

ORIGINAL

NEW APPLICATION



0000099022

ATTACHMENT "A"

Tonto Creek Utility

HC 2 Box 94 G
Payson, Arizona 85541
928-478-4384

June 2, 2009

W-02784A-09-0276
W-20682A-09-0276

Docket Control
Arizona Corporation Commission
1200 W Washington St
Phoenix, Arizona 85007

Attached is an application by Tonto Creek Utility for Approval of the Sale of Assets AND Transfer of Certificate of Convenience and Necessity.

The purpose of this application is to obtain Arizona Corporation Commission Approval of a sale of assets of Tonto Creek Utility to Tonto Creek Water Company, LLC. And transfer the Certificate of Convenience and Necessity from Tonto Creek Utility to Tonto Creek Water Company, LLC.

Pam Fisher

Secretary/Treasurer

RECEIVED

2009 JUN -1 A 10: 56

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

JUN -1 2009

DOCKETED BY	<i>nr</i>
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ARIZONA CORPORATION COMMISSION

APPLICATION FOR APPROVAL OF THE SALE OF ASSETS AND/OR TRANSFER OF
CERTIFICATE OF CONVENIENCE AND NECESSITY

WATER AND/OR SEWER

A. The name, address and telephone number of the Transferor (Company) is:

TONTO CREEK UTILITY 928.478-4384
HC 2 BOX 94G
PAYSON, AZ 85541

B. If doing business under a name other than the Transferor (Company) name, specify:

N/A

C. The Transferor is a:

<input checked="" type="checkbox"/> Corporation: <input checked="" type="checkbox"/> "C", ___ "S", ___ Non-Profit ___ Arizona, ___ Foreign	<input type="checkbox"/> Partnership ___ Limited, ___ General ___ Arizona, ___ Foreign
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Limited Liability Company
<input type="checkbox"/> Other (Specify)	

D. List the name, address and telephone number of the attorney for the Transferor.

N/A

E. List the name, address and telephone number of management contact:

JERRY FISHER 928-478-4384
HC2 BOX 94G
PAYSON, AZ 85341

F. The name, address and telephone number of the Transferee (Company) is:

TONTO CREEK WATER CO. LLC.
4486 E FORD AVE GILBERT AZ 85234
480-664-0220

G. If doing business under a name other than the Transferee (Company) name, specify:

N/A

H. List the name, address and telephone number of the attorney for the Transferee.

N/A

I. List the name, address and telephone number of management contact:

JULIE A. REA
4486 E FORD AVE GILBERT AZ 85234
480-664-0220

J. (Transferee) List the name, address and telephone number of the on-site manager of the utility:

JERRY FISHER

HC2 Box 94 928-478-4384

PAYSON AZ 85541

K. (Transferee) List the name, address and telephone number of the certified operator as authorized by the Arizona Department of Environmental Quality:

JERRY FISHER 478-4384

HC2 Box 94

PAYSON, AZ 85541

L. The Transferee is a:

<input type="checkbox"/> Corporation: <input type="checkbox"/> "C", <input type="checkbox"/> "S", <input type="checkbox"/> Non-Profit <input type="checkbox"/> Arizona, <input type="checkbox"/> Foreign	<input type="checkbox"/> Partnership <input type="checkbox"/> Limited, <input type="checkbox"/> General <input type="checkbox"/> Arizona, <input type="checkbox"/> Foreign
<input type="checkbox"/> Sole Proprietorship	<input checked="" type="checkbox"/> Limited Liability Company
<input type="checkbox"/> Other (Specify)	

M. If Transferee is a corporation:

1. List names of Officers and Directors:

Officers

Directors

2. Indicate the number of shares of stock authorized to issue:

3. If stock has been issued, indicate the number of shares issued and the date of issue:

N. If Transferee is a partnership:

1. List the names of general partners:

JULIE A. REA
JAMES C. REA

2. List name, address and telephone number of managing partner:

JULIE A REA
4486 E FORD AVE 480-664-0220
GILBERT AZ 85234

◆ If Applicant is a foreign limited partnership, provide a copy of the Partnership's "Certificate of Registration" with the Arizona Secretary of State

O. If Transferee is a sole proprietor, list name, address and telephone number of individual:

P. Have all customer security deposits been refunded? Yes ___ No ___. If no, mark the block below which describes the proposed disposition of security deposits.

