

RESOLUTION NO. 2017-03

A RESOLUTION OF THE CITY OF NEW PORT RICHEY, FLORIDA, DIRECTING AND AUTHORIZING THE ACQUISITION OF CERTAIN POTABLE WATER SUPPLY AND DISTRIBUTION UTILITY SYSTEMS AND ASSETS OWNED BY LWV UTILITIES, INC. AND ADVISOR ENTERPRISES, INC. LOCATED IN PASCO COUNTY; FINDING THAT SUCH ACQUISITION IS IN THE PUBLIC INTEREST AND SERVES A PARAMOUNT PUBLIC PURPOSE; APPROVING UTILITY ASSET PURCHASE AGREEMENTS WITH LWV UTILITIES, INC. AND ADVISOR ENTERPRISES, INC. AND DIRECTING EXECUTION THEREOF; DETERMINING THE TRANSACTIONS CONTEMPLATED THEREBY RELATIVE TO SUCH UTILITY SYSTEMS AND ASSETS ARE IN THE PUBLIC INTEREST IN ACCORDANCE WITH SECTION 180.301, FLORIDA STATUTES; AUTHORIZING AND DIRECTING THE EXECUTION OF SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO ACQUIRE THE UTILITY SYSTEMS AND ASSETS; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED, AS FOLLOWS:

SECTION 1. AUTHORITY. This Resolution of the City of New Port Richey, Florida (the "City") is adopted pursuant to agreements with the Board of County Commissioners of Pasco County, Florida, City Ordinance No. 731, Chapter 180, Florida Statutes, and, in particular Section 180.301, Florida Statutes, and other applicable provisions of law.

SECTION 2. INCORPORATION BY REFERENCE. One or more public briefing documents, including a description of the potable water supply and distribution utility systems known as Lakewood Villas Utility, Barbara Ann Acres Utility, and Silver Oaks Utility (the "Systems") currently owned by LWV Utilities Inc. and Advisor Enterprises, Inc. (the "Sellers"), the most recent income and expense statement, the most recent available balance sheet, a description of the Systems' physical condition, a statement on the reasonableness of the price, a statement on customer impacts, a statement on additional investments required by the City, if any, and the City's ability and willingness to make these investments, a description of alternatives to acquisition by the City and a statement on the ability of the City to operate acquired systems, presented at the public hearing held on November 15, 2016 are hereby incorporated by reference and made a part of this Resolution (collectively, the "Report"). The Report is intended to be a statement demonstrating that the acquisition by the City of the Systems owned by the Sellers is in the public interest.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared that:

(A) Pursuant to chapter 180, Florida Statutes, the City has the power to acquire, own, operate, and maintain potable water supply and distribution utility systems in certain unincorporated areas of Pasco County, Florida.

(B) The Sellers are investor-owned utility companies which own and operate the Systems in unincorporated area of Pasco County, Florida. Representatives of the City and the Sellers have drafted Asset Purchase Agreements whereby the City will acquire the Systems and related assets of the Seller, the form of which are attached hereto as Exhibit A and Exhibit B, respectively (the "Asset Purchase Agreements").

(C) The Systems are located within, and serves customers located within, the Municipal Water and Sanitary Sewage Utility Service District established by City Ordinance No. 731.

(D) The City is required to hold a public hearing on the acquisition of the Systems to consider whether such acquisition serves the public interest. This public hearing was duly advertised in the Tampa Bay Times on November 5, 2016, and held on November 15, 2016. All interested persons had an opportunity to attend and participate and to file written comments.

(E) The City's ownership and control of the Systems will provide an opportunity for the City to:

(1) address and provide water and wastewater service to the service area of the Systems; better provide and plan for quality water distribution, treatment and disposal facilities necessary to accommodate existing development and anticipated future growth in a manner concurrent with the demand for such facilities in the area, and better meet future requirements of state and federal mandates, and the demands of existing and new development;

(2) further develop a regional approach within the area served and the areas nearby also now served by the City, relative to the comprehensive distribution of water;

(3) seek economies of scale relative to operations, maintenance, customer service and management;

(4) provide current and future users, both within the area currently served by the City and the customers now served by the Systems, with cost efficient services and management;

(5) operate and maintain the Systems in a more proactive and responsible manner and incorporate such system into the City's overall utility systems;

(6) stabilize rates over the long term, reduce inefficient service expansion or extension of service capabilities, and avoid the expense of proliferation or rehabilitation of smaller facilities and sites;

(7) permit the City to coordinate the expansion and extension of facilities in a more comprehensive manner;

(8) accomplish a greater public use and increased public benefit which results from the City's ownership, operation and control of the utility facilities and service area of the Systems; and

(9) enable the City, as the general purpose local government, to more effectively and efficiently plan and fulfill its comprehensive planning requirements as provided by law and increase the prospect over time that high quality, cost efficient water utility services are available to affected landowners and utility customers located in the City as well as the unincorporated area adjacent thereto.

SECTION 4. DETERMINATION OF PUBLIC USE AND BENEFIT. Based upon the Report and the legislative findings incorporated in Section 3 of this Resolution, the acquisition of the Systems by the City is in the public interest. The City has the experience and the financial ability to acquire, assimilate, and manage the Systems and provide quality customer service. The City expressly finds and determines that the acquisition of the Systems by the City, pursuant to the terms of the Asset Purchase Agreements in substantially the forms attached hereto as Exhibit A and Exhibit B, and the provision of water through facilities owned by the City constitutes a paramount public purpose and is in the best interests of the health, safety, and welfare of the customers of the City generally, the customers of the Systems, and customers served by the City in the immediate vicinity of the Systems.

SECTION 5. PUBLIC INTEREST DETERMINATION OF PURCHASE. In making the public interest determination concerning the acquisition of the Systems, the City Council has considered numerous factors, including but not limited to the following matters set forth in section 180.301, Florida Statutes:

(A) the most recently available income and expense statement(s) for the Systems, including but not limited to the most recent annual report of LWV Utilities filed with the Florida Public Service Commission in its capacity as the regulatory authority with jurisdiction over investor-owned utility systems;

(B) the most recently available balance sheet(s) for the Systems, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;

(C) a statement of the existing rate base for regulatory purposes;

(D) the general physical condition of the Systems;

- (E) the reasonableness of the purchase price;
- (F) the impacts of the contemplated purchase on utility customers served by the Systems and by those now served by the City generally and in the same vicinity as the Systems;
- (G) any additional investment required and the ability and willingness of the City to make that investment;
- (H) the alternatives to the contemplated purchase and the potential impacts on utility customers of the Systems and by those now served by the City in the same vicinity if the Systems if the Systems are not acquired by the City; and
- (I) the ability of the City to provide and maintain high-quality and cost-effective utility service upon acquisition of the Systems.

SECTION 6. APPROVAL OF ASSET PURCHASE AGREEMENT.

(A) The form, terms and provisions of the Asset Purchase Agreements by and between the Seller and the City, substantially in the forms attached hereto as Exhibit A and Exhibit B, are hereby approved. Execution of this Resolution by the Mayor shall be deemed to be conclusive evidence of approval by the City.

(B) The appropriate officers of the City are authorized and directed to execute and deliver on behalf of the City, the Asset Purchase Agreements to provide for the purchase of the Systems upon the terms and conditions contained in this Resolution and other terms and conditions (except as to price, which may not be changed) as the City Manager and Public Works Director, with approval of the City Attorney as to form, may approve, and such officers are further authorized and directed to negotiate, execute, deliver and accept all other documents necessary or convenient to close such purchase in accordance with the Asset Purchase Agreements, including but not limited to escrow agreement(s), and all closing documents required by the closing agent.

(C) This Resolution expressly contemplates that the City will acquire, finance, operate and/or maintain the Systems in a manner consistent with the Asset Purchase Agreements, chapter 180, Florida Statutes, and the City Code of Ordinances.

[Remainder of page intentionally left blank.]

SECTION 7. SEVERABILITY. Each provision of this Resolution shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of competent jurisdiction, the remainder of the Resolution shall not be affected.

SECTION 8. APPLICABILITY AND EFFECTIVE DATE. This Resolution shall be liberally construed to affect the purposes hereof and shall take effect immediately upon its adoption.

DULY ADOPTED this 15th day of November, 2016.

CITY OF NEW PORT RICHEY, FLORIDA

By: _____
Rob Marlowe, Mayor

(SEAL)

ATTEST:

Approved as to Form:

City Clerk

Nicole C. Nate, B.C.S.
Special Counsel to the City

EXHIBIT A

FORM OF ASSET PURCHASE AGREEMENT WITH LWV UTILITIES, INC.

**UTILITY
ASSET ACQUISITION AGREEMENT**

By and Among

**CITY OF NEW PORT RICHEY, FLORIDA,
AS BUYER**

and

**LWV UTILITIES, INC.,
AS SELLER**

Dated

November 15, 2016

**UTILITY
ASSET ACQUISITION AGREEMENT**

THIS AGREEMENT, is made and entered into as of this 15th day of November, 2016, by and among City of New Port Richey, Florida, a municipal corporation (the "City" or "Buyer"), LWV Utilities, Inc., a corporation organized under the laws of the State of Florida with its principal place of business at 7552 Congress Street, Suite 3, New Port Richey, FL 34653-1106 ("Seller") and James C. Weeks and Rick Miller (each a "Shareholder" and together the "Shareholders").

W I T N E S S E T H:

WHEREAS, Seller owns, operates and maintains water supply, treatment, storage, transmission and distribution systems and well with water treatment equipment consisting of Parcel Id No. 03-26-16-0010-000000-0050 (the "Real Property"), located in Pasco County, Florida, and commonly known as Lakewood Villas (the "Utility System"); and

WHEREAS, Seller has been granted a certificate by the Florida Public Service Commission ("FPSC") to provide potable water services within a defined area within Pasco County, Florida more specifically identified in Seller's Tariff currently on file with the FPSC; and

WHEREAS, Seller desires to sell to the City all right, title and interest in and to substantially all of the assets, properties, rights and appurtenances used and useful in the operation and maintenance of the Utility System and the City desires to purchase such assets, properties, rights and appurtenances in accordance with the terms and conditions herein; and

WHEREAS, pursuant to section 180.301, Florida Statutes, the City held a public hearing on the 15th day of November, 2016, concerning the proposed purchase and sale of substantially

all of the Utility System assets, all of which are owned by Seller, and made a determination that such purchase and sale is in the public interest; and

WHEREAS, the City, in determining if such a purchase and sale is in the public interest, considered, factors including but not limited to those set forth in section 180.301, Florida Statutes; and

WHEREAS, Shareholders, as the equity holders of Seller, will derive substantial benefit from the consummation of the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, the parties to this Agreement do undertake, promise and agree for themselves, and their permitted successors and assigns as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

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

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

"Assumed Liabilities" means the following liabilities, which are the only liabilities in any way arising out of, concerning, pertaining to or relating to the Utility System and/or the Purchased Assets which Buyer shall assume and agree to discharge under this Agreement: (i) all liabilities to the customers of the Utility System incurred after the Closing Date where the operative event, circumstance, act, failure to act, omission or condition giving rise to the liability occurred exclusively after the Closing Date; (ii) any liability of Buyer under this Agreement or

any other document executed by Seller and Buyer in connection with this Agreement; and (iii) any liability of Buyer based upon Buyer's ownership, construction, operation and maintenance of the Purchased Assets after the Closing Date.

"Buyer" is defined in the first paragraph.

"Council" means the City Council of the City of New Port Richey, Florida.

"Closing" means the closing of the transactions contemplated by this Agreement at which the Purchased Assets are delivered to Buyer, the Purchase Price is paid by the City to Seller and all of the documents executed by Seller and the City at the Escrow Closing are released from escrow and any other certificates, instruments and documents are delivered to the parties.

"Closing Date" is defined in Section 5.01 of this Agreement.

"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 Seller in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Utility System and the Purchased Assets.

"Effective Time" means 12:01 a.m., Eastern Time, on the Closing Date so long as all conditions precedent to Closing have been satisfied or waived, the Purchased Assets have been delivered to Buyer in accordance with the terms hereof, funds in the amount of the Purchase Price are transferred to Seller, the ownership transfer documents and other transaction documents executed by Seller and/or Buyer hereunder [are released from escrow] and are delivered to the parties at any time on such date.

"Environmental Laws" includes all federal, state and local environmental laws and regulations, including, without limitation: (1) the United States Clean Water Act (also known as

the United States Federal Water Pollution Control Act), 33 U.S.C. §§ 1251 et seq.; (2) the United States Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; (3) the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.; (4) the United States Superfund Amendment and Reauthorization Act of 1986, Public Law 99-499, 100 Stat., 1613; (5) the United States Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; (6) the United States Safe Drinking Water Act, 42 U.S.C. § 300j-8; (7) Chapter 403 Florida Statutes; and (8) regulations related thereto. Any reference to legislative act or regulation shall be deemed to include all amendments thereto and all regulations, orders, decrees, judgments or notices issued thereunder.

