

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of Continental Utilities, Inc.  
for the transfer of water and wastewater  
facilities to the City of Wildwood in  
Sumter County, Florida

DOCKET NO.: \_\_\_\_\_

**APPLICATION FOR TRANSFER OF FACILITIES  
TO A GOVERNMENTAL AUTHORITY**

(Pursuant to Section 367.071, Florida Statutes, and  
Rule 25-30.038, Florida Administrative Code)

Applicant, CONTINENTAL UTILITIES, INC. ("Applicant"), by and through its undersigned attorneys, and pursuant to the above authorities, makes application for acknowledgement of the transfer of all of its water and wastewater facilities in Sumter County, Florida, to the City of Wildwood, Florida, and in support thereof states as follows:

1. Applicant operated under Water Certificate No. 506-W, and Wastewater Certificate No. 440-S in Sumter County, Florida.
2. The name and address of Applicant and its authorized representatives, for purposes of this application, are:

Continental Utilities, Inc.  
50 Continental Blvd.  
Wildwood, FL 32785

Authorized Representatives:  
Martin S. Friedman, Esquire  
Bridget M. Friedman, Esquire  
Friedman & Friedman, P.A.  
766 North Sun Drive, Suite 4030  
Lake Mary, Florida 32746  
407-830-6331 (telephone)  
407-878-2178 (facsimile)  
[mfriedman@ff-attorneys.com](mailto:mfriedman@ff-attorneys.com)  
[bfriedman@ff-attorneys.com](mailto:bfriedman@ff-attorneys.com)

3. The name and address of the City of Wildwood (the "City") and its authorized representatives, for purposes of this application, are:

City of Wildwood  
100 North Main Street  
Wildwood, Florida 32785

Authorized Representative:  
Ashley Hunt, Esquire  
Joshua Bills, Esquire  
Hunt Law Firm, P.A.  
601 South 9<sup>th</sup> Street  
Leesburg, Florida 32748  
[ashley@huntlawpa.com](mailto:ashley@huntlawpa.com)  
[joshua@huntlawpa.com](mailto:joshua@huntlawpa.com)

4. The City assumed ownership of the utility systems on February 16, 2016.

5. A copy of the Asset Transfer and Acquisition Agreement by and between Continental Utilities, Inc. and the City of Wildwood, Florida, dated as of November \_\_, 2015, is attached hereto as Exhibit "A" ("Agreement").

6. Prior to purchase, the City of Wildwood obtained from Applicant its most recent annual report.

7. The Applicant held no customer deposits.

8. Applicant has paid regulatory assessment fees for 2015. Regulatory assessment fees for the portion of 2016 in which the utility systems were owned by Applicant will be paid by Applicant once final billing and collection is complete. Otherwise, Applicant remains responsible for all outstanding regulatory assessment fees, fines and refunds.

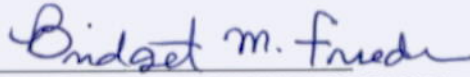
9. Applicant retained no assets that would constitute a system providing or proposing to provide water or wastewater service to the public for compensation.

10. Since it would serve no useful purpose for Applicant to file the entire annual report for 2015, simultaneously with filing the regulatory assessment fee report, it will file Schedules F-3 of the annual report in order for the Commission to verify the correct regulatory assessment fees.

WHEREFORE, Applicant respectfully requests that this Commission approve the transfer of its water and wastewater facilities to the City of Wildwood as a matter of right, and cancel the water and wastewater certificates of this Applicant.

