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Docket #(s): W-02077A-12-0493

Arizona Corporation Commission
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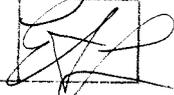
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Exhibit #: S-1, A-1

ORIGINAL

MEMORANDUM



TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division

LJL for SMO

Date: March 8, 2013

RE: STAFF REPORT IN THE MATTER OF THE APPLICATION OF HOPEVILLE WATER COMPANY, INC. DBA ALLENVILLE WATER COMPANY FOR APPROVAL TO SELL ITS ASSETS AND FOR CANCELLATION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NO: W-02077A-12-0493)

Attached is the Staff Report for the sale and transfer of Hopeville Water Company, Inc. dba Allenville Water Company to the Town of Buckeye and cancellation of its Certificate of Convenience and Necessity. Staff recommends approval of this application with conditions.

SMO:VW:tdp

Originator: Vicki Wallace

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Arizona Corporation Commission
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MAR 8 2013
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Service List for: Hopeville Water Company, Inc. dba Allenville Water Company
Docket No. W-02077A-12-0493

Abraham Harris III
Hopeville Water Company
1415 South Palo Verde Road
Phoenix, Arizona 85326

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Ridenour, Hienton & Lewis, P.L.L.C.
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Phoenix, Arizona 85004

Stephen Cleveland, Town Manager
Town of Buckeye
530 Monroe Avenue
Buckeye, Arizona 85326

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Gust Rosenfeld, PLC
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Phoenix, Arizona 85004

Alvin Cobbin
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Phoenix, Arizona 85043

Holly Brown
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Tolleson, Arizona 85353

Sharon Kay Caldwell
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Buckeye, Arizona 85326

LaFurn Garland
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Buckeye, Arizona 85326

La Toya Cooper
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Maria Estrada
1202 South 290th Drive, No. 42
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Martha Castro
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Buckeye, Arizona 85326

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Cynthia Bell
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Angela Gonzales
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Buckeye, Arizona 85326

Francisco J. Gonzales
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Sergio Munoz
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Buckeye, Arizona 85326

Jennifer Van Acker
28907 West Pima Street
Buckeye, Arizona 85326

Ellen Berry
203 Jackson Avenue
Buckeye, Arizona 85326

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

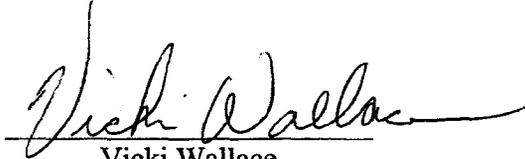
HOPEVILLE WATER COMPANY, INC., DBA ALLENVILLE WATER COMPANY
DOCKET NO. W-02077A-12-0493

SALE OF ASSETS OF HOPEVILLE WATER COMPANY, INC. DBA
ALLENVILLE WATER COMPANY TO
THE CITY OF BUCKEYE AND CANCELLATION OF CERTIFICATE OF CONVENIENCE
AND NECESSITY

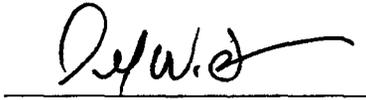
MARCH 8, 2013

STAFF ACKNOWLEDGMENT

The Staff Report for Hopeville Water Company, Inc., dba Allenville Water Company,
Docket No. W-02077A-12-0493 was prepared by the Staff members shown below.



Vicki Wallace
Executive Consultant



Del Smith
Utilities Engineer

EXECUTIVE SUMMARY
HOPEVILLE WATER COMPANY, INC., DBA
ALLENVILLE WATER COMPANY
DOCKET NO. W-02077A-12-0493

On December 17, 2012, Hopeville Water Company, Inc., dba Allenville Water Company ("Hopeville" or "Company" or "Water System") filed an application for approval of the Arizona Corporation Commission ("ACC" or "Commission") to sell its assets to the Town of Buckeye ("Buckeye" or "Town") and for cancellation of its Certificate of Convenience and Necessity ("CC&N").

The Hopeville Board of Directors voted unanimously to sell its water utility assets to the Town and discontinue operations as a public utility. This decision was triggered by the lack of adequate cash flow to effectively manage its operations. An Asset Purchase Agreement ("Purchase Agreement" or "Agreement") was thus executed with the Town on or around November 6, 2012.

The Town has extensive experience owning and operating a municipal water utility and has, as indicated above, executed a Purchase Agreement with Hopeville for the acquisition. No adverse impacts to customers are anticipated, and adequate capital exists to provide continuous and quality water service.

The Company intends to honor all Hopeville's obligations associated with existing customer accounts, including customer deposit obligations.

Staff concludes that:

- The proposed sale of assets and CC&N cancellation will not have an adverse effect on the Company's customers or water service.
- The Company has no delinquent ACC compliance items.
- The Company's system is not in compliance with Maricopa County Environmental Services Department ("MCESD") and Arizona Department of Water Resources ("ADWR") regulations.
- The Town's system is in compliance with MCESD and ADWR regulations.

Staff recommends approval of the sale and transfer of the assets of Hopeville to the Town and that the Commission cancel the CC&N of Hopeville with the following conditions:

1. That Hopeville file documentation of finalization of the sale of the Company to the Town with the Commission in this docket within 30 days of such finalization.
2. That the Hopeville honor all obligations with respect to customer and meter deposits as discussed in this report.

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INTRODUCTION

On December 17, 2012, Hopeville Water Company, Inc., dba Allenville Water Company ("Hopeville" or "Company" or "Water System") filed an application for approval of the Arizona Corporation Commission ("ACC" or "Commission") to sell its assets to the Town of Buckeye ("Buckeye" or "Town") and for cancellation of its Certificate of Convenience and Necessity ("CC&N").

Staff filed a Sufficiency Letter on January 7, 2013, which indicated the Company had met the minimum sufficiency requirements as outlined in the updated Arizona Administrative Code ("A.A.C.") R14-2-402 (ACC Water Rules).

BACKGROUND

Hopeville is listed as an Arizona corporation with the Commission's Corporation Division and is certified to provide water utility services to the town of Hopeville, Arizona, located approximately 35 miles west of downtown Phoenix, Arizona, south of Interstate 10 ("I-10") and Palo Verde Road. Staff's legal description and map of the service area are attached as Exhibit 1.

Hopeville (formerly Allenville Water Company) was initially certificated as a non-profit co-operative to provide water by Decision No. 40031 issued May 26, 1969. The Company was previously located in the Salt River watershed, one-half mile south of Buckeye Road off Miller Road in Allenville, Arizona, before two devastating incidents of flooding in 1979. After the flooding incidents, the Arizona State Department of Emergency Services and the US. Army Corps of Engineers relocated the community to its current location in Hopeville, Arizona. Upon relocation, the U.S. Army Corps of Engineers constructed a new water system in the community at no cost to the Company. In Decision No. 53202 issued September 1, 1982, the Commission deleted the old territory in Allenville and granted a CC&N to the new territory in Hopeville. The Water System was also granted a franchise from the Maricopa County Board of Supervisors. Current rates were set by Decision No. 53821 issued November 28, 1983.

In its instant application, the Company indicates that over the years, it has invested additional capital in storage facilities, replacement of transmission and distribution mains, and other appurtenances necessary for provision of service. Mr. Abraham Harris, Jr., who was the initial President of Hopeville's Board of Directors, is now deceased. In 2007, Abraham Harris III became the President of the Board of Directors and has been responsible for the day-to-day management of the Company since that time.

The Board of Directors voted unanimously (Exhibit 2) to sell the Company's water utility assets to the Town and discontinue operations as a public utility. This decision was triggered by the lack of adequate cash flow to effectively manage its operations. The last several years, the Company has suffered recurring operating losses, attributable to low customer base and increasing cost of service. Adequate capital does not exist to properly operate and maintain the

aging infrastructure. Thus, the Board of Directors resolved that it was in the best interest of the community to sell the assets of Hopeville to the Town, and an Asset Purchase Agreement between the parties was executed (Exhibit 3).

TOWN OF BUCKEYE

The Town currently owns and operates a municipal water system that provides water services to approximately 11,100 customers and is contiguous to Hopeville. As a municipal utility operator, the Town has been providing municipal water services since 1952 and has the requisite managerial and technical experience to facilitate a seamless integration of Hopeville into its water system. The Town's water department personnel who would be responsible for the Hopeville system possess advanced Arizona Department of Environmental Quality ("ADEQ") operator certification.

ASSET PURCHASE AGREEMENT

As indicated above, an Asset Purchase Agreement ("Agreement") between Hopeville and the Town was approved by the Buckeye Town Council on November 6, 2012, which sets forth the terms and conditions of the sale. The following provisions are contained in the Agreement:

1. The total price for the purchase and sale is \$771,000, and the Agreement requires the Town to deposit \$27,500 with the Escrow Agent and to pay the final portion of \$743,500 on closing.
2. The closing of the sale will be conditioned upon, among other things, Hopeville obtaining regulatory approval from the ACC.
3. Hopeville will retain and refund all outstanding customer and meter deposits. Hopeville will be entitled to offset the deposits against amounts due from the customers and will refund the remaining balance as a credit to the final month's water service billing and will provide documentation of same to the Town and ACC.

The Town has agreed to waive any security deposit requirements for existing customers. Hopeville maintains there are no main extension agreement obligations of the Company.

HOPEVILLE'S WATER SYSTEM

Hopeville's water system consists of one well and two storage tanks, 10 fire hydrants, and a distribution system serving 41 metered service connections. The water system has adequate well production and storage capacity to service existing customers and reasonable growth. See Engineering Report, Exhibit 4, for further water system information.

RATES AND CUSTOMER SERVICE

The current rates set for Hopeville are a minimum of \$12 for 5,000 gallons per month and \$1.25 for each additional 1,000 gallons. The Company indicates in its application that the rates will not change for at least 3 years for Hopeville customers, and all customers in the Hopeville area will be included in the Town's service area and will receive the same high level of customer service as all other customers of the Town.

The Consumer Services database indicates that no complaints have been filed with the ACC for the last three years. There are 31 separate people who have intervened or filed opinions in this docket questioning Mr. Harris' and the Board's authority to sell the water system. Most do not seem to have problems with the provision of service by the Town of Buckeye.

COMPLIANCE

The Commission's Utilities Division Compliance Section reported that the Company had no delinquent ACC compliance items. The Company is not in compliance with the rules and regulations of the Maricopa County Environmental Services Department ("MCESD") or the Arizona Department of Water Resources ("ADWR"). See Exhibit 4 for more detailed information.

CONCLUSIONS AND RECOMMENDATIONS

Staff concludes that:

- The proposed sale of assets and CC&N cancellation will not have an adverse effect on the Company's customers or water service.
- The Company has no delinquent ACC compliance items.
- The Company's system is not in compliance with MCESD and ADWR regulations.
- The Town's system is in compliance with MCESD and ADWR regulations.

Staff recommends approval of the sale and transfer of assets of the Hopeville to the Town and that the Commission cancel the CC&N of Hopeville with the following conditions:

1. That Hopeville file documentation of finalization of the sale of the Company to the Town with the Commission in this docket within 30 days of such finalization.
2. That Hopeville honor all obligations with respect to customer and meter deposits as addressed in the Purchase Agreement.

MEMORANDUM

EXHIBIT 1

TO: Vicki Wallace
Executive Consultant III
Utilities Division

FROM: Lori H. Miller 
GIS Technician
Utilities Division

THRU: Del Smith 
Engineering Supervisor
Utilities Division

DATE: January 9, 2013

RE: **HOPEVILLE WATER COMPANY, INC. DRA ALLENVILLE WATER COMPANY (BUCKET NO. W-0277A-12-0403)**

&

Hopeville Water Company has filed an application to cancel its CC#N. Their service area will be served by the Town of Buckeye.

Attached is a copy of the map for your files.

/lhm

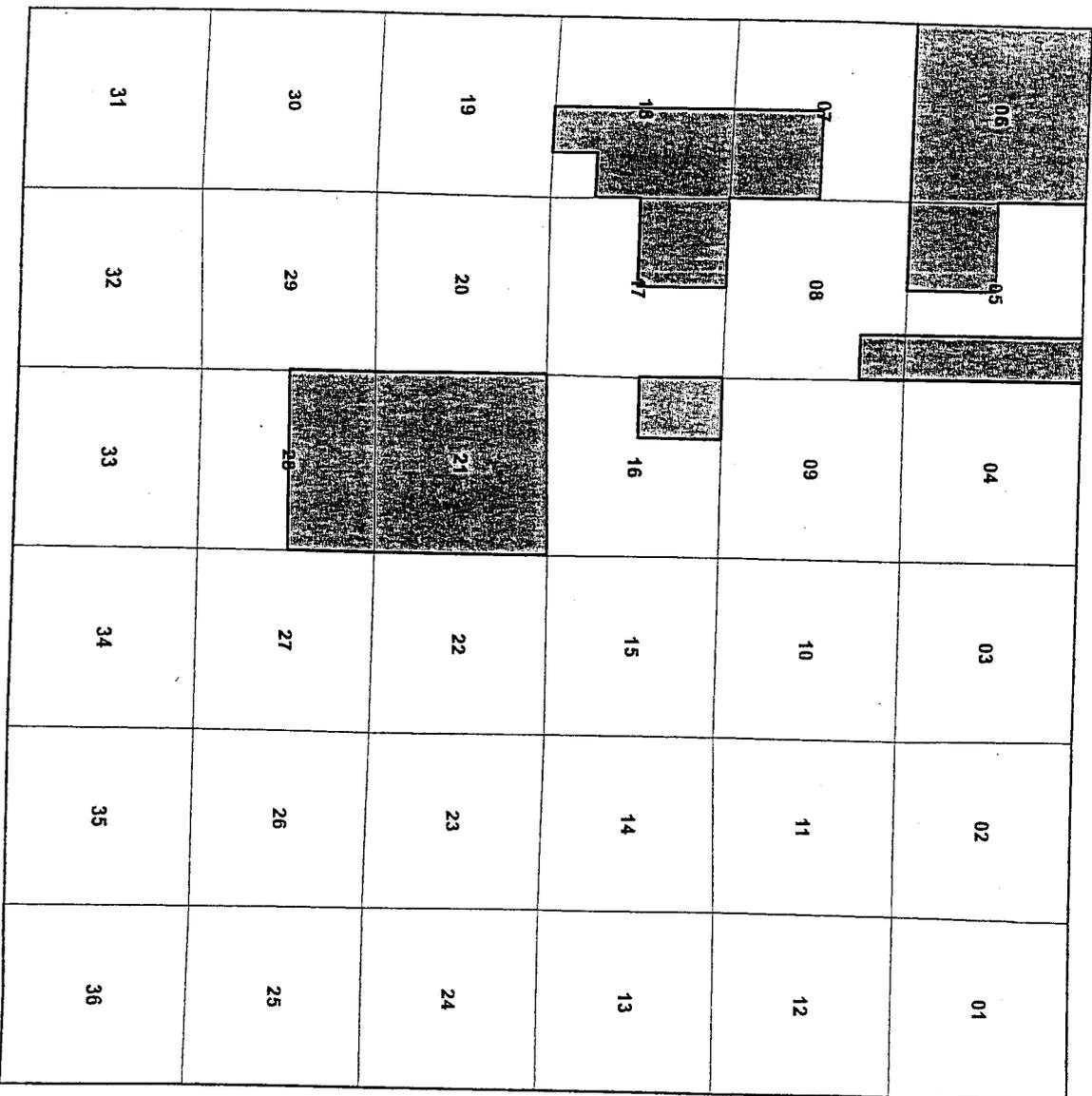
Attachment

cc: Mr. Abraham Harris II
Mr. Stephen Cleveland
Mr. Del Smith
Ms. Deb Person (Hand Carried)
File

MARICOPA COUNTY

Map No. 8

RANGE 4 West



TOWNSHIP 1 North



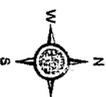
W-02077A (1)

Hopeville Water Company, Inc.



W-01212A (6)

Valencia Water Company, Inc.



Prepared by:
 Arizona Corporation Commission
 Utilities Division
 Engineering Section/GIS Mapping
 602-542-4251

Not to ARS § 39-121.03 this map is 'Not for Commercial Use'

TRINAW 27 FEB 2008

**UNANIMOUS CONSENT RESOLUTION
IN LIEU OF A SPECIAL MEETING
OF THE BOARD OF DIRECTORS
OF
HOPEVILLE WATER COMPANY, INC.
(an Arizona corporation)**

Pursuant to A.R.S. §10-704 the Board of Directors (the "Board") of HOPEVILLE WATER COMPANY, INC., an Arizona corporation (the "Corporation"), hereby join unanimously in their written consent that the following actions and resolutions be taken and adopted as the actions and resolutions of the Corporation and its Board, in lieu of written notice and a formal meeting.

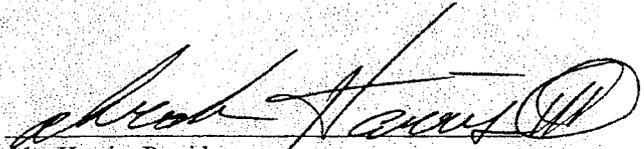
WHEREAS, the Corporation's Board has met to review and approve an offer from the Town of Buckeye in the amount of \$771,000.00.

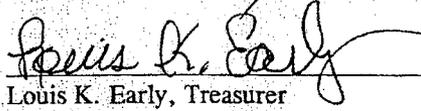
NOW, THEREFORE, it is unanimously

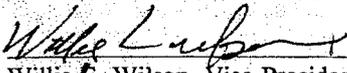
RESOLVED, approved and ratified that the Board shall authorize Abe Harris to continue to take all steps necessary on behalf of the Corporation, including hiring and paying attorneys and consultants to complete the transaction.

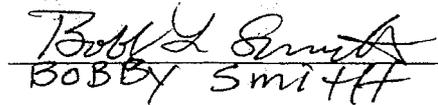
RESOLVED, that Abe Harris shall be authorized to execute and file any and all documents or instruments necessary to carry out and give effect to the actions authorized herein.

IN WITNESS WHEREOF, the undersigned Board of the Corporation have duly executed this
Unanimous Consent Resolution, and intend for it to be effective as of October 25, 2012.


Abe Harris, President


Louis K. Early, Treasurer


Willie E. Wilson, Vice President


BOBBY SMITH

**ASSET PURCHASE AGREEMENT
BETWEEN THE TOWN OF BUCKEYE AND THE
HOPEVILLE WATER COMPANY FOR THE PURCHASE AND SALE
OF THE BUSINESS ASSETS OF HOPEVILLE WATER COMPANY**

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into this ____ day of _____, 2012, by and between HOPEVILLE WATER COMPANY, INC., an Arizona corporation, ("Seller"), and THE TOWN OF BUCKEYE, ARIZONA, an Arizona municipal corporation ("Buyer").

WITNESSETH:

WHEREAS, Seller is the owner of a water works plant and distribution system and domestic water company known as HOPEVILLE WATER COMPANY, situated in the Town of Buckeye, Arizona; and

WHEREAS, Seller is the holder of Certificates of Convenience and Necessity issued by the Arizona Corporation Commission, which certificates authorize Seller to engage as a public service corporation in the sale of water for commercial and domestic uses in its Certificated Area; and

WHEREAS, Buyer desires to own and operate water utility systems within and without its Town limits and to provide its residents with direct control over the rates, quality, water resources management and other policies and practices relating to the provision of water utility service to its residents; and

WHEREAS, Buyer is duly authorized by the laws of the State of Arizona to purchase or lease any plant or property or portion thereof devoted or which may be devoted to the business of providing public utility water service within and without the Town limits; and

WHEREAS, Buyer desires to acquire ownership of the Hopeville Water Company water utility system assets; and

WHEREAS, the parties have voluntarily bargained and negotiated in good faith to determine the price, terms and conditions of such a sale; and

WHEREAS, Seller is desirous of selling its Business Assets to Buyer under the price, terms and conditions set forth herein.

NOW THEREFORE, IN CONSIDERATION of the foregoing Recitals, and the mutual promises, covenants and agreements hereinafter contained, and each act of the parties hereto, the parties agree as follows:

Section 1. Definitions.

Unless the context clearly indicates the contrary, the following capitalized words used in the Recitals and used below shall have the meanings set forth below:

1.1 **"ACC"** refers to the Arizona Corporation Commission in the exercise of its constitutional and statutory authority to regulate utility service in this State provided by public service corporations.

1.2 **"ACC Approval"** refers to approval by the ACC, in the exercise of its limited authority under A.R.S. § 40-285, of the disposition by Seller of the Business Assets and, if Buyer so elects, in its sole discretion, the extinguishment of Seller's Certificates of Convenience and Necessity. This Agreement is not intended to grant to the ACC any right or authority to review and approve this Agreement and its terms beyond whatever limited authority is granted to the ACC under A.R.S. § 40-285.

1.3 **"Accounts Receivable"** refers to any right for the payment to Seller for services or goods provided or rendered, whether or not evidenced by an instrument or chattel paper, arising out of or in any way related to the Business prior to Closing.

1.4 **"Agreement"** refers to this Asset Purchase Agreement for Purchase and Sale of the Business Assets.

1.5 **"Assignments"** refers to those certain documents to be given by Seller to Buyer conveying all of its interest in the Contract Rights.

1.6 **"Authority"** refers to any federal, state, local or foreign government or governmental or regulatory agency or authority.

1.7 **"Bill of Sale"** refers to that certain document to be given by Seller to Buyer conveying all of its interest in and to the Equipment and Records.

1.8 **"Business"** refers to that certain business known as Hopeville Water Company currently owned by Seller and engaged as a public service corporation in the sale of water for domestic, commercial and other uses in its Certificated Area pursuant to its Certificate of Convenience and Necessity issued by the ACC, and other related services in connection therewith.

1.9 **"Business Assets"** refers collectively, to the Subject Water Facilities, the Real Property, all Improvements, Equipment, Inventory, Contract Rights and Records owned and used by Seller in connection with the Business, and to any Subject Water Facilities, real property, Improvements, Equipment, Inventory, Contract Rights and Records owned by Seller or Allenville Water Company.

1.10 **"Buyer"** refers to the Town of Buckeye, Arizona, an Arizona municipal corporation.

1.11 **"Buyer's Address"** shall mean c/o Town Manager, Town of Buckeye, 530 East Monroe Avenue, Buckeye, Arizona 85326.

1.12 **"Certificates of Convenience and Necessity"** shall refer to those certain Certificates of Convenience and Necessity issued by the ACC held by Seller and/or Allenville Water Company and authorizing Seller and/or Allenville Water Company to engage as a public service corporation in the sale of water for domestic, commercial and other uses in its Certificated Area.

1.13 **"Certificated Area"** refers to the areas set forth in Exhibit "A" in which Seller conducts its Business, which areas are more particularly shown on the map of the existing service area attached hereto as Exhibit "B", which map is for the purposes of showing the boundaries of the

Certificated Area, size and extent of water mains and pipes, easements, and any other areas served by the Business.

1.14 **"Closing; Date of Closing"** refers to that point in time when (a) all of Seller's obligations and Buyer's obligations hereunder have been fulfilled; (b) the Escrow Agent has received all funds, is prepared to disburse the same in accordance with this Agreement and has recorded all of the Transfer Instruments; and (c) the Escrow Agent has disbursed all of the sales proceeds as required by this Agreement.

1.15 **"Contract Rights"** refers to the right to have services or goods provided to the Business by third persons.

1.16 **"Creditors"** refers to any and all persons or entities to whom Seller owes money, goods or services.

1.17 **"Equipment"** refers to 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 Business, including but not limited to all equipment used in the operation of wells and tanks, the water distribution system, office equipment and motor vehicles.

1.18 **"Escrow Agent"** refers to Great American Title Agency, Inc., 497614

1.19 **"Improvements"** refers to wells, tanks, water lines and distribution systems, and any other structures or tangible property used in connection with the Subject Water Facilities.

1.20 **"Inventory"** refers to goods which are held by Seller for the treatment of water or otherwise used or consumed in connection with the Business, in the ordinary course of operating its Business.

1.21 **"Liens"** refers to any lien, judgment, charge, claim, security interest, mortgage or encumbrance on or against the Business Assets or any one or more of the Business Assets or that, individually or in the aggregate, has a material adverse effect upon the ownership of the Business Assets or the conduct or operation of the Business.

1.22 **"Payables"** refers to all trade payables, accounts payable and other liabilities of and claims against Seller.

1.23 **"Permitted Encumbrances"** refers to those matters of record set forth on Schedule B of the Preliminary Title Report and such other matters approved in writing by Buyer.

1.24 **"Purchase Price"** means the sum of SEVEN HUNDRED SEVENTY-ONE THOUSAND AND NO/100 DOLLARS (\$771,000.00) which is the total purchase price for the Business Assets as set forth under Section 3 of this Agreement.

1.25 **"Real Property"** refers to all well sites, easements, licenses and other real property interests located in the Town of Buckeye or Maricopa County, Arizona, legally described in Exhibit "C" attached hereto, including all Improvements, fixtures and any other rights and appurtenances pertaining thereto which are used by Seller in the Business; provided, however, that the parties acknowledge and agree that the Real Property does not include that certain parcel of real property located in the vicinity of the Real Property, consisting of approximately 15.62 acres, and owned by

Hopeville Community for Progress, Inc. ("HCP") and which is the subject of a separate Option Agreement between Buyer and HCP.

1.26 "Records" refers to all of Seller's service agreements, service and repair records, water treatment records, hydrology and assured water supply studies and reports, Department of Water Resources filings and correspondence, customer data base information (including master file information, billing histories, complaints), meter reading information, operations manuals, construction drawings, and other related documents arising out of or in any way relating to the Business Assets.

1.27 "Seller" refers to Hopeville Water Company, an Arizona corporation and a regulated public service corporation and water utility (ACC Utility No. W-02077A).

1.28 "Seller's Address" means 1421 W. Palo Verde Rd. Buckeye, AZ 85326.

1.29 "Subject Water Facilities" refers to all of the water utility plan, system, business, real and personal property and interests in property, and other facilities utilized or which may be utilized to provide water service to the public, as well as the Certificates of Convenience and Necessity, franchise(s), intangible assets and rights, and all other assets of any type or nature owned by and/or associated in any way with the utility operations of the Hopeville Water Company and/or the Allenville Water Company, located within and without the Town of Buckeye, in Maricopa County, Arizona, including but not limited to those facilities, pumps, wells, waterlines, meters, personal property and/or other equipment, properties and rights used or useful to provide water service in the Hopeville Water Company system, including, but not limited to, well sites, easements, leaseholds and other interests in real property described in Exhibit "C" attached hereto and incorporated herein by this reference, and all equipment and facilities located thereon.

1.30 "Tax Claim" refers to a claim or assertion of an unpaid property tax and other taxes of any kind (current taxes due and any delinquent taxes, tax liens, tax levies, certificates of purchase and all other assertions of a tax obligation by any taxing jurisdiction or agency), that is not apparent as being facially invalid or unenforceable, on or that may be enforced or collected against or from the Business Assets or proceeds of this acquisition that are the legal obligation of Seller.

1.31 "Title Insurer" means First American Title Insurance Company.

1.32 "Transfer Instruments" refers to those instruments customarily required for the transfer of the Assets, including, but not limited to:

- (i) Special Warranty Deed to the Property;
- (ii) Foreign Investment in Real Property Tax Act Affidavit;
- (iii) Bill of Sale to all personal property to be transferred to Buyer hereunder;
- (iv) Assignments as to all Contract Rights, franchise rights and certificates which are transferable.

Section 2. Conveyance of Business Assets.

Subject to and upon the terms and conditions contained in this Agreement, Seller agrees to sell, assign, transfer and convey to Buyer on the Closing Date, and Buyer agrees to purchase,

accept and receive from Seller on the Closing Date, the Business Assets, free and clear of any Liens. Buyer does not agree to assume or pay any of the Payables or any of the Retained Liabilities (as defined below), and Seller agrees to pay all of the Payables and all of the Retained Liabilities as they become due. Seller acknowledges that Buyer intends to use the Business Assets to provide water service to areas not currently serviced by Seller and that Seller shall have no right to and shall not object to any third party, including without limitation the ACC or the Arizona Department of Water Resources, regarding Buyer's use of the Business Assets to provide service to such additional areas. The provisions of this Section 2 shall survive the Closing.

2.1 Equipment, Inventory and Records.

The Equipment, Inventory and Records shall be conveyed at Closing by the execution and delivery by Seller of the Bill of Sale. The Bill of Sale shall include a list identifying all Equipment and shall be in the form of Exhibit "D" attached hereto.

2.2 Contract Rights.

To the extent that any person shall be required to consent to the transfer of Contract Rights, then Seller shall obtain that consent in writing as a condition of Closing.

2.3 Real Property.

Conveyance of the Real Property shall be by special warranty deed, subject only to Permitted Encumbrances.

2.3.1 Title Insurance. Seller shall furnish Buyer at Closing with an extended owner's title insurance policy in the amount of \$_____ insuring Buyer's interest in the Real Property, subject only to those exceptions described in Section 2.3 above (the "Owner's Policy").

2.3.2 Title Report and Objections.

(a) Seller shall cause Title Insurer to issue and deliver to Buyer and Seller a preliminary commitment for title insurance concerning the Real Property, together with copies of all instruments referred to therein which will remain as exceptions to title following Closing (the "Preliminary Title Report"), and an insured closing letter issued by Title Insurer, within ten (10) days following the Opening of Escrow. The Preliminary Title Report is to be preliminary to the Owner's Policy to be issued by Title Insurer. Buyer shall have until the expiration of the Investigation Period (as defined below) in which to advise Seller, in writing, either (i) that the condition of title to the Real Property as evidenced by the Preliminary Title Report is acceptable; or (ii) to object to any easements, liens, encumbrances or other items, exceptions or requirements in the Preliminary Title Report (collectively, "Buyer's Title Objections"), except for (A) any financing liens and tax liens, lis pendens, leases and parties in possession, if any, which shall be released and terminated at Seller's cost at the Closing (the "Existing Liens") and (B) matters (such as taxes and assessments not yet delinquent) which will be prorated between the parties at Closing. If Buyer shall not have notified Seller of Buyer's Title Objections within such time specified above, Buyer shall be deemed to have approved the condition of title to the Real Property as shown by the Preliminary Title Report and elected to proceed toward Closing and the entire Earnest Money Deposit shall be non-refundable to

Buyer except in the case of Seller default or as otherwise expressly provided to the contrary in this Agreement.

(b) Seller shall have ten (10) days after Seller's receipt of Buyer's Title Objections (if any) within which to advise Buyer, in writing, whether Seller will attempt to cure any or all of Buyer's Title Objections by Closing ("**Seller's Title Notice**"). If Seller does not so notify Buyer within the time specified, Seller shall be deemed to have delivered Seller's Title Notice to Buyer on the tenth (10th) day after receiving Buyer's Title Objections stating that Seller is unwilling to cure Buyer's Title Objections.

(c) On or before the tenth (10th) day after Buyer's receipt (or deemed receipt) of Seller's Title Notice, if Seller shall not have agreed to cure or attempt to cure all of Buyer's Title Objections, Buyer shall either (i) waive, in writing, the curing of such Buyer's Title Objections as Seller shall have been unwilling to cure and proceed toward Closing; or (ii) elect to terminate this Agreement by giving written notice to Seller, in which event the Earnest Money Deposit (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof. Notwithstanding the foregoing, if Buyer fails to so provide such notice, Buyer shall be deemed to have elected to cancel this Agreement, in which event the Earnest Money Deposit (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof. If Seller shall elect to attempt to cure Buyer's Title Objections and should Seller thereafter fail to cure Buyer's Title Objections by the Closing, Buyer shall either (A) waive, in writing, the curing of such Buyer's Title Objections and proceed toward Closing; or (B) elect to terminate this Agreement by giving written notice to Seller, in which event the Earnest Money Deposit (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof. Notwithstanding the foregoing, if Buyer fails to so provide such notice, Buyer shall be deemed to have elected to cancel this Agreement, in which event the Earnest Money (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof.

(d) If at any time prior to Closing, Title Insurer shall issue a supplemental title report which discloses additional matters (other than matters created by or with the written consent of Buyer or arising as a result of any work performed by or other activities of Buyer regarding the Real Property), the provisions set forth above in this Section 2.3.2 shall govern the review, objection and resolution obligations of the parties with respect to such additional matters; provided that Buyer shall have only ten (10) days to deliver any objection to Seller following Buyer's receipt of such supplemental report and copies of any additional documents disclosed therein. If Buyer fails to deliver any objection, Buyer shall be deemed to have elected to proceed toward Closing and the Earnest Money Deposit shall be non-refundable to Buyer except in the case of Seller default or as otherwise expressly provided to the contrary in this Agreement.

2.3.3 Condition of Title. Seller shall preserve title to the Property and at the time of closing shall deliver the Property in substantially as good condition with respect to title as of the date of the Preliminary Title Report, except to remove an objectionable item.

2.4 Inspection of Business Assets.

2.4.1 Investigation Period. For a period of sixty (60) days from the Opening of Escrow (the "**Investigation Period**"), Buyer shall have the right to satisfy itself that all aspects of the Business Assets are acceptable to Buyer, which right shall include the right to inspect the interior of the water tanks used by Seller in the operation of the Business. Seller acknowledges and agrees that such inspection of the water tanks will require that the water level in said tanks be drawn down during the Investigation Period. Buyer's obligations hereunder shall be conditioned upon Buyer's satisfaction with or waiver of such matters, which satisfaction or waiver shall be in Buyer's sole and absolute discretion. If Buyer, at any time on or before the expiration of the Investigation Period, gives written notice to Seller and Escrow Agent that Buyer does not approve of the Business Assets, then the Escrow shall be terminated, the Earnest Money shall be returned to Buyer and this Agreement shall be terminated in accordance with the provisions of Section 2.5. Buyer's failure to notify Seller in writing prior to the expiration of the Investigation Period of Buyer's election to terminate this Agreement in accordance with the terms of this Section 2.4.1 shall be deemed Buyer's election to waive its right to cancel this Agreement pursuant to this Section 2.4.1 and proceed to Closing.

2.4.2 Review of Documents. Seller shall, within ten (10) business days of the Opening of Escrow, deliver to Buyer for review by Buyer, to the extent in existence and in Seller's possession or control, or reasonably obtainable by Seller, as of the date of this Agreement, all of the documents and information pertaining to the Business Assets and list on Exhibit "E" attached hereto (the "**Due Diligence Materials**").

2.4.3 Access. Seller shall (a) permit Buyer and its representatives, at Buyer's expense, reasonable access during normal business hours to all of Seller's assets, properties, contracts, documents, book, records, tax returns and reports, and other information pertinent to Buyer's due diligence investigation of the Business Assets and the Business, (b) provide Buyer and its representatives the opportunity to inspect and audit Seller's books and records and otherwise to make reasonable investigations of the Business Assets and the Business, and (c) furnish to Buyer and its representatives all reasonable information with respect to the Business Assets and the Business that Buyer may reasonably request.

2.5 Termination.

Upon any termination by either of the parties hereto as expressly allowed under this Agreement: (a) Buyer shall promptly return to Seller any materials concerning the Business Assets previously delivered by Seller or Seller's representatives to Buyer; (b) any funds held by Escrow Agent shall be immediately delivered by Escrow Agent to the party entitled thereto as specified by this Agreement; and (c) the parties shall thereafter be relieved from further liability hereunder, except with respect to any obligations which expressly survive the termination of this Agreement. A copy of any notice of termination allowed under this Agreement shall also be sent to Escrow Agent by the party electing to terminate.

2.6 Limitations.

The purchase of the Assets pursuant hereto shall not constitute a purchase of Seller by Buyer nor render Buyer a successor in interest to Seller. This Agreement is limited to the purchase and sale of the Business Assets only and Buyer is not assuming any liabilities of

Seller with respect to the Assets or the Business which may exist at any time prior to their transfer hereunder.

2.7 Retained Liabilities.

Buyer shall not assume any indebtedness, liabilities or obligations of Seller, including without limitation prepayments and cash deposits made by customers, or any claims against Seller, whether such indebtedness, liabilities, obligations or claims relate to payment, performance or otherwise, of any of the Payables or any other indebtedness, liabilities, obligations or claims (collectively, "Retained Liabilities"). Seller shall pay each of the Retained Liabilities as they become due, and Seller shall promptly repay to customers all prepayments and cash deposits.

Section 3. Purchase Price.

3.1 Total Purchase Price.

Buyer agrees to pay Seller as the total Purchase Price for Seller's interest in the Business Assets, the sum of SEVEN HUNDRED SEVENTY-ONE THOUSAND AND NO/100 DOLLARS (\$771,000.00) payable as follows:

3.1.1 Earnest Money. \$27,500 in cash, payable by Buyer's warrant, which shall constitute the "Earnest Money," shall be deposited by Buyer in Escrow with the Escrow Agent by 5:00 p.m., Phoenix time, within three (3) days of the Opening of Escrow. ✓

3.1.2 Cash at Closing. The balance of the Purchase Price, approximately \$743,500.00 plus or minus prorations and other adjustments as provided in this Agreement, if any, shall be due at Closing and shall be paid by Buyer's warrant to Escrow Agent, for and on behalf of Seller, by 1:00 p.m. Phoenix time, on the Closing Date.

3.1.3 Disposition of Earnest Money. The Earnest Money shall be deposited with Escrow Agent. The Earnest Money, including all interest earned thereon, if any, shall be applied (and Buyer shall receive a credit in the amount of the Earnest Money) toward the cash payment of the Purchase Price upon the Closing of this transaction.

3.1.4 Release of Earnest Money to Seller. Installments of the Earnest Money shall become non-refundable to Buyer, except in the event of Seller's default hereunder or except as otherwise expressly provided in this Agreement, and shall be released to Seller, as follows:

(a) \$5,000.00 of the Earnest Money shall, immediately upon deposit by Buyer, be released to Seller. ✓

(b) An additional \$5,000.00 of the Earnest money shall be released to Seller upon Seller's execution and delivery to Buyer of the Option Agreement (as defined below). ✓

(c) An additional \$5,000.00 of the Earnest Money shall be released to Seller upon completion of a meeting, as evidenced by a certificate from Buyer

acknowledging the completion of said meeting, attended by Seller, Buyer and the appropriate representatives of the Arizona State Land Department ("SLD") for the purpose of specifically discussing modifications to the existing restrictions in favor of the SLD encumbering the Option Property (as defined below) so as to permit the use of the Option Property by Buyer for general municipal purposes.

(d) An additional \$7,500 of the Earnest Money shall be released to Seller upon Seller's filing of an application with the ACC, in form and content reasonably acceptable to Buyer, for the approval of the sale of Seller's Business Assets to Buyer. Escrow Agent shall have no obligation to release the portion of the Earnest Money referenced in this subparagraph (d) until it shall have received written notice from Buyer stating that Seller has complied with the necessary condition precedent to such release.

(e) The final \$5,000 of the Earnest Money shall be released to Seller upon the expiration of the Investigation Period, unless Buyer shall have previously exercised its right to terminate this Agreement in accordance with the provisions of Section 2.4.1 hereof.

3.2 Allocation.

Pursuant to Section 1060 of the Internal Revenue Code, the consideration for the Business Assets shall be allocated in accordance with the form of Exhibit "F".

Section 4. Regulatory Contingency.

4.1 Contingencies.

Buyer's obligations under this Agreement are contingent upon Seller obtaining (a) all necessary approvals from the ACC for the sale of Seller's Business Assets and (b) if required, any necessary approvals from Maricopa County for the transfer of ownership of the Business Assets from Seller to Buyer (collectively, the "Regulatory Approvals"). Closing under this Agreement shall not occur until such Regulatory Approvals have been obtained and placed in Escrow. Seller shall assume all risks and liabilities associated with compliance with the regulatory authority of the ACC regarding this Agreement. Seller shall faithfully and diligently prosecute an application before the ACC requesting ACC Approval including, if Buyer so elects in its sole discretion, the extinguishment of Seller's Certificates of Convenience and Necessity as provided in this Agreement. Buyer shall reasonably cooperate with Seller in the prosecution of that application, including but not limited to filing a position statement with the ACC in support of the application and expressing support for the ACC Approval at any hearings on the application held under ACC jurisdiction by an administrative law judge, hearing officer or the Commission. Buyer shall not be required to take any action that Buyer believes may have the effect of subjecting Buyer to utility regulation by the ACC or may broaden the limited authority of the ACC beyond that of the ACC Approval.

Section 5. Covenants, Representations and Warranties By Seller and Buyer.

5.1 Seller's Representations.

Except as otherwise set forth in this Agreement, and in addition to all other covenants, warranties and representations of Seller herein, Seller hereby represents and warrants to Buyer the following:

5.1.1 Authority. Seller has full power and authority to own and operate the Business Assets and to conduct the Business. Seller has full power and authority and, as to the individual executing this Agreement on behalf of Seller, capacity to make, execute, deliver and perform this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary corporate action on Seller's part. This Agreement is a legal, valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

5.1.2 Title. Seller has good and marketable title to the Business Assets free and clear of any Liens and, upon the Closing, Buyer shall have and receive good and marketable title to the Business Assets free and clear of any Liens.

5.1.3. No Other Sale. Seller has not entered into, and there is not existing as of the date of this Agreement, any other agreement, written or oral, under which Seller is obligated to sell the Business Assets or any portion thereof to any third party.

5.1.4 Liabilities. Seller has no actual knowledge of any judgments, liens, actions or proceedings pending against Seller or the Business Assets which would adversely affect this transaction or the title which Buyer will receive, other than as set forth in the Preliminary Title Report.

5.1.5 Liens. No judgments, liens, security interests or other monetary obligations against the Business Assets will be outstanding at the time of Closing, except Permitted Encumbrances and current real estate taxes which are not yet due and payable.

5.1.6 Labor, Materials. All bills and invoices for labor and materials furnished to or on behalf of the Business Assets which have been incurred by Seller prior to the time of conveyance and transfer to Buyer, if any, will be paid by Seller and acknowledged in writing as paid by the laborer or supplier, as the case may be.

5.1.7 Compliance. To the best of Seller's knowledge, the operation of the Business and the use of the Business Assets and the Real Property have been and are being conducted in accordance with all applicable laws, ordinances, rules and regulations of all Authorities having jurisdiction. Seller has not received notice that any Authority presently claims Seller's conduct or operation of the Business, use or ownership of the Business Assets, or use of the Real Property, to be in violation of any law, ordinance, rule, regulation or order of any Authority, and Seller does not know of any circumstance that might give rise to such a claim by any Authority and to the best of Seller's knowledge no such violation exists.

5.1.8 Proceedings. There are no actions, suits or proceedings pending or, to the best of Seller's knowledge, threatened against Seller, at law or in equity, before or by any court, arbitrator or Authority that, individually or in the aggregate, would have a material adverse effect upon the Business or the Business Assets if conducted and used in the manner heretofore conducted and used, or would adversely affect the validity of this Agreement or its enforceability against Seller, the consummation by

Seller of the transactions contemplated hereby, or the compliance with the terms hereof by Seller. Seller is not a party to or bound by any agreement or any judgment, order, writ, injunction or decree of any court or Authority that prevents or restricts Seller from performing this Agreement.

5.1.9 Taxes. All sales or transaction privilege taxes, personal and real property taxes, payroll (including, Medicare and FUTA) and withholding taxes (including federal and state withholding), and income taxes that are required to be paid by Seller as shown on tax returns filed by Seller prior to the date of this Agreement, or as subsequently assessed by the taxing Authority, with respect to the Business Assets or the operation of the Business, have been paid, other than current property taxes that are not yet delinquent. All such sales, income, property, payroll and withholding tax returns of Seller, required to be filed prior to the date of this Agreement, have been filed. No agreements made by Seller for the extension of time for the assessment of any such taxes is now in force.

5.1.10 Equipment. All machinery, equipment and other operable tangible personal property included in the Equipment is clean and in good working condition, and Seller shall maintain, until the Closing Date, the Equipment in a clean and good working condition.

5.1.11 No Violations. The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated by this Agreement by Seller and the compliance with the terms, conditions and provisions of this Agreement by Seller will not: (a) contravene any provision of the articles of incorporation or bylaws of Seller; (b) either (i) result in a breach or constitute a default (or an event that might, with the passage of time or the giving of notice, or both, constitute a default) under, or (ii) result in or permit the termination or amendment of any provision of, or (iii) result in or permit the acceleration of the maturity or cancellation of performance of any obligation under, or (iv) result in the creation or imposition of any Lien upon, any of the Business Assets or give to any person any interest or rights under any indenture, mortgage, loan or credit agreement, license, contract or other agreement or commitment to which Seller is a party or by which Seller or the Business Assets or the Business is bound or affected, or any judgment or order of any court or Authority or any applicable law, rule or regulation.

5.1.12. 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 its debts as they fall due, and no such action is threatened or contemplated.

5.1.13 Best Actual Knowledge. All information prepared by Seller and provided or to be provided by Seller to Buyer and all representations by Seller are accurate to the best of Seller's actual knowledge without Seller having made any specific investigation thereof; as to all other information provided or to be provided by Seller to Buyer, Seller knows of no inaccuracies,

5.1.14 Regulations. To the best of Seller's actual 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 Property from any governmental agency having jurisdiction over the Business Assets or from any other person entitled to enforce the same.

5.1.15 Permits. Seller has all permits, licenses, authorization and approvals required by law or any governmental agency to conduct the Business.

5.1.16 Condemnation. To the best of Seller's knowledge, there are no pending or threatened condemnation or eminent domain proceedings which would affect the Business Assets.

5.1.17 Disclosure. None of the representations or warranties made by Seller in this Agreement, nor any document, statement, certificate, schedule or other information furnished or to be furnished to Buyer pursuant to this Agreement or in connection with the transaction contemplated hereunder contains, or will as of the Closing Date contain, any untrue statement or a material fact, or omits, or will as of the Closing Date omit, to state a material fact necessary to make the statements of facts contained therein not misleading.

5.1.18 Creditors. As of the closing except as set forth in Section 12, all bills and invoices for goods and services related to or which are a part of the Business Assets, if any, 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; and no claims by Creditors shall exist which may encumber the Business Assets.

5.1.19 Organization. Seller has been duly formed and presently exists as an Arizona corporation, and 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 on it by this Agreement. Seller shall furnish to Buyer such documentation to evidence such authority as Buyer may reasonably request.

5.1.20 Environmental Matters. Seller has used the Business Assets and the Real Property only for the conduct of the Business.

(a) There is not now on or under the Real Property, including the soil, drywells, wells, sumps, surface water and groundwater, any Hazardous Materials, and Seller is not aware of any Hazardous Materials on or under the Real Property; there are no underground storage tanks, underground gasoline or diesel tanks, or underground vessels located on the Real Property.

(b) Neither Seller nor the Real Property has been or currently is subject to any judicial or administrative proceedings, or civil or criminal complaint alleging a

violation of any federal, state or local governmental health and safety statute or regulation.

(c) Neither Seller nor the Real Property has been or currently is subject to any federal, state or local investigation evaluating whether any remedial action is needed to respond to the release of Hazardous Materials.

(d) There are no conditions on the Real Property that may give rise to any claim by a regulatory agency or a third party for violation of any federal, state or local environmental or health and safety statute or regulation.

(e) Seller has not generated, used, treated, transported to or from, stored or disposed of Hazardous Materials on, under or about the Real Property, and there is nothing that may prevent or interfere with the continued use of the Real Property or the continued operation of the Business in full compliance with all applicable environmental laws.

(f) The term "**Hazardous Materials**" includes any material or substance defined or treated in any environmental law as posing potential risk to persons, property, public health, safety, welfare or the environment and all waste, materials and substances that could lead to any liability, costs, damages and/or penalties under any environmental law or permit, including, without limitation, "solid waste," "hazardous substances," "hazardous air pollutant," "asbestos," "pollutant," "contaminant," "hazardous material," "hazardous waste," "toxic chemical," "petroleum or petroleum products," "toxic," "hazardous chemical," "extremely hazardous substance," "pesticide," or "chemical substance" as those terms are now or hereafter defined, deemed, determined, classified or regulated by any federal, state or local law, regulation, ordinance, policy or directive dealing with health, safety or the environment.

The "actual knowledge" of Seller, as used in this Section 5.1, means the actual, present knowledge of Abraham Harris, III as of the date of this Agreement. As to any of the representations or warranties in this Section 5.1 that are based on Seller's knowledge, if, after the date of this Agreement and prior to the Closing, Seller obtains actual knowledge (as defined in the first sentence of this paragraph) that any of such representations or warranties have become incorrect or inaccurate in any material respect, then Seller shall give notice thereof to Buyer by 5:00 p.m., Phoenix time, on the date that is three (3) business days immediately following the date on which Seller obtains knowledge of such incorrectness or inaccuracy. Upon giving such notice, Seller's representations and warranties in this Section 5.1 shall be deemed modified to the extent described in the notice. Notwithstanding the foregoing, if Seller gives Buyer notice under this paragraph of the modification of any of Seller's representations or warranties, Buyer shall have until 5:00 p.m., Phoenix time, on the date that is seven (7) business days immediately following the date on which Buyer receives Seller's notice to give Seller notice of Buyer's objection to such modifications if Buyer reasonably determines that the new facts or conditions disclosed by such modifications reasonably could have a negative impact on Buyer's proposed development or use of the Business Assets. If Buyer delivers the objection notice within the time provided, Buyer and Seller shall proceed to negotiate in good faith to resolve such objections; however, Seller shall have no obligation to pay any monies or incur any liabilities or obligations to accomplish such resolution. If Buyer's

objections are not resolved by the earlier of: (a) 5:00 p.m., Phoenix time, on that date that is ten (10) days immediately following the date on which Seller receives notice of Buyer's objections; or (b) 12:00 noon, Phoenix time, on the Closing Date (the "**Resolution Deadline**"), then Buyer shall either: (i) terminate this Agreement by giving written notice of such termination to Seller and Escrow Agent by the Resolution Deadline and Escrow Agent and/or Seller, as applicable, shall immediately return the Earnest Money to Buyer; or (ii) waive such objections and proceed with Closing. If Buyer does not give notice of termination by the Resolution Deadline, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this paragraph.

Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that all representations and warranties of Seller set forth in this Agreement shall survive the Closing of this Agreement.

5.2 Buyer's Representations.

Buyer hereby represents to Seller as follows:

5.2.1 Authority. Buyer has been duly formed and presently exists as a municipal corporation under the laws of the state of Arizona, and the entering into of this Agreement and the performance of Buyer's obligations hereunder have been duly authorized by all proper and necessary actions, and do not violate any applicable governmental statute, rule, regulation, ordinance, contract or other restriction. The person executing this Agreement and any other documents required hereby has full authority to act on behalf of and to bind the Buyer in and to the obligations imposed on it by this Agreement.

5.2.2 Binding Agreement. This Agreement and all documents required to be executed by Buyer are and shall be valid, legally binding obligations of Buyer, enforceable against Buyer in accordance with their terms.

5.3 Joint Representations and Warranties.

Seller and Buyer represent and warrant to each to the other that they have not dealt with any real estate broker or agent in connection with the purchase and sale transaction that is the subject matter of this Agreement, and each party agrees to indemnify, defend and hold harmless the other from and on account of any claims, demands, costs and expenses including, but not limited to, reasonable attorneys' fees, that may be asserted against, suffered or incurred by the indemnitee on account of the default by the indemnitor under this Section 5.3. Seller's and Buyer's representations and warranties set forth in this Section 5.3 shall survive the termination of this Agreement.

5.4 Covenants of Seller.

5.4.1 Conduct of Business. From and after the execution of this Agreement by the parties and until Closing, Seller shall preserve its business organization intact. Except as otherwise permitted by this Agreement or approved in advance by Buyer in writing, until the Closing:

(a) The Business shall be conducted only in the ordinary course and consistent with past practice, which without limitation shall include compliance with all applicable laws, regulations and administrative orders of all Authorities the noncompliance with which could, individually or in the aggregate, have a material adverse effect on the Business;

(b) Seller shall maintain in full force all insurance policies, fidelity bonds and performance bonds currently in force and shall pay when due all premiums for all such policies and bonds;

(c) Seller shall not engage in any activities or transactions that are outside the ordinary course of the Business or inconsistent with past practice that, individually or in the aggregate, would have a material adverse effect on the Business; and

(d) Seller shall not make any commitments or take any actions that would or might cause any of Seller's representations and warranties in this Agreement to be untrue, inaccurate or incomplete.

(e) Seller shall pay and discharge when due all liabilities and obligations of Seller relating to the Business Assets and the Business through the Closing Date.

(f) Seller shall perform all of its obligations under contracts relating to the Business Assets or the Business.

(g) Seller shall not enter into any contract or commitment, incur any liability, absolute or contingent, waive any right or enter into any other transaction that could materially and adversely affect the Business Assets or the conduct of the Business.

(h) Seller shall not mortgage, pledge, hypothecate or encumber any of the Business Assets.

5.4.2 Seller's Taxes. Seller shall pay before delinquent all the following taxes of Seller and the Business, to the extent applicable: (a) income taxes; (b) transaction privilege or sales taxes and use taxes; (c) payroll taxes (including, without limitation, federal and state withholding, FICA, Medicare and FUTA); (d) income taxes due on the sale by Seller and the purchase by Buyer of the Business Assets; and (e) transfer taxes, filing fees, transfer fees, lien release fees, set-up and termination fees and collection service fees if any. Seller shall obtain and deliver to Buyer, as soon as reasonably practicable, a certificate of good standing from the Arizona Department of Revenue to the Seller to the effect that Seller has filed its income, withholding or payroll, and transaction privilege tax returns on a current basis and that Seller has no outstanding liabilities thereunder, such certificate to be dated as close to the Closing Date as is practicable.

Section 6. Indemnification.

6.1 Seller.

Seller shall indemnify, defend and hold Buyer harmless against and in respect of:

6.1.1 All liabilities and obligations of, or claims against the Business Assets not expressly assumed by the Buyer herein;

6.1.2 Any damage or deficiency prior to Closing resulting from any misrepresentation, breach of warranty or nonfulfillment of any agreement on the part of the Seller hereunder or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished to the Buyer under this Agreement; and

6.1.3 All actions, suits, proceedings, demands, claims, assessments, judgments, costs and expenses incident to any of the foregoing or any obligations or liabilities of Seller in connection with the Business Assets transferred hereunder arising out of the Business prior to the date of Closing.

Buyer shall promptly notify Seller in writing of any claim, act or notice which could give rise to a claim of indemnification under this Agreement. If Seller desires to contest the claim, it shall do so at its sole cost and expense without reimbursement from Buyer and shall keep Buyer advised as to the status of the defense as reasonably required by Buyer. If Seller shall fail to successfully contest a claim as provided for above; pay a claim or final judgment rendered against it; or remove any lien or attachment within ten (10) days after imposition, then Buyer may, but shall not be obligated to, pay any such claim, judgment or lien. In the event of such payment by Buyer, Buyer shall be entitled to an offset in the amount so paid by Buyer, plus costs, actual attorneys' fees and costs, and interest at the legal rate in connection therewith. In the event Buyer claims any such offset hereunder, Buyer shall so notify Seller in writing. Any amount due Buyer not paid by such offset shall be immediately due and payable by Seller. The provisions of this Section 6.1 shall survive Closing.

6.2 Buyer.

To the extent permitted by law, Buyer shall indemnify, defend and hold Seller harmless against and in respect of:

6.2.1 Any costs, expenses, damages or deficiencies resulting from any misrepresentation, breach of warranty or nonfulfillment of any agreement on the part of Buyer hereunder or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished to Seller by Buyer under this Agreement:

Seller shall promptly notify Buyer in writing of any claim, act or notice which could give rise to a claim of indemnification under this Agreement. Seller shall not settle, pay or confess judgment with regard to such claim if Seller receives from Buyer within fifteen (15) days after the aforesaid notice of such claim a statement in writing by Buyer that Buyer will diligently defend the claim. If Buyer desires to contest the claim, it shall do so at its sole cost and expense without reimbursement from Seller and shall keep Seller advised as to the status of the defense as reasonably required by Seller. If Buyer shall fail to successfully contest a claim as provided for above; pay a claim or final judgment rendered against it; or remove any lien or attachment within ten (10) days after imposition, then Seller may, but shall not be obligated to, pay any such claim, judgment or lien. In the event of such payment by Seller, the amount of such payment plus costs, and actual attorneys' fees together with interest thereon at the

legal rate per annum shall be paid by Buyer to Seller within thirty (30) days. The provisions of this Section 6.2 shall survive Closing.

Section 7. Tax Claims

7.1 Determination

The parties shall jointly determine whether there exist any Tax Claims upon the execution of this Agreement or as soon thereafter as is practicable. If any such claims exist, Seller shall take all steps necessary to effect removal and/or satisfaction of any such claims, whether by assertion, levy, lien and administrative or judicial action, prior to the Closing Date. Filing of an unconditional Disclaimer of Interest by the taxing jurisdiction will satisfy the requirements of this Section 7.1 as to Tax Claims by the referenced taxing jurisdictions. In the event that Seller does not effect removal and/or satisfaction of one or more Tax Claims prior to the Closing Date, Buyer is authorized to withhold from the Purchase Price an amount that Buyer determines in good faith is reasonably necessary and prudent to ensure that all outstanding Tax Claims can be satisfied in full.

7.2 Indemnification for Tax Claims.

Seller shall hold Buyer harmless against all assertions, liens or attempts to collect on Tax Claims against Buyer or the Business Assets and all revenues Buyer receives from operating the Subject Water Facilities, and shall reimburse Buyer for its reasonable attorneys' fees, costs and expenses, as well as damages and losses proven by Buyer, as a result of all Tax Claims. The provisions of this Section 7.2 shall survive the Closing

Section 8. Conditions Precedent.

8.1 Buyer's Conditions Precedent.

The following are conditions precedent to the obligations of Buyer under this Agreement. If any of the conditions are not satisfied or expressly waived by Buyer in its sole discretion within the time provided in this Agreement, Buyer may terminate this Agreement and receive the return of all Earnest Money, in which event Buyer and Seller shall have no further duties, liabilities or obligations under this Agreement except those that expressly survive termination of this Agreement. In addition to the foregoing, Buyer may conditionally waive the conditions precedent set forth in this Section 8.1 by delivery of written notice to Seller:

8.1.1 On or before the expiration of the Investigation Period, Buyer shall have approved of all matters which Buyer is entitled to inspect, review or approve pursuant to Sections 2.3 and 2.4 of this Agreement.

8.1.2 Seller's warranties, representations and covenants contained in this Agreement are true and correct as of the Closing Date in all material respects, and Seller shall have performed each covenant and obligation of Seller set forth in this Agreement.

8.1.3 Seller shall have provided to Buyer copies of its company resolutions providing that Seller is authorized to sell the Business Assets to Buyer in accordance with the terms of this Agreement (as amended, if applicable) and to enter into, executive, deliver and perform this Agreement and that Abraham Harris, III is

authorized on behalf of Seller to execute and deliver all documents relating thereto (the "Seller Resolutions").

8.1.4 Seller's legal counsel shall have provided to Buyer a legal opinion ("**Seller's Legal Opinion**"), in form and content reasonably acceptable to Buyer, opining that (i) Seller has the requisite corporate power and authority to sell the Business Assets to Buyer and (ii) the execution, delivery and performance of the Agreement have been duly authorized by all requisite corporate action on the part of Seller.

8.1.4 The physical condition of the Equipment shall be in a clean and good working condition on the Closing Date.

8.1.5 All Regulatory Approvals have been obtained.

8.1.6 To the best of Seller's knowledge, no statute, rule or regulation of any court or Authority shall be in effect that restrains or prohibits the transactions contemplated by this Agreement or that would adversely affect the ownership and operation of the Business Assets in the manner in which the Business Assets have been owned and operated by Seller. There shall not be pending or threatened any litigation, suit, action or proceeding by any party that (i) would adversely affect the ownership or operation of the Business Assets as owned and operated by Seller; (ii) seeks to restrain or prohibit the transactions contemplated by this Agreement; (iii) challenges the legality or validity of the transactions contemplated by this Agreement; or (iv) seeks damages from Buyer as a result of the transactions contemplated by this Agreement.

8.1.7 Seller have provided either (a) evidence reasonably satisfactory to Buyer that easements for waterlines exist in the locations shown on the attached Exhibit "F" or (b) easements for water lines in said locations, executed and acknowledged by the owners of the properties to be subjected to said easements, in form and content reasonably acceptable to Buyer.

8.1.8 The parties shall each have executed that certain Real Estate Purchase Option Agreement (the "**Option Agreement**"), in such form as shall have been reasonably agreed upon by the parties, granting to Buyer the option to purchase from Seller that certain real property located in Maricopa County, Arizona, and legally described in Exhibit "G" attached hereto (the "**Option Property**"), said option to extend for a period of ten (10) years from the date of the Option Agreement and to permit Buyer to purchase the Option Property for a purchase price equal to the appraised value of the land at the time the option to purchase the Option Property is exercised.

8.2 Seller's Conditions Precedent.

The following are conditions precedent to the obligations of Seller under this Agreement. If any of the conditions are not satisfied or expressly waived by Seller in its sole discretion within the time provided in this Agreement, Seller may terminate this Agreement and all Earnest Money shall be returned to Buyer (unless the failure of a condition is the result of Buyer's breach of this Agreement, in which case the provisions of Section 16.2 below shall apply), and Buyer and Seller shall have no further duties, liabilities or obligations under this Agreement except those that expressly survive termination of this Agreement. In addition to

the foregoing, Seller may conditionally waive the conditions precedent set forth in this Section 8.2 by delivery of written notice to Buyer:

8.2.1 Buyer's warranties, representations and covenants contained in this Agreement are true and correct as of the Closing Date in all material respects.

8.2.2 Buyer shall have performed each covenant and obligation of Buyer set forth in this Agreement, including, without limitation, the timely delivery of the Purchase Price.

8.2.3 Each party has executed the Option Agreement.

8.2.4 All Regulatory Approvals have been obtained.

8.2.5 No statute, rule or regulation or order of any court or Authority shall be in effect that restrains or prohibits the transactions contemplated by this Agreement.

8.3 Cooperation.

Buyer and Seller shall reasonably cooperate in connection with the satisfaction of the closing conditions, including, without limitation, executing any necessary applications or other required documents.

Section 9. Escrow Agent.

9.1 Closing Agent.

The Escrow Agent shall serve as the Closing agent for this transaction.

9.2 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 and shall be delivered to the appropriate party upon Closing.

9.3 Other.

The Escrow Agent agrees to do all things reasonably required by the terms of this Agreement to close this transaction.

Section 9. Closing Date.

The Closing of this sale shall take place on or before _____ [given timeline for ACC approval, this date will probably need to be early in 2013). In the event the parties wish to extend the Closing Date, they may do so provided a written instrument is executed by the parties and delivered to the Escrow Agent setting a new date for Closing. The new Closing date shall also be the new date for proration.

Section 10. Closing Documents.

10.1 Seller's Deposits.

Prior to Closing, Seller shall deposit in escrow for delivery to Buyer, the following:

10.1.1 The Transfer Instruments required by this Agreement.

10.1.2 Any other documents or instruments required by this Agreement.

10.1.3 Any other instruments necessary to or reasonably required by Buyer to effectuate the transaction contemplated herein.

10.2 Buyer's Deposits.

Prior to Closing, Buyer shall deposit in escrow for delivery to Seller the following:

10.2.1 All sums required of Buyer to close this transaction.

10.2.2 Such Transfer Instruments as are required of Buyer.

10.2.3 Any other instruments necessary to or reasonably required by Seller to effectuate the transaction contemplated herein.

Section 11. Costs.

Costs of Closing and/or expenses connected with the transfer of the Business Assets and the sale thereof shall be divided between Buyer and Seller, and paid through escrow, as follows:

11.1 Attorneys' Fees.

Each party shall pay its own attorneys' fees and costs.

11.2 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 fees or filing fees are for the Transfer Instruments. If any recording fees or filing fees are necessary as a result of recordings required to clear title, they shall be paid by Seller.

11.3 Title Insurance.

The premium for the standard title insurance policies required to be provided by this Agreement shall be paid by Seller. Buyer shall pay the difference between the standard premium and an extended premium, if any.

Section 12. Prorations.

All of the following in 12.1 and 12.2 shall be prorated as of 12:01 a.m. on the Date of Closing.

12.1 Taxes.

All current real estate taxes against the Real Property. Any delinquent taxes, penalties and interest thereon for the Real Property shall be paid by Seller on or before Closing.

12.2 Assessments.

All current assessments, both principal and interest, against the Real Property. Any delinquent amounts shall be paid by Seller on or before Closing.

12.3 Other.

12.3.1 Insurance shall be canceled by Seller as of Closing.

12.3.2 Telephone bills and listings shall be prorated.

12.3.3 Utility service shall be transferred by Seller to Buyer as of Closing.

12.3.4 Utility deposits, if any, shall be returned to Seller, and Buyer shall make its own utility deposit arrangements.

12.3.5 Maintenance contracts for services, supplies or Equipment as approved by Buyer in writing, shall be prorated as of Closing.

12.3.6 Leases for Equipment (including vehicles if any) shall be prorated as of Closing.

12.3.7 Personal property tax shall be prorated as of Closing.

12.3.8 Billing and collections shall be prorated in accordance with Section 19.

Section 13. Risk of Loss.

13.1 Prior to Closing.

The risk of loss for damage by fire or other casualty, or the taking by eminent domain, until Closing, shall be assumed by and shall be the responsibility of Seller. Upon the happening of any material loss and within ten (10) business days after notification thereof, Buyer may elect in writing to terminate this Agreement or close the sale. If any election to terminate the Agreement is made, the Earnest Money shall be returned to Buyer and this Agreement shall thereupon become null and void. In the alternative, if an election to proceed with Closing is made by Buyer, any insurance proceeds and/or condemnation award in connection with the loss shall be assigned to Buyer, but there shall be no adjustment to the Purchase Price.

13.2 After Closing.

The risk of loss or damage by fire or other casualty, or the taking by eminent domain, shall be assumed by Buyer after the Closing date.

Section 14. Insurance.

Buyer shall place its own insurance coverage on the property and Seller shall terminate any insurance coverage it may have as of Closing. Escrow Agent shall not be responsible for monitoring this change.

Section 15. Assignment of Agreement.

The rights of any party under this Agreement are not assignable without the prior written consent of the other party, which may only be withheld with cause.

Section 16. Default.

16.1 Default by Seller. If Seller breaches or is in default under any of its obligations hereunder, and provided that Buyer is not then in breach or default of its obligations hereunder, then Buyer, at Buyer's option, shall be entitled to (i) seek specific performance of Seller's obligations hereunder; (ii) terminate this Agreement by written notice to Seller and Escrow Agent, in which event the Earnest Money, any accrued interest thereon and all other sums previously deposited by Buyer with Escrow Agent or which were paid to Seller on account of this Agreement shall be returned to Buyer, and Buyer may pursue any claim for its actual damages not to exceed \$50,000.00 plus attorneys' fees and costs as provided by law; or (iii) waive such breach and proceed to Closing. Notwithstanding any such termination, Buyer shall have the continuing right to enforce any surviving obligations provided for in this Agreement.

16.2 Default by Buyer. If Buyer breaches or is in default under any of its obligations hereunder, and provided that Seller is not then in breach or default hereunder, Seller as its sole remedy for Buyer's breach shall be entitled to terminate this Agreement by written notice to Buyer and Escrow Agent, in which event Seller shall be entitled to receive (or retain if Seller has already received) the Earnest Money as liquidated damages for Buyer's breach, and this Agreement shall terminate. Payment to Seller of the Earnest Money shall terminate all of Seller's rights and remedies at law or in equity against Buyer with respect to this transaction for Buyer's breach of this Agreement. The parties hereby agree that the amount of the Earnest Money shall be and constitutes liquidated damages for Buyer's breach of this Agreement, Buyer and Seller acknowledging and agreeing that it is difficult or impossible to determine the actual damages Seller would suffer from Buyer's default under this Agreement and that the agreed upon liquidated damages are not punitive or penalties and are just, fair, and reasonable. Notwithstanding any such termination for Buyer's failure to close this transaction, Seller shall have the continuing right to enforce any surviving obligations provided for in this Agreement.

16.3 Notice and Cure. Notwithstanding anything in this Agreement to the contrary, no party shall ever be in default hereunder unless such breaching party first receives written notice of default from the non-defaulting party hereunder, stating with specificity the purported default or events of default, and thereafter the defaulting party fails to cure such default to the reasonable satisfaction of the non-defaulting party within ten (10) business days of the defaulting party's receipt of such written notice of default.

Section 17. Customer Deposits.

17.1 Seller's Responsibility.

17.1.1 Seller shall retain all customer deposits and meter deposits and Buyer shall not receive any credit against the Purchase Price therefor.

17.1.2 Seller shall be responsible for refunding all customer deposits and meter deposits, and shall do so in accordance with any requirements established by the ACC. Seller shall be entitled to offset customer deposits and meter deposits against amounts due from customers, in accordance with any requirements established by the ACC. Seller shall refund the remaining balance of customer deposits and meter deposits as a credit to the final month's water service billing rendered by Seller, and

shall provide documentation of same to Buyer and to the Arizona Corporation Commission.

Section 18. Employees.

18.1 Seller's Responsibilities.

18.1.1 Seller shall be responsible for paying all FICA, existing benefits and accrued vacation pay to all employees employed by seller as of Closing and Seller shall hold Buyer harmless for any claims by or obligations owed to such employees arising by reason of Buyer's acquisition of the Business Assets.

18.1.2 Seller shall terminate the employment of all remaining employees as of midnight on the date of Closing.

18.1.3 Seller shall not make any salary adjustments, nor hire additional employees or promote any employees after the date of this Agreement without the written consent of Buyer.

18.1.4 All independent contract employees (if any) will be canceled upon the effective date of transfer of the Business Assets to Buyer.

Section 19. Meter readings and Billings.

19.1 Meter Readings.

The parties shall jointly read all customer meters and agree upon all meter readings on the Closing Date. Seller will bill all customers for water served by Seller prior to the joint meter reading on the Closing Date. Buyer will bill customers for all water served by Buyer following the joint meter reading on the Closing Date. The parties shall cooperate with respect to payments made in the ordinary course by any third party so that Buyer and Seller each receive the third party payments appropriately payable to them under this Agreement. Seller shall be entitled to receive all accounts receivable for water deliveries made by Seller through the joint meter reading on the Closing Date. Buyer shall be entitled to receive all payments for water deliveries made after the joint meter reading on the Closing Date.

Section 20. Post-Closing Cooperation

20.1 Access.

Seller shall reasonably cooperate with Buyer with regard to the transfer of Seller's system to Buyer, including but not limited to providing access to Seller's knowledgeable water operators and maintenance personnel to assist Buyer's water operations personnel in becoming familiar with the system and its operations.

20.2 Use of Seller's Personnel

If Buyer were to decide that it needed active assistance of Seller's water operators or other employees on an interim basis after the Closing during the transition of operation of the water system, Seller agrees to provide that assistance for a fee to be negotiated between the parties. In

that event, the employees so provided by Seller would remain Seller's employees and all burdens and obligations of the employer would be borne by Seller, who would remain an independent contractor of Buyer.

20.3 Miscellaneous Charges. The provisions of this Agreement contemplate that the parties will provide, after the Closing, reasonable amounts of information and documentation to each other to allow the purposes of the Agreement and the acquisition to be completed, without charge. This cooperation shall include turning over records, as-builts and other documents (to the extent they exist) to accomplish a transfer of system operations with a minimum of disruption to the water customers and to the orderly processes required. The parties shall cooperate reasonably in resolving any dispute over the documentation and other information and assistance needed.

Section 21. Miscellaneous Provisions.

21.1 Notices.

All notices and communications hereunder shall be in writing and shall be given by personal delivery or mailed first class, registered or certified mail, postage prepaid, and shall be deemed received upon the earlier of actual delivery or one hundred twenty (120) hours after deposit in the United States Mail as aforesaid. Notices to Seller or Buyer as the case may be shall be delivered or mailed to the addresses set forth in Section 1 of this Agreement. In addition, a copy of the notice shall be mailed or delivered to the Escrow Agent in care of the address set forth in Section 1.

21.2 Nature of Agreement.

21.2.1 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 its 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.

21.2.2 Integration. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement.

21.2.3 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.

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

21.2.5 Other Agreements. Seller shall not enter into any contracts, leases, agreements or amendments to existing agreements or encumbrances affecting the Business Assets while this Agreement remains in force or subsequent to Closing of this transaction without the express written consent of Buyer, other than to remove a matter which the Title Insurer required be removed to Close.

21.2.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement. This Agreement will be binding upon and inure solely to the benefit of the parties and their successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any person or party any legal or equitable right, benefit or remedy of any nature whatsoever.

21.2.7 Right to Cancel. Buyer may cancel this Agreement, pursuant to A.R.S. § 38-511, without penalty or further obligations by Buyer or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of Buyer or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement.

21.3 Relation of Parties.

21.3.1 No Agency. It is expressly agreed and understood by the parties hereto that neither party is the agent, partner, or 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.

21.4 Attorney's Fees.

If any party defaults hereunder, the defaulting party shall pay the other party's reasonable attorneys' fees, expert witness fees, travel and accommodation expenses, deposition and trial transcript costs, costs of court and other similar costs or fees paid or incurred by the non-defaulting party by reason of or in connection with the default (whether or not legal or other proceedings are instituted). In the event any party hereto finds it necessary to bring an action at law or other proceeding against the other party to enforce 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, with attorneys' fees to be set by the court and not by the jury. In the event the parties elect to arbitrate a dispute, then this section shall also apply to arbitration, except that the provisions referring to a court shall refer to the arbitrator.

21.5 Construction.

21.5.1 Time. Time is, of the essence of this agreement. However, if any action is required to be taken on a Saturday, Sunday or legal holiday, the action shall be deemed timely taken if it is taken on the next regular business day.

21.5.2 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. Whenever a personal pronoun is used in any one gender, it shall be deemed to include all other genders as the case may require, and the singular shall include the plural, and vice versa, unless the context indicates to the contrary.

21.5.3 Adverbs. Whenever the terms "herein", "hereunder", "hereof", "therefore", "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.

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

21.5.5 State Law. This Agreement and the conveyance provided for herein shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

21.5.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument. Each of the parties shall be provided with a fully executed original of this Agreement. Signatures of the parties may be submitted via facsimile or other commercially acceptable electronic means (including but not limited to "pdf") and such signatures shall be deemed to be original signatures and fully enforceable.

21.5.7 Severability. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof.

21.6 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.

21.7 Forms.

Buyer and Seller agree that the forms described herein below shall be the forms, with attached exhibits to those forms as reference exhibits, to be used by the parties to complete the transaction contemplated by this Agreement, together with such other forms as may be required to effectuate the Closing:

20.7.1 Form of Special Warranty Deed as shown on Exhibit "H" attached hereto and made a part hereof.

20.7.2 Form of Assignment of Easements and Property Rights as shown on Exhibit "I" attached hereto and made a part hereof.

20.7.3 Form of Bill of Sale as shown on Exhibit "J" attached hereto and made a part hereof.

20.7.4 Form of Assignment and Assumption of Maintenance Agreements, Service Contracts and Warranties as shown on Exhibit "K" attached hereto and made a part hereof.

20.7.5 Form of Assignment of Water Rights and Well Rights as shown of Exhibit "L" attached hereto and made a part hereof.

Section 22. Bulk Sale Requirements.

In lieu of compliance with Article 6 (Bulk Transfers) of the Arizona Commercial Code, A.R.S. Section 47-6101, et seq., the parties agree, as follows:

22.1 Indemnification.

As set forth above, Seller has agreed to convey the Business Assets free of the claims of any creditors. Therefore, in the event that any creditors make any claim against the proceeds of this transaction or seek to set aside this transaction, then Seller shall indemnify, defend and hold Buyer harmless from any such claims, as set forth under Section 6.1, above.

22.2 Buyer Not Liable for Seller's Debts.

The parties hereto specifically agree that Buyer shall not be liable or obligated for any of Seller's debt or obligations. Accordingly, all such debts or obligations must be paid in full as of Closing if they arose as a result of the purchase of the Business Assets to be transferred hereunder.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

BUYER:

TOWN OF BUCKEYE,
ARIZONA, an Arizona
municipal corporation

By: Stephen Cleveland

Its: Town manager

ATTEST: Lurinda J. [Signature]
Town Clerk

SELLER:

HOPEVILLE WATER COMPANY,
an Arizona corporation

By: [Signature]

Its: PRESIDENT

Approved as to form:

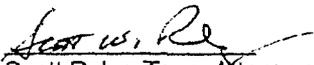
By: 
Scott Ruby, Town Attorney

EXHIBIT "___"

List of Due Diligence Materials

"Company" shall mean the Hopeville Water Company, Inc.

1. List of Company's assets
2. Last 3 year's Company tax returns
3. Last 3 years of monthly billings to water users
4. Copies of easements for water lines and facilities
5. Contracts, agreements, warranties, related to the Company or its facilities
6. Last 3 year's power bills paid by the Company
7. Company's financial statements consisting of a balance sheet and the related statement of income and cash flows reflecting the results of operations and financial position of Company at and for the 12-month period ended December 31, 2010, and at and for the 4-month period ended April 30, 2011
8. All permits, licenses, orders or approvals of governmental or administrative authorities, including without limitation, from the Arizona Department of Water Resources, required to permit Company to carry on the business as currently conducted
9. Company's books and records containing a correct and complete list of each of the customers of the Company's business
10. A list of names and titles as of Company's employees, officers, independent contractors and directors, the annual rate of total compensation (including, without limitation, bonuses) being paid to each such employee, officer, independent contractor and director
11. All as-builts and any other plans of the Company's water system
 - a. Waterline sizes and locations, in-service dates
 - b. Meter sizes, types, in-service dates
 - c. Meter routes
 - d. System repair records
 - e. Well plans, including drilling reports, O&M manuals, in-service dates
 - f. Treatment system report, plans, O&M, component in-service dates
 - g. Water productions records
 - h. Water quality records, current and history
 - i. Maintenance records for all equipment and major components
 - j. Records of any inspections and testing of waterlines, systems and components
12. Billing records
 - a. All current meter billing locations, including addresses, meter sizes and similar or related information

- b. History of billing records, deposits, existing balances, payment records, logs and reports.
 - c. Any delinquent accounts.
 - d. Record of any electrical accounts needed for the system. History of these billings
 - e. List of rates, new connection fees and other fees or charges
13. Current management and maintenance agreements/contracts
- a. Any management, maintenance or utility operations contracts in place relating to the water system, operations, staffing or other contractors
 - b. Information on full time and part time utilization of employees working on the system
 - c. Any other contracts for the system
14. All records and documents concerning the real property owned by the Company and being acquired by the City.
- a. Deeds and other title and related documents
 - b. Any agreements currently in place regarding the real property
 - c. Any waterline easements or rights-of-way or other similar or related documents.
15. All organizational documents of the Company, including Articles of Incorporation and Bylaws

MEMORANDUM

TO: Vicki Wallace
Executive Consultant
Utilities Division

FROM: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: March 5, 2013

RE: Application by Hopeville Water Company, Inc. dba Allenville Water Company, for Arizona Corporation Commission approval to Sell its Assets and for Cancellation of its Certificate of Convenience and Necessity (Docket No. W-02077A-12-0493)

Introduction

Hopeville Water Company, Inc. dba Allenville Water Company (“Hopeville” or “Company”) has filed an application for approval of the sale of its assets to the Town of Buckeye (“Town”) and cancellation of its Certificate of Convenience and Necessity (“CC&N”). The Company is located approximately 35 miles west of downtown Phoenix on I-10 and the Palo Verde Road just south of the freeway (T1N, R4W, Section 16 NW 1/4, GSRB&M, Maricopa County, Arizona). The Hopeville CC&N area includes approximately 105 acres. The Town currently owns and operates a municipal water system in the immediate area.¹

Operation of Hopeville Water System

According to the Company’s latest Annual Report for the year ending December 31, 2010, the Hopeville water system consists of one well² (Pump Yield 250 gallons per minute), two storage tanks (100,000 gallons each tank), booster system equipped with pressure tank (3,000 gallons), 10 fire hydrants, and a distribution system serving 41 metered service connections.

¹ The Hopeville CC&N is located approximately 650 feet northeast of the Town of Buckeye Airport water service area.

² Arizona Department of Water Resources Well Registration No. 55-87247; Owner per well registration records: Allenville Community Development.

Water System Capacity

The Company's water system has adequate well production and storage capacity to serve existing customers and reasonable growth.³

Public Interest Consideration

According to the Application the Company does not have adequate capital to maintain its aging infrastructure and the Company has had difficulty funding minor repairs. The existing manager of Hopeville has indicated he is no longer interested in the day-to-day management of the Company. The Town has adequate financial, technical and managerial skills to effectively integrate Hopeville into its existing utility. The Town currently serves approximately 11,000 customers. The town began providing municipal water service in 1952. All customers in the Hopeville area will receive the same high level of customer service as all other customers of the Town.⁴ The Town's water department personnel who would be responsible for the Hopeville system possess advanced Arizona Department of Environmental Quality operator certifications.

Sale of Assets

The Company provided the following depreciated value of the plant-in-service (Assets) to be sold to the Town:

Table A. Company Assets

Plant-in-Service	Quantity	Estimated Depreciated Value
Well and related appurtenance	1 unit	\$147,496
100,000 gallon storage tanks	2 units	\$144,720
Booster Pumps	3 units	\$28,468
Pipelines, Valves and Hydrants	9,760 feet	\$358,772
Services and Meters	51 units	\$20,655
Miscellaneous Equipment	1 lot	\$11,160
Total Estimated Depreciated Value:		\$711,271

³ The Company did not provide water use data in its Annual Report for the year ending December 31, 2010. For purposes of its capacity calculation Staff assumed an average daily water use during the peak month of 550 gallons per connection.

⁴ Answers provided jointly by the Town and the Company received on March 1, 2013.

Maricopa County Environmental Services Department (“MCESD”) Compliance

Company’s System

MCESD is responsible for the administration and enforcement of the Safe Drinking Water Standards within Maricopa County. In an MCESD Compliance Status Report, dated January 9, 2013, MCESD reported the that Company’s water system, Public Water System #07-633, has major Monitoring and Reporting Deficiencies and is currently delivering water that does not meet water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4. The MCESD report goes on to say that if this Public Water System is not purchased by the Town enforcement action will be initiated for monitoring and reporting violations. The report states: “The Town of Buckeye will be able to bring this PWS into compliance by issuing Public Notice for missed monitoring and resuming routine monitoring.”

Town’s System

In its Public Water System Compliance Status Report, dated January 2, 2013, MCESD reported the that Town’s water system, Public Water System #07-089, has no major deficiencies and is currently delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.⁵

Arizona Corporation Commission (“ACC”) Compliance

On January 10, 2013, the Utilities Division Compliance Section reported that the Company had no delinquent ACC compliance items.

Arizona Department of Water Resources (“ADWR”) Compliance

Company’s System

The Company is located in the Phoenix ADWR Active Management Area “AMA”. According to an ADWR compliance status report, dated December 26, 2012, the Company water system is currently non-compliant with departmental requirements governing water providers and/or community water systems. The Company failed to file its AMA Annual Report and its Community Water Systems Program System Water Plan on-time.

Town’s System

The Town of Buckeye is also located in the Phoenix ADWR AMA. According to an ADWR compliance status report, dated December 26, 2012, the Town water system is currently compliant with departmental requirements governing water providers and/or community water systems.

⁵ Water Quality was confirmed via separate email from MCESD dated January 24, 2013.

Vicki Wallace
March 5, 2013
Page 4

Conclusions

Staff concludes that the proposed sale of assets and CC&N cancellation will not have an adverse effect on the Company's customers and their water service.

The Company has no delinquent ACC compliance items at this time.

The Company's system is not in compliance with MCESD and ADWR regulations.

The Town's system is in compliance with MCESD and ADWR regulations.

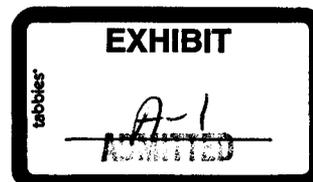
SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter "Agreement") is entered into by and between the Parties (as defined below) and shall become effective on the date when the last Party (as defined below) to execute this Agreement has affixed and delivered his, her or its representative's signature (the "Effective Date").

1. Parties

The parties to this Agreement are:

- 1.1. Alvin Cobbins;
- 1.2. Ruby Cooper;
- 1.3. Anola Hubbert;
- 1.4. James Brown, Jr.;
- 1.5. Matilda White;
- 1.6. Georgia Land;
- 1.7. Sergio Munoz;
- 1.8. Aric Gonzalez;
- 1.9. Robert Williams;
- 1.10. Marshall Elizondo;
- 1.11. Cristina Orozco;
- 1.12. Elreece Guy;
- 1.13. Demetric Guy;
- 1.14. Lafurn Garland;
- 1.15. Albert Williams;
- 1.16. Carol Guy;
- 1.17. Ellen Berry;
- 1.18. Arthur Wilburn, Jr.;
- 1.19. Sharon Caldwell;



- 1.20. Ralph Wilburn;
- 1.21. Michael J. Ross;
- 1.22. Richmond Lee;
- 1.23. Darlene Lee;
- 1.24. Abraham Harris, III;
- 1.25. Louis Early;
- 1.26. Willie Wilson;
- 1.27. Bobby Smith;
- 1.28. Hopeville Water Company, Inc., a non-profit corporation organized under the laws of the State of Arizona in 1985 (“HWC”);
- 1.29. Hopeville Community for Progress, Inc. a non-profit corporation organized under the laws of the State of Arizona (“HCP”);
- 1.30. The City of Buckeye (the “City”);
- 1.31. The persons identified in paragraphs 1.1 through 1.23 are referred to in this Agreement as “Plaintiffs.”
- 1.32. The persons identified in paragraphs 1.24 through 1.27 are referred to in this Agreement as the “Individual Defendants.”
- 1.33. The persons and entities identified in paragraphs 1.24 through 1.29 are referred to in this Agreement as “Defendants.”
- 1.34. The persons and entities identified in paragraphs 1.1 through 1.30 are collectively referred to in this Agreement as the “Parties” or individually as a “Party.”

2. Recitals

2.1. On or about June 27, 2013, plaintiffs Alvin Cobbins, Ruby Cooper, Anola Hubert, James Brown, Jr., Matilda White, Georgia Land, and Concerned Citizens Group of Hopeville Arizona, an unincorporated association, filed Plaintiffs’ Verified Member Derivative Complaint for 1. Breach of Fiduciary Duties; 2. Unjust Enrichment; 3. Accounting; 4. Rescission; 5. Conspiracy against defendants HWC, HCP, Abraham Harris III, Louis Early, Willie Wilson, and Bobby Smith (the “Complaint”) in the Superior Court of Arizona, Maricopa County, Case No. CV 2013-002997 (the “Action”).

2.2. The Complaint challenged and sought to enjoin HWC’s sale of its water system assets to the City as part of winding down HWC’s affairs after it was administratively dissolved by the Arizona Corporation Commission. The Complaint further alleged that the Individual

Defendants, who comprise the boards of directors of both HWC and HCP, mishandled funds and property of both companies.

2.3. On November 25, 2013, the same plaintiffs filed an Amended Complaint that dropped HCP as a defendant, but otherwise named the same defendants as in the Original Complaint (the "First Amended Complaint").

2.4. On February 27, 2014, another Amended Complaint was filed that added the following additional plaintiffs—Sergio Munoz, Aric Gonzalez, Robert Williams, Marshall Elizondo, Cristina Orozco, Elreece Guy, Demetric Guy, Lafurn Garland, Albert Williams, Carol Guy, Ellen Berry, Arthur Wilburn, Jr., Sharon Caldwell, Ralph Wilburn, Michael J. Ross, Richmond Lee, and Darlene Lee—but dropped Concerned Citizens Group of Hopeville Arizona, an unincorporated association, as a plaintiff, while keeping the same defendants (the "Second Amended Complaint").

2.5. The Complaint, First Amended Complaint, and Second Amended Complaint were all derivative actions brought on behalf of HWC and/or HCP.

2.6. The City intervened in the Action based on its interest as the prospective purchaser of HWC's water system assets, which sale Plaintiffs sought to enjoin.

2.7. Defendants disputed Plaintiffs' allegations of wrongdoing and further argued that Plaintiffs lack standing to bring this Action because HWC and HCP do not have "members" as that term is defined in A.R.S. § 10-3140(37); that, even assuming *arguendo* the companies did have "members" under the statute, Plaintiffs do not qualify as such; and, last, that Plaintiffs have not satisfied the requirements for bringing a derivative action under A.R.S. §§ 10-3631 and 10-3632.

2.8. On July 14, 2014, the Action was dismissed without prejudice to refile if the Plaintiffs so desired. The Plaintiffs continue to assert wrongdoing by Defendants and threatened to refile another suit against Defendants if a resolution is not reached between the Parties.

2.9. The Parties desire to settle the dispute between them on the terms and conditions set forth herein.

3. Overview of Settlement

3.1. HWC was administratively dissolved by the Arizona Corporation Commission on or about October 1, 2010. Pursuant to A.R.S. § 10-11421(C), HWC's corporate existence continues notwithstanding its administrative dissolution, but HWC may only engage in those activities necessary to wind down its affairs under A.R.S. § 10-11405. A.R.S. § 10-11405 authorizes a dissolved non-profit corporation to liquidate its assets as part of the wind-down process in order to pay its creditors and to distribute the remainder to another non-profit corporation.

3.2. By this Agreement, Plaintiffs consent to HWC proceeding with the sale of its water system assets (including, without limitation, the parcel of real property on which HWC's well is located) to the City. This will allow HWC to convert its water system assets into cash to

pay its creditors. HWC's remaining funds after its creditors are paid will be distributed to an Arizona non-profit corporation, "Hopeville Charitable Alliance, Inc." ("HCA"), to be formed as part of this settlement. This new non-profit corporation will serve the charitable and other needs of the Hopeville community. It will be managed by a board of directors elected by its members comprised of the real property owners in Hopeville.

3.3. The assets of HCP will also be transferred to HCA to held and used for the benefit of Hopeville residents.

3.4. In consideration of the foregoing, Plaintiffs agree to release their claims against Defendants and not to sue them for the alleged wrongdoing again.

3.5. In addition to creating and funding HCA for the benefit of Hopeville, this settlement serves the community's best interests by transferring management and control of the water company to the City. The City has better resources to operate and manage the water system assets and meet the required water quality standards. The Parties believe that sale of the water system assets to the City will promote the health and safety of Hopeville residents.

4. Formation of Hopeville Charitable Alliance, Inc.

4.1. Defendants shall form HCA under the laws of the State of Arizona with Articles of Incorporation in the form attached as Exhibit 1 hereto.

5. Sale of HWC's Water System Assets to the City of Buckeye

5.1. Plaintiffs hereby consent to and approve the sale of HWC's water system assets to the City substantially on the terms and conditions set forth in the Asset Purchase Agreement (the "Sale") attached as Exhibit 2 hereto.

5.2. As part of the Sale, as more particularly set forth in the Asset Purchase Agreement, the City agrees to maintain water rates for Hopeville residents at current (i.e., August, 2014) levels for a period of five (5) years.

5.3. Plaintiffs agree not to directly or indirectly oppose, undermine, or otherwise interfere with (a) HWC's application to the Arizona Corporation Commission for an order authorizing the sale of HWC's water system assets to the City or (b) the consummation by HWC and the City of the sale of such assets to the City.

5.4. The proceeds from the Sale shall be placed into escrow with instructions to the escrow agent to:

- a. Pay HWC's debts listed in Exhibit 3 hereto; and
- b. Distribute the remaining proceeds to HCA.

6. Option to Purchase 15 Acres of Land

6.1. Abraham Harris, III shall execute and deliver the quitclaim deed attached as

Exhibit 4 hereto transferring the real property described therein (the "Property") that was previously held by HCP back to HCP.

6.2. As part of the Sale, HCP has entered into the Real Estate Purchase Option Agreement (the "Option") with the City attached as Exhibit 5 hereto. The Option grants the City the right to purchase the Property at the price and subject to the terms and conditions stated therein.

6.3. Plaintiffs hereby consent to and approve the Option and agree not to directly or indirectly oppose, undermine or otherwise interfere with the City's acquisition of the Property pursuant to the Option, including without limitation in any proceedings before the State Land Department relating thereto.

6.4. After Abraham Harris, III transfers the Property back to HCP, HCP shall execute and deliver the quitclaim deed attached as Exhibit 6 hereto transferring the Property to Hopeville Charitable Alliance, Inc.

6.5. HCA shall take the Property subject to the Option and HCA and HCP shall execute an assignment and assumption agreement, whereby HCA shall succeed to the rights and obligations of HCP under the Option, in a form reasonably acceptable to the City.

7. Mutual Global Releases

7.1. Plaintiffs, on behalf of themselves and their predecessors, successors, parents, subsidiaries, affiliates, assigns, transferees, representatives, directors, officers, employees, shareholders, members, partners, principals, agents, attorneys, trustees, heirs and beneficiaries (collectively "Plaintiffs and Related Parties"), hereby release all direct and indirect claims, actions, causes of action, suits, debts, sums of money, accounts, covenants, contracts, agreements, representations, warranties, damages, injuries, liabilities and demands whatsoever, whether known or unknown, contingent or fixed, legal or equitable, liquidated or unliquidated, which Plaintiffs and Related Parties ever had, now have, hereafter can, shall or may have against Defendants (excluding HCP) and their predecessors, successors, parents, subsidiaries, affiliates, assigns, transferees, representatives, directors, officers, employees, shareholders, members, partners, principals, agents, attorneys, trustees, heirs and beneficiaries (collectively "Non-HCP Defendants and Related Parties") from the beginning of time through the Effective Date. Plaintiffs further covenant not to sue the Individual Defendants in the future based on any fact, event, or circumstance in any way related to the Individual Defendants' involvement in, management of, or actions with respect to HWC.

7.2. Defendants and Related Parties hereby release all direct and indirect claims, actions, causes of action, suits, debts, sums of money, accounts, covenants, contracts, agreements, representations, warranties, damages, injuries, liabilities and demands whatsoever, whether known or unknown, contingent or fixed, legal or equitable, liquidated or unliquidated, which Defendants and Related Parties ever had, now have, hereafter can, shall or may have against Plaintiffs and Related Parties from the beginning of time through the Effective Date.

7.3. Plaintiffs and Related Parties hereby absolutely, forever and fully, generally and specifically, release and discharge the City and its present and former agents, independent

contractors, employees, elected or appointed officials, officers, attorneys, insurers, predecessors, successors and assigns and each of them, from any and all claims, contentions, rights, debts, liabilities, demands, obligations, costs, expenses (including, without limitation, attorneys' fees), liens, subrogation rights, indemnification rights, damages, losses, actions and causes of action whether known or unknown, suspected or unsuspected, fixed or contingent, matured or unmatured, which arise from or relate to the Action, including any issues or claims that were or could have been asserted in the Action.

8. Other Terms and Conditions

8.1. No Admission of Fault or Liability. The Parties expressly acknowledge and agree that neither this Agreement, nor any action taken pursuant thereto, constitutes nor shall be construed to constitute, any admission of fault (including, specifically, unethical conduct or professional negligence or misconduct) or liability of any kind whatsoever on the part of any of the Parties or Related Parties hereby released. The Parties agree that each Party and their Related Parties do not admit any unethical conduct or professional negligence or any liability to any of the other Parties, and that each Party specifically denies that its conduct or that of any of its Related Parties was improper or caused any other Party any damage.

8.2. Modification in Writing. This Agreement, including this paragraph, may be modified only by written agreement signed by the Parties hereto.

8.3. Arizona Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Arizona (without regard to principles of conflict of laws).

8.4. Severability. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

8.5. Additional Acts. At any time, upon request by any of the Parties hereto, each of the other Parties shall perform any additional acts and execute any additional documents that may be reasonably necessary to carry out the intent of this Agreement.

8.6. Entire Agreement. This Agreement constitutes the entire agreement among the Parties and supersedes and replaces all prior negotiations and any proposed agreements. The Parties, and each of them, acknowledge that they have not executed this Agreement in reliance on any promise, representation or warranty not contained herein.

8.7. Authority to Sign. Each Party expressly and severally represents and warrants that it is authorized to enter into this Agreement and that the person signing on behalf of that Party is authorized to do so, and that this Agreement, when executed, is a binding obligation of, and enforceable against, such Party in accordance with its terms.

8.8. Attorneys' Fees. In the event there are disputes or litigation arising out of or related to this Agreement, the parties agree that the court shall award the successful party in the dispute attorneys' and expert witness fees, costs and other litigation expenses.

8.9. Cancellation. This Agreement is subject to A.R.S. § 38-511.

8.10. Counterpart Signatures. This Agreement and any other document related to this Agreement may be executed in any number of counterparts and by different Parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement or document. Delivery of an executed counterpart of this Agreement or any such document by facsimile or email shall be equally as effective as delivery of a manually executed counterpart of this Agreement or any such document. Any Party delivering an executed counterpart of this Agreement or any such document by facsimile or email shall also deliver a manually executed counterpart of this Agreement or any such document but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement or any such document.

[Signatures begin on next page]

**BE SURE YOU HAVE READ AND FULLY UNDERSTAND THIS DOCUMENT
BEFORE SIGNING BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS.**

Dated: _____

ALVIN COBBINS

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

My Commission Expires:

**BE SURE YOU HAVE READ AND FULLY UNDERSTAND THIS DOCUMENT
BEFORE SIGNING BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS.**

Dated: _____

RUBY COOPER

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

My Commission Expires:

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Dated: _____

ANOLA HUBBERT

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

My Commission Expires:

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Dated: _____

JAMES BROWN, JR.

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

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Dated: _____

MATILDA WHITE

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

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Dated: _____

GEORGIA LAND

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

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Dated: _____

SERGIO MUNOZ

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2014.

Notary Public

My Commission Expires:

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Dated: _____

ARIC GONZALEZ

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

ROBERT WILLIAMS

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

MARSHALL ELIZONDO

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

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Dated: _____

CRISTINA OROZCO

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

ELREECE GUY

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Dated: _____

DEMETRIC GUY

STATE OF ARIZONA)
) ss.
County of Maricopa)

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LAFURN GARLAND

STATE OF ARIZONA)
) ss.
County of Maricopa)

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ALBERT WILLIAMS

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Dated: _____

CAROL GUY

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

ELLEN BERRY

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

ARTHUR WILBURN, JR.

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Dated: _____

SHARON CALDWELL

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Dated: _____

RALPH WILBURN

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

MICHAEL J. ROSS

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

RICHMOND LEE

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

DARLENE LEE

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

ABRAHAM HARRIS, III

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

LOUIS EARLY

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

WILLIE WILSON

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

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Dated: _____

BOBBY SMITH

STATE OF ARIZONA)
) ss.
County of Maricopa)

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Notary Public

My Commission Expires:

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Dated: _____

HOPEVILLE WATER COMPANY, INC.

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

My Commission Expires:

BE SURE YOU HAVE READ AND FULLY UNDERSTAND THIS DOCUMENT BEFORE SIGNING BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS.

Dated: _____

HOPEVILLE COMMUNITY FOR PROGRESS , INC.

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

My Commission Expires:

BE SURE YOU HAVE READ AND FULLY UNDERSTAND THIS DOCUMENT BEFORE SIGNING BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS.

Dated: _____

CITY OF BUCKEYE, A MUNICIPAL CORPORATION.

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public

My Commission Expires:

ATTEST:

Lucinda J. Aja, City Clerk

APPROVED AS TO FORM

Scott W. Ruby, City Attorney

Exhibit 1

ARTICLES OF INCORPORATION

OF

HOPEVILLE CHARITABLE ALLIANCE, INC.

The undersigned persons, for the purpose of forming a nonprofit corporation, under the laws of the State of Arizona, hereby adopt the following Articles of Incorporation:

ARTICLE I

Name and Duration

The name of this corporation is Hopeville Charitable Alliance, Inc. (the "Corporation"), and its duration shall be perpetual.

ARTICLE II

Purposes and Powers

A. General Purposes of the Corporation. This Corporation is organized, and will be operated, exclusively to carry out the charitable and educational purposes set forth below:

- (i) Organize, promote and support the community interests of the residential property owners and residents of Hopeville, Arizona (the boundaries of which are set forth in Exhibit A hereto);
- (ii) Promote and encourage civic projects and services for the benefit of Hopeville;
- (iii) Coordinate and assist fundraising and administration of funds for civic projects and services for Hopeville; and
- (iv) Do and perform such acts as may be necessary or appropriate in carrying out the foregoing purposes of the Corporation and in connection therewith to exercise any of the powers granted to nonprofit corporations by the laws of the State of Arizona consistent with the Corporation's status as an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

This Corporation is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and is intended to be an organization (i) which is exempt from federal income tax

under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and (ii) which is not a private foundation within the meaning of the Internal Revenue Code of 1986, as amended. All terms and provisions of these Articles shall be construed, applied and carried out in accordance with such intent. Notwithstanding any other provisions of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

The Corporation is not organized and shall not be operated for pecuniary gain or profits. No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its directors, officers, or any other private person; provided that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein. Notwithstanding that this Corporation shall be authorized to and shall make reasonable charges for any services rendered by it or any products sold by it or for materials or publications furnished by it, all funds received by this Corporation for its services, materials or publications or otherwise in excess of the cost of its operation shall be used for the accomplishment of its purposes and further provided that the Corporation shall be permitted to transfer assets owned by it to other organizations exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for use in their exempt activities.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate or public office.

B. General Powers of the Corporation. The Corporation shall have any and all powers necessary or convenient for it to carry out its purposes stated in these Articles and, in addition, it shall have any and all powers necessary or convenient for it to transact any and all lawful business for which nonprofit corporations may be incorporated under the laws of the State of Arizona, as they may be amended; provided, however, that the Corporation shall exercise its powers only in accordance with the provisions and limitations of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

C. Private Foundation Status/Restriction on Powers. During any period that this Corporation is a private foundation, as defined in Section 509 of the Internal Revenue Code of 1986, as amended, the powers of this Corporation shall be specifically restricted so that the Corporation shall be prohibited from:

(i) Engaging in any act of self-dealing as that term is defined in Section 4941 of the Internal Revenue Code of 1986, as amended;

(ii) Retaining any excess business holdings as that term is defined in Section 4943 of the Internal Revenue Code of 1986, as amended;

(iii) Making any investment in any manner which would subject the Corporation to tax under Section 4944 of the Internal Revenue Code of 1986, as amended;

(iv) Making any taxable expenditure as that term is defined in Section 4945 of the Internal Revenue Code of 1986, as amended.

In addition, during any period that the Corporation is a private foundation, as defined in Section 509 of the Internal Revenue Code of 1986, as amended, the Corporation shall be required to distribute income in such amounts, at such times and in such manner as to prevent it from becoming liable for the tax imposed by Section 4942 of the Internal Revenue Code of 1986, as amended.

Notwithstanding the restrictions imposed in this Subdivision C of Article II, if Section 508(e) of the Internal Revenue Code of 1986, as amended, is amended to remove the requirement that any or all of the restrictions contained herein be included in the governing instrument of this Corporation, then such of the foregoing restrictions as are no longer required shall be deemed deleted and shall have no further force or effect.

D. Administration and Distribution of Property. The Board of Directors of this Corporation shall administer and distribute any property held by the Corporation in the manner that best serves the charitable and educational needs set forth in these Articles of Incorporation.

E. References to Internal Revenue Code. Any reference in these Articles to any section of the Internal Revenue Code of 1986, as amended, shall be deemed to also refer to such corresponding provision or provisions of any future Act of Congress as may be substituted therefor.

ARTICLE III

Initial Business

The character of the business which the Corporation initially intends to conduct in Arizona shall be promotion and support of the civic projects and services of Hopeville, Arizona.

ARTICLE IV

Statutory Agent

The name and address of the statutory agent of the Corporation is Gerardo Ivan Hanel who is and has been a resident of Arizona for more than three years, and whose address is 2942 North 24th Street, Suite 114-721, Phoenix, Arizona 85016.

ARTICLE V

Membership and Capital Stock

The Bylaws of the corporation may provide for one or more classes of nonvoting members. The Corporation shall not have voting members. If the Corporation has nonvoting members, then the class or classes of membership, their method of selection and any rights or duties inherent in the membership shall be set forth in the Bylaws. The Corporation shall have no capital stock.

ARTICLE VI

Board of Directors

The affairs of this Corporation shall be conducted by a Board of Directors and such officers as the Board may from time to time elect or appoint.

The number of directors constituting the initial Board of Directors of the Corporation is three (3). The names and addresses of the persons who shall serve as initial directors until their successors are elected and shall qualify are:

<u>Name</u>	<u>Address</u>
Jeff Metcalf	_____ _____
Lawton Whiteacre	_____ _____
Karen Culp	_____ _____

Directors shall be elected to the Board of Directors pursuant to the procedure set forth in the Corporation's Bylaws. The number and term of the directors, and the qualifications for, the classification of and rights of the directors shall be as set forth in the Corporation Bylaws.

ARTICLE VII

Exemption

The incorporators, directors, officers and agents of the Corporation and their property shall be forever exempt from liability or assessment for its debts, obligations or engagements.

ARTICLE VIII

Indemnity

Subject to the further provisions hereof, the Corporation shall indemnify any and all of its existing and former directors, officers and employees against all expenses incurred by them and each of them, including but not limited to legal fees, judgments and penalties which may be incurred, rendered or levied in any legal action brought against any of them for or on account of any action or omission alleged to have been committed while acting within the scope of his service as a director, officer or employee of the Corporation or as a director or officer of another corporation, partnership, joint venture, trust or enterprise at the request of this Corporation and with the specific approval of his Corporation's Board of Directors. Whenever any existing or former director, officer, or employee shall report to the Board that he has incurred or may incur expenses, including but not limited to legal fees, judgments and penalties in a legal action brought or about to be brought against him for or on account of any action or omission alleged to have been committed by him while acting within the scope of his service as a director, officer, or employee of the Corporation or as a director or officer of another corporation, partnership, joint venture, trust or enterprise at the request of this Corporation and with the specific approval of this Corporation's Board of Directors, the Board shall, at its next regular or at a special meeting held within a reasonable time thereafter, determine in good faith whether, in regard to the matter involved in the action or contemplated action, such person acted, failed to act, or refused to act willfully, with gross negligence or with fraudulent or criminal intent. If the Board determines in good faith that such person did not act, fail to act, or refuse to act willfully or with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action or contemplated action, indemnification shall be mandatory and shall be automatically extended as specified herein; provided, however, that the Corporation shall have the right to refuse indemnification in any instance in which the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Corporation, at its own expense and through counsel of its own choosing, to defend him in the action.

The right of indemnification of any director, officer or employee of the Corporation hereinabove provided for shall be in addition to any rights set forth in the Arizona Revised Statutes, existing and as amended, and any other rights now or hereafter conferred by law.

ARTICLE IX

Dissolution of Corporation

This Corporation may be dissolved at any time by the affirmative vote of three-fourths of its directors in office at any meeting for which 30 days' written notice of consideration of such action shall be duly given. The dissolution of the Corporation shall be accomplished consistent with the intent that the assets be held and used for the Corporation's stated purpose, and said termination shall not be effected so as to cause any tax to be imposed under Section 507(a) of the Internal Revenue Code of 1986, as amended. Subject to the foregoing sentence, in the event of dissolution of the Corporation for any reason, the Board of Directors shall (after payment or provision for payment of all liabilities) dispose of and distribute the property then held by the Corporation to such organization or organizations as shall then be qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. With respect to any property not so disposed of, such property shall be disposed of and distributed to such organization or organizations as shall then be qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as selected by and pursuant to an order of the court which has general jurisdiction for the county in which the principal office of the Corporation shall then be located.

ARTICLE X

Amendments

These Articles of Incorporation may be amended by an affirmative vote of three-fourths of its directors in office at any meeting for which 30 days' written notice of consideration of such action shall be duly given; provided, however, that Article II may be amended only to the extent that future changes in the applicable provisions of the Internal Revenue Code and the Regulations pertaining thereto make such changes necessary or desirable in order for this Corporation to preserve its tax-exempt status as set forth in Article II.

ARTICLE XI

Incorporator

The names and business addresses of the incorporators are the same as for the initial Board of Directors:

<u>Name</u>	<u>Address</u>
Jeff Metcalf	_____ _____

Lawton Whiteacre

Karen Culp

In witness whereof, the undersigned have executed these Articles of Incorporation this ____ day of August, 2014.

Jeff Metcalf

Date

Lawton Whiteacre

Date

Karen Culp

Date

Exhibit 2

**ASSET PURCHASE AGREEMENT
BETWEEN THE TOWN OF BUCKEYE AND THE
HOPEVILLE WATER COMPANY FOR THE PURCHASE AND SALE
OF THE BUSINESS ASSETS OF HOPEVILLE WATER COMPANY**

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into this _____ day of _____, 2012, by and between **HOPEVILLE WATER COMPANY, INC.**, an Arizona corporation, ("Seller"), and **THE TOWN OF BUCKEYE, ARIZONA**, an Arizona municipal corporation ("Buyer").

WITNESSETH:

WHEREAS, Seller is the owner of a water works plant and distribution system and domestic water company known as HOPEVILLE WATER COMPANY, situated in the Town of Buckeye, Arizona; and

WHEREAS, Seller is the holder of Certificates of Convenience and Necessity issued by the Arizona Corporation Commission, which certificates authorize Seller to engage as a public service corporation in the sale of water for commercial and domestic uses in its Certificated Area; and

WHEREAS, Buyer desires to own and operate water utility systems within and without its Town limits and to provide its residents with direct control over the rates, quality, water resources management and other policies and practices relating to the provision of water utility service to its residents; and

WHEREAS, Buyer is duly authorized by the laws of the State of Arizona to purchase or lease any plant or property or portion thereof devoted or which may be devoted to the business of providing public utility water service within and without the Town limits; and

WHEREAS, Buyer desires to acquire ownership of the Hopeville Water Company water utility system assets; and

WHEREAS, the parties have voluntarily bargained and negotiated in good faith to determine the price, terms and conditions of such a sale; and

WHEREAS, Seller is desirous of selling its Business Assets to Buyer under the price, terms and conditions set forth herein.

NOW THEREFORE, IN CONSIDERATION of the foregoing Recitals, and the mutual promises, covenants and agreements hereinafter contained, and each act of the parties hereto, the parties agree as follows:

Section 1. Definitions.

Unless the context clearly indicates the contrary, the following capitalized words used in the Recitals and used below shall have the meanings set forth below:

1.1 **"ACC"** refers to the Arizona Corporation Commission in the exercise of its constitutional and statutory authority to regulate utility service in this State provided by public service corporations.

1.2 **"ACC Approval"** refers to approval by the ACC, in the exercise of its limited authority under A.R.S. § 40-285, of the disposition by Seller of the Business Assets and, if Buyer so elects, in its sole discretion, the extinguishment of Seller's Certificates of Convenience and Necessity. This Agreement is not intended to grant to the ACC any right or authority to review and approve this Agreement and its terms beyond whatever limited authority is granted to the ACC under A.R.S. § 40-285.

1.3 **"Accounts Receivable"** refers to any right for the payment to Seller for services or goods provided or rendered, whether or not evidenced by an instrument or chattel paper, arising out of or in any way related to the Business prior to Closing.

1.4 **"Agreement"** refers to this Asset Purchase Agreement for Purchase and Sale of the Business Assets.

1.5 **"Assignments"** refers to those certain documents to be given by Seller to Buyer conveying all of its interest in the Contract Rights.

1.6 **"Authority"** refers to any federal, state, local or foreign government or governmental or regulatory agency or authority.

1.7 **"Bill of Sale"** refers to that certain document to be given by Seller to Buyer conveying all of its interest in and to the Equipment and Records.

1.8 **"Business"** refers to that certain business known as Hopeville Water Company currently owned by Seller and engaged as a public service corporation in the sale of water for domestic, commercial and other uses in its Certificated Area pursuant to its Certificate of Convenience and Necessity issued by the ACC, and other related services in connection therewith.

1.9 **"Business Assets"** refers collectively, to the Subject Water Facilities, the Real Property, all Improvements, Equipment, Inventory, Contract Rights and Records owned and used by Seller in connection with the Business, and to any Subject Water Facilities, real property, Improvements, Equipment, Inventory, Contract Rights and Records owned by Seller or Allenville Water Company.

1.10 **"Buyer"** refers to the Town of Buckeye, Arizona, an Arizona municipal corporation.

1.11 **"Buyer's Address"** shall mean c/o Town Manager, Town of Buckeye, 530 East Monroe Avenue, Buckeye, Arizona 85326.

1.12 **"Certificates of Convenience and Necessity"** shall refer to those certain Certificates of Convenience and Necessity issued by the ACC held by Seller and/or Allenville Water Company and authorizing Seller and/or Allenville Water Company to engage as a public service corporation in the sale of water for domestic, commercial and other uses in its Certificated Area.

1.13 **"Certificated Area"** refers to the areas set forth in Exhibit "A" in which Seller conducts its Business, which areas are more particularly shown on the map of the existing service area attached hereto as Exhibit "B", which map is for the purposes of showing the boundaries of the

Certificated Area, size and extent of water mains and pipes, easements, and any other areas served by the Business.

1.14 **"Closing; Date of Closing"** refers to that point in time when (a) all of Seller's obligations and Buyer's obligations hereunder have been fulfilled; (b) the Escrow Agent has received all funds, is prepared to disburse the same in accordance with this Agreement and has recorded all of the Transfer Instruments; and (c) the Escrow Agent has disbursed all of the sales proceeds as required by this Agreement.

1.15 **"Contract Rights"** refers to the right to have services or goods provided to the Business by third persons.

1.16 **"Creditors"** refers to any and all persons or entities to whom Seller owes money, goods or services.

1.17 **"Equipment"** refers to 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 Business, including but not limited to all equipment used in the operation of wells and tanks, the water distribution system, office equipment and motor vehicles.

1.18 **"Escrow Agent"** refers to Great American Title Agency, Inc., 497614.

1.19 **"Improvements"** refers to wells, tanks, water lines and distribution systems, and any other structures or tangible property used in connection with the Subject Water Facilities.

1.20 **"Inventory"** refers to goods which are held by Seller for the treatment of water or otherwise used or consumed in connection with the Business, in the ordinary course of operating its Business.

1.21 **"Liens"** refers to any lien, judgment, charge, claim, security interest, mortgage or encumbrance on or against the Business Assets or any one or more of the Business Assets or that, individually or in the aggregate, has a material adverse effect upon the ownership of the Business Assets or the conduct or operation of the Business.

1.22 **"Payables"** refers to all trade payables, accounts payable and other liabilities of and claims against Seller.

1.23 **"Permitted Encumbrances"** refers to those matters of record set forth on Schedule B of the Preliminary Title Report and such other matters approved in writing by Buyer.

1.24 **"Purchase Price"** means the sum of SEVEN HUNDRED SEVENTY-ONE THOUSAND AND NO/100 DOLLARS (\$771,000.00) which is the total purchase price for the Business Assets as set forth under Section 3 of this Agreement.

1.25 **"Real Property"** refers to all well sites, easements, licenses and other real property interests located in the Town of Buckeye or Maricopa County, Arizona, legally described in Exhibit "C" attached hereto, including all Improvements, fixtures and any other rights and appurtenances pertaining thereto which are used by Seller in the Business; provided, however, that the parties acknowledge and agree that the Real Property does not include that certain parcel of real property located in the vicinity of the Real Property, consisting of approximately 15.62 acres, and owned by

Hopeville Community for Progress, Inc. ("HCP") and which is the subject of a separate Option Agreement between Buyer and HCP.

1.26 "**Records**" refers to all of Seller's service agreements, service and repair records, water treatment records, hydrology and assured water supply studies and reports, Department of Water Resources filings and correspondence, customer data base information (including master file information, billing histories, complaints), meter reading information, operations manuals, construction drawings, and other related documents arising out of or in any way relating to the Business Assets.

1.27 "**Seller**" refers to Hopeville Water Company, an Arizona corporation and a regulated public service corporation and water utility (ACC Utility No. W-02077A).

1.28 "**Seller's Address**" means 1421 W. Palo Verde Rd. Buckeye, AZ 85326.

1.29 "**Subject Water Facilities**" refers to all of the water utility plan, system, business, real and personal property and interests in property, and other facilities utilized or which may be utilized to provide water service to the public, as well as the Certificates of Convenience and Necessity, franchise(s), intangible assets and rights, and all other assets of any type or nature owned by and/or associated in any way with the utility operations of the Hopeville Water Company and/or the Allenville Water Company, located within and without the Town of Buckeye, in Maricopa County, Arizona, including but not limited to those facilities, pumps, wells, waterlines, meters, personal property and/or other equipment, properties and rights used or useful to provide water service in the Hopeville Water Company system, including, but not limited to, well sites, easements, leaseholds and other interests in real property described in Exhibit "C" attached hereto and incorporated herein by this reference, and all equipment and facilities located thereon.

1.30 "**Tax Claim**" refers to a claim or assertion of an unpaid property tax and other taxes of any kind (current taxes due and any delinquent taxes, tax liens, tax levies, certificates of purchase and all other assertions of a tax obligation by any taxing jurisdiction or agency), that is not apparent as being facially invalid or unenforceable, on or that may be enforced or collected against or from the Business Assets or proceeds of this acquisition that are the legal obligation of Seller.

1.31 "**Title Insurer**" means First American Title Insurance Company.

1.32 "**Transfer Instruments**" refers to those instruments customarily required for the transfer of the Assets, including, but not limited to:

- (i) Special Warranty Deed to the Property;
- (ii) Foreign Investment in Real Property Tax Act Affidavit;
- (iii) Bill of Sale to all personal property to be transferred to Buyer hereunder;
- (iv) Assignments as to all Contract Rights, franchise rights and certificates which are transferable.

Section 2. Conveyance of Business Assets.

Subject to and upon the terms and conditions contained in this Agreement, Seller agrees to sell, assign, transfer and convey to Buyer on the Closing Date, and Buyer agrees to purchase,

accept and receive from Seller on the Closing Date, the Business Assets, free and clear of any Liens. Buyer does not agree to assume or pay any of the Payables or any of the Retained Liabilities (as defined below), and Seller agrees to pay all of the Payables and all of the Retained Liabilities as they become due. Seller acknowledges that Buyer intends to use the Business Assets to provide water service to areas not currently serviced by Seller and that Seller shall have no right to and shall not object to any third party, including without limitation the ACC or the Arizona Department of Water Resources, regarding Buyer's use of the Business Assets to provide service to such additional areas. The provisions of this Section 2 shall survive the Closing.

2.1 Equipment, Inventory and Records.

The Equipment, Inventory and Records shall be conveyed at Closing by the execution and delivery by Seller of the Bill of Sale. The Bill of Sale shall include a list identifying all Equipment and shall be in the form of Exhibit "D" attached hereto.

2.2 Contract Rights.

To the extent that any person shall be required to consent to the transfer of Contract Rights, then Seller shall obtain that consent in writing as a condition of Closing.

2.3 Real Property.

Conveyance of the Real Property shall be by special warranty deed, subject only to Permitted Encumbrances.

2.3.1 Title Insurance. Seller shall furnish Buyer at Closing with an extended owner's title insurance policy in the amount of \$_____ insuring Buyer's interest in the Real Property, subject only to those exceptions described in Section 2.3 above (the "**Owner's Policy**").

2.3.2 Title Report and Objections.

(a) Seller shall cause Title Insurer to issue and deliver to Buyer and Seller a preliminary commitment for title insurance concerning the Real Property, together with copies of all instruments referred to therein which will remain as exceptions to title following Closing (the "**Preliminary Title Report**"), and an insured closing letter issued by Title Insurer, within ten (10) days following the Opening of Escrow. The Preliminary Title Report is to be preliminary to the Owner's Policy to be issued by Title Insurer. Buyer shall have until the expiration of the Investigation Period (as defined below) in which to advise Seller, in writing, either (i) that the condition of title to the Real Property as evidenced by the Preliminary Title Report is acceptable; or (ii) to object to any easements, liens, encumbrances or other items, exceptions or requirements in the Preliminary Title Report (collectively, "**Buyer's Title Objections**"), except for (A) any financing liens and tax liens, lis pendens, leases and parties in possession, if any, which shall be released and terminated at Seller's cost at the Closing (the "**Existing Liens**") and (B) matters (such as taxes and assessments not yet delinquent) which will be prorated between the parties at Closing. If Buyer shall not have notified Seller of Buyer's Title Objections within such time specified above, Buyer shall be deemed to have approved the condition of title to the Real Property as shown by the Preliminary Title Report and elected to proceed toward Closing and the entire Earnest Money Deposit shall be non-refundable to

Buyer except in the case of Seller default or as otherwise expressly provided to the contrary in this Agreement.

(b) Seller shall have ten (10) days after Seller's receipt of Buyer's Title Objections (if any) within which to advise Buyer, in writing, whether Seller will attempt to cure any or all of Buyer's Title Objections by Closing ("**Seller's Title Notice**"). If Seller does not so notify Buyer within the time specified, Seller shall be deemed to have delivered Seller's Title Notice to Buyer on the tenth (10th) day after receiving Buyer's Title Objections stating that Seller is unwilling to cure Buyer's Title Objections.

(c) On or before the tenth (10th) day after Buyer's receipt (or deemed receipt) of Seller's Title Notice, if Seller shall not have agreed to cure or attempt to cure all of Buyer's Title Objections, Buyer shall either (i) waive, in writing, the curing of such Buyer's Title Objections as Seller shall have been unwilling to cure and proceed toward Closing; or (ii) elect to terminate this Agreement by giving written notice to Seller, in which event the Earnest Money Deposit (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof. Notwithstanding the foregoing, if Buyer fails to so provide such notice, Buyer shall be deemed to have elected to cancel this Agreement, in which event the Earnest Money Deposit (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof. If Seller shall elect to attempt to cure Buyer's Title Objections and should Seller thereafter fail to cure Buyer's Title Objections by the Closing, Buyer shall either (A) waive, in writing, the curing of such Buyer's Title Objections and proceed toward Closing; or (B) elect to terminate this Agreement by giving written notice to Seller, in which event the Earnest Money Deposit (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof. Notwithstanding the foregoing, if Buyer fails to so provide such notice, Buyer shall be deemed to have elected to cancel this Agreement, in which event the Earnest Money (less the \$5,000 previously released to Seller) shall be returned to Buyer and this Agreement shall terminate as provided in Section 2.5 hereof.

(d) If at any time prior to Closing, Title Insurer shall issue a supplemental title report which discloses additional matters (other than matters created by or with the written consent of Buyer or arising as a result of any work performed by or other activities of Buyer regarding the Real Property), the provisions set forth above in this Section 2.3.2 shall govern the review, objection and resolution obligations of the parties with respect to such additional matters; provided that Buyer shall have only ten (10) days to deliver any objection to Seller following Buyer's receipt of such supplemental report and copies of any additional documents disclosed therein. If Buyer fails to deliver any objection, Buyer shall be deemed to have elected to proceed toward Closing and the Earnest Money Deposit shall be non-refundable to Buyer except in the case of Seller default or as otherwise expressly provided to the contrary in this Agreement.

2.3.3 Condition of Title. Seller shall preserve title to the Property and at the time of closing shall deliver the Property in substantially as good condition with respect to title as of the date of the Preliminary Title Report, except to remove an objectionable item.

2.4 Inspection of Business Assets.

2.4.1 Investigation Period. For a period of sixty (60) days from the Opening of Escrow (the "**Investigation Period**"), Buyer shall have the right to satisfy itself that all aspects of the Business Assets are acceptable to Buyer, which right shall include the right to inspect the interior of the water tanks used by Seller in the operation of the Business. Seller acknowledges and agrees that such inspection of the water tanks will require that the water level in said tanks be drawn down during the Investigation Period. Buyer's obligations hereunder shall be conditioned upon Buyer's satisfaction with or waiver of such matters, which satisfaction or waiver shall be in Buyer's sole and absolute discretion. If Buyer, at any time on or before the expiration of the Investigation Period, gives written notice to Seller and Escrow Agent that Buyer does not approve of the Business Assets, then the Escrow shall be terminated, the Earnest Money shall be returned to Buyer and this Agreement shall be terminated in accordance with the provisions of Section 2.5. Buyer's failure to notify Seller in writing prior to the expiration of the Investigation Period of Buyer's election to terminate this Agreement in accordance with the terms of this Section 2.4.1 shall be deemed Buyer's election to waive its right to cancel this Agreement pursuant to this Section 2.4.1 and proceed to Closing.

2.4.2 Review of Documents. Seller shall, within ten (10) business days of the Opening of Escrow, deliver to Buyer for review by Buyer, to the extent in existence and in Seller's possession or control, or reasonably obtainable by Seller, as of the date of this Agreement, all of the documents and information pertaining to the Business Assets and list on Exhibit "E" attached hereto (the "**Due Diligence Materials**").

2.4.3 Access. Seller shall (a) permit Buyer and its representatives, at Buyer's expense, reasonable access during normal business hours to all of Seller's assets, properties, contracts, documents, book, records, tax returns and reports, and other information pertinent to Buyer's due diligence investigation of the Business Assets and the Business, (b) provide Buyer and its representatives the opportunity to inspect and audit Seller's books and records and otherwise to make reasonable investigations of the Business Assets and the Business, and (c) furnish to Buyer and its representatives all reasonable information with respect to the Business Assets and the Business that Buyer may reasonably request.

2.5 Termination.

Upon any termination by either of the parties hereto as expressly allowed under this Agreement: (a) Buyer shall promptly return to Seller any materials concerning the Business Assets previously delivered by Seller or Seller's representatives to Buyer; (b) any funds held by Escrow Agent shall be immediately delivered by Escrow Agent to the party entitled thereto as specified by this Agreement; and (c) the parties shall thereafter be relieved from further liability hereunder, except with respect to any obligations which expressly survive the termination of this Agreement. A copy of any notice of termination allowed under this Agreement shall also be sent to Escrow Agent by the party electing to terminate.

2.6 Limitations.

The purchase of the Assets pursuant hereto shall not constitute a purchase of Seller by Buyer nor render Buyer a successor in interest to Seller. This Agreement is limited to the purchase and sale of the Business Assets only and Buyer is not assuming any liabilities of

Seller with respect to the Assets or the Business which may exist at any time prior to their transfer hereunder.

2.7 Retained Liabilities.

Buyer shall not assume any indebtedness, liabilities or obligations of Seller, including without limitation prepayments and cash deposits made by customers, or any claims against Seller, whether such indebtedness, liabilities, obligations or claims relate to payment, performance or otherwise, of any of the Payables or any other indebtedness, liabilities, obligations or claims (collectively, "**Retained Liabilities**"). Seller shall pay each of the Retained Liabilities as they become due, and Seller shall promptly repay to customers all prepayments and cash deposits.

Section 3. Purchase Price.

3.1 Total Purchase Price.

Buyer agrees to pay Seller as the total Purchase Price for Seller's interest in the Business Assets, the sum of SEVEN HUNDRED SEVENTY-ONE THOUSAND AND NO/100 DOLLARS (\$771,000.00) payable as follows:

3.1.1 Earnest Money. \$27,500 in cash, payable by Buyer's warrant, which shall constitute the "**Earnest Money**," shall be deposited by Buyer in Escrow with the Escrow Agent by 5:00 p.m., Phoenix time, within three (3) days of the Opening of Escrow.

3.1.2 Cash at Closing. The balance of the Purchase Price, approximately \$743,500.00 plus or minus prorations and other adjustments as provided in this Agreement, if any, shall be due at Closing and shall be paid by Buyer's warrant to Escrow Agent, for and on behalf of Seller, by 1:00 p.m. Phoenix time, on the Closing Date.

3.1.3 Disposition of Earnest Money. The Earnest Money shall be deposited with Escrow Agent. The Earnest Money, including all interest earned thereon, if any, shall be applied (and Buyer shall receive a credit in the amount of the Earnest Money) toward the cash payment of the Purchase Price upon the Closing of this transaction.

3.1.4 Release of Earnest Money to Seller. Installments of the Earnest Money shall become non-refundable to Buyer, except in the event of Seller's default hereunder or except as otherwise expressly provided in this Agreement, and shall be released to Seller, as follows:

(a) \$5,000.00 of the Earnest Money shall, immediately upon deposit by Buyer, be released to Seller. ✓

(b) An additional \$5,000.00 of the Earnest money shall be released to Seller upon Seller's execution and delivery to Buyer of the Option Agreement (as defined below). ✓

(c) An additional \$5,000.00 of the Earnest Money shall be released to Seller upon completion of a meeting, as evidenced by a certificate from Buyer

acknowledging the completion of said meeting, attended by Seller, Buyer and the appropriate representatives of the Arizona State Land Department ("SLD") for the purpose of specifically discussing modifications to the existing restrictions in favor of the SLD encumbering the Option Property (as defined below) so as to permit the use of the Option Property by Buyer for general municipal purposes.

(d) An additional \$7,500 of the Earnest Money shall be released to Seller upon Seller's filing of an application with the ACC, in form and content reasonably acceptable to Buyer, for the approval of the sale of Seller's Business Assets to Buyer. Escrow Agent shall have no obligation to release the portion of the Earnest Money referenced in this subparagraph (d) until it shall have received written notice from Buyer stating that Seller has complied with the necessary condition precedent to such release. ✓

(e) The final \$5,000 of the Earnest Money shall be released to Seller upon the expiration of the Investigation Period, unless Buyer shall have previously exercised its right to terminate this Agreement in accordance with the provisions of Section 2.4.1 hereof.

3.2 Allocation.

Pursuant to Section 1060 of the Internal Revenue Code, the consideration for the Business Assets shall be allocated in accordance with the form of Exhibit "F".

Section 4. Regulatory Contingency.

4.1 Contingencies.

Buyer's obligations under this Agreement are contingent upon Seller obtaining (a) all necessary approvals from the ACC for the sale of Seller's Business Assets and (b) if required, any necessary approvals from Maricopa County for the transfer of ownership of the Business Assets from Seller to Buyer (collectively, the "**Regulatory Approvals**"). Closing under this Agreement shall not occur until such Regulatory Approvals have been obtained and placed in Escrow. Seller shall assume all risks and liabilities associated with compliance with the regulatory authority of the ACC regarding this Agreement. Seller shall faithfully and diligently prosecute an application before the ACC requesting ACC Approval including, if Buyer so elects in its sole discretion, the extinguishment of Seller's Certificates of Convenience and Necessity as provided in this Agreement. Buyer shall reasonably cooperate with Seller in the prosecution of that application, including but not limited to filing a position statement with the ACC in support of the application and expressing support for the ACC Approval at any hearings on the application held under ACC jurisdiction by an administrative law judge, hearing officer or the Commission. Buyer shall not be required to take any action that Buyer believes may have the effect of subjecting Buyer to utility regulation by the ACC or may broaden the limited authority of the ACC beyond that of the ACC Approval.

Section 5. Covenants, Representations and Warranties By Seller and Buyer.

5.1 Seller's Representations.

Except as otherwise set forth in this Agreement, and in addition to all other covenants, warranties and representations of Seller herein, Seller hereby represents and warrants to Buyer the following:

5.1.1 Authority. Seller has full power and authority to own and operate the Business Assets and to conduct the Business. Seller has full power and authority and, as to the individual executing this Agreement on behalf of Seller, capacity to make, execute, deliver and perform this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary corporate action on Seller's part. This Agreement is a legal, valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

5.1.2 Title. Seller has good and marketable title to the Business Assets free and clear of any Liens and, upon the Closing, Buyer shall have and receive good and marketable title to the Business Assets free and clear of any Liens.

5.1.3 No Other Sale. Seller has not entered into, and there is not existing as of the date of this Agreement, any other agreement, written or oral, under which Seller is obligated to sell the Business Assets or any portion thereof to any third party.

5.1.4 Liabilities. Seller has no actual knowledge of any judgments, liens, actions or proceedings pending against Seller or the Business Assets which would adversely affect this transaction or the title which Buyer will receive, other than as set forth in the Preliminary Title Report.

5.1.5 Liens. No judgments, liens, security interests or other monetary obligations against the Business Assets will be outstanding at the time of Closing, except Permitted Encumbrances and current real estate taxes which are not yet due and payable.

5.1.6 Labor, Materials. All bills and invoices for labor and materials furnished to or on behalf of the Business Assets which have been incurred by Seller prior to the time of conveyance and transfer to Buyer, if any, will be paid by Seller and acknowledged in writing as paid by the laborer or supplier, as the case may be.

5.1.7 Compliance. To the best of Seller's knowledge, the operation of the Business and the use of the Business Assets and the Real Property have been and are being conducted in accordance with all applicable laws, ordinances, rules and regulations of all Authorities having jurisdiction. Seller has not received notice that any Authority presently claims Seller's conduct or operation of the Business, use or ownership of the Business Assets, or use of the Real Property, to be in violation of any law, ordinance, rule, regulation or order of any Authority, and Seller does not know of any circumstance that might give rise to such a claim by any Authority and to the best of Seller's knowledge no such violation exists.

5.1.8 Proceedings. There are no actions, suits or proceedings pending or, to the best of Seller's knowledge, threatened against Seller, at law or in equity, before or by any court, arbitrator or Authority that, individually or in the aggregate, would have a material adverse effect upon the Business or the Business Assets if conducted and used in the manner heretofore conducted and used, or would adversely affect the validity of this Agreement or its enforceability against Seller, the consummation by

Seller of the transactions contemplated hereby, or the compliance with the terms hereof by Seller. Seller is not a party to or bound by any agreement or any judgment, order, writ, injunction or decree of any court or Authority that prevents or restricts Seller from performing this Agreement.

5.1.9 Taxes. All sales or transaction privilege taxes, personal and real property taxes, payroll (including, Medicare and FUTA) and withholding taxes (including federal and state withholding), and income taxes that are required to be paid by Seller as shown on tax returns filed by Seller prior to the date of this Agreement, or as subsequently assessed by the taxing Authority, with respect to the Business Assets or the operation of the Business, have been paid, other than current property taxes that are not yet delinquent. All such sales, income, property, payroll and withholding tax returns of Seller, required to be filed prior to the date of this Agreement, have been filed. No agreements made by Seller for the extension of time for the assessment of any such taxes is now in force.

5.1.10 Equipment. All machinery, equipment and other operable tangible personal property included in the Equipment is clean and in good working condition, and Seller shall maintain, until the Closing Date, the Equipment in a clean and good working condition.

5.1.11 No Violations. The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated by this Agreement by Seller and the compliance with the terms, conditions and provisions of this Agreement by Seller will not: (a) contravene any provision of the articles of incorporation or bylaws of Seller; (b) either (i) result in a breach or constitute a default (or an event that might, with the passage of time or the giving of notice, or both, constitute a default) under, or (ii) result in or permit the termination or amendment of any provision of, or (iii) result in or permit the acceleration of the maturity or cancellation of performance of any obligation under, or (iv) result in the creation or imposition of any Lien upon, any of the Business Assets or give to any person any interest or rights under any indenture, mortgage, loan or credit agreement, license, contract or other agreement or commitment to which Seller is a party or by which Seller or the Business Assets or the Business is bound or affected, or any judgment or order of any court or Authority or any applicable law, rule or regulation.

5.1.12. 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 its debts as they fall due, and no such action is threatened or contemplated.

5.1.13 Best Actual Knowledge. All information prepared by Seller and provided or to be provided by Seller to Buyer and all representations by Seller are accurate to the best of Seller's actual knowledge without Seller having made any specific investigation thereof; as to all other information provided or to be provided by Seller to Buyer, Seller knows of no inaccuracies,

5.1.14 Regulations. To the best of Seller's actual 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 Property from any governmental agency having jurisdiction over the Business Assets or from any other person entitled to enforce the same.

5.1.15 Permits. Seller has all permits, licenses, authorization and approvals required by law or any governmental agency to conduct the Business.

5.1.16 Condemnation. To the best of Seller's knowledge, there are no pending or threatened condemnation or eminent domain proceedings which would affect the Business Assets.

5.1.17 Disclosure. None of the representations or warranties made by Seller in this Agreement, nor any document, statement, certificate, schedule or other information furnished or to be furnished to Buyer pursuant to this Agreement or in connection with the transaction contemplated hereunder contains, or will as of the Closing Date contain, any untrue statement or a material fact, or omits, or will as of the Closing Date omit, to state a material fact necessary to make the statements of facts contained therein not misleading.

5.1.18 Creditors. As of the closing except as set forth in Section 12, all bills and invoices for goods and services related to or which are a part of the Business Assets, if any, 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; and no claims by Creditors shall exist which may encumber the Business Assets.

5.1.19 Organization. Seller has been duly formed and presently exists as an Arizona corporation, and 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 on it by this Agreement. Seller shall furnish to Buyer such documentation to evidence such authority as Buyer may reasonably request.

5.1.20 Environmental Matters. Seller has used the Business Assets and the Real Property only for the conduct of the Business.

(a) There is not now on or under the Real Property, including the soil, drywells, wells, sumps, surface water and groundwater, any Hazardous Materials, and Seller is not aware of any Hazardous Materials on or under the Real Property; there are no underground storage tanks, underground gasoline or diesel tanks, or underground vessels located on the Real Property.

(b) Neither Seller nor the Real Property has been or currently is subject to any judicial or administrative proceedings, or civil or criminal complaint alleging a

violation of any federal, state or local governmental health and safety statute or regulation.

(c) Neither Seller nor the Real Property has been or currently is subject to any federal, state or local investigation evaluating whether any remedial action is needed to respond to the release of Hazardous Materials.

(d) There are no conditions on the Real Property that may give rise to any claim by a regulatory agency or a third party for violation of any federal, state or local environmental or health and safety statute or regulation.

(e) Seller has not generated, used, treated, transported to or from, stored or disposed of Hazardous Materials on, under or about the Real Property, and there is nothing that may prevent or interfere with the continued use of the Real Property or the continued operation of the Business in full compliance with all applicable environmental laws.

(f) The term "**Hazardous Materials**" includes any material or substance defined or treated in any environmental law as posing potential risk to persons, property, public health, safety, welfare or the environment and all waste, materials and substances that could lead to any liability, costs, damages and/or penalties under any environmental law or permit, including, without limitation, "solid waste," "hazardous substances," "hazardous air pollutant," "asbestos," "pollutant," "contaminant," "hazardous material," "hazardous waste," "toxic chemical," "petroleum or petroleum products," "toxic," "hazardous chemical," "extremely hazardous substance," "pesticide," or "chemical substance" as those terms are now or hereafter defined, deemed, determined, classified or regulated by any federal, state or local law, regulation, ordinance, policy or directive dealing with health, safety or the environment.

The "actual knowledge" of Seller, as used in this Section 5.1, means the actual, present knowledge of Abraham Harris, III as of the date of this Agreement. As to any of the representations or warranties in this Section 5.1 that are based on Seller's knowledge, if, after the date of this Agreement and prior to the Closing, Seller obtains actual knowledge (as defined in the first sentence of this paragraph) that any of such representations or warranties have become incorrect or inaccurate in any material respect, then Seller shall give notice thereof to Buyer by 5:00 p.m., Phoenix time, on the date that is three (3) business days immediately following the date on which Seller obtains knowledge of such incorrectness or inaccuracy. Upon giving such notice, Seller's representations and warranties in this Section 5.1 shall be deemed modified to the extent described in the notice. Notwithstanding the foregoing, if Seller gives Buyer notice under this paragraph of the modification of any of Seller's representations or warranties, Buyer shall have until 5:00 p.m., Phoenix time, on the date that is seven (7) business days immediately following the date on which Buyer receives Seller's notice to give Seller notice of Buyer's objection to such modifications if Buyer reasonably determines that the new facts or conditions disclosed by such modifications reasonably could have a negative impact on Buyer's proposed development or use of the Business Assets. If Buyer delivers the objection notice within the time provided, Buyer and Seller shall proceed to negotiate in good faith to resolve such objections; however, Seller shall have no obligation to pay any monies or incur any liabilities or obligations to accomplish such resolution. If Buyer's

objections are not resolved by the earlier of: (a) 5:00 p.m., Phoenix time, on that date that is ten (10) days immediately following the date on which Seller receives notice of Buyer's objections; or (b) 12:00 noon, Phoenix time, on the Closing Date (the "**Resolution Deadline**"), then Buyer shall either: (i) terminate this Agreement by giving written notice of such termination to Seller and Escrow Agent by the Resolution Deadline and Escrow Agent and/or Seller, as applicable, shall immediately return the Earnest Money to Buyer; or (ii) waive such objections and proceed with Closing. If Buyer does not give notice of termination by the Resolution Deadline, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this paragraph.

Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that all representations and warranties of Seller set forth in this Agreement shall survive the Closing of this Agreement.

5.2 Buyer's Representations.

Buyer hereby represents to Seller as follows:

5.2.1 Authority. Buyer has been duly formed and presently exists as a municipal corporation under the laws of the state of Arizona, and the entering into of this Agreement and the performance of Buyer's obligations hereunder have been duly authorized by all proper and necessary actions, and do not violate any applicable governmental statute, rule, regulation, ordinance, contract or other restriction. The person executing this Agreement and any other documents required hereby has full authority to act on behalf of and to bind the Buyer in and to the obligations imposed on it by this Agreement.

5.2.2 Binding Agreement. This Agreement and all documents required to be executed by Buyer are and shall be valid, legally binding obligations of Buyer, enforceable against Buyer in accordance with their terms.

5.3 Joint Representations and Warranties.

Seller and Buyer represent and warrant to each to the other that they have not dealt with any real estate broker or agent in connection with the purchase and sale transaction that is the subject matter of this Agreement, and each party agrees to indemnify, defend and hold harmless the other from and on account of any claims, demands, costs and expenses including, but not limited to, reasonable attorneys' fees, that may be asserted against, suffered or incurred by the indemnitee on account of the default by the indemnitor under this Section 5.3. Seller's and Buyer's representations and warranties set forth in this Section 5.3 shall survive the termination of this Agreement.

5.4 Covenants of Seller.

5.4.1 Conduct of Business. From and after the execution of this Agreement by the parties and until Closing, Seller shall preserve its business organization intact. Except as otherwise permitted by this Agreement or approved in advance by Buyer in writing, until the Closing:

(a) The Business shall be conducted only in the ordinary course and consistent with past practice, which without limitation shall include compliance with all applicable laws, regulations and administrative orders of all Authorities the noncompliance with which could, individually or in the aggregate, have a material adverse effect on the Business;

(b) Seller shall maintain in full force all insurance policies, fidelity bonds and performance bonds currently in force and shall pay when due all premiums for all such policies and bonds;

(c) Seller shall not engage in any activities or transactions that are outside the ordinary course of the Business or inconsistent with past practice that, individually or in the aggregate, would have a material adverse effect on the Business; and

(d) Seller shall not make any commitments or take any actions that would or might cause any of Seller's representations and warranties in this Agreement to be untrue, inaccurate or incomplete.

(e) Seller shall pay and discharge when due all liabilities and obligations of Seller relating to the Business Assets and the Business through the Closing Date.

(f) Seller shall perform all of its obligations under contracts relating to the Business Assets or the Business.

(g) Seller shall not enter into any contract or commitment, incur any liability, absolute or contingent, waive any right or enter into any other transaction that could materially and adversely affect the Business Assets or the conduct of the Business.

(h) Seller shall not mortgage, pledge, hypothecate or encumber any of the Business Assets.

5.4.2 Seller's Taxes. Seller shall pay before delinquent all the following taxes of Seller and the Business, to the extent applicable: (a) income taxes; (b) transaction privilege or sales taxes and use taxes; (c) payroll taxes (including, without limitation, federal and state withholding, FICA, Medicare and FUTA); (d) income taxes due on the sale by Seller and the purchase by Buyer of the Business Assets; and (e) transfer taxes, filing fees, transfer fees, lien release fees, set-up and termination fees and collection service fees if any. Seller shall obtain and deliver to Buyer, as soon as reasonably practicable, a certificate of good standing from the Arizona Department of Revenue to the Seller to the effect that Seller has filed its income, withholding or payroll, and transaction privilege tax returns on a current basis and that Seller has no outstanding liabilities thereunder, such certificate to be dated as close to the Closing Date as is practicable.

Section 6. Indemnification.

6.1 Seller.

Seller shall indemnify, defend and hold Buyer harmless against and in respect of:

6.1.1 All liabilities and obligations of, or claims against the Business Assets not expressly assumed by the Buyer herein;

6.1.2 Any damage or deficiency prior to Closing resulting from any misrepresentation, breach of warranty or nonfulfillment of any agreement on the part of the Seller hereunder or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished to the Buyer under this Agreement; and

6.1.3 All actions, suits, proceedings, demands, claims, assessments, judgments, costs and expenses incident to any of the foregoing or any obligations or liabilities of Seller in connection with the Business Assets transferred hereunder arising out of the Business prior to the date of Closing.

Buyer shall promptly notify Seller in writing of any claim, act or notice which could give rise to a claim of indemnification under this Agreement. If Seller desires to contest the claim, it shall do so at its sole cost and expense without reimbursement from Buyer and shall keep Buyer advised as to the status of the defense as reasonably required by Buyer. If Seller shall fail to successfully contest a claim as provided for above; pay a claim or final judgment rendered against it; or remove any lien or attachment within ten (10) days after imposition, then Buyer may, but shall not be obligated to, pay any such claim, judgment or lien. In the event of such payment by Buyer, Buyer shall be entitled to an offset in the amount so paid by Buyer, plus costs, actual attorneys' fees and costs, and interest at the legal rate in connection therewith. In the event Buyer claims any such offset hereunder, Buyer shall so notify Seller in writing. Any amount due Buyer not paid by such offset shall be immediately due and payable by Seller. The provisions of this Section 6.1 shall survive Closing.

6.2 Buyer.

To the extent permitted by law, Buyer shall indemnify, defend and hold Seller harmless against and in respect of:

6.2.1 Any costs, expenses, damages or deficiencies resulting from any misrepresentation, breach of warranty or nonfulfillment of any agreement on the part of Buyer hereunder or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished to Seller by Buyer under this Agreement:

Seller shall promptly notify Buyer in writing of any claim, act or notice which could give rise to a claim of indemnification under this Agreement. Seller shall not settle, pay or confess judgment with regard to such claim if Seller receives from Buyer within fifteen (15) days after the aforesaid notice of such claim a statement in writing by Buyer that Buyer will diligently defend the claim. If Buyer desires to contest the claim, it shall do so at its sole cost and expense without reimbursement from Seller and shall keep Seller advised as to the status of the defense as reasonably required by Seller. If Buyer shall fail to successfully contest a claim as provided for above; pay a claim or final judgment rendered against it; or remove any lien or attachment within ten (10) days after imposition, then Seller may, but shall not be obligated to, pay any such claim, judgment or lien. In the event of such payment by Seller, the amount of such payment plus costs, and actual attorneys' fees together with interest thereon at the

legal rate per annum shall be paid by Buyer to Seller within thirty (30) days. The provisions of this Section 6.2 shall survive Closing.

Section 7. Tax Claims

7.1 Determination

The parties shall jointly determine whether there exist any Tax Claims upon the execution of this Agreement or as soon thereafter as is practicable. If any such claims exist, Seller shall take all steps necessary to effect removal and/or satisfaction of any such claims, whether by assertion, levy, lien and administrative or judicial action, prior to the Closing Date. Filing of an unconditional Disclaimer of Interest by the taxing jurisdiction will satisfy the requirements of this Section 7.1 as to Tax Claims by the referenced taxing jurisdictions. In the event that Seller does not effect removal and/or satisfaction of one or more Tax Claims prior to the Closing Date, Buyer is authorized to withhold from the Purchase Price an amount that Buyer determines in good faith is reasonably necessary and prudent to ensure that all outstanding Tax Claims can be satisfied in full.

7.2 Indemnification for Tax Claims.

Seller shall hold Buyer harmless against all assertions, liens or attempts to collect on Tax Claims against Buyer or the Business Assets and all revenues Buyer receives from operating the Subject Water Facilities, and shall reimburse Buyer for its reasonable attorneys' fees, costs and expenses, as well as damages and losses proven by Buyer, as a result of all Tax Claims. The provisions of this Section 7.2 shall survive the Closing

Section 8. Conditions Precedent.

8.1 Buyer's Conditions Precedent.

The following are conditions precedent to the obligations of Buyer under this Agreement. If any of the conditions are not satisfied or expressly waived by Buyer in its sole discretion within the time provided in this Agreement, Buyer may terminate this Agreement and receive the return of all Earnest Money, in which event Buyer and Seller shall have no further duties, liabilities or obligations under this Agreement except those that expressly survive termination of this Agreement. In addition to the foregoing, Buyer may conditionally waive the conditions precedent set forth in this Section 8.1 by delivery of written notice to Seller:

8.1.1 On or before the expiration of the Investigation Period, Buyer shall have approved of all matters which Buyer is entitled to inspect, review or approve pursuant to Sections 2.3 and 2.4 of this Agreement.

8.1.2 Seller's warranties, representations and covenants contained in this Agreement are true and correct as of the Closing Date in all material respects, and Seller shall have performed each covenant and obligation of Seller set forth in this Agreement.

8.1.3 Seller shall have provided to Buyer copies of its company resolutions providing that Seller is authorized to sell the Business Assets to Buyer in accordance with the terms of this Agreement (as amended, if applicable) and to enter into, executive, deliver and perform this Agreement and that Abraham Harris, III is

authorized on behalf of Seller to execute and deliver all documents relating thereto (the "**Seller Resolutions**").

8.1.4 Seller's legal counsel shall have provided to Buyer a legal opinion ("**Seller's Legal Opinion**"), in form and content reasonably acceptable to Buyer, opining that (i) Seller has the requisite corporate power and authority to sell the Business Assets to Buyer and (ii) the execution, delivery and performance of the Agreement have been duly authorized by all requisite corporate action on the part of Seller.

8.1.4 The physical condition of the Equipment shall be in a clean and good working condition on the Closing Date.

8.1.5 All Regulatory Approvals have been obtained.

8.1.6 To the best of Seller's knowledge, no statute, rule or regulation of any court or Authority shall be in effect that restrains or prohibits the transactions contemplated by this Agreement or that would adversely affect the ownership and operation of the Business Assets in the manner in which the Business Assets have been owned and operated by Seller. There shall not be pending or threatened any litigation, suit, action or proceeding by any party that (i) would adversely affect the ownership or operation of the Business Assets as owned and operated by Seller; (ii) seeks to restrain or prohibit the transactions contemplated by this Agreement; (iii) challenges the legality or validity of the transactions contemplated by this Agreement; or (iv) seeks damages from Buyer as a result of the transactions contemplated by this Agreement.

8.1.7 Seller have provided either (a) evidence reasonably satisfactory to Buyer that easements for waterlines exist in the locations shown on the attached Exhibit "F" or (b) easements for water lines in said locations, executed and acknowledged by the owners of the properties to be subjected to said easements, in form and content reasonably acceptable to Buyer.

8.1.8 The parties shall each have executed that certain Real Estate Purchase Option Agreement (the "**Option Agreement**"), in such form as shall have been reasonably agreed upon by the parties, granting to Buyer the option to purchase from Seller that certain real property located in Maricopa County, Arizona, and legally described in Exhibit "G" attached hereto (the "**Option Property**"), said option to extend for a period of ten (10) years from the date of the Option Agreement and to permit Buyer to purchase the Option Property for a purchase price equal to the appraised value of the land at the time the option to purchase the Option Property is exercised.

8.2 Seller's Conditions Precedent.

The following are conditions precedent to the obligations of Seller under this Agreement. If any of the conditions are not satisfied or expressly waived by Seller in its sole discretion within the time provided in this Agreement, Seller may terminate this Agreement and all Earnest Money shall be returned to Buyer (unless the failure of a condition is the result of Buyer's breach of this Agreement, in which case the provisions of Section 16.2 below shall apply), and Buyer and Seller shall have no further duties, liabilities or obligations under this Agreement except those that expressly survive termination of this Agreement. In addition to

the foregoing, Seller may conditionally waive the conditions precedent set forth in this Section 8.2 by delivery of written notice to Buyer:

8.2.1 Buyer's warranties, representations and covenants contained in this Agreement are true and correct as of the Closing Date in all material respects.

8.2.2 Buyer shall have performed each covenant and obligation of Buyer set forth in this Agreement, including, without limitation, the timely delivery of the Purchase Price.

8.2.3 Each party has executed the Option Agreement.

8.2.4 All Regulatory Approvals have been obtained.

8.2.5 No statute, rule or regulation or order of any court or Authority shall be in effect that restrains or prohibits the transactions contemplated by this Agreement.

8.3 Cooperation.

Buyer and Seller shall reasonably cooperate in connection with the satisfaction of the closing conditions, including, without limitation, executing any necessary applications or other required documents.

Section 9. Escrow Agent.

9.1 Closing Agent.

The Escrow Agent shall serve as the Closing agent for this transaction.

9.2 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 and shall be delivered to the appropriate party upon Closing.

9.3 Other.

The Escrow Agent agrees to do all things reasonably required by the terms of this Agreement to close this transaction.

Section 9. Closing Date.

The Closing of this sale shall take place on or before _____ [given timeline for ACC approval, this date will probably need to be early in 2013). In the event the parties wish to extend the Closing Date, they may do so provided a written instrument is executed by the parties and delivered to the Escrow Agent setting a new date for Closing. The new Closing date shall also be the new date for proration.

Section 10. Closing Documents.

10.1 Seller's Deposits.

Prior to Closing, Seller shall deposit in escrow for delivery to Buyer, the following:

10.1.1 The Transfer Instruments required by this Agreement.

10.1.2 Any other documents or instruments required by this Agreement.

10.1.3 Any other instruments necessary to or reasonably required by Buyer to effectuate the transaction contemplated herein.

10.2 Buyer's Deposits.

Prior to Closing, Buyer shall deposit in escrow for delivery to Seller the following:

10.2.1 All sums required of Buyer to close this transaction.

10.2.2 Such Transfer Instruments as are required of Buyer.

10.2.3 Any other instruments necessary to or reasonably required by Seller to effectuate the transaction contemplated herein.

Section 11. Costs.

Costs of Closing and/or expenses connected with the transfer of the Business Assets and the sale thereof shall be divided between Buyer and Seller, and paid through escrow, as follows:

11.1 Attorneys' Fees.

Each party shall pay its own attorneys' fees and costs.

11.2 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 fees or filing fees are for the Transfer Instruments. If any recording fees or filing fees are necessary as a result of recordings required to clear title, they shall be paid by Seller.

11.3 Title Insurance.

The premium for the standard title insurance policies required to be provided by this Agreement shall be paid by Seller. Buyer shall pay the difference between the standard premium and an extended premium, if any.

Section 12. Prorations.

All of the following in 12.1 and 12.2 shall be prorated as of 12:01 a.m. on the Date of Closing.

12.1 Taxes.

All current real estate taxes against the Real Property. Any delinquent taxes, penalties and interest thereon for the Real Property shall be paid by Seller on or before Closing.

12.2 Assessments.

All current assessments, both principal and interest, against the Real Property. Any delinquent amounts shall be paid by Seller on or before Closing.

12.3 Other.

12.3.1 Insurance shall be canceled by Seller as of Closing.

12.3.2 Telephone bills and listings shall be prorated.

12.3.3 Utility service shall be transferred by Seller to Buyer as of Closing.

12.3.4 Utility deposits, if any, shall be returned to Seller, and Buyer shall make its own utility deposit arrangements.

12.3.5 Maintenance contracts for services, supplies or Equipment as approved by Buyer in writing, shall be prorated as of Closing.

12.3.6 Leases for Equipment (including vehicles if any) shall be prorated as of Closing.

12.3.7 Personal property tax shall be prorated as of Closing.

12.3.8 Billing and collections shall be prorated in accordance with Section 19.

Section 13. Risk of Loss.

13.1 Prior to Closing.

The risk of loss for damage by fire or other casualty, or the taking by eminent domain, until Closing, shall be assumed by and shall be the responsibility of Seller. Upon the happening of any material loss and within ten (10) business days after notification thereof, Buyer may elect in writing to terminate this Agreement or close the sale. If any election to terminate the Agreement is made, the Earnest Money shall be returned to Buyer and this Agreement shall thereupon become null and void. In the alternative, if an election to proceed with Closing is made by Buyer, any insurance proceeds and/or condemnation award in connection with the loss shall be assigned to Buyer, but there shall be no adjustment to the Purchase Price.

13.2 After Closing.

The risk of loss or damage by fire or other casualty, or the taking by eminent domain, shall be assumed by Buyer after the Closing date.

Section 14. Insurance.

Buyer shall place its own insurance coverage on the property and Seller shall terminate any insurance coverage it may have as of Closing. Escrow Agent shall not be responsible for monitoring this change.

Section 15. Assignment of Agreement.

The rights of any party under this Agreement are not assignable without the prior written consent of the other party, which may only be withheld with cause.

Section 16. Default.

16.1 Default by Seller. If Seller breaches or is in default under any of its obligations hereunder, and provided that Buyer is not then in breach or default of its obligations hereunder, then Buyer, at Buyer's option, shall be entitled to (i) seek specific performance of Seller's obligations hereunder; (ii) terminate this Agreement by written notice to Seller and Escrow Agent, in which event the Earnest Money, any accrued interest thereon and all other sums previously deposited by Buyer with Escrow Agent or which were paid to Seller on account of this Agreement shall be returned to Buyer, and Buyer may pursue any claim for its actual damages not to exceed \$50,000.00 plus attorneys' fees and costs as provided by law; or (iii) waive such breach and proceed to Closing. Notwithstanding any such termination, Buyer shall have the continuing right to enforce any surviving obligations provided for in this Agreement.

16.2 Default by Buyer. If Buyer breaches or is in default under any of its obligations hereunder, and provided that Seller is not then in breach or default hereunder, Seller as its sole remedy for Buyer's breach shall be entitled to terminate this Agreement by written notice to Buyer and Escrow Agent, in which event Seller shall be entitled to receive (or retain if Seller has already received) the Earnest Money as liquidated damages for Buyer's breach, and this Agreement shall terminate. Payment to Seller of the Earnest Money shall terminate all of Seller's rights and remedies at law or in equity against Buyer with respect to this transaction for Buyer's breach of this Agreement. The parties hereby agree that the amount of the Earnest Money shall be and constitutes liquidated damages for Buyer's breach of this Agreement, Buyer and Seller acknowledging and agreeing that it is difficult or impossible to determine the actual damages Seller would suffer from Buyer's default under this Agreement and that the agreed upon liquidated damages are not punitive or penalties and are just, fair, and reasonable. Notwithstanding any such termination for Buyer's failure to close this transaction, Seller shall have the continuing right to enforce any surviving obligations provided for in this Agreement.

16.3 Notice and Cure. Notwithstanding anything in this Agreement to the contrary, no party shall ever be in default hereunder unless such breaching party first receives written notice of default from the non-defaulting party hereunder, stating with specificity the purported default or events of default, and thereafter the defaulting party fails to cure such default to the reasonable satisfaction of the non-defaulting party within ten (10) business days of the defaulting party's receipt of such written notice of default.

Section 17. Customer Deposits.

17.1 Seller's Responsibility.

17.1.1 Seller shall retain all customer deposits and meter deposits and Buyer shall not receive any credit against the Purchase Price therefor.

17.1.2 Seller shall be responsible for refunding all customer deposits and meter deposits, and shall do so in accordance with any requirements established by the ACC. Seller shall be entitled to offset customer deposits and meter deposits against amounts due from customers, in accordance with any requirements established by the ACC. Seller shall refund the remaining balance of customer deposits and meter deposits as a credit to the final month's water service billing rendered by Seller, and

shall provide documentation of same to Buyer and to the Arizona Corporation Commission.

Section 18. Employees.

18.1 Seller's Responsibilities.

18.1.1 Seller shall be responsible for paying all FICA, existing benefits and accrued vacation pay to all employees employed by seller as of Closing and Seller shall hold Buyer harmless for any claims by or obligations owed to such employees arising by reason of Buyer's acquisition of the Business Assets.

18.1.2 Seller shall terminate the employment of all remaining employees as of midnight on the date of Closing.

18.1.3 Seller shall not make any salary adjustments, nor hire additional employees or promote any employees after the date of this Agreement without the written consent of Buyer.

18.1.4 All independent contract employees (if any) will be canceled upon the effective date of transfer of the Business Assets to Buyer.

Section 19. Meter readings and Billings.

19.1 Meter Readings.

The parties shall jointly read all customer meters and agree upon all meter readings on the Closing Date. Seller will bill all customers for water served by Seller prior to the joint meter reading on the Closing Date. Buyer will bill customers for all water served by Buyer following the joint meter reading on the Closing Date. The parties shall cooperate with respect to payments made in the ordinary course by any third party so that Buyer and Seller each receive the third party payments appropriately payable to them under this Agreement. Seller shall be entitled to receive all accounts receivable for water deliveries made by Seller through the joint meter reading on the Closing Date. Buyer shall be entitled to receive all payments for water deliveries made after the joint meter reading on the Closing Date.

Section 20. Post-Closing Cooperation

20.1 Access.

Seller shall reasonably cooperate with Buyer with regard to the transfer of Seller's system to Buyer, including but not limited to providing access to Seller's knowledgeable water operators and maintenance personnel to assist Buyer's water operations personnel in becoming familiar with the system and its operations.

20.2 Use of Seller's Personnel

If Buyer were to decide that it needed active assistance of Seller's water operators or other employees on an interim basis after the Closing during the transition of operation of the water system, Seller agrees to provide that assistance for a fee to be negotiated between the parties. In

that event, the employees so provided by Seller would remain Seller's employees and all burdens and obligations of the employer would be borne by Seller, who would remain an independent contractor of Buyer.

20.3 Miscellaneous Charges. The provisions of this Agreement contemplate that the parties will provide, after the Closing, reasonable amounts of information and documentation to each other to allow the purposes of the Agreement and the acquisition to be completed, without charge. This cooperation shall include turning over records, as-builts and other documents (to the extent they exist) to accomplish a transfer of system operations with a minimum of disruption to the water customers and to the orderly processes required. The parties shall cooperate reasonably in resolving any dispute over the documentation and other information and assistance needed.

Section 21. Miscellaneous Provisions.

21.1 Notices.

All notices and communications hereunder shall be in writing and shall be given by personal delivery or mailed first class, registered or certified mail, postage prepaid, and shall be deemed received upon the earlier of actual delivery or one hundred twenty (120) hours after deposit in the United States Mail as aforesaid. Notices to Seller or Buyer as the case may be shall be delivered or mailed to the addresses set forth in Section 1 of this Agreement. In addition, a copy of the notice shall be mailed or delivered to the Escrow Agent in care of the address set forth in Section 1.

21.2 Nature of Agreement.

21.2.1 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 its 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.

21.2.2 Integration. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement.

21.2.3 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.

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

21.2.5 Other Agreements. Seller shall not enter into any contracts, leases, agreements or amendments to existing agreements or encumbrances affecting the Business Assets while this Agreement remains in force or subsequent to Closing of this transaction without the express written consent of Buyer, other than to remove a matter which the Title Insurer required be removed to Close.

21.2.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement. This Agreement will be binding upon and inure solely to the benefit of the parties and their successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any person or party any legal or equitable right, benefit or remedy of any nature whatsoever.

21.2.7 Right to Cancel. Buyer may cancel this Agreement, pursuant to A.R.S. § 38-511, without penalty or further obligations by Buyer or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of Buyer or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement.

21.3 Relation of Parties.

21.3.1 No Agency. It is expressly agreed and understood by the parties hereto that neither party is the agent, partner, or 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.

21.4 Attorney's Fees.

If any party defaults hereunder, the defaulting party shall pay the other party's reasonable attorneys' fees, expert witness fees, travel and accommodation expenses, deposition and trial transcript costs, costs of court and other similar costs or fees paid or incurred by the non-defaulting party by reason of or in connection with the default (whether or not legal or other proceedings are instituted). In the event any party hereto finds it necessary to bring an action at law or other proceeding against the other party to enforce 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, with attorneys' fees to be set by the court and not by the jury. In the event the parties elect to arbitrate a dispute, then this section shall also apply to arbitration, except that the provisions referring to a court shall refer to the arbitrator.

21.5 Construction.

21.5.1 Time. Time is, of the essence of this agreement. However, if any action is required to be taken on a Saturday, Sunday or legal holiday, the action shall be deemed timely taken if it is taken on the next regular business day.

21.5.2 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. Whenever a personal pronoun is used in any one gender, it shall be deemed to include all other genders as the case may require, and the singular shall include the plural, and vice versa, unless the context indicates to the contrary.

21.5.3 Adverbs. Whenever the terms "herein", "hereunder", "hereof", "therefore", "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.

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

21.5.5 State Law. This Agreement and the conveyance provided for herein shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

21.5.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument. Each of the parties shall be provided with a fully executed original of this Agreement. Signatures of the parties may be submitted via facsimile or other commercially acceptable electronic means (including but not limited to "pdf") and such signatures shall be deemed to be original signatures and fully enforceable.

21.5.7 Severability. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof.

21.6 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.

21.7 Forms.

Buyer and Seller agree that the forms described herein below shall be the forms, with attached exhibits to those forms as reference exhibits, to be used by the parties to complete the transaction contemplated by this Agreement, together with such other forms as may be required to effectuate the Closing:

20.7.1 Form of Special Warranty Deed as shown on Exhibit "H" attached hereto and made a part hereof.

20.7.2 Form of Assignment of Easements and Property Rights as shown on Exhibit "I" attached hereto and made a part hereof.

20.7.3 Form of Bill of Sale as shown on Exhibit "J" attached hereto and made a part hereof.

20.7.4 Form of Assignment and Assumption of Maintenance Agreements, Service Contracts and Warranties as shown on Exhibit "K" attached hereto and made a part hereof.

20.7.5 Form of Assignment of Water Rights and Well Rights as shown of Exhibit "L" attached hereto and made a part hereof.

Section 22. Bulk Sale Requirements.

In lieu of compliance with Article 6 (Bulk Transfers) of the Arizona Commercial Code, A.R.S. Section 47-6101, et seq., the parties agree, as follows:

22.1 Indemnification.

As set forth above, Seller has agreed to convey the Business Assets free of the claims of any creditors. Therefore, in the event that any creditors make any claim against the proceeds of this transaction or seek to set aside this transaction, then Seller shall indemnify, defend and hold Buyer harmless from any such claims, as set forth under Section 6.1, above.

22.2 Buyer Not Liable for Seller's Debts.

The parties hereto specifically agree that Buyer shall not be liable or obligated for any of Seller's debt or obligations. Accordingly, all such debts or obligations must be paid in full as of Closing if they arose as a result of the purchase of the Business Assets to be transferred hereunder.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

BUYER:

TOWN OF BUCKEYE,
ARIZONA, an Arizona
municipal corporation

By: Stephen Chuland

Its: Town Manager

ATTEST: Lucinda J. [Signature]

Town Clerk

SELLER:

HOPEVILLE WATER COMPANY,
an Arizona corporation

By: [Signature]

Its: PRESIDENT

Approved as to form:

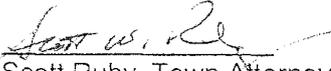
By: 
Scott Ruby, Town Attorney

EXHIBIT " _ "

List of Due Diligence Materials

"Company" shall mean the Hopeville Water Company, Inc.

1. List of Company's assets
2. Last 3 year's Company tax returns
3. Last 3 years of monthly billings to water users
4. Copies of easements for water lines and facilities
5. Contracts, agreements, warranties, related to the Company or its facilities
6. Last 3 year's power bills paid by the Company
7. Company's financial statements consisting of a balance sheet and the related statement of income and cash flows reflecting the results of operations and financial position of Company at and for the 12-month period ended December 31, 2010, and at and for the 4-month period ended April 30, 2011
8. All permits, licenses, orders or approvals of governmental or administrative authorities, including without limitation, from the Arizona Department of Water Resources, required to permit Company to carry on the business as currently conducted
9. Company's books and records containing a correct and complete list of each of the customers of the Company's business
10. A list of names and titles as of Company's employees, officers, independent contractors and directors, the annual rate of total compensation (including, without limitation, bonuses) being paid to each such employee, officer, independent contractor and director
11. All as-builts and any other plans of the Company's water system
 - a. Waterline sizes and locations, in-service dates
 - b. Meter sizes, types, in-service dates
 - c. Meter routes
 - d. System repair records
 - e. Well plans, including drilling reports, O&M manuals, in-service dates
 - f. Treatment system report, plans, O&M, component in-service dates
 - g. Water productions records
 - h. Water quality records, current and history
 - i. Maintenance records for all equipment and major components
 - j. Records of any inspections and testing of waterlines, systems and components
12. Billing records
 - a. All current meter billing locations, including addresses, meter sizes and similar or related information

- b. History of billing records, deposits, existing balances, payment records, logs and reports.
 - c. Any delinquent accounts.
 - d. Record of any electrical accounts needed for the system. History of these billings
 - e. List of rates, new connection fees and other fees or charges
13. Current management and maintenance agreements/contracts
- a. Any management, maintenance or utility operations contracts in place relating to the water system, operations, staffing or other contractors
 - b. Information on full time and part time utilization of employees working on the system
 - c. Any other contracts for the system
14. All records and documents concerning the real property owned by the Company and being acquired by the City.
- a. Deeds and other title and related documents
 - b. Any agreements currently in place regarding the real property
 - c. Any waterline easements or rights-of-way or other similar or related documents.
15. All organizational documents of the Company, including Articles of Incorporation and Bylaws

Exhibit 3

Itemized Outstanding Bills

1. Paul J Faith
Faith, Ledyard & Faith PLC
\$4,299.85

2. Maricopa County
\$1,760.00 – to bring permit up to date
\$8,936.20 – monetary judgment

3. EZ Messenger
\$106.00

4. Fluid Solutions
\$11,974.07 + Interest

5. Alexander Igwe
Vanguard Tax Center
\$11,737.50

6. Prestige Financial Services
\$19,091.59 + Interest

7. Ridenour, Hinton & Lewis, PLLC
\$57,026.63

8. Tiffany & Bosco, PA
\$51,317.12 + Fees accrued after July 31, 2014 (Estimated \$15,000 - \$20,000)

9. Gerardo Ivan Hannel
\$00000 + Fees accrued after July 31, 2014 (waiting for information)

10. Scott Truit (broker)
\$3,500.00.00

Exhibit 4

Exhibit 5

REAL ESTATE PURCHASE OPTION AGREEMENT

THIS REAL ESTATE PURCHASE OPTION AGREEMENT (“**Agreement**”), made and entered into as of the ____ day of _____, 2012 (“**Effective Date**”) by and between **HOPEVILLE COMMUNITY FOR PROGRESS, INC.**, an Arizona non-profit corporation (“**Seller**”), and **THE TOWN OF BUCKEYE, ARIZONA**, an Arizona municipal corporation (“**Purchaser**”), provides as follows:

THAT, FOR AND IN CONSIDERATION of the mutual covenants, promises, conditions, and undertakings set forth herein, the payment of the Independent Consideration (as hereafter defined) and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Seller and Purchaser covenant and agree as follows:

1. **Grant of Option.**

A. Seller hereby irrevocably grants to Purchaser an exclusive right and option (“**Option**”) to purchase from Seller, upon the terms and conditions hereafter set forth, all of that certain real property containing approximately 15.62 acres, located in the County of Maricopa, State of Arizona, and any structures, buildings, and other improvements thereon, together with existing access easements benefiting such real property, all of which is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference, together with Seller’s right, title and interest, if any, in and to all streets, alleys and right-of-ways adjacent to the real property, any easement rights, air rights, subsurface development rights, water rights and other rights appurtenant to the real property, and any minerals, including oil, gas and other hydrocarbon substances on the real property, all of which shall be collectively referred to herein as “**Property**”.

B. Within five (5) business days after the entering into of this Agreement, Purchaser shall pay to Seller the sum of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) (the “**Independent Consideration**”), which shall be retained by Seller in all instances, except as expressly set forth to the contrary in this Agreement. The Independent Consideration has been bargained for as consideration for Seller’s execution and delivery of this Agreement and for Purchaser’s review, inspection and termination rights pursuant to this Agreement, and such consideration is adequate for all purposes under any applicable law or judicial decision.

2. **Duration of Option.** The term of the Option shall be the period, commencing on the Effective Date and terminating on December 31, 2022 (“**Option Period**”).

3. **Effect of Option Fees on Purchase Price.** In the event Purchaser delivers the Exercise Notice to Seller, the Independent Consideration shall be applied as a credit to the Purchase Price (as defined in Section 5).

4. **Exercise of Independent Consideration, Non-Exercise of Option.** Provided Purchaser is not in default hereunder beyond all applicable notice and cure periods, Purchaser may elect to exercise the Option by giving written notice of exercise (“**Exercise Notice**”) to Seller at any time on or before the date of expiration of the Option Period. If the Exercise Notice

is delivered as provided herein, this Agreement shall become and constitute a binding contract for the purchase and sale of the Property on the terms and conditions set forth in this Agreement. Upon delivery of the Exercise Notice to Seller by Purchaser, contingent upon satisfaction of the conditions precedent set forth herein, closing on the purchase and sale of the Property hereunder ("**Settlement**") will occur on a date selected by Purchaser, but no later than ninety (90) days after the date of the Exercise Notice ("**Settlement Date**"); provided, however, that Purchaser shall give Seller at least ten (10) days advance written notice of the Settlement Date selected by Purchaser. Purchaser shall have the right to terminate this Agreement and the Escrow at any time during the Option Period in Purchaser's sole discretion for any reason by delivering to Seller and Escrow Agent written notice of termination of this Agreement and the Escrow and, in such event, Seller shall retain the Independent Consideration, subject to any express provisions of this Agreement under which Purchaser has the right to terminate this Agreement and have any portion of the Independent Consideration previously paid by Purchaser returned to Purchaser. It is the intent of the parties to avoid inadvertent termination of this Agreement. Therefore, and notwithstanding anything to the contrary contained in this Agreement, if Purchaser fails to give the Exercise Notice on or before the date of expiration of the Option Period, then the Option shall not terminate, but shall continue in full force and effect until three (3) business days after Seller gives Purchaser written notice that the Option will terminate unless Purchaser gives the Exercise Notice, as applicable, within such three (3) business day period. Purchaser shall have such three (3) business day period to give the Exercise Notice, failing which the Option shall terminate automatically upon the expiration of such three (3) business day period.

5. **Purchase Price.**

A. If Purchaser delivers the Exercise Notice on or before the date of expiration of the Option Period, Purchaser shall deliver to Escrow Agent, by wire transfer, at Settlement an amount equal to the Appraised Land Value (as defined below).

B. "**Appraised Land Value**" shall mean the value of the Property as determined in the manner set forth below:

(1) The Appraised Land Value shall be determined by computing the then fair market value of the Property for sale purposes, as of the date the Exercise Notice is given, assuming, for purposes of such valuation, that the Property is vacant land, unencumbered by this Agreement, and is being marketed for sale for the then highest and best use of the Property permitted under the restrictions applicable to the Property at the time the appraisal is made.

(2) The parties shall mutually appoint an appraiser to determine the Appraised Land Value. If the parties are unable to mutually agree on an appraiser within ten (10) days following Purchaser's delivery of the Exercise Notice (the "**Outside Agreement Date**"), then the parties shall then each appoint one (1) appraiser to prepare an appraisal of the Property in accordance with the provisions of this Section 5(B), which appraisals shall be completed within thirty (30) days of the Outside Agreement Date. Provided that there is no greater than a ten percent (10%) difference between the Appraised Land Values as estimated by the two appraisals, the Appraised Land Value for purposes of calculating the Purchase Price for

the Property shall be the average of the two appraisals. In the event one of the parties fails to obtain an appraisal as set forth above, the Appraised Land Value shall be the Appraised Land Value as established by the appraisal obtained by the other party. In the event the two appraisals differ by more than ten percent (10%) in their estimates of the Appraised Land Value, the two appraisers chosen by the parties shall then designate a third appraiser, who shall be commissioned to prepare a third appraisal of the Appraised Land Value for the Property, which appraisal shall be completed within thirty (30) days of the date the third appraiser is chosen. The Appraised Land Value shall then be the average of the value as estimated by the third appraisal and the value as estimated by whichever of the first two appraisals estimates a value closest to the value estimated by the third appraisal.

(3) All appraisers appointed pursuant to this Section 5(B) shall (i) be by profession an MAI appraiser; (ii) have no ongoing relationship with Seller or Purchaser; (iii) be licenses as an appraiser by the State of Arizona; and (iv) have been active over the five (5) year period ending on the date of such appointment in the appraisal of similar properties in the Phoenix, Arizona metropolitan area.

(4) The cost of appraisers and the appraisal proceedings shall be borne as follows: each party shall pay the cost of its own appraiser and, if applicable, shall share equally in the cost of the third appraiser.

6. **Title and Escrow.**

A. **Escrow.** Upon the giving of the Exercise Notice by Purchaser, Seller and Purchaser shall open an escrow ("**Escrow**") to consummate the purchase and sale of the Property. Escrow shall be opened with Great American Title Agency, Inc. ("**Escrow Agent**"). Upon the execution of this Agreement by Seller and Purchaser, Seller and Purchaser shall deposit this fully executed Agreement with Escrow Agent. This Agreement constitutes escrow instructions to Escrow Agent. Any supplemental instructions shall not conflict with, amend or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control, unless otherwise agreed in writing by Purchaser and Seller.

B. **State of Title.** At Settlement, Seller shall cause good and marketable fee simple title to the Property to be conveyed to Purchaser by Special Warranty Deed subject only to current taxes and assessments and the matters approved by Purchaser in accordance with Section 6(C) (the "**Permitted Exceptions**"). At Settlement, Seller must satisfy all reasonable requirements imposed by First American Title Insurance Company ("**Title Company**") to issue its 2006 ALTA standard owner's policy of title insurance, insuring title to the Property in the name of the Purchaser with liability in the amount of the Purchase Price (the "**Owner's Policy**"). The Owner's Policy shall list as exceptions to coverage only the foregoing taxes and assessments and the Permitted Exceptions. Purchaser may, at its additional cost and expense, by notice to the Escrow Agent, elect to cause the Escrow Agent to issue a 2006 extended owner's policy of title insurance insuring title to the Property in the name of Purchaser in the amount of the Purchase Price.

C. Title Examination. Within the Option Period, Purchaser, at its expense, may cause Escrow Agent to issue a title insurance commitment ("**Commitment**") to issue an Owner's Policy to Purchaser. At least fifteen (15) business days prior to the giving of the Exercise Notice, Purchaser shall advise Seller and Escrow Agent in writing ("**Title Objection Notice**") of those exceptions to title in the Commitment, which may include those matters shown on the Survey contemplated by this Agreement that are unacceptable to Purchaser ("**Disapproved Exceptions**"). Purchaser's failure to provide such Title Objection Notice on or before that date which is fifteen (15) business days prior to the giving of the Exercise Notice shall constitute Purchaser's approval of the condition of title as shown in the Commitment. If Purchaser timely notifies Seller of the Disapproved Exceptions or Title Objection Notice, whether with respect to the original Commitment or with respect to New Matters (as defined in Section 6(D)), Seller shall, within ten (10) business days following Seller's receipt of Purchaser's written notice of Disapproved Exceptions or Title Objection Notice ("**Seller's Cure Period**"), notify Purchaser in writing that Seller will either: (i) cause the removal of or correct such Disapproved Exceptions or New Matters as of or before the Settlement Date; or (ii) not cause the removal of any or certain specified Disapproved Exceptions or New Matters. Seller's failure to address any Disapproved Exceptions or New Matters in any notice, or respond to any Title Objection Notice with respect to any Disapproved Exceptions or New Matters, shall constitute Seller's election that it will not cause the removal of such Disapproved Exceptions or New Matters. Seller shall not be obligated to eliminate or cure any Disapproved Exceptions or New Matters, except that Seller shall be obligated to remove all monetary liens (other than non-delinquent taxes and assessments) that were caused or executed by Seller prior to the Settlement Date, and provided further that Seller covenants not to cause any New Matters that cannot be removed prior to Settlement to be imposed against the Property after the date of this Agreement. If Seller fails to cure any objection of Purchaser or fails to respond to the Title Objection Notice by the end of the Seller Cure Period, Purchaser shall elect within five (5) business days following the expiration of Seller's Cure Period either to: (A) terminate this Agreement and the Escrow by written notice to Seller and Escrow Agent, whereupon this Agreement shall be terminated and both parties thereafter shall be released from all further obligations hereunder, except for those obligations specifically stated herein to survive the termination of this Agreement; or (B) waive Purchaser's objections by written notice to Seller and proceed to close the transaction contemplated hereby. If Purchaser fails to timely make any of these elections, Purchaser will be deemed to have elected option (A) above. All matters to which Purchaser has not objected, or to which Purchaser has waived or is deemed to have waived its objections under this Section 6(C) shall be considered Permitted Exceptions for purposes of this Agreement. Notwithstanding anything to the contrary contained above, Seller shall be required to remove all monetary liens (other than non-delinquent taxes and assessments) that were caused or executed by Seller and to remove all New Matters caused by Seller after the date of this Agreement, with such removal to occur on or prior to the Settlement Date. At Settlement, Seller shall provide Purchaser and Escrow Agent with all affidavits in form reasonably acceptable to the Escrow Agent to permit the Escrow Agent to delete the standard exceptions, including parties in possession, construction or mechanics liens and unrecorded easements.

D. Amended Commitment. If Escrow Agent delivers to Purchaser after that date which is fifteen (15) business days prior to the expiration of the Title Review Period, an update to the Commitment containing any new matters, defects, conditions or exceptions raised

for the first time (collectively, the "New Matters"), then Purchaser shall have five (5) business days (and the Settlement Date shall be extended if necessary), to submit to Seller a Title Objection Notice with respect to the New Matters. Failure of Purchaser to submit a Title Objection Notice by the deadline set forth in this Section 6(D) shall constitute Purchaser's approval of the New Matters as shown in the update to the Commitment. The foregoing shall not affect Seller's obligations with respect to any New Matters caused by Seller after the date of this Agreement.

7. Due Diligence.

A. Purchaser's Tests and Inspections. Purchaser shall have the right during the Option Period to enter upon the Property and to perform, at its expense, boring tests and economic, engineering, topographic, environmental, survey and marketing tests or any other studies, tests and due diligence as Purchaser elects in its sole discretion, with reasonable notice to Seller (collectively, the "Inspections"). Purchaser shall not interfere unreasonably with Seller's current operations on the Property while conducting any studies, tests and due diligence on the Property. During the Option Period, Seller agrees to make available to Purchaser, within five (5) business days of Purchaser's request, without warranty or recourse, for inspection any and all architectural and engineering studies, surveys, and other related materials or information relating to the Property that are currently in Seller's possession or control or that might come into Seller's possession or control after the Effective Date. During the Option Period, Purchaser may, at its option and expense, cause a survey of the Property ("Survey") to be prepared by a reputable surveyor, certifying the acreage of the Property and containing such other information as the Purchaser may direct. Purchaser shall provide to Seller a copy of the Survey (if any) promptly upon its receipt thereof. Seller shall have the right to approve the legal description at its reasonable discretion. To the extent permitted by law, Purchaser agrees to indemnify Seller and hold Seller harmless for, from and against any claims, damages, costs, or expenses to the extent arising from entry and activity upon the Property by Purchaser, and any agents, contractors, or employees of Purchaser with the exception of: (i) any loss, liability, cost or expense to the extent arising from the acts of Seller, (ii) any diminution in value of the Property or other matter arising from or related to matters discovered by Purchaser during its investigation of the Property, (iii) any latent defects in the Property discovered by Purchaser, (iv) liability which results from the release of preexisting toxic or Hazardous Materials on or about the Property resulting from normal environmental testing procedures, and (v) liability which arises from the results or findings of such tests. The provisions of this Section 7(A) shall survive the Settlement or termination of this Agreement. If Settlement does not occur, Purchaser, at its own expense, shall repair any damage to the Property caused by Purchaser's activities, tests and studies at the Property.

B. Delivery of Due Diligence Information. The following instruments and items of information (collectively the "Due Diligence Documents") have been or will be delivered by Seller to Purchaser within fifteen (15) days after the Effective Date:

1. Copies of any existing surveys of the Property;

2. Copies of any prior title commitment for the Property (“**Prior Commitment**”);
3. Copies of any existing Phase I environmental reports for the Property; and
4. Copies of any additional surveys (whether biological, geotechnical, boundary, topographical or otherwise), studies or other inspections relating to the Property, if any, to the extent in Seller’s possession or reasonable control.

Purchaser understands and acknowledges that Seller has provided or will provide the Due Diligence Documents to Purchaser merely as an accommodation, and, except as otherwise expressly set forth in this Agreement, Seller is not in any way representing or warranting the accuracy, sufficiency or completeness of any documentation or information provided to Purchaser. Purchaser is responsible for conducting its own examination, inspection and investigation of the Property), including the subsurface thereof and all soil, engineering and other conditions and requirements of the Property.

8. Settlement Deliveries.

A. Seller’s Deliveries. At or before Settlement, Seller shall deliver to Escrow Agent all of the following documents and instruments, which shall have been executed and, where appropriate, acknowledged by Seller:

1. A Special Warranty Deed (“**Deed**”), in the form attached hereto as **Exhibit C**;
2. The Harris Quitclaim Deed (as defined below), duly executed and acknowledged by Harris (as defined below);
3. Such title affidavits and certificates as may be reasonably required by the Escrow Agent;
4. A Certification of Non-Foreign Status pursuant to Section 1445 of the Internal Revenue Code (“**Section 1445**”) that Seller is not a foreign person, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and related regulations), and applicable federal and state tax reporting certificates including, without limitation, any required state withholding or non-foreign status certificate;
5. An Affidavit of Property Value as required by applicable law;
6. All other documents and instruments referred to herein that are to be provided to Purchaser by Seller;

7. Evidence of authority of persons executing this Agreement on behalf of Seller and of Seller's corporate authority to enter into this Agreement satisfactory to Purchaser and Escrow Agent; and

8. All documents reasonably required by the Escrow Agent, including, but not limited to, an executed settlement statement.

B. Purchaser's Deliveries. At or before Settlement, Purchaser shall deliver to Escrow Agent all of the following, which documents and instruments shall have been executed and, where appropriate, acknowledged by Purchaser:

1. The Purchase Price, less the Independent Consideration, by Purchaser's warrant;

2. An Affidavit of Property Value as required by applicable law;

3. All other documents and instruments referred to herein that are to be provided to Seller by Purchaser; and

4. All documents reasonably required by the Escrow Agent, including, but not limited to, an executed settlement statement.

9. Settlement Costs: Prorated items and Adjustments.

A. Settlement Costs. Seller shall pay: (1) all state, county and city transfer taxes payable, if any, in connection with the transfer contemplated herein; (2) its own legal fees; (3) the title insurance premium for the Owner's Policy attributable to standard coverage; (4) 50% of the escrow fees; (5) one-half of the cost of the third appraisal referenced in Section 5(B)(3), if not previously paid by Seller; and (6) the cost of recording of the deed. Purchaser shall pay (1) any excess premium allocable to extended coverage and the costs of any endorsements to the Owner's Policy requested by Purchaser (except endorsements required to resolve any Title Defects, the cost of which shall be paid by Seller); (2) 50% of the escrow fees; (3) the cost of any Survey obtained by Purchaser; (4) any other recording or filing fees; (5) all fees, costs or expenses in connection with Purchaser's due diligence reviews hereunder; (6) one-half of the cost of the third appraisal referenced in Section 5(B)(3), if not previously paid by Buyer; and (7) its own legal fees. Any other closing costs shall be allocated in accordance with local custom. Seller and Purchaser shall pay their respective shares of prorations as hereinafter provided.

B. Prorations. As of the Settlement, the following prorations shall be made and occur.

V. Real estate taxes ("Taxes") shall be prorated as of the Settlement, based upon the latest available information; provided that if actual Taxes for the year in which Settlement occurs differ from the figure on which the proration was based, then

either Seller or Purchaser shall have the right, by written notice (with the calculation of the re-proration) to the other party, to re-prorate Taxes based on the actual Taxes figure (by appropriate adjusting payment to be made within ten (10) business days following such notice). Seller shall be responsible for payment of any real estate taxes that are delinquent as of the Settlement date.

2. Any assessments, improvement districts or similar matters, including any irrigation assessments (the "Assessments") that are a lien against the Property as of the Settlement Date shall be prorated in the same manner as provided above with respect to Taxes.

C. Unless (i) Seller is not a "foreign person" as contemplated in Section 1445 and (ii) Seller executes at Settlement an affidavit in the form required by the Internal Revenue Service to exempt Purchaser from the withholding requirements under Section 1445, the delivery of the Purchase Price to Seller shall be subject to the satisfaction of the withholding requirements under Section 1445.

10. **Seller's Representations and Warranties.** To induce Purchaser to enter into this Agreement and to exercise the Option to purchase the Property, Seller hereby makes the following representations, warranties and covenants as to the Property:

V. **Authority.** Seller is a corporation, duly organized, validly existing and existing and in good standing under the laws of the State of Arizona, and has full power and authority to own and sell real property in the State of Arizona. Seller has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. All requisite action has been and will be taken by and on behalf of Seller in connection with its entering into and performing this Agreement, the documents and instruments referred to herein, and consummating the transactions contemplated hereby. Seller, and any specific individual parties signing this Agreement on behalf of Seller represent and warrant that the parties signing this Agreement and such other documents and instruments on behalf of the Seller have the full legal power, authority and right to execute and deliver this Agreement. Neither the entering into this Agreement nor the performance of any of Seller's obligations under this Agreement will violate the terms of any contract, agreement or instrument to which Seller is a party. Seller shall furnish to Purchaser and the Escrow Agent such documentation to evidence such person's or entity's authority as Purchaser or the Escrow Agent shall reasonably request

B. Special Assessment. To Seller's knowledge, no portion of the Property is subject to or is affected by any special assessment for improvements or other purposes, whether or not presently a lien thereon. Seller shall not vote in favor of, consent to, or otherwise take any actions which could result in the imposition of such a special assessment.

C. Taxes. To the best of Seller's knowledge, no portion of the Property is subject to or affected by any outstanding or delinquent real property taxes.

D. Litigation. Seller has not been served (by means of formal, legal service of process as required by law) with any litigation or arbitration proceedings, governmental proceedings or similar actions which do or will affect any aspect of the Property or Seller's ability to perform its obligations under this Agreement. In addition, within the last four (4) years, to Seller's knowledge, Seller has not been threatened with any litigation (or arbitration), governmental proceedings or similar actions by a third party (including, without limitation, a governmental agency) which would affect any aspect of the Property or Seller's ability to perform its obligations under this Agreement.

E. Compliance. Seller has not received any notice of any presently uncured violation of any law, ordinance, rule or regulation (including, but not limited to, those relating to zoning, building, fire, environment, health and safety) of any governmental, quasi-governmental authority bearing on the construction, operation, ownership or use of the Property, and to Seller's knowledge, there is no such violation.

F. Condemnation Proceedings. Neither all nor any portion of the Property has been condemned or conveyed by deed in lieu of condemnation, nor is there now pending or, to Seller's knowledge, threatened any condemnation or similar proceeding affecting the Property or any portion thereof. Seller has no knowledge that any such proceeding is contemplated. Seller has no knowledge of any change or proposed change in the route, grade or width of, or otherwise affecting, any street or road abutting the Property.

G. Condition of Property. To Seller's knowledge and except as disclosed in the documents referred to in the Commitment or in the Survey, there are no areas within the Property which are subject to any statutes, rules, regulations, conservation easements (or like encumbrances) or ordinances that would adversely affect the Property or Purchaser's ownership thereof.

H. Separate Lots. The Property constitutes one or more separate tax parcels under applicable laws, ordinances and regulations and no subdivision or re-subdivision is required for the conveyance of the Property to Purchaser.

V. Zoning and Dedication. Seller has not received any notice of any pending change in zoning from any governmental or quasi-governmental authority, which change would materially affect the present zoning of the Property. Seller has not made any commitment to any governmental or quasi-governmental authority having jurisdiction, or to any third party, to

dedicate or grant any portion of the Property for roads, easements, rights of way, park lands or for any restrictions or to incur any other expense or obligation relating to the Property.

J. Flood Plain: Stormwater. To the best of Seller's knowledge, the Property is not the subject or location of any stormwater detention or surface drainage facilities serving any property other than the Property, and the Property is not located in a flood zone.

K. Property Use. Seller has no knowledge of any actual, pending or threatened designation of any portion of the Property, or the area in which the Property is located, as a historic landmark or archeological district site or structure. Seller has no knowledge of any endangered species, landfill or graveyard lying within the Property. Seller has not received any notice that any of the easements, covenants, conditions, restrictions or agreements to which the Property is subject interferes with or is breached by the use or operation of the Property as presently used. To Seller's knowledge, except for those certain reversionary rights burdening the Property and benefitting the State of Arizona contained in that certain Deed recorded September 12, 1990 as Instrument No. 90-411405, Official Records of Maricopa County, Arizona and that certain Certificate of Purchase, dated February 2, 1981, and recorded February 5, 1981, in Docket 15008, Page 55, Official Records of Maricopa County, Arizona, there is no condition on the Property, and no restriction applicable to the Property, which would interfere with the use of the Property for general municipal purposes, including, without limitation, for the construction and operation of water and/or sewer campuses, for public works yards, for police and/or fire stations and for public park purposes.

L. Environmental Laws: Hazardous Materials.

V. Except as shown on any Phase I environmental report provided to or obtained by Purchaser, to Seller's knowledge, the Property is not now, has not been during the period of Seller's ownership, and was not during any period prior to Seller's ownership:

(a) in violation of any past or present federal, state, or local statute, regulation, ordinance, administrative order, judicial order or any similar requirement having the force and effect of law, relating to the protection of human health or the environment (an "**Environmental Law**") including, but not limited to, any federal, state or local regulation relating to industrial hygiene or soil or ground water conditions; or

(b) used to generate, manufacture, store, refine, dispose of, or in any manner deal with, any flammable, explosive or radioactive material, hazardous waste, toxic substance or related material, oil, waste oil, or other petroleum based materials, or any other substance or material defined or designated as a hazardous or toxic substance, material or waste by any federal, state or local law or environmental statute, regulation or ordinance presently in effect or as amended or promulgated in the future (a "**Hazardous Material**");

2. Neither Seller nor, to Seller's knowledge, without investigation, any prior owners or any prior or current occupants of the Property have received any notice or advice from a governmental agency with regard to Hazardous Materials on, from or affecting the Property that could give rise to any liability under any Environmental Law, and, to Seller's knowledge, there has been no investigation, notice of violation, request for information or claim of any kind asserted or threatened by any person, including any federal, state or local governmental agency, relating to the storage, disposal, discharge or release of any Hazardous Material in a manner that would give rise to any liability under any Environmental Law.

M. Leases. As of the Effective Date, there are no leases or other agreements for occupancy in effect with respect to the Property.

N. No Right of First Refusal. With the exception of this Agreement, no person or entity has a right of first refusal, option to purchase, or other right to purchase the Property pursuant to an agreement to which Seller is a party.

O. No Bankruptcy. Seller will not become insolvent as a result of its performance under this Agreement. Seller has not: (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of Seller's assets; (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets; (v) admitted in writing Seller's inability to pay its debts as they come due; or (vi) made an offer of settlement, extension, or composition to its creditors generally.

P. Third Party Consents. Any third-party approvals or consents which may be required for Seller to enter into this Agreement or to consummate the transactions contemplated hereby have been, or will be prior to Settlement, obtained by Seller. This Agreement and all documents required to be executed by Seller are, and on the Settlement will be, legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with their terms.

Q. Complete Copies. All of the documents delivered or to be delivered by Seller to Purchaser relating to the Property will be complete copies of the applicable documents to the extent complete copies of said documents are in Seller's possession.

For purposes of this Section 10, Seller's actual knowledge is limited to the knowledge of Abraham Harris III ("**Harris**"), and Seller represents that such person is the representative of Seller who is in a position to have actual knowledge of the truthfulness of the aforementioned representations and warranties. Provided, however, that Abraham Harris III shall not have any personal liability under this Agreement. All of Seller's warranties, representations, or covenants in this Agreement constitute a material part of the consideration hereunder. No other party is authorized to make any representations or warranties on Seller's behalf. Seller's representations and warranties contained herein are and will be materially true and correct as of the Settlement Date; provided, however, if between the Effective Date and the Settlement Date Seller becomes aware of any material fact or circumstance that renders any representation or warranty of Seller not true or correct, Seller shall give written notice of such

fact or circumstance to Purchaser and Purchaser shall have the additional right exercised within five (5) business days of such notice or, if sooner, the Settlement Date, to terminate this Agreement, in which event the Independent Consideration shall be immediately returned to Purchaser and thereafter neither party shall have any further rights or obligations hereunder, except for those matters that survive termination of this Agreement. All representations and warranties of Seller shall survive Settlement for a period of one (1) year and shall not be deemed merged into any instrument or conveyance delivered at Settlement.

11. **Purchaser's Representations and Warranties.** To induce Seller to enter into this Agreement and to grant the Option to purchase the Property, Purchaser hereby makes the following representations, warranties and covenants:

A. Purchaser has full power and authority to purchase real property in the State of Arizona. Purchaser has the full right and power to enter into this Agreement and to consummate the transaction contemplated by this Agreement. All requisite action has been and will be taken by and on behalf of Purchaser in connection with its entering into and performing this Agreement, the documents and instruments referred to herein, and consummating the transactions contemplated hereby. The persons and/or entities signing this Agreement and such other documents and instruments on behalf of Purchaser are authorized to do so. Purchaser shall furnish to Seller and the Escrow Agent such documentation to evidence such person's or entity's authority as Seller or the Escrow Agent shall reasonably request.

B. Any third-party approvals or consents which may be required for Purchaser to enter into this Agreement or to consummate the transactions contemplated hereby have been, or will be prior to Settlement, obtained by Purchaser. This Agreement and all documents required to be executed by Purchaser are, and on the Settlement will be, legal, valid, and binding obligations of Purchaser, enforceable against Purchaser in accordance with their terms.

12. **Conditions Precedent.**

A. **Conditions for the Protection of Purchaser.** It shall be a condition precedent to Purchaser's obligation to purchase the Property and to perform its other obligations hereunder that each and every one of the conditions set forth under this Section 12(A) shall have been satisfied at or before Settlement, except for any such condition waived in writing by Purchaser in whole or in part:

V. Seller shall have delivered to Purchaser all of the documents and other information required of it pursuant to the provisions of this Agreement;

2. All of the covenants, representations, warranties, and agreements of Seller set forth in this Agreement shall be true, correct and complete as of the Effective Date and as of the Settlement Date;

3. Seller shall have performed, satisfied, or complied with all of the terms, provisions, covenants, conditions, and agreements of this Agreement;

4. Seller's title to the Property shall be as required by Section 6(B) and Purchaser shall receive the Owner's Policy, or a binding commitment from the Title Company to deliver the Owner's Policy, as of the Settlement.

5. Between the Effective Date and the Settlement Date, Seller shall not bring or store, or permit others to bring or store, any soil or fill material onto the Property that did not exist on the Property as of the Effective Date.

6. Seller shall not to enter into any leases or other agreements for occupancy of the Property, or any part thereof, during the term of this Agreement without Purchaser's prior written consent, which may be withheld in Purchaser's sole discretion, except that Seller may enter into any such leases or other agreements as long as Seller, at its sole cost, terminates any such leases and other agreements prior to the Settlement.

7. There shall not be any moratorium, condemnation (or threat of condemnation) action or material, adverse physical change affecting the Property.

8. Purchaser shall have obtained from the Arizona State Land Department such modification to, or termination of, the restrictions currently encumbering the Property as will permit Purchaser's intended use of the Property for general municipal purposes, including, without limitation, for the construction and operation of water and/or sewer campuses, for public works yards, for police and/or fire stations and for public park purposes.

9. Harris shall have executed, acknowledged, and delivered to Purchaser a quitclaim deed, quitclaiming to Purchaser any interest Harris may have in the Property, or any portion thereof (the "**Harris Quitclaim Deed**"). The legal description attached to the Harris Quitclaim Deed shall describe the entirety of the Property.

B. Seller's Conditions Precedent. It shall be a condition precedent to Seller's obligation to sell the Property and to perform its other obligations hereunder that each and every one of the conditions set forth under this Section 12(B) shall have been satisfied at or before Settlement, except for any such condition waived in writing by Seller in whole or in part:

V. Purchaser shall have delivered to Seller all of the documents and other information required of it pursuant to the provisions of this Agreement;

2. All of the covenants, representations, warranties, and agreements of Purchaser set forth in this Agreement shall be true, correct and complete as of the Effective Date and as of the Settlement Date;

3. Purchaser shall have performed, satisfied, or complied with all of the terms, provisions, covenants, conditions, and agreements of this Agreement; and

4. Purchaser shall have timely delivered the Exercise Notice, and timely paid the balance of the Purchase Price, all as and when provided in this Agreement.

13. Condemnation and Risk of Loss.

A. Condemnation. In the event of condemnation or receipt of notice of condemnation of all of the Property, or any portion thereof, prior to the Settlement Date, Seller shall give written notice to Purchaser promptly after Seller receives such notice or otherwise learns of such condemnation or conveyance in lieu thereof. If all of the Property is, or is to be, condemned, this Agreement shall terminate immediately and Seller shall immediately return the Independent Consideration to Purchaser. If less than all of the Property is, or is to be, condemned or taken, Purchaser, at its option, may elect either (a) to terminate this Agreement and the Escrow in the event the portion of the Property to be condemned adversely affects Purchaser's ability to use the Property for its intended purpose, effective upon written notice given by Purchaser to Seller and Escrow Agent, not later than thirty (30) days after receipt of written notice from Seller, in which event Seller shall return the Independent Consideration to Purchaser, or (b) not to terminate this Agreement. If Purchaser elects not to terminate this Agreement, Purchaser shall be entitled to receive, and Seller shall assign to Purchaser at Settlement all of Seller's interest in, all of the condemnation proceeds and all interest thereon.

B. Risk of Loss. The risk of loss or damage to the Property prior to Settlement, by casualty, act of God or any other event, shall be upon Seller, subject to the obligations of Purchaser under Section 7(A).

14. Covenants of Seller.

V. Rezoning. Seller understands Purchaser intends to use the Property for a variety of municipal purposes, including, without limitation, for the construction and operation of water and/or sewer campuses, for public works yards, for police and/or fire stations and for public park purposes. During the Option Term, Purchaser shall have the right to contact governmental and regulatory entities in connection with Purchaser's due diligence and development activities, and to apply to such governmental and regulatory entities for all permits and approvals necessary or appropriate to construct the contemplated water and/or sewer facilities. Provided Purchaser is not in default under this Agreement, during the Option Period, Seller shall in a commercially reasonable manner cooperate with Purchaser, at no cost to Seller, and execute such documents reasonably required by Purchaser or required by a governmental or quasi governmental authority, if any, for the purpose of securing any permits, approvals, land use change, re-zoning, zoning variance or special use, if necessary, in order for the Property to be used for Purchaser's intended purpose; provided, that no such permits, approvals, change, re-zoning, zoning variance or special

use shall become effective and/or binding upon the Property until after the Settlement.

B. Restrictions. From and after the Effective Date, unless otherwise agreed to in writing by Purchaser, Seller will refrain from (a) performing any construction upon or about the Property; (b) creating or incurring, or suffering to exist any private sewer or water agreement, improvement district, community facilities district, lease, occupancy right, mortgage, lien, pledge or other encumbrances in any way affecting the Property, other than those released on or before Settlement; (c) forming any association or district affecting the Property; (d) amending any Permitted Exceptions in a manner that would affect the Property; (e) failing to pay real property taxes or assessments imposed on the Property before they are delinquent if such date is before the Settlement Date; (f) entering into any contracts or other agreements with respect to the Property that are not terminable, without the payment of a termination fee or other consideration, on thirty (30) days' prior written notice, and Seller shall terminate any such contracts on or before the Settlement, (g) operating and/or managing the Property in any manner other than in the ordinary course of Seller's business, consistent with existing management policies and procedures, (h) making any new elections with respect to the Property that would have a material adverse effect on Purchaser's interest therein or its potential as a site for the purposes contemplated by Purchaser, (i) failing to comply with any easement, condition, covenant, restriction or other recorded instrument affecting the Property, (j) applying for or seeking a zone change, variance subdivision map, lot line adjustment or other discretionary governmental act, approval or permit with respect to the Property or (k) taking any other actions, or allowing any of its affiliates to take any actions, that might reasonably be expected to delay or prevent the transactions contemplated by this Agreement.

15. Default.

A. Purchaser's Rights. If Seller fails to close the transaction contemplated hereby, and so long as Purchaser has timely given the Exercise Notice and is not then in breach or default of any its obligations under this Agreement, after notice thereof to Purchaser and a three (3) business day cure period (the "**Cure Period**"), then Purchaser, at Purchaser's option, shall be entitled to (i) seek specific performance of Seller's obligations to sell the Property to Purchaser; (ii) terminate this Agreement by written notice to Seller and Escrow Agent, in which event the Independent Consideration shall be returned to Purchaser, and Purchaser may pursue any claim for its actual damages and its attorneys' fees and costs as provided by law; or (iii) waive such breach and proceed to Settlement. Notwithstanding any such termination, Purchaser shall have the continuing right to enforce any surviving obligations of Seller expressly provided for in this Agreement.

B. Seller's Rights. If, prior to Settlement, Purchaser fails to perform any obligation of Purchaser under this Agreement, for any reason other than the failure to occur of a condition precedent to Purchaser's obligations hereunder, Seller shall give Purchaser prompt written notice of such default or failure and, if Purchaser fails to cure such breach within the Cure Period, Seller shall be entitled, as Seller's sole right and exclusive remedy, to terminate this Agreement, in which case the provisions of Section 16© shall apply, including Seller's right to the Independent Consideration. Notwithstanding any such termination or the provisions of

occur. Any party and any representative designated below, by notice to the other party, may change its address for receiving such notices.

If to Purchaser: Town of Buckeye
530 East Monroe Avenue
Buckeye, Arizona 85326
Attn: Stephen S. Cleveland, Town Manager
Facsimile: 623-349-6099

With a copy to: Scott W. Ruby, Esq., Town Attorney
Gust Rosenfeld, PLC
One East Washington Street, Suite 1600
Phoenix, Arizona 85004

If to Seller: Hopeville Community for Progress, Inc.
c/o Abraham Harris III
1415 South Palo Verde Road
Buckeye, Arizona 85326

With a copy to: William E. Lally
Ridenour Hienton & Lewis
201 North Central Avenue, Suite 3300
Phoenix, Arizona 85004

Notices given by Purchaser's counsel shall be deemed given by Purchaser and notices given by Seller's counsel shall be deemed to given by Seller.

G. Incorporation by Reference. All of the exhibits attached or referred to herein and all documents in the nature of exhibits are by this reference incorporated herein and made a part of this Agreement.

H. Interpretation. The section and paragraph headings used herein are for reference and convenience only and shall not enter into the interpretation hereof. Wherever used herein, the singular number shall include the plural and vice versa, and the use of any gender shall include all other genders, all as the context may require.

V. Business Days. If any action is required under the provisions of this Agreement to occur by a date that is a Saturday, Sunday or legal holiday such date shall be extended to the first day thereafter that is not a Saturday, Sunday or legal holiday.

J. Waiver. No waiver or purported waiver by Seller or by Purchaser of any contingency contained herein shall be valid against Seller or Purchaser unless it is in writing and signed by the party making the waiver.

Section 16©, Seller shall have the continuing right to enforce any surviving obligations of Purchaser expressly provided for in this Agreement.

C. LIQUIDATED DAMAGES. IN THE EVENT THE TRANSACTION HEREIN PROVIDED SHALL NOT CLOSE FOR ANY REASON OTHER THAN THE FAILURE OF SATISFACTION OF A CONDITION TO PURCHASER'S OBLIGATIONS HEREUNDER OR THE DEFAULT OF SELLER, THEN THE INDEPENDENT CONSIDERATION, TO THE EXTENT PAID, SHALL BE RETAINED BY SELLER AS FULL COMPENSATION AND LIQUIDATED DAMAGES UNDER AND IN CONNECTION WITH THIS AGREEMENT AND, IN SUCH EVENT, PURCHASER SHALL NOT BE LIABLE TO SELLER FOR FURTHER DAMAGES. IN CONNECTION WITH THE FOREGOING, THE PARTIES RECOGNIZE THAT SELLER WILL INCUR EXPENSE IN CONNECTION WITH THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THAT THE PROPERTY WILL BE REMOVED FROM THE MARKET; FURTHER, THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN THE EXTENT OF DETRIMENT TO SELLER CAUSED BY THE BREACH BY PURCHASER UNDER THIS AGREEMENT AND THE FAILURE OF THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT OR THE AMOUNT OF COMPENSATION SELLER SHOULD RECEIVE AS A RESULT OF PURCHASER'S BREACH OR DEFAULT. IN THE EVENT THE SALE CONTEMPLATED HEREBY SHALL NOT BE CONSUMMATED ON ACCOUNT OF PURCHASER'S DEFAULT, THEN THE INDEPENDENT CONSIDERATION, TO THE EXTENT PAID, SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT BY REASON OF SUCH DEFAULT, SUBJECT TO THE ADDITIONAL RIGHT TO COLLECT ATTORNEYS' FEES AND COSTS IN ANY ACTION TO ENFORCE THIS PROVISION, AND THE PARTIES SHALL TAKE SUCH ACTION AS MAY BE REQUIRED TO CAUSE THE INDEPENDENT CONSIDERATION TO BE DELIVERED TO SELLER.


Seller's Initials


Purchaser's Initials

16. Brokers. Each party represents to the other that it has not made any agreement or taken any action which may cause any broker, agent or other person to become entitled to a brokerage or other fee or commission as a result of the transactions contemplated by this Agreement. Each party does hereby agree to indemnify the other party and to hold the other party harmless for, from and against any and all costs, debts, damages, and claims, including costs and reasonable attorneys' fees for pre-trial, trial or appellate matters in defending against any claims for brokerage commission or finder's fees arising through it relative to this transaction. The representations, warranties and agreements contained in this Section 16 shall survive the termination of this Agreement or the Settlement of this transaction.

17. General Provisions.

A. Completeness and Modification. This Agreement constitutes the entire agreement between the parties as to the transactions contemplated herein and supersedes all prior and contemporaneous discussions, understandings and agreements between the parties.

B. Assignments. Purchaser may not assign its rights hereunder without the prior written consent of Seller, which consent shall not unreasonably be withheld, delayed or conditioned.

C. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona without the application of any conflict of law principles that would require or permit the application of the laws of any other jurisdiction. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the state courts located in the county in which the Property is situated. The parties agree that venue shall be only in such courts, and the parties hereby submit to the jurisdiction of such courts. The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either party shall not be employed in the interpretation of this Agreement and is hereby waived. Notwithstanding anything to the contrary in this Agreement, neither party shall be entitled to recover punitive or exemplary damages, however arising, whether in contract, in tort, or otherwise, under or with respect to any action taken in connection with this Agreement.

D. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

E. Attorneys' Fees. In the event of any action at law or in equity between Seller and Purchaser to enforce any of the provisions and/or rights under this Agreement or on account of a breach of any term or provision hereof, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred therein by such prevailing party, including any such costs and expenses incurred in any appeal, and if such prevailing party shall recover judgment in any action or proceeding, such costs, expenses and fees shall be included in and as a part of such judgment. As used herein, the term "prevailing party" shall be the party to such litigation which receives, whether by settlement or judgment, substantially the relief prayed for in such litigation. This provision shall survive Settlement or any termination of this Agreement.

F. Notices. Any notice expressly provided for or permitted under this Agreement shall be in writing, shall be given either personally or by mail, overnight delivery service, such as UPS, FedEx, or Purolator, and shall be deemed sufficiently given when received by the party to be notified at its address set forth below on the date of personal delivery (which may be by facsimile transmission), or three (3) business days after being mailed by registered or certified mail, postage prepaid, return receipt requested, or one (1) business day after being sent by such overnight delivery service, addressed to such party at such address, whichever shall first

K. Construction. The parties acknowledge that they and their counsel have reviewed this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

L. Memorandum of Option. A memorandum of this Agreement, in the form attached hereto as **Exhibit B ("Memorandum of Option")**, shall be recorded with the Maricopa County Recorder upon Purchaser's delivery of the Independent Consideration.

M. Time of Essence. The parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement and each of the provisions hereof.

N. Exclusivity of Option. Seller hereby agrees that the Option granted hereby shall be exclusive to Purchaser. Seller agrees that, from and after the Effective Date and during the Option Period, or until termination of this Agreement or until the Settlement Date occurs, whichever first occurs, Seller shall not (a) offer any portion of the Property for sale, (b) grant an option to purchase all or any portion of the Property, (c) accept any offer to purchase any portion of the Property, (d) enter into any contract to sell any portion of the Property, (e) enter into any new lease, rental, or occupancy agreement affecting any portion of the Property, or (f) enter into any agreement permitting any new tenant to occupy any portion of the Property, with any person other than Purchaser, without in each instance first obtaining the prior written consent of Purchaser.

O. Amendments. The terms of this Agreement may be waived, modified and amended only by and instrument in writing duly executed by Seller and Purchaser.

P. Counterparts. This Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement. A facsimile signature to this Agreement or any amendment hereto shall be sufficient to prove the execution hereby by any person.

Q. Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

R. Section 6045 Compliance. Seller and Purchaser each designate and appoint Escrow Agent as the party to this transaction to make all necessary filings for the transaction evidenced by this Agreement and the settlement thereof with the Internal Revenue Service pursuant to Section 6045 of the Internal Revenue Code.

S. Limitation of Liability. The obligations of Seller and Purchaser under this Agreement do not constitute the personal obligations of any individual or any of such party's

members or managers (including affiliates or subsidiaries of such members and managers), and neither Seller nor Purchaser shall seek recourse against any such persons or their trustees, members, managers, partners, shareholders, directors, officers, affiliates or subsidiaries or any of their personal assets for satisfaction of any liability with respect to this Agreement. The foregoing waivers and releases shall be absolute and unconditional and are a material inducement to entering into this Agreement and performing the transactions contemplated hereby.

T. Relationship of Parties. The parties agree that (a) their relationship is that of Seller and Purchaser, (b) nothing contained in this Agreement shall cause either party to be the agent or legal representative of the other party for any purpose whatsoever or to create or assume any obligation or responsibility on behalf of the other party, (c) nothing contained in this Agreement shall be deemed to create any form of partnership or other business organization between the parties, and (d) neither party shall be in any way liable for any debt or obligation of the other party.

U. Waiver of Trial by Jury. Purchaser and Seller, to the extent they may legally do so, hereby expressly waive any right to trial by jury of any claim, demand, action, cause of action, or proceeding arising under or with respect to this Agreement, or in any way connected with, or related to, or incidental to, the dealings of the parties hereto with respect to this Agreement or the transactions related hereto or thereto in each case whether now existing or hereafter arising, and irrespective of whether sounding in contract, tort, or otherwise. To the extent they may legally do so, Purchaser and Seller hereby agree that any such claim, demand, action, cause of action, or proceeding shall be decided by a court trial without a jury and that any party hereto may file an original counterpart or a copy of this section with any court as written evidence of the consent of the other party or parties hereto to waiver of its or their right to trial by jury.

V. Right to Cancel. Purchase may cancel this Agreement, pursuant to A.R.S. § 38-511, without penalty or further obligations by Purchaser or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of Purchaser or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement as of the Effective Date.

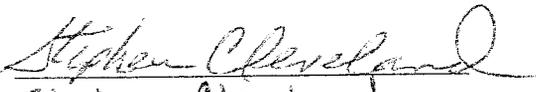
Seller:

HOPEVILLE COMMUNITY FOR
PROGRESS, INC., an Arizona non-profit
corporation

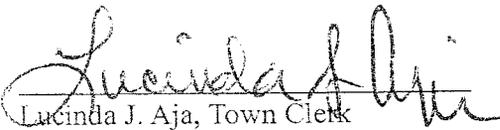
By: 
Name: _____
Title: PRESIDENT
Date: 10/24/12

Purchaser:

THE TOWN OF BUCKEYE, ARIZONA,
an Arizona municipal corporation

By: 
Name: Stephen Cleveland
Title: Town manager
Date: 11-8-2012

ATTEST:


Lucinda J. Aja, Town Clerk

APPROVED AS TO FORM:


Scott W. Ruby, Town Attorney

ACCEPTANCE BY ESCROW AGENT

The undersigned Escrow Agent hereby acknowledges that on Nov 15, 2012 the undersigned received a fully executed duplicate originals of the foregoing Real Estate Purchase Option Agreement between Leopoldo Community, as Seller, and Town of Buckeye, as Purchaser. Escrow Agent agrees to act as the Escrow Agent under such agreement in accordance with the instructions provided therein and to comply with those instructions. Escrow Agent has assigned Escrow Number 479311 to the escrow respecting the Property for that purpose.

GREAT AMERICAN TITLE AGENCY, INC.

By: Barbara Teel

Name: Barbara Teel

Title: SV EO

Date: 11-15-2012

EXHIBIT A

Legal Description of Property

The South 540 feet of the North 2490 feet of the West half of the Northwest quarter of Section 16, Township 1 North, Range 4 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT all oil, gas, other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metals, minerals, fossils, fertilizer of every name and description; and

EXCEPTING all uranium, thorium or other materials which are or may be determined to be peculiarly essential to the production of fissionable materials whether or not of commercial value, as set forth in Section 37-231, Arizona Revised Statutes.

EXHIBIT B

After Recording Return To:
First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona 85016

MEMORANDUM OF REAL ESTATE PURCHASE OPTION AGREEMENT

This Memorandum of Real Estate Purchase Option Agreement is made as of _____, 20__, by and between _____ ("Seller") and _____, whose address is _____ ("Purchaser").

The parties hereby wish to memorialize the following terms of that certain Real Estate Purchase Option Agreement ("**Agreement**"), with an Effective Date of _____, 20__, by and between Seller and Purchaser (defined terms not expressly defined herein shall have the meaning ascribed to each in the Agreement):

Seller: _____

Purchaser: _____

Property: The certain land located in the County of Maricopa, State of Arizona, such land being more particularly described in Exhibit A attached hereto.

Option Period: The term of the Option shall commence on the Effective Date and terminate on December 31, 2022, subject to termination in accordance with the Agreement.

Option to Purchase: Purchaser is granted an exclusive right and option to purchase the Property at any time by giving an Exercise Notice to Seller on or before the date of expiration of the Option Period, whereafter the Agreement shall automatically constitute a contract of sale and purchase between the Seller and Purchaser for the sale and purchase of the Property at the purchase price and pursuant to the terms and conditions set forth in the Agreement.

Exclusivity of Option: During the Option Period, or termination of the Agreement or until the Settlement Date occurs, whichever first occurs, Seller shall not (a) offer any portion of the Property for sale, (b) grant an option to purchase all or any portion of the Property, (c) accept any offer to purchase any portion of the Property, (d) enter into any contract to sell any portion of the Property, (e) enter into any new lease, rental, or occupancy agreement affecting any portion of the Property, or (f) enter into any agreement permitting any new tenant to occupy any portion of the Property, with any person other than Purchaser, without in each instance first obtaining the prior written consent of Purchaser.

Conflict of Provisions. This Memorandum of Real Estate Purchase Option Agreement is prepared for the purpose of recordation and shall not alter or affect in any way the rights and obligations of Seller and Purchaser under the Agreement. In the event of any inconsistency between this Memorandum of Real Estate Purchase Option Agreement and the Agreement, the terms of the Agreement shall control.

Other: Seller's rights and restrictions as to the Property, and Seller's transfer, assignment and leasing rights and restrictions during the term of the Option Period, are more particularly set forth in the Agreement.

IN WITNESS WHEREOF, this Memorandum of Real Estate Purchase Option Agreement has been duly executed by the parties on the date(s) written below.

SELLER

By: _____

Name: _____

Title: _____

Date: _____, 20__

PURCHASER

By: _____

Name: _____

Title: _____

Date: _____, 20__

EXHIBIT A

Legal Description of Property

EXHIBIT C

WHEN RECORDED MAIL TO:

SPECIAL WARRANTY DEED

For the consideration of Ten and No/100 Dollars (\$10.00), and other valuable consideration, the receipt of which is hereby acknowledged, **HOPEVILLE COMMUNITY FOR PROGRESS, INC.**, an Arizona non-profit corporation ("Grantor"), hereby conveys to **THE TOWN OF BUCKEYE, ARIZONA**, an Arizona municipal corporation ("Grantee") the real property situated in Maricopa County, Arizona, described on Exhibit A attached hereto and incorporated herein by this reference, together with any and all improvements thereon and including any and all tenements, hereditaments, appurtenances, rights, privileges, and easements appurtenant thereto (the "Property").

SUBJECT ONLY TO current taxes and assessments and the matters set forth on Exhibit B attached hereto and incorporated herein by reference, Grantor binds itself and its successors to warrant and defend the title to the Property solely against all acts of Grantor and no others.

DATED this ____ day of _____, 20__.

GRANTOR

HOPEVILLE COMMUNITY FOR PROGRESS, INC., an Arizona non-profit corporation

By _____
Name: _____
Title: _____

STATE OF ARIZONA

COUNTY OF MARICOPA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of Hopeville Community for Progress, Inc., an Arizona non-profit corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A TO DEED

LEGAL DESCRIPTION

EXHIBIT B TO DEED

EXCEPTIONS TO TITLE

Exhibit 6