___ All security deposits will be refunded at time of closing.

___ All security deposits will be transferred to the Transferee.

Other (explain).

N/A

Q. Are there any refunds due on Main Extension Agreements? Yes No ___. If Yes, mark the block below which describes the proposed disposition of the refunds.

___ Transferor will continue to refund after the transfer.

___ Transferee will assume the refunding obligations.

A full refund will be made at closing by Transferor.

___ Other (explain).

R. (WATER ONLY) Are there any refunds due on meter and service line installations?
Yes No ___. If Yes, mark the block below that describes the proposed disposition of refunds.

___ Transferor will continue to refund after the transfer.

___ Transferee will assume the refunding obligations.

A full refund will be made at closing by Transferor.

___ Other (explain).

S. (Transferee) Attach the following exhibit(s):

1. Copy of bill of sale, purchase contract or other instrument, which conveys the assets to the transferee.
2. Articles of Incorporation (if corporation)
3. By-Laws (if corporation)
4. Certificate of Good Standing (if corporation)
5. Articles of Partnership (if partnership)
6. Articles of Organization (if limited liability company)
7. Corporate Resolution if required by Articles of Incorporation
8. Attach a copy of the transfer of City or County Franchise from the Transferor to Transferee.

T. List names and addresses of any other public utility interest Transferee has:

1. _____
2. _____

U. Indicate the date that notice of the application was sent, or will be sent to the customers.

JUNE 2, 2009.

DATED the 19TH day of May, 2009

Pam Fisher

(Signature of Authorized Representative of Transferor)

PAM FISHER

(Type Name Here)

Sec/Treas

(Title)

SUBSCRIBED AND SWORN to before me on this 19TH day of MAY 2009

Marque B. Chapman

NOTARY PUBLIC

My Commission Expires April 1, 2011

[Signature]

(Signature of Authorized Representative of Transferee)

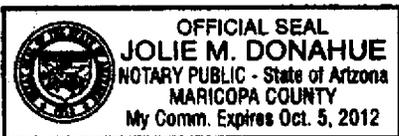
JAMES C. REA

(Type Name Here)

VICE PRESIDENT

(Title)

SUBSCRIBED AND SWORN to before me on this 27th day of May 2009



Jolie M. Donahue

NOTARY PUBLIC

My Commission Expires Oct 5, 2012

AGREEMENT

This agreement (the "Agreement") is entered into as of the 1st of June, 2009, by and between Tonto Creek Utility Co. ("Party One") and Tonto Creek Water Co. LLC ("Party Two") (collectively the "Parties"). This agreement is contingent on the approval of application to the Arizona Corporation Commission for a Transfer of Assets and a transfer of Certificate of Convenience and Necessity. The closing will take place as of the date of approval by the Arizona Corporation Commission.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained in this Agreement, it is hereby agreed by and between the Parties as follows:

1) PARTY ONE OBLIGATIONS.

Party One does hereby covenant and agree that it shall:

Transfer ownership of all the assets of the "Tonto Creek Utility Co." including, but not limited to, structures, improvements, wells, springs, pumping equipment, distribution reservoirs and standpipes, distribution mains, services, meters, tools, and miscellaneous equipment. Transfer ownership of Lot 23 (Parcel Identification 927-21-001 7 APN #303-03-24A) located in Tonto Creek Estates in a separate contract. Assume responsibility for any existing taxes, liens, encumbrances, or any other issues prior to the finalized contract date.

2) PARTY TWO OBLIGATIONS.

Party Two does hereby covenant and agree that it shall:

Assume ownership, and pay \$15,000, for all of the above mentioned items under "Tonto Creek Water Co. LLC". Purchase Lot 23 (Parcel Identification 927-21-001 1 APN #303-03-24A) located in Tonto Creek Estates in a separate contract. Assume responsibility for any future taxes, liens, encumbrances or any other issues after the finalized contract date.

3) REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

A. Party One hereby represents and warrants:

There are no outstanding issues concerning "Tonto Creek Utility Co.", are in compliance with all county and state ordinances, and in good standing with the Arizona Corporation Commission. Party One has a good and marketable title to the assets being sold. The assets will be free from encumbrances at closing. There are no Judgments, claims, liens or proceedings pending against Party One, the business or the assets being sold, and none will be pending at closing. Party One transfers property "as is and where is".