Respectfully submitted on this 22nd day of February, 2016, by:

FRIEDMAN & FRIEDMAN, P. A.  
766 North Sun Drive, Suite 2118  
Lake Mary, Florida 32746  
Telephone: (407) 830-6331  
Facsimile (407) 878-2178

BY:   
MARTIN S. FRIEDMAN, ESQUIRE  
BRIDGET M. FRIEDMAN, ESQUIRE  
*Attorneys for Continental Utilities, Inc.*

# EXHIBIT "A"

## ASSET TRANSFER AND ACQUISITION AGREEMENT

**THIS ASSET TRANSFER AND ACQUISITION AGREEMENT**, dated as of the \_\_\_ day of November, 2015 by and between **CONTINENTAL UTILITY, INC.**, a Florida corporation, having an address of 50 Continental Blvd., Wildwood, Florida 34785 ("Seller"), and **CITY OF WILDWOOD**, a municipal corporation created under the laws of the State of Florida having an address of 100 North Main Street, Wildwood, FL 34785 ("Buyer"), with reference to the following **RECITALS**:

### RECITALS

A. Seller owns and operates a potable water supply, treatment, transmission and distribution system ("Water System") and a wastewater collection, treatment and disposal system ("Wastewater System") (jointly the "Utility System"), pursuant to certificates granted by the Florida Public Service Commission ("PSC") to serve certain areas in Sumter County, Florida. ("Service Area").

B. Buyer is a municipality that owns and operates a public utility that furnishes water and wastewater service to the public within the City of Wildwood and Sumter County, Florida.

C. Seller desires to sell, and Buyer desires to acquire the Utility System and rights of Seller in connection with its Utility System for the consideration and on the terms and subject to the conditions set forth in this Agreement.

D. The parties have negotiated in good faith and are empowered to be bound by the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the recitals and the covenants, representations, warranties and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

#### 1. TRANSFER AND ACQUISITION OF THE SELLER'S UTILITY SYSTEM ASSETS

Subject to the terms and conditions hereinafter set forth, Buyer shall acquire from Seller, and Seller shall assign, transfer, grant, convey and deliver to Buyer at Closing (hereinafter defined), all of the system assets, properties and rights of Seller (whether tangible or intangible, real, personal or mixed) which are held, used or useful in connection with the production, treatment and distribution of water and the collection, treatment and disposal of wastewater within the Service Area (the "Assets").

The Assets are being sold in "As Is" condition and Seller makes no representations, covenants or warranties with respect to the condition of the Assets, except that the Assets are being sold free and clear of all mortgages, liens, pledges, security interest, charges, taxes, claims, restrictions and encumbrances of any nature whatsoever.

### 1.1 Assets Further Defined

The Assets shall, without limitation to the definition stated above, include the specific assets, properties and rights of Seller which include the following:

- (a) All water supply, treatment, distribution, storage and transmission facilities, and all wastewater collections, treatment and disposal systems, including, but not limited to, pumps, plants, wells, tanks, lift stations, transmission mains, distribution mains, pipes, valves, meters, meter boxes, service connections, equipment and property installations owned by Seller, or to which Seller possesses rights and used in connection with the Utility System.
- (b) The real property owned by Seller, or its parent corporation, upon which the treatment, storage and disposal facilities are located, including all buildings and improvements located thereon, as identified in Exhibit "A" to this Agreement ("Real Property").
- (c) and all hereditaments, tenements and appurtenances belonging or appertaining to (a) and (b);
- (d) all rights of Seller under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit (subject to Section 7.2 hereof), certificate or other authorization or approval of any nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating to the Assets;
- (e) all information, files, records, data, plans, contracts and recorded knowledge, including customer and supplier lists and property records, related to the utility services provided by Seller.
- (f) any prepaid accounts by customers.
- (g) any easements necessary for the operation of the Utility System within the Service Area.

### 1.2 Excluded Assets

Notwithstanding the foregoing, the Assets shall not include any of the following:

- (a) Seller's cash (excluding prepaid customer accounts), deposits maintained by Seller with any governmental authority or utility and any prepaid expenses, and accounts receivables as of the date of Closing, and
- (b) The well, pumps and lines relating to the irrigation of the golf course.

### 1.3 Re-conveyance by Buyer

Buyer intends to make various improvements to the Utility System. At such time as Buyer completes the construction and permitting of the wastewater lift station Buyer intends to construct on the wastewater treatment plant parcel and incorporate and connect the wastewater treatment facilities acquired hereunder to Buyer's existing wastewater treatment facility, Buyer will re-convey to Seller any land underlying the ponds and sprayfield, and that portion of property underlying the wastewater treatment facility, that it no longer intends to use for the Utility System. Any such property reconveyed to Seller shall be less and except the land underlying the lift station to be constructed by Buyer upon interconnection with Buyers existing system, and buffer area surrounding same. Nothing herein shall be construed as requiring Buyer to reconvey any land underlying the wastewater treatment facility that it reasonably intends to use for the Utility System even if the land is not being used by the Buyer immediately after construction of the wastewater lift station, so long as such property is used within three (3) years of the construction of the wastewater lift station.