"Environmental Site Assessment" or **"ESA"** has the meaning set forth in Section 4.03(A) of this Agreement.

"Excluded Assets" means the utility building on the Real Property and those assets, properties and rights, both tangible and intangible, real and personal, of Seller described in Section 3.03(C) which shall not be sold, conveyed, or transferred by Seller to the City pursuant to this Agreement.

"Excluded Liabilities" means those obligations and liabilities which are retained by Seller and not assigned to or assumed by Buyer, including the following: (i) any debts, liabilities, obligations, or financial, service, contractual or other obligations of Seller or the Shareholders, except as may be expressly and specifically provided in this Agreement; (ii) any expense, tax, assessment, exposure, fine, penalty, liability, contribution, act or omission of any kind whatsoever imposed or required by any third party, whether known or unknown, contingent, liquidated or not liquidated, arising or accruing under contract, law, tort, ordinance, law, regulation or otherwise, which is not an Assumed Liability; and (iii) liability for accrued or

current salaries or benefits of any kind related to Seller's construction, operation, or maintenance of the Utility System and Purchased Assets up to and including Closing.

"Knowledge" means, with respect to an individual who is a natural being, the actual knowledge or awareness of a particular fact or other matter, or facts or matters a prudent person having such position, functions, responsibilities and duties could be expected to discover or otherwise be aware thereof in the ordinary course of conducting business.

"Lien" means any mortgage, deed of trust, lien, charge, pledge, security interest, claim, restriction, limitation or other encumbrance.

"Material" or "Materiality" means, except as used in Section 4.05 herein, a level of significance that would have affected any decision of a reasonable person in that person's position regarding whether to enter into this Agreement or would affect any decision of a reasonable person in that person's position regarding whether to consummate the transactions contemplated by this Agreement.

"Purchase Price" has the meaning set forth in Section 3.03 of this Agreement.

"Purchased Assets" has the meaning set forth in Section 3.02(A) of this Agreement.

"Real Property" means the real property owned by Seller and conveyed to the City in fee simple pursuant to this Agreement.

"Seller" means LWV Utilities, Inc. and its successors and permitted assigns.

"Tax" means any income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding, foreign or domestic withholding, social security, unemployment, disability, Real Property, personal property, sales, use, transfer, value added, alternative, add-on minimum

and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereof imposed, assessed or collected by or under the authority of any governmental body or payable under any tax-sharing agreement or any other contract.

"Title Agent" shall mean Master Title Service Inc., or any title company designated by Buyer to serve as the agent for the Title Policy.

"Title Policy" has the meaning set forth in Section 4.05(A) of this Agreement.

"Utility System" means the potable water supply and distribution systems and equipment, pipes, conduits, valves, meters, measurement devices, pumps, treatment facilities and systems, machinery, components, assets, properties, interest and rights owned by Seller which are used or useful in the supply, treatment, storage, transmission and distribution of potable water for sale to Seller's customers.]

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 date of execution of this Agreement.

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

(D) 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 Articles, Sections, or Appendices 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.

SECTION 1.05 REPRESENTATION BY COUNSEL; CONSTRUCTION. Each party acknowledges and represents to the other that it has been represented by legal counsel in connection with the preparation and execution of this Agreement and related documents, and each party, therefore, acknowledges and agrees that any rule of construction or interpretation of language against the drafting party shall not be applicable to this Agreement or any related document.

ARTICLE II

REPRESENTATIONS

SECTION 2.01 REPRESENTATIONS OF THE CITY. The City makes the following representations as of the date hereof, which representations shall terminate and be of no effect at the Closing.

(A) Organization. The City is duly organized and validly existing as a subdivision of the State of Florida.

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

(C) Public Hearing. The City has or will prior to the Closing fulfill/fulfilled and comply/complied with the applicable provisions of section 180.301, 180.03, and 180.04 Florida Statutes, relative to the purchase of the Utility System and Purchased Assets by a governmental agency and to extend its utility system as provided therein.

(D) No Violation. The City is not in material default under any provisions of the laws of the State of Florida material to the performance of its obligations under this Agreement.

(E) Authorization; Enforceability. The execution, delivery and performance of this Agreement and the consummation by the City of the transactions contemplated by this Agreement have been duly authorized by all necessary action on the part of the City. Assuming the due authorization, execution and delivery by Seller, this Agreement constitutes a valid and legally binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that the enforceability thereof may be limited by sovereign immunity, 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.

(F) Non-Contravention. The authorization, execution and delivery of this Agreement and the consummation by the City of the transactions contemplated by this Agreement will not conflict with, violate or constitute a material breach of, or material default under, any existing law, court or administrative regulation, decree, order, or any provision of the Constitution or the laws of the State of Florida relating to the City or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the City is subject or by which it is bound.

(G) Proceedings. There is no action, suit, investigation or proceeding pending or, to the actual knowledge of the City Manager for the City, threatened against or affecting the City, 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 be reasonably likely to materially adversely affect the transactions contemplated by this Agreement or which would be reasonably likely to materially adversely affect the validity of this Agreement or any other agreement or instrument to which the City is a party which is expressly used or contemplated for use in the consummation of the transactions contemplated by this Agreement.

(H) Brokers. The City has not dealt with any broker, salesman or finder in connection with the transactions contemplated by this Agreement and no sales commissions or finder's fees are due or payable by the City to any such broker, salesman or finder.

(I) Due Diligence. As of the date hereof, and subject to the rights of the City hereunder to conduct further investigation, review, assessment and analysis of the Utility System and Purchased Assets, the City has conducted an investigation, review and analysis of the Utility System, and acknowledges that it has been provided access to certain properties, assets, premises, books and records, and other documents and data of Seller for such purpose. The City acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated by this Agreement, the City has relied upon and will rely its investigation, the truth, accuracy and completeness of the books, records, documents and accounts of Seller relating to the Utility System and the Purchased Assets, and the express representations and warranties of Seller set forth in this Agreement (including the related portions of the Appendices hereto) and any other document or instrument executed by Seller in connection with this Agreement and the transactions contemplated hereunder, and the express representations of the Shareholders made herein; and (ii) neither Seller nor any other person has

made any representation or warranty as to Seller or the Purchased Assets, except as expressly set forth in this Agreement (including the related portions of the Appendices hereto) or in any other document or instrument executed by Seller or the Shareholders in connection with this Agreement and the transactions contemplated hereunder.

SECTION 2.02 REPRESENTATIONS OF SELLER. Seller makes the following representations and warranties:

(A) Organization; Shareholders. Seller is duly organized, validly existing and in good standing as a corporation under the laws of the State of Florida, and the Shareholders are the sole owners and holders of shares of stock of Seller.

(B) Power and Authority. Seller has full power and authority to enter into this Agreement and consummate the transactions contemplated by this Agreement.

(C) Cessation of Utility Business. Seller has or will prior to the Closing fulfill/fulfilled and comply/complied with the applicable provisions of Florida law relative to the sale of the Purchased Assets and the cessation by Seller of the business of distributing and selling water to Seller's customers.

(D) No Violation. Seller 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.

(E) Authorization; Enforceability. The execution, delivery and performance of this Agreement and the consummation by Seller of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of Seller. Assuming the due authorization, execution and delivery by the City, this Agreement constitutes a valid and legally binding obligation of Seller enforceable against Seller 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.

(F) Non-Contravention. The authorization, execution, performance and delivery of this Agreement and the consummation by Seller of the transactions contemplated by this Agreement will not conflict with, violate or constitute a material breach of, or material default under, any existing law, court or administrative regulation, decree, order, or any provision of the Constitution or the laws of the State of Florida relating to Seller, the Utility System or the Purchased Assets, or any ordinance, resolution, agreement, lease or other instrument to which Seller, the Utility System or the Purchased Assets are subject or by which it is bound.

(G) Proceedings. There are no current actions, suits, arbitrations, dispute resolution proceedings, audits, investigations, regulatory or administrative hearings or other proceedings pending or, to Seller's knowledge or the Shareholders' knowledge, threatened against Seller, the Shareholders or any of the current or former shareholders, officers, directors or employees of Seller in their capacity as such before any federal, state, municipal or other court, regulatory, administrative or governmental agency or instrumentality which affect the ownership, title, possession, operation or maintenance of the Utility System or Purchased Assets or affect Seller's ability to execute and deliver this Agreement and make and perform this Agreement and consummate the transactions contemplated by this Agreement; nor is Seller or any Shareholder aware of any facts which to its knowledge are likely to result in any such action, suit, audit, investigation, hearing or proceeding. Seller agrees and covenants that it shall have a continuing duty to disclose to the City up to and including the Closing the existence and nature of all

pending judicial or administrative proceedings which in any way relate to the construction, operation or maintenance of the Utility System or the Purchased Assets.

(H) Orders. Seller is not materially in breach, non-compliance or default with respect to any permit, order or decree of any court or of any administrative, regulatory or governmental agency or instrumentality, including as relate to health, safety, security, natural resources, the environment and hazardous materials, affecting the ownership or operation of the Utility System or the Purchased Assets. Seller agrees and covenants that it shall have a continuing duty to disclose to the City up to and including the Closing the receipt of any notice or other communication from any administrative, regulatory or governmental agency or authority relating to the Utility System and/or the Purchased Assets and/or the commencement, existence and nature of all pending judicial or administrative suits, actions, proceedings and orders which in any way relate to the ownership, business, construction, operation or maintenance of the Utility System or the Purchased Assets.

(I) Brokers. None of Seller or any Shareholder has not dealt with any broker, salesman or finder in connection with the transactions contemplated by this Agreement and no sales commissions or finder's fees are due or payable as a result hereof.

(J) Compliance. Seller is, and at all times has been, in material compliance with all laws, permits and governmental authorizations and requirements, including but not limited to those relating to health, safety, security, natural resources, the environment and hazardous materials, in connection with the conduct and operation of the Utility System, the Business and the Assets, and none of Seller or any Shareholder has received notice (written or oral) during the past five (5) years of any violation of any Law in connection with the Utility System, the Business or the Assets.

(K) Taxes. Seller has timely withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, shareholder, affiliate, related party, or other third party, and all forms required with respect thereto have been properly completed and timely filed. To the knowledge of Seller, Seller does not have any liability for Taxes of another Person as a transferee or successor, by contract, or otherwise.

(L) Records. To the knowledge of Seller, the books of account, minute books and books relating to ownership and transfer of share or other equity interests in Seller (or their equivalents) of Seller, all of which have been made available to Buyer, are true, complete and correct in all material respects and have been maintained in accordance with sound business practices.

(M) Representations. No representation, warranty or statement made by Seller or any Shareholder in this Agreement or Appendices hereto or thereto, or any agreements, certificates, documents or instruments delivered or to be delivered to Buyer in accordance with this Agreement, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

(N) Predecessors. Seller acknowledges that Utility Systems and Purchased Assets have been owned and operated from time to time using "doing business as" or other fictitious names as well as by other predecessors in interest. Whenever this Agreement refers to "Seller," "Purchased Assets," or "Utility System," Seller represents and agrees that such terms include all predecessors in interest and "d/b/a" entities for purposes of this Agreement and specifically are included in the "Purchased Assets" and "Utility System" being sold by Seller and

purchased by the City under this Agreement. At the Closing, Seller will convey and deliver to the City all Purchased Assets, including the Real Property, tangible and intangible personal property, permits and all other contracts, agreements, easements, licenses, rights of way, permits, authorizations, approvals and other interests in the Purchased Assets necessary or useful for the City to operate the Utility Systems, except the Excluded Assets, which shall not be conveyed or delivered to the City.

(O) Location of Assets. Seller has exclusive possession, control and ownership to all Purchased Assets and the Utility System and all facilities, installations, equipment, machinery, components and parts of the Utility System are located within the real property identified in Appendix "A".

(P) Ownership. Seller is the sole owner of and owns good and marketable title to the Real Property, the Utility System and the Purchased Assets and all assets, properties, rights, interests and appurtenances constituting the Utility System and the Purchased Assets are owned free and clear of any Lien. Seller has complete and unrestricted right and power to sell, assign, transfer, convey, and deliver the Assets to Buyer as contemplated hereby. At the Closing, Buyer will receive good and marketable fee title to all of the Purchased Assets, free and clear of any Liens.

(Q) Assessment and Investigation. As of the date hereof, Seller and the Shareholders have each conducted its own independent assessment and evaluation of the transactions contemplated by this Agreement and the potential risks and uncertainties associated with such transactions. Seller acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated by this Agreement, Seller has relied upon and will rely its own assessment and evaluation, and the express representations and

warranties of the City set forth in Section 2.01; and (ii) neither the City nor any other person has made any representation or warranty with regard to the City, this Agreement or the transactions contemplated by this Agreement.

(R) Deliverables. Seller has or will deliver at the time of execution of this Agreement, to the City the documents set forth as follows, all of which documents shall be true, accurate and complete:

(1) a schedule identifying all known Easements with respect to the Purchased Assets to Seller's Knowledge provided that, the Schedule shall not include public rights-of-ways, platted easements and general rights to use public roads, highways, and streets to be conveyed to the City.

