to closing or (2) canceling this Agreement, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

(B) In the event the County has not notified AquaSource in writing that the County has initiated the final engineering and financial due diligence in Section 4.02, the environmental assessment in Section 4.04, and the title verification research in Section 4.07 hereof within 20 days after entering into this Agreement, AquaSource shall have the option of immediately canceling this Agreement, thereupon the County and AquaSource shall release one another of all further obligations hereunder.

ARTICLE V

CLOSING PROCEDURES

SECTION 5.01. CLOSING DATE AND PLACE.

(A) It is anticipated that the transactions contemplated by this Agreement will be closed on a mutually agreed upon date between November 1, 2000 and December 1, 2000. The time for closing may be extended by the County to no later than December 20, 2000. The closing shall be held at such place or offices designated by the County.

SECTION 5.02. DOCUMENTS FOR THE CLOSING.

(A) AquaSource shall furnish at closing a certificate reaffirming AquaSource's representations and warranties hereunder; and AquaSource shall furnish a non-foreign affidavit, a no-lien affidavit, a "gap" affidavit, the special warranty deed, and the bill of sale, all in substantially the form attached hereto as Appendix P. AquaSource shall also furnish at closing any necessary assignments, estoppel letters, releases, satisfactions, terminations and any corrective instruments, and enter into a transfer, assignment and assumption agreement in substantially the form attached hereto as Appendix Q.

(B) The County shall furnish at closing the closing statement, a certificate reaffirming the County's representations and warranties hereunder, and enter into a transfer, assignment and assumption agreement in substantially the form attached hereto as Appendix P.

(C) From time to time after closing, each party hereto shall, upon request of the other, execute, acknowledge and deliver, or shall cause to be executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers or other documentation for (1) confirming or correcting title in the name of the County or perfecting undisputed possession by the County of any or all of the Purchased Assets, including the establishment of record of Easements reasonably capable of enforcement by the County without resort to litigation or other extraordinary means for all water and wastewater utility facilities which are a part of the Utility System and in existence or use at the time of closing, or (2) otherwise fulfilling the obligations of the parties hereunder.

SECTION 5.03. RECORDING FEES AND DOCUMENTARY TAXES.

(A) Recording fees to record the deed and any other instruments necessary to deliver marketable title to the County shall be paid by the County.

(B) The Purchased Assets shall be deemed to be purchased by the County for public purposes in lieu of eminent domain and condemnation by Charlotte County, Florida and therefore the parties desire to characterize this transaction as immune from documentary stamp tax, in accordance with the ruling in Orange County v. Department of Revenue, 605 So.2d 1333 (Fla. 5th DCA 1992). Accordingly, the transactions contemplated herein shall be deemed by the parties as a result of an out of court settlement of a condemnation threat or proceeding. The purchase price and consideration being given by the County hereunder constitutes the total consideration to be paid or given by the County in connection with the

acquisition of the Purchased Assets and any consequences or impacts incurred by AquaSource in connection therewith, including, without limitation, any severance damages, loss of business damages or impacts or costs to AquaSource or any person or entity affiliated with AquaSource.

SECTION 5.04. TAXES. All real property taxes for the year 2000 and prior years on the Purchased Assets shall be prorated as of the day of closing and, if necessary, AquaSource shall be required to escrow with the Tax Collector of Charlotte County, Florida such prorated taxes in accordance with Section 196.295, Florida Statutes. All personal property taxes for the year 2000 and prior years shall be paid by AquaSource. The County is exempt from payment of taxes; notwithstanding any other provisions herein to the contrary, AquaSource shall be liable for all taxes, if any, which may be assessed against AquaSource or the Purchased Assets as a result of the transaction contemplated by this Agreement.

SECTION 5.05. ACCOUNTS RECEIVABLE.

(A) All accounts receivable due AquaSource which are 60 days or less past due at closing and all unbilled revenue earned for water, wastewater and reuse service as of the date of closing shall be estimated and credited to AquaSource at closing. For estimation purposes, AquaSource shall furnish to the County, approximately 30 days prior to the escrow closing and at closing, a listing of its aged accounts receivable (including name and address information) and unbilled revenue, by customer and individual accounts. At closing,

AquaSource shall assign to the County all interest in any accounts receivable which are not more than 60 days past due on the date of closing. Nothing herein shall preclude AquaSource from increasing its efforts to collect any accounts receivable prior to closing.

(B) Credit shall be given to the County at closing for the liabilities assumed for customer deposits or unused application fees or charges, including any interest due thereon through the date of closing. AquaSource shall furnish to the County, approximately 30 days prior to the escrow closing and at closing, (1) a listing of customer deposits by customer account (including name and address information) and an aggregate total thereof, and (2) a listing of all unexpended application fees or charges (including the name and address of the applicant and identification of the agreement under which the fee was collected or charged, if any) and an aggregate total thereof.

(C) Closing may occur during the normal billing cycle of AquaSource. Gross revenues for water and wastewater services rendered but not yet billed shall be estimated based upon the preceding month's billings and a proration of such revenue shall be made with a credit to AquaSource at closing for the number of days elapsed in the current billing cycle. Upon credit to AquaSource for unbilled service at closing as provided for herein, the County shall be entitled to all revenue collected and derived from the Utility System and Purchased Assets from that date forward.

(D) In lieu of the adjustment procedure for accounts receivable contemplated under the foregoing provisions of this section, AquaSource and the County may opt to use another

mutually agreeable reconciliation approach on or immediately before closing, and AquaSource shall be solely responsible for collecting and retaining all accounts receivable and sending a final bill to all customers without additional charge or cost to the County. Such final bill shall notify all customers of the transition of service to the County.

SECTION 5.06. CONNECTION CHARGES.

(A) Sums collected by AquaSource in the ordinary course of business for connection charges, including capacity and deferred standby fees, for which service has been actually furnished through physical connection to the Utility System prior to the date of closing, shall remain AquaSource's sole and separate property with no claim of the County therefore.

(B) All sums collected from and after the date of closing relative to the use of, or connection to, the Utility System shall be paid to the County, with no claim of AquaSource therefore.

(C) From and after the day of execution of this Agreement, AquaSource shall not enter into any agreement, without the prior written consent of the County, which would obligate the County to provide service upon closing to any customer who is not physically connected to the Utility System prior to closing. The County shall not unreasonably withhold or delay its consent provided such agreement does not provide for payment of any charges,

rates or fees, other than refundable inspection or application fees, prior to physical connection to the Utility System.

SECTION 5.07. PROFESSIONAL FEES; COSTS.

(A) Each party shall be responsible for securing its own counsel for representation relative to the negotiation of this Agreement, and all other matters associated with performance, cancellation or closing hereunder; unless otherwise specified herein, and each party shall be responsible for the payment of the fees of its own attorneys, bankers, engineers, accountants, and other professional advisors or consultants in connection therewith.

(B) In any litigation arising out of this Agreement, the prevailing party in such litigation shall be entitled to recover reasonable attorneys' fees and costs.

SECTION 5.08. RISK OF LOSS. At all times prior to and through the day of closing, AquaSource shall maintain adequate fire and extended insurance coverage for the cost of any repairs to the Purchased Assets that may be required by casualty damage. The risk of loss during the said period of time shall fall upon AquaSource. The risk of loss shall pass to the County at closing.

SECTION 5.09. PROCEEDS OF SALE; CLOSING PROCEDURE.

(A) AquaSource and the County shall execute and place all documents necessary to close in escrow prior to the County authorizing the issuance of obligations or commercial paper notes to pay the purchase price.

(B) Prior to the escrow closing, AquaSource and the County shall execute and enter into a document escrow agreement with an agent designated by the County in substantially the form attached hereto as Appendix R.

(C) AquaSource shall execute and tender the following documents effecting the transfer of the Purchased Assets to the County at the escrow closing; these documents shall be in final form, together with any exhibits or appendices thereto:

(1) Special warranty deed, for the conveyance of all real property to be conveyed hereunder;

(2) Conveyance instruments for all easements;

(3) A transfer, assignment and assumption agreement covering all other interests in the Purchased Assets, which shall specifically include the assumption of the obligations by the County under that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW), together with a general assignment of all other contracts, agreements, permits and approvals as provided for herein;

(4) Bill of Sale or other documents of assignment and transfer, with full warranties of title, to all Purchased Assets;

(5) A Florida Department of Revenue Form DR-219 completed in a manner satisfactory to the County;

(6) Any affidavits, certificates, estoppel certificates, corrective instruments, releases, satisfactions or terminations necessary to close including but not limited to those instruments identified at the time of execution hereof and in substantially the form attached hereto as Appendix Q; and

(7) The original or a certified copy of all permits, governmental authorizations and approvals.

(D) The County shall execute and tender the following documents effecting the transfer of the Purchased Assets to the County at the escrow closing; these documents shall be in final form, together with any exhibits or appendices thereto:

(1) A transfer, assignment and assumption agreement covering all other interests in the Purchased Assets, which shall specifically include the assumption of the obligations by the County under that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW), together with an assumption of all other contracts, agreements, permits and approvals as provided for herein;

(2) Any other instruments necessary to close, including but not limited to, those instruments identified at the time of execution hereof and in substantially the form attached hereto as Appendix Q.

(E) AquaSource acknowledges that the County will issue debt obligations or commercial paper notes to generate proceeds to pay the purchase price and provide funding for reimbursement as described in Section 3.03 hereof. Therefore, all closing procedures shall be subject to the requirements of the underwriter selected by the County, the purchasers of the debt obligations or the provider of any interim financing. The escrow closing shall occur prior to the County authorizing the sale of debt obligations or commercial paper notes and disbursement of proceeds from issuance thereof. However, the disbursement of proceeds shall be nominally at the direction of the title insurer, or its agent, in order to secure coverage against adverse matters or defects in title which are recorded during the period of time between the effective date of the title insurance commitment and the date of recording of the document creating the estate or interest to be insured.

(F) Within 120 days after closing, upon written request by the County, AquaSource shall reimburse the County or pay a prorata portion of any charge, fee or rate for services furnished to the Utility System through the date of closing for water, sewer, power, telephone, solid waste collection, pest control, sludge hauling or general maintenance and reconcile any connection charges, accounts receivables, customer deposits or unexpended application fees or other charges not otherwise considered or accounted for at the time of escrow prior to closing. Within 120 days after closing, upon written request by AquaSource, the County shall reimburse AquaSource or pay a prorata portion of any charge, fee or rate for services furnished to the Utility System after the date of closing for water,

sewer, power, telephone, solid waste collection, pest control, sludge hauling or general maintenance and reconcile any connection charges, accounts receivables, customer deposits or unexpended application fees or other charges not otherwise considered or accounted for at the time of escrow prior to closing. Such post-closing reimbursement and reconciliation process may be extended by either party for 30 days upon written notice to the other party.