Any re-conveyance shall be "AS-IS" and free and clear of all mortgages, liens, pledges, security interest, charges, taxes, claims, restrictions and encumbrances of any nature whatsoever, provided that the Buyer reserves the ability to grant itself any and all easements on the property underlying the wastewater treatment plant facility that are reasonably necessary to service its Utility System under current or future plans. Additionally, Buyer shall not provide any title insurance in relation to the reconveyance and any conveyance shall be made by quit claim deed. This provision shall survive the closing of this transaction.

#### 1.4 Purchase Price:

The total purchase price ("Purchase Price") for the Assets is Five Hundred Twenty Five Thousand Dollars (\$525,000.00).

#### 1.5 Contractual Obligations

Buyer shall not assume any obligations of Seller, under any contract, agreement, commitment, lease, certificate, order, notice, permit or other instrument, whether oral, written, express or implied.

#### 1.6 Non-Assumption of Liabilities

With the exception of the ongoing obligation to provide water and wastewater service to the customers of the Seller served by the Utility Systems (the "Assumed Obligations"), all liabilities and obligations of Seller shall remain the sole responsibility of Seller, including any and all liabilities or obligations under any employee benefit plan, practice or arrangement or pension, retirement or savings plan. Except for the Assumed Obligations, Buyer shall not assume and shall not be liable for any liabilities or obligations of Seller of any nature whatsoever, whether express or implied, fixed or contingent, whatsoever, and Seller will indemnify and hold Buyer harmless from any liability related to the any obligation other than the Assumed Obligations.

#### 1.7 Agreement Contingent Upon Third Party Financing

Buyer will apply for third party financing in the amount of the Purchase Price set forth in Paragraph 1.4 above. Buyer will use good faith and reasonable diligence to obtain loan approval,

satisfy the terms and conditions of the loan approval, and close the loan, within ninety (90) days from the Execution Date of this Agreement. Buyer will notify Seller immediately upon obtaining financing.

If Buyer, after using good faith and reasonable diligence, fails to obtain loan approval, Buyer may within five (5) business days deliver written notice to Seller stating that Buyer either waives this financing contingency or cancels this Agreement.

For purposes of this Agreement, the "Execution Date" is the date this Agreement is executed by the Mayor and the Seller, whichever is later.

### 1.8 Contract with Sandalwood Condominiums

Seller, pursuant to a Stipulation and Settlement Agreement dated December 16, 1975, has an obligation to provide bulk utility services to the Sandalwood Condominiums. The obligation to provide bulk utility services expires on or around December 16, 2015, which is prior to the Closing date set forth below. Accordingly, the Seller agrees to cooperate and work with Buyer in negotiating a new agreement with Sandalwood Condominiums prior to the date of Closing. Seller shall act in good faith in working with Buyer to ensure that the terms of the new agreement meet the future needs of the Buyer. Seller shall include Buyer in all negotiations with representatives of Sandalwood Condominiums during the negotiation process. The Buyer's purchase of the Assets shall be contingent upon Sandalwood Condominiums entering into an agreement with the utility.

## 2. CLOSING

Subject to the provisions of Sections 4 and 5, Closing hereunder (the "Closing") shall take place on or before February 15, 2015 at the offices of the Buyer commencing at 10:00 a.m. local time or at such other location and time mutually agreed upon. The date of the Closing is referred to herein as the "Closing Date". The effective time of the legal transfer hereunder shall be 12:01 a.m. on the Closing Date.

