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TONTO HILLS DOMESTIC WATER IMPROVEMENT DISTRICT

Mailing Address: P.O. Box 245, Cave Creek, AZ 85327
Office Address: 42265 N. Old Mine Road, Cave Creek, AZ. 85331

ORIGINAL

February 16, 2010

Arizona Corporation Commission
Attention: Docket Control
1200 West Washington Street
Phoenix, AZ. 85007-2927

Re: Docket No. W-02483A-09-0064 and Decision No. 71319

Gentlemen:

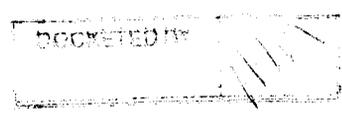
In compliance with the above opinion and order, enclosed is the "final contract and bill of sale, executed by Tonto Hills Utility Company and the Tonto Hills Domestic Water Improvement District".

Regards,

Charles Civer, Director

Arizona Corporation Commission
DOCKETED

FEB 19 2010



RECEIVED
2010 FEB 19 P 3:51
AZ CORP COMMISSION
DOCKET CONTROL

AGREEMENT FOR SALE

THIS AGREEMENT dated as of December 14th 2009 by and between Tonto Hills Domestic Water Improvement District, an Arizona special improvement district with offices located at 42265 Old Mine Road, Cave Creek, Arizona 85331 ("THDWID" or "Buyer"), and Tonto Hills Utility Company, an Arizona corporation with offices located at 11802 Blue Wash, Cave Creek, Arizona 85331 ("THUC" or "Seller"), is for the acquisition by the Buyer of the physical assets, certain contract assets and certain real property of the Seller ("Agreement").

WHEREAS, Seller is engaged in the business of the ownership and operation of a water transmission, storage and distribution system;

WHEREAS, the water system of Seller, hereinafter referred to as the "Physical Assets" consists of the connection to the delivery output hub of the City of Scottsdale water system within the Desert Mountain boundaries and the storage and distribution system. The system consists of the following principal elements:

1. A 2 ½ inch water line connecting the water storage tank to the City of Scottsdale supply hub.
2. The water storage tank, all steel, enclosed, approximately 64,000 gallons, including its hydraulic-operated fill-control valve.
3. The system of water lines, comprised of approximately 6000 feet of 6 inch diameter asbestos-concrete pipe (ACP); 20,000 feet of 4 inch ACP; 8000 feet of 2 inch poly-vinyl chloride (PVC) pipe; and 300 feet of 2 inch PVC pipe.
4. Thirty-three below-grade shutoff valves.
5. Fourteen standpipes with 2 inch threaded, standard fire hose connection hubs.
6. One hundred twenty-seven customer water meters (126 5/8 inch and one 1 inch), vaults and PVC connections to water mains.
7. Supplies, spare parts, meters and any other items in Seller's possession that are part of the system.

WHEREAS, Seller also has ownership of certain real estate located in Maricopa County Arizona, consisting of: a vacant land lot tax parcel #219-12-115, Tonto Hills Lot 115 ; and tax parcel #219-12-225, Tonto Hills Lot 225; and a waterline easement, granted by Desert Mountain Properties Limited Partnership to THUC, which is more particularly described in Exhibit A (all collectively the "Real Property"); and

WHEREAS, Seller also has certain Contract rights, collectively referred to herein as "Contracts", which includes the following:

1. Contract 1999-135-COS between the City of Scottsdale ("COS") and THUC;
2. Subcontract 07-XX-30-W0491 between THUC and the Central Arizona Water Conservation District (CAWCD); and
3. A U.S. Forest Service Lease; and

WHEREAS, Buyer desires to acquire from Seller and Seller desires to sell to Purchaser, the Physical Assets, the Real Property, the Contracts, personal property and all other Assets as defined herein;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Buyer and Seller hereby agree as follows:

Section I. Definitions. The capitalized words used in the above-referenced Recitals and used below shall have the following meanings:

Assets: Collectively, all tangible and intangible assets including, without limitation, all Physical Assets, Real Property, Contracts, Records, Equipment, those funds only in the Meter Deposit Account and all other contractual and leasehold rights, water rights, service area rights and franchise rights and right of way use or encroachment permits used in or related to the operation of Seller's water system, all of which shall be conveyed to Buyer at Closing.

Assignments: Those certain documents assigning to Buyer from Seller certain of the Assets, including without limitation the Contracts, that easement described hereinabove under the Real Property, and the franchise rights granted Seller by Maricopa County for the use of County right of way for a domestic water distribution system.

Closing: The date on which all of the conditions for payment set forth in Sections 3 and 4 have been satisfied.

Conditions to Closing: Those conditions as outlined in Sections 3 and 4 of this Agreement which must occur prior to December 31, 2009, but which shall be extended to June 30, 2010 by THUC as Seller upon signing this agreement. Buyer and Seller agree that in the event all governmental approvals and financing are not obtained by June 30, 2010, Seller may grant additional extensions at the request of the Buyer as are reasonably necessary to obtain such approvals and financing.

Equipment: The tangible personal property, whether affixed or not to the Real Property, which has been acquired or is under lease with Seller for use primarily in the operation of the utility facilities.

Letter of Intent: That letter signed by Buyer and Seller dated May 9, 2008, which memorializes the intentions of the parties as to this sale transaction. This Agreement supersedes the Letter of Intent in its entirety.

Meter Deposit Liabilities: Buyer's obligation to refund to customers those refundable meter deposits of Seller being assumed by Buyer. Buyer does not assume any other liabilities of Seller.

Meter Deposit Account: The customer refundable meter deposit account balance of Seller, the sum of which shall be conveyed to THDWID by THUC prior to Closing along with the schedule of remaining annual credits due for each of the individual customers which shall be provided to THWID by THUC, 5 days prior to Closing.

Opening of Escrow: The date upon which a fully executed copy of this Agreement is delivered to the Escrow Agent.