(2) a description of the Purchased Assets to be conveyed to the City.

(3) a schedule and copy of all current or active federal and Florida Department of Environmental Protection and Water Management District permits, applications or other documents, together with effective dates and any expiration dates, which authorize the operation of the Utility System and the Purchased Assets by all such applicable governmental authorities and which schedule designates which, if any, of these permits or other documents are not transferable.

(4) all plans, drawings, manuals, instructions, warranties, maintenance and repair logs, schedules and budgets, books, records and accounts of any kind related to the equipment, systems, machinery, facilities, installations and components comprising the Utility System and Purchased Assets.

(5) a schedule of the current tariff which sets forth the most current schedule of rates, fees and charges that Seller is authorized to impose.

(6) a schedule of notices received by Seller regarding any actual or potential violation of any governmental law, rule, regulation, permit, permit condition or governmental requirement and environmental or operational non-compliance, if any, relating to the Seller, the Utility System and/or the Purchased Assets, and copies of such notices.

(7) a schedule of all required consents from third parties necessary to consummate the transactions contemplated by this Agreement and copies thereof.

(S) Consents. Seller shall, prior to the Closing, secure all required consents from third parties necessary to consummate the transactions contemplated by this Agreement or that are necessary or useful for the City's ownership, operation and use of the Utility System and the Purchased Assets.

(T) No Violation of Law. To Seller's and Shareholders knowledge, Seller is not in violation of any governmental law, rule, regulation, permit, permitting condition, or other governmental requirement of any type or nature which violation would have a material adverse effect on Seller, the Utility System or the Purchased Assets or Seller's capability to perform its obligations hereunder and consummate the transactions contemplated by this Agreement.

(U) Hazardous Substances. To the knowledge of Seller, (1) there are no hazardous substances (as that term is defined in the Environmental Laws), located upon or beneath the Real Property to be conveyed to the City at concentrations that could reasonably be expected to result in the owner or operator of the Real Property being required to remediate such hazardous substances under Environmental Laws, and (2) Seller is in compliance with all applicable Environmental Laws. To the knowledge of Seller and the Shareholders, the Utility System and the Purchased Assets are in compliance with all applicable Environmental Laws. Seller has not received any written notice from any governmental authority alleging or finding non-compliance

with applicable Environmental Laws or requesting information, access or documents regarding Seller, the Utility System, the Real Property or the Purchased Assets.

(V) Condition of Assets. Seller has no knowledge of material facts adversely affecting the physical condition of the Utility System or the Purchased Assets which are not readily observable by a walkthrough visual inspection of the Utility System and the Purchased Assets or which have not been disclosed or provided in writing by Seller to the City in connection with this Agreement.

ARTICLE III

PURCHASE AND SALE OF ASSETS

SECTION 3.01 PURCHASE AND SALE COVENANT. At the Closing, the City shall purchase and Seller shall sell, deliver and convey the Purchased Assets to the City free and clear of all Liens upon the terms and subject to the conditions set forth in this Agreement. At the Closing, the City shall pay the Purchase Price, the City shall assume responsibility for the performance and satisfaction of the Assumed Liabilities in accordance with the assignment and assumption agreements executed by the parties and delivered at the Closing and City shall not assume or be responsible for any obligations or liabilities of Seller or otherwise in respect of the Utility System and/or the Purchased Assets which are not Assumed Liabilities.

SECTION 3.02 PURCHASED ASSETS; EXCLUDED ASSETS.

(A) The assets of Seller to be purchased by the City hereunder (the "Purchased Assets") shall consist of those assets, properties, rights and interests (both tangible and intangible) described below:

(1) Real Property. All fee simple Real Property as bearing parcel ID No. 03-26-16-0010-00000-0050;

- (2) Easements; Rights of Use. All Easements recorded or otherwise existing and any others that Seller owns or possesses that are necessary for the operation, maintenance and business of the Utility System and use of the Purchased Assets;
- (3) Utility System Facilities and Elements. All water wells, water supplies, wells, collection, transmission, and distribution system piping, pumping, of every kind, location, installation and description whatsoever including, without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, machinery, controls, tanks, treatment equipment, distribution, collection or transmission pipes or facilities, meters, valves, service connections, communication and control equipment, and all other physical facilities, elements, components, appurtenances and property installations used or useful in the operation of the Utility System, as filed with the Florida Public Service Commission Water Tariff on February 1, 2008, and all improvements to said water system, together with an assignment of all existing and assignable third party warranties, guaranties, indemnities, performance standards, and ownership documents;
- (4) Customer Records. All equipment, instruments, devices, components and other personal property, including, but not limited to, customer records, customer meters, and meter reading devices;
- (5) Surveys; Records. All as-built surveys and water plans, surveys, plats, engineering and other drawings, designs, blueprints, plans and specifications, maintenance and operating manuals, engineering reports, calculations, computer studies, accounting, and business records of Seller and all other information relating to the Utility System and the Purchased Assets, in each case, controlled by or in the possession of Seller that relate to the description and operation of the Utility System and/or Purchased Assets;

(6) Permits. To the extent that they may be transferred, 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 own, operate, and maintain the Utility System according to all applicable laws and governmental requirements;

(7) Operating Records. The following records in paper and electronic form, as available: (a) all information required by applicable law, rule, regulation, code, or ordinance or requirement of any regulatory, administrative or governmental authority, insurers and sureties to be maintained related to the Utility System and the Purchased Assets; (b) all information provided through the due diligence process; (c) engineering project files; (d) electronic map files; (e) environmental files; (g) daily operations logs; (j) operations files; (h) any consents or administrative orders; (i) service and warranty records; (j) equipment logs, operating guides, and manuals; (k) database of customer accounts and customer records; (l) updated fixed asset list; and (m) copy of the general ledger; and (n) any other records related to the ownership, operation or maintenance of the Utility System and/or Purchased Assets;

(8) Customer Deposits. All deposits or other funds placed by any customer with Seller on or prior to the Closing;

(9) Claims. All claims of Seller against third parties, including any insurers, whether choate or inchoate, known or unknown, contingent or non-contingent, relating to (a) the Utility System or the Purchased Assets and (b) a tacking of time periods for any prescriptive easement or adverse possession claim;

(10) Warranty Rights. All rights of Seller under or pursuant to all warranties, representations, indemnities, performance standards, and guarantees made by vendors and

contractors in connection with goods and services provided to Seller for the Utility System or the Purchased Assets.

(B) The Purchased Assets shall be conveyed by Seller to the City free and clear of all Liens.

(C) The Purchased Assets do not and shall not include the Excluded Assets as follows:

(1) Rights under the Transaction Documents. All of Seller's rights under the this Agreement and the other transaction documents, including the consideration paid to Seller pursuant to this Agreement;

(2) Corporate Records. All minute books and stock ownership and transfer records of Seller;

(3) Cash. All cash, cash equivalent and securities and accounts receivable of Seller.

(4) Contracts. All contracts, indentures, mortgages, security agreements, loan agreements, credit agreements, purchase orders and arrangements with contractors, consultants, advisors, vendors and service providers except with respect to any warranty, indemnity, performance standard or guarantee.

(5) Related Party Arrangements. Any contract, agreement, loan, guarantee or other arrangement between Seller and any Shareholder or other past or present officer, directors, shareholder or employee of Seller or any related party.

(6) Vehicles. Any vehicles, rolling stock, tools, parts or consumables.

(7) Benefit Plans. Any assets of or relating to an employee benefit plan.

(8) Certain Contracts. All rights Seller has or may have under contracts, with the exception of warranties, indemnities, performance standards and guarantees by contractors, vendors and service providers.

(9) Personnel Records. Personnel records and other records that Seller is required by Law to retain in its possession (the "Excluded Books and Records").

(10) Equity Interests. Any equity interest in Seller or in any corporation, limited liability company, partnership or other entity in which Seller owns any equity interest (including any equity interest in any Affiliate of Seller).

(11) Real Property. Any real property owned by Seller which is not used in operation of the Utility System and all easements, land use and development rights and agreements, and all impact fee credits benefitting the same.

(12) Office Equipment. Any computers, copiers, fax machines, telephones, furniture or other office equipment.

(D) Removal of Excluded Assets. No later than Closing, Seller shall remove all Excluded Assets from the Real Property portion of the Utility System. Such removal shall be done in such manner as to avoid (1) any damage to the Purchased Assets, and (2) any disruption to the operation of the Purchased Assets after the Closing. The City shall have the right, but not the obligation, and at no cost to Buyer (1) to remove and dispose of any Excluded Assets not timely removed by Seller at Seller's sole cost and expense; (2) to store the Excluded Assets and to charge Seller all storage costs associated therewith; or (3) to exercise any other right or remedy conferred by law or this Agreement. Seller shall, within ten (10) days of receipt of any written notice, reimburse the City for all costs, fees and expenses incurred by the City from time to time in connection with any Excluded Assets not timely by Seller.

(E) The City does not assume any debts, liabilities, obligations, or other financial or service obligations of Seller, except as returning a pro-rata share of the utility payments made by Seller's customers in an amount not to exceed Sixteen Thousand Five Hundred Dollars (\$16,500.00), said amount shall be deducted from the purchase price, hereto or except as may be expressly provided hereunder. The final amount to be deducted from the purchase price subject to the foregoing shall be determined at the Closing.

(F) Claims. The City does not assume and shall not be liable for any indebtedness, expense, assessment, exposure, fine, penalty, liability, act or omission of any kind whatsoever of Seller imposed or required by any governmental authority, related party or third party, whether known or unknown, contingent, liquidated or not liquidated, arising or accruing under contract, tort, or pursuant to statute, rule, ordinance, law, regulation or otherwise, arising or accruing before the Closing Date, regardless of when the claim is made. Seller shall remain liable for and shall pay, perform or discharge all such liabilities and obligations. The City does not assume, and is not liable for, any litigation or other proceeding pending at the Closing involving Seller, the Shareholders, the Utility System or the Purchased Assets.

SECTION 3.03 PURCHASE PRICE. The aggregate purchase price for the Purchased Assets shall be Five Hundred Sixteen Thousand Dollars (\$516,000.00) ("Purchase Price"), subject to the terms, adjustments and pro-rations provided herein. The Purchase Price shall be payable by the City to Seller in immediately available funds at the Closing.

ARTICLE IV

CONDITIONS PRECEDENT TO THE CLOSING

SECTION 4.01 PROVISION OF INFORMATION BY SELLER.

(A) Information. Seller has gathered, and delivered to the City, the information described in Section 2.02 hereof.

(B) Utility System Documents. Seller shall deliver to the City any maps, plans, drawings, construction documents or specifications for the Utility System and other information related to the operation of the Utility System and the Purchased Assets not previously delivered to the City for its review within ten (10) days after the execution of this Agreement.

(C) Transaction Documents. Seller and the Shareholders shall have delivered to Buyer the documents, instruments and other deliveries set forth in Section 5.02 of this Agreement.

(D) Consents. Seller and the Shareholders shall have delivered to Buyer the consents, approvals, waivers, and authorizations required from any person or entity for Seller to consummate the transactions contemplated by this Agreement.

(E) Bringdown. The representations and warranties of Seller and the Shareholders contained in this Agreement or in any transaction document shall be true in all material respects on and as of the Closing Date as though such representations and warranties were made at and as of such date.

(F) Compliance. Seller and the Shareholders shall have performed and complied with all agreements; covenants and conditions required by this Agreement and the transaction documents prior to or at the Closing Date.

(G) No Injunction. On the Closing Date, there shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by a court of competent jurisdiction directing that the transactions provided for herein or any of them not be consummated as herein provided.

(H) No Casualty. On Closing Date, the Purchased Assets, or any portion thereof, shall not have been adversely affected in any material way as a result of force majeure, casualty, condemnation or act of Seller or any other person or entity.

(I) No Adverse Effect. There shall have been no events, occurrences or circumstances, between the date of this Agreement and the Closing Date which would have a material adverse effect on the condition of the Utility System or Purchased Assets.

(J) Buyer Approvals. Council shall approved and fully and finally conducted all public hearings required by Florida Statutes, including but not limited to sections 180.301, 180.03, and 180.04, Florida Statutes. Buyer further shall have received such other consents, approvals, clearances or certificates related to the transactions contemplated by this Agreement from all applicable governmental authorities and third parties as Buyer shall reasonably request.

SECTION 4.02 FINANCIAL DUE DILIGENCE. The City has had the ability to conduct due diligence investigation of the Purchased Assets and an opportunity to examine the billing analysis/annual report and to cause to be prepared at its expense a due diligence investigation of the revenues of the Utility System by a City rate consultant, Finance Director or other agent selected by it. The City has relied upon the truth, accuracy and completeness of the Seller's books, records, accounts, maps, plans, asset lists, public filings, documents and analysis and its own financial due diligence investigation in entering into this Agreement.

SECTION 4.03 ENVIRONMENTAL ASSESSMENT.