2.1 Closing Agent. The Seller and Buyer have agreed to designate Hunt Law Firm, P.A., 601 S. 9th Street, Leesburg, FL 34748, (352) 365-2262, as the "Closing Agent" and "Escrow Agent" pursuant to the terms of this Agreement. The Escrow Agent is directed to hold any deposits related to this transaction as escrowed funds in a non-interest-bearing account (the "Account").

2.2 Closing Costs and Attorney's Fees. Unless provided otherwise in this Agreement, each party shall be responsible for paying their own costs and attorney's fees associated with this transaction.

### 2.3 Items to be delivered at Closing

At the Closing and subject to the terms and conditions herein contained:

- (a) Seller shall deliver to Buyer the Assets, including, without limitation, the following:
  - (i) Instruments and documents of conveyance and transfer, all in a form reasonably satisfactory to Buyer and its counsel, as shall be necessary and effective to transfer and assign to, and vest in, good and marketable title to the Assets and all rights to operate the water and wastewater systems as such are now being operated, including, but not limited to the following documents: a



Warranty Deed for each parcel to be conveyed; a Bill of Sale and Assignments; an Assignment and Grant of Easement for any easements Buyer requires to utilize, maintain, repair and replace any facilities located outside of any parcels to be conveyed and/or publicly dedicated roadways. The legal description of the land to be conveyed, and the land to be re-conveyed to Seller are as set forth on Exhibit "A" attached hereto and incorporated herein.

- (ii) a complete and accurate list of the names and addresses of all customers of Seller, both in paper form and, if available, in electronic form on a disk that can be downloaded to a computer, along with a billing history for each customer;
- (ii) keys to any and all buildings and gates;
- (iii) Within five days prior to Closing, Seller shall read the Utility Systems customers' meters and, thereafter, invoice the customers for service up to and including the final meter reading. At the time of its final reading, Seller shall allow an employee(s) of the Buyer to accompany the Seller and confirm the final meter reading. Seller is entitled to all revenues for services up to and including the final meter reading.

When issuing its final bill, Seller shall include a notice with the bill indicating that the Buyer will be taking over the system and providing relevant information with respect thereto. Additionally, the Seller shall post notices at the entrance(s) of Continental Country Club providing information related to the transfer of the utility system to the Buyer.

After Closing, Seller shall be solely responsible to collect the final bill and any delinquent amounts owed to Seller. Should Buyer receive any payments related to the final bill or delinquent amounts, Buyer will turn over to Seller any such payments. Buyer shall begin billing the customers based on the final meter reading as the starting point for future billing. After Closing, Buyer shall be entitled to all revenues of the Utility Systems for services rendered after the Closing Date. Should Seller receive any payments related to services rendered by Buyer after the Closing date, Seller will turn over to Buyer any such payments..

and simultaneously with such delivery, all such steps shall be taken as may be required to put Buyer in actual possession and operating control of the Assets.

- (b) Seller shall deliver to Buyer, the agreements, opinions, certificates and other documents and instruments referred to in Section 5 hereof.

#### 2.4 Transfer of Utilities

Seller and Buyer will cooperate to transfer utility service, including telephone, electric and gas service providing such service to any of the Utility System as of the Closing Date. The Seller shall be liable for any and all expenses associated with these services prior to the date of closing.

From the date of closing forward, the Buyer shall be responsible for any and all expenses related to any services that are transferred to the Buyer.

## 2.5 Further Assurances

Seller, from time to time after the Closing, at Buyer's request, and without compensation, will execute, acknowledge and deliver to Buyer such other instruments of sale, conveyance, assignment and transfer and will take such other actions and execute and deliver such other documents, certifications and further assurances as Buyer may reasonably require in order to vest in Buyer, and/or to place Buyer fully in possession of, all of the Assets.

## 3. DUE DILIGENCE AND CONDUCT OF PARTIES PENDING CLOSING

3.1 Buyer shall have a period of thirty (30) days from the Execution Date (the "Due Diligence Period") to determine whether the Assets are suitable, in Buyer's sole and absolute discretion for Buyer's uses. During the Due Diligence Period, Buyer may conduct a property inspection, title examination, environmental audit(s), surveys, review the systems, as well as the water and sewer maps, easements, and the like and any other tests, analyses, and investigations to determine the Assets' suitability to Buyer's needs. Buyer will deliver written notice to Seller prior to the expiration of the Due Diligence Period of Buyer's determination of whether or not the Assets are acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Assets as suitable for Buyer's intended uses in its "as is" condition. If the Assets are unacceptable to Buyer and written notice of this fact is timely delivered to Seller, this Agreement will be deemed terminated as of the day after the Due Diligence Period ends. Thereafter, the parties shall have no further mutual obligations under this Agreement. Seller makes no warranties whatsoever, and in the event Buyer fails to provide written notification of its election to terminate this Agreement before the end of the Due Diligence Period, Buyer accepts the Property "As-Is". Buyer's failure to timely close thereafter shall be deemed a breach by the Buyer. For purposes of this Agreement, the "Execution Date" is the date this Agreement is executed by the Mayor and the Seller, whichever is later.

3.2 With respect to the Due Diligence Period, the Seller shall assist Buyer by turning over all records in its possession regarding the system. Additionally, Seller will give to Buyer free and full access to and the right to inspect, during normal business hours, all of the premises, properties, assets, records, contracts and other documents relating to its business and operations, and shall permit it to consult with the officers, employees, accountants, counsel and agents of Seller.

3.3 Title Insurance. The Assets are being sold "As Is". During the Due Diligence Period, Buyer, at Seller's expense, shall obtain a commitment for title insurance (the "Title Commitment") covering the Property issued by Old Republic Title Insurance Company or other title company (the "Title Company"), which Title Commitment shall agree to issue to Buyer and/or Buyer's lender, upon the Closing of this transaction, an ALTA owner's and lender's title insurance policy in an amount equal to the value of the real property being conveyed. Hunt Law Firm, P.A. shall act as the closing agent and title agent for this transaction.

3.4 Title Examination. Buyer will, within fifteen (15) days from receipt of the evidence of commitment for title insurance, deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if: (1) Buyer fails to deliver proper notice of defects or (2) Buyer delivers proper

written notice and Seller cures the defects within thirty (30) days from receipt of the notice ("Curative Period"). If the defects are cured within the Curative Period, closing will occur within ten (10) days from receipt by Buyer of notice of such curing. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, Buyer will have ten (10) days from receipt of notice of Seller's inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

**3.5** Seller agrees that, with respect to the Utility System, pending the Closing and except as otherwise agreed to in writing by Buyer:

- (a) The business of Seller shall be conducted solely in the ordinary course consistent with past practice and shall maintain and service the tangible Assets in good working order such that they will be in proper working order at Closing.
- (b) Seller will use its best efforts to maintain its relations and goodwill with its suppliers, customers and any others having business relations with it.
- (c) Seller shall comply with all laws, ordinances, rules, regulations and orders applicable to it and to the conduct of its business.
- (d) Seller will promptly advise Buyer in writing of all events between the date hereof and Closing which could render any statement made under the Agreement, if restated and republished as of Closing, untrue or incorrect in any material respect.
- (e) Seller will promptly advise Buyer in writing promptly after Seller receives knowledge of the threat or commencement of any dispute, claim, action, suit, proceeding, arbitration or investigation against or involving the Assets or the sale and transfer thereof to Buyer, or of the occurrence of any event (exclusive of general economic factors affecting business in general) of a nature that is or may be materially adverse to the business, operations, properties, assets, prospects or condition (financial or otherwise) of Seller.
- (f) Seller will conduct its business in such a manner that at the Closing the statements of Seller contained in this Agreement shall be true as though such representations and warranties were made on and as of such date. Furthermore, Seller will use its best efforts to cause all of the conditions to this Agreement to be satisfied on or prior to the Closing Date.
- (g) Seller will give to Buyer free and full access to and the right to inspect, during normal business hours, all of the premises, properties, assets, records, contracts and other documents relating to its business and operations, and shall permit it to consult with the officers, employees, accountants, counsel and agents of Seller.