Permitted Encumbrances: Any matters of record with respect to the Real Property which are reflected on the Title Commitment as defined herein and any other matters approved by Buyer in its sole discretion. Notwithstanding anything to the contrary contained herein, on or before the Closing, Seller shall, at its sole cost and expense, fully pay, discharge and cause to be released, any mortgages, deeds of trust, installment land contracts, judgments, or other monetary liens (except for any taxes or assessments which are to be pro-rated at Closing) affecting or purporting to affect title to the Assets.

Records: All of Seller's service agreements, any and all other agreements, service, maintenance and repair records, water treatment records, contracts, hydrology and assured water supply studies and reports, Department of Water Resources filings and correspondence, Department of Environmental Quality filings and correspondence, customer data base information (if any), maps of current configuration, drawings, specifications, records of modifications, operating history documentation, copies of real property deeds and records, guaranties and warranties, hard copy and digital accounting records and any other non-privileged documents arising out of or relating to the utility facilities and the Assets.

Title Commitment: The title commitment attached to this Agreement for Sale as Exhibit C, and any amendments thereto, issued by the Title Insurer showing the status of title and committing to issue the Title Policy or Policies insuring Buyer's interest in the Real Property.

Title Insurer: North American Title Company, 36800 N. Sidewinder Rd., Carefree, Arizona 85377.

Title Policy: That Title Policy issued by Title Insurer with respect to the Real Property.

Transfer Instruments: Shall mean the following instruments:

- (i) Special Warranty Deed to the Real Property, in the form set forth in Exhibit E (the "Special Warranty Deed");
- (ii) Foreign Investment Real Property Tax Act of 1980 statement (FIRPTA);
- (iii) Bill of Sale for Contracts, Records, Equipment and other Physical Assets, including service area rights in the form annexed hereto as Exhibit D; and
- (iv) Assignments of agreements, easements and other rights as applicable.

WIFA Debt: That debt owed by Seller to the Arizona Water Infrastructure Finance Authority ("WIFA"). Prior to Closing that debt shall be current as to repayment installments and there shall be no Seller default conditions.

Section 2. Conveyance of Assets. Subject to the conditions and limitations set forth herein, Seller hereby agrees to sell and Buyer hereby agrees to purchase the Assets for the Purchase Price as defined herein.

2.1 Real Property: The Real Property shall be conveyed at the Closing by the execution and delivery by Seller of a Special Warranty Deed in the form attached hereto as Exhibit B and an assignment of easement in form reasonably satisfactory to the parties. Seller shall preserve title to the Real Property and, at the time of Closing, shall deliver the Real Property in as good or better condition with respect to title as of the date of the Title Commitment. At Seller's expense, Escrow Agent shall furnish Buyer a standard coverage owner's policy of title insurance in the amount of \$150,000, effective as of the date of Closing insuring Buyer that fee simple title to the Real Property is vested in Buyer.

2.2 Limitations. The purchase of the Assets pursuant hereto shall not render Buyer a successor-in-interest to Seller. Buyer is not assuming any liabilities of Seller with respect to the Assets that may exist at any time prior to their transfer hereunder unless otherwise specifically set forth herein. Buyer shall have no obligation of any kind under any contract or obligation of Seller unless expressly approved and assumed by Buyer.

2.3 Inspection of Materials. No later than 15 days prior to Closing, Seller shall make available to Buyer for inspection and copying at the offices of Seller all records pertaining to the Assets and operation and maintenance of THUC.

Section 3. Purchase Price. Subject to satisfactory completion of the conditions cited herein, Buyer agrees to pay Seller as the Purchase Price for Seller's interest in the Assets the sum of \$442,000.00, plus the amount of the WIFA Debt that is current and owed by Seller at Closing (the "Purchase Price"). The Purchase Price shall

be paid by Buyer into Escrow by wire transfer, cash or cashier's check drawn on a local federally insured bank or savings and loan association made payable to Escrow Agent. The entire Purchase Price will be disbursed to Seller at Closing, less any amounts to be paid by Seller hereunder, provided that Seller has satisfied all of the following conditions and any additional conditions under Section 4 hereof have been satisfied:

- 3.1 Seller has delivered to Escrow Agent originals of all of the Transfer Instruments satisfactory to Buyer, fully executed by Seller, transferring all of the Assets to Buyer.
- 3.2 Seller has delivered to Escrow Agent a copy of an Arizona Corporation Commission ("ACC") order approving the sale of the Assets consistent with this Agreement and cancellation of Seller's CC&N.
- 3.3 All liens, debts and other monetary obligations with respect to the Assets have been paid in full by Seller at or prior to Closing.
- 3.4 THUC's Customer Refundable Meter Deposit Account balance shall be conveyed to the Escrow Agent for the benefit of THDWID prior to or at Closing and shall be released to Buyer upon Closing. Each customer's individual balance in the account is to be refunded to the appropriate customers after Closing by Buyer in annual credits of 10% until fully refunded. The schedule of remaining annual credits due for each customer shall be provided to Buyer before closing.
- 3.5 Seller has satisfied all other obligations of Seller under this Agreement.

Section 4. Approvals and Conditions to Closing. The Parties' respective obligations to proceed with the Closing under this Agreement are contingent upon Seller obtaining the necessary approval of the Arizona Corporation Commission for the sale of the Assets to Buyer and cancellation of Seller's CC&N, (the "Regulatory Approvals") and Buyer receiving financing approval from its property owners and WIFA, and obtaining the approval of the City of Scottsdale and the Central Arizona Project of the assignment to Buyer of Seller's water-related Contracts with those entities. If any of the foregoing conditions cannot be satisfied, then either party may terminate this Agreement by written notice to the other party and Escrow Agent, this Agreement shall thereupon terminate, and neither party shall have any further obligation or liability under this Agreement.