ARTICLE VI

GENERAL PROVISIONS

SECTION 6.01. RIGHT TO ENTER. Prior to closing, the County shall have the right, at any reasonable time with prior notice to AquaSource , to enter upon AquaSource 's property to inspect the Utility System and the Purchased Assets, to familiarize itself with day-to-day operations, to review the operational practices of AquaSource, and to ensure compliance with any and all federal and state regulatory requirements.

SECTION 6.02. CONDUCT BETWEEN EXECUTION AND CLOSING.

(A) Upon the execution of this Agreement, AquaSource shall continue to provide water and wastewater treatment to its current customers in the ordinary and usual manner.

(B) AquaSource shall prudently maintain the Utility System to ensure its proper operation through closing. From and after the date of execution of this Agreement, there will be no material depletion of the Purchased Assets. Nothing in this subsection shall be construed to require AquaSource to make any capital improvements to the Utility System.

(C) Except for that certain Interlocal Agreement between the Englewood Water District and AquaSource's predecessor, dated October 24, 1995, from and after the date of the execution of this Agreement, AquaSource shall not, without prior written consent of the County, dispose of or encumber any of the Purchased Assets, except any non-material transactions that occur in the ordinary course of AquaSource's business.

(D) Except for that certain Interlocal Agreement between the Englewood Water District and AquaSource's predecessor, dated October 24, 1995, from and after the date of the execution of this Agreement, AquaSource shall not, without prior written consent of the County, (1) enter into or modify any effluent reuse or disposal agreements affecting the Utility System or (2) enter into or modify any developer, water, or wastewater service agreement affecting the Utility System. Nothing in this subsection shall be construed to require AquaSource to make any capital improvements to the Utility System.

SECTION 6.03. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement. Time periods specified in this Agreement shall expire at midnight on the date stated unless the parties agree in writing to a different date or time. Any time period provided for herein which ends on Saturday, Sunday or a legal holiday shall extend to 5:00 p.m. on the next business day.

SECTION 6.04. APPLICABLE LAW; JURISDICTION AND VENUE.

(A) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

(B) The parties to this Agreement expressly consent to the jurisdiction of and agree to suit in any court of general jurisdiction in the State of Florida, whether state, local or federal, and further agree that venue shall lie in Charlotte County, Florida. However, the foregoing shall not be interpreted to preclude removal to federal court of any suit, provided such removal is made to a federal court sitting in Florida.

SECTION 6.05. FAILURE OF PERFORMANCE.

(A) A breach of this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. If any party breaches any obligation herein, then, upon receipt of written notice by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach and shall continue to take all such actions until such breach is cured.

(B) Unless otherwise provide herein, the parties to this Agreement may proceed at law or in equity to enforce their rights under this Agreement.

SECTION 6.06. NOTICE.

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail or express courier, postage prepaid, to the parties at the following addresses:

To the County:

Richard E. Howell
Utility Director
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, Florida 33948-1094

with a copy to:

Renee Frances Lee
County Attorney
Janette S. Knowlton
Assistant County Attorney
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, Florida 33948

and another copy to: Mark G. Lawson
Bryant, Miller and Olive, P.A.
201 South Monroe Street
Suite 500
Tallahassee, Florida 32301

To AquaSource: Robert J. Gaipo
President - East Region
AquaSource, Inc.
6960 Professional Pkwy., East
Suite 400
Sarasota, FL 34240

with a copy to: Martin J. Stanek
General Counsel
AquaSource, Inc.
200 Corporate Center Drive
Suite 300
Moon Township, PA 15108-3186

(B) Any written notice given to one person in subsection (A) of this section shall also be copied and provided to all other persons identified in subsection (A).

(C) The parties may, by notice in writing given to the others, designate any future or different addresses to which the subsequent notices, certificates or other communications shall be sent.

SECTION 6.07. ASSIGNMENT AND JOINDER.

Except as expressly provided for herein, neither AquaSource nor the County shall have the power or authority to assign this Agreement or any of their rights, duties or obligations hereunder to a third party, and this Agreement shall be construed as solely for

the benefit of the County and AquaSource, and their successors by law, and no claim or cause of action shall accrue to or for the benefit of any other third party by reason hereof.

SECTION 6.08. AMENDMENTS AND WAIVERS. No amendment, supplement, modification or waiver of this Agreement shall be binding upon any party hereto unless executed in writing by such party. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

SECTION 6.09. ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the agreements, understandings, negotiations and discussions of the parties, whether oral or written, pertaining to the subject matter hereof, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. Upon execution by all parties, the County shall provide AquaSource three complete certified copies of this Agreement, together with copies of all appendices hereto.

IN WITNESS WHEREOF, the County has caused this Rotonda West Utility System Asset Agreement to be duly executed and entered into as of the date first above written.


**BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA**

(SEAL)


By: 
Chairman

ATTEST:

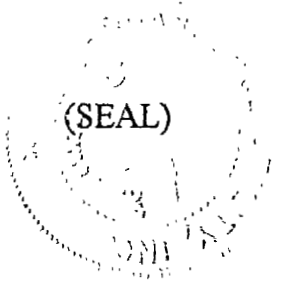
BARBARA T. SCOTT, Clerk
of the Circuit Court and
Ex-Officio Clerk of the
Board of County
Commissioners of Charlotte
County, Florida

By: 
Deputy Clerk

Approved as to form and
legal sufficiency:

By: 
County Attorney JSK
LR 2000-330

IN WITNESS WHEREOF, the AquaSource has caused this Rotonda West Utility System Asset Agreement to be duly executed and entered into as of the date first above written.



AQUASOURCE UTILITY, INC.

By: *Frank R. Hoffmann*
President

ATTEST:

By: *Martin J. Jones*
Secretary

APPENDIX A

**REAL PROPERTY TO BE CONVEYED
TO THE COUNTY**

Real Property to be Conveyed to the County

FEE SIMPLE PARCEL 1 - UTILITY OFFICE SITE

Lot 1, Block J, Second Addition to Cape Haze East, as recorded in Plat Book 3, Page 54, of the Public Records of Charlotte County, Florida, Less and Except the following described portion thereof: Commence at the intersection of the Southerly side lot line extended with the easterly right-of-way line of County Road 775; thence Northeasterly along said Southerly side lot line extended a distance 30.00 feet to the Southwest Corner of said Lot 1, Block J, for a Point of Beginning; thence Northwesterly along the front lot line of said Lot 1 a distance of 100.00 feet; thence Northeasterly along a line parallel to the Southerly side lot line of said Lot 1 a distance of 90.00 feet; thence Southeasterly along a line parallel to the front lot line of said Lot 1, a distance of 100.00 feet to a point on the said Southerly side lot line of Lot 1, thence Southwesterly along said lot line a distance of 90.00 feet to the Point of Beginning.

Being the same lands as described as Parcel 1 in Special Warranty Deed recorded in Official Record Book 1665, at page 0186, Public Records of Charlotte County, Florida.

FEE SIMPLE PARCEL 2 - SEWAGE TREATMENT PLANT SITE

That unnumbered tract of land located in the Rotonda Shores Subdivision, a subdivision according to the plat thereof, as recorded in Plat Book 10, Pages 7A through 7N, inclusive, of the Public Records of Charlotte County, Florida, the east and northerly boundary of which is the rear lot line of Lots 763 through 773, inclusive, and Lots 807 through 819, inclusive, and extensions thereof, between Lots 766 and 767; the west and southwesterly boundary of which is the rear lot line of Lots 820 through 826, inclusive, and Lots 748 through 762, inclusive, and extensions thereof on the North to the rear line of Lot 807 and across Kendall Road; and the Southeasterly boundary is the rear lot line of Lots 736 through 745, inclusive, and the extension thereof between Lots 741 and 742;

Less and Except: the right of way of Kendall Road in said Rotonda Shores Subdivision;

And Less and Except the following described portion thereof.

A portion of the non-designated tract or parcel of land as shown on plat sheets 7, 8 and 11, Plat of Rotonda Shores, as recorded in Plat Book 10, Pages 7-A through 7-N, Public Records of Charlotte County, Florida, lying and being in the North half of Section 34, Township 41

South, Range 20 East, Charlotte County, Florida. Being more particularly described as follows:

Commence at the centerline intersection of Cape Haze Drive (80' right of way) and Kendall Road (60' right of way), as shown on said Plat of Rotonda Shores; thence N 90 degrees, 00 minutes, 00 seconds E, along the centerline of said Kendall Road, a distance of 265.00 feet; thence S 00 degrees, 00 minutes, 00 seconds E, a distance of 30.00 feet to the intersection of the Southerly right of way of said Kendall Road, also being the Northeast Corner of Lot 760 of said Rotonda Shores, and the Point of Beginning of this description; thence N 90 degrees, 00 minutes, 00 seconds E, along said right of way, a distance of 315.00 feet; thence S 00 degrees, 00 minutes, 00 seconds W, leaving said right-of-way, a distance of 420.00 feet; thence N 90 degrees, 00 minutes, 00 seconds W, a distance of 315.00 feet to the Southeast Corner of Lot 757, said Rotonda Shores, thence N 00 degrees, 00 minutes, 00 seconds W along the Easterly lot lines of Lots 757 through 760, said Rotonda Shores, a distance of 420.00 feet to the Point of Beginning.

Being the same lands as described as Parcel 2 in Special Warranty Deed recorded in Official Record Book 1665, at page 0186, Public Records of Charlotte County, Florida.

FEE SIMPLE PARCEL 3 - VACANT SANDS TRADE

Tract W, Rotonda Sands South, Re-Plat Unit 2, in accordance with the plat thereof as recorded in Plat Book 11, Pages 5A through 5Z13, inclusive, of the Public Records of Charlotte County, Florida.

Being the same lands as described as Parcel 3 in Special Warranty Deed recorded in Official Record Book 1665, at page 0186, Public Records of Charlotte County, Florida.

FEE SIMPLE PARCEL 4 - OAKLAND HILLS WELLFIELD SITE

Lots 1036 through 1044, inclusive, Oakland Hills Subdivision, Rotonda West, a subdivision according to the plat thereof, as recorded in Plat Book 8, pages 15A through 15K, inclusive, of the Public Records of Charlotte County, Florida, together with that portion of the 25 foot wide utility green belt abutting the rear lot line of Lots 1040, 1041, 1042, 1043, and 1044 of said Oakland Hills Subdivision lying between the westerly extension of the lot lines between Lots 1039 and 1040, and the westerly extension of the lot line between 1044 and 1045.

Being the same lands as described as Parcel 4 in Special Warranty Deed recorded in Official Record Book 1665, at page 0186, Public Records of Charlotte County, Florida.