#### **4. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS**

All obligations of Seller under this Agreement are subject to the fulfillment or satisfaction, or

waiver by Seller, prior to or at the Closing, of each of the following conditions precedent:

**4.1 Performance by Buyer**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.

**4.2 Litigation Affecting Closing**

On the Closing Date, no proceeding shall be pending or threatened before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or in the consummation of the transactions contemplated hereby, and no investigation that might eventuate in any such suit, action or proceeding shall be pending or threatened.

**5. CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS**

All obligations of Buyer under this Agreement are conditioned upon the fulfillment or satisfaction, or waiver by Buyer, prior to or at the Closing, of each of the following conditions precedent:

**5.1 Satisfaction with Operational and Real Estate Title Issues**

Buyer shall be satisfied with its review of the real estate and the quality of title to be conveyed to Buyer from Seller.

**5.2 Performance by Seller**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.

**5.3 Litigation Affecting Closing**

On the Closing Date, no proceeding shall be pending or threatened before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated hereby, and no investigation that might eventuate in any such suit, action or proceeding shall be pending or threatened.

**5.4 Seller Authorizations**

Seller shall have furnished Buyer with certified copies of all proceedings of Seller, including a signed and certified copy of the appropriate document(s) authorizing the transactions hereby contemplated.

**5.5 Material Damage**

The Assets shall not be, or be threatened to be, materially adversely affected by fire, explosion, earthquake, disaster, accident, cessation or interruption of utility or other services, flood, drought, lack of water supply, contamination of water supply, embargo, riot, civil disturbance, uprising, activity of armed forces or act of God or public enemy, or any other event or occurrence. In the event that the Assets are lost, destroyed, or adversely affected by any of the above, this Agreement shall be null, void, and of no further force or effect.

5.6 Satisfaction of Buyer

All actions, proceedings, resolutions, instruments and documents required to carry out this Agreement or incidental hereto and all other related matters shall have been approved on the Closing Date by Buyer in the exercise of its reasonable judgment.

6. REPRESENTATIONS AND WARRANTIES OF SELLER

6.1 Seller hereby represents and warrants to Buyer as follows:

- (a) No Approvals or Violations. This Agreement does not require any further approvals of any other party except the Florida Public Service Commission, does not violate any law, ordinance or regulation, does not conflict with any order or decree, and does not conflict with or result in a breach of any contract, lease or permit to which Seller is a party. The sale of the Utility System to a governmental authority shall be approved by the PSC as a matter of right and Buyer shall file an application for approval of this sale within thirty (30) days of Closing.
- (b) Party to Decree. Seller is not party to, or subject to the provision of, any judgment, order, writ, injunction or decree of any court or of any governmental official, agency or instrumentality relating to the Utility System or the Assets.
- (c) Customer Records. The data contained in the customer records provided to Buyer is true and accurate.
- (d) Golf Course Irrigation. The well pumps and lines related to the irrigation of the golf course are not tied into the Utility System being purchased by the Buyer.
- (e) Contractual Obligations. Other than utility users located in Continental Country Club, and its obligations to Sandalwood Condominiums, Seller has no other contractual obligations to provide utility services to users outside of Continental Country Club.
- (f) Title to Assets. Seller has good and transferable title to all of the assets, including, but not limited to the properties, rights and interests to be sold hereunder subject to no mortgage, pledge, lien, charge or encumbrance of any nature, except a Mortgage loan in favor of Wells Fargo Bank. Seller owes no money for any reason to the state, Federal or local governments. No lien of any kind exists on the Utility System or its assets in favor of any office, branch or agency of the Federal, state or local

government. Seller will not take any action, or omit to take any required action between the date hereof and closing if such action or omission will give rise to a lien of any kind in favor of any office, branch or agency of the Federal, state or local government.

- (g) Good Standing. Seller is in good standing under the laws of the state of Florida and is in good standing with all regulatory and permitting agencies thereof.
- (h) Authority to Sell Assets. Seller has the legal authority to sell the Assets as required under this Agreement.