Party One will make a full refund of all Main Extension Agreements, and meter and service line installation deposits due at closing.

- B. Party Two has inspected the tangible assets that Party Two is purchasing and the premises covered by the purchase and is satisfied with their condition.

4) ARBITRATION.

The Parties agree that any dispute or controversy arising out of this Agreement shall be settled by Arbitration to be held in Gila county, state of Arizona, in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the Parties. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The Parties shall each pay one-half of the costs and expenses of such arbitration, and each of the parties shall separately pay counsel fees and expenses.

5) GENERAL PROVISIONS.

A. Notices. Any notice or other communication provided for herein or given hereunder to a party hereto shall be in writing and shall be given by delivery, by facsimile or by mail (registered or certified mail, postage prepaid, return receipt requested) to the respective party as follows:

If to Party One:
Tonto Creek Utility Co.
HC 2 Box 94-G
Payson, Arizona 85541

If to Party Two:
Tonto Creek Water Co. LLC
4486 E. Ford Ave.
Gilbert, Arizona 85234

B. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Parties, and their respective successors, assigns, heirs, executors and administrators; provided, that neither party may assign any duties or her rights hereunder without the written consent of the other party.

C. Waiver and Amendment. Neither party may waive any of the terms or conditions of this Agreement, nor may this Agreement be amended or modified, except by a duly signed writing referring to the specific provision to be waived, amended or modified.

D. Entire Agreement. This Agreement constitutes the entire agreement with respect to the subject matter hereof, and supersedes all other prior agreements and understandings, both written and oral, among the parties hereto and their affiliates.

E. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provisions had never been contained herein.

F. Governing Law. This Agreement shall be governed by the laws of the state of Arizona, without regard to its conflicts of law provisions.

G. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties, with the full intent of releasing all claims. The Parties acknowledge that:

- (i) they have read this Agreement;
- (ii) they have been represented, or, in the alternative, have had the opportunity to obtain representation, in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice;
- (iii) they understand the terms and consequences of this Agreement and of the releases it contains; and
- (iv) they are fully aware of the legal and binding effect of this Agreement.

H. Counterparts/Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail or other electronic medium shall have the same force and effect as an original signature.

[SIGNATURE PAGE FOLLOWS]

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

PARTY ONE:

Tonto Creek Utility Co.
Pam Fisher
Pam Fisher (Secretary/Treasurer)

Jerry Fisher
Jerry Fisher (President)

State of Arizona
County of Gila

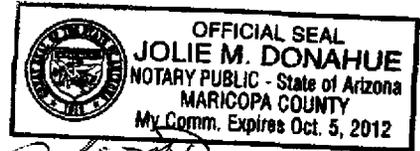
Acknowledged before me this 28th
day of May, 2009.
My Commission Expires March 16, 2013

Angela Parker
Notary Public

PARTY TWO:

Tonto Creek Water Co. LLC
Julie A. Rea
Julie A. Rea (President/General Manager)

James C. Rea
James C. Rea (Vice President)



Jolie M. Donahue
June 1, 2009

Angela Parker for Pam Fisher
and Jerry Fisher

APR 21 2009

FILE NO. L-1520843-5

DO NOT WRITE ABOVE THIS LINE, FOR ACC USE ONLY

ARTICLES OF ORGANIZATION

DO NOT PUBLISH THIS SECTION

NOTE: A professional limited liability company is an LLC organized for the purpose of rendering one or more categories of professional service. Professional service is defined as a service that may be lawfully rendered only by a person licensed in this state to render the service.

1. The LLC name must contain the words "limited liability company" or "limited company" or the abbreviations "L.L.C.", "L.C.", "LLC", or "LC". The Professional LLC must contain the words "professional limited liability company" or the abbreviations "P.L.L.C.", "P.L.C.", "PLLC", or "PLC."

2. Must be an Arizona address. DO NOT LEAVE THIS SECTION BLANK

3. If the statutory agent has a PO BOX then they must also provide a physical address or description of the location.

The agent must sign the articles or provide written consent to acceptance of the appointment.

Select one. This form may be used for:

- ARIZONA LIMITED LIABILITY COMPANY (A.R.S. §29-632)
- ARIZONA PROFESSIONAL LIMITED LIABILITY COMPANY (A.R.S. §29-841.01)

1. The name of the organization:

A. _____
 LLC Name Reservation File Number (if one has been obtained). If not, leave this line blank

B. Tonto Creek Water Company LLC
 Limited Liability Company Name

2. Known place of business in Arizona (if address is the same as the street address of the statutory agent, write "same as statutory agent". DO NOT LEAVE THIS SECTION BLANK)

Address 4486 E. Ford Ave.

City Gilbert State Arizona Zip 85234

3. The name and street address of the statutory agent in Arizona

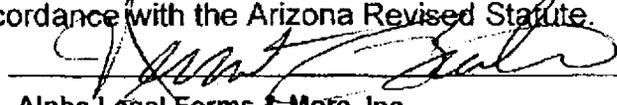
Name Alpha Legal Forms & More, Inc.

Address 4500 E. Speedway Blvd., Suite 31

City Tucson State AZ Zip 85712

Acceptance of Appointment by Statutory Agent:

I Alpha Legal Forms & More, Inc., having been designated to act as
(Print Name of the Statutory Agent)
Statutory Agent, hereby consent to act in that capacity until removed or resignation
is submitted in accordance with the Arizona Revised Statute.

Agent Signature: 
Alpha Legal Forms & More, Inc.

By: Kermit Burton, President

If signing on behalf of a company, please print the company name here.

DO NOT PUBLISH SECTION

Any required for professional limited liability company. The purpose must state the professional service or services that the company is organized to perform. Professional service is defined as a service that may be lawfully rendered only by a person licensed in this state to render the service.

5. The latest date, if any, on which the Company must dissolve. If a dissolution date should include the month, day and year. Perpetual means continuing forever or indefinitely

6. Check which management structure will be applicable to your company. Provide name, title and address for each person.

6A. If reserved to the member(s), check the member's box and provide the name(s) and address (es) of each member. NOTE: if reserved to the member(s) you cannot list any manager.

6B. If vested in manager(s) check the manager's box and provide the name(s) and address (es) of each manager and each member who owns a twenty (20%) percent or greater interest in the capital or profits of the LLC/ PLLC.

The person (s) executing this document need not be a manager or member of the company.

4. Purpose of this (Professional) Limited Liability Company is to provide the following (professional) service(s): (Only required for a Professional LLC Company)

5. Dissolution: The latest date of Dissolution

The latest date to dissolve ___/___/___ (Please enter month, day and four digit year)
 The Limited Liability Company is Perpetual

6. Management Structure: (Check one box only) A.R.S. §29-632(5)

A. RESERVED TO THE MEMBER(S)
IF RESERVED TO THE MEMBER(S), YOU MAY SELECT ONLY THE MEMBER BOX FOR EACH MEMBER LISTED.

B. VESTED IN MANAGER(S)
IF VESTED IN THE MANAGER(S), AT LEAST ONE ENTRY BELOW MUST HAVE THE MANAGER BOX CHECKED.

Name <u>Julie A. Rea</u>	Name <u>James C Rea</u>
<input checked="" type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)	<input checked="" type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)
Address: <u>4486 E. Ford Ave.</u>	Address: <u>4486 E. Ford Ave.</u>
City, <u>Gilbert</u> State, <u>Arizona</u> Zip: <u>85234</u>	City, <u>Gilbert</u> State, <u>Arizona</u> Zip: <u>85234</u>
Name _____	Name _____
<input type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)	<input type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)
Address: _____	Address: _____
City, _____ State, _____ Zip: _____	City, _____ State, _____ Zip: _____

IF YOU NEED MORE SPACE FOR LISTING MEMBERS / MANAGERS PLEASE ATTACH THE ADDITIONAL PAGE TO THE ARTICLES OF ORGANIZATION.

Executed this 20th day of April, 2009

Executed by: _____ Print Name _____

LegalZoom.com, Inc., a California corporation, Organizer
By: Imelda Vasquez, Assistant Secretary

If signing on behalf of a company, please print the company name here.

Phone Number: (323) 962-8600 X. 529 Fax Number: (323) 962-8300