FEE SIMPLE PARCEL 5 - CORE AREA

A circular parcel of land lying within the below described subdivisions according to the plats thereof, recorded in the Public Records of Charlotte County, Florida;

SUBDIVISION PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA

Oakland Hills	Plat Book 8, Pages 15A through 15K, inclusive
Pebble Beach	Plat Book 8, Pages 13A through 13L, inclusive
Pinehurst	Plat Book 8, Pages 12A through 12K, inclusive
Broadmoor	Plat Book 8, Pages 18A through 18L, inclusive
Long Meadow	Plat Book 8, Pages 19A through 19K, inclusive
White Marsh	Plat Book 8, Pages 17A through 17L, inclusive
Pine Valley	Plat Book 8, Pages 16A through 16K, inclusive
St. Andrews	Plat Book 8, Pages 21A through 21L, inclusive

which said circular parcel has a radius of 360.00 feet and the center of which is the Point of Beginning of the legal descriptions of each of said plats, being more particularly described as follows:

Commence at the Northeast corner of Section 14, Township 41 South, Range 20 East; thence run true south for a distance of 8450 feet; thence run West a distance of 50 feet to a point, said point being the center of said circular parcel, containing 9.34 acres, more or less.

Being the same lands as described as Parcel 5 in Special Warranty Deed recorded in Official Record Book 1665, at page 0186, Public Records of Charlotte County, Florida.

FEE SIMPLE PARCEL 6. (Intentionally Deleted)

FEE SIMPLE PARCEL 7.

Tract 15, being a parcel of land in the Northeast 1/4 of Section 27, Township 41 South, Range 20 East, Charlotte County, Florida.

More particularly described as follows:

Commence at the Northeast CORNER of the Northwest 1/4 of Section 27, Township 41 South, Range 20 East; thence South 00°16'06" West, 333.40 feet to a point on the Easterly boundary of Rotonda West Oakland Hills Subdivision according to the Plat thereof as recorded in Plat Book 8, Pages 15-A thru 15-K, inclusive, and Plat Book 10, Page 3, of the

Public Records of Charlotte County, Florida, said point also being the Point of Beginning; thence Southerly along said Easterly boundary of Oakland Hills being the arc of a curve with a Radius of 8405.00 feet, for a distance of 1406 feet, more or less to its intersection with the Northerly plat boundary of Rotonda Shores Subdivision according to the Plat thereof as recorded in Plat Book 10, Pages 7A, thru 7N, inclusive, of the Public Records of Charlotte County, Florida, thence South $79^{\circ}30'15''$ West along said Northerly plat boundary 541.718 feet to the Northwest Corner of said Rotonda Shores Plat; thence North $00^{\circ}16'06''$ East for a distance of 1401 feet, more or less to the Point of Beginning.

Being the same lands as described as Parcel 7 in Special Warranty Deed recorded in Official Record Book 1665, at page 0186, Public Records of Charlotte County, Florida.

APPENDIX B
EASEMENT INTERESTS
TO BE CONVEYED TO THE COUNTY

Easement Interests to be Conveyed to the County

All rights, privileges, easements, licenses, prescriptive rights, rights-of-way, and rights to use public and private roads, highways, streets, railroads and other areas owned, used or available to be used by AquaSource in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Utility System.

All dedicated or platted easements available to or used by AquaSource or its predecessor in Charlotte County, Florida.

The following easements are to be insurable:

EASEMENT PARCEL 8. Easement from William H. Vanderbilt and Anne Colby Vanderbilt, husband and wife, and also Alfred G. Vanderbilt, also known as Alfred Gwynne Vanderbilt, and Jean Harvey Vanderbilt, husband and wife to Cape Haze Water Company, Inc. as recorded in Official Record Book 256, Page 549, assigned to AquaSource Utility, Inc by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 9. Easement from Cape Haze Water Corporation to Cape Haze Water Company, Inc. as recorded in Official Record Book 256, Page 544, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 10. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 716, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 11. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 736, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 12. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 726, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 13. Easement from Jacob, Herbert H., Trustee to Rotonda West Utility Corporation as recorded in Official Record Book 1111, Page 1546, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 14. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1112, Page 143, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 15. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 720, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 16. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 738, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 17. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 712, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 18. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1023, Page 1503, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 19. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 710, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 20. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 714, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 21. Easement from Rotonda Golf and Country Club Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1300, Page 1203, as assigned by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 22. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 728, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 23. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 718, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 24. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 722, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 25. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1293, Page 1256, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 26. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 737, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 27. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 735, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 28. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 734, as assigned by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 29. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 724, as assigned by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 30. Easement from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 733, as assigned by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 31. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1274, Page 1722, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 32. Easement from Windward Patio Association, Inc. to Rotonda West Utility Corporation as recorded in Official Record Book 1277, Page 2009, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 33. Easement from Cape Haze Windward Property Owners Association, Inc. to Rotonda West Utility Corporation as recorded in Official Record Book 1277, Page 2078, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 34. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1277, Page 2056, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 35. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1277, Page 2118, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 36. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1277, Page 2038, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 37. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 732, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 38. Easement from Cape Haze Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1050, Page 730, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 39. Easement from Cape Haze Golf and Country Club Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1277, Page 2017, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 40. Easements from Cape Cave Corporation to Rotonda West Utility Corporation as recorded in Official Record Book 1377, Page 1250; as amended by Partial Termination of Easement recorded in Official Record Book 1665, Page 0183, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

EASEMENT PARCEL 41. Easement from Cape Cave Corporation to AquaSource Utility, Inc. as recorded in Official Record Book 1665, Page 0180, assigned to AquaSource Utility, Inc. by Assignment of Easements recorded in Official Record Book 1665, page 0193, Public Records of Charlotte County, Florida.

The following easement may not be insurable:

EASEMENT PARCEL 42. Easement from Cape Haze Corporation, Cape Cave Corporation, Rotonda Services Corporation and Gary D. Littlestar, as successor Trustee of the Cape Cave Land Preservation Trust dated August 20, 1992 to AquaSource Utility, Inc. as recorded in Official Record Book 1808, Page 1765, Public Records of Charlotte County, Florida.

APPENDIX C
SCHEDULE OF PLANS AND SPECIFICATIONS

Schedule of Plans and Specifications

AS-BUILTS

1. Lift Station Details
2. Sanitation Sewer Details
3. Pump Station Installation
4. Placida Sheets 3, 4, 5 and 7 of 10
5. Rotonda Sands Sheet 4 of 8
6. White Marsh Sheet 3 of 15
7. Core Area Sheet 3 of 7
8. Oakland Hills Sheet 1 of 1
9. Oakland Hills Master Map
10. Pinehurst Sheet 1 of 1
11. Pebble Beach Master Map
12. Broadmoor Sheet 1 of 1
13. Long Meadow Sheet 1 of 1
14. Pine Valley Sheet 1 of 1
15. Rotonda Future Utility Site
16. Heights Low Pressure Sewer Sheets 7 and 8 of 9
17. Standard Lift Station Sheet 9 of 9
18. Pump Station Electrical Sheet 6
19. Pump Station Mechanical Sheet 5
20. Core Distribution Sheet 2 of 7
21. Core Wastewater Sheet 1 and 2 of 5
22. Pinehurst Sheets 14 Sheets
23. Pebble Beach Sheets 23 Sheets
24. Pinehurst Manhole Schedule
25. Pinehurst Sheets 2, 3, 4, 5, 6, 8, 9, and 10 of 10
26. Pinehurst Sheets 2 and 3 of 4
27. Pinehurst Investment Properties
28. Broadmoor Sheets 5 thru 14 of 14
29. Lift Station Site Detail
30. Water Distribution Broadmoor
31. Pebble Beach Sheets 3 and 4 of 5
32. Broadmoor Sheets 1, 2 and 3 of 14
33. Broadmoor Sheets 1 and 2 of 2
34. Oakland Hills Sewer 64 Sheets
35. White Marsh Sewer Sheet 1, 11 of 12

36. 5 Million Gallon Storage Tank Sheets 1, 4, 5 , 6 and 7 of 7
37. Fire Hydrant Detail
38. Long Meadow Sewer Sheets 1, 11 and 12 of 12
39. Broadmoor Sewer Sheets 13 and 14 of 14
40. Oakland Hills 4 Sheets
41. Pebble Beach Sheet 2 of 6
42. Pebble Beach Sheets 1 and 5 of 5
43. Pebble Beach Sheet 4 of 4
44. Pinehurst Sheets 1 and 4 of 4
45. Pinehurst Sheet 1 of 10
46. Long Meadow Sheets 1 and 2 of 2
47. Long Meadow Sheets 1 thru 12 of 12
48. White Marsh Sheets 1 and 2 of 2
49. White Marsh Sheets 1 thru 12 of 12
50. White Marsh Sheet 1 of 1
51. Pine Valley Sheet 1 of 2
52. Pine Valley Sheets 1 thru 12 of 12

RO and DTP – Wellfields – 5Million Gallon Tank – Etc.

1. Addition to Cape Haze Wellfield Sheet 1 of 1
2. WTPE Sheet LA –4
3. 100 Thousand Gallon Water Storage Tank Sheet 1 of 1
4. Water System Improvements C-1, C-4
5. R.O. Water Plant Sheet 2 thru 7 of 7
6. Existing R.O. Plant Site Plan
7. Water System Improvements M-1 thru M-7, A1 thru A-2, G1, S-1 thru S4, and ME-1 thru ME-4
8. Proposed 100 Thousand Gallon Tank Sheet 1 of 1
9. WTSE Sheet C-2
10. Cape Haze Water Plant Sheet 1 of 1
11. Site Plan for Shallow Well Water Treatment Plan
12. Rotonda Boulevard North 12 Sheet
13. Rotonda Boulevard North Main Plan Sheets 5 thru 12
14. Lift Station Detail
15. Topographic Survey
16. Cape Haze Water Plant
17. R.O. Plant Building
18. R.O. Plant A-20.7 thru A-20.14, A-20.16 thru A-20.22

19. R.O Plant Drains
20. R.O. Plant Drains Sheet 3 of 7
21. Proposed Water Plant Sheets 1 and 2 of 2
22. Cape Haze Water Plant A-12.6 and A-20.23
23. Water Works Improvements Sheets 3 thru 7
24. Well Site Location 21.1, 21.2 and 21.7
25. Well Site Local Site Sheet 1 of 1
26. Filters and Accelerator
27. Cape Haze Water Plant WP-14-01
28. Site Plan and Drainage
29. Existing Cape Haze Water Plant Sheet 1 of 1
30. Pump Station Sheet 5 of 7
31. Water Pumping Station Sheets 2 thru 11
Permit – 15722221, 5285205, 15728643, B42202, 18415858, 18415859, 18415860, 12921600, 12921633, 12921636, 18515679, 55628072, 15615151, 55628074, 55628063, 18515625, 18515648, 18515678, 18515680, 18515681, 55628073, 18516096, 55628064, 55628065, 52852025, 18415860, 18415859, 18415858, 12921600, 55628065, 55628064, 55628073, 55615681, 55615680, 55615678, 55615648, 55615625, 55628063, 55628074, 55628072, 55615679

Sewer Treatment Plant Spray and Irrigation System

1. Cape Haze Windward Spray Irrigation System
2. Water System Improvement Transfer Line
3. Wastewater Treatment System Expansion Plan Main Effluent Line
4. Rotonda West R.S. Sheet 2 of 3
5. R.S. Wastewater Treatment Plant Sheets 3 and 4
6. Wastewater Treatment System Expansion Facility Layout Plan and Site Piping Plan
7. Wastewater Treatment System Expansion Plan Transfer Line
8. Wastewater Treatment Plant
9. Wastewater Treatment Plant Expansion Main Effluent Pump Station Plan and Details
10. Wastewater Treatment System Expansion Main Effluent Pump Station
11. Cape Haze Residential Irrigation Plan
12. Windward Patio Homes Irrigation and Phase II
13. Wastewater Treatment System Expansion Overall Set Plan and Index
14. Wastewater Treatment Plant Expansion Land Application System

15. Wastewater Treatment System Expansion Site Plan, Control Plan and Electrical Riser Diagram
16. Wastewater Treatment System Expansion Aeration Meter Vault and C Clarifier Plans
17. Wastewater Treatment System Expansion Final Filters Plan and Return Activated Sludge Pump
18. Wastewater Treatment System Expansion Drainage and Transfer Pump Station Plans and Details
19. Wastewater Treatment System Expansion Lighting Fixture and Panel Schedule Symbol List and Details
20. Wastewater Treatment System Expansion Sheets M-1 thru M-7, S-1 thru S-5, G-1, LA-1 and LA-5
21. Wastewater Treatment Plant Improvement Sheet C-1
22. General Location Map Sheet 2 of 11
23. Rotonda West Golf Courses Sheet 3 of 11
24. Pebble Beach Golf Course Sheet 4 of 11
25. Cape Haze Windward Sheet 5 of 11
26. Cape Haze Links Sheet 6 of 11
27. Pebble Beach Golf Course Sheet 7 of 11
28. Cape Haze Windward Sheet 8 of 11
29. Rotonda Shores Sheet 9 of 11
30. Rotonda Main Office Sheet 10 of 11
31. Construction Office Sheet 11 of 11
32. Nursery Area
33. Wasterwater Treatment Plant Progress Schedule
34. Clarifier Tank Sheet 2 of 5
35. Wastewater Treatment Plant Sheets 1 and 5 of 5
36. Rotonda Shores Wastewater Treatment Plant Sheet 2 of 2
37. Drying Bed Sump Pump
38. Rotonda Corp.
39. Wastewater Treatment Plant Contents
40. Aeration Sheet 3 of 5
41. Sludge Bed and Pump Station Sheet 4 of 5
42. Aeration Tank Sheets 1 and 2 of 2
43. Power Requirement for Sewer Treatment Plant
44. Flanged Pipe Detail Sheets 8 thru 11
45. Wastewater Site Plan
46. Aeration Tank
47. Rotonda Shores Wastewater Treatment Plant Sheet 1 of 1

- 48. Clarify Details Sheet 1
- 49. Aeration Tank Sheet 3 of 5

NOTE: The foregoing is a list of files currently located at 3899 Cape Haze Drive, Rotonda West, Florida.

APPENDIX D

**SCHEDULE OF THIRD PARTY WARRANTIES
RELATED TO COMPLETED OR IN PROGRESS CONSTRUCTION**

**Schedule of Third Party Warranties
Related to Completed or In Progress Construction**

NONE.

(There are no third party warranties related to completed or in progress construction.)

APPENDIX E
SCHEDULE OF PERMITS

Schedule of Permits

The following is a schedule of all current or active permits, applications or other documents, together with effective dates and any expiration dates which authorize the operation of the Utility System's water and wastewater treatment facilities by all applicable governmental authorities:

(A) Florida Department of Environmental Protection Permit #IT08-217050 for Reverse Osmosis WTP Concentrate Treatment & Disposal System; Effective Date: November 5, 1992; Expiration Date: November 5, 1997 (Consent Order outstanding – see (E) below).

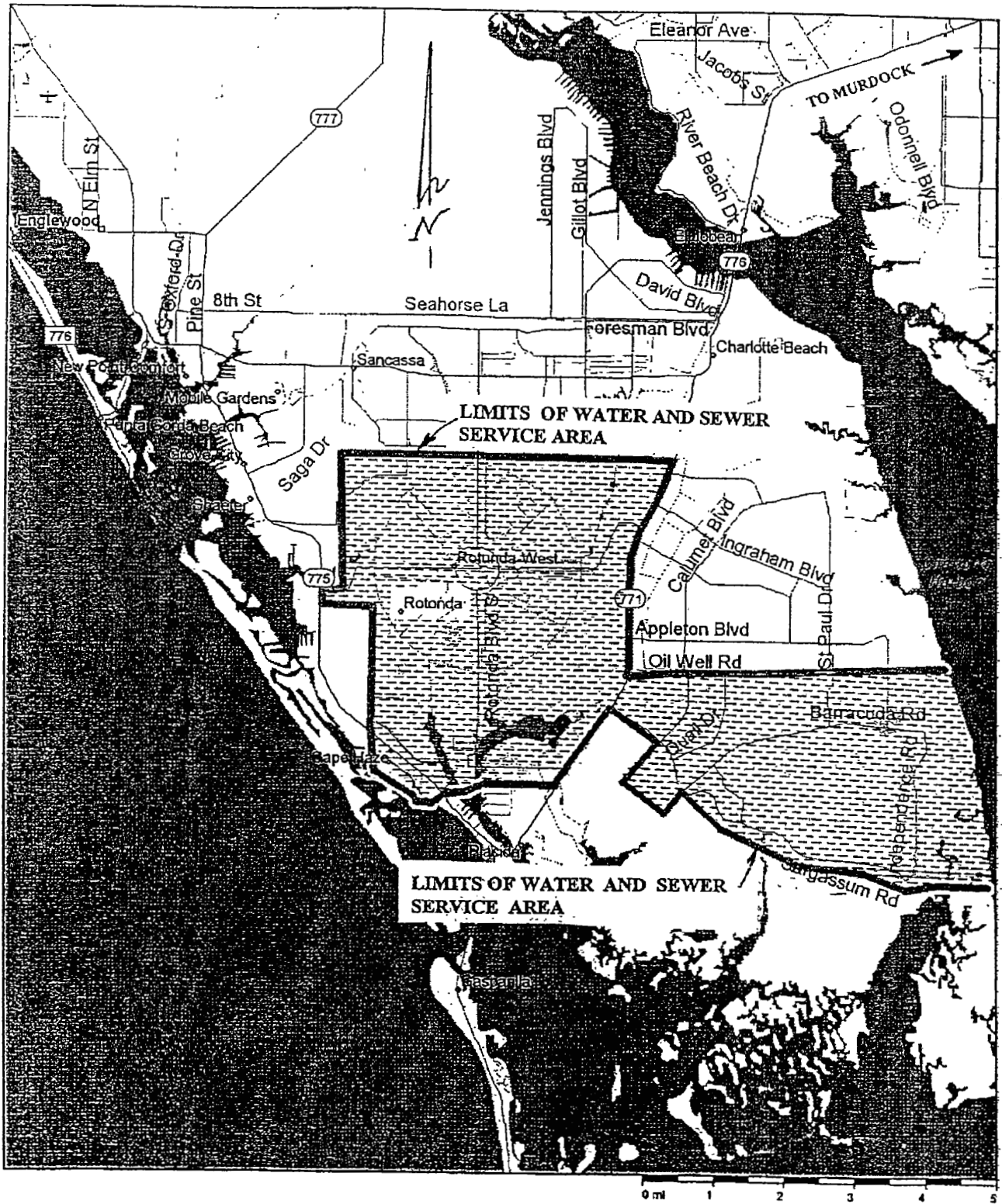
(B) Florida Department of Environmental Protection Permit #FL0025780 dated 4/28/95 for Authorization to Discharge under the National Pollutant Discharge Elimination System (this permit is combined with (A) above) Effective Date: July 1, 1995; Expiration Date: April 30, 2000.

(C) Southwest Florida Water Management District Permit #202839.05 for Individual Water Use; Effective Date: April 25, 1995; Modified: April 27, 1995; Expiration Date: April 25, 2001.

(D) Florida Department of Environmental Protection Permit #FLA014098 for Domestic Wastewater Facility; Effective Date: July 24, 1996; Expiration Date: July 24, 2001.

(E) Consent Order in effect with respect to Permits #IT08-217050 and #FL0025780 listed above; Effective Date: June 16, 2000.

APPENDIX F
AQUASOURCE - ROTONDA WATER AND SEWER SERVICE AREA



APPENDIX G
INVENTORY

Schedule of Inventory

Number Office Equipment - Administration

2 File Cabinet; 4 draw lateral
 1 Radio; Motorola Base
 1 Typewriter; Selectric II

Number Miscellaneous - Admin

1 Heavy Duty 3 Hole Punch
 1 Heavy Duty Stapler
 1 Paper Cutter
 1 Pencil Sharpener

Number Furniture and Furnishings - Admin

2 Book Case: 4'
 1 Book Case: 7'
 1 Chair; Desk - Executive
 1 Chair; Drafting
 8 Chair; Reception - Cloth
 2 Chair; Reception - metal/cane
 3 Chair; Secretary
 2 Credenza
 3 Desk; pedestal - wood
 1 Map Rack - wall mount
 1 Pamphlet Holder; wall unit
 1 Reception Counter
 2 Shelf Unit; wall mounded
 1 Step Ladder 3'
 1 Step Stool
 2 Table; 6'
 1 Table; end
 2 Table; round - white
 6 Wire Rack; 48" x 72" for storage

Number Miscellaneous - Admin

2 Fire Extinguisher
1 Microwave - Emerson
1 Refrigerator - Hotpoint
1 Silk Tree
1 Television - GE
1 Toaster Oven
2 Wall Pictures

Number Office Equipment - RO Plant

1 Battery Backup; Tripplite Lite - BC 500
1 Calculator; Sharp EL-11992G
1 Computer; Compaq Presario
1 Copier Stand
1 Copier; Minolta EP3170
1 Hard Drive; Compaq Presario 2256
1 Monitor; Compaq Presario
1 Pencil Sharpener, Hand crank
1 Printer; Hewlett Packard 812
1 Radio; Hand Helds
1 Surge Protector; Computerware Power Center
1 Telephone: AT&T HS8210
1 Time Recorder; AMANO 6800

Number Furnishings - RO Plant

1 Cabinet; Kitchen section - 1 draw - white
1 Chair; computer
1 Chair; Desk
5 Chair; Miscellaneous styles
1 Desk; computer - wood
1 Fan; Pedestal SCM
1 File Cabinets; 4 draw legal - metal
2 Time Card Holders

Number Miscellaneous - RO Plant

1 Coffee Maker; BUN
1 Refrigerator; GE

Number Office Equipment - STP Plant

- 1 Answering Machine; AT&T
- 1 Battery Pack;
- 1 Calculator; Casio, FR-2215S
- 1 Calculator; Sharp - VX2652A
- 1 Computer; IBM APTIVA 2153-E2N
- 1 Copier; Xerox 1012
- 1 Printer; Cannon BJC-250
- 1 Radio; Hand Held
- 1 Surge Protector; Computerware Power Center
- 1 Telephone; Conair - 10 channel Auto Scan
- 1 Telephone; Touch Tone
- 1 Time Recorder; AMANO 6800

Number Furnishings - STP Plant

- 1 Chairs; Desk
- 1 Chairs; Straight
- 1 Credenza
- 1 Desk; Wood
- 1 File Cabinet; 2 draw Legal Metal
- 1 Time Card Holder
- 1 Coffee Maker; Mr. Coffee
- 1 Heater; Heat String
- 1 Refrigerator; GE

Number Office Equipment - Lime Plant

- 1 Battery Backup; Tripplite Lite BC500
- 1 Calculator; Sharp VX2652A
- 1 Hard Drive; Compaq
- 1 Monitor; Compaq
- 1 Printer; Hewlett Packard
- 1 Radio; Hand Held
- 1 Telephone; AT&T

Number Furnishings - Lime Plant

- 1 Chair; Executive
- 1 Desk; Secretary w/return - wood
- 1 File Cabinet; 4 draw Legal metal

Number Miscellaneous - Lime Plant

- 1 Refrigerator - RCA
- 1 Stove w/Microwave; Amanda Radar Range

Number S.T.P. (Lab, Electrical Room)

- 1 Misc Test Equipment, Breakers, Flask Dessicator
- 1 Incubator
- 1 Scales Analatical Balance
- 1 Furnace 2000F
- 1 Vacuum Pump
- 1 YSI 02 Meter
- 1 PH Meter
- 1 Mult. Meter (Electrical)
- 1 Complete Socket Set 3/8" 1/4" Drive

Number S.T.P. Store Room

- 1 Oxygen Breathing Apparatus
- 1 5HP 3" Pump
- 1 Pressure Washer
- 4 Miscellaneous Electrical Pumps (Used)
- 1 Weed Eater
- 1 Miscellaneous Repair Parts (PVC), 2" Centrifugal Pump

Number 5 Million Gallon Tank

- 1 Oxygen Breathing Mask

Number Equipment on Vehicles * Maintenance

- 1 Metal Locator
- 1 Backflow Preventer Tester
- 1 Flow Meter Tester

Number Equipment on Vehicles * S.T.P.

- 1 Tool Box
- Miscellaneous Tools
- 1 Metal Locator

Number R/O Plant

1 Debliss 5,000KW Generator
1 5HP Gas Campbell Hausfeld Air Compressor
1 1 1/2 HP 9 Speed Drill Press
1 1/2 HP Bench Grinder
Misc. Tools (Tool Bos - 2)
2 36" Pipe Wrench
2 48" Pipe Wrench
1 24" Pipe Wrench
3/4" Impact Wrench (Air Tools)
1/2" Impact Wrench (Air Tools)
Orange Tool Box with Misc. Air Tools
Torch Outfit

Number R/O Plant

1 Oxygen Breathing Apparatus
1 Gas Chain Saw with Case
1 Complete Socket Set
SET Jack Stand

Number R/O Lab

1 Oxygen Meter YSI.
Misc., Test Bottles, Beakers, Flasks, Etc.
1 TDS Meter

Number R/O Storage Shed

1 Case Back Hoe Super E
1 Jack & Bore w/Drills
2 Gas Power Golf Cart
1 Elephant Jack & Bore Machine
1 6" Gas Powered Pump

<u>Number</u>	<u>R/O Store Room</u>
1	Battery Charger
1	Lincoln Welder
1	3 HP Gas Blower
1	Electric Eel w/Accessories
1	Gas Power Pressure Test Pump
1	Hydraulic Hoist on Rollers
1	4" Yamaha Pump
1	Diaphragm Pump
1	Hi Wheel Lawn Mower
1	Pipe Tapping Machine
1	Floor Jack

<u>Year</u>	<u>Make</u>	<u>Vehicle Identification Number</u>
1991	Ford F320	#2FTJW35H6MCA04507
1997	Ford Pickup	#1FTCR10A8VUA22278
1997	Ford F350	#1FTHF36HXVEB33553
1998	Ford Ranger	#1FTYR10UXWUA89160
1998	Ford Ranger	#1FTYR10UXWUA25250
1998	Chevrolet	#1GBGK24RWZ208424
1998	Chevrolet S-10	#1GCDT19X8W8132593
1991	Elephant Jack Trailer	#B1C01055391
1991	Jack and Bore Trailer	#B1C016552891
1991	Pump Trailer	#B1C010562191

APPENDIX H
SCHEDULE OF OPERATING AND VENDOR CONTRACTS

Schedule of Operating and Vendor Contracts

- (A) Unrecorded Service Agreement between ARAMARK Uniform Services, Inc. and AquaSource Utility, Inc. dated July 7, 1999 and amended September 15, 2000.
- (B) Unrecorded Landscape/Lawn Maintenance Agreement dated January 1, 2000 between K & G Smith Enterprises, Inc. and AquaSource Utility, Inc.
- (C) Unrecorded Lease Agreement between Xerox Corporation and Rotonda West Utility Corporation dated May 11, 1998.
- (D) Unrecorded Agreement between Peroxidation Systems, Inc. (Vulcan Performance Chemicals) and Rotonda West Utility Corporation dated November 25, 1992.
- (E) Unrecorded Equipment Lease Agreement between Tanner Industries, Inc. and Rotonda West Utility Corp. dated September 6, 1997.
- (F) Unrecorded Allied Products Service Agreement between ARAMARK Uniform and Career Apparel, Inc. and AquaSource Utility, Inc. dated September 15, 2000.

APPENDIX I

SCHEDULE OF REUSE AND EFFLUENT DISPOSAL AGREEMENTS

Schedule of Reuse and Effluent Disposal Agreements

The following is a schedule of all executory reuse or effluent disposal agreements entered into by AquaSource, or its predecessors, for sale or reuse of effluent delivered through the Utility System.

(A) Unrecorded Filtered Recovered Water Reuse Agreement between Cape Haze Corporation and Rotonda West Utility Corporation, dated July 1, 1993 and assigned to AquaSource Utility, Inc. by Assignment and Assumption of Developer Agreements dated December 15, 1998.

(B) Unrecorded Recovered Water Reuse Agreement between Windward Patio Association, Inc. and Rotonda West Utility Corporation, dated July 1, 1993 and assigned to AquaSource Utility, Inc. by Assignment and Assumption of Developer Agreements dated December 15, 1998.

(C) Unrecorded Recovered Water Reuse Agreement between Rotonda Golf and Country Club Corporation and Cape Haze Golf and Country Club Corporation, and Rotonda West Utility Corporation, dated July 1, 1993, as amended by Amendment to Recovered Water Reuse Agreement between Rotonda West Utility Corporation and Rotonda West Golf Partners (successor to Rotonda Golf and Country Club Corporation and Cape Haze Golf and Country Club Corporation, respectively) dated December 5, 1994, and as further amended by Second Amendment to Recovered Water Reuse Agreement between Rotonda West Golf Partners and Rotonda West Utility Corporation dated March 1, 1995, and as assigned to AquaSource Utility, Inc. by Assignment and Assumption of Developer Agreements dated December 15, 1998.

(D) Unrecorded Recovered Water Reuse Agreement dated November 2, 1998 between Cape Haze Golf and Country Club Corporation and Rotonda West Utility Corporation, dated November 2, 1998 and as assigned to AquaSource Utility, Inc. by Assignment and Assumption of Developer Agreements dated December 15, 1998.

(E) Unrecorded Interlocal Agreement between the Englewood Water District and Rotonda West Utility, Inc. dated October 19, 1995 and as assigned to AquaSource by Assignment and Assumption of Developer Agreements dated December 15, 1998.

APPENDIX J
SCHEDULE OF EXECUTORY AGREEMENTS
(DEVELOPER AGREEMENTS)

**Schedule of Executory Agreements
(Developer Agreements)**

NONE, except for standard service agreements with utility customers.

(Except for standard service agreements with utility customers, there are no executory agreements, sometimes referred to as developer agreements, entered into by AquaSource, or its predecessors, which evidence any outstanding water or wastewater service obligations.)

APPENDIX K

**SCHEDULE OF CONTINUING OR OUTSTANDING
WATER AND WASTEWATER SERVICE OBLIGATIONS**

**Schedule of Continuing or Outstanding
Water and Wastewater Service Obligations**

NONE.

(There are no executory agreements under which AquaSource, or its predecessors, as the owner of the Utility System has any continuing or outstanding water or wastewater service obligations as of execution hereof (e.g. executory agreements which involve (1) contractual connections; (2) contractual connections paid for and not yet connected; (3) contractual connections not yet paid for and not yet connected; and (4) any contractual connections for which AquaSource has or expects to begin collecting a periodic minimum or base charge prior to closing.))

APPENDIX L

**SCHEDULE OF EXECUTORY AGREEMENTS
(OTHER THAN DEVELOPER AGREEMENTS)**

**Schedule of Executory Agreements
(Other Than Developer Agreements)**

The following is a schedule of all other agreements entered into between AquaSource, its predecessors, or third parties which would reasonably be considered to be an encumbrance upon the Purchased Assets, including without limitation, any leasehold agreements or oral agreements, if any. There are no oral agreements.

(A) Unrecorded Agreement between Seaside Services System, Inc. and Rotonda West Utility, Inc. dated August 23, 1995.

(B) Unrecorded Interlocal Agreement between the Englewood Water District and Rotonda West Utility, Inc. dated October 19, 1995.

(C) See also information contained in Appendices E, H and I hereof.

APPENDIX M
SCHEDULE OF RATES, FEES AND CHARGES

Schedule of Rates, Fees and Charges

AquaSource has furnished to the County and the County has received a true copy of the "water tariff" and "wastewater tariff" for the Utility System which is on file with the Florida Public Service Commission and effective as of April 13, 2000. (For reference See Authority No. WS-98-0246, WS-98-0241, WS-98-0255 & WS-98-0236; Docket No. 981858-WS, 981779-WS, 982017-SU & 981697-WS; Order No. PSC-99-1909-PAA-WS, PSC-99-1909A-PAA-WS, PSC-99-2115-PAA-WS, PSC-99-1910-PAA-WS & PSC-99-1882-PAA-WS)

APPENDIX N
EXCLUDED ASSETS

Excluded Assets

"Excluded Assets" means those assets, business properties, rights, obligations or liabilities, both tangible and intangible, of AquaSource described in this Appendix. The following Excluded Assets shall not be and are not to be sold, conveyed, transferred to or assumed by the County pursuant to the Rotonda West Utility System Asset Acquisition Agreement:

(A) Cash, bank accounts, notes or accounts receivable in the possession of or in favor of AquaSource which are AquaSource's sole property and which are not subject to refund to customers or performance by AquaSource. Used in this context, the term "accounts receivable" does not include potential future income from assets considered recovery capable as a consequence of installation by AquaSource of distribution, transmission, or collection lines or other facilities abutting or serving the property of customers who have not yet connected to the Utility System. The term "cash" shall be deemed to include customer deposits or unused application fees or charges as Section 5.03(B) provides that the county will receive a credit at closing for such obligations.

(B) Notwithstanding anything which might be deemed to the contrary in Section 5.05 of the Agreement to which this Appendix is attached, all accounts receivable in the possession of or in favor of AquaSource which may be due from or owed to AquaSource by any parent, subsidiary or sister entity of AquaSource, including without limitation AquaSource, Inc.

(C) Escrowed funds for payment of federal income taxes, state income taxes and other tax liabilities of AquaSource or tax refunds due AquaSource for the period through the date of closing in 2000 and for the year ending 1999 and all prior years.

(D) The off-site leasehold interest used by AquaSource to house its customer service operations located in Sarasota County, Florida.

(E) The corporate name of AquaSource Utility, Inc. or AquaSource, Inc., the name "AquaSource", including any derivative thereof, or any use thereof, and any signage, including the name "AquaSource" used in connection with the Utility System.

(F) All telephone numbers used in the operation of the Utility System.

(G) All propriety software owned or used by AquaSource.

(H) Unless otherwise expressly assumed by the County, all of the liabilities of AquaSource, including all accounts payable and all other payables of AquaSource incurred or accruing prior to closing.

(I) Any employment agreement.

(J) With respect to the period during which any employee was employed, all workers compensation claims, health insurance or other employee benefits, accrued vacation pay and sick leave, pension or retirement plan obligations or responsibilities, collective bargaining agreements or any other employment-related claims, obligations or liability related to any past or present employee of AquaSource and with respect to the period during which such employees were employed by AquaSource.

(K) All construction claims liability for work completed prior to closing or work in progress performed prior to closing. All construction claims liability for work undertaken by AquaSource relative to the Utility System, whether performed prior to or after closing.

(L) All other obligations, liabilities or responsibilities of AquaSource not expressly assumed by the County at closing or not otherwise expressly addressed in the Rotonda West Utility System Asset Acquisition Agreement.

(M) The following personal property:

- (1) 1 - Battery Pack; Backup Pro
- (2) 1 - Calculator, Sharp EL-11992G
- (3) 1 - Fax; Sharp FO-120
- (4) 1 - Printer; Hewlett Packard – Deskjet 672C
- (5) 1 - Dell Computer, Hard Drive, Keyboard, Mouse and related software
- (6) 1 - Mosler Safe
- (7) 1 - Vehicle used in operation of the Utility System owned by another AquaSource affiliate (1998 Ford Pickup , VIN# 1FTYR1OU4WUA25289)
- (8) Vehicle used in operation of the Utility System not in good working condition (1991 Ford Pickup, VIN# 1FTCR11T9MUB40502),
- (9) All cell phones used by employees of AquaSource in connection with the operation of the Utility System.

APPENDIX O
PERMITTED EXCEPTIONS

Permitted Exceptions

- (A) Any parcel or interest not the subject of a survey dated, or updated to within 30 days or less prior to closing, shall be subject to standard exceptions of title insurance coverage concerning easements or claims of easement not shown by the public records, encroachments, overlays, boundary line disputes, or any other adverse matter which would be disclosed by an accurate survey.
- (B) Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the property, including submerged, filled and artificially exposed lands and lands accreted to such lands.
- (C) Any law, ordinance or governmental regulation, including, without limitation, building restrictions, zoning regulations heretofore or hereafter adopted by any municipal or other public authority.
- (D) Any and all non-ad valorem assessments becoming liens subsequent to the date of closing, and in addition, if at the date of closing the property or any part thereof shall be or shall have been affected by any assessment or assessments which are payable in installments or may be paid in installments without penalty, the County shall pay all such installments which shall become due and payable or which may be paid without penalty after the date of closing, except any installment relating to the 2000 calendar year.
- (E) All of those matters numbered 1, 3, and 6 through 71 shown on Schedule B to Lawyer's Title Insurance Corporation Owner's Policy No. 136-00-465478, with an effective date of December 17, 1998 at 9:27 a.m. A complete copy of said policy together with all exhibits and appendices thereto has been furnished by AquaSource and received by the County.
- (F) Grant of Utility Easement from Cape Haze Corporation, Cape Cave Corporation, Rotonda Services Corporation and Gary D. Littlestar, as successor Trustee of the Cape Cave Land Preservation Trust dated August 20, 1992 to AquaSource Utility, Inc. as recorded in Official Record Book 1808, Page 1765, Public Records of Charlotte County, Florida.
- (G) Matters which do not materially affect the ownership or operation of the Utility System.

CERTIFICATE REAFFIRMING REPRESENTATIONS

WHEREAS, Charlotte County, Florida, a political subdivision of the State of Florida (the "County"), and AquaSource Utility, Inc., a Florida corporation ("AquaSource"), entered into that certain Rotonda West Utility System Asset Acquisition Agreement on the ___ day of _____, 2000 (the "Purchase and Sale Agreement"); and

WHEREAS, Section 5.02 of the Purchase and Sale Agreement provides that AquaSource deliver a certificate to the County reaffirming the representations and warranties therein.

NOW, THEREFORE, to comply with Section 5.02 of the Purchase and Sale Agreement, AquaSource does hereby certify to the County the following:

1. That the representations and warranties of AquaSource in the Purchase and Sale Agreement are true and correct in all material respects as of the date hereof with the same effect as if such representations and warranties were made or given on the date hereof; and
2. That AquaSource has performed in all material respects all of its obligations and has complied with all of the covenants and agreements required by the Purchase and Sale Agreement to be performed or complied with by AquaSource prior to or on the date hereof, unless waived in writing by the County.

IN WITNESS WHEREOF, AquaSource has executed this certificate as of this ___ day of _____, 2000.

AQUASOURCE UTILITY, INC.

(SEAL)

By: _____
President

ATTEST:

By: _____
Secretary

NON-FOREIGN AFFIDAVIT

In Re: Estate or interest described in the Rotonda West Utility System Asset Acquisition Agreement dated _____, 2000, (the "Purchase and Sale Agreement") and Attorneys' Title Insurance Fund, Inc.'s Commitment No. _____ (hereinafter the "Property"); AquaSource Utility, Inc. sale to Charlotte County, Florida (the "County").

The undersigned affiant (the "Affiant"), being first duly sworn, deposes and says that Affiant makes these representations, based on Affiant's knowledge and belief, to the County, Attorneys' Title Insurance Fund, Inc. and Bryant, Miller and Olive, P.A. to induce the closing, disbursement of funds, and issuance of title insurance relative to the captioned transaction, and says that:

1. Affiant is the duly elected President of AquaSource Utility, Inc., a Texas corporation (the "Corporation"); and
2. The Corporation's taxpayer identification number (federal employer identification number) is _____; and
3. The Corporation is not a "foreign person" as that phrase is used in Section 1445(b)(2) of the Internal Revenue Code of 1986, as amended; and
4. The principal place of business of the Corporation is [address]; and
5. Affiant has personal knowledge of the matters herein set forth and is fully authorized and qualified to make this Affidavit on behalf of the Corporation. Affiant understands that this Affidavit may be disclosed to the Internal Revenue Service and that any false statement made herein is subject to punishment by fine, imprisonment or both. This Affidavit is given with the knowledge that it is an inducement to and will be relied upon by the County, Attorneys' Title Insurance Fund, Inc. and Bryant, Miller and Olive, P.A.

Affiant warrants that all these statements shall be true and correct at settlement, and Affiant shall notify each of the parties mentioned above of any changes in these representations before closing. Affiant intends for each of the parties mentioned above to rely on these representations.

President,
AquaSource Utility, Inc.,
a Texas Corporation

STATE OF _____
COUNTY OF _____

The foregoing Non-foreign Affidavit was sworn to and subscribed before me this _____ day of _____, 2000 by _____, President, AquaSource Utility, Inc., a Texas Corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of _____
My Commission Expires: _____
Commission No.: _____

NO LIEN AFFIDAVIT

In Re: Estate or interest described in the Rotonda West Utility System Asset Acquisition Agreement dated _____, 2000, (the "Purchase and Sale Agreement") and Attorneys' Title Insurance Fund, Inc.'s Commitment No. _____ (hereinafter the "Property"); AquaSource Utility, Inc. sale to Charlotte County, Florida (the "County").

The undersigned affiant (the "Affiant"), being first duly sworn, deposes and says, to the best of my knowledge, that:

1. AquaSource Utility, Inc. (the "Owner") has owned the Property now being sold by it continuously since [date], and its possession thereof has been peaceable and undisturbed and title to said Property has never been disputed or questioned to my knowledge, nor do I know of any facts by reason of which the title to, or possession of, said Property might be disputed or questioned, or by reason of which any claim to any of said Property might be asserted adversely to said Owner.
2. No proceedings in bankruptcy or receivership have ever been instituted by, or against said Owner and it has never made an assignment for the benefit of creditors.
3. I know of no action or proceeding whatever which is now pending in any State or Federal Court in the United States to which said Owner is a party, nor do I know of any Federal Court Judgment, Federal Tax Lien, or any other Federal Lien of any kind or nature whatever which now constitutes a lien or charge upon the above described real Property.
4. The Owner has received no notice from any public authority, requiring any improvement, alteration or change to be made in or about said Property, [except...]
5. There are no tenancies or leases.
6. There are no unrecorded special assessment liens or unrecorded liens arising by virtue of ordinances, unrecorded agreements as to impact or other development fees, unpaid waste fees payable to a county or other service provider or any other unpaid service charges due a municipality or county.