(A) The City may direct and authorize, at the City's cost, a "Phase I" Environmental Site Assessment of any or all of the Real Property. The Environmental Site Assessment shall be in general accordance with the scope and limitations of the American Society for Testing and Materials Designation: E 1527-97 (Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment ("ESA") Process). Prior to conducting any environmental assessment other than a Phase I ESA, the City shall notify Seller in writing of its desire to conduct additional environmental assessments or testing. Only if the City receives prior written approval from Seller, which shall not be unreasonably withheld, delayed or conditioned, shall it be permitted to conduct any additional testing or assessment other than a Phase I ESA. Prior to performing any Phase II or additional ESA, the City shall provide a scope of work to Seller, and Seller shall have the right to review and approve such scope of work, prior to any intrusive sampling, such approval not be unreasonably withheld, delayed or conditioned. In the event the Phase II or additional ESA performed for the City identifies the presence of hazardous substances (as that term is defined in the Environmental Laws) in the soil or groundwater at levels required to be remediated under applicable Environmental Laws, the City shall provide the ESA report to Seller. Seller shall obtain the opinion of a qualified expert regarding an estimated cost to remediate such hazardous substances identified in the soil or groundwater as required by applicable Environmental Laws. Seller shall be responsible for such remediation, at its expense; provided that, if the cost estimated for any remediation as set forth in this Section 4.04 exceeds \$5,000, either party shall have the option of (1) waiving this condition precedent to the Closing, (2) negotiating terms which are mutually satisfactory to the parties to permit the Closing to

continue, or (3) terminating this Agreement, thereupon the City and Seller shall have no liability and no further obligations to each other under this Agreement.

(B) All ESAs are expected to be completed and delivered to the City and Seller not less than five (5) days prior to the Closing.

SECTION 4.04 SURVEYS. Seller has provided the City with all known existing surveys of the Real Property to be conveyed to the City. The City shall have the option to order new or updated surveys of any or all Real Property being insured by the title insurance policies hereunder. Such new surveys shall be at the City's expense. Any such surveys shall (A) be received not less than five (5) days prior to the 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 City, Seller, the title insurer or any other parties requested by the City; and (D) show the location of all improvements and easements. Material adverse matters (i.e., matters that materially interfere with the present use of the Real Property) disclosed by such surveys and disclosed to Seller may be resolved by Seller in its sole and absolute discretion so that such matters may be removed as an exclusion to coverage on the title insurance commitment, at Seller's expense, prior to the issuance of any policy after the Closing. Nothing shall obligate Seller to expend any monies to resolve such survey matters. If Seller is unable or unwilling to resolve such material adverse matters prior to the Closing, the City shall have the option of: (1) waiving this condition precedent to the Closing or (2) terminating this Agreement, thereupon the City and Seller shall have no liability and no further obligations to each other under this Agreement.

SECTION 4.05 TITLE VERIFICATION

(A) The City at its discretion may obtain, and deliver copies to Seller of, title insurance commitments for the Real Property to be conveyed for an ALTA form owner's title insurance policy from the Title Agent (the "Title Policy"). Subject to subsection (D) of this Section 4.05, any encumbrances or defects in title must be removed from any title insurance commitment prior to the Closing and the subsequent Title Policy issued free and clear of encumbrances, title defects, materialman's liens or other adverse matters, created or potentially created by Seller, with the exception of: (1) taxes for the current year which are not yet due and payable, (2) the Permitted Exceptions, and (3) any encumbrance of or created by the City including any instruments evidencing debt executed by the City at the Closing.

(B) The estate or interests to be insured by the Title Insurance Policy shall consist of all Real Property identified as Parcel Id No. 03-26-16-0010-00000-0050

(C) At the Closing, or upon issuance of any Title Insurance Policy after the Closing, the owner's title insurance policy shall show marketable title to the insured estate or interests vested in the City. All charges and costs for the issuance of the owner's title insurance commitments and policy(ies) shall be paid by the City.

(D) Marketable title shall be determined according to applicable Uniform Title Standards adopted and endorsed by The Florida Bar Board of Governors and in accordance with law. If the title commitment reflects title exceptions other than the Permitted Exceptions, the City shall thereafter, within ten (10) days, notify Seller in writing specifying the defects. Seller shall have no more than twenty (20) days from receipt of notice within which (1) to remove the defects, (2) to provide notice that it intends to remove the defects, or (3) to provide notice that it disputes the defects. The Seller shall have thirty (30) days after receipt by Seller of the City's

notice, to eliminate the defects, which timeframe may not extend beyond the Closing. Seller may, at its option, eliminate such defects in a variety of ways including, without limitation: (1) purchasing all or a portion of the property interest in question; (2) providing an alternate property reasonably acceptable to the City; (3) commencing an eminent domain proceeding or other legal proceeding to acquire or clear title; or, (4) if the City agrees, reimbursing the City for its expenses in acquiring title to the property in an eminent domain proceeding. If Seller or the City commences a legal proceeding to acquire or clear title, the time period to cure defects shall extend until a final determination is made in such proceeding or appeal thereof; provided Seller shall use its commercially reasonable efforts to prosecute diligently to completion any such proceeding. In the event Seller fails to cure any title defect as provided herein, the City may require substitute property, or payment by Seller of an amount equal to the fair market value of the property, or portion thereof.

SECTION 4.06 ENCUMBRANCES. Seller and the Shareholders represent and warrant that the Purchased Assets are free of and not the subject to any Lien. At its election, the City may search the Official Records of the City, County and the records of the Secretary of State for uniform commercial code financing statements evidencing a secured interest in the Purchased Assets other than the Real Property. Such search shall be at the City's expense. Any Lien on secured interests in the Purchased Assets identified by the City on the basis of such search must be identified by the City to the Seller not less than five (5) days prior to the Closing and must be paid off, released or terminated at the Seller's expense on or prior to Closing provided that, the City's failure to identify any such Lien or security interest shall not relieve the Seller of its obligation hereunder to convey all Purchased Assets free and clear of all Liens.

SECTION 4.07 TRANSFER OF PERMITS.

(A) Within five (5) days after the Closing, Seller shall prepare and the Buyer and Seller will jointly submit a notice of transfer of the system to the FPSC in a Petition for Termination of the Certificates of Authorization of Seller. Seller shall file reports, if any, required to satisfy its outstanding gross receipts tax, regulatory assessment fees, and other obligations and governmental assessments through the date of Closing. All of Seller's costs and expense relative to the termination of Seller's relationship with the FPSC, including regulatory assessment fees, shall be borne by Seller. Copies of the Order(s) of the Commission acknowledging sale of the system to Buyer shall be promptly provided to Buyer upon Seller's receipt thereof.

(B) At the Closing, Seller shall provide the City with the applications for the transfer of the permits and governmental approvals, including, but not limited to, the procedures referenced in Rule 62-4.120, Florida Administrative Code (1990), 40 C.F.R. § 122.63(d) (1998) and 47 C.F.R. § 73 (1998), if applicable, and shall use all reasonable efforts to obtain the transfer of such permits. The City shall timely apply for the transfer of all permits and governmental approvals and Seller shall cooperate and provide all reasonably necessary assistance in this endeavor, including, but not limited to, execution at the Closing of the permit transfer applications.

(C) The City and Seller acknowledge that to the extent that the transfer of permits cannot be effectuated until after the Closing of the transactions contemplated by this Agreement, and the parties proceed to Closing, the obligations hereunder relating to transfer of permits shall

constitute a post-Closing obligation of the parties until completed. [All charges and costs for the transfer of permits shall be shared equally by Seller and the City.]

SECTION 4.08 FRANCHISE UTILITY FILINGS. Prior to the Closing, Seller shall be in compliance with all franchise utility regulatory filing requirements and any other requirements of the FPSC, including with respect to the sale of the Utility System and the Purchased Assets by Seller to Buyer and the cessation by Seller of service to customers. Seller shall make available for review and copying by the City of all filings made by the Seller with any governmental agency in order to comply with such requirements.

SECTION 4.09 DEADLINE TO CLOSE AND DISBURSE. Subject to any extensions agreed to by the parties, if the Closing does not occur on or before January 20, 2017, then Seller or the City shall have the option of: (1) waiving this deadline in writing and establishing an outside date for Closing or (2) terminating this Agreement, thereupon the City and Seller shall have no liability and no further obligations to each other under this Agreement unless the Closing did not occur as a result of the unexcused failure, omission or breach by a party of its representations, warranties, obligations or covenants.

ARTICLE V

CLOSING PROCEDURES

SECTION 5.01 DATES AND PLACE FOR CLOSING. The Closing shall be held at the Office of Bryant Miller Olive P.A. ("Closing Agent") on or before January 20, 2017 ("Closing Date"), or as mutually agreed among the parties.

SECTION 5.02 CLOSING.

(A) At the Closing, Seller and the Shareholders shall deliver or cause to be delivered to Buyer:

- (1) Special warranty deed for the conveyance of all Real Property;
- (2) possession and control of the Purchased Assets, including all applicable keys, access cards, access codes and other entry devices;
- (3) a certificate executed and delivered by the Secretary of Seller certifying:
 - (i) the organizational documents of Seller and
 - (ii) copies of resolutions of the governing body of Seller and the Shareholders adopting and authorizing the transactions contemplated by this Agreement;
- (4) a Certificate of Status of Seller issued not earlier than ten (10) days prior to the Closing Date by the Florida Department of State;
- (5) Assignment of Easements for all easements;
- (6) Transfer, Assignment and Assumption Agreements covering permits and approvals, rightsto and other interests in the Purchased Assets other than the Real Property;
- (7) Bill of Sale and other documents of assignment and transfer, with full warranties of title, to all Purchased Assets;
- (8) Non-foreign affidavit, no-lien affidavit, "gap" affidavit, waiver and release of lien or such other forms as are customarily required for issuance of the title insurance policy referenced herein;
- (9) Any affidavits, certificates, estoppel certificates, corrective instruments, consents, approvals, authorizations, releases, satisfactions or terminations necessary to close, including, but not limited to, those instruments identified by the title insurer insuring the Real Property; and
- (10) Other certificates and documents reasonably requested by Buyer, Closing Agent, or Title Agent.

(B) In order to secure title insurance coverage against the existence of material adverse matters recorded during the period of time between the effective date of the title insurance commitment and the date of recording of the documents creating the estate to be insured, Seller and the City agree that the Closing on the Real Estate may be performed by the Title Agent.

(C) Seller shall pay all Taxes and fees necessary for transfer, filing or recording the transaction documents affecting the transfer of the Purchased Assets to the City.

SECTION 5.03 CLOSING.

(A) At the Closing, Seller and each Shareholder shall furnish a certificate reaffirming its/his representations and warranties as set forth in this Agreement up to the Closing Date, and a release of documents from the Escrow Closing.

(B) At the Closing, the City shall furnish the closing statement, a certificate reaffirming the City's representations and warranties as set forth in this Agreement up to the Closing Date, and a release of documents from the Escrow Closing.

(C) From time to time prior to and after the 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 reasonably requested in order to fulfill the purpose and objective of the parties in entering into this Agreement, including for the purpose of (1) confirming deeds or correcting title in the name of the City or perfecting possession by the City of any or all of the Purchased Assets (other than the Real Property) in existence or use at the time of the Closing and particularly such Purchased Assets (other than the Real Property) not known to Seller as of the date this Agreement is signed by Seller, including the establishment of Easements of record, without

resort to litigation, expenditure of monies or other extraordinary means, or (2) otherwise fulfilling the obligations of the parties hereunder. The parties acknowledge and agree that the rights and obligations pursuant to this Section shall survive the Closing Date.

SECTION 5.04 PROPERTY TAXES. Seller shall be required to escrow through the Title Agent for payment to the Tax Collector of Pasco County an amount equal to the current ad valorem taxes, personal property taxes and assessments due (real and personal), prorated through the Closing Date in accordance with Section 196.295, Florida Statutes. The City shall cooperate with Seller in its effort to recover any taxes paid in excess of that due through the Closing Date. However, in no event shall the City be responsible for any ad valorem taxes, personal property taxes or assessments (real or personal) for the current year, which are not cancelled after the Closing Date.

SECTION 5.05 ACCOUNTS RECEIVABLE; CUSTOMER DEPOSITS. Seller hereby agrees to cooperate with the City to ensure an orderly transition of all of its customers with respect to billing and customer service activities including, but not limited to, working with the City on a compatible format for transfer of customer data, if reasonably practical. The parties agree that the City will be entitled to all customer billings and payments by customers of such billings with respect to water services for the period on or after the Closing Date, and Seller will be entitled to all such billings prior to the Closing Date, such billings being considered an Excluded Asset under this Agreement. After the Closing, any payments received by the City or Seller with respect to utility services provided utilizing the Purchased Assets shall belong to the City or Seller as provided above. If such payment or the documentation relating thereto does not indicate whether such payment is for the period prior to or after Closing, the City and Seller shall jointly determine whether the payment belongs to the City or Seller. If

either the City or Seller receives a payment which under the terms of this Agreement which properly belongs to the other, the party in receipt of such payment shall hold such payment in trust for the other party and shall turn the payment over to the other party upon receipt thereof without any right of setoff. Seller shall transfer to Buyer as a Purchased Asset all remaining customer deposits and accrued interest thereon through the Closing in the manner permitted by law. The parties shall meet monthly and upon written request by a party for purposes of coordinating the collection of payments received by the City and Seller for billings with respect to water service.