6.2 Seller hereby represents and warrants to and with Buyer as follows with respect to compliance with environmental laws:

- (a) Compliance with Law. To the best of Seller's actual knowledge, Seller has been and is in compliance with all Environmental Laws.
- (b) Adequacy of Permits. To the best of Seller's actual knowledge, after diligent inquiry and investigation, Seller has obtained and continues to possess all permits, licenses, approvals or other authorizations which are required under the Environmental Laws, has filed such timely and complete renewal applications as may be required prior to the Closing Date, and also has complied with all reporting and record keeping requirements under the Environmental Laws. Seller, to the best of its knowledge is not currently in default or violation of any of its permits, licenses, approvals or other authorizations.

## 7. FUTURE OBLIGATIONS OF BUYER AND SELLER – which shall survive closing

7.1 At such time as Buyer, at the sole option of Buyer, shall incorporate and connect the wastewater service system into Buyer's existing wastewater system, Buyer shall be responsible for the performance of the following tasks in connection with abandonment or deactivation of the wastewater treatment facility:

- (a) Timely notify the Florida DEP of the proposed abandonment or deactivation of the wastewater treatment facility;
- (b) Remove remaining liquids and sludge from the wastewater treatment plant tank and dispose of the material at a permitted wastewater treatment facility, and
- (c) Clean and disinfect the wastewater treatment plant tank and piping.
- (d) Restore, demolish and remove all improvements and facilities located on the real property to be reconveyed to Seller, including complying with any environmental requirements and the clean out of the pond. Any reconveyance by Buyer shall be in accordance with the provisions of paragraph 1.3 of this Agreement.



7.2 Within a reasonable period of time after closing the Seller and Buyer shall jointly apply to the Southwest Florida Water Management District to separate the potable water allocations from the golf course allocations of the Consumptive Use permit, the latter of which are not being transferred to Buyer.

7.3 Buyer shall provide water and wastewater service to customers within the Service Area at the same rate and upon the same conditions as other customers of Buyer outside of the municipal boundaries (for so long as such customers are not within the municipal boundaries).

## 8. MISCELLANEOUS

### 8.1 Contents of Agreement; Parties in Interest; etc.

This Agreement sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended or modified except by written instrument duly executed by each of the parties hereto.

### 8.2 Binding Effect

All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of and be enforceable by the legal representatives, successors and assigns of Seller or Buyer.

### 8.3 Notices

Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or sent by telegram or by registered or certified mail, postage prepaid, return receipt requested, as follows:

#### **If to Buyer:**

100 N. Main Street  
Wildwood, FL 34785  
Attention: Bill Ed Cannon, City Manager

#### **If to Seller:**

50 Continental Blvd.  
Wildwood, FL 34785  
Attention: Paul Gryniewski, Manager

or to such other address as the addressee may have specified in a written notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered, telegraphed or mailed.

### 8.5 Florida Law to Govern

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Florida, without giving effect to any conflicts of laws provisions.

8.6 No Benefit to Others

The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto, and their legal representatives, successors and assigns, and they shall not be construed as conferring any rights on any other persons.

8.7 Headings, Gender, etc.

All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

8.8 Exhibits and Schedules

All Exhibits referred to herein are intended to be and hereby are specifically made a part of this Agreement.

8.9 Severability

Any provision of this Agreement that is invalid or unenforceable in any jurisdiction or under any circumstance shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction or under any circumstance shall not invalidate or render unenforceable such provision in any other jurisdiction or under any other circumstance, unless, in either event, the involved or unenforceable provision causes this Agreement to fail of its essential purpose.

8.10 Counterparts

This Agreement may be executed in any number of counterparts and any signatory hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by all signatories. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

8.11 Dispute Resolution

Disputes arising under this Agreement must be first mediated by a Supreme Court Certified Circuit Civil Mediator in Sumter County, Florida. The parties agree that the mediation shall occur within 60 days of the date mediation is requested by either party. The mediator shall be agreed upon,



but if the parties are unwilling or unable to agree upon a mediator then each party shall select a mediator and the two mediators shall select a third mediator to conduct the mediation. The parties agree to pay the Mediator fees promptly and share them on an equal basis. Litigation may not be commenced until after mediation has been (i) declared an impasse by the Mediator or (ii) terminated in writing by both parties. The confidentiality provisions of the "Mediation Confidentiality and Privilege Act" attach to any such pre-suit mediation.