7. There are no unpaid bills or claims for labor, services performed or material furnished or delivered during the last twelve months for alterations, repair work or new construction on the Property, except as follows (if none, state "none"): _____

8. I know of no contract for the making of repairs or improvements on the Property except as follows (if none, state "none"): _____.
9. There are no chattel mortgages, conditional bills of sale, retention of title agreements, security agreements, financing statements, or personal property leases not otherwise disclosed in the Purchase and Sale Agreement which affect any fixtures, appliances, or equipment now installed in or upon said real property or the improvement thereon and all pumping, telemetry, water, wastewater and reuse, collection, distribution, treatment or transmission facilities, and other equipment is fully paid for, including all bills for the repair thereof, except as follows (if none, state "none"): _____
_____.
10. With regard to [describe each survey with specificity and recite that each has been certified to AquaSource] Property which is the subject of such surveys is not subject to any rights of way, easements or party walls except as disclosed thereon.

The Affiant has been duly authorized to execute, and executes, this affidavit in the capacity of a corporate officer.

President,
AquaSource Utility, Inc.
a Texas Corporation

STATE OF _____
COUNTY OF _____

The foregoing No Lien Affidavit was sworn to and subscribed before me this ____ day of _____, 2000 by _____, President, AquaSource Utility, a Texas corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of _____
My Commission Expires: _____
Commission No.: _____

OWNER'S "GAP" AFFIDAVIT

In Re: Estate or interest described in the Rotonda West Utility System Asset Acquisition Agreement dated _____, 2000, (the "Purchase and Sale Agreement") and Attorneys' Title Insurance Fund, Inc.'s Commitment No. _____ (hereinafter the "Property"); AquaSource Utility, Inc. sale to Charlotte County, Florida (the "County").

The undersigned affiant (the "Affiant"), being first duly sworn, deposes and says that Affiant makes these representations, based on Affiant's knowledge and belief, to the County, Attorneys' Title Insurance Fund, Inc., and Bryant, Miller and Olive, P.A. to induce the closing, disbursement of funds, and issuance of title insurance relative to the captioned transaction, and says, to the best of my knowledge, that:

1. AquaSource Utility, Inc. (the "Owner") is the only owner of the real property described above, subject only to easements, restrictions, reservations of record, taxes for the current year and subsequent years as of the last title insurance commitment effective date for the subject property which was dated [last update before closing].
2. There are no matters pending against the Owner that could give rise to a lien that would attach to the Property or cause a loss of title or impair the title between the last title insurance commitment effective date and the recording of the interest to be insured, and to my knowledge the Owner has not and will not execute any instrument that would adversely affect the title or interest to be insured.
3. Other than reflected in the last title insurance commitment for the subject property which was dated [last update before closing], the Owner has undisputed possession of the Property and there is no other person or entity in possession, or who has any possessory right in the Property. The Owner does not possess any knowledge of defects in the title to the Property.
4. No "Notice of Commencement" has been recorded which pertains to the Property since the last title insurance commitment effective date, there are no unrecorded labor, mechanics, or materialmen liens against the Property, and all material has been paid for in full.

5. There are no due, or to come due, unpaid bills, liens or assessments for mowing, water, sanitary sewers, paving, solid waste management or other public services, utilities, or improvements made by any governmental instrumentality. Should any bill be found which relates to the period of Owner's possession, Owner will pay such bill upon demand, subject to the terms of the purchase and sale agreement between the Owner and the County. No notice has been received of any public hearing regarding future or pending zoning changes, or assessments for improvements by any governmental instrumentality.
6. To the knowledge of the Affiant there are no unrecorded deeds, judgments, liens, mortgages, easements or rights of way for users, or adverse interests with respect to the aforesaid Property.
7. The Owner is the owner of, and there are no claims, liens or security interests whatsoever of any kind or description against the furniture, fixtures, equipment and personal property located in the improvements on the aforesaid Property and sold as part of this transaction and not otherwise disclosed in the Purchase and Sale Agreement, except as follows (if none, state "none"):_____.
8. There are no existing contracts for sale or mortgage commitments (other than those being now closed) affecting the Property.
9. There is no civil, criminal, administrative or other action pending which involves the Property in any way except for that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW). There is no action for bankruptcy pending against the Owner.
10. The Affiant has been duly authorized to execute, and executes, this affidavit in the capacity as a corporate officer.

Affiant warrants that all these statements shall be true and correct at settlement, and Affiant shall notify each of the parties mentioned above of any changes in these representations before closing. Affiant intends for each of the parties mentioned above to rely on these representations.

President,
AquaSource Utility, Inc.
a Texas Corporation

STATE OF _____
COUNTY OF _____

The foregoing Owner's "Gap" Affidavit was sworn to and subscribed before me this ___ day of _____, 2000 by _____, President, AquaSource Utility, Inc., a Texas corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of _____
My Commission Expires:
Commission No.: _____

This Instrument prepared by:

[Name and address of preparer]

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED made and executed this ___ day of _____ 2000 by AquaSource Utility, Inc., a Texas corporation, whose address is [address], hereinafter called the grantor, to Charlotte County, Florida, a political subdivision of the State of Florida, whose address is [address], hereinafter called the grantee;

WITNESSETH: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Charlotte County, Florida as shown and more particularly on Exhibit A attached hereto and incorporated herein.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, including but not limited to, all water and wastewater facilities of every kind and nature lying within said land and all appurtenant or in gross easement rights for the operation, installation and maintenance of said facilities.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor, for itself and its successors, hereby covenants with said grantee and the grantee's successors and assigns that grantor is lawfully seized of said land in fee simple; that grantor has good, right and lawful authority to sell and convey said land; that grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the grantor, but not otherwise.

IN WITNESS WHEREOF the grantor has caused this Special Warranty Deed in favor of Charlotte County, Florida to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officer thereunto duly authorized, the day and year first above written.

AquaSource Utility, Inc.,
a Texas Corporation

(SEAL)

By: _____
President

ATTEST:

Secretary

STATE OF _____
COUNTY OF _____

The foregoing Special Warranty Deed was sworn to and subscribed before me this [insert date] by _____, President, AquaSource Utility, Inc., a Texas corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of _____
My Commission Expires: _____
Commission No.: _____

This Instrument prepared by:

[Name and address of preparer]

BILL OF SALE

THIS BILL OF SALE evidencing the sale and conveyance of the Purchased Assets, as described in that certain Rotonda West Utility System Asset Acquisition Agreement dated _____, 2000, is made and executed this ___ day of _____, 2000, AquaSource Utility, Inc., a Texas corporation, whose address is [address], hereinafter called the seller, to Charlotte County, Florida, a political subdivision of the State of Florida, whose address is [address], hereinafter called the buyer;

WITNESSETH: That the seller, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the buyer, all those certain Purchased Assets as shown and more particularly described on Exhibit A attached hereto and incorporated herein.

SAID Purchased Assets also include all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, including but not limited to, all water and wastewater facilities of every kind and nature lying within the lands described on Exhibit-B attached hereto and incorporated herein and all appurtenant and in gross easement rights for the operation, installation and maintenance of said facilities.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the seller, for itself and its successors, hereby covenants with said buyer and the buyer's successors and assigns that it is the lawful owner of said Purchased Assets in fee simple; that it has good, right and lawful authority to sell and convey said Purchased Assets; that it hereby fully warrants the title to said Purchased Assets and will defend the same against the lawful claims of all persons claiming by, through or under the grantor, but not otherwise.

IN WITNESS WHEREOF the seller has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

AquaSource Utility, Inc.,
a Texas corporation

(SEAL)

By: _____
President

ATTEST:

Secretary

STATE OF _____
COUNTY OF _____

The foregoing Bill of Sale was sworn to and subscribed before me this ____ day of _____, 2000 by _____, President, AquaSource Utility, Inc., a Texas corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of _____
My Commission Expires: _____
Commission No.: _____

TRANSFER, ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT, is made and entered into this ____ day of _____, 2000, by and between Charlotte County, Florida, a political subdivision of the State of Florida (the "County"), and AquaSource Utility, Inc., a Texas corporation ("AquaSource").

WITNESSETH:

WHEREAS, AquaSource has as of even date conveyed to the County, pursuant to that certain Rotonda West Utility Asset Acquisition Agreement (the "Purchase and Sale Agreement") between AquaSource and the County, all of the real and personal property, both tangible and intangible, which comprises the Purchased Assets as described therein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with \$10 and other good and valuable consideration exchanged between the parties, the parties do undertake, promise and agree for themselves, their permitted successors and assigns as follows:

SECTION 1. PURPOSES AND DEFINITIONS. This Agreement is intended to (a) supplementally transfer and assign AquaSource's rights, remedies, powers, title and interest in the Purchased Assets, arising by virtue of the authorizations to provide service granted by the Florida Public Service Commission, any permits or other authorizations relating to the Utility System, or arising by virtue of the County assuming the operation and control over the Utility System, (b) establish certain post closing relationships of the parties, (c) provide for the assumption by the County of the operation of the Utility System, and (d) identify specific contractual obligations of AquaSource that the County agrees to assume, if any. This Agreement is supplemental to the Purchase and Sale Agreement. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Purchase and Sale Agreement.

SECTION 2. REPRESENTATIONS.

(A) The representations and warranties of AquaSource and the County in the Purchase and Sale Agreement are true and correct in all material respects as of the date hereof with the same effect as if such representations and warranties were made or given on the date hereof.

(B) To the best of each party's knowledge and belief, AquaSource and the County have performed in all material respects all of their obligations and have complied with all of the covenants and agreements required by the Purchase and Sale Agreement to be performed or complied with by AquaSource and the County prior to or on the date of closing, unless waived in writing.

SECTION 3. TRANSFER AND ASSIGNMENT. AquaSource shall, and does hereby, transfer, assign, convey, and grant, bargain and sell unto the County all of AquaSource's rights, remedies, powers, title or interest in the Purchased Assets, including any rights, remedies, powers, title or interest arising by virtue of the authorizations to provide service granted by the Florida Public Service Commission, or arising by virtue of the County assuming the operation and control of the Utility System. The foregoing transfer and assignment is supplemental to all other instruments and actions necessary to close pursuant to the Purchase and Sale Agreement.

SECTION 4. POST CLOSING RELATIONSHIP. From time to time after closing, each party hereto shall, upon request of the other, execute, acknowledge and deliver, or shall cause to be executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers or other documentation for (1) confirming or correcting title in the name of the County or perfecting undisputed possession by the County of any or all of the Purchased Assets, including the establishment of record of utility easements for all wastewater utility facilities which are a part of the Utility System and in existence at the time of closing, or (2) otherwise fulfilling the obligations of the parties under the Purchase and Sale Agreement.

SECTION 5. ASSUMPTION.

(A) The County hereby assumes the operation of the Utility System and only those obligations, duties and liabilities (1) accruing thereto after the County takes possession of the Purchased Assets, (2) expressly assumed by the County in the Purchase and Sale Agreement, or (3) expressly assumed as follows:

- (a) the obligation to return customer deposits in due course;
- (b) the obligations under that certain Consent Order entered into between the Florida Department of Environmental Protection and AquaSource (OGW File No. 00-0566-08-IW);
- (c) the rights and obligations of AquaSource under the following agreements:

(i) [Insert list of applicable agreements from Appendices H, I, J and L of Purchase and Sale Agreement that the County has agreed to assume and any other agreements which the County, in its sole discretion, chooses to assume at closing].

(ii) All obligations and liabilities of AquaSource, not to exceed the aggregate amount of \$20,000, for outstanding and unfulfilled purchase orders or other unfulfilled contracts for materials, supplies and services reasonably ordered by AquaSource relative to the operation of the Utility System in the ordinary course of business but not delivered prior to the date of closing.

(B) Upon closing pursuant to the Purchase and Sale Agreement and the transfer of possession of the Purchased Assets to the County thereunder, AquaSource's authorization to provide water, wastewater and reuse services to the Utility System by the Florida Public Service Commission granted within the County shall be deemed terminated and AquaSource shall be released from any further obligation or responsibility to act or serve as a provider of water or wastewater services for the Utility System. Notwithstanding the foregoing, AquaSource shall prior to or immediately upon closing apply for termination of all certificates of authorization issued by the Florida Public Service Commission, which shall be issued as a matter of right pursuant to Section 367.071 (4)(a), Florida Statutes. Accordingly, upon execution and delivery hereof, the County acknowledges and accepts the responsibility and obligation to provide water and wastewater services, as a governmentally owned and controlled service provider within the unincorporated area of the County previously served by AquaSource.

SECTION 6. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon AquaSource and the County and their successors and assigns.

IN WITNESS WHEREOF, AquaSource and the County have caused this Agreement to be duly executed and entered into on the date first above written.

**BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA**

(SEAL)

By: _____
Chairman

ATTEST:

BARBARA T. SCOTT, Clerk
of the Circuit Court and
Ex-Officio Clerk of the
Board of County
Commissioners of Charlotte
County, Florida

By: _____
Deputy Clerk

AQUASOURCE UTILITY, INC.

(SEAL)

By: _____
President

ATTEST:

By: _____
Secretary

CERTIFICATE REAFFIRMING REPRESENTATIONS

WHEREAS, AquaSource Utility, Inc., a Texas corporation ("AquaSource"), and Charlotte County, Florida, a political subdivision of the State of Florida (the "County"), entered into that certain Rotonda West Utility System Asset Acquisition Agreement on the ___ day of _____, 2000 (the "Purchase and Sale Agreement"); and

WHEREAS, Section 5.02 of the Purchase and Sale Agreement provides that the County deliver a certificate to AquaSource reaffirming the representations and warranties therein.

NOW, THEREFORE, to comply with Section 5.02 of the Purchase and Sale Agreement, the County does hereby certify to AquaSource the following:

- 1. That the representations and warranties of the County in the Purchase and Sale Agreement are true and correct in all material respects as of the date hereof with the same effect as if such representations and warranties were made or given on the date hereof; and
- 2. That the County has performed in all material respects all of its obligations and has complied with all of the covenants and agreements required by the Purchase and Sale Agreement to be performed or complied with by the County prior to or on the date hereof, unless waived in writing by AquaSource.

IN WITNESS WHEREOF, the County has executed this certificate as of this ___ day of _____, 2000.

**BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA**

(SEAL)

By: _____
Chairman

ATTEST:

BARBARA T. SCOTT, Clerk
of the Circuit Court and
Ex-Officio Clerk of the
Board of County
Commissioners of Charlotte
County, Florida

By: _____
Deputy Clerk

APPENDIX Q
FORM OF ESTOPPEL CERTIFICATE

ESTOPPEL CERTIFICATE

In Re: AquaSource Utility, Inc.; Rotonda West Utility System located in Charlotte County, Florida

WHEREAS, AquaSource Utility, Inc., a Texas corporation ("AquaSource"), is negotiating to sell its wastewater utility system assets to Charlotte County, Florida, a political subdivision of the State of Florida (the "County"), and expects to enter into a written agreement and close on such sale in the immediate future; and

WHEREAS, this certificate concerns that certain [to come] (the "Subject Agreement"); and

WHEREAS, in connection with the proposed sale of the utility, the County has requested certain information about the Subject Agreement be provided to the County, as stated in this certificate.

NOW, THEREFORE, for value received, [3rd party] and AquaSource do hereby confirm, represent, and warrant the following information to the County and agree that the County may rely on such information in acquiring and undertaking the operation of the above-referenced utility system:

1. The Subject Agreement referenced herein is the entire agreement between the parties thereto and there are no modifications or amendments thereto except as identified herein.

2. The Subject Agreement has not been assigned or assumed by any party other than the parties referenced above.

3. Upon the acquisition of the above-referenced utility system by the County, [3rd party] and AquaSource shall recognize the County, and its successors, as a party to the Subject Agreement.

4. There have been, and there currently is no breach under the Subject Agreement and there are no defenses or offsets which may be asserted against AquaSource or its predecessors as a result of past performance under the Subject Agreement, and [3rd party] and AquaSource hereby ratify and reaffirm the Subject Agreement. This representation does not extend to any future breaches or prejudice any rights or remedies whatever in regard to any breach or failure of performance by the County upon its acquisition of the above-referenced utility system.

5. [3rd party] and AquaSource covenant and agree to immediately notify Janette Knowlton, Assistant County Attorney, [address to come] in writing or by facsimile

transmission in the event, prior to [expected date of closing], it becomes aware of any change to the information provided herein.

IN WITNESS WHEREOF, [3rd party] and AquaSource have caused this certificate to be duly executed on the date set opposite their respective signatures.

[execution to come]

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, is made and entered into as of this [insert date], by and between Charlotte County, Florida, a political subdivision of the State of Florida (the "County"), AquaSource Utility, Inc., a Texas corporation ("AquaSource"), and Bryant, Miller and Olive, P.A. (the "Agent").

WITNESSETH:

WHEREAS, the County and AquaSource are parties to that certain Rotonda West Utility System Asset Acquisition Agreement (the "Purchase and Sale Agreement"); and

WHEREAS, under the Purchase and Sale Agreement, the County and AquaSource have agreed to enter into this Escrow Agreement to provide for the escrow of all documents necessary to close in advance of the County's authorization to sell revenue bonds or issue commercial paper notes to fund the purchase price (the "Bonds"); and

WHEREAS, Agent also serves as agent for Attorneys' Title Insurance Fund, Inc. and has been selected by the County to issue an owners title insurance policy covering all real property and insurable easements identified in the Purchase and Sale Agreement; and

WHEREAS, the Purchase and Sale Agreement provides that disbursement of proceeds shall be at the direction of the title insurer, or its agent, in order to secure coverage against adverse matters or defects in title which are recorded during the period of time between the effective date of the title insurance commitment and the date of recording of instruments creating the estate or interest to be insured.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with \$10.00 and other good and valuable consideration exchanged amongst the parties, the parties to this Escrow Agreement do undertake, promise and agree for themselves or their permitted successors and assigns as follows:

SECTION 1. CREATION OF ESCROW, RECEIPT OF ESCROW DOCUMENTS.

(A) Subject to the terms and conditions set forth herein, the County and AquaSource desire to appoint Agent to perform the duties set forth herein, and Agent is willing to perform such duties.

(B) The County and AquaSource hereby deliver to Agent the documents identified in Exhibit A hereto necessary to deliver and convey the purchased assets to the County (the "Escrow Documents").

(C) Agent hereby acknowledges its receipt of the Escrow Documents from each party and the Escrow Documents shall be held in escrow pending disbursement and disposition as provided for herein.

(D) Under Florida law if the disbursement of proceeds is at the direction of the title insurer, or its agent, the title insurer shall insure against the possible existence of adverse matters or defects in the title which are recorded during the period of time between the effective date of the title insurance commitment and the date of recording of the document creating the estate or interest to be insured (the "Gap Coverage"). In order to secure such Gap Coverage, the Agent, who also issued Attorneys' Title Insurance Fund, Inc. Title Insurance Commitment No. _____, is required to direct disbursement of the funds. The Agent is hereby directed and authorized to direct disbursement in accordance with a closing memorandum prepared in conjunction with the Bonds or other closing statement agreed to and acknowledged by AquaSource and the County, so long as such memoranda provides for the immediate wire transfer to AquaSource of the net purchase price proceeds due AquaSource under the Purchase and Sale Agreement.

SECTION 2. DISTRIBUTION OF ESCROW DOCUMENTS. Upon notification from the County to Agent and AquaSource that the County has authorized the sale and delivery of the Bonds or otherwise has available all funds necessary to close and upon Agent's confirmation that bank wire transfer(s) to AquaSource have been instituted, Agent shall cause the delivery of the Escrow Documents and cause their recordation in the public records. If Agent has not been notified on or before [date] to disburse and deliver the Escrow Documents, Agent shall thereafter promptly return each document held to the party respectively providing such document to Agent.

SECTION 3. DUTIES AND RESPONSIBILITIES OF AGENT.

(A) The Agent's actions under this Escrow Agreement shall be deemed ministerial and so long as the Agent reasonably performs as provided herein, the County and AquaSource hereby agree to hold harmless and indemnify the Agent with respect to any loss or damage experienced by the Agent, including reasonable attorneys fees, as a result of its good faith performance hereunder.

(B) Upon disbursement of proceeds to AquaSource at the direction of Agent as provided herein and the delivery of the Escrow Documents as provided herein, or alternatively, upon the return of the Escrow Documents to the County and AquaSource respectively as provided herein, this Escrow Agreement shall terminate.

SECTION 4. ENTIRE AGREEMENT. This Escrow Agreement is irrevocable and shall not be amended or modified unless executed in writing by all parties hereto. This Escrow Agreement shall be governed by the applicable laws of the State of Florida and is the entire agreement between the parties pertaining to the subject escrow.

IN WITNESS WHEREOF, the County, AquaSource and Agent have caused this Escrow Agreement to be duly executed and entered into by their duly authorized officers and their corporate seals to be hereunto affixed and attested on the date first above written.

**BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA**

(SEAL)

By: _____
Chairman

ATTEST:

BARBARA T. SCOTT, Clerk
of the Circuit Court and
Ex-Officio Clerk of the
Board of County
Commissioners of Charlotte
County, Florida

By: _____
Deputy Clerk

AQUASOURCE UTILITY, INC.

(SEAL)

By: _____
President

ATTEST:

By: _____
Secretary

BRYANT, MILLER AND OLIVE, P.A.

WITNESSES:

By: _____
Shareholder

EXHIBIT A TO ESCROW AGREEMENT

**[List of Escrow Documents and
Identification of Party delivering each document]**