SECTION 5.06 PROFESSIONAL FEES; COSTS. Each party shall be responsible for securing its own counsel and advisors for representation and advice in connection with the negotiation of this Agreement, and all other matters associated with performance, termination or the 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.

SECTION 5.07 RISK OF LOSS. At all times prior to and until the Closing, Seller shall maintain adequate insurance coverage for the cost of any replacement of or repairs to the Utility System and the Purchased Assets that may arise out of or be required by casualty damage. The risk of loss with regard to the Utility System and the Purchased Assets during the period of time prior to the Closing shall remain with the Seller. The risk of loss with regard to the Purchased Assets shall pass to the City upon the Closing.

ARTICLE VI

GENERAL PROVISIONS

SECTION 6.01 RIGHT TO ENTER. Prior to the Closing, the City shall have the right, at any reasonable time during normal business hours with twenty four (24) hours prior notice to Seller, to enter upon Seller's property to inspect the Utility System and the Purchased Assets and Seller's records, in order to familiarize itself with day-to-day operations, to review the operational practices of Seller, to assess the existence and condition of the Utility System and the Purchased Assets and to assess compliance by the Seller, the Utility System and the Purchased Assets with any and all federal and state regulatory requirements and this Agreement; provided, however, that such access shall not be had or done in any such manner so as to unreasonably interfere with the Purchased Assets; and provided further that no such access, entry, inspection, review of other activity of City shall relieve, discharge or diminish the representations, warranties, obligations and covenants of Seller and the Shareholders hereunder.

SECTION 6.02 CONDUCT BETWEEN EXECUTION AND CLOSING. After the date of execution of this Agreement until the Closing, Seller shall:

(A) Continue to provide water to its current customers and bill for such water in the ordinary and usual manner;

(B) Comply with all legal, permit and governmental requirements, contractual obligations and operate and maintain the Utility System in the ordinary course of business, consistent with prior practice;

(C) Not, except in the ordinary course of business or as required by law, dispose of any of the Purchased Assets, without the prior written consent of the City, which consent shall not be unreasonably withheld and which shall be acted upon promptly by the City;

(D) Confer with the City prior to implementing operational decisions (i) of a material nature which are not in the ordinary course of business or (ii) which may constitute an obligation or liability of the City following the Closing and refrain from implementing any such decision without the prior written consent of the City;

(E) Maintain all books and records relating to the Utility System and Purchased Assets in the ordinary course of business;

(F) Provide to the City complete copies of all known Easements of Seller; and

(G) Correct any Appendices to accurately reflect the status of deeds, easements, equipment lists or other documents or document lists as may be agreed among the parties prior to the Closing Date.

Notwithstanding the foregoing in this Section 6.02, Seller shall have the right until the Closing, and in its sole and absolute discretion, to settle any or all disputes provided such settlement does not (i) modify Utility System rates, fees, charges or revenue, (ii) materially modify the Purchased Assets; (iii) potentially or actually impose any obligation, duty, responsibility, limitation, restriction or liability upon the City, (iv) result in a Lien on any portion of the Utility System or the Purchased Assets or (v) otherwise impact the ability of the City to acquire, operate and maintain the Purchased Assets and provide water to customers in accordance with applicable laws, permits, the City's ordinary course of business and good industry practice.

SECTION 6.03 APPLICABLE LAW; JURISDICTION AND VENUE; JURY TRIAL WAIVER.

(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 that exclusive venue for any claim, dispute or litigation arising under, relating to or in connection with this Agreement and the transactions contemplated by this Agreement shall be in the Circuit Court of the Sixth Judicial Circuit of the State of Florida in and for Pasco County, Florida. The parties hereby waive to the maximum extent permissible under applicable law trial by jury in respect of any claim, dispute or litigation relating to this Agreement. The parties agree that prior to the commencement of litigation of any such claim, dispute or disagreement, management level representatives of each party shall meet and confer for a period of twenty (20) days after notice by one party to the other of the existence of the claim, dispute or disagreement to amicably resolve the matter.

SECTION 6.04 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, postage prepaid, or delivered by nationally recognized delivery or courier service, charges prepaid, to the parties at the following addresses:

To the City: City Manager
5919 Main St.
New Port Richey, FL 34652

with required copies to: City Attorney
5919 Main St.
New Port Richey, FL 34652

To Seller: LWV Utilities, Inc.
7552 Congress St.
New Port Richey, FL 34653

with required copies to: Verras Law, P.A.
Attn: Spiro J. Verras, Esq.
31640 US Hwy 19 N, Suite 4
Palm Harbor, FL 34684

(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) of this Section.

(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. Any notice shall be deemed given on the date such notice is delivered by hand, or five (5) days after the date mailed.

SECTION 6.05 ASSIGNMENT AND JOINDER. Neither the Seller nor the City shall have the power or authority to assign this Agreement or any of their rights, duties or obligations hereunder to a third party, without the prior written consent of the other party. This Agreement shall be construed as solely for the benefit of the Seller and City, and their successors by law, and no right, remedy, benefit, privilege or claim or cause of action shall accrue to or for the benefit of any other third party by reason hereof.

SECTION 6.06 CITY LIABILITIES. The City shall not be obligated to pay any liability arising out of or in any connection whatsoever with this Agreement from any funds except from the net revenues realized by the City after the Closing from its ownership and operation of the Utility System or the Purchased Assets. It is further agreed between the City and Seller that this Agreement and any obligations arising in connection herewith, whether for payment of the Purchase Price, or for any claim of liability, remedy for breach or otherwise, shall not constitute a lien, charge, security interest or other encumbrance on the Utility System, the Purchased Assets or any other property owned, leased or operated by the City.

SECTION 6.07 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 will be effective unless made in writing by the party to be bound thereby, and no waiver shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

SECTION 6.08 ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, pertaining to the subject matter hereof, and there are no warranties or representations, express or implied, or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein.

SECTION 6.09 EFFECT OF TERMINATION. This Agreement may be terminated (A) by written agreement of the parties, (B) by any party if the Closing has not occurred on or before December 31, 2016, and (C) by the non-defaulting party if the other party materially defaults in performance of any of its covenants, obligations or agreements under this Agreement, or if any representation or warranty by such other party was at the signing or thereafter becomes materially untrue. In the event of the termination of this Agreement in accordance with its terms, this Agreement shall then become void and have no effect, with no liability on the part of any of the parties to this Agreement or their affiliates, except that nothing shall relieve a party from liability for any breach or default of this Agreement or accrued obligation or liability.

SECTION 6.10 TRANSITION SERVICES.

(A) The parties acknowledge and agree that the City will require a minimum period of sixty (60) days to prepare for an orderly and efficient transition of operations, customer service and billing activities to the City and, as such, the parties acknowledge and agree that beginning

on the execution date of this Agreement, the City and Seller will take all steps necessary and exert their respective commercially reasonable efforts, so as to create a seamless transition of such activities on or around the Closing Date.

(B) After the Closing, Seller and the Shareholders jointly and severally agree to pay in full and discharge all of the Excluded Liabilities, in accordance with their stated terms, as applicable, and in a manner that is not detrimental to Buyer or to any relationships of Buyer with customers or other persons.

[SIGNATURE PAGES FOLLOW]

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

City of New Port Richey

By: _____
Rob Marlowe, Mayor

Attest:

Judy Meyers, Interim City Clerk

APPROVED AS TO FORM AND
CORRECTNESS FOR THE SOLE
RELIANCE OF THE CITY:

By: _____
Nicole C. Nate, B.C.S.
Special Counsel to the City

James C. Weeks

Attest:

Rick Miller

Attest:

LWV Utilities, Inc.

By: James C. Weeks
Its: _____

Attest:

LWV Utilities, Inc.

By: Rick Miller
Its: _____

Attest:

EXHIBIT B

FORM OF ASSET PURCHASE AGREEMENT WITH ADVISOR ENTERPRISES, INC.

**UTILITY
ASSET ACQUISITION AGREEMENT**

By and Among

**CITY OF NEW PORT RICHEY, FLORIDA,
AS BUYER**

and

**ADVISOR ENTERPRISES, INC.,
AS SELLER**

Dated

[November 15, 2016]

**UTILITY
ASSET ACQUISITION AGREEMENT**

THIS AGREEMENT, is made and entered into as of this [15th] day of November, 2016, by and among City of New Port Richey, Florida, a municipal corporation (the "City" or "Buyer"), Advisor Enterprises, Inc., a corporation organized under the laws of the State of Florida with its principal place of business at 7552 Congress Street, Suite 3, New Port Richey, FL 34653-1106 ("Seller") and James C. Weeks and Rick Miller (each a "Shareholder" and together the "Shareholders").

WITNESSETH:

WHEREAS, Seller owns, operates and maintains water supply, treatment, storage, transmission and distribution systems located in Pasco County, Florida, and commonly known as Barbara Ann Acres Utility and Silver Oaks Utility (the "Utility System"); and

WHEREAS, pursuant to section 367.022, Florida Statutes, the Utility System is not subject to regulations by the Florida Public Service Commission and provides potable water services within a defined area within Pasco County, Florida pursuant to permits issued by the Southwest Florida Water Management District ("SWFWMD") and the Florida Department of Environmental Protection ("FDEP"); and

WHEREAS, Seller desires to sell to the City all right, title and interest in and to substantially all of the assets, properties, rights and appurtenances used and useful in the operation and maintenance of the Utility System and the City desires to purchase such assets, properties, rights and appurtenances in accordance with the terms and conditions herein; and

WHEREAS, pursuant to section 180.301, Florida Statutes, the City held a public hearing on the [15th] day of [November], 2016, concerning the proposed purchase and sale of

substantially all of the Utility System assets, all of which are owned by Seller, and made a determination that such purchase and sale is in the public interest; and

WHEREAS, the City, in determining if such a purchase and sale is in the public interest, considered, factors including but not limited to those set forth in section 180.301, Florida Statutes; and

WHEREAS, Shareholders, as the equity holders of Seller, will derive substantial benefit from the consummation of the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, the parties to this Agreement do undertake, promise and agree for themselves, and their permitted successors and assigns as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

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

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

"Assumed Liabilities" means the following liabilities, which are the only liabilities in any way arising out of, concerning, pertaining to or relating to the Utility System and/or the Purchased Assets which Buyer shall assume and agree to discharge under this Agreement: (i) all liabilities to the customers of the Utility System incurred after the Closing Date where the operative event, circumstance, act, failure to act, omission or condition giving rise to the liability occurred exclusively after the Closing Date; (ii) any liability of Buyer under this Agreement or

any other document executed by Seller and Buyer in connection with this Agreement; and (iii) any liability of Buyer based upon Buyer's ownership, construction, operation and maintenance of the Purchased Assets after the Closing Date.

"Buyer" is defined in the first paragraph.

"Council" means the City Council of the City of New Port Richey, Florida.

"Closing" means the closing of the transactions contemplated by this Agreement at which the Purchased Assets are delivered to Buyer, the Purchase Price is paid by the City to Seller and all of the documents executed by Seller and the City at the Escrow Closing are released from escrow and any other certificates, instruments and documents are delivered to the parties.

"Closing Date" is defined in Section 5.01 of this Agreement.

"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 Seller in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Utility System and the Purchased Assets.

"Effective Time" means 12:01 a.m., Eastern Time, on the Closing Date so long as all conditions precedent to Closing have been satisfied or waived, the Purchased Assets have been delivered to Buyer in accordance with the terms hereof, funds in the amount of the Purchase Price are transferred to Seller, the ownership transfer documents and other transaction documents executed by Seller and/or Buyer hereunder [are released from escrow] and are delivered to the parties at any time on such date.

"Environmental Laws" includes all federal, state and local environmental laws and regulations, including, without limitation: (1) the United States Clean Water Act (also known as

the United States Federal Water Pollution Control Act), 33 U.S.C. §§ 1251 et seq.; (2) the United States Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; (3) the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.; (4) the United States Superfund Amendment and Reauthorization Act of 1986, Public Law 99-499, 100 Stat., 1613; (5) the United States Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; (6) the United States Safe Drinking Water Act, 42 U.S.C. § 300j-8; (7) Chapter 403 Florida Statutes; and (8) regulations related thereto. Any reference to legislative act or regulation shall be deemed to include all amendments thereto and all regulations, orders, decrees, judgments or notices issued thereunder.

"Excluded Assets" means those assets, properties and rights, both tangible and intangible, real and personal, of Seller described in Section 3.02(C) which shall not be sold, conveyed, or transferred by Seller to the City pursuant to this Agreement.