8.12 Costs and Attorney's Fees

In the event either party brings an action to enforce this Agreement by Court proceedings or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, together with reasonable attorney's fees at all levels, including appeals.

This Agreement is effective and executed on the date first written above.

SELLER:

CONTINENTAL UTILITY, INC.

By: 

Stanley Campbell, President

BUYER:

CITY OF WILDWOOD

By: 

Ed Wolf, Mayor

LEGAL DESCRIPTIONS

2. PARCELS TO BE CONVEYED TO BUYER:

PARCEL 1:

(WATER TREATMENT FACILITY)

Lot 8, Block N, Timberwoods Estates recorded in Plat Book 3, Pages 54 through 54E, of the Public Records of Sumter County, Florida.

AND

PARCEL 2:

(WELL SITE)

Lot 8, Block F, Continental Country Club Community, Inc., as recorded in Plat Book 4, Page 41, of the Public Records of Sumter County, Florida.

**PARCEL 3:**

(WASTEWATER TREATMENT FACILITY -- POND)

Tracts D & E of TIMBERWOODS ESTATES as recorded in Plat Book 3, Page 54D of the Public Records of Sumter County, and a parcel of land adjacent to the East line of Tract E described as follows: Beginning at the SE corner of the aforesaid Tract E; thence N 00 deg 03 min 30 sec E, and along the East line of Tract E, a distance of 330.00 feet; thence S 89 deg 56 min 30 sec E, a distance of 400.00 feet; thence S 00 deg 03 min 30 sec W, a Distance of 430 feet; thence N 89 deg 56 min 30 sec W, a distance of 400.00 feet; thence N 00 deg 03 min 30 sec E, 100.00 feet to the Point of Beginning.

AND

**PARCEL 4:**

(SPRAYFIELD)

The South 139 feet of the West 1000 feet of the East ¼ of the Northwest ¼:

AND

The West 1000 feet of the East ¼ of the Southwest ¼; LESS AND EXCEPT any portion thereof lying south of the line between Unit 1 and Unit 2 of CONTINENTAL CAMPER RESORTS, INC. SUBDIVISION as shown in Plat Book 3, on Page 51-A of the Public Records of Sumter County, Florida. Containing 63.78 acres, more or less. All lying and being situate in Section 23, Township 19 South, Range 23 East, Sumter County, Florida.

LESS AND EXCEPT THE FOLLOWING PARCEL:

Begin at the Northwest corner of the East 3/4 of the Southwest quarter of said Section 23, thence run S. 85°52'13" E. along the North line of the East 3/4 of the Southwest 1/4 1000 feet; thence run S. 00°01'13" W. 110.00 feet; thence run N. 89°52'13" W. 570.00 feet; thence run S. 00°01'13" W. 207.00 feet; thence run S. 79°35'13" W. 473.23 feet to the West line of the East 3/4 of the Southwest 1/4 of said Section 23; thence run N. 00°01'13" E along said line 460 feet to the Point of beginning.

**PARCEL 5:**

(POND 2)

A portion of Blocks BB, CC, Locust Lane and Arcadia Way, of TIMBERWOODS ESTATES according to the plat thereof recorded in Plat Book 3, Pages 54 through 54E, Public Records of Sumter County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the aforesaid Block BB, thence run S. 89°56'30" E

along the South line of said Block BB 33.75 feet to the Point of beginning; thence run N. 02°07'20" E. 123.64 feet; thence run S. 89°13'44" E 170.02 feet; thence run S. 02°07'20" W. 257.93 feet; thence run S. 88°40'16" W. 170.28 feet; thence run N. 02°07'20" E. 140.53 feet to the Point of Beginning.

**3. PARCELS TO BE RECONVEYED BY THE BUYER (PARCEL 2 - SEWAGE TREATMENT FACILITY, PONDS AND SPRAYFIELD):**

Parcels 3, 4 and 5, less the portion of Parcel 3 to be retained by Buyer pursuant to Section 1.3 hereof.