- 4.1 Seller shall, at no cost to Buyer, diligently pursue the Regulatory Approvals and Buyer shall cooperate in all reasonable respects, at no cost to Buyer, with Seller's attempt to obtain the Regulatory Approvals.

4.2 Buyer shall, at no cost to Seller, diligently pursue the financing approvals and the approvals of the City of Scottsdale and Central Arizona Project and Seller shall cooperate in all reasonable respects, at no cost to Seller, with Buyer's efforts.

Section 5. Representations and Warranties. Seller makes the following covenants, representations and warranties as of the date of this Agreement and as of Closing, and acknowledges that Buyer is relying thereon in entering into and Closing this Agreement:

5.1.1 **Title.** Seller is the owner of, and has good and marketable title to all Assets to be conveyed hereunder and acknowledges this Agreement constitutes the valid and binding obligation of Seller.

5.1.2 **Disclosed Agreements.** Except for this Agreement, Seller has entered into no agreement currently in effect to sell the Assets.

5.1.3 **Liabilities.** Seller specifically warrants to Buyer that as of the Closing, there shall be no liabilities in the form of judgments, liens, actions or proceedings pending against Seller or any of the Assets which would adversely affect this transaction or the title which Buyer will receive.

5.1.4 **Liens.** No judgments, liens, security interests, or other monetary obligations or encumbrances against any of the Assets will be outstanding and unpaid at the time of Closing, except for current real estate taxes which are not yet due and payable.

5.1.5 **Labor, Materials.** All the bills and invoices for labor and materials furnished to or on behalf of the Assets which have been incurred by Seller prior to the time of conveyance and transfer to Buyer, if any, will be paid in full by Seller prior to or at the time of Closing.

5.1.6 **Proceedings.** Other than the existing ACC hearings related to the transfer of the Assets as provided herein, there are no actions that might materially and adversely affect the Assets.

5.1.7 **No Breach.** Neither the execution nor delivery of this Agreement nor the consummation of the transaction contemplated by this Agreement will result in a breach or default by Seller under any agreement or which would have an effect upon Seller's ability to fully perform its obligations under this Agreement.

5.1.8 **No Bankruptcy.** Seller has not (a) made a general assignment for the benefit of creditors (b) filed any voluntary petition or suffered the filing of an involuntary petition by Seller's creditors, (c) suffered the appointment of a receiver to take all, or

substantially all, of Seller's assets, (d) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets or (e) admitted in writing its inability to pay their debts as they fall due, and no such action is threatened or contemplated.

5.1.9 **Regulations.** To the best of Seller's knowledge, there are currently no violations of any applicable zoning regulation or ordinance or other law, order, ordinance, rule, regulation or requirement, or of any covenant, condition or restriction affecting or relating to the use or occupancy of the Real Property or operation of Physical Assets.

5.1.10 **Permits.** Seller has any and all permits, licenses and approvals required by law or any governmental agency to operate the Assets as a water utility. Seller will have prior to Closing all approvals required by law or any governmental agency necessary to consummate this transaction.

5.1.11 **Condemnation.** There are no pending or threatened condemnation or eminent domain proceedings which would affect the Real Property.

5.1.12 **Creditors.** As of the Closing (except for items to be prorated at Closing pursuant to this Agreement): all bills and invoices for goods and services related to or which are a part of the Assets conveyed at Closing shall be paid; all Creditors shall be paid; all employees (if any) and salaries, wages, bonuses, vacation pay, and benefits accrued up to the date of Closing shall be paid; all withholdings, payroll taxes, unemployment insurance, worker's compensation benefits, and all other similar payments shall be paid current to the date of Closing. Excepted are fees due COS and CAWCD by THUC for water deliveries up to the date of Closing. The amount of such fees shall be determined by THDWID and THUC from the billings which will be received from COS and CAWCD after the end of the month of Closing and THUC shall immediately pay THDWID its share of total billed fees.

5.1.13 **Organization.** Seller has the full right and authority to enter into this Agreement, to consummate the sale contemplated herein and to observe and perform all of its covenants and obligations hereunder. The person executing this Agreement and any other document required hereby has full authority to act on behalf of and to bind the Seller in and to the obligations imposed by this Agreement.

5.1.14 **Commissions / Line Extension Agreements.** Seller has made no agreements respecting commissions or brokerage fees in connection herewith. Seller shall indemnify Buyer for any claims of commission based upon any alleged agreement by Seller to pay a commission. Seller has not entered into any line extension agreement or main extension agreement however denominated, with developers within the certified area.

5.1.15 **Arizona Department of Water Resources ("ADWR").** To the best of Seller's knowledge, Seller is not in violation of any water conservation or per capita use

limitations adopted by ADWR under the Management Plans of the Phoenix Active Management Area.

5.1.16 **Environmental Regulations.** To the best of Seller's knowledge, the Assets to be conveyed hereunder are in compliance with all current applicable environmental, health and safety laws and regulations. There are no environmental contamination or other conditions on, in, under or from any of the Real Property that require cleanup or other response under any applicable law relating to the protection of human health or the environment. Seller shall indemnify Buyer from any damages or loss resulting from Seller's violation of Federal, State or local environmental regulations; including Seller's use of hazardous substances.

5.1.17 **Insurance Coverage.** Seller carries, and has for the four years immediately preceding the date of this Agreement carried, what Seller believes to be a commercially reasonable liability insurance policy. Such insurance shall be maintained in full force and effect through Closing.

5.1.18 **Corporation Commission Filings.** To the best of Seller's knowledge, there are no material inaccuracies in the ACC Annual Reports filed by Seller.

5.1.19 **Employees.** Seller has no employees and Buyer shall have no obligations to any person by virtue of an employer/employee relationship formed by Seller.

5.1.20 **Sufficiency and Adequacy.** To the best of Seller's knowledge, the water storage tank is located within the Real Property to be conveyed to Buyer hereunder, and the Assets to be conveyed to Buyer hereunder are adequate and sufficient to permit Buyer to operate the water utility facilities. Buyer may, at its option and expense, have a survey conducted of the water tank site. In the event that the water tank is not located within the Real Property then Buyer will give Seller 30 days to remedy the Buyer's objection. Failure of Seller to respond shall be deemed an election by Seller not to attempt to remedy this objection. Buyer then may, at its option, (i) cancel this agreement or (ii) waive this objection.

5.1.21 **Accuracy of Representations and Warranties.** No representation and warranty of Seller contains or will contain any untrue statements of a material fact, or omits or will omit or misstate a material fact necessary in order to make the statements contained herein not misleading.

5.1.22 **Preservation of Assets.** Seller agrees to maintain the condition of the Assets in their current condition, ordinary wear excepted, to the date of Closing.

5.1.23 **Seller's Authority.** To the best of Seller's knowledge, Seller is not prohibited from consummating the transaction contemplated in this Agreement by any law, regulation, agreement, restriction, order or judgment. All shareholders of Seller

have read this Agreement, and concur with Seller's actions and obligations pertaining thereto.

5.1.24 **The Tank.** With reference to Section 5.8 of the Preliminary Engineering Report by Arizona Engineering Company (PER) dated April 3, 2008, Seller specifically represents and warrants that it has sandblasted and applied a new epoxy coating to the tank after repairing the entire tank. Buyer has had the right to periodic inspections as Buyer has deemed necessary. Should Buyer and Seller not agree as to the application of "industry standards" prior to Closing, an independent engineer shall be mutually selected who will make the final recommendation.

5.1.25 **Pipe Replacements.** Seller represents and warrants that it has replaced, at Seller's costs, the sections of potable water pipe on Blue Wash Road and Tonto Road at the two intersections of Blue Wash Road with La Plata and Tonto Roads. This replacement completed the potable water pipe loops at these intersections.

5.1.26 **WIFA Loan.** Seller represents and warrants that it either has, or it will, prior to Closing, pay off its WIFA loan, and any other debt or liens secured by the Assets.

5.1.27 **Sound Management of Seller.** Seller represents and warrants to Buyer that it has operated in a prudent and consistent manner in the past three years of its activities, including acquiring sufficient CAP capacity to serve property owners. Seller warrants that it will immediately notify Buyer in the event of any occurrence of any Adverse Event, as defined in this Agreement. Seller warrants that it will, until Closing, grant Buyer and/or its designee, access to Seller's books and records and permission to continue evaluating Seller's operations upon reasonable notice from Buyer.

5.1.28 **Letter of Intent Dated May 9, 2008.** Seller represents and warrants that it has met all of the terms and conditions of that Letter of Intent executed with Buyer on May 9, 2008.

The foregoing representations and warranties shall survive the Closing for a period of one (1) year and thereafter shall lapse, except with respect to any breach of such warranties and representations with respect to which Buyer has commenced an action against Seller prior to the expiration of such one (1) year period.

Section 6. Indemnification.

6.1 Seller shall indemnify and hold harmless Buyer, its officers, directors, agents and employees from and against claims or expenses, including penalties and assessments and attorney's fees to which they or any of them may be subjected by reason of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence or willful misconduct of Seller, their agents, servants, employees, contractors, or subcontractors in the execution of Seller's obligations under this agreement or in connection therewith. In case any suit or other

proceeding shall be brought on account of Seller's action or inaction, Seller will assume the defense at Seller's own expense and will pay all adverse judgments rendered therein.

6.2 Buyer shall indemnify and hold harmless Seller, their officers, directors, members, agents and employees from and against claims or expenses, including penalties and assessments and attorney's fees to which they or any of them may be subjected by reason of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence or willful misconduct of Buyer, its agents, servants, employees, contractors, or subcontractors in the execution of Buyer's obligations under this Agreement or in connection therewith. In case any suit or other proceeding shall be brought on account of Buyer's action or inaction, Buyer will assume the defense at Buyer's own expense and will pay all adverse judgments rendered therein.

6.3 The provisions of Paragraphs 6.1 and 6.2 shall survive the Closing and any termination of this Agreement.

Section 7. Escrow Agent.

7.1 Delivery of Transfer Instruments. The Transfer Instruments and any other documents required by this Agreement or applicable laws shall be placed by the parties into escrow with the Escrow Agent who shall deliver same to the appropriate party and/or shall record such Instruments at the Closing, as required.

7.2 Other. This Agreement shall also constitute joint escrow instructions by Buyer and Seller to North American Title Company ("Escrow Agent"). If required by Escrow Agent, the parties shall execute printed escrow instructions in the standard form utilized by Escrow Agent, containing the modifications required by this paragraph and such other modifications as are mutually acceptable to Buyer, Seller, and Escrow Agent (the "Printed Instructions"). If there is any conflict between the terms of this Agreement and the terms of the Printed Instructions, the terms of this Agreement shall prevail.

Section 8. Closing. The closing of this sale ("Closing") shall take place when all of the conditions for payment contained in Sections 3 and 4 have been fully satisfied or waived in writing, at which time Escrow Agent shall disburse to Seller the Purchase Price, and shall deliver to Buyer those funds and documents described in Section 3 that appropriately go to Buyer. Buyer and Seller shall provide to Escrow Agent such further instruments or documents as shall be found necessary to effectuate the intent of the parties hereto. Costs of Closing and/or expenses connected with the transfer of the Assets and the sale thereof shall be divided between Buyer and Seller, and paid through escrow, as follows:

8.1 Attorney Fees. Each party shall pay their own attorneys' fees and costs.

8.2 Escrow Fees. The escrow fee and all filing and recording fees shall be divided equally between Buyer and Seller, to the extent that such recording fee or filing fees are for the Transfer Instruments. If any recording fee or filing fees are necessary as a result of recordings required to clear title, they shall be paid by Seller.

8.3 Title Insurance. Seller will provide title insurance for all the THUC real estate Assets at Seller's cost.

8.4 Regulatory Approvals. Seller shall pay all necessary costs and fees incurred in obtaining the Approvals of the Arizona Corporation Commission.

8.6 Taxes. All taxes and assessments will be pro-rated and paid by the Seller as of the date of Closing.

8.7 Assessments. All assessments, both principal and interest, against the Real Property and personal property, shall be brought current by Seller through the Closing. Seller shall pay any delinquent amounts on or before Closing.

8.8 Acquisition Costs. Buyer and Seller will each bear their own costs in connection with the transaction contemplated in this Agreement.

Section 9. Risk of Loss.

9.1 Prior to Closing. Subject to the following provisions, Seller shall bear the risk of all loss, destruction or damage to the Assets or any portion thereof from any and all causes whatsoever up to and including the date and time of Closing. In the event there is any loss, destruction or damage to the Assets prior to the Closing, Seller shall fully restore the Assets at least ten (10) business days prior to Close of Escrow.

9.2 After Closing. The risk of loss or damage by fire or other casualty, or the taking by eminent domain, shall be assumed by and be the responsibility of Buyer from and after the Closing.

9.3 Insurance. Buyer shall place its own insurance coverage on the Assets as of Closing. Seller's insurance shall be canceled by Seller as of Closing with respect to occurrences after Closing.

Section 10. Adverse Events. The following events constitute Adverse Events that entitle Buyer, at its option, to withdraw from completion of this transaction:

- 10.1 Loss or adverse modification of any rights pursuant to those existing rights and contracts pertaining to the Assets;
- 10.2 THUC water distribution infrastructure problem reducing or eliminating delivery of water or degrading water quality to any THUC customers for more than 48 hours;

- 10.3 Notice by any governmental agency of a problem with THUC operations, water system or water quality;
- 10.4 Assertion of a claim, assessment or lawsuit against THUC or potentially impairing THUC assets; or
- 10.5 Any filing or threat of filing litigation against Buyer regarding THDWID formation or encumbering THDWID properties.

Section 11. Seller's Default.

11.1 Seller's Default.

11.1.1 Remedies. In the event of a default by Seller, Buyer's remedies shall be as follows. Buyer's remedies under this Agreement and applicable law shall be cumulative and not exclusive:

11.1.4.1 In the event the default continues uncured for a period of ten (10) business days after written notice thereof from Buyer to Seller and Escrow Agent, Buyer may elect in writing to terminate this Agreement by giving written notice thereof to Seller and Escrow Agent, or waive the default and close this transaction. In the event Buyer elects to terminate this Agreement, this Agreement shall thereupon be null and void. If Buyer elects to waive the default and close the transaction, then Closing shall occur within ten (10) business days after Buyer's written notice to close.

11.1.4.2 In the event of a default that can be cured by Seller's proceeds from the Closing, the Escrow Agent is hereby instructed to withhold from Seller's proceeds from the Closing a sufficient amount of proceeds and to apply them to cure the default.

11.1.4.3 In the event that Seller willfully refuses to Close this Agreement after Buyer has satisfied all of Buyer's conditions to Closing, then Buyer shall be entitled to pursue its legal and equitable remedies as they may be available at law, including specific performance.

11.2 Buyer's Default. If Buyer fails to timely perform any act required to be performed by Buyer on or before the Closing, or in any other way defaults under this Agreement, and such failure continues uncured for a period of ten (10) Business days after written notice thereof from Seller to Buyer and Escrow Agent, Seller's sole and exclusive remedies shall be:

11.2.1 To waive or not waive such default and close escrow; and/or

11.2.2 To terminate this Agreement by written notice to Seller, in which event Seller shall have no further obligation hereunder.

Section 12. Miscellaneous Provisions.

12.1 Notices. Any notice, request, demand or other communication (collectively referred to as "Notice") required or permitted to be given pursuant to this Agreement shall be in writing and shall be personally delivered or sent by a nationally recognized overnight carrier or by certified and/or registered mail, return receipt request, postage prepaid, to the parties at the addresses listed in this Agreement. Notice will be deemed given and received on the earliest of (a) when actually delivered; (b) on the first Business Day after deposit with an overnight air courier service; or (c) on the third business day after deposit in the United States mail, postage prepaid. Any Notice which is returned or unable to be delivered because of a changed address for which no timely notice was given, or because acceptance is refused, shall be deemed given and received on the date when it is returned or unable to be delivered, or on the date when acceptance is refused. Any party may designate a change of address; provided however, that no change of address will be effective until written notice thereof is actually received by the party to whom such address change is sent. Any voice telephone numbers or e-mail address provided in this Agreement are for aiding informal communications only, and Notice shall not be effective if provided orally or if sent only by e-mail.

12.2.1 Agreement Negotiated. The terms and provisions of this Agreement represent the results of negotiations between Seller and Buyer, each of which has been represented by counsel of their own choosing and none of which have acted under duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and Seller and Buyer hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of the Agreement, including (without limitation) any rule of law to the effect that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the party whose attorney prepared the executed draft or any earlier draft thereof. The Rule of Strict Construction shall not be used to interpret this Agreement, but rather this Agreement shall be construed to provide each party with the benefit of the bargain it has struck with the other party.

12.2.2 Integration. All understanding and agreement heretofore between the parties are merged into this Agreement which alone fully and completely expresses their agreement; the same is entered into after full investigation and neither party is relying upon any statements or representations by the other not embodied in this Agreement.

12.2.3. Other Inducements. The parties agree that there are no promises, inducements, representations or agreements in connection with this Agreement except those specifically set forth herein in writing.

12.2.4 Modification. This Agreement may not be changed orally, but only by an agreement in writing, signed by the parties.

12.2.5. Other Agreements. Seller shall not enter into any contracts, leases, agreements, or amendments to existing agreements, or encumbrances affecting the Assets while this Agreement remains in force without the express written consent of Buyer, other than to carry out the terms of this Agreement and/or to remove a matter which the Title Insurer requires be removed to close and/or which will be released or terminated on or before the Closing.

12.3 Relation of Parties. It is expressly agreed and understood by the parties hereto that neither party is the agent, partner, or a joint venture partner of the other. It is also expressly agreed and understood that neither Seller nor Buyer has any obligations or duties to the other except as specifically provided for in this Agreement.

12.4 Attorneys' Fees. In the event any party hereto finds it necessary to bring an action at law or other proceeding against the other party to enforce or interpret any of the terms, covenants, or conditions hereof or any instrument executed in pursuance of this Agreement, or by reason of any breach hereunder, the party prevailing in any such action or other proceedings shall be paid all costs and reasonable attorneys' fees by the defaulting party, and in the event any judgment is secured by such prevailing party, all such costs and attorneys' fees shall be included in any such judgment.

12.5 Mediation. Any claim or dispute of any kind between Buyer and Seller shall be submitted to mediation prior to commencing a lawsuit. If Buyer or Seller commences a lawsuit without first seeking to resolve the claim or dispute through mediation, or fails to participate in mediation requested by the other party, then if such party is successful in the lawsuit, such party shall not be entitled to recover its attorney's fees even if otherwise available to such party.

12.6 Time. Time is of the essence of this Agreement. The time for performance of any obligation or the time for taking any action under this Agreement shall be deemed to expire at 5:00 o'clock P.M. (Arizona time) on the last day of the applicable time period provided for herein. In computing any period of time prescribed herein, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. As used in this Agreement, the term "day(s)" shall mean a calendar day(s); and the term "Business Day(s)" shall mean a day(s) other than a Saturday, Sunday or a legal holiday as recognized in the State of Arizona.

12.7 Headings. The headings of this Agreement have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

12.8 Adverbs. Whenever the terms "herein", "hereunder", "hereof", "therefor", "thereover", or similar terms are used, they shall refer to this entire Agreement as a whole and shall not refer solely to any particular section.

12.9 Exhibits. All recitals, schedules, exhibits and appendices to this Agreement are fully incorporated herein as though set forth at length herein.

12.10 State Law. This Agreement and the conveyance provided for herein shall be governed by the laws of the State of Arizona.

12.11 Counterparts. This Agreement may be executed in several counterparts, and when all are so executed and delivered, they shall constitute one Agreement, binding on all of the parties hereto notwithstanding that all are not signatories to the original or same counterpart.

12.12 Foreign Investment. Seller shall fully comply with all applicable State and Federal laws governing foreign investment, including the Foreign Investment in Real Property Tax Act and Section 1445 of the Internal Revenue Code, as amended from time to time, and shall hold Buyer harmless from any claim or action arising therefrom.

12.13 Force Majeure. The term "Force Majeure" as used herein shall mean causes beyond the control and without the fault or negligence of the party failing to perform, whether foreseen or unforeseen, including, but not limited to: Acts of God, acts of the public enemy, wars, insurrections, civil unrest, riots, terrorism, labor disputes, boycotts, fires, explosions, floods, unanticipated adverse geological and weather conditions, acts of judicial or military authorities, acts of governmental authorities, inability to obtain necessary permits, licenses, and governmental approvals after applying for same with reasonable diligence. Except as provided herein with respect to Buyer's remedies for Adverse Events, neither party will be liable to the other nor may any party declare a default or enforce remedies against a party by reason of any delay or non-performance of their obligations under this Agreement in the event and to the extent that such delay or non-performance is caused by any event of Force Majeure. Each party will inform the other party of the occurrence of any event of Force Majeure, its expected duration and cessation, respectively, as soon as reasonably practical.

DATED this 14th day of December, 2009.

BUYER:

TONTO HILLS DOMESTIC WATER
IMPROVEMENT DISTRICT

By: 

Its: CHARLES CIVER
Board of Directors Member

Address: 42265 No. Old Mine Rd

Cave Creek, AZ 85331

SELLER:

TONTO HILLS UTILITY COMPANY

By: Charles Dunning
CHARLES DUNNING

Its: PRESIDENT

Address:

11802 E. BLUE WASH RD

CAVE CREEK, AZ 85331

ALL APPENDICES TO COME

Exhibit A
Waterline Easement

All of Grantor's right, title and interest in and to that certain Agreement and Grant of Easements dated April 12, 2000 and recorded in the office of the Maricopa County, Arizona Recorder, attached hereto and made a part hereof.

Exhibit B

Form of Special Warranty Deed

When recorded mail to:
Tonto Hills DWID
42265 N. Old Mine Road
Cave Creek, Arizona 85331

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars (\$10.00) and other valuable consideration, the undersigned ("Grantor"), hereby sell, transfers and conveys to the Tonto Hills Domestic Water Improvement District ("Grantee"), all of Grantor's right title and interest in and to that certain real property situated in Maricopa County, Arizona and which is legally described as follows: Lot 115 and Tract B, of Tonto Hills, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 93 of Maps, Page 5, together with all of Grantor's estate, right, title and interest in and to all rights or privileges appurtenant to such real property including, without limitation: (a) rights-of-way, easements, structures and improvements located thereon; (b) any pumps, tanks, and wells located on or pertaining to the real property; (c) water rights; (d) all oil, gas, mineral, water running with, located on, or pertaining to the real property (collectively referred to as the "Property").

SUBJECT TO the matters set forth on Exhibit C, and no others, Grantor warrants the title against its acts and none other.

DATED: _____

GRANTOR:
Tonto Hills Utility Company, an Arizona
Corporation
By: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this ___ day of _____, 2010, by

NOTARY PUBLIC

My Commission Expires:

Exhibit "C"

TITLE COMMITMENT

North American Title Company, dated January 12, 2010, labeled First Amendment,
attached hereto and made a part hereof.

NORTH AMERICAN TITLE COMPANY
36800 North Sidewinder Rd #C26 / P.O. Box 2800-327 - Carefree, AZ 85377
(480)488-9722

SCHEDULE A

Commitment Date: January 12, 2010 at 07:50 AM
1st Amendment

Order No.: 22100-09-03416
Customer Ref.: Tonto Hills Domestic Water

Address Reference: Vacant Land
Cave Creek, AZ 85331

Proposed Coverage:

1. Policy (or Policies) to be issued: Policy Amount
Owner's Policy (A.L.T.A. Owners Policy - Standard Coverage (06/17/2006)) \$ 150,000.00

Proposed Insured:

Tonto Hills Domestic Water Improvement District, Arizona sepcial improvement district

2. Title to the estate or interest in the land upon issuance of the Policy shall be:

Fee

3. The Estate herein described in this Commitment at Commitment Date is vested in:

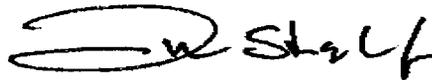
Tonto Hills Utility Company, an Arizona corporation

4. The land referred to in this Commitment is located in Maricopa County, Arizona and is described as:

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART HEREOF

NOTE: Please direct all inquiries and correspondence to Ruth Abraham, your escrow officer, at (480)488-9722 or rabraham@nat.com.

NORTH AMERICAN TITLE COMPANY, an Arizona corporation, issuing agent for NORTH AMERICAN TITLE INSURANCE COMPANY



By: Tim Shaffer/ts

Order No.: 22100-09-03416
Customer Ref.: Tonto Hills Domestic Water

EXHIBIT "A"

Lot 115 and Tract B, of TONTO HILLS, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 93 of Maps, Page 5.

**SCHEDULE B
EXCEPTIONS**

1. DELETED INTENTIONALLY
2. Liabilities and Obligations imposed upon said land by reason of its inclusion within the following district(s) and/or association(s): Tonto Hills Improvement District.
(All assessments which are due and payable have been paid.)
3. Water rights, claims or title to water, whether or not the matters excepted are shown by the public records.
4. Easements, restrictions, reservations, conditions, set-back lines and all other matters as set forth on the plat recorded in Book 93 of Maps, Page 5, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c).
5. All matters as set forth in covenants, conditions, restrictions and easements in instrument recorded in Docket 3561, Page 201 and thereafter Amendment recorded in Docket 3667, Page 259; Amendment recorded in Instrument No. 88-46577 and Amendment recorded in Instrument No. 01-617677, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c).
6. All matters as set forth in covenants, conditions, restrictions and easements in instrument recorded in Instrument No. 00-277773, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c).
7. Taxes for the year of 2010, a lien, but not yet due and payable.
First half due and payable October 1, of that year and delinquent on November 1 of that year. Second half payable on or before March 1 of the following year, and delinquent May 1 of that same year.
8. The terms, conditions, provisions and easements as set forth in Intergovernmental Agreement between The City of Scottsdale and The Tonto Hills Domestic Water Improvement District, for the Treatment and Transportation of Water Delivered Through the CAP Canal recorded in Instrument No. 09-1105333.

END OF EXCEPTIONS

REQUIREMENTS

The following requirements must be met:

For the current tax information, prior to recording contact:

Maricopa County Treasurer:
301 W. Jefferson
Phoenix, AZ 85003
602-506-8511

1. TAX INFORMATION:

Parcel No.: 219-12-115
Year: 2009
Full year amount: \$353.80
Full Year Taxes are paid

2. TAX INFORMATION:

Parcel No.: 219-12-225 1
Year: 2009
Full year amount: \$
Full Year Taxes are paid

3. TAX INFORMATION:

Parcel No.: 627-39-300 7
Year: 2009
Full year amount: \$2,536.10
Full Year Taxes are paid

4. DELETED INTENTIONALLY

5. DELETED INTENTIONALLY

6. DELETED INTENTIONALLY

7. DELETED INTENTIONALLY

8. DELETED INTENTIONALLY

9. DELETED INTENTIONALLY

10. DELETED INTENTIONALLY

11. DELETED INTENTIONALLY

12. DELETED INTENTIONALLY

13. PAYMENT in full of all assessments, late charges, transfer fees, and any other amounts due Tonto Hills Improvement District.

14. FURNISH a certified copy of a resolution by the Board of Directors of Tonto Hills Utility Company, attested to by its secretary, authorizing this transaction and naming the officers authorized to execute the instruments necessary to complete this transaction.

15. REQUIREMENT SATISFIED.

16. RECORD Deed from Tonto Hills Utility Company, an Arizona corporation to Tonto Hills Domestic Water Improvement District, Arizona special improvement district.

17. DELETED INTENTIONALLY

REQUIREMENTS

(Continued)

Commitment Number: 22100-09-03416

Customer Ref.: Tonto Hills Domestic Water

NOTE: The policy or policies to be issued usually contain an arbitration clause which provides that when the Amount of Insurance is less than a specified dollar amount, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. To review the terms of the policy, including the arbitration clause, please contact the office that issued this Commitment for a sample copy of the policy jacket(s) to be issued in this transaction. A copy of the arbitration rules can be reviewed at < <http://www.alta.org/> >.

END OF REQUIREMENTS

NORTH AMERICAN TITLE GROUP FAMILY OF COMPANIES

Privacy Policy Notice (2/1/08)

We at the North American Title Group family of companies take your privacy very seriously. This Notice is being given on behalf of each of the companies listed below ¹ (the "North American Title Companies"), as well as on behalf of North American Advantage Insurance Services, LLC. It explains our policy regarding the personal information of our customers and our former customers.

OUR PRIVACY POLICIES AND PRACTICES

The North American Title Companies

1. Information North American Title Companies collect, and the sources from which we collect it:

On forms related to your real estate transaction, North American Title Companies collect personal information that you, our affiliates or third parties have provided to us, such as, for example, your name, address, and sale price of your home. All of the information that we collect is referred to in this notice as "NAT Collected Information".

2. What information North American Title Companies disclose to our affiliates:

From time to time, as permitted by law, the North American Title Companies may share NAT Collected Information with each other and with North American Advantage Insurance Services, LLC ("NAAIS") about customers and former customers. You may ask us not to share NAT Collected Information among the North American Title Companies and NAAIS by writing to us and letting us know at: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107th Avenue, Suite 300, Miami, FL 33172. Your request will not affect NAT Collected Information that the North American Title Companies are otherwise permitted by law to share, such as, in certain circumstances, NAT Collected Information related to our experiences and transactions with you.

3. What information North American Title Companies disclose to third parties:

- If permitted by federal law and the law of your state, we may disclose some or all of the following information to companies that perform marketing services on our behalf and to certain unaffiliated insurance companies with whom we have joint marketing agreements: your name, current address, purchased property address, and closing date.
- We also may share NAT Collected Information about customers and former customers with other unaffiliated third parties, as permitted by law. For example, NAT Collected Information may be shared in certain circumstances (A) with companies involved in servicing or processing your account (B) with insurance regulatory authorities, and (C) with law enforcement officials, to protect against fraud or other crimes.

4. Your right to access your personal information:

You have the right to review your personal information that we have on record about you. If you wish to review that information, please contact the local North American Title Company office identified on the title insurance product to which this notice is attached or where you received this notice and give us a reasonable time to make that information available to you. If you believe any information is incorrect, notify us, and if we agree, we will correct it. If we disagree, we will advise you in writing why we disagree.

North American Advantage Insurance Services, LLC

1. Information North American Advantage Insurance Services, LLC ("NAAIS") collect and sources from which we collect it:

NAAIS collects personal information about you from you, our affiliates, or third parties on forms related to your transaction with NAAIS or a North American Title Company, such as your name, address, or information about the property that is or will be insured. We also receive information from companies, which compile and distribute public records. All of the information that NAAIS collects, as described in this paragraph, is referred to in this notice as "NAAIS Collected Information."

2. Information NAAIS may disclose to its affiliates or third parties:

NAAIS may disclose NAAIS Collected Information about you or others without your permission as permitted or required by law, including to the following types of institutions for the reasons described:

- To a third party or an affiliate if the disclosure will enable that party to perform a business, professional or insurance function for us in connection with an insurance transaction involving you.
- To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction.
- To an insurance institution, agent, or credit reporting agency for either this agency or the entity to whom we disclose the information to perform a function in connection with an insurance transaction involving you.
- To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities.

3. Your right to access and amend your personal information:

You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within two (2) years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

To obtain access to your information: You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107th Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, and the recorded information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

To correct, amend, or delete any of your information: You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107th Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal, which you will have an opportunity to challenge.

SECURITY PROCEDURES

We restrict access to NAT Collected Information and NAAIS Collected Information about you to individuals who need to know such information in order to provide you with your product or service. We maintain physical, electronic and procedural safeguards to protect NAT Collected Information and NAAIS Collected Information about you.

CHANGES TO OUR PRIVACY POLICY

This Notice reflects our privacy policy as of February 1, 2008. We reserve the right to change, modify or amend this policy at any time. Please check our Privacy Policy periodically for changes.

¹ The North American Title Group Family of Companies are: North American Title Company, North American Title Insurance Company, North American Title Alliance, LLC, North American Title Florida Alliance, LLC, North American Services, LLC, North American Exchange Company, North American Title Agency, North American Abstract Agency and North American Legal Services, L.L.C.

ACKNOWLEDGEMENT

Your receipt of a copy of the preliminary report, commitment, your policy of insurance, or escrow documents accompanied by this Notice will constitute your acknowledgment of receipt of this Privacy Policy Notice.

Exhibit D

Bill of Sale for Water Facilities and Other Rights

BILL OF SALE

IN CONSIDERATION of the sum of Ten Dollars (\$10.00) lawful money of the United States, and other valuable consideration, receipt of which is hereby acknowledged, the undersigned ("Seller" hereby grants, bargains, sells, and transfers unto the Tonto Hills Domestic Water Improvement District, organized and existing under the laws of the State of Arizona ("Buyer"), and its assigns, to have and to hold forever, the personal property described as follows:

1. A 2 ½ inch water line connecting the water storage tank to the City of Scottsdale supply hub.
2. The water storage tank, all steel, enclosed, approximately 64,000 gallons, including its hydraulic-operated fill-control valve.
3. The system of water lines, comprised of approximately 6000 feet of 6 inch diameter asbestos-concrete pipe (ACP); 20,000 feet of 4 inch ACP; 8000 feet of 2 inch poly-vinyl chloride (PVC) pipe; and 300 feet of 2 inch PVC pipe.
4. Thirty-three below-grade shutoff valves.
5. Fourteen standpipes with 2 inch threaded, standard fire hose connection hubs.
6. One hundred twenty-seven customer water meters (126 5/8 inch and one 1 inch), vaults and PVC connections to water mains.
7. Supplies, spare parts, meters and any other items in Seller's possession that are part of the system.
8. Contract 1999-135-COS between the City of Scottsdale ("COS") and THUC;
9. Subcontract 07-XX-30-W0491 between THUC and the Central Arizona Water Conservation District (CAWCD);
10. A U.S. Forest Service Lease.

Furthermore, Seller warrants that it is the lawful owner of the Property and hereby certifies, under oath, that it has good right to sell the same as aforesaid, and that the Property is free and clear of all claims, liens, and other encumbrances whatsoever. Seller further agrees to warrant and defend same against the lawful claims and demands of all persons whomsoever.

DATED: _____

SELLER:

Tonto Hills Utility Company, an Arizona Corporation

By: _____

BUYER:

Tonto Hills Domestic Water Improvement District

By: _____

Exhibit E

Not Used