"Excluded Liabilities" means those obligations and liabilities which are retained by Seller and not assigned to or assumed by Buyer, including the following: (i) any debts, liabilities, obligations, or financial, service, contractual or other obligations of Seller or the Shareholders, except as may be expressly and specifically provided in this Agreement; (ii) any expense, tax, assessment, exposure, fine, penalty, liability, contribution, act or omission of any kind whatsoever imposed or required by any third party, whether known or unknown, contingent, liquidated or not liquidated, arising or accruing under contract, law, tort, ordinance, law, regulation or otherwise, which is not an Assumed Liability; and (iii) liability for accrued or current salaries or benefits of any kind related to Seller's construction, operation, or maintenance of the Utility System and Purchased Assets up to and including Closing.

"Knowledge" means, with respect to an individual who is a natural being, the actual knowledge or awareness of a particular fact or other matter, or facts or matters a prudent person having such position, functions, responsibilities and duties could be expected to discover or otherwise be aware thereof in the ordinary course of conducting business.

"Lien" means any mortgage, deed of trust, lien, charge, pledge, security interest, claim, restriction, limitation or other encumbrance.

"Material" or "Materiality" means, except as used in Section 4.05 herein, a level of significance that would have affected any decision of a reasonable person in that person's position regarding whether to enter into this Agreement or would affect any decision of a reasonable person in that person's position regarding whether to consummate the transactions contemplated by this Agreement.

"Purchase Price" has the meaning set forth in Section 3.03 of this Agreement.

"Purchased Assets" has the meaning set forth in Section 3.02(A) of this Agreement.

"Seller" means AdvisorEnterprises, Inc. and its successors and permitted assigns.

"Tax" means any income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding, foreign or domestic withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, value added, alternative, add-on minimum and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereof imposed, assessed or collected by or under the authority of any governmental body or payable under any tax-sharing agreement or any other contract.

"Utility System" means the potable water supply and distribution systems and equipment, pipes, conduits, valves, meters, measurement devices, pumps, treatment facilities and systems, machinery, components, assets, properties, interest and rights owned by Seller which are used or useful in the supply, treatment, storage, transmission and distribution of potable water for sale to Seller's customers.

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 date of execution of this Agreement.

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

(D) 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 Articles, Sections, or Appendices 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.

SECTION 1.05 REPRESENTATION BY COUNSEL; CONSTRUCTION.

Each party acknowledges and represents to the other that it has been represented by legal counsel in connection with the preparation and execution of this Agreement and related documents, and each party, therefore, acknowledges and agrees that any rule of construction or interpretation of language against the drafting party shall not be applicable to this Agreement or any related document.

ARTICLE II

REPRESENTATIONS

SECTION 2.01 REPRESENTATIONS OF THE CITY. The City makes the following representations as of the date hereof, which representations shall terminate and be of no effect at the Closing.

(A) Organization. The City is duly organized and validly existing as a subdivision of the State of Florida.

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

(C) Public Hearing. The City has or will prior to the Closing fulfill/fulfilled and comply/complied with the applicable provisions of section 180.301, 180.03, and 180.04 Florida Statutes, relative to the purchase of the Utility System and Purchased Assets by a governmental agency and to extend its utility system as provided therein.

(D) No Violation. The City is not in material default under any provisions of the laws of the State of Florida material to the performance of its obligations under this Agreement.

(E) Authorization; Enforceability. The execution, delivery and performance of this Agreement and the consummation by the City of the transactions contemplated by this

Agreement have been duly authorized by all necessary action on the part of the City. Assuming the due authorization, execution and delivery by Seller, this Agreement constitutes a valid and legally binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that the enforceability thereof may be limited by sovereign immunity, 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.

(F) Non-Contravention. The authorization, execution and delivery of this Agreement and the consummation by the City of the transactions contemplated by this Agreement will not conflict with, violate or constitute a material breach of, or material default under, any existing law, court or administrative regulation, decree, order, or any provision of the Constitution or the laws of the State of Florida relating to the City or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the City is subject or by which it is bound.

(G) Proceedings. There is no action, suit, investigation or proceeding pending or, to the actual knowledge of the City Manager for the City, threatened against or affecting the City, 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 be reasonably likely to materially adversely affect the transactions contemplated by this Agreement or which would be reasonably likely to materially adversely affect the validity of this Agreement or any other agreement or instrument to which the City is a party which is expressly used or contemplated for use in the consummation of the transactions contemplated by this Agreement.

(H) Brokers. The City has not dealt with any broker, salesman or finder in connection with the transactions contemplated by this Agreement and no sales commissions or finder's fees are due or payable by the City to any such broker, salesman or finder.

(I) Due Diligence. As of the date hereof, and subject to the rights of the City hereunder to conduct further investigation, review, assessment and analysis of the Utility System and Purchased Assets, the City has conducted an investigation, review and analysis of the Utility System, and acknowledges that it has been provided access to certain properties, assets, premises, books and records, and other documents and data of Seller for such purpose. The City acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated by this Agreement, the City has relied upon and will rely its investigation, the truth, accuracy and completeness of the books, records, documents and accounts of Seller relating to the Utility System and the Purchased Assets, and the express representations and warranties of Seller set forth in this Agreement (including the related portions of the Appendices hereto) and any other document or instrument executed by Seller in connection with this Agreement and the transactions contemplated hereunder, and the express representations of the Shareholders made herein; and (ii) neither Seller nor any other person has made any representation or warranty as to Seller or the Purchased Assets, except as expressly set forth in this Agreement (including the related portions of the Appendices hereto) or in any other document or instrument executed by Seller or the Shareholders in connection with this Agreement and the transactions contemplated hereunder.

SECTION 2.02 REPRESENTATIONS OF SELLER. Seller makes the following representations and warranties:

(A) Organization; Shareholders. Seller is duly organized, validly existing and in good standing as a corporation under the laws of the State of Florida, and the Shareholders are the sole owners and holders of shares of stock of Seller.

(B) Power and Authority. Seller has full power and authority to enter into this Agreement and consummate the transactions contemplated by this Agreement.

(C) Cessation of Utility Business. Seller has or will prior to the Closing fulfill/fulfilled and comply/complied with the applicable provisions of Florida law relative to the sale of the Purchased Assets and the cessation by Seller of the business of distributing and selling water to Seller's customers.

(D) No Violation. Seller 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.

(E) Authorization; Enforceability. The execution, delivery and performance of this Agreement and the consummation by Seller of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of Seller. Assuming the due authorization, execution and delivery by the City, this Agreement constitutes a valid and legally binding obligation of Seller enforceable against Seller 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.

(F) Non-Contravention. The authorization, execution, performance and delivery of this Agreement and the consummation by Seller of the transactions contemplated by this Agreement will not conflict with, violate or constitute a material breach of, or material default

under, any existing law, court or administrative regulation, decree, order, or any provision of the Constitution or the laws of the State of Florida relating to Seller, the Utility System or the Purchased Assets, or any ordinance, resolution, agreement, lease or other instrument to which Seller, the Utility System or the Purchased Assets are subject or by which it is bound.

(G) Proceedings. There are no current actions, suits, arbitrations, dispute resolution proceedings, audits, investigations, regulatory or administrative hearings or other proceedings pending or, to Seller's knowledge or the Shareholders' knowledge, threatened against Seller, the Shareholders or any of the current or former shareholders, officers, directors or employees of Seller in their capacity as such before any federal, state, municipal or other court, regulatory, administrative or governmental agency or instrumentality which affect the ownership, title, possession, operation or maintenance of the Utility System or Purchased Assets or affect Seller's ability to execute and deliver this Agreement and make and perform this Agreement and consummate the transactions contemplated by this Agreement; nor is Seller or any Shareholder aware of any facts which to its knowledge are likely to result in any such action, suit, audit, investigation, hearing or proceeding. Seller agrees and covenants that it shall have a continuing duty to disclose to the City up to and including the Closing the existence and nature of all pending judicial or administrative proceedings which in any way relate to the construction, operation or maintenance of the Utility System or the Purchased Assets.

(H) Orders. Seller is not materially in breach, non-compliance or default with respect to any permit, order or decree of any court or of any administrative, regulatory or governmental agency or instrumentality, including as relate to health, safety, security, natural resources, the environment and hazardous materials, affecting the ownership or operation of the Utility System or the Purchased Assets. Seller agrees and covenants that it shall have a continuing duty

to disclose to the City up to and including the Closing the receipt of any notice or other communication from any administrative, regulatory or governmental agency or authority relating to the Utility System and/or the Purchased Assets and/or the commencement, existence and nature of all pending judicial or administrative suits, actions, proceedings and orders which in any way relate to the ownership, business, construction, operation or maintenance of the Utility System or the Purchased Assets.

(I) Brokers. None of Seller or any Shareholder has not dealt with any broker, salesman or finder in connection with the transactions contemplated by this Agreement and no sales commissions or finder's fees are due or payable as a result hereof.

(J) Compliance. Seller is, and at all times has been, in material compliance with all laws, permits and governmental authorizations and requirements, including but not limited to those relating to health, safety, security, natural resources, the environment and hazardous materials, in connection with the conduct and operation of the Utility System, the Business and the Assets, and none of Seller or any Shareholder has received notice (written or oral) during the past five (5) years of any violation of any Law in connection with the Utility System, the Business or the Assets.

(K) Taxes. Seller has timely withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, shareholder, affiliate, related party, or other third party, and all forms required with respect thereto have been properly completed and timely filed. To the knowledge of Seller, Seller does not have any liability for Taxes of another Person as a transferee or successor, by contract, or otherwise.

(L) Records. To the knowledge of Seller, the books of account, minute books and books relating to ownership and transfer of share or other equity interests in Seller (or their equivalents) of Seller, all of which have been made available to Buyer, are true, complete and correct in all material respects and have been maintained in accordance with sound business practices.

(M) Representations. No representation, warranty or statement made by Seller or any Shareholder in this Agreement or Appendices hereto or thereto, or any agreements, certificates, documents or instruments delivered or to be delivered to Buyer in accordance with this Agreement, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

(N) Predecessors. Seller acknowledges that Utility Systems and Purchased Assets have been owned and operated from time to time using "doing business as" or other fictitious names as well as by other predecessors in interest. Whenever this Agreement refers to "Seller," "Purchased Assets," or "Utility System," Seller represents and agrees that such terms include all predecessors in interest and "d/b/a" entities for purposes of this Agreement and specifically are included in the "Purchased Assets" and "Utility System" being sold by Seller and purchased by the City under this Agreement. At the Closing, Seller will convey and deliver to the City all Purchased Assets, including Real Property, tangible and intangible personal property, permits and all other contracts, agreements, easements, licenses, rights of way, permits, authorizations, approvals and other interests in the Purchased Assets necessary or useful for the City to operate the Utility Systems, except the Excluded Assets, which shall not be conveyed or delivered to the City.

(O) Location of Assets. Seller has exclusive possession, control and ownership to all Purchased Assets and the Utility System and all facilities, installations, equipment, machinery, components and parts of the Utility System are located within the real property identified in Appendix "A".

(P) Ownership. Seller is the sole owner of and owns good and marketable title to the Utility System and the Purchased Assets and all assets, properties, rights, interests and appurtenances constituting the Utility System and the Purchased Assets are owned free and clear of any Lien. Seller has complete and unrestricted right and power to sell, assign, transfer, convey, and deliver the Assets to Buyer as contemplated hereby. At the Closing, Buyer will receive good and marketable fee title to all of the Purchased Assets, free and clear of any Liens.

(Q) Assessment and Investigation. As of the date hereof, Seller and the Shareholders have each conducted its own independent assessment and evaluation of the transactions contemplated by this Agreement and the potential risks and uncertainties associated with such transactions. Seller acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated by this Agreement, Seller has relied upon and will rely its own assessment and evaluation, and the express representations and warranties of the City set forth in Section 2.01; and (ii) neither the City nor any other person has made any representation or warranty with regard to the City, this Agreement or the transactions contemplated by this Agreement.

(R) Deliverables. Seller has or will deliver at the time of execution of this Agreement, to the City the documents set forth as follows, all of which documents shall be true, accurate and complete:

(1) A schedule identifying all known Easements with respect to the Purchased Assets to Seller's Knowledge provided that, the Schedule shall not include public rights-of-ways, platted easements and general rights to use public roads, highways, and streets to be conveyed to the City.

(2) a description of the Purchased Assets to be conveyed to the City.

(3) A schedule and copy of all current or active federal and Florida Department of Environmental Protection and Water Management District permits, applications or other documents, together with effective dates and any expiration dates, which authorize the operation of the Utility System and the Purchased Assets by all such applicable governmental authorities and which schedule designates which, if any, of these permits or other documents are not transferable.

(4) all plans, drawings, manuals, instructions, warranties, maintenance and repair logs, schedules and budgets, books, records and accounts of any kind related to the equipment, systems, machinery, facilities, installations and components comprising the Utility System and Purchased Assets.

(5) a schedule of the current tariff which sets forth the most current schedule of rates, fees and charges that Seller is authorized to impose.

(6) a schedule of notices received by Seller regarding any actual or potential violation of any governmental law, rule, regulation, permit, permit condition or governmental requirement and environmental or operational non-compliance, if any, relating to the Seller, the Utility System and/or the Purchased Assets, and copies of such notices.

(7) a schedule of all required consents from third parties necessary to consummate the transactions contemplated by this Agreement and copies thereof.

(S) Consents. Seller shall, prior to the Closing, secure all required consents from third parties necessary to consummate the transactions contemplated by this Agreement or that are necessary or useful for the City's ownership, operation and use of the Utility System and the Purchased Assets.

(T) No Violation of Law. To Seller's and Shareholders knowledge, Seller is not in violation of any governmental law, rule, regulation, permit, permitting condition, or other governmental requirement of any type or nature which violation would have a material adverse effect on Seller, the Utility System or the Purchased Assets or Seller's capability to perform its obligations hereunder and consummate the transactions contemplated by this Agreement.

(U) Hazardous Substances. To the knowledge of Seller and the Shareholders, the Utility System and the Purchased Assets are in compliance with all applicable Environmental Laws. Seller has not received any written notice from any governmental authority alleging or finding non-compliance with applicable Environmental Laws or requesting information, access or documents regarding Seller, the Utility System or the Purchased Assets.

(V) Seller has no knowledge of material facts adversely affecting the physical condition of the Utility System or the Purchased Assets which are not readily observable by a walkthrough visual inspection of the Utility System and the Purchased Assets or which have not been disclosed or provided in writing by Seller to the City in connection with this Agreement.

ARTICLE III

PURCHASE AND SALE OF ASSETS

SECTION 3.01 PURCHASE AND SALE COVENANT. At the Closing, the City shall purchase and Seller shall sell, deliver and convey the Purchased Assets to the City free and clear of all Liens upon the terms and subject to the conditions set forth in this Agreement.

At the Closing, the City shall pay the Purchase Price, the City shall assume responsibility for the performance and satisfaction of the Assumed Liabilities in accordance with the assignment and assumption agreements executed by the parties and delivered at the Closing and City shall not assume or be responsible for any obligations or liabilities of Seller or otherwise in respect of the Utility System and/or the Purchased Assets which are not Assumed Liabilities.

SECTION 3.02 PURCHASED ASSETS; EXCLUDED ASSETS.

(A) The assets of Seller to be purchased by the City hereunder (the "Purchased Assets") shall consist of those assets, properties, rights and interests (both tangible and intangible) described below:

(1) Easements; Rights of Use. All Easements recorded or otherwise existing and any others that Seller owns or possesses that are necessary for the operation, maintenance and business of the Utility System and use of the Purchased Assets;

(2) Utility System Facilities and Elements. All water wells, water supplies, wells, collection, transmission, and distribution system piping, pumping, of every kind, location, installation and description whatsoever including, without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, machinery, controls, tanks, treatment equipment, distribution, collection or transmission pipes or facilities, meters, valves, service connections, communication and control equipment, and all other physical facilities, elements, components, appurtenances and property installations used or useful in the operation of the Utility System, and all improvements to said water system, together with an assignment of all existing and assignable third party warranties, guaranties, indemnities, performance standards, and ownership documents;

(3) Customer Records. All equipment, instruments, devices, components and other personal property, including, but not limited to, customer records, customer meters, and meter reading devices;

(4) Surveys; Records. All as-built surveys and water plans, surveys, plats, engineering and other drawings, designs, blueprints, plans and specifications, maintenance and operating manuals, engineering reports, calculations, computer studies, accounting, and business records of Seller and all other information relating to the Utility System and the Purchased Assets, in each case, controlled by or in the possession of Seller that relate to the description and operation of the Utility System and/or Purchased Assets;

(5) Permits. To the extent that they may be transferred, 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 own, operate, and maintain the Utility System according to all applicable laws and governmental requirements;

(6) Operating Records. The following records in paper and electronic form, as available: (a) all information required by applicable law, rule, regulation, code, or ordinance or requirement of any regulatory, administrative or governmental authority, insurers and sureties to be maintained related to the Utility System and the Purchased Assets; (b) all information provided through the due diligence process; (c) engineering project files; (d) electronic map files; (e) environmental files; (g) daily operations logs; (j) operations files; (h) any consents or administrative orders; (i) service and warranty records; (j) equipment logs, operating guides, and manuals; (k) database of customer accounts and customer records; (l) updated fixed asset list;

and (m) copy of the general ledger; and (n) any other records related to the ownership, operation or maintenance of the Utility System and/or Purchased Assets;

(7) Customer Deposits. All deposits or other funds placed by any customer with Seller on or prior to the Closing;

(8) Claims. All claims of Seller against third parties, including any insurers, whether choate or inchoate, known or unknown, contingent or non-contingent, relating to (a) the Utility System or the Purchased Assets and (b) a tacking of time periods for any prescriptive easement or adverse possession claim;

(9) Warranty Rights. All rights of Seller under or pursuant to all warranties, representations, indemnities, performance standards, and guarantees made by vendors and contractors in connection with goods and services provided to Seller for the Utility System or the Purchased Assets.

(B) The Purchased Assets shall be conveyed by Seller to the City free and clear of all Liens.

(C) The Purchased Assets do not and shall not include the Excluded Assets as follows:

(1) Rights under the Transaction Documents. All of Seller's rights under the this Agreement and the other transaction documents, including the consideration paid to Seller pursuant to this Agreement;

(2) Corporate Records. All minute books and stock ownership and transfer records of Seller;

(3) Cash. All cash, cash equivalent and securities and accounts receivable of Seller.

- (4) Contracts. All contracts, indentures, mortgages, security agreements, loan agreements, credit agreements, purchase orders and arrangements with contractors, consultants, advisors, vendors and service providers except with respect to any warranty, indemnity, performance standard or guarantee.
- (5) Related Party Arrangements. Any contract, agreement, loan, guarantee or other arrangement between Seller and any Shareholder or other past or present officer, directors, shareholder or employee of Seller or any related party.
- (6) Vehicles. Any vehicles, rolling stock, tools, parts or consumables.
- (7) Benefit Plans. Any assets of or relating to an employee benefit plan.
- (8) Certain Contracts. All rights Seller has or may have under contracts, with the exception of warranties, indemnities, performance standards and guarantees by contractors, vendors and service providers.
- (9) Personnel Records. Personnel records and other records that Seller is required by Law to retain in its possession (the "Excluded Books and Records").
- (10) Equity Interests. Any equity interest in Seller or in any corporation, limited liability company, partnership or other entity in which Seller owns any equity interest (including any equity interest in any Affiliate of Seller).
- (11) Real Property. Any real property owned by Seller which is not used in operation of the Utility System and all easements, land use and development rights and agreements, and all impact fee credits benefitting the same.
- (12) Office Equipment. Any computers, copiers, fax machines, telephones, furniture or other office equipment.

(D) Removal of Excluded Assets. No later than Closing, Seller shall remove all Excluded Assets from the Real Property portion of the Utility System. Such removal shall be done in such manner as to avoid (1) any damage to the Purchased Assets, and (2) any disruption to the operation of the Purchased Assets after the Closing. The City shall have the right, but not the obligation, and at no cost to Buyer (1) to remove and dispose of any Excluded Assets not timely removed by Seller at Seller's sole cost and expense; (2) to store the Excluded Assets and to charge Seller all storage costs associated therewith; or (3) to exercise any other right or remedy conferred by law or this Agreement. Seller shall, within ten (10) days of receipt of any written notice, reimburse the City for all costs, fees and expenses incurred by the City from time to time in connection with any Excluded Assets not timely by Seller.

(E) The City does not assume any debts, liabilities, obligations, or other financial or service obligations of Seller, except as returning a pro-rata share of the utility payments made by Seller's customers in an amount not to exceed Six Thousand Five Hundred Dollars (\$6,500.00), said amount shall be deducted from the purchase price, hereto or except as may be expressly provided hereunder. The final amount to be deducted from the purchase price subject to the foregoing shall be determined at the Closing.

(F) Claims. The City does not assume and shall not be liable for any indebtedness, expense, assessment, exposure, fine, penalty, liability, act or omission of any kind whatsoever of Seller imposed or required by any governmental authority, related party or third party, whether known or unknown, contingent, liquidated or not liquidated, arising or accruing under contract, tort, or pursuant to statute, rule, ordinance, law, regulation or otherwise, arising or accruing before the Closing Date, regardless of when the claim is made. Seller shall remain liable for and shall pay, perform or discharge all such liabilities and obligations. The City does not assume,

and is not liable for, any litigation or other proceeding pending at the Closing involving Seller, the Shareholders, the Utility System or the Purchased Assets.

SECTION 3.03 PURCHASE PRICE. The aggregate purchase price for the Purchased Assets shall be Eight-Four Thousand Dollars (\$84,000.00) ("Purchase Price"), subject to the terms, adjustments and pro-rations provided herein. The Purchase Price shall be payable by the City to Seller in immediately available funds at the Closing.

ARTICLE IV

CONDITIONS PRECEDENT TO THE CLOSING

SECTION 4.01 PROVISION OF INFORMATION BY SELLER.

(A) Information. Seller has gathered, and delivered to the City, the information described in Section 2.02 hereof.

(B) Utility System Documents. Seller shall deliver to the City any maps, plans, drawings, construction documents or specifications for the Utility System and other information related to the operation of the Utility System and the Purchased Assets not previously delivered to the City for its review within ten (10) days after the execution of this Agreement.

(C) Transaction Documents. Seller and the Shareholders shall have delivered to Buyer the documents, instruments and other deliveries set forth in Section 5.02 of this Agreement.

(D) Consents. Seller and the Shareholders shall have delivered to Buyer the consents, approvals, waivers, and authorizations required from any person or entity for Seller to consummate the transactions contemplated by this Agreement.

(E) Bringdown. The representations and warranties of Seller and the Shareholders contained in this Agreement or in any transaction document shall be true in all material respects

on and as of the Closing Date as though such representations and warranties were made at and as of such date.

(F) Compliance. Seller and the Shareholders shall have performed and complied with all agreements; covenants and conditions required by this Agreement and the transaction documents prior to or at the Closing Date.

(G) No Injunction. On the Closing Date, there shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by a court of competent jurisdiction directing that the transactions provided for herein or any of them not be consummated as herein provided.

(H) No Casualty. On Closing Date, the Purchased Assets, or any portion thereof, shall not have been adversely affected in any material way as a result of force majeure, casualty, condemnation or act of Seller or any other person or entity.

(I) No Adverse Effect. There shall have been no events, occurrences or circumstances, between the date of this Agreement and the Closing Date which would have a material adverse effect on the condition of the Utility System or Purchased Assets.

(J) Buyer Approvals. Council shall approved and fully and finally conducted all public hearings required by Florida Statutes, including but not limited to sections 180.301, 180.03, and 180.04, Florida Statutes. Buyer further shall have received such other consents, approvals, clearances or certificates related to the transactions contemplated by this Agreement from all applicable governmental authorities and third parties as Buyer shall reasonably request.

SECTION 4.02 FINANCIAL DUE DILIGENCE. The City has had the ability to conduct due diligence investigation of the Purchased Assets and an opportunity to examine the billing analysis/annual report and to cause to be prepared at its expense a due diligence

investigation of the revenues of the Utility System by a City rate consultant, Finance Director or other agent selected by it. The City has relied upon the truth, accuracy and completeness of the Seller's books, records, accounts, maps, plans, asset lists, public filings, documents and analysis and its own financial due diligence investigation in entering into this Agreement.

SECTION 4.03 ENCUMBRANCES. Seller and the Shareholders represent and warrant that the Purchased Assets are free of and not the subject to any Lien. At its election, the City may search the Official Records of the City, County and the records of the Secretary of State for uniform commercial code financing statements evidencing a secured interest in the Purchased Assets other than the Real Property. Such search shall be at the City's expense. Any Lien on secured interests in the Purchased Assets identified by the City on the basis of such search must be identified by the City to the Seller not less than five (5) days prior to the Closing and must be paid off, released or terminated at the Seller's expense on or prior to Closing provided that, the City's failure to identify any such Lien or security interest shall not relieve the Seller of its obligation hereunder to convey all Purchased Assets free and clear of all Liens.

SECTION 4.04 TRANSFER OF PERMITS.

(A) Within five (5) days after the Closing, Seller shall prepare any and all notices or documents required by SWFWMD and/or FDEP to transfer the permits and governmental approvals of the Utility System. The City shall cooperate with Seller in the transfer of all permits and governmental approvals and provide all reasonably necessary assistance in this endeavor, including, but not limited to, execution at the Closing of permit transfer applications or joint notices, if necessary.

(B) The City and Seller acknowledge that to the extent that the transfer of permits cannot be effectuated until after the Closing of the transactions contemplated by this Agreement, and the parties proceed to Closing, the obligations hereunder relating to transfer of permits shall constitute a post-Closing obligation of the parties until completed. [All charges and costs for the transfer of permits shall be shared equally by Seller and the City.]

SECTION 4.05 FRANCHISE UTILITY FILINGS. Prior to the Closing, Seller shall be in compliance with all franchise utility regulatory filing requirements and any other requirements of the Florida Public Service Commission, including with respect to the sale of the Utility System and the Purchased Assets by Seller to Buyer and the cessation by Seller of service to customers. Seller shall make available for review and copying by the City of all filings made by the Seller with any governmental agency in order to comply with such requirements.

SECTION 4.06 DEADLINE TO CLOSE AND DISBURSE. Subject to any extensions agreed to by the parties, if the Closing does not occur on or before January 20, 2017, then Seller or the City shall have the option of: (1) waiving this deadline in writing and establishing an outside date for Closing or (2) terminating this Agreement, thereupon the City and Seller shall have no liability and no further obligations to each other under this Agreement unless the Closing did not occur as a result of the unexcused failure, omission or breach by a party of its representations, warranties, obligations or covenants.

ARTICLE V

CLOSING PROCEDURES

SECTION 5.01 DATES AND PLACE FOR CLOSING. The Closing shall be held at the Office of Bryant Miller Olive P.A. ("Closing Agent"), on or before January 20, 2017 ("Closing Date"), or as mutually agreed among the parties.

SECTION 5.02 CLOSING.

(A) At the Closing, Seller and the Shareholders shall deliver or cause to be delivered to Buyer:

- (1) possession and control of the Purchased Assets, including all applicable keys, access cards, access codes and other entry devices;
- (2) a certificate executed and delivered by the Secretary of Seller certifying:
 - (i) the organizational documents of Seller and (ii) copies of resolutions of the governing body of Seller and the Shareholders adopting and authorizing the transactions contemplated by this Agreement;
- (3) a Certificate of Status of Seller issued not earlier than ten (10) days prior to the Closing Date by the Florida Department of State;
- (4) Assignment of Easements for all easements;
- (5) Transfer, Assignment and Assumption Agreements covering permits and approvals, rightsto and other interests in the Purchased Assets;
- (6) Bill of Sale and other documents of assignment and transfer, with full warranties of title, to all Purchased Assets;

(7) Any affidavits, certificates, estoppel certificates, corrective instruments, consents, approvals, authorizations, releases, satisfactions or terminations necessary to close; and.

(8) Other certificates and documents reasonably requested by Buyer or Closing Agent.

(B) Seller shall pay all Taxes and fees necessary for transfer, filing or recording the transaction documents affecting the transfer of the Purchased Assets to the City.

SECTION 5.03 CLOSING.

(A) At the Closing, Seller and each Shareholder shall furnish a certificate reaffirming its/his representations and warranties as set forth in this Agreement up to the Closing Date, and a release of documents from the Escrow Closing.

(B) At the Closing, the City shall furnish the closing statement, a certificate reaffirming the City's representations and warranties as set forth in this Agreement up to the Closing Date, and a release of documents from the Escrow Closing.

(C) From time to time prior to and after the 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 reasonably requested in order to fulfill the purpose and objective of the parties in entering into this Agreement, including for the purpose of (1) confirming deeds or correcting title in the name of the City or perfecting possession by the City of any or all of the Purchased Assets in existence or use at the time of the Closing and particularly such Purchased Assets not known to Seller as of the date this Agreement is signed by Seller, including the establishment of Easements of record, without resort to litigation, expenditure of monies or other extraordinary

means, or (2) otherwise fulfilling the obligations of the parties hereunder. The parties acknowledge and agree that the rights and obligations pursuant to this Section shall survive the Closing Date.

SECTION 5.04 PROPERTY TAXES. Seller shall be required to escrow through the Closing Agent for payment to the Tax Collector of Pasco County an amount equal to the current ad valorem taxes, personal property taxes and assessments due (real and personal), prorated through the Closing Date in accordance with Section 196.295, Florida Statutes. The City, at no cost or expense, shall reasonably cooperate with Seller in its effort to recover any Taxes paid in excess of that due through the Closing Date. However, in no event shall the City be responsible for payment or reimbursement of any ad valorem taxes, personal property taxes or assessments (real or personal) for the current year or year in which are not cancelled after the Closing Date.

SECTION 5.05 ACCOUNTS RECEIVABLE; CUSTOMER DEPOSITS. Seller hereby agrees to cooperate with the City to ensure an orderly transition of all of its customers with respect to billing and customer service activities including, but not limited to, working with the City on a compatible format for transfer of customer data, if reasonably practical. The parties agree that the City will be entitled to all customer billings and payments by customers of such billings with respect to water services for the period on or after the Closing Date, and Seller will be entitled to all such billings prior to the Closing Date, such billings being considered an Excluded Asset under this Agreement. After the Closing, any payments received by the City or Seller with respect to utility services provided utilizing the Purchased Assets shall belong to the City or Seller as provided above. If such payment or the documentation relating thereto does not indicate whether such payment is for the period prior to or after Closing, the

City and Seller shall jointly determine whether the payment belongs to the City or Seller. If either the City or Seller receives a payment which under the terms of this Agreement which properly belongs to the other, the party in receipt of such payment shall hold such payment in trust for the other party and shall turn the payment over to the other party upon receipt thereof without any right of setoff. Seller shall transfer to Buyer as a Purchased Asset all remaining customer deposits and accrued interest thereon through the Closing in the manner permitted by law. The parties shall meet monthly and upon written request by a party for purposes of coordinating the collection of payments received by the City and Seller for billings with respect to water service.

SECTION 5.06 PROFESSIONAL FEES; COSTS. Each party shall be responsible for securing its own counsel and advisors for representation and advice in connection with the negotiation of this Agreement, and all other matters associated with performance, termination or the 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.

SECTION 5.07 RISK OF LOSS. At all times prior to and until the Closing, Seller shall maintain adequate insurance coverage for the cost of any replacement of or repairs to the Utility System and the Purchased Assets that may arise out of or be required by casualty damage. The risk of loss with regard to the Utility System and the Purchased Assets during the period of time prior to the Closing shall remain with the Seller. The risk of loss with regard to the Purchased Assets shall pass to the City upon the Closing.

ARTICLE VI

GENERAL PROVISIONS

SECTION 6.01 RIGHT TO ENTER. Prior to the Closing, the City shall have the right, at any reasonable time during normal business hours with twenty four (24) hours prior notice to Seller, to enter upon Seller's property to inspect the Utility System and the Purchased Assets and Seller's records, in order to familiarize itself with day-to-day operations, to review the operational practices of Seller, to assess the existence and condition of the Utility System and the Purchased Assets and to assess compliance by the Seller, the Utility System and the Purchased Assets with any and all federal and state regulatory requirements and this Agreement; provided, however, that such access shall not be had or done in any such manner so as to unreasonably interfere with the Purchased Assets; and provided further that no such access, entry, inspection, review of other activity of City shall relieve, discharge or diminish the representations, warranties, obligations and covenants of Seller and the Shareholders hereunder.

SECTION 6.02 CONDUCT BETWEEN EXECUTION AND CLOSING. After the date of execution of this Agreement until the Closing, Seller shall:

- (A) Continue to provide water to its current customers and bill for such water in the ordinary and usual manner;
- (B) Comply with all legal, permit and governmental requirements, contractual obligations and operate and maintain the Utility System in the ordinary course of business, consistent with prior practice;
- (C) Not, except in the ordinary course of business or as required by law, dispose of any of the Purchased Assets, without the prior written consent of the City, which consent shall not be unreasonably withheld and which shall be acted upon promptly by the City;

(D) Confer with the City prior to implementing operational decisions (i) of a material nature which are not in the ordinary course of business or (ii) which may constitute an obligation or liability of the City following the Closing and refrain from implementing any such decision without the prior written consent of the City;

(E) Maintain all books and records relating to the Utility System and Purchased Assets in the ordinary course of business;

(F) Provide to the City complete copies of all known Easements of Seller; and

(G) Correct any Appendices to accurately reflect the status of deeds, easements, equipment lists or other documents or document lists as may be agreed among the parties prior to the Closing Date.

Notwithstanding the foregoing in this Section 6.02, Seller shall have the right until the Closing, and in its sole and absolute discretion, to settle any or all disputes provided such settlement does not (i) modify Utility System rates, fees, charges or revenue, (ii) materially modify the Purchased Assets; (iii) potentially or actually impose any obligation, duty, responsibility, limitation, restriction or liability upon the City, (iv) result in a Lien on any portion of the Utility System or the Purchased Assets or (v) otherwise impact the ability of the City to acquire, operate and maintain the Purchased Assets and provide water to customers in accordance with applicable laws, permits, the City's ordinary course of business and good industry practice.

SECTION 6.03 APPLICABLE LAW; JURISDICTION AND VENUE; JURY TRIAL WAIVER.

(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 that exclusive venue for any claim, dispute or litigation arising under, relating to or in connection with this Agreement and the transactions contemplated by this Agreement shall be in the Circuit Court of the Sixth Judicial Circuit of the State of Florida in and for Pasco County, Florida. The parties hereby waive to the maximum extent permissible under applicable law trial by jury in respect of any claim, dispute or litigation relating to this Agreement. The parties agree that prior to the commencement of litigation of any such claim, dispute or disagreement, management level representatives of each party shall meet and confer for a period of twenty (20) days after notice by one party to the other of the existence of the claim, dispute or disagreement to amicably resolve the matter.

SECTION 6.04 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, postage prepaid, or delivered by nationally recognized delivery or courier service, charges prepaid, to the parties at the following addresses:

To the City: City Manager
5919 Main St.
New Port Richey, FL 34652

with required copies to: City Attorney
5919 Main St.
New Port Richey, FL 34652

To Seller: AdvisorEnterprises, Inc.
7552 Congress St.
New Port Richey, FL 34653

with required copies to: Verras Law, P.A.
Attn: Spiro J. Verras, Esq.
31640 US Hwy 19 N, Suite 4
Palm Harbor, FL 34684

(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) of this Section.

(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. Any notice shall be deemed given on the date such notice is delivered by hand, or five (5) days after the date mailed.

SECTION 6.05 ASSIGNMENT AND JOINDER. Neither the Seller nor the City shall have the power or authority to assign this Agreement or any of their rights, duties or obligations hereunder to a third party, without the prior written consent of the other party. This Agreement shall be construed as solely for the benefit of the Seller and City, and their successors by law, and no right, remedy, benefit, privilege or claim or cause of action shall accrue to or for the benefit of any other third party by reason hereof.

SECTION 6.06 CITY LIABILITIES. The City shall not be obligated to pay any liability arising out of or in any connection whatsoever with this Agreement from any funds except from the net revenues realized by the City after the Closing from its ownership and operation of the Utility System or the Purchased Assets. It is further agreed between the City and Seller that this Agreement and any obligations arising in connection herewith, whether for payment of the Purchase Price, or for any claim of liability, remedy for breach or otherwise, shall not constitute a lien, charge, security interest or other encumbrance on the Utility System, the Purchased Assets or any other property owned, leased or operated by the City.

SECTION 6.07 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 will be effective unless made in writing by the party to be bound thereby, and no waiver shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

SECTION 6.08 ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, pertaining to the subject matter hereof, and there are no warranties or representations, express or implied, or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein.

SECTION 6.09 EFFECT OF TERMINATION. This Agreement may be terminated (A) by written agreement of the parties, (B) by any party if the Closing has not occurred on or before December 31, 2016, and (C) by the non-defaulting party if the other party materially defaults in performance of any of its covenants, obligations or agreements under this Agreement, or if any representation or warranty by such other party was at the signing or thereafter becomes materially untrue. In the event of the termination of this Agreement in accordance with its terms, this Agreement shall then become void and have no effect, with no liability on the part of any of the parties to this Agreement or their affiliates, except that nothing shall relieve a party from liability for any breach or default of this Agreement or accrued obligation or liability.

SECTION 6.10 TRANSITION SERVICES.

(A) The parties acknowledge and agree that the City will require a minimum period of sixty (60) days to prepare for an orderly and efficient transition of operations, customer service

and billing activities to the City and, as such, the parties acknowledge and agree that beginning on the execution date of this Agreement, the City and Seller will take all steps necessary and exert their respective commercially reasonable efforts, so as to create a seamless transition of such activities on or around the Closing Date.

(B) After the Closing, Seller and the Shareholders jointly and severally agree to pay in full and discharge all of the Excluded Liabilities, in accordance with their stated terms, as applicable, and in a manner that is not detrimental to Buyer or to any relationships of Buyer with customers or other persons.

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

City of New Port Richey

By: _____
Rob Marlowe, Mayor

Attest:

Judy Meyers, Interim City Clerk

APPROVED AS TO FORM AND
CORRECTNESS FOR THE SOLE
RELIANCE OF THE CITY:

By: _____
Nicole C. Nate, B.C.S.
Special Counsel to the City

James C. Weeks

Attest:

Rick Miller

Attest:

Advisor Enterprises, Inc.

By: _____
James C. Weeks
Its: _____

Attest:

Advisor Enterprises, Inc.

By: _____
Rick Miller
Its: _____

Attest:
