

BUTLER SNOW

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December 27, 2012

VIA HAND DELIVERY

Hon. James Allison, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: Joint Petition of Tennessee-American Water Company, The City of Whitwell, Tennessee, and the Town of Powells Crossroads, Tennessee, for Approval of a Purchase Agreement and a Water Franchise Agreement and for the Issuance of a Certificate of Convenience and Necessity, TRA Docket No. 12- 00157

Dear Chairman Allison:

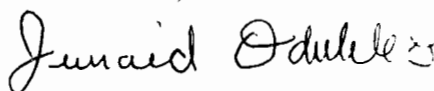
Enclosed please find the original plus thirteen (13) copies of *Tennessee-American Water Company's Expedited Joint Petition for Approval of a Purchase Agreement and a Water Franchise Agreement and for the Issuance of a Certificate of Convenience and Necessity*, including exhibits and pre-filed testimony. An extra copy is also attached to be filed-stamped for our records. We also enclose a \$25.00 check for filing fees associated with this Petition.

For the reasons set forth within the Joint Petition, the parties are requesting that this matter be considered on an expedited basis.

Should you have any questions concerning this filing, or require additional information, please do not hesitate to let me know.

Very truly yours,

BUTLER, SNOW, O'MARA, STEVENS &
CANNADA, PLLC



Junaid A. Odubeko

JAO:sc
Enclosures

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**JOINT PETITION OF)
TENNESSEE-AMERICAN WATER)
COMPANY, THE CITY OF)
WHITWELL, TENNESSEE, AND THE)
TOWN OF POWELLS CROSSROADS,)
TENNESSEE, FOR APPROVAL OF A)
PURCHASE AGREEMENT AND A)
WATER FRANCHISE AGREEMENT)
AND FOR THE ISSUANCE OF A)
CERTIFICATE OF CONVENIENCE)
AND NECESSITY)
)**

DOCKET NO. 12- 00157

**EXPEDITED JOINT PETITION OF TENNESSEE-AMERICAN WATER COMPANY,
THE CITY OF WHITWELL, TENNESSEE, AND THE TOWN OF POWELLS
CROSSROADS, TENNESSEE FOR APPROVAL OF A
PURCHASE AGREEMENT AND A WATER FRANCHISE AGREEMENT AND FOR
THE ISSUANCE OF A CERTIFICATE OF CONVENIENCE AND NECESSITY**

Pursuant to Tenn. Code Ann. §§ 65-4-201 and 65-4-107, Tennessee-American Water Company (“TAWC”), the City of Whitwell, Tennessee (“Whitwell”), and the Town of Powells Crossroads, Tennessee (“Crossroads”), submit this Joint Petition seeking both the approval of the acquisition of the water system owned by Whitwell by TAWC and the approval of a franchise agreement between Crossroads and TAWC.¹ Moreover, and in conjunction with the foregoing requests, TAWC is seeking a Certificate of Convenience and Necessity to serve the areas currently served by Whitwell.

As set forth below, the Purchase Agreement, which includes the grant of a franchise to TAWC, and the Franchise Agreement are necessary and proper for the public convenience and

¹ A copy of the Asset Purchase Agreement (the “Purchase Agreement”) between TAWC and Whitwell is attached as **Exhibit A** to this Joint Petition, and a copy of the Water Franchise Agreement (the “Franchise Agreement”) between TAWC and Crossroads is attached hereto as **Exhibit B**.

properly conserves the public interest. Additionally, the issuance of a Certificate of Convenience and Necessity to TAWC will serve the public interest as well. For the reasons and support that follow, TAWC, Whitwell and Crossroads request the Tennessee Regulatory Authority (“TRA” or “Authority”) to approve this Joint Petition.

Under the terms of the Purchase Agreement, a condition precedent to the closing of the sale of Whitwell’s water system is TAWC obtaining a Certificate of Convenience and Necessity, along with acceptable accounting, ratemaking and regulatory approvals, from the Authority. Due to the impending closing of the transaction, coupled with the public interest, the parties hereby request that this Joint Petition be considered on an **expedited** basis.²

I. THE PARTIES

1. Whitwell is a Tennessee municipality that currently owns and operates source of water supply systems, water treatment and storage systems and water distribution systems within the City of Whitwell, Tennessee, the Town of Powells Crossroads, Tennessee, unincorporated portions of Marion County, Tennessee and unincorporated portions of Sequatchie County, Tennessee, the location of such systems being generally shown on the map attached hereto as **Exhibit C** (collectively the "System").

2. Crossroads is a Tennessee municipality that receives its water supply, water treatment and other related services from Whitwell.

3. TAWC is a Tennessee corporation authorized to conduct a public utility business in the State of Tennessee and provides residential, commercial, industrial and municipal water service, including public and private fire protection service, to the City of Chattanooga,

² Moreover, expedited consideration of the Joint Petition will also aid TAWC’s ability to appropriately prepare for the upcoming construction season.

Tennessee and surrounding areas, including certain areas in Georgia. TAWC provides water service to approximately 75,840 customers.

4. Pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated, TAWC is subject to regulation by the Authority.

5. TAWC's principal place of business is located at 1101 Broad Street, Chattanooga, TN 37402.

6. All correspondence and communication with respect to this Joint Petition should be sent to the following:

Deron E. Allen
President
Tennessee-American Water Company
1101 Broad Street
Chattanooga, TN 37402
deron.allen@amwater.com
(423) 755-7622 (Telephone)
(423) 755-7636 (Facsimile)

Melvin J. Malone
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
1200 One Nashville Place
150 Fourth Avenue North
Nashville, TN 37219-2433
melvin.malone@butlersnow.com
(615) 503-9105 (Direct Telephone)
(615) 503-9101 (Facsimile)

II. DESCRIPTION OF THE TRANSACTIONS

7. As set forth in the Agreement, Whitwell has determined that it is in the best interest of the City of Whitwell and those served by the System for TAWC to acquire the System. Therefore, Whitwell desires to sell all of the assets that constitute or are used in furtherance of the System to TAWC.

8. As set forth in the Franchise Agreement, Crossroads has determined that it is in the best interests of the Town of Powells Crossroads for Crossroads to continue to be served by the System subsequent to the acquisition of the System by TAWC. Therefore, Crossroads desires to grant an exclusive water utility franchise to TAWC.

9. TAWC and Whitwell have entered into the Agreement dated October 30, 2012, under which TAWC has agreed to purchase from Whitwell the assets of the System. Under the terms of the Agreement, the purchase price is defined as the total rate base value of the Acquired Assets as of the Closing Date, calculated using the original cost method of accounting, of the System and the Acquired Assets, as determined by TAWC, subject to the approval of the Authority, and upon which the Authority authorizes TAWC to earn a specific rate of return, but excluding the value of any cash, working capital, accumulated deferred income taxes, and accumulated deferred investment tax credits.³ The purchase price is further addressed in the Pre-Filed Direct Testimony of Daniel P. Bickerton.

10. The Purchase Agreement also provides that TAWC will continue to provide service to the System customers at the current rates they are paying until such time as different rates may be submitted to and approved by the TRA.⁴

11. The expenses and revenues of the System will be kept separate and distinct from the operation of TAWC's Chattanooga system.

12. The acquisition of the System will not adversely impact the rates of current TAWC ratepayers.

³ The capitalized terms in the definition of the purchase price are defined terms in the Purchase Agreement.

⁴ As shown in **Exhibit D**, TAWC proposes eliminating Whitwell's current service connection fee, which is consistent with TAWC's existing practice. The City of Whitwell's rate ordinance, along with its current rates, is attached hereto as **Exhibit E**.

13. As part of the consideration for the purchase of the System, and as set forth in the Purchase Agreement, Whitwell has agreed to grant an exclusive franchise to TAWC to operate a water system within the City of Whitwell and to grant TAWC the right to access all public rights-of-way, streets, alleys, sidewalks and utility easements that are necessary in order to install, maintain, test, repair, replace, extend and modify the System, all at no additional cost to TAWC.

14. The necessary revisions to the tariffs of TAWC relative to the System are attached hereto as **Exhibit D**.

15. TAWC and Crossroads have entered into the Franchise Agreement dated November 20, 2012. Under the terms of the Franchise Agreement, Crossroads has granted to TAWC the exclusive right, among other things, to construct, install, operate, repair, replace, remove, and maintain the System in and through the corporate limits of Crossroads, all at no additional cost to TAWC.

16. As set forth earlier herein, pursuant to the Purchase Agreement, consummation of the transaction, with its underlying obligations, is expressly conditioned upon TRA approval.

III. TAWC's TECHNICAL, MANAGERIAL AND FINANCIAL ABILITY

17. TAWC has a proud 125 year history of providing safe, reliable drinking water to its customers.

18. TAWC is a wholly-owned subsidiary of American Water Works Company, Inc., which is the largest water holding company in the United States, providing water and wastewater services to fifteen (15) million people in more than thirty (30) states.

19. As noted earlier herein, TAWC is regulated by the Authority. As such, the Authority is intimately familiar with the technical, managerial and financial ability of TAWC.

Further, the official records of the Authority support TAWC's technical, managerial and financial ability to provide services within the areas served by the System.

20. The pre-filed testimony in support of this Joint Petition also demonstrates TAWC's technical, managerial and financial ability.

IV. PROPOSED REGULATORY TREATMENT

21. Mildly stated, upon a thorough and reasoned evaluation, TAWC considers the System to be materially under-supported. Whitwell has been under review by the State of Tennessee's Comptroller's Office. Among other things, and as regarding the System, Whitwell has a limited source of supply, has previously exceeded its plant designed capacity, has imposed a selective moratorium on new taps, and has a history of water quality advisories. Furthermore, Whitwell must invest in significant infrastructure replacement to eliminate unreasonably high water loss.

22. Given the existing state of affairs with respect to the System, coupled with TAWC's unwavering commitment to provide safe, reliable drinking water to the System's customers, TAWC deserves full rate base recognition of its investment in the System, as well as the following proposed adjustments:

- a. TAWC proposes to utilize the financial statements, records and reports provided by Whitwell and its accountant to support the original cost value of utility plant in service ("UPIS") as of the Closing Date.
- b. Due to the financial reporting changes promulgated under GASB 34, in 2003, Whitwell wrote-off all contributions in aid of construction ("CIAC") on its balance sheet and booked subsequent CIAC as revenue. TAWC proposes to re-establish the CIAC balance previously written-off by Whitwell, as well as those recorded as revenue, to be consistent with TAWC accounting practices.
- c. TAWC further proposes to calculate accumulated amortization on the CIAC balance written-off in 2003 by applying the percentage of accumulated depreciation in 2003 to 2003 UPIS and taking that percentage times the CIAC balance written-off. Annual amortization

of CIAC from 2003 through Closing would equal the annual depreciation rate taken each year by Whitwell.

- d. TAWC proposes to adopt the current TRA-approved TAWC depreciation rates and CIAC amortization rates for Whitwell upon Closing.
- e. TAWC proposes no UPAA with this transaction, as the purchase price is equivalent to the System rate base at Closing, assuming the afore-referenced adjustments.
- f. In conducting the necessary due diligence and prudence evaluation with respect to the System, which preliminary reviews benefit both shareholders and current ratepayers, and in properly documenting the transactions, TAWC has necessarily incurred reasonable acquisition expenses, which, under the circumstances presented, are appropriate for recovery. The due diligence, prudence, and acquisition costs associated with the transactions, including legal expenses, are estimated to be approximately \$55,000. Upon Closing, the System's customers will benefit substantially from the transactions. TAWC proposes that these necessary and reasonable expenses be recovered through the recording of a regulatory asset to be amortized over the life of the System assets.⁵

23. As the Authority well knows based upon its own experiences, the ever-growing pressures of needed capital investments mount more and more, causing smaller utilities to confront substantial, and oftentimes insurmountable, difficulties. In order for better positioned utilities, such as TAWC, to provide the necessary relief, to offer the opportunity for improved services, and to promote the public interest in such circumstances, fair and balanced regulatory treatment is essential.

V. THE PUBLIC INTEREST

24. Whitwell believes it is in the best interests of the City of Whitwell and residents served by the System for TAWC to acquire the System from Whitwell with the result that TAWC will be the exclusive provider of water within the corporate limits of Whitwell.

⁵ The terms "Closing Date" and "Closing" are defined terms in the Agreement.

25. Crossroads has determined that it is in the best interests of the Town of Powells Crossroads to grant an exclusive water utility franchise to TAWC with the result that TAWC will be the exclusive provider of water within the corporate limits of Crossroads.

26. Water utilities are the most capital intensive in the utility industry. In properly maintaining and supporting a water system, the owner and operator thereof is confronted with, among other things, increasing costs and mounting capital expenditures. Aging infrastructure and technological advances must be consistently and appropriately studied and addressed.

27. TAWC has a proud 125 year history of providing safe, reliable drinking water to its customers. During its 125 years of operation, TAWC has never received a United States Environmental Protection Agency notice of violation of any type (water quality or documentation). This transaction will benefit the current and future customers of the System through the professional management, long-term planning, and sustained investment by TAWC.

28. The representations and agreements described in the Purchase Agreement reflect the determination by the parties involved that going forward TAWC, rather than Whitwell, is best suited to provide service to customers of the System, including making the capital improvements necessary to maintain the efficiency and quality of the System.

29. The representations and agreements described in the Franchise Agreement reflect the determination by Crossroads and TAWC that going forward TAWC, rather than Whitwell, is best suited to provide service to the residents of Crossroads, including making the capital improvements necessary to maintain the efficiency and quality of the System.

30. The Purchase Agreement, the franchise contained therein and the requested regulatory treatment and approvals are necessary and proper for the public convenience and properly conserve, promote and protect the public interest.

31. The Franchise Agreement, and the requested regulatory approvals, are necessary and proper for the public convenience and properly conserve, promote and protect the public interest.

32. The issuance of a Certificate of Convenience and Necessity to TAWC serves the public interest.

WHEREFORE, the parties hereby request that the Authority:

(1) Approve both the Purchase Agreement, attached hereto as **Exhibit A**, and the Franchise Agreement, attached hereto as **Exhibit B**, as necessary and proper for the public convenience and properly conserving, promoting and protecting the public interest;

(2) Issue a Certificate of Convenience and Necessity to TAWC, which will permit TAWC to serve all of the areas and customers served by the City of Whitwell, Tennessee, as this will serve and promote the public interest;

(3) Approve accounting and rate base treatments that reflect the full purchase price, plus the acquisition and transactions costs in TAWC's net original cost rate base or other guidance that shows that future rate base determinations will be consistent with the value of the full purchase price plus acquisition and transactions costs;

(4) Grant such approvals as may be necessary to consummate the acquisition of the System by TAWC and permit the operation thereof by TAWC on the terms described in the Purchase Agreement, including all necessary licenses, permits and franchises to provide water and related services in the areas currently served by the City of Whitwell;

(5) Consistent with the Joint Petition, authorize TAWC to apply the rules, regulations, rates and charges generally applicable to TAWC's Chattanooga operations, as the

same may be changed from time to time, to service to be provided by TAWC in the areas currently served by the System;

(6) Authorize TAWC to apply its existing depreciation accrual rates to the System, along with the other regulatory treatment expressly proposed herein by TAWC;

(7) Approve the encumbering of the properties comprising the System with the lien of TAWC's Mortgage Indenture;

(8) Grant all such approvals and authorizations that are necessary to consummate the Purchase Agreement and to provide service to all customers acquired as a result of the referenced transactions, including the ability to serve those customers in accordance with the rules, regulations, rates and charges set forth in TAWC's tariff on file with the Authority; and,

(9) Grant such other relief as may be required, and all on an expedited basis.

Respectfully submitted,

BUTLER, SNOW, O'MARA, STEVENS &
CANNADA, PLLC

By: _____

Melvin J. Malone
Junaid Odubeko

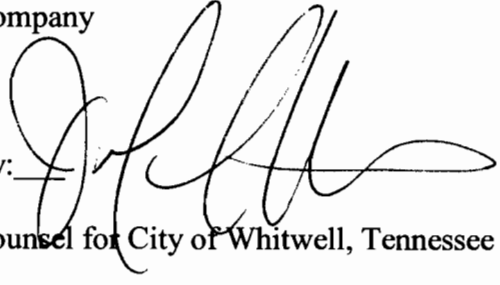
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melvin.malone@butlersnow.com
junaid.odubeko@butlersnow.com

Counsel for Tennessee-American Water Company

By: _____

Counsel for City of Whitwell, Tennessee

Company

By: 

Counsel for City of Whitwell, Tennessee

EXHIBIT A

ASSET PURCHASE AGREEMENT

This **Asset Purchase Agreement** (the "Agreement") is made and entered into on the 30th day of October, 2012 by and between **Tennessee-American Water Company**, a Tennessee corporation ("Buyer"), and **the City of Whitwell, Tennessee**, a Tennessee municipality ("Seller"). Hereinafter, Buyer and Seller may be referred to individually as a "Party" or together as the "Parties".

RECITALS:

A. Seller currently owns and operates source of water supply systems, water treatment and storage systems and water distribution systems within the City of Whitwell, Tennessee, the Town of Powell's Crossroads, Tennessee, unincorporated portions of Marion County, Tennessee and unincorporated portions of Sequatchie County, Tennessee, the location of such systems being generally shown on the map attached hereto as Exhibit 1 (collectively, the "System").

B. Seller believes it is in the best interests of the City of Whitwell and residents served by the System for Buyer to acquire the System and the Acquired Assets (as that term is defined below) from Seller with the result that Buyer will be the exclusive provider of water to the residents served by the System.

C. Seller desires to sell all of the assets that constitute or are used in furtherance of the System to Buyer pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, and the representations, warranties, and covenants contained herein, and in exchange for other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

ARTICLE 1

Definitions and Related Matters

For purposes of this Agreement, the capitalized terms used herein shall have the meanings assigned to them herein or in the attached Exhibit 2 and, for purposes of this Agreement and all other documents executed in connection herewith, the rules of construction set forth in Exhibit 2 shall govern.

ARTICLE 2

Purchase and Sale of Assets; Closing

2.1 Transfer of Assets. On and subject to the terms and conditions of this Agreement, at the Closing on the Closing Date and effective as of the Effective Time, Buyer shall purchase, acquire and accept from Seller, and Seller shall sell, convey, transfer, assign and deliver to Buyer, free and clear of all Encumbrances, the Acquired Assets. Notwithstanding anything to the contrary contained in this Section 2.1 or elsewhere in this Agreement, the Excluded Assets are not part of the sale and purchase contemplated hereunder, are excluded from the Acquired Assets, and shall remain the exclusive property of Seller subsequent to the Closing.

2.2 Consideration. The consideration for the System and the Acquired Assets shall consist of the Purchase Price as of the Closing Date. At Closing, Buyer pay to the Seller, in accordance with wire transfer instructions to be provided by the Seller to Buyer at least three Business Days prior to the Closing Date, in immediately available funds, an aggregate amount equal to the Purchase Price. The Buyer and Seller agree and each hereby acknowledge and represent that the consideration for the sale of the Acquired Assets as set forth in this Agreement was reached through arms-length negotiations and represents the fair market value of the Acquired Assets.

2.3 No Assumption of Liabilities.

(a) Any and all Liabilities of Seller, whether or not incurred in connection with the operation of the System, shall remain the sole responsibility of and shall be retained, paid, performed and discharged solely by Seller, other than Liabilities under any Contracts that Buyer expressly assumes in its sole discretion but only to the extent that such Liabilities accrue under those assumed Contracts following the Closing Date and do not result from any breach by Seller of any of its obligations under those assumed Contracts (collectively, the "Assumed Contract Liabilities"). Notwithstanding anything to the contrary contained in this Agreement, Buyer will not assume or be deemed to assume, and shall have no liability or obligation with respect to, any Liability of Seller, none of which Liabilities are part of the Contemplated Transactions, other than the Assumed Contract Liabilities.

(b) Seller acknowledges and agrees that Seller shall be fully responsible for the repayment in full of any grants required by any grant provider as a result of the transactions contemplated by this Agreement. Seller and Buyer are aware that certain grants may have been issued by federal, state or county agencies to fund the construction of portions of the Acquired Assets and that some or all of those grants may, by their terms, arguably condition the sale and transfer of such facilities on the consent of the governmental agency that made such grant(s) (the "Granting Agency") or require the repayment of all or a portion of such grant(s). Within thirty (30) days of the execution of this Agreement, Seller agrees to obtain and provide Buyer with copies of all such grant agreements, if any. Seller and Buyer further agree that if, in the opinion of Buyer, the terms of any applicable grant conditions the sale and transfer of the Acquired Assets, or any portion thereof, on either (i) the consent of the Granting Agency or (ii) the repayment of all or a portion of such grant, Seller shall promptly seek and vigorously pursue any required consent or a waiver of any grant repayment requirement. If any Granting Agency refuses to waive any applicable grant repayment requirement, then Buyer at its option and in its sole discretion may (a) declare this Agreement null and void, without further cost, expense or obligation to Seller or Buyer, or (b) proceed to Closing and repay such grant, in which case the repayment amount shall be deducted from the Purchase Price, and if the Purchase Price is not sufficient to cover the repayment amount in full, then the Seller shall pay the balance of such repayment amount at Closing.

2.4 Closing. Unless this Agreement is first terminated pursuant to Article 8 hereof, and subject to the satisfaction or, if permissible, waiver of each of the conditions set forth in Article 5 hereof, the Closing will take place at the offices of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC at 1800 Republic Centre, 633 Chestnut Street, Chattanooga, Tennessee 37450 or such other place or by such other means (e.g., facsimile and overnight delivery of original execution documents) as is agreed to by the Parties at an agreed-upon time, on (a) such date as is three (3) Business Days after the date on which all of the conditions set forth in Article 5 hereof shall have been satisfied or (to the extent permissible) waived (other than those conditions which, by their nature are to be satisfied or waived at Closing but subject to their satisfaction or waiver at Closing) or, if Buyer shall so elect, the final day of Seller's billing period of which such date is a part or (b) such other date as the Parties hereto may agree upon. In any event, the Closing shall be effective as of the Effective Time.

2.5 Title; Survey.

(a) Seller covenants to convey to Buyer at Closing good and marketable fee simple title in and to the Real Property. Seller's title shall be: (i) free of all claims, liens and other Encumbrances of any kind or nature whatsoever other than the Permitted Exceptions (herein defined); and (ii) insurable by a title company selected by Buyer (the "Title Company"), at then current standard rates under the standard form of an ALTA 2006 owner's policy of title insurance containing ALTA extended coverage and such other endorsements as Buyer may require, with the standard or printed exceptions therein deleted and without exception other than for the Permitted Exceptions (the "Title Policy"). For the purposes of this Agreement, the term "Permitted Exceptions" shall mean: (i) current city, state and county ad valorem taxes not yet due and payable; and (ii) any other matters of record acceptable to Buyer in its sole discretion.

(b) Until Closing, Buyer shall have the right, at Buyer's expense, to examine the title to the Real Property and to report in writing to Seller any objections to any exceptions to the title. Until Closing, Buyer shall have the right, at Buyer's expense to obtain surveys of the Real Property to be prepared by a surveyor licensed in the State of Tennessee and acceptable to Buyer, which surveys shall depict such information as Buyer shall require (collectively, the "Surveys"). Seller shall have ten (10) days after receiving notice from Buyer of any objections to any exceptions to title or any matters shown on the Surveys to cure such objections; provided, however, that prior to undertaking a cure of any such objection, Seller shall first notify Buyer of Seller's plan for curing such objection and the estimated cost of curing such objection, and at the request of Buyer, Seller shall modify such plan if in Buyer's reasonable opinion such modifications are necessary or desirable to effect such cure in the most expeditious and cost-effective manner. In lieu of accepting a cure of such objection, Buyer shall have the option, at its sole discretion, to (i) waive any objection to title or survey matters and proceed to Closing and such waived objection shall be deemed a Permitted Exception; (ii) terminate this Agreement; (iii) if such objection is based upon a deed of trust, mortgage, judgment, lien or other liquidated monetary claim, proceed to Closing and satisfy such objection, whereupon the cost of satisfying such objection shall be deducted from the Purchase Price; (iv) grant Seller additional time to cure such objections and if necessary extend the Closing Date; (v) if such objection cannot be cured, proceed to Closing and reduce the Purchase Price in proportion to Buyer's reasonable estimate of the diminution in value of the System and the Acquired Assets; or (vi) if Seller fails to cure such objection prior to Closing, proceed to Closing and pay into an escrow account a portion of the Purchase Price sufficient in Buyer's reasonable opinion to pay the costs of curing such objection following Closing, in which case, Buyer shall have the right to disburse funds from the escrow to pay such costs of cure and if such escrowed funds are not sufficient to pay such costs, then upon notice from Buyer, Seller shall deposit additional funds into such escrow account in the amount of such deficiency.

2.6 Delivery of Documents and Information. Not later than ten (10) days after the Effective Date (the "Deliveries Deadline"), Seller shall deliver to Buyer, if not previously delivered, or make available to Buyer for examination or copying by Buyer, the following documents and information with respect to the Acquired Assets and the System (collectively, the "Seller Deliveries"):

(a) All surveys, plans, specifications, environmental, engineering and mechanical data relating to the Acquired Assets and the System, and reports such as soils reports and environmental audits, which are in Seller's possession or which Seller can obtain with reasonable effort;

(b) A copy of any policy of title insurance or any title opinion issued in favor of Seller with respect to the Real Property ; and

(c) Any other document or information reasonably requested by Buyer which is in Seller's possession or which Seller can obtain with reasonable effort or which Buyer may reasonably require to assess the condition of the Acquired Assets and the System.

Failure of Seller to deliver Seller Deliveries on or before the Deliveries Deadline shall constitute a default of Seller under this Agreement.

2.7 Closing Obligations.

In addition to any other documents to be delivered under other provisions of this Agreement, at Closing:

(a) Seller shall deliver or cause to be delivered to Buyer, together with funds sufficient to pay all Taxes necessary for the transfer, filing or recording thereof, the following documents:

(i) the Bill of Sale, duly executed by Seller;

- (ii) the Intangible Assignments, duly executed by Seller;
- (iii) all Consents and approvals from Governmental Authorities, and third parties under Contracts, necessary to ensure that Buyer will continue to have the same full rights with respect to the Acquired Assets as Seller had immediately prior to the consummation of the Contemplated Transactions, including the written Consents, in form and substance reasonably acceptable to Buyer, of the Governmental Authorities and third parties set forth in Schedule 2.7(a)(iii);
- (iv) a payoff letter from each lender from which Seller has incurred indebtedness for borrowed money which is outstanding, if any, and a release of all Encumbrances relating to the Acquired Assets executed, filed and/or recorded by the holder of or parties to each such Encumbrance (including without limitation any violations cited by any Governmental Authority with authority over the System or the Acquired Assets), if any, in each case in substance and form reasonably satisfactory to Buyer and its counsel;
- (v) for each interest in Real Property, whether or not identified on Schedule 3.4, a recordable general warranty deed or such other appropriate document or instrument of transfer or approval, as the case may require, each in form and substance reasonably satisfactory to Buyer;
- (vi) such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by Buyer, each in form and substance reasonably satisfactory to Buyer;
- (vii) a copy of each Permit, license, easement, land-right and other necessary authority for the operation of the System and the Acquired Assets, in each case validly issued in the name of the Seller and in full force and effect;
- (viii) a copy of Tax clearance certificates indicating Seller has no Tax due with respect to the Acquired Assets or the System and dated within 30 days of Closing from any jurisdictions for which Seller may be subject to Tax;
- (ix) the certificate contemplated by Section 5.1(d);
- (x) a legal opinion of Seller's legal counsel, affirmatively opining to such matters as Buyer or its legal counsel may reasonably request, including but not limited to the due authorization and execution of this Agreement by Seller and the enforceability thereof;
- (xi) a copy, certified by the Recorder of Seller to be true, complete and correct as of the Closing Date, of the ordinance(s) of Seller authorizing and approving the Contemplated Transactions and as to the incumbency and signatures of the elected officials of Seller executing this Agreement or any of the Transaction Documents on behalf of Seller; and
- (xii) all other documents, certificates, affidavits, instruments and writings required or reasonably requested by Buyer or the Title Company in connection with the consummation of the Contemplated Transactions and the issuance of the Title Policy.

(b) At or prior to the Closing, Buyer shall deliver the following:

- (i) to the Seller, in accordance with wire transfer instructions to be provided by the Seller to Buyer at least three Business Days prior to the Closing Date, in immediately available funds, an aggregate amount equal to the Purchase Price;

- (ii) to the Seller, the Intangible Assignments, duly executed by Buyer; and
- (iii) to the Seller, all other documents, instruments and writings required or reasonably requested by Seller to be delivered at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith.

ARTICLE 3

Representations and Warranties of Seller

Seller hereby makes the following representations and warranties to Buyer, each of which is true and correct on the date hereof, will be true and correct on the Closing Date, and shall survive the Closing and the consummation of the Contemplated Transactions:

3.1 Organization of Seller. Seller is a duly organized, validly existing municipal corporation organized and in good standing under the Laws of the State of Tennessee, with full power and authority to operate the System as it is now being operated and to own, lease and operate the System and the Acquired Assets.

3.2 Enforcement; Authority; No Conflict.

(a) This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms except as such enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the rights of creditors generally and by general principles of equity. Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents and to consummate the Contemplated Transactions. The Board of Commissioners of Seller has duly authorized the execution, delivery, and performance of this Agreement by Seller and no other proceeding on the part of Seller is necessary to authorize the execution, delivery and performance of this Agreement.

(b) This Agreement has been, and the Transaction Documents will be, duly executed and delivered by Seller.

(c) Neither the execution, delivery or performance by Seller of this Agreement or the Transaction Documents nor the consummation by it of the Contemplated Transactions will (i) contravene, conflict with or result in a violation of any provisions of the ordinances or other governing documents of Seller, (ii) contravene, conflict with or result in a violation of or give any Governmental Authority or other Person the right to challenge any of the Contemplated Transactions or to exercise any remedy or obtain any relief under any Laws or any Order to which Seller or any of the Acquired Assets may be subject, (iii) contravene, conflict with or result in a violation of any of the terms or requirements of or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify any Permit or other authorization by a Governmental Authority that is held by Seller or that otherwise relates to the System or any of the Acquired Assets, (iv) contravene, conflict with or result in a violation or breach of any provision of, require the Consent of any Person under, or give any Person the right to declare a default or exercise any remedy under or to accelerate the maturity or performance of or to cancel, terminate or modify any Contract, indenture, mortgage, note, lease or other instrument or document to which Seller is a party or by which any of the Acquired Assets are bound or (v) result in the imposition or creation of any Encumbrance upon or with respect to any of the Acquired Assets.

(d) No filings or registrations with, notifications to, or authorizations, Consents or approvals of, a Governmental Authority or third party are required to be obtained or made by Seller in connection with the execution, delivery or performance by Seller of this Agreement or the Transaction Documents or the consummation by Seller of the Contemplated Transactions except related to the Tennessee Regulatory

Authority approval. Neither the Contemplated Transactions nor the Transaction Documents will result in the creation of any Encumbrance against any of the Acquired Assets.

3.3 Assets. Seller has clear, good, and marketable title to, or a valid leasehold interest in, all of the Acquired Assets, free and clear of all Encumbrances. None of the Acquired Assets are leased or on loan by Seller to any third party. The Acquired Assets constitute all of the assets and property that, together with the rights granted or conveyed under the Transaction Documents, are necessary for the operation of the System and the Acquired Assets as conducted as of the date hereof. Upon the Closing, Buyer shall continue to be vested with good title or a valid leasehold interest in the System and all of the Acquired Assets. The System constitutes the only water utility system operated by the City.

3.4 Real Property: Easements.

(a) Seller owns and has good and marketable title to the Real Property, free and clear of all options, leases, covenants, conditions, easements, agreements, claims, and other Encumbrances of every kind and there exists no restriction on the use or transfer of such property, in each case except as set forth on Schedule 3.4(b)(i) or Schedule 3.4(b)(ii). Set forth on Schedule 3.4(a) is a complete and accurate listing of all Real Property owned in fee simple by the Seller. Seller is not the lessor or lessee of any real property, and there are no outstanding options, rights of first refusal or rights of first offer to purchase any of the Real Property or any portion thereof or interest therein. Seller has made available to Buyer copies of all title reports, surveys, title policies and appraisals relating to the Real Property. At and after the Closing, Buyer shall have the right to maintain or use the Real Property, including the space, facilities or appurtenances outside the building lines, whether on, over or under the ground, and to conduct such activities thereon as maintained, used or conducted by Seller on the date hereof and such right is not subject to revocation. At and after the Closing, Buyer shall have all rights, easements and agreements necessary for the use and maintenance of water utility pipelines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Real Property.

(b) The Real Property is properly classified under applicable zoning Laws, ordinances, and regulations for the current and continued operation of the System on the Real Property. No Proceeding is pending or threatened which could adversely affect the zoning classification of the Real Property. There are sufficient facilities at such Real Property to comply with such zoning Laws, ordinances, and regulations and Seller's use or occupancy of the Real Property is not dependent on any permitted non-conforming use or similar variance, exemption, or approval from any Governmental Authority. Seller's current use and occupancy of the Real Property and its operation of the System thereon does not violate any easement, covenant, condition, restriction or similar provision in any instrument of record or other unrecorded agreement affecting such Real Property. The present use and operation of the Real Property does not constitute a non-conforming use and is not subject to a variance. Seller has not received any notice of violation of any easements, covenants, restrictions or similar instruments and there is no basis for the issuance of any such notice or the taking of any action for such violation. Set forth on Schedule 3.4(b)(i) hereto is a true, correct and complete list of all of the Real Property which are easements. All of such easements are valid and will be transferred to Buyer and remain in full force as of the Closing. Set forth on Schedule 3.4(b)(ii) hereto is a true, correct and complete list of all Real Property which are rights-of-way. All of such rights of way are valid and will be transferred to Buyer and remain in full force as of the Closing. All Improvements located on, and the use presently being made of, the Real Property comply with all applicable zoning and building codes, ordinances and regulations and all applicable fire, environmental, occupational safety and health standards and similar standards established by Law and the same use thereof by Seller and Buyer following Closing will not result in any violation of any such code, ordinance, regulation or standard. There is no proposed, pending or threatened change in any such code, ordinance, regulation or standard which would adversely affect the System or the Acquired Assets.

(c) No Improvements encroach on any land that is not included in the Real Property or on any easements affecting such Real Property, or violate any building lines or set-back lines, and there are no encroachments onto the Real Property, or any portion thereof, which would interfere with the use or occupancy of such real Property or the continued operation of the System as currently conducted.

(d) There is no unpaid property Tax, levy or assessment against the Real Property (except for Encumbrances relating to Taxes not yet due and payable), nor is there pending or threatened any condemnation Proceeding against the Real Property or any portion thereof.

(e) Except as set forth in Schedule 3.4(e), there is no condition affecting the Real Property or the Improvements located thereon which requires repair or correction to restore the same to reasonable operating condition.

3.5 Personal Property. Set forth on Schedule 3.5(a) is a complete and accurate listing of certain of the Acquired Assets which are tangible personal property. Except as set forth in Schedule 3.5(b): (i) no Acquired Asset which is personal property is in the possession of others (other than immaterial items temporarily in the possession of others for maintenance or repair), (ii) Seller does not hold any such property on consignment, and (iii) each item of such Acquired Assets has been maintained in accordance with normal industry practice, is in good operating condition and repair (subject to normal wear and tear) and is suitable for the purposes for which it is presently used.

3.6 No Undisclosed Liabilities. Except (a) to the extent and for the amount reflected as a Liability on the balance sheet included in the Audited Financial Statements, (b) Liabilities incurred in the Ordinary Course of Business since the date of the balance sheet included in the Audited Financial Statements (none of which will or may reasonably be expected to have an adverse effect upon the System), or (c) as set forth on Schedule 3.6, Seller does not have any Liabilities whatsoever, known or unknown, asserted or unasserted, liquidated or unliquidated, accrued, absolute, contingent, or otherwise, there is no basis for any claim against Seller, the System or any of the Acquired Assets for any such Liability and there is no basis for any such Liability to become the Liability of Buyer from and after the Closing.

3.7 Tax Matters.

(a) Seller has timely and properly filed all Tax Returns that it was required to file. All such Tax Returns were complete and correct in all respects and were prepared in compliance with all applicable Laws. All Taxes owed by Seller have been paid. Seller is not the beneficiary of any extensions of time within which to file any Tax Return. No claim has ever been made by an authority in a jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction. There are no Encumbrances on any of the Acquired Assets that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) Seller has withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, member, stockholder, or other third party. Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(c) There are no audits or examinations of any Tax Returns pending or threatened that relate to Seller's operation of the System or the Acquired Assets. Seller is not a party to any action or Proceeding by any Governmental Authority for the assessment or collection of Taxes relating to the operation of the System or Acquired Assets, nor has such event been asserted or threatened. There is no waiver or tolling of any statute of limitations in effect with respect to any Tax Returns relating to Seller's operation of the System or the Acquired Assets.

(d) None of the Acquired Assets (i) has been or could be treated as a partnership or corporation for United States federal income Tax purposes or (ii) is property that is required to be treated for Tax purposes as being owned by any other Person (other than those Acquired Assets that are leased).

(e) None of the Acquired Assets represent property or obligations of Seller, including but not limited to uncashed checks to vendors, customers or employees, non-refunded overpayments or unclaimed subscription balances, that is escheatable to any Governmental Authority under any applicable escheatment Laws as of the date hereof or that may at any time after the date hereof become escheatable to any Governmental Authority under any applicable escheatment Law.

3.8 Contracts. Set forth on Schedule 3.8 is a complete and correct list of all Contracts related to the System to which Seller is a party or is otherwise bound. Seller has delivered or caused to be delivered to Buyer correct and complete copies of each such Contract (including any and all amendments), a description of the terms of each such Contract which is not in writing, if any, and all documents affecting the rights or obligations of any party thereto.

3.9 Environmental Matters.

(a) Seller is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable Environmental Law. Seller has no basis to expect nor has it received any actual or threatened Order, notice or other communication from any Governmental Authority or other Person of any actual or potential violation or failure to comply with any Environmental Law or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Real Property or any other properties or assets (whether real, personal or mixed) in which Seller has or has had an interest or with respect to the Real Property or any other real property at or to which Hazardous Materials were generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) There are no pending or threatened claims, Encumbrances or other restrictions of any nature, resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting the Real Property or any other properties and assets (whether real, personal or mixed) in which Seller has or had an interest.

(c) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has any Environmental, Health and Safety Liabilities with respect to the Real Property or with respect to any other properties and assets (whether real, personal or mixed) in which Seller (or any predecessor) has or has had an interest or at any property geologically or hydrologically adjoining the Real Property or any such other property or assets that could reasonably be expected to have a material adverse effect thereon.

(d) There are no Hazardous Materials, except those used in connection with the operation of the System and set forth in the list on Schedule 3.9(d), present on or in the Environment at the Real Property or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent and deposited or located in land, water, sumps or any other part of the Real Property or such adjoining property or incorporated into any structure therein or thereon. Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to the Real Property or any other properties or assets (whether real, personal or mixed) in which Seller has or has had an interest except in material compliance with all applicable Environmental Laws. There has been no Release or threat of Release, of any Hazardous Materials at or from the Real Property or from or by any other properties and

assets (whether real, personal or mixed) in which Seller has or has had an interest, or any geologically or hydrologically adjoining property, whether by Seller or any other Person.

(e) Except as set forth in Schedule 3.9(e), none of the following exists at the System or on the Real Property: (1) underground storage tanks; (2) asbestos-containing material in any form; (3) materials or equipment containing polychlorinated biphenyl; (4) groundwater monitoring wells; or (5) landfills, surface impoundments, or disposal areas.

(f) Except as set forth in Schedule 3.9(f) Seller is not obligated to provide financial assurance in consideration of the System under Environmental Law.

(g) Seller has delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed or initiated by Seller or its predecessors pertaining to Hazardous Materials or Hazardous Activities in, on or under the Real Property, or concerning compliance by Seller, its predecessors, or any other Person for whose conduct Seller is or may be held to be responsible, with Environmental Laws, said reports, studies, etc. to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Seller.

3.10 Permits. Set forth on Schedule 3.10 is a complete and correct list of all Permits used by Seller in the continuing operation of the System. Such Permits constitute all those necessary for the continuing operation of the System and are all valid and subsisting and in full force and effect. No fact or circumstance exists which is reasonably likely to cause any such Permit to be revoked or materially altered subsequent to the execution of this Agreement and the Closing Date. Neither the execution of this Agreement nor the Closing do or will constitute or result in a default under or violation of any such Permit.

3.11 Insurance. Seller maintains and has maintained appropriate insurance necessary for the full protection of all of its assets, properties, the System, operations, products and services. All such policies are in full force and effect and Seller will use commercially reasonable efforts to cause such policies to be outstanding and in full force and effect as of Closing and immediately following the execution of this Agreement and the consummation of the Contemplated Transactions. There are no pending Proceedings arising out of, based upon or with respect to any of such policies of insurance and, to Seller's Knowledge, no basis for any such Proceedings exists. Seller is not in default with respect to any provisions contained in any such insurance policies and no insurance provider is in default with respect to such insurance policies. Set forth in Schedule 3.11 is a true and accurate list of all such insurance policies Seller maintains, and the premiums therefore have been paid in full as they have become due and payable.

3.12 Absence of Certain Changes. There has not been any occurrence or event which, individually or in the aggregate, has had or is reasonably expected to have any Material Adverse Effect. Seller has continually operated the System only in the Ordinary Course of Business. Without limitation of the foregoing, Seller has not entered into, amended, terminated or received notice of termination of any Permit necessary for the continued operation of the System. In addition, Seller has not taken any action in connection with the System which, if taken on or after the date hereof, would have required the prior written Consent of Buyer pursuant to Section 6.6 hereof.

3.13 Litigation and Proceedings. There are no Proceedings, either pending or threatened, anticipated or contemplated, against Seller or involving the operation of the System, any of the Acquired Assets, or any of Seller's employees, commissioners, directors, administrators, agents or other personnel in their capacity as such, which could directly affect any of the Acquired Assets or the System. Seller has not been charged with, nor is it under investigation with respect to, any charge which has not been resolved to its favor concerning any violation of any applicable Law with respect to any of the Acquired Assets or the System and there is no valid basis for any such charge or investigation. Seller has not been subject to or threatened to be subject to any Proceeding or Order relating to personal injury, death or property or economic damage

arising from products sold, licensed or leased and services performed by Seller with respect to the System. No judgment, Order, writ, injunction, decree, assessment or other command of any Governmental Authority affecting Seller or any of the Acquired Assets or the System has been entered which is presently in effect. There is no Proceeding pending or, to Seller's Knowledge, threatened which challenges the validity of this Agreement or the Contemplated Transactions or otherwise seeks to prevent, directly or indirectly, the consummation of the Contemplated Transactions, nor is there any valid basis for any such Proceeding.

3.14 Compliance with Laws. Seller is in compliance with all Laws, Permits, Orders, ordinances, rules and regulations, whether civil or criminal, of any federal, state, or local authority applicable to the System and has not committed any violation of any Law or any provision of its ordinances or other governing documents applicable to the Acquired Assets and/or the operation of the System. Except as set forth in Schedule 3.14 Seller has not received any notice alleging such default, breach or violation.

3.15 Financial Statements. Attached as Schedule 3.15 are the Financial Statements. The Financial Statements have been prepared in accordance with GAAP and the Accounting Methodologies. The Financial Statements were derived from the books and records of Seller, are true correct and complete in all material respects and present fairly in all material respects the financial condition, operating results and cash flows of Seller as of the dates and during the periods indicated therein.

3.16 Transactions with Related Parties. Except as set forth on Schedule 3.16, no officer, commissioner, or employee of Seller has any financial interest, direct or indirect, in any supplier or customer of, or other business which has any transactions or other business relationship with, Seller. Without limiting the generality of the foregoing, neither Seller nor any of its officers, commissioners or employees owns, directly or indirectly, any interest in or is an owner, sole proprietor, member, stockholder, partner, director, officer, employee, consultant or agent of any Person which is a lessor, lessee, customer, licensee, or supplier with respect to the System and none of the employees of or servicing the System owns, directly or indirectly, in whole or in part, any tangible property, patent, trademark, service mark, trade name, copyright, franchise, invention, Permit or license which was developed by or is used and necessary for the operation of the System.

3.17 Ordinances. Seller shall retain all ordinances specified in Schedule 3.17. Such ordinances shall be no less restrictive at Closing than as of the date of this Agreement. Seller shall cooperate with Buyer to modify the ordinances specified in Schedule 3.17 in a manner reasonably acceptable to Buyer prior to the Closing Date.

3.18 Water Service Franchise and Public Access Rights.

(a) Seller agrees that, as part of the consideration for the purchase of the Acquired Assets by Buyer, at the Closing Seller shall grant an exclusive franchise to Buyer to operate a water system within the City and shall grant to Buyer the right to access all public rights-of-way, streets, alleys, sidewalks and utility easements that are necessary in order to install, maintain, test, repair, replace, extend and modify the System, all at no additional cost to Buyer. Buyer will be responsible to return any public rights-of-way, streets, alleys, sidewalks and utility easements interrupted by maintenance or construction of the System to a condition similar to the surrounding area at most, in no worse condition than prior to the interruption. The term of this exclusive franchise shall expire on the twenty-fifth (25th) anniversary of the Closing Date; provided, however, that such exclusive franchise shall automatically renew for successive renewal terms of twenty-five years each without further action by Seller or Buyer. Each such renewal term shall commence immediately following the expiration of the initial term or the then current renewal term, as the case may be. Notwithstanding the foregoing, however, the franchise shall terminate at the end of the initial term or any renewal term if the Seller notifies the Buyer in writing that the Seller will not renew the franchise. To be effective, such notice of non-renewal must be given during the sixty (60) day period preceding that date which is five (5) years prior to the expiration of the then current term.

(b) If the Seller elects not to enter into any renewal term, then on the expiration date of the then current term, the Seller shall repurchase from the Buyer the Acquired Assets to the extent located within the boundaries of the City of Whitwell, together with any improvements to and extensions of the System made by Buyer following the Closing Date within the boundaries of the City of Whitwell (collectively, the "Repurchased Assets") for a purchase price equal to the fair market value of the Repurchased Assets as of the expiration date of the then current term, as determined by a Qualified Appraiser (as defined below), selected by Buyer and reasonably acceptable to Seller. Buyer shall select a Qualified Appraiser and give notice thereof to Seller not later than one-hundred-eighty (180) days prior to the expiration date of the then current term. Seller shall notify Buyer of any reasonable objection to the Qualified Appraiser not later than ten (10) days after receipt of notice from the Buyer of its selection. If Buyer and Seller are unable to agree upon a Qualified Appraiser not later than 150 days prior to the expiration date of the then current term, then Seller shall also select a Qualified Appraiser. The Qualified Appraisers selected by Buyer and Seller shall then select a third Qualified Appraiser. The Qualified Appraiser selected by Buyer and approved by Seller or the third Qualified Appraiser, as the case may be, shall then be instructed by Buyer and Seller to determine the fair market value of the Repurchased Assets as of the expiration date of the then current term and furnish an appraisal report to the Buyer and Seller not later than ninety (90) days prior to the expiration date of the then current term. The Qualified Appraiser shall also be instructed to determine the fair market value of the Repurchased Assets using the RCNLD method of valuation under the cost approach. A "Qualified Appraiser" is an appraiser and/or engineer who is qualified to prepare valuations of water systems and assets using the RCNLD method under the cost approach and has experience in doing so. The charges of the Qualified Appraisers shall be paid by the Seller. The determination of the fair market value of the Repurchased Assets by the Qualified Appraiser in accordance with this Section 3.18 shall be binding and conclusive on the Buyer and Seller.

(c) The purchase price for the Repurchased Assets, as determined pursuant to this Section 3.18, shall be paid on the expiration date of the then current term by the Seller to the Buyer in immediately available funds in accordance with wire instructions furnished by the Buyer. If requested by Buyer, not later than the expiration date of the then current term Seller will also execute and deliver to Buyer a wheeling agreement pursuant to which Buyer will have the right, even after termination of the franchise and at no additional cost to Buyer, to transfer water through any water distribution system that may be operated by the City of Whitwell or its contractors or assigns following the purchase of the Repurchased Assets, and to serve customers who may be connected, directly or indirectly, to Buyer's water mains, whether inside or outside of the service area of Seller (or its contractors or assigns). Such wheeling agreement shall also provide that Seller (or its contractors or assigns) will make improvements to the water distribution system of Seller (or its contractors or assigns) deemed necessary by Buyer to facilitate the efficient transfer of water through such system. The wheeling agreement shall otherwise be in form and substance acceptable to Buyer in its reasonable discretion.

3.19 City of Dunlap. Seller shall work cooperatively with Buyer in obtaining a letter of intent satisfactory to Buyer in its sole discretion from the City of Dunlap, pursuant to which the City of Dunlap will agree in principle to make an additional water supply available to the Buyer within four (4) years from Closing to supply the System.

ARTICLE 4

Representations and Warranties of Buyer

Buyer hereby makes the following representations and warranties to Seller:

4.1 Organization. Buyer is a duly organized and validly existing corporation in good standing under the Laws of Tennessee and has the power and authority to own, lease and operate its assets and properties and to operate the System as now being operated.

4.2 Enforcement; Authority; No Conflict.

(a) This Agreement constitutes the legal, valid and binding obligation of Buyer and is enforceable against Buyer in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the rights of creditors generally and by general principles of equity. Buyer has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder, subject to obtaining all required approvals of its Board of Directors and the Tennessee Regulatory Authority.

(b) Neither the execution or delivery of this Agreement nor the consummation of the Contemplated Transactions shall result in: (i) a violation of or a conflict with any provision of the articles of incorporation or the bylaws of Buyer; (ii) a material breach of or default under any term, condition or provision of any Contract to which Buyer is a party, or an event which, with the giving of notice, lapse of time, or both, would result in any such breach or default; or (iii) a material violation of any applicable Law, Order, judgment, writ, injunction, decree or award or any event which, with the giving of notice, lapse of time, or both, would result in any such violation.

ARTICLE 5

Conditions Precedent to Closing

5.1 Conditions Precedent to the Obligations of Buyer. Buyer's obligations to consummate the Contemplated Transactions are subject to the satisfaction in full, unless expressly waived in writing by Buyer, of each of the following conditions:

(a) Authorization of Contemplated Transactions. Buyer shall have obtained all necessary corporate approvals to consummate the Contemplated Transactions, including, but not limited to the approval of its Board of Directors;

(b) Representations and Warranties. Each of the representations and warranties of Seller contained in this Agreement or in any Transaction Document shall have been true, correct and accurate in all respects on and as of the date hereof and shall also be true, correct and accurate in all material respects (other than Section 3.5 and representations and warranties qualified as to materiality, which shall have been true, correct and accurate in all respects) on and as of the Closing Date with the same force and effect as though made by Seller on and as of the Closing Date (except to the extent that any such representation or warranty is made solely as of the date hereof or as of another date earlier than the Closing Date, which shall be accurate as of such date);

(c) Covenants. Seller shall have performed, observed and complied in all material respects with all of their respective obligations, covenants, undertakings and agreements contained in this Agreement or any Transaction Document and required to be performed, observed or complied with by Seller prior to or at the Closing;

(d) Certificates. Seller shall have delivered to Buyer a certificate, dated as of the Closing Date and executed by an officer of Seller, to the effect that the conditions set forth in Sections 5.1(b) and (c) have been satisfied;

(e) Proceedings. No provision of any Law or Order shall be in effect, and no Proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, which would: (i) prevent consummation of the Contemplated Transactions; (ii) have a likelihood of causing the Contemplated Transactions to be rescinded following consummation; (iii) adversely affect the right of Buyer

to own any of the Acquired Assets; or (iv) adversely affect the System prospects or the value or condition of any of the Acquired Assets or the System;

(f) Closing Deliveries. Seller shall have delivered or caused to be delivered to Buyer each of the items set forth in Section 2.7(a);

(g) Governmental and Third Party Approvals. (i) Buyer shall have obtained a certificate of convenience and necessity and all necessary accounting, rate making and regulatory approvals by the Tennessee Regulatory Authority, or any other applicable regulatory body, and all other applicable Consents and approvals from Governmental Authorities and other third parties which are required in connection with the Contemplated Transactions, each in form and substance (including without limitation with respect to the terms and conditions contained in any such approval) acceptable to Buyer in its sole and absolute discretion, and (ii) any waiting periods under existing Laws, and all extensions thereof, the passing of which is necessary to consummate the Contemplated Transactions, shall have expired;

(h) Due Diligence. Buyer shall have completed and be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the Acquired Assets and Seller, including without limitation, with the results of any Phase I Environmental Site Assessment or other environmental assessment performed with respect to the Real Property or the Acquired Assets or chain of title search, all material contracts and operating permits and licenses of the System, and the Seller's operations, contracts, employment practices, compliance, accounting and other items as Buyer deems necessary, as each of the foregoing items relate to the System or the Acquired Assets;

(i) Title and Survey Objections. Any objections of Buyer with respect to title or survey matters shall have been cured by Seller to Buyer's reasonable satisfaction.

(j) No Material Adverse Effect. Buyer shall have determined that there shall not have occurred any event or circumstance which, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect; and

(k) City of Dunlap Supply Commitment. Buyer shall have obtained a letter of intent satisfactory to Buyer in its sole discretion from the City of Dunlap, pursuant to which the City of Dunlap will agree in principle to make an additional water supply available to the Buyer within four (4) years from Closing to supply the System.

(l) Approval of Current Financial Statements. Seller shall have delivered to Buyer audited balance sheets of Seller as of Seller's most recent FYE and the related audited statement of income and cash flows for the twelve month period ended as of the Seller's most recent FYE, together with the auditor's report and opinion thereon, and Buyer shall be satisfied in its sole and absolute discretion with such balance sheet, statement, report and opinion.

5.2 Conditions Precedent to Obligations of Seller. Seller's obligation to consummate the Contemplated Transactions is subject to the satisfaction in full, unless expressly waived in writing by Seller, of each of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Buyer contained in this Agreement or in any Transaction Document shall have been true, correct and accurate in all respects on and as of the date hereof and shall also be true, correct and accurate in all material respects (other than representations and warranties qualified as to materiality, which shall have been true, correct and accurate in all respects) on and as of the Closing Date with the same force and effect as though made by Buyer on and as of the Closing Date (except to the extent that any such representation or warranty is made

solely as of the date hereof or as of another date earlier than the Closing Date, which shall be accurate as of such date);

(b) Covenants. Buyer shall have performed, observed and complied in all material respects with all of its obligations, covenants, undertakings and agreements contained in this Agreement or any Transaction Document and required to be performed, observed or complied with by Buyer prior to or at the Closing;

(c) Proceedings. No provision of any Law or Order shall be in effect which would prevent consummation of the Contemplated Transactions; and

(d) Closing Deliveries. Buyer shall have delivered or caused to be delivered to Seller each of the items set forth in Section 2.7(b).

ARTICLE 6

Covenants and Special Agreements

6.1 Access to Information; Confidentiality

(a) Access. Between the date of this Agreement and the Closing Date, Buyer may, directly and through its representatives, make such confirmatory investigation of the System and the Acquired Assets as each deems necessary or advisable. In furtherance of the foregoing, Buyer and its representatives shall have reasonable access, upon reasonable notice during normal business hours, to all employees, properties, books, Contracts, commitments and records of the Seller relating to the System or the Acquired Assets, and Seller shall furnish and cause to be furnished to Buyer and its representatives such financial and operating data and other information as may from time to time be reasonably requested relating to the System, shall permit Buyer or its representatives to conduct such physical inspections and environmental audits of the Real Property as requested by Buyer and shall permit Buyer or its representatives to conduct interviews of employees of or servicing the System. Seller and the management, employees, accountants and attorneys of or servicing the System shall cooperate fully with Buyer and its representatives in connection with such investigation.

(b) Confidentiality.

(i) Prior to Closing (and, in the case of Seller, following Closing), each Party shall ensure that all Confidential Information which such Party or any of its respective officers, directors, employees, counsel, agents, or accountants may have obtained, or may hereafter obtain, from the other Party (or create using any such information) relating to the financial condition, results of operations, System, properties, assets, Liabilities or future prospects of the other Party, any Related Person of the other Party or any customer or supplier of such other Party or any such Related Person shall not be published, disclosed or made accessible by any of them to any other Person at any time or used by any of them, in each case without the prior written Consent of the other Party; provided, however, that the restrictions of this sentence shall not apply (i) as may otherwise be required by Law, (ii) to the extent such Confidential Information shall have otherwise become publicly available, and (iii) as to Buyer, to disclosure by or on its behalf to regulatory authorities or other third parties whose Consent or approval may be required to consummate the Contemplated Transactions and to its lenders and professionals for the purpose of obtaining financing of such transactions.

(ii) In the event of termination of negotiations or failure of the Contemplated Transactions to close for any reason whatsoever, each Party promptly will destroy or deliver to the other Party and will not retain any documents, work papers and other material (and any reproductions thereof) obtained by each Party or on its behalf from such other Party or its subsidiaries as a result of this proposal

or in connection therewith, whether so obtained before or after the execution hereof, and will not use any information so obtained and will cause any information so obtained to be kept confidential and not used in any way detrimental to such other Party.

6.2 Publicity; Announcements. Until after the Closing, no press release or other public statement concerning this Agreement or the transactions contemplated hereby shall be issued or made without the prior approval of the parties hereto, except as required by applicable law. After the Closing, no press release or other public statement concerning this Agreement or the transactions contemplated hereby shall be issued or made by Seller without the prior approval of Buyer, except as required by applicable law.

6.3 Cooperation.

(a) Subject to the terms and conditions of this Agreement, the Parties shall cooperate fully with each other and their respective counsel and accountants in connection with, and take or cause to be taken and do or cause to be done, any actions required to be taken under applicable Law to make effective the Contemplated Transactions as promptly as practicable. Prior to the Closing, the parties shall proceed expeditiously and in good faith to make such filings and take such other actions as may be reasonably necessary to satisfy the conditions to Closing set forth in Section 5.1(g). From and after the Closing, the parties shall do such acts and execute such documents and instruments as may be reasonably required to make effective the transactions contemplated hereby. On or after the Closing Date, the parties shall, on request, cooperate with one another by furnishing any additional information, executing and delivering any additional documents and instruments, including contract assignments, and doing any and all such other things as may be reasonably required by the parties or their counsel to consummate or otherwise implement the transactions contemplated by this Agreement. Should Seller, in its reasonable discretion, determine after the Closing that books, records or other materials constituting Acquired Assets are still in the possession of Seller, Seller shall promptly deliver them to Buyer at no cost to Buyer. Seller hereby agrees to cooperate with Buyer to ensure a proper transition of all customers with respect to billing and customer service activities. Buyer shall take the lead in obtaining Tennessee Regulatory Authority approval with respect to the Contemplated Transactions

(b) Without limiting the obligations of the Seller pursuant to Section 6.3(a) above or the rights of Buyer under Sections 2.5(a) and (b), the Seller agrees that if the Buyer, in its sole discretion, elects to close the Contemplated Transactions, even though the Seller has not cured any title objections that Buyer may have with respect to the Real Property, Seller will cure such title objections following the Closing at the Seller's expense and upon the request of Buyer and for no additional consideration from Buyer. The rights of Buyer under this Section 6.3(b) are in addition to the rights of Buyer under Sections 2.5(a) and (b).

(c) Seller and Buyer acknowledge that Seller may not have certain real property rights, easements or rights-of-way for System water mains, tanks, booster stations, water treatment plants and water intakes or other real property rights, easements or rights-of-way that may be necessary or desirable for the operation of the System, including without limitation those parcels listed on Schedule 6.3(c). Without limiting the obligations of the Seller pursuant to Section 6.3(a) or (b) above or the rights of Buyer under Sections 2.5(a) and (b), if Buyer, in its sole discretion, elects to close the Contemplated Transactions, even though such real property rights, easements or rights-of-way have not been conveyed to Buyer, the Seller agrees to obtain any such real property rights, easements or rights-of-way at Seller's expense following the Closing and upon the request of Buyer and to convey good and marketable title to such real property rights, easements or rights-of-way to Buyer for no additional consideration from Buyer. All such real property rights, easements or rights-of-way conveyed to Buyer shall be (i) free and clear of all claims, liens and other Encumbrances of any kind or nature whatsoever other than Permitted Exceptions, and (ii) insurable by the Title Company, at then current standard rates under the, with the standard or printed exceptions therein deleted and without

exception other than for the Permitted Exceptions. The rights of Buyer under this Section 6.3(c) are in addition to the rights of Buyer under Sections 2.5(a) and (b).

6.4 Exclusivity. Seller will not and will not permit its officers, commissioners, directors, employees or other agents or representatives to, at any time prior to the termination of this Agreement, directly or indirectly, (i) take any action to solicit, initiate or encourage the making of any Acquisition Proposal, or (ii) discuss or engage in negotiations concerning any Acquisition Proposal with, or further disclose any non-public information relating to Seller to, any person or entity in connection with an Acquisition Proposal, in each case, other than Buyer and its representatives.

6.5 No Inconsistent Action. Prior to the Closing Date, no Party shall take any action, and each Party will use its commercially reasonable efforts to prevent the occurrence of any event (but excluding events which occur in the Ordinary Course of Business and events over which such Party has no control), which would result in any of its representations, warranties or covenants contained in this Agreement or in any Transaction Document not to be true and correct, or not to be performed as contemplated, at and as of the time immediately after the occurrence of such action or event. If at any time prior to the Closing Date, a Party obtains knowledge of any facts, circumstances or situation which constitutes a breach, or will with the passage of time or the giving of notice constitute a breach, of any representation, warranty or covenant of such Party under this Agreement or any Transaction Document or will result in the failure of any of the conditions contained in Article 5 to be satisfied, such Party shall give the other Party prompt written notice thereof; provided, however, that no such notice shall cure any breach of any representation, warranty or covenant contained herein or therein or will relieve any such Party of any obligations hereunder or thereunder unless specifically agreed to in writing by the other Party.

6.6 Conduct of Business. Between the date of this Agreement and the Closing Date, Seller shall carry on the operation of the System and the Acquired Assets in the Ordinary Course of Business and in compliance with Law, not introduce any materially new method of management or operation, use reasonable best efforts to preserve the System and the Acquired Assets, conserve the goodwill and relationships of its customers, suppliers, Governmental Authorities and others having business relations with it, maintain in full force and effect all policies of insurance now in effect for the benefit of Seller, maintain supplies at a level which is sufficient to operate the System in accordance with past practice and maintain the Acquired Assets in substantially the condition currently existing, normal wear and tear excepted. By way of illustration and not limitation, Seller will not, between the date hereof and the Closing Date, directly or indirectly do, or prepare to do, any of the following without the prior written Consent of Buyer, (a) sell, lease, transfer or otherwise dispose of, or license, mortgage or otherwise encumber, or give a security interest in or subject to any Encumbrances, any of the Acquired Assets, (b) merge or consolidate with or acquire, or agree to merge or consolidate with or acquire (by merging or consolidating with, or by purchasing a substantial portion of the stock or assets of, or by any other manner), any business or corporation, partnership, joint venture, association or other business organization or division thereof or otherwise change the overall character of the System in any material way, (c) enter into any Contract other than in the Ordinary Course of Business, (d) abandon, sell, license, transfer, convey, assign, fail to maintain or otherwise dispose of any item of the transferred intellectual property, (e) make any change in any of its present accounting methods and practices, (f) make any new Tax election, or change or revoke any existing Tax election, or settle or compromise any Tax liability or file any income Tax Return prior to the last day (including extensions) prescribed by Law, in the case of any of the foregoing, material to the business, financial condition or results of operations of Seller, (g) engage in any transactions with any Related Person which would survive Closing, (h) pay, discharge, settle or satisfy any material claims or Liabilities (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction, in the Ordinary Course of Business or in accordance with their terms, of Liabilities reflected or reserved against in the Financial Statements (or the notes thereto), or not required by GAAP to be so reflected or reserved, or incurred since June 30, 2012 in the Ordinary Course of Business, or waive any material benefits of, or agree to modify any material confidentiality, standstill, non-solicitation or similar agreement with respect to the System to which Seller is a party, (i) enter into commitments for new

capital expenditures in excess of \$25,000 in the aggregate, (j) create or issue or grant any franchise or other rights for the operation of a water system or (l) enter into any agreement (conditional or otherwise) to do any of the foregoing.

6.7 No Transfer at Odds with Law. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall be deemed to require the conveyance, assignment or transfer of any Acquired Asset that by operation of applicable Law cannot be conveyed, assigned, transferred or assumed. Each Party shall continue to use reasonable best efforts to obtain at the earliest practicable date all unobtained Consents or approvals required to be obtained by it in connection with the transfer of the Acquired Assets or performance of any Transaction Document. If and when any such Consents or approvals shall be obtained, then Seller shall promptly, and hereby does, assign its rights thereunder to Buyer without payment of consideration and Buyer shall, and hereby does, without the payment of any consideration therefor, (i) assume such rights or (ii) perform (or agree to perform) under such Transaction Document, as applicable. Each Party shall execute such good and sufficient instruments as may be necessary to evidence such assignment and assumption. The entire beneficial interest in and to, and the risk of loss with respect to, the Acquired Assets shall, regardless of when legal title thereto shall be transferred to Buyer, pass to Buyer at Closing as of the Effective Time, and Seller shall, without consideration therefor, pay, assign and remit to Buyer all monies, rights and other consideration received in respect of such performance. To the extent permitted by Law, Seller shall exercise or exploit their rights in respect of such Acquired Assets only as directed by Buyer.

6.8 Release of Encumbrances. Seller promptly shall take such actions as shall be requested by Buyer to secure the release of all Encumbrances relating to the Acquired Assets, in each case in substance and form reasonably satisfactory to Buyer and its counsel.

6.9 Retention of Records. Subject to applicable Law and, subject to any applicable restrictions as to confidentiality (as to which Buyer does not provide indemnification, or the waiver of which Seller shall not have obtained after using reasonable best efforts), Seller shall preserve any books and records relating to the System that are not delivered to Buyer hereunder for a period no less than seven (7) years after the Closing Date (or such longer period as shall be required by applicable Law), and Seller shall make available such books and records for review and copying to Buyer and its authorized representatives following the Closing at Buyer's expense upon reasonable notice during normal business hours. During such period, Seller shall permit, to the extent permitted by applicable Law and upon request of Buyer, Buyer and any of its agents, representatives, advisors or consultants reasonable access to employees of or servicing the System for information related to periods up to and including the Closing.

6.10 Tax Covenants.

(a) Seller shall pay all Taxes of Seller, the System and the Acquired Assets for any Tax year or period (or portion thereof) ending at or before the Closing. For the purposes of this Section 6.10(a), the portion of such personal property or similar ad valorem Tax that relates to the Tax period ending as of the Closing shall be deemed to be the amount of such Tax for the entire Tax period multiplied by a fraction, the numerator of which is the number of days in the Tax period ending as of the Closing and the denominator of which is the number of days in the entire Tax period. For purpose of this Section 6.10(a), the portion of all other Taxes that relates to the Tax period ending as of the Closing shall be determined on the basis of an interim closing of the books.

(b) Each Party agrees to furnish or cause to be furnished to the other Party, upon request, as promptly as practical, such information (including reasonable access to books and records, Tax Returns and Tax filings) and assistance as is reasonably necessary for the filing of any Tax Return, the conduct of any Tax audit, and for the prosecution or defense of any claim, suit or Proceeding relating to any Tax matter. The Parties shall cooperate with each other in the conduct of any Tax audit or other Tax Proceedings and each

shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Section 6.10(b).

6.11 Rates to be Charged: The customers who are served directly from the System will initially be charged the rates existing at the Closing Date which are to be no less than the Seller's rates in effect as of the Effective Date, subject to approval of the Tennessee Regulatory Authority, and thereafter will be charged such rates and charges of Buyer as shall be approved from time to time by the Tennessee Regulatory Authority, based on subsequent filings by Buyer with the Tennessee Regulatory Authority.

6.12 Consideration of Employment of Seller Employees. Buyer will provide preferential hiring consideration for up to six (6) existing full-time water utility employees of the Seller as of July 1, 2012 who are also active employees of the Seller as of the dates of this Agreement and Closing, and provided further that each such individual possesses a valid driver's license, a high school diploma or GED equivalent, and passes a routine pre-screening physical, including testing for illicit drugs, and other examinations and background tests required of all other individuals for employment with the Buyer and meets all other standard employment requirements of Buyer. Seller shall timely submit to Buyer a complete list of the Seller's utility employees who wish to apply for employment with Buyer ("Applicant Pool"). Buyer shall interview and consider for employment all Seller's utility employees in the Applicant Pool who meet Buyer's hiring requirements as set forth in this Agreement or otherwise. Buyer is not obligated to hire any of the employees in the Applicant Pool. The terms of employment for any employee hired by Buyer from the Applicant Pool shall be at the sole discretion of the Buyer. Any employee hired by Buyer from the Applicant Pool shall commence employment with Buyer on the date of Closing; provided, however, that for the limited purposes of determining the employee's vacation and sick pay benefits with the Buyer, the employee shall, for those limited purposes only, be deemed to have been hired as of the date that the employee was last hired by the Seller to perform full-time duties in connection with the operation of the System.

6.13 No Assumption of Sewage Services Agreement. Buyer and Seller agree and acknowledge that Buyer will not assume the Sewage Services Agreement dated November 2, 2006 among the Town of Jasper, Tennessee, the Town of Powell's Crossroads, Tennessee and the Seller (the "Sewage Services Agreement") and will not provide any sewer billing services under the Sewage Services Agreement to the Town of Jasper, Tennessee, the Town of Powell's Crossroads, Tennessee or the Seller; provided, however, that for as long as the Buyer operates the System, the Buyer will provide such information regarding the water usage of the System's customers to the Seller as is reasonably requested by the Seller in order for the Seller to continue to provide sewer billing services under the Sewage Services Agreement.

ARTICLE 7

Indemnification

7.1 Survival of Representations and Warranties and Covenants.

(a) All of the representations and warranties made by Seller in this Agreement, its Schedules, or any certificates or documents delivered hereunder shall survive the Closing Date and consummation of the Contemplated Transactions for a period of three (3) years; provided, however, that the representations and warranties contained in Sections 3.1, 3.2, 3.3, 3.5, 3.6, 3.7 and 3.9 shall survive indefinitely.

7.2 Indemnification and Payment of Damages by Seller. Subject to the terms of this Article 7 and to the full extent permitted by law, Seller hereby agrees to fully pay, protect, defend, indemnify and hold harmless the Indemnified Persons from any and all Damages arising out of, resulting from, relating to or caused by: (i) any inaccuracy in or breach of (or any claim by any third party alleging or constituting an inaccuracy or breach of) any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by Seller; (ii) all Liabilities and/or duties of Seller, whether accruing prior to or after the Closing Date (other than any Assumed

Contract Liabilities), and any Encumbrance affecting the Acquired Assets; (iii) assessments, charges and other similar claims due or owing, directly or indirectly, by Seller or otherwise as a result of or on account of the Acquired Assets or the System at any time prior to the Closing Date; (iv) the ownership and/or operation of any of the Acquired Assets or the System prior to Closing; (v) any Proceeding now existing or hereafter arising and relating to the Acquired Assets or the System and arising from events or matters occurring prior to the Closing Date; (vi) any Excluded Assets; (vii) any and all Taxes imposed on or arising from the transfer of the Acquired Assets; (viii) transaction costs and expenses incurred by or on behalf of Seller in connection with this Agreement or the Contemplated Transactions; or (ix) any matters described on Schedule 7.2.

7.3 Indemnification By Buyer. Buyer hereby agrees to fully pay, protect, defend, indemnify and hold harmless Seller and its respective successors and assigns, from any and all Damages incurred by any of them arising out of, resulting from, relating to or caused by (i) any inaccuracy in or breach of any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by, Buyer or (ii) transaction costs and expenses incurred by or on behalf of Buyer in connection with this Agreement or the Contemplated Transactions.

7.4 Notice of Claim. In the event that either party seeks indemnification on behalf of an Indemnified Person, such party seeking indemnification (the "Indemnified Party") shall give reasonably prompt written notice to the indemnifying party (the "Indemnifying Party") specifying the facts constituting the basis for such claim and the amount, to the extent known, of the claim asserted; provided, however, that the right of a person or entity to be indemnified hereunder shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Subject to the terms hereof, the Indemnifying Party shall pay the amount of any valid claim not more than 10 days after the Indemnified Party provides notice to the Indemnifying Party of such amount.

7.5 Right to Contest Claims of Third Persons. If an Indemnified Party is entitled to indemnification hereunder because of a claim asserted by any Third Person, the Indemnified Party shall give the Indemnifying Party reasonably prompt notice thereof after such assertion is actually known to the Indemnified Party; provided, however, that the right of a Person to be indemnified hereunder in respect of claims made by a Third Person shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Buyer shall have the right, upon written notice to Seller, to investigate, contest or settle the Third Person Claim. Seller may thereafter participate in (but not control) the defense of any such Third Person Claim with its own counsel at its own expense. If Seller thereafter seeks to question the manner in which Buyer defended such Third Person Claim or the amount or nature of any such settlement, Seller shall have the burden to prove by clear and convincing evidence that conduct of Buyer in the defense and/or settlement of such Third Person Claim constituted gross negligence or willful misconduct. The Parties shall make available to each other all relevant information in their possession relating to any such Third Person Claim and shall cooperate in the defense thereof, provided that Buyer shall control the defense thereof. Promptly (and in any event within 10 days) following the resolution of any Third Person Claim, Seller shall pay to Buyer any amount to which Buyer is entitled pursuant to this Article 7 with respect to such Third Person Claim.

7.6 Certain Indemnification Matters.

(a) Notwithstanding anything contained herein or elsewhere to the contrary, all "material" and "Material Adverse Effect" or similar materiality type qualifications contained in the representations and warranties set forth in this Agreement shall be ignored and not given any effect for purposes of the indemnification provisions hereof, including, without limitation, for purposes of determining whether or not a breach of a representation or warranty has occurred and/or determining the amount of any Damages.

(b) No information or knowledge acquired, or investigations conducted, by Buyer or its representatives, of Seller or the System or otherwise shall in any way limit, or constitute a waiver of, or a defense to, any claim for indemnification by any Indemnified Persons under this Agreement.

ARTICLE 8

Termination

8.1 Termination. This Agreement may be terminated at any time prior to the Closing only (a) by mutual written Consent of Seller and Buyer, (b) by Seller or Buyer upon written notice to the other, if the Closing shall not have occurred on or prior to December 31, 2013; provided, however, that the right to terminate this Agreement under this Section 8.1(b) shall not be available to any Party whose breach under this Agreement has caused or resulted in the failure of the Closing to occur on or before such date, (c) by Buyer, if Buyer is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and Seller has not cured such breach within five (5) Business Days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured), (d) by Buyer, if, at any time before Closing, Buyer is not satisfied with the results of its due diligence review of the System and the Acquired Assets, (e) by Seller if Seller is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Buyer and Buyer has not cured such breach within five (5) Business Days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured), (f) by Seller or Buyer upon written notice to the other, if any court of competent jurisdiction or other competent Governmental Entity shall have issued a statute, rule, regulation, Order, decree or injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting the Contemplated Transactions, and such statute, rule, regulation, Order, decree or injunction or other action shall have become final and non-appealable, (g) by Buyer, if all necessary regulatory approvals (including rate treatment, refunds and setting of rate base and all approvals described in Section 5.1(g)) contemplated hereby or otherwise necessary to close the Contemplated Transactions have not been obtained within 270 days of the date hereof, or (h) by Buyer if any Material Adverse Effect shall have occurred or, in the reasonable judgment of Buyer, shall be reasonably likely to occur.

8.2 Effect of Termination. The right of each Party to terminate this Agreement under Section 8.1 is in addition to any other rights such Party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate, except that the obligations set forth in the Confidentiality Agreement, Section 6.1(b) ("Confidentiality"), Section 6.2 ("Publicity; Announcements"), this Section 8.2 ("Effect of Termination") or Article 9 ("General Provisions") will survive; provided, however, that if this Agreement is terminated by a Party because of the breach of the Agreement by another Party or because one or more of the conditions to the terminating Party's obligations under this Agreement is not satisfied as a result of the other Party's failure to comply with its obligations under this Agreement, the terminating Party's right to pursue all legal remedies will survive such termination unimpaired.

ARTICLE 9

General Provisions

9.1 Amendment and Modification. No amendment, modification or supplement of any provision of this Agreement will be effective unless the same is in writing and is signed by the Parties.

9.2 Assignments. Seller may not assign or transfer any of its rights or obligations under this Agreement to any other Person without the prior written Consent of Buyer. Buyer may not assign its rights

and obligations under this Agreement to any third party, without the prior written Consent of Seller, but may assign its rights and obligations under this Agreement to any Related Person or successor in interest without the Consent of Seller. Subject to this Section 9.2, all provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the Parties hereto and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

9.3 Captions; Construction. Captions contained in this Agreement and any table of contents preceding this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of this Agreement.

9.4 Counterparts; Facsimile. This Agreement may be executed by the Parties hereto on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the Parties hereto notwithstanding that all the Parties hereto are not signatories to the same counterpart. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or telecopier is to be treated as an original document.

9.5 Entire Agreement. This Agreement and the other Transaction Documents constitute the entire agreement among the Parties hereto pertaining to the subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the Parties hereto, whether oral or written, executed by the Parties pertaining to the subject matter hereof. All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

9.6 Governing Law. This Agreement and the rights and obligations of the Parties hereunder are to be governed by and construed and interpreted in accordance with the Laws of the State of Tennessee applicable to Contracts made and to be performed wholly within Tennessee, without regard to choice or conflict of laws rules.

9.7 Legal Fees, Costs. Except as provided herein, all legal, consulting and advisory fees and other costs and expenses incurred in connection with this Agreement and the Contemplated Transactions are to be paid by the Party incurring such costs and expenses.

9.8 Notices. All notices, Consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when delivered in person, (ii) three (3) Business Days after deposited in the United States mail, first class postage prepaid, or (iii) in the case of telegraph or overnight courier services, one (1) Business Day after delivery to the telegraph company or overnight courier service with payment provided, in each case addressed as follows:

(a) if to Seller, (i) to City of Whitwell, Tennessee, 13671 Highway 28, P.O. Box 610, Whitwell, Tennessee 37397, Attn: City Manager, and (ii) with a copy to Austin, Davis & Mitchell, 316 Cherry Street, Dunlap, Tennessee 37327, Attn: Jennifer A. Mitchell; or

(b) if to Buyer, (i) to Tennessee-American Water Company, 1101 Broad Street, Chattanooga, Tennessee 37401, Attn: President, (ii) with a copy to Corporate Counsel, 555 E. County Line Road, Greenwood, Indiana 46143, or to such other address as any Party hereto may designate by notice to the other Parties in accordance with the terms of this Section.

9.9 Severability. This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of this Agreement or of

any other term hereof, which shall remain in full force and effect, for so long as the economic or legal substance of the Contemplated Transactions is not affected in any manner materially adverse to any Party.

9.10 Specific Performance and Injunctive Relief; Remedies. The Parties hereto recognize that if any or all of them fail to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at law may not provide adequate relief to the other Parties hereto. Therefore, in addition to any other remedy provided for in this Agreement or under applicable Law, any Party hereto may demand specific performance of this Agreement, and such Party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time when any of the other Parties hereto fail to comply with any of the provisions of this Agreement applicable to such Party. To the extent permitted by applicable Law, all Parties hereto hereby irrevocably waive any defense based on the adequacy of a remedy at law which might be asserted as a bar to such Party's remedy of specific performance or injunctive relief. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies under Law. Nothing contained herein shall be construed as limiting the Parties' rights to redress for fraud.

9.11 No Third-Party Beneficiary. This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns (and those Persons entitled to recover under the indemnity provisions hereof), and no other Person (other than those Persons entitled to recover under the indemnity provisions hereof) has any right, title, priority or interest under this Agreement or the existence of this Agreement.

9.12 Waiver of Compliance; Consents. Any failure of a Party to comply with any obligation, covenant, agreement or condition herein may be waived by the other Party only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits Consent by or on behalf of any Party hereto, such Consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 9.12.

9.13 Arbitration Procedure. Except as provided in Section 9.13(d) below, Seller and Buyer agree that the procedures set forth below shall be the sole and exclusive method for resolving and remedying any and all disputes, controversies or claims that arise out of or in connection with, or relate in any manner to, the rights and liabilities of the Parties or any provision of this Agreement or the interpretation, enforceability, performance, breach, termination or validity of this Agreement, including this Section 9.13 relating to the resolution of disputes (the "Disputes") and questions concerning arbitrability. Seller and Buyer shall settle any Disputes in accordance with the following:

(a) **Friendly Discussions.** Seller and Buyer shall first use commercially reasonable efforts to settle the Dispute by consulting and negotiating with each other in good faith to reach a just and equitable solution satisfactory to both Seller and Buyer for up to thirty (30) calendar days following the date on which one Party delivers a notice of Dispute referencing this Section 9.13 to the other Party;

(b) **Arbitration.** If the Dispute is not resolved through friendly discussions pursuant to (a) above, the Party delivering such notice of Dispute may thereafter commence arbitration hereunder by delivering to the other Party involved therein a notice of arbitration, and the Dispute shall be finally resolved by arbitration administered by the American Arbitration Association (the "AAA") in accordance with the provisions set forth below and the AAA's then-current Commercial Arbitration Rules, (and, in the case of any Dispute involving a claim in excess of \$100,000 (a "Large Dispute"), the Procedures for Large, Complex Commercial Disputes), and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

(c) **Arbitration Procedures.** The following provisions shall apply to any arbitration hereunder:

(i) **Number and Appointment of Arbitrators.** With respect to any Dispute which is not a Large Dispute, the arbitration shall be conducted by one (1) arbitrator appointed by the AAA. In the case of any Large Dispute, the arbitration shall be conducted by three (3) arbitrators. Within ten (10) days following the commencement of arbitration of a Large Dispute, Seller shall select one (1) arbitrator and Buyer shall select one (1) arbitrator, and the two (2) arbitrators so selected shall select a third arbitrator, all arbitrators shall be selected from the applicable AAA panel of arbitrators. If the two (2) arbitrators are unable to agree to the third arbitrator within ten (10) days, a third arbitrator shall be appointed by the AAA;

(ii) **Location of Arbitration; Governing Law.** The arbitration shall take place in Chattanooga, Tennessee, which shall be the exclusive forum for final resolution of the Dispute. The governing law of the Agreement shall be as set forth in Section 9.6. The procedures governing the arbitration shall be governed by this Section 9.13 and the rules of the AAA.

(iii) **Discovery.** Discovery in connection with this arbitration provision, including but not limited to written discovery and depositions, is to be conducted in accordance with the Tennessee Rules of Civil Procedure;

(iv) **Final Determination.** The arbitrator shall conduct the arbitration so that a final result, determination, finding, judgment and/or award (the "Final Determination") is made or rendered as soon as practicable, but in no event later than 14 days following completion of the arbitration. The Final Determination shall be final and binding on all Parties and there shall be no appeal from or reexamination of the Final Determination, except for fraud, perjury, evident partiality or misconduct by an arbitrator prejudicing the rights of any Party and to correct manifest clerical errors;

(v) **Punitive and Consequential Damages.** The arbitrator(s) shall have no authority to award punitive damages;

(vi) **Pre-Award Interest.** Any monetary award initiated under this clause shall include pre-award interest at a variable rate per annum equal to the prime rate as quoted in The Wall Street Journal, compounded annually, from the time of the act or acts giving rise to the award;

(vii) **Fees and Expenses.** The fees and expenses of the arbitration and the arbitrator selected pursuant to the foregoing provisions shall be shared equally by Seller and Buyer and advanced by them from time to time as required; provided that at the conclusion of the arbitration, the arbitrator shall award costs and expenses (including the costs of the arbitration previously advanced and the fees and expenses of attorneys, accountants and other experts) and interest to the prevailing party;

(viii) **Continuing Performance.** Performance of this Agreement shall continue unabated during the pending of any arbitration which may arise out of a Dispute, except with regard to the matter in Dispute.

(d) **Equitable Relief.** Notwithstanding anything contained in this Section 9.13 to the contrary, a Party shall have the right to institute judicial proceedings against another Party or anyone acting by, through or under such other Party, in order to enforce the instituting Party's rights hereunder through reformation of contract, injunction or similar equitable relief.

9.14 Jurisdiction; Venue; Consent to Service of Process. With respect to any proceeding not subject to the dispute resolution procedures set forth in Section 9.13, each of the Parties irrevocably and unconditionally submits to the jurisdiction of any court of competent civil jurisdiction sitting in Tennessee. In any action, suit or other Proceeding, each of the Parties irrevocably and unconditionally waives and agrees not

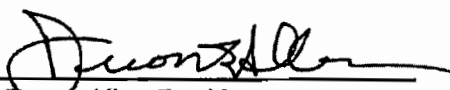
to assert by way of motion, as a defense or otherwise any claims that it is not subject to the jurisdiction of the above courts, that such action or suit is brought in an inconvenient forum or that the venue of such action, suit or other Proceeding is improper. Each of the Parties also hereby agrees that any final and unappealable judgment against a Party in connection with any action, suit or other Proceeding shall be conclusive and binding on such Party and that such award or judgment may be enforced in any court of competent jurisdiction, either within or outside of the United States. Each Party irrevocably consents to service of process in the manner provided for the giving of notices pursuant to Section 9.8. Nothing in this Section 9.14 shall affect the right of any Party to serve process in any other manner permitted under applicable Law.

9.15 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS.

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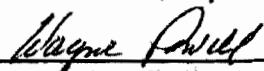
IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first set forth above:

Tennessee-American Water Company, a
Tennessee corporation

By: 
Deron Allen, President

City of Whitwell, Tennessee, a Tennessee
municipality

By: 
Steve Hudson, Mayor

By: 
Wayne Powell, Vice Mayor

Attest:

Tina Green, City Recorder

Exhibit 1
Map of System
[Attached]

SECTION 7 - White/1
 SECTION 2 - X Roads
 SECTION 3 - Lower End
 SECTION 4 - Upper End

1" water line
 2" water line
 4" water line
 6" water line
 8" water line
 10" water line
 12" water line
 14" water line
 16" water line
 18" water line
 20" water line
 22" water line
 24" water line
 26" water line
 28" water line
 30" water line
 32" water line
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 100" water line

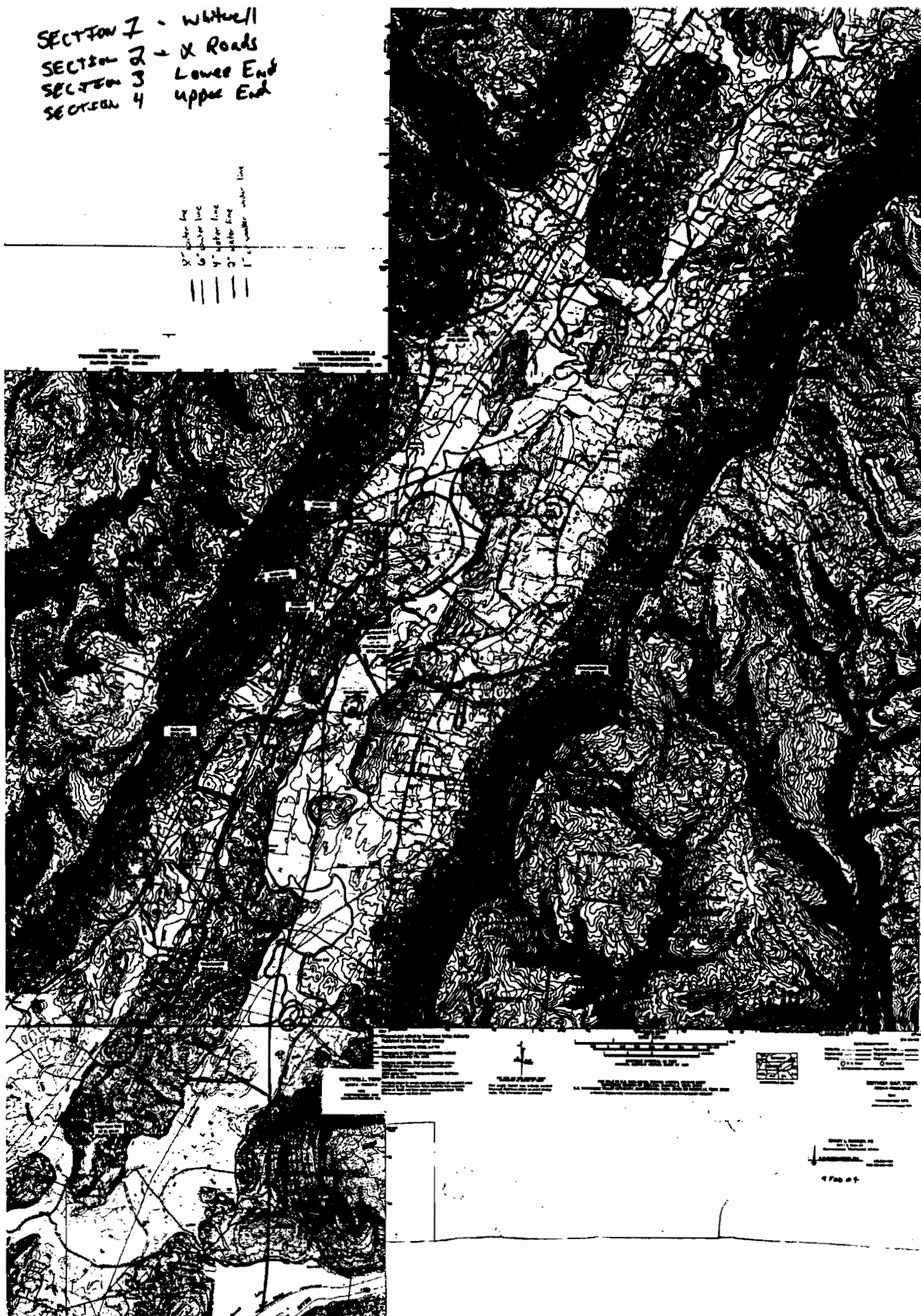


EXHIBIT 2

Definitions

"Accounting Methodologies" shall mean those accounting methodologies set forth in Exhibit 3. In the event of any conflict between GAAP and the Accounting Methodologies, the Accounting Methodologies shall prevail.

"Acquired Assets" means all right, title, and interest in and to all of the assets which are owned or held by Seller as of the Effective Time that constitute the System or that are used in the operation thereof, including, with respect to the System, all of its (a) Real Property now used and required in the ongoing operation of the System, (b) Tangible Personal Property, (c) intellectual property, goodwill associated therewith, licenses and sublicenses granted and obtained with respect thereto, and rights thereunder, remedies against past, present, and future interests therein under the Laws of all jurisdictions, (d) leases, subleases, easements, rights of way, and rights thereunder, (e) all rights of Seller in and to any indentures, mortgages, instruments, Encumbrances, or guaranties secured for the operation of the System, (f) claims, prepayments, refunds, causes of action, rights of recovery, rights of set-off, and rights of recoupment (including any such item relating to the payment of Taxes), (g) franchises, approvals, Permits, pending application for Permits and Permit renewals, exemptions from any Permits, licenses, Orders, registrations, certificates, variances, and similar rights obtained from governments and governmental agencies in each case to the extent assignable or transferable to Tennessee American Water Company, (h) books, data, records, ledgers, files, documents, correspondence, lists, plats, architectural plans, drawings, specifications, creative materials, studies, reports, and other printed or written materials related to Seller's construction, maintenance, and operation of the System, and (i) all of the intangible rights and property, if any, of Seller utilized in the operation of the System, provided that Acquired Assets shall not include any Excluded Assets.

"Acquisition Proposal" means any offer or proposal for the acquisition of Seller, the Acquired Assets or any portion thereof, whether by way of merger or consolidation, the acquisition of assets or similar transaction.

"Affiliate" means any Person which, directly or indirectly controls, is controlled by, or is under common control with, the Buyer.

"Audited Financial Statements" means the audited balance sheets of Seller as of FYE June 2012 and the related audited statements of income and cash flows for the twelve (12) month period ended FYE June 2012, respectively.

"Bill of Sale" means a bill of sale for all of the Acquired Assets that are Tangible Personal Property substantially in the form of Exhibit 4 (the "Bill of Sale").

"Business Day(s)" means any day other than (i) Saturday or Sunday, or (ii) any other day on which governmental offices in the State of Tennessee are permitted or required to be closed.

"Cleanup" means investigation, cleanup, removal, containment or other remediation or response actions.

"Closing" means the closing of the Contemplated Transactions.

"Closing Date" means the date on which the Closing actually occurs.

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations and other guidance promulgated thereunder.

"Confidential Information" means (i) information not available to the general public concerning the System and financial affairs with respect to a Party hereto or its Affiliates, and (ii) analyses, compilations, forecasts, studies and other documents prepared on the basis of such information by the Parties or their agents, representatives, any Related Person, employees or consultants.

"Consent" means any approval, consent, ratification, waiver or other authorization.

"Contemplated Transactions" means the transactions contemplated by this Agreement and the Transaction Documents.

"Contract" means any agreement, contract, obligation, legally binding commitment or undertaking (whether written or oral and whether express or implied).

"Damages" means any and all claims, losses and other liabilities, plus reasonable attorneys' fees and expenses, including court costs and expert witness fees and costs, incurred in connection with such claims, losses and other liabilities and/or enforcement of this Agreement.

"Effective Time" means 12:01 a.m. on the Closing Date.

"Encumbrance" means any charge, claim, community property interest, condition, easement, equitable interest, encumbrance, lien, mortgage, option, pledge, security interest, right of first refusal, right of way, servitude or restriction of any kind, including any restriction on use, transfer, receipt of income or exercise of any other attribute of ownership, or any repayment obligation under any grant.

"Environment" means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

"Environmental, Health and Safety Liabilities" means any cost, damages, expense, liability, obligation or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to (a) any environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of chemical substances or products), (b) fines, penalties, judgments, awards, settlements, legal or administrative Proceedings, damages, losses, claims, demands and response, investigative, remedial or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law, (c) financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any Cleanup required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Authority or any other Person) and for any natural resource damages, or (d) any other compliance, corrective, investigative or remedial measures required under Environmental Law or Occupational Safety and Health Law. The terms "removal," "remedial," and "response action," include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended, and the United States Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended.

"Environmental Law" means any Law relating to pollution or protection of human health, safety, the environment, natural resources or Law relating to releases or threatened releases of Hazardous Materials into the indoor or outdoor environment (including, without limitation, ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, release, transport or handling of Hazardous Materials including Superfund or Super Lien law.

"Excluded Assets" means (a) all cash, cash equivalents and short-term investments of Seller, including all bank accounts, demand accounts, certificates of deposit, time deposits, marketable securities,

negotiable instruments and the proceeds of accounts receivable paid prior to the Closing Date, other than deposits and funds included in the Acquired Assets, (b) all accounts receivable of Seller for water service provided prior to the Closing Date, (c) all customer deposits (Seller shall have the responsibility to refund all customer deposits), (c) all Contracts to which the Seller is a party, other than the Contracts specifically designated in Schedule 3.8 as Contracts that will be assumed by Buyer (all other Contracts listed in Schedule 3.8 are Excluded Assets), (d) all equity interests owned or held by Seller, (e) all insurance policies of Seller and rights thereunder, (f) all causes of action, judgments, claims, reimbursements and demands of whatever nature (including rights under and pursuant to all warranties, representations and guarantees made by suppliers of products, materials or equipment, or components thereof) in favor of Seller to the extent related to any Excluded Asset, (g) all personnel Records and other Records that Seller is required by Law to retain in its possession, (h) all rights of Seller under this Agreement and the Transaction Documents and (i) all rights, properties and assets set forth on Schedule A.

"Financial Statements" means the Audited Financial Statements.

"GAAP" means United States generally accepted accounting principles as in effect on the date hereof, applied on a consistent basis.

"Governmental Authority(ies)" means any (a) nation, state, county, city, village, district or other jurisdiction of any nature, (b) federal, state, local, municipal, foreign or other government, (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official or entity and any court or other tribunal), (d) multi-national organization or body or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature.

"Hazardous Activity" means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about or from the System or any part thereof into the Environment, and any other act, system, operation or thing that increases the danger or risk of danger, or poses an unreasonable risk of harm to persons or property on or off the System, or that may affect the value of the System or the Business.

"Hazardous Materials" means any waste or other substance that is listed, defined, designated or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials.

"Improvements" means all buildings, structures, fixtures, building systems and equipment, tanks, booster stations, water treatment plants, water intakes, and all components of the foregoing, including the roof, foundation, load-bearing walls, and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing, and other building systems, environmental control, remediation, and abatement systems, sewer, storm, and waste water systems, irrigation and other water distribution systems, parking facilities, fire protections, security, and surveillance systems, and telecommunications, computer, wiring, and cable installations, included in the Real Property.

"Indemnified Persons" means Buyer and Buyer's Affiliates and the past, present and future officers, directors, shareholders, partners, employees, agents, attorneys, representatives, successors and assigns of each of them in their capacities as such.

"Intangible Assignments" means the assignments of all of the Acquired Assets which are rights under Contracts that Buyer elects to assume in its sole discretion and all other intangible personal property substantially in the form of Exhibit 5.

"Knowledge" means (i) the actual knowledge of a particular fact by any of the Persons listed on Schedule B (each, a "Knowledge Party"), and (ii) knowledge that would have been acquired by any Knowledge Party acting reasonably and diligently in the performance of such person's role with and duties to Seller. The words "know," "knowing" and "known" shall be construed accordingly.

"Law(s)" means any law, rule, regulation or ordinance of any federal, foreign, state or local Governmental Authority or other provisions having the force or effect of law, including all judicial or administrative Orders and determinations, and all common law.

"Liability" or "Liabilities" means any liability, indebtedness or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of a Person. "Liabilities" of the Seller shall include without limitation the obligation of the Seller to account for and return any deposits received by the Seller from customers of the System, and all obligations of the Seller under that certain Sewage Services Agreement dated as of November 2, 2006 among the Town of Jasper, the Town of Powell's Crossroads and the Seller.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, Liabilities (contingent or otherwise), operations or condition (financial or otherwise) of the System, the Business and the Acquired Assets, taken as a whole; provided, however, that "Material Adverse Effect" shall not include any changes resulting from general business or economic conditions, including such conditions related to water distribution or treatment systems, which do not specifically relate to the System and which are not disproportionately adverse to the System than to other water distribution or treatment systems, or (b) the ability of Seller to consummate the Contemplated Transactions.

"Occupational Safety and Health Law" means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (including those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

"Order" means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Authority or by any arbitrator.

"Ordinary Course of Business" means, with respect to the System, only the ordinary course of operations customarily engaged in by the System consistent with past practices, and specifically does not include (a) activity (i) involving the purchase or sale of the System, or (ii) that requires approval by the Board of Commissioners of Seller, or (b) the incurrence of any Liability for any tort or any breach or violation of or default under any Contract or Law.

"Permit" means any approval, Consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law.

"Person" means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, cooperative, estate, trust, association, organization, labor union or other entity or Governmental Authority.

"Proceeding" means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"Purchase Price" means the total rate base value of the Acquired Assets as of the Closing Date, calculated using the original cost method of accounting, of the System and the Acquired Assets, as determined by the Buyer, subject to approval by the Tennessee Regulatory Authority, and upon which the Tennessee Regulatory Authority authorizes Buyer to earn a specific rate of return, but excluding the value of any cash, working capital, accumulated deferred income taxes, and accumulated deferred investment tax credits; provided, however, that any amounts expended by the Seller or Buyer to repay grants or to cure any title deficiencies with respect to any Real Property or any other amount expended by the Seller or Buyer to cure any other breach by Buyer of the Agreement shall not be included as part of the total rate base value of the Acquired Assets as of the Closing Date for purposes of determining the Purchase Price.

"RCNLD" means the replacement cost (new) of all tangible and intangible personal property included in the Repurchased Assets, less observed depreciation, plus the value of all real property (as if vacant) or any interest therein included in the Repurchased Assets, as of the date of valuation.

"Real Property" means those parcels of real property and those easements or any right-of-way used in the operation of the System or necessary for the operation of the System, together with all fixtures, fittings, buildings, structures and other Improvements erected therein or thereon, including without limitation, the real property and easements upon which all water mains, tanks, booster stations, water treatment plants and water intakes are located.

"Records" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Related Person" means: (a) with respect to a particular individual, (i) each other member of such individual's Family, (ii) any Person that is directly or indirectly controlled by such individual or one or more members of such individual's Family, (iii) any Person in which such individual or members of such individual's Family hold (individually or in the aggregate) a Material Interest; and (iv) any Person with respect to which such individual or one or more members of such individual's Family serves as a director, officer, partner, executor or trustee (or in a similar capacity) and (b) with respect to a specified Person other than an individual, (i) any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with such specified Person, (ii) any Person that holds a Material Interest in such specified Person, (iii) each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity), (iv) any Person in which such specified Person holds a Material Interest, (v) any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity) and (vi) any Related Person of any individual described in clause (ii) or (iii). For purposes of this definition, (x) the "Family" of an individual includes (A) the individual, (B) the individual's spouse, (C) any other natural person who is related to the individual or the individual's spouse within the second degree, and (D) any other natural person who resides with such individual; and (y) "Material Interest" means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of voting securities or other voting interests representing at least five percent (5%) of the outstanding equity securities or equity interests in a Person.

"Release" means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping or other releasing into the Environment, whether intentional or unintentional.

"Tangible Personal Property" means all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies (including chemicals and spare parts), materials, vehicles and other items of tangible personal property of every kind owned or leased by Seller (wherever located and whether or not carried on Seller's books), together with any express or implied warranty by the manufacturers or lessors of any item or component part thereof, and all maintenance records and other documents relating thereto.

"Tax" or "Taxes" means all taxes, charges, withholdings, fees, duties, levies, or other like assessments including, without limitation, income, gross receipts, ad valorem, value added, excise, property, sales,

employment, withholding, social security, Pension Benefit Guaranty Corporation premium, environmental (under Section 59A of the Code) occupation, use, service, service use, license, payroll, franchise, transfer and recording taxes, fees and charges, windfall profits, severance, customs, import, export, employment or similar taxes, charges, fees, levies or other assessments, imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or any other basis, and shall include any interest, fines, penalties, assessments, or additions to tax resulting from, attributable to, or incurred in connection with any such Tax or any contest or dispute thereof, and including any Liability for the Taxes of another Person under Treasury Regulation section 1.1502-6 (or any similar provisions of state, local, or foreign Law), as transferee or successor, by Contract or otherwise.

"Tax Return" or "Tax Returns" means any return, declaration, report, claim for refund, or information return or statement relating to, or required to be filed in connection with any Taxes, including any schedule or attachment thereto and including any amendment thereof.

"Third Person" means a claimant other than an indemnified person hereunder.

"Third Person Claim" means a claim alleged by a Third Person.

"Transaction Documents" means this Agreement, the Bill of Sale, the Intangible Assignments and all other documents, certificates, assignments and agreements executed and/or delivered in connection with this Agreement in order to consummate the Contemplated Transactions, as the same may be amended, restated, modified or otherwise replaced from time to time.

Rules of Construction

For purposes of this Agreement and the other documents executed in connection herewith, the following rules of construction shall apply, unless specifically indicated to the contrary: (i) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter; (ii) the term "or" is not exclusive; (iii) the term "including" (or any form thereof) shall not be limiting or exclusive; (iv) the terms "hereof," "herein" and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement; (v) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations as well as all rules and regulations promulgated thereunder, unless the context otherwise requires; (vi) all references in this Agreement or in the Schedules to this Agreement to sections, schedules, exhibits and attachments shall refer to the corresponding sections, schedules, exhibits and attachments of or to this Agreement; and (vii) all references to any instruments or agreements, including references to any of the documents executed in connection herewith, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof.

Exhibit 3

Accounting Methodologies Other than GAAP Used by Seller in the Financial Statements

None.

Exhibit 4
Form of Bill of Sale
[Attached]

BILL OF SALE

THIS BILL OF SALE is made and delivered this ____ day of _____, 20____ (the "*Effective Date*"), by and from the **CITY OF WHITWELL, TENNESSEE** ("*Seller*"), a Tennessee municipality, to **TENNESSEE-AMERICAN WATER COMPANY** ("*Buyer*"), a Tennessee corporation, pursuant to and in accordance with that certain Asset Purchase Agreement dated as of October ___, 2012, by and between Buyer and Seller (the "*Purchase Agreement*").

1. **Sale and Transfer of Assets.** As of the Effective Date, Seller has sold and transferred to Buyer certain real estate and improvements relating to and constituting a portion of the assets of the System (as that term is defined in the Purchase Agreement). For good and valuable consideration in hand paid by the Buyer to the Seller as set forth in the Purchase Agreement, the receipt and adequacy of which is hereby acknowledged, Seller does now hereby bargain, sell, transfer, assign, convey, grant and deliver to Buyer, its successors and assigns forever, all of Seller's right, title and interest in and to any and all of the following assets related to the System (collectively, the "*Assets*"):

(a) All fixtures, wherever located; and

(b) All other tangible and intangible personal property constituting the System, wherever located and including, without limitation, (i) the property listed on Exhibit "A" attached hereto and incorporated herein; and (ii) all files, plats, maps, plans, records, ledgers, and similar property, or copies thereof, wherever located, that Buyer will need to render water service to the customers served by the System as of the Effective Date.

TO HAVE AND TO HOLD to the Buyer, its successors and assigns forever.

2. **Seller Warranties; Further Actions.** Seller warrants that it is the true and lawful owner of the Assets and that the Assets are free and clear of all claims, mortgages, liens or encumbrances of any kind or any conditional sales agreement or title retention agreement. Seller will forever warrant and defend the title of the Assets against the claims and demands of all persons whomsoever. The terms and provisions of the Purchase Agreement shall not be discharged upon, but shall survive, the execution and delivery of this Bill of Sale. The Seller further agrees to execute and deliver to Buyer such other instruments of transfer and conveyance and to take such other action as may be reasonably necessary to perfect the Buyer's title in and to the Assets.

[Signature page follows.]

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the Effective Date.

SELLER:

CITY OF WHITWELL, TENNESSEE

By: _____

Name: _____

Title: _____

EXHIBIT "A"
TO
BILL OF SALE

Certain Tangible Water System Assets

1. water filtration plant, building and associated equipment;
2. all transmission and distribution mains/water lines of any size or length;
3. all water storage tanks and associated equipment;
4. all pumping equipment;
5. all water treatment equipment;
6. approximately ____ customer service meters; and
7. the items listed on attached Schedule 1.

SCHEDULE 1
TO
BILL OF SALE

Certain Tangible Water System Assets

Exhibit 5

Form of Assignment of Contracts and Other Intangible Acquired Assets

[Attached]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is made and entered into as of _____, 20__ (the "*Effective Date*"), by and between the **CITY OF WHITWELL, TENNESSEE** ("*Assignor*"), a Tennessee municipality, and **TENNESSEE AMERICAN WATER COMPANY** ("*Assignee*"), a Tennessee corporation;

WITNESSETH:

THAT WHEREAS, Assignor and Assignee are parties to that certain Asset Purchase Agreement dated as of October __, 2012 (the "*Purchase Agreement*"); and

WHEREAS, pursuant to the Purchase Agreement, Assignor and Assignee desire to provide for (a) the assignment by Assignor to Assignee of the contracts described on Exhibit A attached hereto and incorporated herein (collectively, the "*Assigned Contracts*"); and (b) the assumption by Assignee of all of Assignor's liabilities, duties and obligations accruing under the Assigned Contracts following the Effective Date.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements hereinafter set out, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed by the parties as follows:

AGREEMENTS:

1. Assignment of Assigned Contracts. Assignor does hereby absolutely and unconditionally assign, transfer and set over to Assignee all of its right, title and interest in and to the Assigned Contracts.

2. Assumption of Contracts. Assignee does hereby absolutely and unconditionally assume and agree to perform all duties, liabilities and obligations of Assignor under the Assigned Contracts accruing from and after the Effective Date; provided, however, that the Assignee does not assume and shall not be liable for any duties, liabilities or obligations of Assignor arising or accruing under any of the Assigned Contracts, whether before or after the Effective Date, as a result of any breach by the Assignor under any of the Assigned Contracts.

3. Further Actions. Each of the parties agrees that it will from time to time, at the written request of the other, execute and deliver to the other such other instruments and take such other action as may be necessary to effectuate the intent of this Agreement.

4. Other Agreements. This Agreement shall be subject to the terms and conditions of the Purchase Agreement and in no way shall alter the provisions thereof, or the rights and responsibilities of the parties thereto. The terms and conditions of the Purchase Agreement shall not be discharged upon, but shall survive, the execution and delivery of this Agreement.

5. Counterparts. This Agreement may be executed simultaneously and in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

6. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

ASSIGNOR:

CITY OF WHITWELL, TENNESSEE

By: _____

Name: _____

Title: _____

ASSIGNEE:

TENNESSEE-AMERICAN WATER COMPANY

By: _____

Name: _____

Title: _____

EXHIBIT A
TO
ASSIGNMENT AND ASSUMPTION AGREEMENT

Assigned Contracts

Schedule A

Excluded Assets

1. The real property upon which the Whitwell City Hall is located.
2. The John Deere backhoe acquired by the Seller on 11/18/88.
3. The Caterpillar backhoe acquired by the Seller on 11/05/03.
4. The Skid Steer acquired by the Seller after 6/30/12.

Schedule 3.4(a)

Required Consents of Government Authorities and Third Parties

1. Consents of all grant providers to the extent required by the grant agreements.
2. Grant by the Town of Powell's Crossroads of an exclusive franchise to operate the System and any extensions and additions thereto, such franchise to be in form and substance acceptable to the Buyer.
3. Consents of bondholders to the redemption of all outstanding bonds on the Closing Date (if such bonds are to not redeemed by the Seller prior to the Closing).

Schedule 3.4(a)

List of Real Property owned by Seller, Together with a List of Any Options, Leases, Covenants, Conditions, Easements, Agreement, Claims or Restrictions on Use or Transfer

Owned Real Property					
	Date		Grantor/Grantee	Recording Information	Other Identifying Information
1.	05/31/1958	Warranty Deed	E. A. Grayson and Myrtle H. Grayson (City of Whitwell, Tennessee)	Book ____, Page 345 -347 (06/09/1958)	Map 050G Parcel 7.00 Water Plant and 2 tanks Tract 1 1.20 acres; Tract 2 Easement; Tract 3 Easement, Tract 4 .40 acres; Tract 5 Easement
2.	03/08/1971	Warranty Deed	Charles Ray Smith and Abbie Smith (West Valley Water System)	Book 345 (?) (Only one page provided)	West Valley Road is east boundary 7-L (?)
3.	06/04/1971	Warranty Deed	Clarence McGowan, and wife, Sarah Mae McGowan (West Valley Water System)	(Only one page provided) (452 ?)	West Valley Road 7 M (?)
4.	03/11/1981	Warranty Deed	Frank Slatton and wife, Lucille D. Slatton (City of Whitwell)	Book 9-0, Pages 228 - 230 MCRO (09/15/1987)	E. Spring Street is Northeast boundary

5.	05/07/1984	Warranty Deed	Gary D. Pickett (City of Whitwell)	Book 10-A Pages 589-590 MCRO 06/19/1984	
6.	07/31/1987	Warranty Deed	McKinley Newson and wife, Omia Jean Newson (City of Whitwell)	Book 110, pages 410 - 411 MCRO (07/31/1987)	
7.	11/28/1989	Quitclaim Deed	Colonial Pipeline Company by D. R. Brinkley, president (City of Whitwell)	Book 134, Pages 890 - 891 MCRO (12/14/1989)	Incline Tank
8.	03/24/1993	Warranty Deed	Virender Anand and wife, Veena Anand (City of Whitwell and Town of Powells Cross-Roads)	Book 176, pages 75 - 78 MCRO (05/24/1993)	Highway 27 is South boundary
9.	04/11/1994	Warranty Deed	Herbert Higdon and wife, Lucille Higdon (City of Whitwell)	Book 188, Pages 415-416 MCRO (04/13/1994)	Part of Map 51, Parcel 117 Ketner Cove Water Tank (Overlook Trail)
10.	04/11/1994	Warranty Deed	Herbert Higdon and wife, Lucille Higdon (City of Whitwell)	Book 188, Pages 418-420 MCRO (04/13/1994)	Part of Map 50, Parcel 31.10 Pump Station (Osceola Drive)

11	05/02/1994	Warranty Deed	W. L. Ross and wife, Wanda Faye Burgess Ross (West Valley Water System)	Book 189, pages 387-388 MCRO (05/06/1994)	Map 82, Parcel 22.00 Wiley Ross Booster
12	05/04/1994	Warranty Deed	Clifford Price Jordan (West Valley Water System)	Book 189, Pages 389-390 MCRO (05/06/1994)	Map 97 Parcel 36.03 Tanya Lynn Water Tank (Briar Ridge Road)
13	01/12/1999	Quitclaim Deed	USX Corporation (City of Whitwell)	Book 264, Page 137 -141 MCRO (02/05/1999)	Part of Map 34, Parcel 2.00 Incline Booster

List of any options, leases, covenants, conditions, easements, agreements, claims or restrictions on use or transfer of the above properties:

None.

Schedule 3.4(b)(i)

List of All Easements, Together with a List of Any Options, Leases, Covenants, Conditions, Easements, Agreement, Claims or Restrictions on Use or Transfer

	Date		Grantor/Grantee	Recording Information	Other Information
1.	08/29/1964	Easement	William Frank Barker and wife, Eva Kathleen Barker, Dave Barker and wife, Belle Barker (City of Whitwell, Tennessee)	no recording information	Property described by deed of record in Deed Book 6-D, page 113 and Deed Book 4-L, page 468-9; Intersection of Calvary Church Road & Highway 28.0
2.	10/23/1964	Easement	William Frank Barker and Eva Kathleen Barker (City of Whitwell, Tennessee)	no recording information	
3.	10/23/1964	Easement	Dave Barker and Belle Barker (City of Whitwell, Tennessee)	no recording information	East side of the York Highway
4.	01/03/1971	Right of Way Easement	Mary Morrison (West Valley Water System, Inc.)	Book 1, Page 291 Marion County, Tennessee Registrar's Office ("MCRO") (12/12/1972)	State Highway 27 is West boundary

5.	03/08/1971	Right of Way Easement	Paul Long Ferguson, Ruth Long, Gladys L. Griffith (West Valley Water System, Inc.)	Book 1, page 290, also Note Book 8, page 96 MCRO (12/12/1972)	
6.	03/08/1971	Right of Way Easement	Bill Shrum (West Valley Water System, Inc.)	Book 1, page 289, also Note Book 8, page 96 MCRO (12/12/1972)	State Highway 27 is East boundary
7.	03/08/1971	Right of Way Easement	Dorothy Kilgore (West Valley Water System, Inc.)	Book 1, page 288, also Note Book 8, page 96 MCRO (12/12/1972)	State Highway 27 is East boundary
8.	03/31/1971	Easement	Evans Powell and wife, Audrey Powell (West Valley Water System, Inc.)	Book 1, page 310, also Note Book 8, page 96 MCRO (12/12/1972)	
9.	04/19/1971	Easement	Church of Christ of Morganville by Dan Condra (West Valley Water System, Inc.)	Book 1, page 305 also Note Book 8, Page 305 MCRO	
10.	04/28/1971	Easement	Red Hill Methodist Church by Carl Deakins, Mrs. J. H. Shirley and Howard Hixson (West Valley Water System, Inc.)	Book 1, page 314 also Note Book 8, page 9 MCRO (12/12/1972)	Red Hill tank?

11.	05/30/1971	Easement	W. D. Varnell and Nellie C. Varnell (West Valley Water System, Inc.)	Book 1, page 319 Note Book 8, page 96 MCRO (12/12/1972)	
12.	06/01/1971	Easement	Buford Condra, and wife, Geneva Condra (West Valley Water System, Inc.)	Book 1, page 300 Note Book 8, page 96 MCRO (12/12/1972)	
13.	06/01/1971	Easement	John G. Branam (West Valley Water System, Inc.)	Book 1, Page 296 Note Book 8, page 96 MCRO (12/12/1972)	
14.	09/08/1971	Right of Way Easement	Gettis Hudson and wife, Jean Hudson (West Valley Water System, Inc.)	Book 1, page 250 Note Book 8, page 83 MCRO (09/18/1972)	
15.	11/03/1971	Right of Way Easement	W. T. Morrison, Sr. and Myrtle Morrison (West Valley Water System, Inc.)	Book 1, Page 294 Note Book 8, page 96 MCRO (12/12/1972)	State Highway 27 is East boundary
16.	11/16/1971	Right of Way Easement	Ray Morrison and Marcelle Morrison (West Valley Water System, Inc.)	Book 1, page 292 Note Book 8, page 96 MCRO (12/12/1972)	State Highway 27 is East boundary

17.	02/24/1972	Right of Way Easement	Poplar Grove Church of God by Nettie Perry (West Valley Water System, Inc.)	Book 1, page 293 Note Book 8, page 96 MCRO (12/12/1972)	
18.	05/20/1972	Right of Way Easement	W. C. Spears and Rebecca Louise Spears (West Valley Water System, Inc.)	Book 1, page 295 Note Book 8, page 96 MCRO (12/12/1972)	
19.	12/08/1972	Acknowledgment of Easement	West Valley Water System, Inc.	Book 1, page 285 Note Book 8, page 96 MCRO (12/12/1972)	
20.	08/02/1991	Easement	Marvin A. Rollins and Linda Fay Rollins, Grantees (City of Whitwell)	Book 152, Page 557 Note Book 13, Page 186 MCRO (08/05/1991)	
21.	02/26/1993	Water Line Easement	Carl Cecil Pittman (West Valley Water System, Inc.)	Book 173, page 271 (03/05/1993)	Plat attached to easement. Crosses several tracts.
22.	02/26/1993	Water Line Easement	Carolyn Billingsley (West Valley Water System, Inc.)	Book 173, Page 268 Note Book 14, Page 95 (03/05/1993)	Plat attached to easement. Crosses several tracts.

23.	03/22/1993	Easement	John Green (City of Whitwell and to Jerry Kilgore)(this appears to be an easement to permit water meters for both Green and Jerry Kilgore to be located on Green's property)	no recording information	
24.	05/18/1994	Easement	Kenneth R. Holtcamp (City of Whitwell)	no recording information	Property described by deed of record in Book 10-F, Page 234, MCRO
25.	06/06/1994	Easement	Wade Merciers (City of Whitwell)	no recording information	Property described by deed of record in Book 146, page 669, MCRO, Map # .51, Parcel # 35.00
26.	08/02/1994	Easement	Linda Richards Chapin (City of Whitwell)	no recording information	Property located in Powells Crossroads, Tennessee on East Valley Road now known as State Highway # 27, described by last will and testament in Book 180, Page 127, MCRO, Map # 57, Parcel # 9.01

27.	08/15/1994	Easement	Herbert Higdon and wife, Lucille Higdon (City of Whitwell)	Book 193 Page 221-222 Notebook 15 page 116 MCRO	State Highway 27 is southern boundary
28	08/17/1994	Easement	Kelly's Chapel Cumberland Presbyterian Church by Doyle Davis and Brence Brown, Trustees (City of Whitwell)	Book 193 Page 325-326 Notebook 15 page 118 MCRO (08/10/1994)	State Highway 27 is southern boundary; Map 51 Parcel 54
29.	09/21/1994	Easement	Brown Oil Company, Inc. by Joe E. Brown, President (City of Whitwell)	Book 194 Page 716-717 Notebook 15 page 134 MCRO (09/22/1994)	Map 50-L Parcel 16
30.	10/20/1994	Easement	Larry Keith Griffith and Elizabeth S. Griffith (City of Whitwell)	Book 194 Page 716-717 Notebook 15 page 134 MCRO (10/20/1994)	Map 50 Parcel 31.07
31.	03/29/1996	Water Line Easement	David C. Solomon and wife, Lisa M. Solomon (West Valley Water System, Inc.)	Book 215 Page 895-896 Notebook 15 page 134 MCRO (04/12/1996)	Map 82, Parcel 12.03 Bowman Road from State Highway 27
32.	05/07/1996	Grant of Utility Easement	Herbert Kehoe, Grantor (West Valley Water Systems, Inc.)	Book 241 Page 705-706 Notebook 15 page 134 MCRO (12/02/1997)	Lot 37 of Herkey Estates, Addition 2, Plat Book 4, Page 622 MCRO Herkey Tank Book 345 -731 Condemnation

33.	10/19/1996	Right-of-Way or Easement No. 1	Charles R. Smith (City of Whitwell)	no recording information	Map 57, Parcel 18, Tract No. 63 State Highway 283 is North Boundary; State Highway 28 is West Boundary
34.	12/26/1997	Easement	Benton M. Barber and wife, Teresa J. Barber, Grantees (City of Whitwell, Tennessee)	no recording information	Tract One: Note Book 5, page 180 MCRO; Tract Two: Note Book 5, page 180 MCRO; Tract Three: Note Book 5, page 148 MCRO; Tract Four: Note Book 5, page 180 MCRO
35.	04/15/1999	Easement	Buntlington Properties, Inc. by Harold Buntin, the president, (City of Whitwell)	Book 269, page 235 MCRO (05/04/1999)	East Valley Road creek culvert
36.	12/03/1999	Right-of-Way or Easement No. 1	William L. Condra, Jr. and Phillip Hoyt Condra (Whitwell, Tennessee)	Book 293, page 644 - 645 MCRO (06/14/2001)	Map 50B, Parcel 14.07 Highway 28 is East Boundary; East Maryland Avenue is South Boundary Plat attached to easement.

37.	12/06/1999	Right-of-Way or Easement No. 4	Steven J. McDonough et ux Judy, (City of Whitwell)	Book 293, Pages 638-639 MCRO (06/14/2001)	Map 50B, Parcel 12.04 Plat attached to easement.
38.	12/06/1999	Right of Way or Easement	Anna T. French, (Whitwell, Tennessee)	Book 293, Pages 648 - 649 MCRO (06/14/2001)	ROW State Highway 28 is East Boundary; Map 50B, Parcel 13.00 Plat attached to easement.
39.	12/06/1999	Right of Way or Easement	Elvin Ellis French, Jr. and wife, Carolyn Sue (Whitwell, Tennessee)	Book 293, Pages 642-643 MCRO (06/14/2001)	Map 50B, Parcel 13.02 Plat attached to easement.
40.	12/13/1999	Right of Way or Easement	Forest Cartwright et ux Debbie B (Whitwell, Tennessee)	Book 293, Pages 640-641 MCRO (06/14/2001)	Map 50B, Parcel 12.03 Plat attached to easement.
41.	01/05/2000	Right-of-Way or Easement	Roger Wesley Layne, (Whitwell, Tennessee)	Book & Page # cannot read Notebook 17, Page 564 MCRO (06/14/2001)	Map 50B, Parcel 12.01 Plat attached to easement.
42.	02/10/2000	Easement	Buntlington Properties, Inc. by Harold Buntin, president, (City of Whitwell, Tennessee)	Book 277, Page 1001-1002 MCRO (02/17/2000)	State of Tennessee's ROW along East Valley Road

43.	03/22/2002	Grant of Easement	Thomas Ray Morrison, successor in title to E. A. Grayson, et ux, (City of Whitwell, Tennessee)	Book 306, Page 1607 - 1608 MCRO (04/01/2002)	Reference Tract 5 in deed of record Deed Book 5-T, Pages 550, et seq. in the MCRO Easement for access road to intake site
44.	05/21/2003	Right-of-Way or Easement No. 17B	Ronald E. Calhoun, (West Valley Water System)	Book 345, page 176 MCRO (08/26/2004)	Map 97, Parcel 42 * free tap at Calhoun Farm office; all fences and damages to property must be put back to original condition Plat attached to easement.
45.	07/15/2003	Right-of-Way or Easement No. 18	H. E. Dixon et ux Edna L. c/o Gary E. Dixon (West Valley Water System)	Book 345, Page 168-169 MCRO (08/26/2004)	Map 97, Parcel 41.04 Plat attached to easement.
46.	07/24/2003	Right-of-Way or Easement No. 19	Roy R. Rheal, Jr. et ux Sharon, (West Valley Water System)	Book 345, Page 170-171 MCRO (08/26/2004)	Map 97, Parcel 32 Plat attached to easement.
47.	07/24/2003	Right-of-Way or Easement No. 20	James E. Cooper, Alice L. Cooper (West Valley Water System)	Book 345, Page 172 - 173 MCRO (08/26/2004)	Map 97, Parcel 30 * blueberry bushes not to be disturbed Plat attached to easement.
48.	11/09/2003	Right-of-Way or Easement No. 11	Willie K. Davis (Whitwell, Tennessee)	no recording information	Map 57, Parcel 28

49.	06/12/2006	Right-of Way or Easement No. 3	Doris B. Johnson c/o J&S Restaurants, Inc. (Whitwell, Tennessee)	Book 401, Page 1162- 1163 MCRO (06/10/2008)	Map 50, Parcel 19 Hardee's Booster
50.	08/11/2006	Right-of-Way or Easement No. 4	B. L. McClendon (Whitwell, Tennessee)	Book 405, Page 446-447 MCRO (09/30/2008)	Map 50, Parcel 18 Plat attached to easement.
51.	03/04/2008	Right-of-Way or Easement No. 28	Marion County Board of Education by Mark Griffith, (Whitwell, Tennessee)	Book 400, Pages 754 - 755 MCRO (05/06/2008)	Map/Parcel 50B-B2 Plat attached to easement.
52.	03/04/2008	Right-of-Way or Easement No. 1	Marion County Board of Education by Mark Griffith, (Whitwell, Tennessee)	Book 400, Page 756 MCRO (05/06/2008)	Map/Parcel 57- 1.01 Excludes Lady Tigers softball field. Plat attached to easement.
53.	04/21/2008	Right-of-Way or Easement No. 21	Mary Kaye Kirk, (Whitwell, Tennessee)	Book 400, Pages 758-759 (05/06/2008)	Map/Parcel 330-C21 Plat attached to easement.
54.	04/21/2008	Right-of-Way or Easement No. 22	Mary Kaye Kirk (Whitwell, Tennessee)	Book 400, Pages 760-761 MCRO (05/06/2008)	Map/Parcel 330-C20 Plat attached to easement.
55.	04/22/2008	Right-of-Way or Easement No. 5	Renna H. Scussel, (Whitwell, Tennessee)	Book 400, Pages 764 - 765 MCRO (05/06/2008)	Map/Parcel 50- 17 Plat attached to easement.

56.	04/22/2008	Right-of-Way or Easement No. 6	Renna H. Scussel, (Whitwell, Tennessee)	Book 400, Pages 762-763 MCRO (05/06/2008)	Map/Parcel 50-17.01 Plat attached to easement.
57.	04/04/2010	Right-of-Way Easement	Amy Condra Jordan and Henry L. Jordan (Whitwell, Tennessee)	Book 429, Page 1625 MCRO (06/01/2011)	Map/Parcel 50 - 8.05 Plat attached to easement.
58.	12/20/2010	Right-of-Way Easement	Kenneth Terry and Carole Terry (Whitwell, Tennessee)	Book 429, Page 1617 - 1618 MCRO (06/01/2011)	Map/Parcel 50L A 18.00 Plat attached to easement.
59.	12/20/2010	Right-of-Way Easement	Earl N. and Joanne A. Condra, (City of Whitwell, Tennessee)	Book 429, Page 1621 MCRO (06/01/2011)	Map/Parcel 50 - 8.04 Plat attached to easement.
60.	12/20/2010	Right-of-Way Easement	Joyce H. Davis (City of Whitwell, Tennessee)	Book 429, page 1631 MCRO (06/01/2011)	Map/Parcel 57 - 15.00 Plat attached to easement.
61.	03/15/2011	Right-of-way Easement	Wilburn N. Lofty and Hazel M. Lofty (City of Whitwell, Tennessee)	Book 429, Pages 1633-1634 MCRO (06/01/2011)	Map/Parcel 50L - A 2.00 Plat attached to easement. Temporary easement
62.	03/16/2011	Right-of-Way Easement	Wayne Richards and Georgia Richards (City of Whitwell, Tennessee)	Book 429, Pages 1635 - 1636 MCRO (06/01/2011)	Map/Parcel 57 - 9:00 Plat attached to easement.

63	03/16/2011	Right-of-Way Easement	Wayne Richards and Georgia Richards (City of Whitwell, Tennessee)	Book 429, Pages 1637-1638 MCRO (06/01/2011)	Map/Parcel 57 - 11.06 Plat attached to easement. Temporary easement
64.	03/16/2011	Right-of-Way Easement	Thomas E. Richards (City of Whitwell, Tennessee)	Book 429, Pages 1639 - 1640 MCRO (06/01/2011)	Map 57, Parcel 9.05 Plat attached to easement.
65.	04/15/2011	Right-of-Way Easement	Steve and Robbie Mathis (City of Whitwell, Tennessee)	Book 429, Pages 1629-1630 MCRO (06/01/2011)	Map 50 Parcel 8.08 Plat attached to easement.
66.	04/15/2011	Right-of-Way Easement	Steve and Robbie Mathis (City of Whitwell, Tennessee)	Book 429, Pages 1627 - 1628 MCRO (06/01/2011)	Map 50 Parcel 8.06 Plat attached to easement.
67.	06/01/2011	Right-of-Way Easement	Town of Powells Crossroads (City of Whitwell, Tennessee)	Book 429, Pages 1641 - 1642 (06/01/2011)	Map 57 Parcel 13.03 Plat attached to easement. Temporary easement
68.	06/01/2011	Right-of-Way Easement	James R. Chapin (City of Whitwell, Tennessee)	Book 429, Pages 1619 - 1620 06/01/2011	Map 57 Parcel 9.06 Plat attached to easement.

69.	07/07/2011	Right-of-Way Easement	Town of Powells Crossroads (City of Whitwell, Tennessee)	Book 431, Pages 62 - 63	Map 57 Parcel 13.03 Plat attached to easement. Temporary easement
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List of any options, leases, covenants, conditions, easements, agreements, claims or restrictions on use or transfer of the above easement properties:

None.

Schedule 3.4(b)(ii)

List of all rights of way, together with a list of any options, leases, covenants or restrictions on use or transfer

1. The City of Whitwell will convey to the Buyer and its assignees at Closing the right and license to place Buyer's water mains and all related equipment and facilities necessary for the operation of the System (as it now exists or may hereafter be expanded or modified) in the right-of-way of any public road within the boundaries of the City of Whitwell without charge or payment of any additional consideration, the payment of the Purchase Price being full consideration for such right and license.
2. List of any options, leases, covenants, conditions, easements, agreements, claims or restrictions on use or transfer of the above easement properties:

None.

Schedule 3.4(e)

List of Conditions Affecting the Real Property or Improvements that Require Repair or Correction to Restore the Real Property or Improvements to Operating Condition

None.

Schedule 3.5(a)

List of Certain Acquired Assets - Tangible Personal Property

WATER PLANT

304.31 New Water Plant
304.31 New Water Plant
304.31 Filter rehab at water treatment plant
311.27 Chart Recorder
311.27 Transmitter for Chart Recorders
311.27 Chart Recorders (2)
311.27 Chart Recorder
311.27 Pump lagoon
311.27 Tanya Lynn pump station automation
311.27 Red Hill pump station automation
311.27 Hardees pump station automation
311.27 Box charts (5)
311.27 Invensys transmitters for LOH gauges
320.31 Chlorinators
320.31 Chlorine analyzer
320.31 Chlorine scale
320.31 Chlorinator and chemical feed pipe
320.31 Air compressor and auto drain
320.31 Regal vacuum regulator head
311.22 Century motor
311.22 Water pump replacement

WATER SYSTEM/MAINS, TANKS, PUMP STATIONS HYDRANTS

304.22 Tanya Lynn pumping station
304.22 Red Hill pumping station
304.22 Hardees pumping station
304.22 Huey construction final
304.22 Waterworks addition
330.41 Tanya Lynn water tank
330.41 Herkey water tank
330.41 Red Hill water tank
330.41 Red Hill water tank major repair
330.41 Water tank renovations
331 Hwy 27 South Water Line
331 Water System Addition
331 Water System Addition

331 Ketner Cove 500
 331 Hwy 28 Project
 331 TML Water System Improvements
 331 Whitwell CDBG Water Project
 331 Waterworks addition
 331 CDBG Grant Additions - mains
 331 Contract labor water lines
 331 F Valley senior CIT sharp pic
 331 400' of 2-inch pipe
 331 Pipe contributed
 331 Addition
 331 Addition
 331 Addition
 331 Addition
 331 Addition
 331 Addition
 331 Utility supply co
 331 FY 94 Additions
 331 Mt Calvary project
 331 Check valve and shut off valve
 331 Gate valve
 331 Backflow preventer
 331 Baker Lane Water
 331 Cartwright Loop
 331 CDBG Main Extension Project
 331.42 6-in main addition
 335.4 Fire hydrants

EQUIPMENT AND VEHICLES

340.53 Copier Mita
 340.53 Computer - Unisys
 340.53 Computer system 3 P200MMX with Hub & Peer to Peer
 340.54 IBM typewriter
 343.5 Microscope pump drill air pack
 343.5 Geophone
 344.5 E Coli Test
 345.5 Air compressor
 347.51 Mud pump
 347.51 Meter pump and chlorinator
 347.51 Water pump
 347.51 Raw water pump

2000 Ford Ranger (VIN# 1FTYR10V7YPC00130)
 2000 Ford F250 (VIN# 1FTNF2OL1YED70527)
 2008 Ford F150 (VIN# 1FTRF12W18KC86616)
 2008 Ford F150 (VIN# 1FTRF12WX8KC86615)

2009 Ford Ranger (VIN# 1FTYR10D09PA18083)
F9000 (VIN# 1FDYK90W5JVA16183)
Caterpillar Backhoe
Ditch Witch
Trailer (VIN# 1A9FB252OWL429354)
1995 Ford F700 (VIN# 1FDYF70J4SVA10373)
1991 Ford dump truck (VIN# 2FDLF47G0MCA42572)
New Holland boom mower (VIN# 28BD17698)
Diamond boom (VIN# DB-50C)
1989 Ford Tractor (VIN# 5610BD55146)

Schedule 3.5(b)

List of all Acquired Assets that are Personal Property and are (i) in the Possession of Others, (ii) Held on Cby Seller, or (iii) not Maintained in Accordance with Industry Practice, not in Good Operating Condition and Repair or not Suitable for the Purposes for which Presently Used.

None.

Schedule 3.6

Liabilities of Seller not Shown on the Audited Financial Statements or Incurred in the Ordinary Course of Business since the Date of the Audited Financial Statements

None.

Schedule 3.8

List of all Contracts

1. Sewage Services Agreement dated November 2, 2006 among the Town of Jasper, the Town of Powells Crossroads and the City of Whitwell. [Will not be assumed.]
2. Grant Agreement for 2000 line replacement (\$500,000 CDBG). [Will not be assumed.] [Seller will provide Buyer with a true and correct copy of this agreement not later than 60 days following the date of this Agreement.]
3. Grant Agreement for 2009 line replacement (\$500,000 CDBG). [Will not be assumed.] [Seller will provide Buyer with a true and correct copy of this agreement not later than 60 days following the date of this Agreement.]
4. Grant Agreement for 2007 water system improvements (\$500,000 CDBG). [Will not be assumed.] [Seller will provide Buyer with a true and correct copy of this agreement not later than 60 days following the date of this Agreement.]
5. Grant Agreement for 2002 water system improvements (\$500,000 CDBG). [Will not be assumed.] [Seller will provide Buyer with a true and correct copy of this agreement not later than 60 days following the date of this Agreement.]
6. Grant Agreement for Powells Cross Roads improvements. (\$297,500 ARC). [Will not be assumed.] [Seller will provide Buyer with a true and correct copy of this agreement not later than 60 days following the date of this Agreement.]
7. Bond resolutions for all outstanding bond issues. [Will not be assumed.] [Seller will provide Buyer with true and correct copies of the bond resolutions for all outstanding bond issues not later than 60 days following the date of this Agreement.]

Schedule 3.9(d)

List of Hazardous Materials Present on the Real Property or Adjoining Property

None.

Schedule 3.9(e)

List of (i) Underground Storage Tanks, (ii) Asbestos-containing Material, (iii) Materials or Equipment Containing Polychlorinated Biphenyl, (iv) Ground Water Monitoring Wells, or (v) Landfills, Surface Impoundments or Disposal Areas

None.

Schedule 3.9(f)

**Description of any Obligations of Seller to Provide Financial Assurance re the System
under Environmental Law**

None.

Schedule 3.10

List of all Permits Used in or Necessary for the Operation of the System

The Seller will provide Buyer with a list of all Permits and true and correct copies of such Permits not later than 60 days following the date of this Agreement. All such Permits shall be acceptable to Buyer in its sole but reasonable discretion.

Schedule 3.11

List of all insurance policies maintained by Seller on the System

See attached Declaration.



LIABILITY COVERAGE DECLARATIONS
THIRD ANNIVERSARY RATING

Attached to and forming a part of Policy TML-0314-12 effective 12/31/2011

INSURED

WHITWELL, CITY OF

(See Additional Named Insured Endorsement)

13671 HIGHWAY 28,

WHITWELL, TN 37397

AGENT

FIRST VOLUNTEER INSURANCE

P O BOX 878

JASPER, TN 37347

It is understood and agreed that the Third Anniversary Rating Declarations Pages 2 and 3 are attached.

THIRD ANNIVERSARY RATING DECLARATION		
Third Anniversary Rating for 12/31/2011 to 12/31/2012		
COVERAGE	COVERAGE PART	PREMIUM
General Liability	A/B	7,427
Law Enforcement Liability	A/B	5,840
Errors or Omissions Liability	C	7,279
Automobile Liability	D	7,216
Automobile Physical Damage	E	4,854
Other		
TOTAL		32,616

TENNESSEE MUNICIPAL LEAGUE RISK MANAGEMENT POOL
5100 MARYLAND WAY, BRENTWOOD TN 37027

THIRD ANNIVERSARY RATING DECLARATIONS - PAGE 2

Page 2 of 3

INSURED WHITWELL, CITY OF

Policy Number TML-0314-12

ITEM 4. LIMITS OF COVERAGE

COVERAGE A - GENERAL LIABILITY and COVERAGE B - PERSONAL INJURY LIABILITY

\$300,000 PER PERSON FOR BODILY INJURY OR PERSONAL INJURY AS LIMITED BY THE TORT LIABILITY ACT
 \$700,000 PER OCCURRENCE FOR BODILY INJURY OR PERSONAL INJURY AS LIMITED BY THE TORT LIABILITY ACT
 \$100,000 PER OCCURRENCE FOR PROPERTY DAMAGE AS LIMITED BY THE TORT LIABILITY ACT
 \$700,000 PER OCCURRENCE FOR EACH OTHER LOSS
 \$1,000,000 PER OCCURRENCE FOR CATASTROPHIC MEDICAL EXPENSES EXCESS OF BODILY INJURY
 \$1,000 PER PERSON AND \$10,000 PER ACCIDENT FOR MEDICAL PAYMENTS
 \$100,000 PER OCCURRENCE FOR FIRE DAMAGE
 \$100,000 PER OCCURRENCE FOR IMPOUNDED PROPERTY DAMAGE OR COMMANDEERED PROPERTY DAMAGE
 \$100,000 PER OCCURRENCE FOR NON-MONETARY DEFENSE COSTS

COVERAGE C - ERRORS OR OMISSIONS LIABILITY \$700,000 PER OCCURRENCE

\$100,000 PER OCCURRENCE FOR NON-MONETARY DEFENSE COSTS

\$700,000 PER OCCURRENCE FOR EMPLOYEE BENEFITS LIABILITY

COVERAGE D - AUTOMOBILE LIABILITY and COVERAGE E - AUTOMOBILE PHYSICAL DAMAGE

This policy provides only those coverages where a designation symbol is shown under Covered Autos below. Entry of one or more of the symbols from Item 5 indicates the autos that are covered autos.

Coverages	Covered Autos	Limits
LIABILITY	<u>1, 2, 3</u>	\$300,000 PER PERSON FOR BODILY INJURY AS LIMITED BY THE TORT LIABILITY ACT \$700,000 PER OCCURRENCE FOR BODILY INJURY AS LIMITED BY THE TORT LIABILITY ACT \$100,000 PER OCCURRENCE FOR PROPERTY DAMAGE AS LIMITED BY THE TORT LIABILITY ACT \$700,000 PER OCCURRENCE FOR EACH OTHER LOSS \$1,000,000 PER OCCURRENCE FOR CATASTROPHIC MEDICAL EXPENSES EXCESS OF BODILY INJURY
MEDICAL PAYMENTS	<u>1</u>	\$1,000 PER PERSON AND \$10,000 PER ACCIDENT.
UNINSURED MOTORISTS	<u>1</u>	\$60,000 PER OCCURRENCE FOR BODILY INJURY AND \$100,000 PER OCCURRENCE FOR PROPERTY DAMAGE
COMPREHENSIVE	<u>1, 2</u>	SEE AUTOMOBILE PHYSICAL DAMAGE ENDORSEMENT(S)
COLLISION	<u>1, 2</u>	SEE AUTOMOBILE PHYSICAL DAMAGE ENDORSEMENT(S)

ITEM 5. DESCRIPTION OF COVERED AUTOMOBILES - DESIGNATION SYMBOLS

Symbol	Description
1	OWNED AUTOS ONLY. Only those autos you own, including those autos that you acquire during the policy period.
2	HIRED AUTOS ONLY. Only those autos you lease, hire, rent, or borrow, including any auto you lease, hire, rent, or borrow from any of your employees.
3	NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire, rent, or borrow that are used in connection with your business, including autos owned by your employees, but only while used in your business.

THIRD ANNIVERSARY RATING DECLARATIONS - PAGE 3

Page 3 of 3

INSURED WHITWELL, CITY OF

Policy Number TML-0314-12

ITEM 6. DEDUCTIBLES

COVERAGE A and COVERAGE B GENERAL LIABILITY AND PERSONAL INJURY LIABILITY	<u>NA</u>	PER OCCURRENCE
COVERAGE A and COVERAGE B LAW ENFORCEMENT GENERAL LIABILITY AND PERSONAL INJURY LIABILITY	<u>NA</u>	PER OCCURRENCE
COVERAGE C ERRORS OR OMISSIONS LIABILITY	<u>\$1,000</u>	PER OCCURRENCE
COVERAGE D AUTOMOBILE LIABILITY	<u>NA</u>	PER OCCURRENCE
COVERAGE E AUTOMOBILE PHYSICAL DAMAGE	<u>\$500</u>	PER OCCURRENCE
	<u>\$500</u>	PER OCCURRENCE

Comprehensive
Collision

ITEM 7. RETROACTIVE DATE 1/9/87

Coverages A, B, and C (Claims Made basis) of this policy do not apply to bodily injury, property damage, personal injury offenses, or any act, error, omission, or violation of rights, privileges, or immunities that occurred before the retroactive date, if any, shown above.

ITEM 8. FORMS, SCHEDULES, AND ENDORSEMENTS APPLICABLE TO ALL COVERAGE PARTS

Additional Named Insured Endorsement
Uninsured Motorists Endorsement
Auto Physical Damage Endorsement 11/12
Auto Physical Damage Stated Value for Fire Departments

**TML RISK MANAGEMENT POOL
MUNICIPAL LIABILITY COVERAGE**

ADDITIONAL NAMED INSURED ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ITEM 1 - INSURED SHOWN IN THE DECLARATIONS IS AMENDED TO INCLUDE THE FOLLOWING:

WHITWELL, CITY OF

- * CITY OF WHITWELL PARK BOARD**
- * CITY OF WHITWELL LIBRARY BOARD**
- * CITY OF WHITWELL SENIOR CITIZENS BOARD**

- * CITY OF WHITWELL AS RESPECTS POWELLS CROSSROADS/WHITWELL INDUSTRIAL PARK**

'As respects' means that only the acts, errors or omissions of the first party resulting from the first party's involvement in the activities of the second party are insured. Liability arising from the activities of the second party or other third party are not covered. This insurance is excess over any primary insurance provided to the second party that may inure to the benefit of the first party.

**TML RISK MANAGEMENT POOL
MUNICIPAL LIABILITY COVERAGE**

AUTOMOBILE PHYSICAL DAMAGE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Automobile Physical Damage – Coverage Part E applies on a blanket basis to **automobiles** described below.

1. ☒ Coverage is applicable for automobiles of all values and ages
2. ☐ Coverage is applicable for automobiles with per automobile values greater than _____ at the time of loss.
3. ☐ Coverage is applicable for automobiles with model year no older than _____

- ☒ Police Department
- ☒ Fire Department-Scheduled-Stated Amount:Unscheduled-Fair Market Value
- ☐ Utility Department-Scheduled-Stated Amount:Unscheduled-Fair Market Value
- ☒ All Other Departments

**TML RISK MANAGEMENT POOL
MUNICIPAL LIABILITY COVERAGE**

**AUTOMOBILE PHYSICAL DAMAGE COVERAGE
STATED VALUE COVERAGE - FIRE DEPARTMENTS**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

For only the **automobiles** scheduled on this endorsement, SECTION I – COVERAGES, Item 3 of Coverage E - Automobile Physical Damage of is deleted and replaced by the following:

3. The most we will pay for loss is:

- a. If the cost of repairing a damaged vehicle is less than the Fair Market Value we will pay to repair the equipment to the quality and condition prior to loss.
- b. If the cost of repairing a damaged vehicle equals or exceeds the Fair Market Value, we will pay the lesser of the following:
 - (1) The 'stated value' amount shown in the schedule on this endorsement or
 - (2) The cost of a new vehicle of like kind, quality and function, similarly equipped with allowance for improvements to modern safety standards.

Fair Market Value is the cost for which property of similar type, quality, age and condition prior to loss could be purchased on the date of loss.

Equipment that is permanently attached to a vehicle, or equipment that supplements the function of the vehicle and is regularly stored in or on the vehicle, will be included in the value of the vehicle unless separately insured.

**WHITWELL, CITY OF
STATED VALUE FIRE SCHEDULE**

	<u>VIN</u>	<u>Stated Value</u>
1. 2002 GMC FIRE TRUCK	# 6864	\$114,000
2. 1984 EMERGENCY ONE	# 3999	\$200,000

TML RISK MANAGEMENT POOL

Third Anniversary Rating Liability Premium Breakdown

Insured: WHITWELL, CITY OF

Effective Date:
12/31/2011

TOTAL ALL COVERAGES	27,762
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TOTAL ALL LIABILITY	27,762
TOTAL PHYSICAL DAMAGE	4,854

GENERAL LIABILITY	PREMIUM
General Fund	911
Street Department	431
Sewer Department	0
Schools	0
Water Department	5,846
Electric Department	0
Sanitation Department	0
Gas Department	0
Fire Department	49
Parks and Recreation	190
Airport	0
Misc GL	0
Total Basic General Liability	7,427

LAW ENFORCEMENT	Number of	Premium per	PREMIUM
Certified Officers	5	560.80	2,804
Non-Certified Officers	3	1,012.00	3,036
Auxiliary/Reserve Officers	0	0.00	0
Jail/Holding Area	0	0.00	0
Attack/Drug Dogs	0	0.00	0
Additional Programs	0	0.00	0
Total Law Enforcement Liability			5,840

Total Errors or Omissions Liability	7,279
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TML RISK MANAGEMENT POOL

Third Anniversary Rating Liability Premium Breakdown

Insured: WHITWELL, CITY OF

Effective Date:
12/31/2011

AUTO LIABILITY	Number of Vehicles	Premium per Vehicle	PREMIUM
Hired and Non-Owned Only	0	0.00	0
Other	0	0.00	0
Motorcycles	0	0.00	0
Trailers	2	123.50	247
Buses	0	0.00	0
Passenger Vans	0	0.00	0
Sanitation Trucks	0	0.00	0
Antique Fire Trucks	0	0.00	0
Fire Trucks	2	462.00	924
Utility Trucks	0	0.00	0
Other Trucks	2	317.50	635
Light Trucks	4	288.00	1,152
PPT	1	407.00	407
PPT-Police	6	610.00	3,660
Ambulance	0	0.00	0
Total Basic Auto Liability			7,025
Uninsured Motorist	15	12.73	191
Total Auto Liability			7,216

AUTOMOBILE PHYSICAL DAMAGE			
CLASSIFICATION	VALUES	RATE	PREMIUM
Police/Ambulance	90,000	.0161	1,449
Fire Fighting Equipment	314,000	.0085	2,680
Utility Equipment		.0000	0
Total Other Values	85,000	.0085	725
Other		.0000	0
Other		.0000	0
Other		.0000	0
Other		.0000	0
Other		.0000	0
Other		.0000	0
Comprehensive Only		.0000	0
Total Automobile Physical Damage			4,854

Schedule 3.14

List of any Default, Breach or Violation of any Laws, Permits, Orders, Ordinances, Rules and Regulations Applicable to the Acquired Assets of the System of which the Seller has Received Notice

None, other than one notice regarding turbidity in the Sequatchie River. Seller represents and warrants to Buyer that this violation has been cured in all respects and all fines or penalties with regard to such violation have been paid in full and that Seller has not further liability with respect to such violation.

Schedule 3.15

Copies of the Audited Financial Statements of Seller

Seller will provide Buyer will a true and correct copy of the Audited Financial Statements not later than November 30, 2012.

Schedule 3.16

List of Officers, Commissioners or Employees of Seller who have a Financial Interest in any Customer or Supplier of the System or Who Have a Business Relationship with the Seller

None.

Schedule 3.17

Water/Sewer Ordinances of Seller to be Retained, Deleted or Modified

TITLE 18 WATER and SEWERS

CHAPTER

- 1. WATER AND SEWERS**
- 2. SEWAGE AND HUMAN EXCRETA DISPOSAL**
- 3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.**

CHAPTER 1 WATER AND SEWERS

SECTION

- | | |
|---------|--|
| 18-101. | (Delete) |
| 18-102. | (Delete) |
| 18-103. | (Delete) |
| 18-104. | (No change) |
| 18-105. | (Delete) |
| 18-106. | (Delete) |
| 18-107. | Replace "city" with "the water supply system" and remove "municipal" |
| 18-108. | (Delete) |
| 18-109. | (Delete) |
| 18-110. | (Delete) |
| 18-111. | (Delete) |
| 18-112. | (Delete) |
| 18-113. | (Delete) |
| 18-114. | (Delete) |
| 18-115. | (Delete) |
| 18-116. | (Delete) |
| 18-117. | (Delete) |
| 18-118. | (Delete) |
| 18-119. | (Delete) |
| 18-120. | (Delete) |
| 18-121. | (Delete) |
| 18-122. | (Delete) |
| 18-123. | (Delete) |
| 18-124. | (Delete) |
| 18-125. | Replace "city's" with "water system's" and "city" with "water supply system" |
| 18-126. | Replace "city" with "water supply system" and delete the entire second paragraph |
| 18-127. | (Delete) |
| 18-128. | (Delete) |

- 18-129. (Delete)
- 18-130. (Delete)
- 18-131. (Delete)
- 18-132. (Delete)
- 18-133. (Delete)

CHAPTER 2

SEWAGE AND HUMAN EXCRETA DISPOSAL

No proposed changes

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

- | SECTION | |
|------------|--|
| 18-301.(1) | Replace " <u>Public water system</u> " with " <u>Public Water System</u> " and delete "to Whitwell" |
| 18-302. | Delete "Whitwell" |
| 18-303. | Delete "water plant operator of the Whitwell" |
| 18-304. | Replace "public water supply" with "Public Water System" and replace "water plant operator" with "Public Water System" |
| 18-305. | Delete "water plant operator of the" and delete "water plant operator of the Whitwell" |
| 18-306. | Replace "water plant operator or his representative" with "Public Water System" and delete "Whitwell" |
| 18-307. | Delete "water plant operator of the Whitwell" and delete "Whitwell" |
| 18-308.(4) | Delete "water plant operator of the Whitwell" in two locations and delete "Whitwell" in three locations |
| 18-310. | (Delete) |

Schedule 6.3(c)

Real Property Rights to be Acquired by Seller Prior to Closing

1. Fee simple ownership or easement for water intake at the Sequatchie River and right to take water for the System from the Sequatchie River
2. Easement for pipeline from the Sequatchie River intake to the treatment plant
3. Fee simple ownership of or easement for Red Hill tank
4. Fee simple ownership of or easement for Powell's Crossroad's booster station
5. Easement for main transmission line between the water treatment plant in Whitwell and the portion of the System in Powell's Crossroads

Schedule 7.2

Additional items for which Seller will provide indemnification to Buyer

1. Any sales taxes and related penalties and interest owed by the Seller to Sequatchie County, Tennessee.
2. Buyer shall have the right to update this Schedule 7.2 with additional items by providing written notice to Seller not later than ten (10) days prior to Closing.

EXHIBIT B

WATER FRANCHISE AGREEMENT

THIS WATER FRANCHISE AGREEMENT ("Agreement") is made and entered into this 20 day of Nov, 2012 to be effective as of the Effective Date (as that term is defined below) by and between the **TOWN OF POWELLS CROSSROADS, TENNESSEE** (the "Town"), a Tennessee municipal corporation, and **TENNESSEE-AMERICAN WATER COMPANY**, a corporation organized and existing under the laws of the State of Tennessee (the "Company").

WITNESSETH:

WHEREAS, the City of Whitwell, Tennessee ("Whitwell") currently owns and operates source of water supply systems, water treatment and storage systems and water distribution systems within Whitwell, the Town, unincorporated portions of Marion County, Tennessee and unincorporated portions of Sequatchie County, Tennessee (collectively the "Systems"); and

WHEREAS, Whitwell has entered into an Asset Purchase Agreement dated October 30, 2012 with the Company, pursuant to which Whitwell has agreed to sell the System to the Company, subject to certain conditions precedent being met (the "Purchase Agreement"); and

WHEREAS, one of the conditions precedent to the closing of the sale of the Systems is the Town's execution and delivery of this Agreement; and

WHEREAS, the Town has determined that it will be in the best interests of the residents of the Town to grant an exclusive water utility franchise to the Company within the corporate limits of the Town (the "Franchise Area"), pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the Company and the Town hereby agree as follows:

ARTICLE 1 **Grant of Franchise**

1.1 Grant of Franchise.

(a) **Franchise.** There is hereby given and granted to the Company the exclusive right, privilege, authority, license, and permission to construct, install, operate, repair, replace, remove, and maintain the Systems in and through the Franchise Area; to construct, install, operate, repair, replace, remove, and maintain all such facilities as may be necessary and convenient for the Systems, in, upon, along, over, across, and under the public ways, public property and private easements within the Franchise Area (collectively, the "Franchise"). The Franchise is limited solely by the terms of this Agreement, and no additional permission, permit, or license is necessary for the exercise of the Franchise. There shall be no fees assessed by the Town for the granting or exercise of the Franchise.

(b) **Compliance with Laws.** In exchange for the granting of the Franchise, the Company hereby agrees to provide the Services (as defined in Section 2.1) within the Franchise

Area in accordance with the Certificate of Convenience and Necessity and such accounting, ratemaking and regulatory approvals as may be granted from time to time by the Tennessee Regulatory Authority (collectively, the "TRA Approvals"), the laws of the State of Tennessee, the rules and regulations of the Tennessee Regulatory Authority (the "TRA") and all other federal and state governmental or administrative agencies having proper jurisdiction over the Company, and the terms of this Agreement. The Town hereby acknowledges and agrees that the Company's Services (as defined in Section 2.1) and rates assessed within the Franchise Area, including any annexed area pursuant to Section 1.2, shall be subject to the rules and regulations of the TRA (or any successor agency). The Town shall have no authority to determine or impose any rates, fees or charges for customers of the Systems.

1.2 Annexation of Additional Territory; Operation, Extension and Improvement of the System Outside the Town. Upon the annexation of any territory to the Town, such portion shall thereafter be considered a part of the Franchise Area and subject to all the terms of this Agreement. The Town will support the Company's operation, extension or improvement of the Systems in areas currently outside the corporate boundaries of the Town and, upon request of the Company and at the Company's expense, will cooperate with the Company in any petitions by the Company to the TRA regarding the Company's operation, extension or improvement of the System outside the corporate boundaries of the Town.

1.3 Term.

(a) The term of the Franchise will be for a period of twenty-five (25) years from the Effective Date, subject to renewal as provided in Section 1.3(b) below.

(b) The Franchise will automatically renew for successive renewal terms of twenty-five (25) years each without further action by the Town or the Company. Each such renewal term shall commence immediately following the expiration of the initial term or the then current renewal term, as the case may be. Notwithstanding the foregoing, however, the Franchise shall terminate at the end of the initial term or any renewal term if the Town notifies the Company in writing that the Town will not renew the Franchise. To be effective, the Town must give such notice of non-renewal to the Company during the sixty (60) day period preceding that date which is five (5) years prior to the expiration of the then current term.

(c) If the Town elects not to enter into any renewal term by giving the notice specified in Section 1.3(b) above, then on the expiration date of the then current term, the Town shall repurchase from the Company the portions of the Systems located within the boundaries of the Town, together with any improvements to and extensions of the Systems made by the Company following the Effective Date within the boundaries of the Town, including without limitation all real property rights and interests, all fixtures and equipment, and all other tangible and intangible personal property used or useful in the operation of the Systems within the boundaries of the Town (collectively, the "Repurchased Assets") for a purchase price equal to the fair market value of the Repurchased Assets as of the expiration date of the then current term, as determined by a Qualified Appraiser (as defined below), selected by the Company and reasonably acceptable to the Town. The Company shall select a Qualified Appraiser and give notice thereof to the Town not later than one-hundred-eighty (180) days prior to the expiration

date of the then current term. The Town shall notify the Company of any reasonable objection to the Qualified Appraiser not later than ten (10) days after receipt of notice from the Company of its selection. If the Company and the Town are unable to agree upon a Qualified Appraiser not later than 150 days prior to the expiration date of the then current term, then the Town shall also select a Qualified Appraiser. The Qualified Appraisers selected by the Company and the Town shall then select a third Qualified Appraiser. The Qualified Appraiser selected by Company and approved by the Town or the third Qualified Appraiser, as the case may be, shall then be instructed by the Company and the Town to determine the fair market value of the Repurchased Assets as of the expiration date of the then current term and furnish an appraisal report to the Company and the Town not later than ninety (90) days prior to the expiration date of the then current term. The Qualified Appraiser shall also be instructed to determine the fair market value of the Repurchased Assets using the RCNLD (as defined below) method of valuation under the cost approach.

(d) The purchase price for the Repurchased Assets, as determined pursuant to Section 1.3(c) above, shall be paid on the expiration date of the then current term by the Town to the Company in immediately available funds in accordance with wire instructions furnished by the Company. Concurrently with the payment of such purchase price, the Town shall also assume all liabilities associated with the Repurchased Assets and the operation of the Systems within the boundaries of the Town, including any obligations to repay any grants or any indebtedness incurred in connection with any improvement to or extension of the Systems within the boundaries of the Town.

(e) If requested by the Company, not later than the expiration date of the then current term Town will also execute and deliver to the Company a wheeling agreement pursuant to which the Company will have the right, even after termination of the Franchise and at no additional cost to the Company, to transfer water through any water distribution system that may be operated by Whitwell or its contractors or assigns following the purchase of the Repurchased Assets, and to serve customers who may be connected, directly or indirectly, to the Company's water mains, whether inside or outside of the service area of the Town (or its contractors or assigns). Such wheeling agreement shall also provide that the Town (or its contractors or assigns) will make improvements to the water distribution system of the Town (or its contractors or assigns) deemed necessary by the Company to facilitate the efficient transfer of water through such system. The wheeling agreement shall otherwise be in form and substance acceptable to the Company in its reasonable discretion.

(f) A "Qualified Appraiser" is an appraiser or engineer who is qualified to prepare valuations of water systems and assets using the RCNLD method under the cost approach and has experience in doing so. The charges of the Qualified Appraisers shall be paid by the Town. The determination of the fair market value of the Repurchased Assets by the Qualified Appraiser in accordance with Section 1.3(c) shall be binding and conclusive on the Company and the Town.

(g) "RCNLD" means the replacement cost (new) of all tangible and intangible personal property included in the Repurchased Assets, less observed depreciation, plus the value of all real property (as if vacant) or any interest therein included in the Repurchased Assets, as of

the date of valuation.

(h) "Effective Date" shall mean the date on which the purchase of the Systems by the Company from Whitwell pursuant to the Purchase Agreement occurs.

ARTICLE 2

Obligations and Covenants of the Company

2.1 Services to be Performed by the Company. The Company hereby agrees to use that portion of the Systems located in the Franchise Area for the treatment, storage, distribution and sale of water within and outside the corporate limits of the Town, as the Systems may be hereafter extended, enlarged, replaced, relocated, or paralleled by additional mains from time to time hereafter (collectively, the "Services"). In connection with the performance of the Services, the Company further agrees to the following:

(a) **Repairs, Maintenance and Restoration.**

(i) All pipes, mains and other appurtenances, including connections with service pipes, shall be located so as not to injure unnecessarily any drains, sewers, catch basins, pavements or other like public improvements. In the event any drain, sewer, catch basin, pavements or other like public improvement should be injured by such location by the Company, the Company shall, in a reasonable period of time under the circumstances, repair the damage caused by such injury to the reasonable satisfaction of the Town.

(ii) In the event that the Company causes an opening in any street or right-of-way within the Town during the operation of the Systems, the Company (A) will repair or replace the street or right-of-way at its expense using cold patch or a similar temporary fix within a reasonable period of time under the circumstances, and (B) shall thereafter when reasonably practicable under the circumstances permanently place the paving or other surface back in substantially the same condition as prior to such opening.

(b) **Communication of Capital Projects.** The Company and the Town recognize that communication of planned improvements or maintenance of infrastructure is beneficial to each party and to the residents of the Town. To coordinate, to the extent reasonably possible, any such construction activities, the parties shall meet at least once each year at a mutually agreed upon time or at such other intervals as may be mutually agreed upon, to discuss their respective capital improvement plans within the Franchise Area. The Town agrees that it will not unreasonably delay, withhold, or condition the granting of any zoning, planning, or building approvals or other licenses or permits necessary for Company improvement or maintenance activities.

(c) **Emergency Contact Information.** Each party shall provide to the other a list of contact telephone numbers or other contact information which will allow either party to contact a representative of the other 24 hours per day, 365 days per year.

ARTICLE 3

Obligations and Covenants of the Town

3.1 Protection of Franchise.

(a) The Town shall not: (i) permit or grant to any person or corporation the right to install, extend, or maintain any water, gas, telephone, sewer, or other system, or any pipes, mains, conduits, or wires, so as to injure, damage, or interfere with any part of the Systems, including without limitation any pipes, mains, tanks, pumps or other equipment or appurtenances of the Company; (ii) vacate any rights-of-way containing any part of the Systems, including without limitation any pipes, mains, tanks, pumps or other equipment or appurtenances of the Company, without the Company's prior approval or reservation of an easement providing a right to construct, operate, maintain, extend, or replace the Systems, including without limitation any pipes, mains, tanks, pumps or other equipment or appurtenances of the Company; and (iii) permit or grant to any person or corporation any right that could reasonably interfere with any of the rights granted hereunder to the Company.

(b) The Town hereby covenants and agrees to take all necessary steps needed to protect the property of the Company located within the corporate boundaries of the Town. In order to effectuate the foregoing, the Town hereby agrees to take all necessary steps to ensure the effectiveness and validity of the Franchise and this Agreement and that all acts, ordinances, and parts of acts heretofore passed that are inconsistent with the Franchise and this Agreement are repealed. The Town further covenants and agrees not to adopt any ordinance relating to the use and occupancy of the public streets or other rights-of-way that is in conflict herewith. The Town further agrees to enact such ordinances and otherwise take all necessary steps to effectuate the terms of the Franchise and this Agreement.

(c) The Town agrees that all easements and rights-of-way granted in favor of the Company or any other entity shall be as wide as the Company in its reasonable discretion deems necessary under the circumstances to protect the Systems and permit the efficient operation of the Systems, including without limitation any pipes, mains, tanks, pumps or other equipment or appurtenances of the Company.

ARTICLE 4

Confidential Information

4.1 **Confidential Information.** The parties acknowledge that at various times during the term of this Agreement, the Company may provide to the Town information that may contain any one or more of the following: Critical Infrastructure Information as defined by federal statutes and regulations, trade secrets or confidential non-public security, research, development, financial, commercial or proprietary information belonging to the Company or one of its affiliates, the disclosure of which could cause the Company economic harm or result in harm to customers. Therefore, in order to protect Critical Infrastructure Information as defined by federal statutes and regulations; trade secrets, or confidential non-public security, research, development, financial, commercial or proprietary information belonging to the Company or one of its affiliates and to implement necessary procedures to safeguard the Company's facilities and

operations and the integrity of its security measures, the parties agree as follows:

(a) Confidential Information Defined. As used in this Agreement, Confidential Information means non-public information maintained by the Company, whether visual, oral, electronic, or written, that is designated by the Company as confidential by stamping the words "confidential" or "proprietary" on the material at the time such material is provided to the Town, or by otherwise clearly labeling it as such, or by clearly indicating such confidential status in writing provided to the Town. Confidential Information shall include, without limitation, Critical Infrastructure Information as defined by federal statutes and regulations, security, development engineering, manufacturing, technical, marketing, sales, customer, financial, operating, performance, cost, business, or process information; discoveries, ideas, designs, data, source code, object code, processes, computer programs, developments, flow diagrams, know-how, computer programming and other software and software techniques; trade secrets or other information that could cause the Company economic harm or negatively impact the Company's ability to meet the utility needs of its customers or which could result in harm to its customers. Confidential Information shall include all summaries, notes, extracts, compilations, or any other direct or indirect reproduction from or of such Confidential Information. If, through inadvertence, error or oversight, the Company fails to properly designate an item as Confidential Information at the time of disclosure to the Town, the Company shall promptly notify the Town in writing of such error or oversight as soon as such error or oversight is discovered and shall specify in that notice the particular items to be redesignated. After receipt of the written notification of error, the Town shall treat such item in the same manner as if it had been so designated or classified originally and shall promptly advise the Company of the identity of any person to whom the Town has disclosed or provided such information.

(b) Access to Confidential Information. All Confidential Information shall be communicated only to those officials, members, employees, or staff of the Town who have a need to know the contents of such Confidential Information for the purposes specified in this Agreement. The Confidential Information shall not be provided to any other person or entity without the prior written consent of the Company. The Confidential Information shall not constitute a public record. The Town shall promptly notify the Company of any requests the Town receives to disclose the contents of the Confidential Information. The Company reserves the right to restrict copying of certain highly sensitive Confidential Information, the disclosure of which would compromise the security of its operations or facilities, and require that such information be viewed at the Company's Chattanooga office or other mutually agreeable location under the Company's supervision.

ARTICLE 5

General Provisions

5.1 Notices. All notices, consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when delivered in person, (ii) three (3) days after deposit in the United States mail, first class postage prepaid, or (iii) when delivered by an overnight courier service, one (1) business day after delivery to the overnight courier service with payment provided, in each case addressed as

follows:

if to the Town:

Attn: Mayor
Town of Powells Crossroads
140 Alvin York Highway
Powells Crossroads, Tennessee 37397

if to the Company:

Attn: President
Tennessee-American Water Company
1101 Broad Street
Chattanooga, Tennessee 37401

with a copy to (which shall not constitute notice):

Attn: Corporate Counsel
555 E. County Line Road
Greenwood, Indiana 46143

or to such other address as any party hereto may designate by notice to the other parties in accordance with the terms of this Section.

5.2 Amendment and Modification. No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

5.3 Assignments. This Agreement may not be assigned or transferred without the written consent of the other party. Notwithstanding the foregoing, the Company may transfer or assign this Agreement, without the consent of the Town, to (a) any entity controlling, controlled by, or under common control with the Company, and (b) to any public utility. All provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the parties hereto and their respective heirs, executors, administrators, permitted successors and permitted assigns.

5.4 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions of the parties hereto, whether oral or written.

5.5 Governing Law. This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the internal laws of the State of Tennessee.

5.6 Conflicting Laws; Regulatory Authority.

(a) In the event that any conflict should arise between or among the terms of the Agreement or any ordinance passed by the Town, on the one hand, and the rules, regulations or orders of the TRA or any governmental agency with proper jurisdiction on the other, then the rules, regulations and orders of the TRA or such governmental agency or agencies shall govern.

(b) Notwithstanding any contrary provisions of this Agreement, the Company shall not be required to install mains or any other facilities if, in the Company's reasonable judgment, installation of such facilities is inconsistent with sound engineering standards or practices or if installation of such facilities is imprudent or inconsistent with the Company's obligations under applicable law to provide service and facilities that are in all respects adequate, efficient, reliable and environmentally safe and, consistent with these obligations, the least-cost means of meeting the Company's service obligations

5.7 Captions. Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

5.8 Counterparts. This Agreement may be executed by the parties hereto on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties hereto notwithstanding that all the parties hereto are not signatories to the same counterpart.

5.9 Severability. This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of this Agreement or of any other term hereof, which shall remain in full force and effect, for so long as the economic or legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to the Company or the Town.

5.10 Specific Performance and Injunctive Relief; Remedies. The Town and the Company recognize that if either of them fails to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at law may not provide adequate relief to the other party hereto. Therefore, in addition to any other remedy provided for in this Agreement or under applicable law, any party to this Agreement may demand specific performance of this Agreement, and such party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time the other party fails to comply with any of the provisions of this Agreement applicable to such party. To the extent permitted by applicable law, the parties to this Agreement hereby irrevocably waive any defense based on the adequacy of a remedy at law which might be asserted as a bar to either party's remedy of specific performance or injunctive relief. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies under law.

5.11 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY

JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

5.12 No Third-Party Beneficiary. This Agreement is solely for the benefit of the parties hereto and their respective permitted successors and permitted assigns. No rights or causes of action shall accrue under this Agreement, or any other agreement between the parties relating to the furnishing of water or sanitary sewer services, to anyone other than the Company and the Town and their permitted successors and permitted assigns.

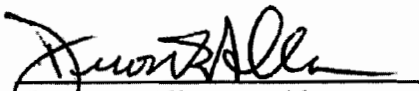
5.13 Recovery of Costs Imposed by this Agreement. It is understood, and the Town agrees that with respect to any cost imposed on the Company by this Agreement, the Company shall be permitted to propose to the TRA, in accordance with applicable law and the rules and practices of the TRA, that such fees or costs be recovered in rates applicable to residents of the Town.

[Remainder of page blank; signature page follows.]

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


Company

**TENNESSEE-AMERICAN WATER
COMPANY**

By: 
Deron E. Allen, President

Town

**TOWN OF POWELLS CROSSROADS,
TENNESSEE**

By: 
Name: RALPH CHANDRA
Title: MAYOR

ATTEST:


Town Recorder

My Commission Expires

3-4-14

(seal)

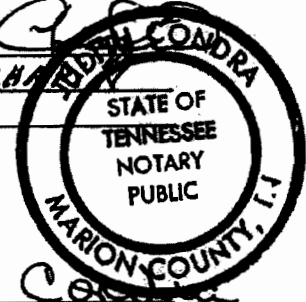


EXHIBIT C

EXHIBIT C - WHITWELL SERVICE AREA

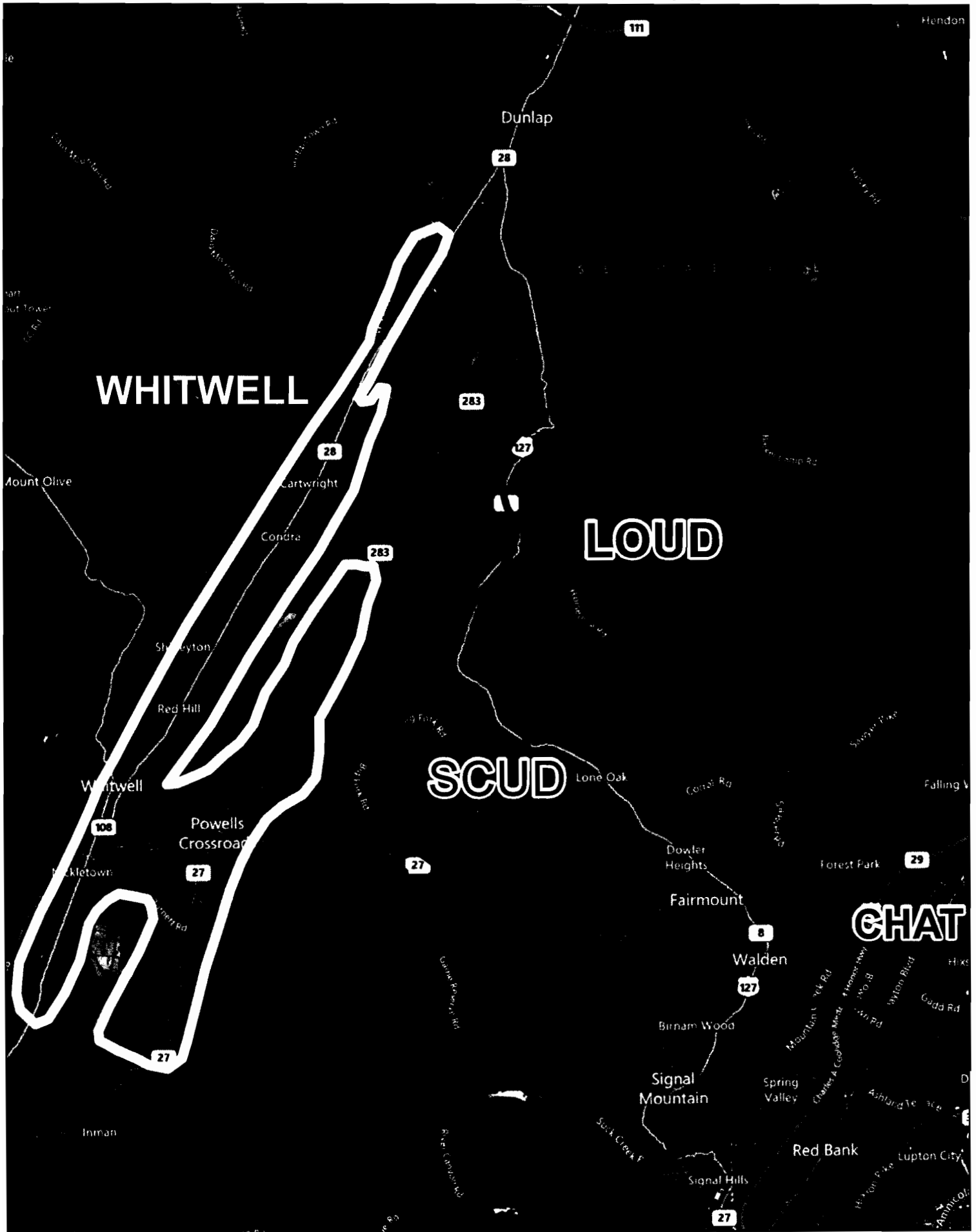


EXHIBIT D

CLASSIFICATION OF SERVICE**APPLICABILITY**

For all residential, commercial, industrial, Other Public Authority, and Sale for Resale Customers in the service area formerly served by the City of Whitwell.

RATES:**Cost per 1,000 Gallons**

<u>Monthly Use</u>	<u>Whitwell Inside City</u>	<u>Whitwell Outside City</u>	
0 - 2,000gallons	\$14.45 + \$6.00 = \$20.45	\$17.37 + \$6.00 = \$23.37	(N)
2,000 – 4,000	\$4.80	\$5.87	(N)
4,000 – 6,000	\$4.56	\$5.32	(N)
Over 6,000 gallons	\$4.19	\$4.37	(N)

VOLUMETRIC RATES:**Cost per 100 Gallons**

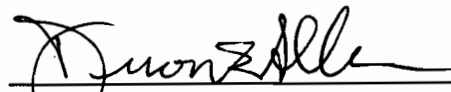
<u>Monthly Use</u>	<u>Whitwell Inside City</u>	<u>Whitwell Outside City</u>	
0 - 2,000gallons	\$14.45 + \$6.00 = \$20.45	\$17.37 + \$6.00 = \$23.37	(N)
0 - 2,000gallons	\$0.480	\$0.587	(N)
2,000 – 4,000 gallons	\$0.456	\$0.532	(N)
Over 4,000 gallons	\$0.419	\$0.437	(N)

(N) New

ISSUED: December 12, 2012

EFFECTIVE: March 1, 2013

BY:


 Deron E. Allen,
 PRESIDENT

1101 Broad Street
 Chattanooga, Tennessee 37401

EXHIBIT E

ORDINANCE NO. 287

An Ordinance to Amend Ordinance No. 267 in which the Whitwell Board of Commissioners passed an ordinance establishing the water rate for customers inside and outside the city limits.

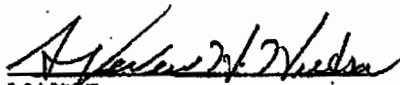
Whereas the Whitwell Board of Commissioners previously established the water rate charged to customers inside and outside the City Limits of Whitwell Tennessee through Ordinance No. 267; and

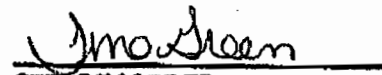
Whereas, it was subsequently brought to the attention of the city officials that the ordinance needed to be amended due to an increase in the water production costs currently incurred by the City of Whitwell; and

Whereas, it is now necessary to amend Ordinance No. 267 so as to increase the water rate charged to customers both inside and outside the city limits. Now therefore

BE IT ORDAINED BY THE CITY OF WHITWELL, TENNESSEE AS FOLLOWS:

1. That Ordinance No. 267, which established the water rates charged to customers inside and outside the City Limits of Whitwell, Tennessee, be amended to increase the water rates as shown on attached Exhibit A both customers inside and outside the City Limits of Whitwell, Tennessee; and
2. That all other provisions in Ordinance No. 267 remain in effect unless subsequently amended; and
3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; and
4. That this ordinance shall take effect immediately upon the date of its final passage, the public welfare of the citizens of the City of Whitwell, requiring it.


MAYOR


CITY RECORDER

8/5/11
Passed on First Reading

9/1/11
Passed on Second Reading

10-6-11
Passed on Third Reading

**City of Whitwell
Water Rates**

	<u>Old Rate</u>	<u>New Rate</u>	
Inside City			
Min. Bill	18.04	20.48	+ 2.40
Next 2000	4.00	4.80	
Next 2000	3.80	4.58	
Next 2000	3.49	4.19	
* Does not include sales tax			
Outside City			
Min. Bill	19.89	23.37	+ 3.48
Next 2000	4.69	5.87	
Next 2000	4.25	5.32	
Next 2000	3.49	4.37	
* Does not include sales tax			

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.
2. SEWAGE AND HUMAN EXCRETA DISPOSAL.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Turning on.
- 18-102. Application - fee.
- 18-103. Deposit.
- 18-104. Plumbing.
- 18-105. Service connection - fee.
- 18-106. Resale.
- 18-107. Tampering.
- 18-108. Installation.
- 18-109. Pipes.
- 18-110. Repairs.
- 18-111. Excavations.
- 18-112. Shut off boxes.
- 18-113. Meters required.
- 18-114. Reading meters.
- 18-115. Testing meters.
- 18-116. Rates - inside the city limits.
- 18-117. Rates - outside the corporate limits.
- 18-118. Bills.
- 18-119. Construction contractors.
- 18-120. Non-payment.
- 18-121. Lien.
- 18-122. Foreclosure of lien.
- 18-123. Water emergency.
- 18-124. Future extensions and elevation limitations.
- 18-125. Unauthorized use of or interference with water supply.
- 18-126. Limited use of unmetered private fire line.
- 18-127. Damages to property due to water pressure.
- 18-128. Liability for cutoff failures.

¹See Ord. # 131A Regulating Water Line Installations, for technical guidelines and requirements on water line installation and extensions.

- 18-129. Restricted use of water.
- 18-130. Interruption of service.
- 18-131. Schedule of rates.
- 18-132. Flat fee increase.
- 18-133. Regulation of the use of master water meters.

18-101. Turning on. No water from the municipal water system shall be turned on for service into any premises by any person other than the superintendent of the municipal water system or some person authorized by him to perform this service. (Ord. # 27, July '58)

18-102. Application - fee. Application to have water turned on shall be made in writing to the city recorder and shall contain an agreement by the applicant to abide by and accept all the provisions of this chapter as conditions governing the use of the municipal water supply by the applicant. (Ord. # 27, July '58)

18-103. Deposit. A non-refundable connect fee of \$50.00 is required prior to the application. (Ord. # 27, July '58, as amended by Ord. # 99, Oct. '69, and Ord. #250, March 2005)

18-104. Plumbing. No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of this city; provided, that water may be turned on for construction work and unfinished buildings, subject to the provisions of this chapter. (Ord. # 27, July '58)

18-105. Service connection - fee. No connections with a water main shall be made without a permit being issued and twenty-four (24) hours' notice have been given to the superintendent of the municipal water system. All such connections shall be made under the supervision of the superintendent, and no connections shall be covered until the work has been inspected by him or by his authorized agent. Applications for such connections must be made to the city recorder and a fee of from \$450.00 to \$750.00 for a 3/4" meter; \$1,000.00 for a 1" meter and \$1,500.00 for a 2" meter shall be paid for the cost of installing a meter for domestic customers. For all others, the connection fee shall be the actual cost of labor and materials for such connection. (Ord. # 27, July '58, as amended by Ord. #250, March 2005)

18-106. Resale. No water shall be resold or distributed by the recipient thereof from the municipal water system to any premises other than that for which application has been made and the meter installed, except in case of emergency. (Ord. # 27, July '58)

18-107. Tampering. It shall be unlawful for any person not authorized by the city to tamper with, alter or injure any part of the municipal waterworks or supply system, or any meters. (Ord. # 27, July '58)

18-108. Installation. All service pipes from the mains to the premises served shall be installed by, and at the cost of, the owner of the property to be served or the applicant for the service. Such installation shall be under the inspection of the superintendent. (Ord. # 27, July '58)

18-109. Pipes. No service shall be installed unless it conforms to all specifications set forth in any municipal ordinance¹ of this city. Such specifications, when adopted, shall be kept on file by the city recorder, and shall be opened to inspection by any person interested. (Ord. # 27, July '58)

18-110. Repairs. All repairs for service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The city may, in case of emergency, repair any service pipes and if this is done, the cost of such repair work shall be paid to the city by the owner of the premises served. (Ord. # 27, July '58)

18-111. Excavations. All excavations for installing service pipes or repairing the same within any road, street, or right-of-way shall be repaired and replaced so as to place said road, street, or right-of-way in the same condition as existed prior to such excavation. In the event such excavation is not so refilled, the city shall have the right to refill, and recover such excavation so as to meet the requirements of this chapter, and the costs thereof shall be charged to the owner of the property for the service of which the excavation was made, and shall be added to his next succeeding monthly water bill. Collection of these charges may be made in the same manner as the collection for regular water service. (Ord. # 27, July '58)

18-112. Shut off boxes. Shut off boxes or service boxes shall be placed on every service pipe, and shall be located between the curb line and the sidewalk where existing or where practicable. Such boxes shall be so located that they are easily accessible and shall be protected from frost. (Ord. # 27, July '58)

18-113. Meters required. All premises using the municipal water supply must be equipped with an adequate water meter furnished by the city; provided that such water service may be supplied by the city to construction contractors as set forth in section 18-119 of this chapter at a flat rate. (Ord. # 27, July '58)

18-114. Reading meters. The superintendent of the municipal water system shall read or cause to be read every meter used in the city at such times as are necessary that the bills may be sent out at the proper time. (Ord. # 27, July '58)

¹See Ord. # 131A Regulating Water Line Installations, for technical guidelines and requirements on water line installation and extensions.

18-115. Testing meters. Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of \$3.00. If upon test, the meter is not within three percent (3%) of being accurate, it shall be repaired or replaced and the aforesaid fee returned to the consumer, unless the error is in favor of the consumer. (Ord. # 27, July '58)

18-116. Rates - inside the city limits.¹ All property located within the corporate limits upon which any building has been or may hereafter be erected having a connection with any mains or pipes which may be hereafter constructed and used in connection with the municipal water system shall pay the following rates per month:

		Old Rate	New Rate
Inside City-	Minimum Bill	14.26	16.40
	Next 2,000 Gallons	3.15	3.63
	Next 2,000 Gallons	3.00	3.45
	Next 2,000 Gallons	2.75	3.17

(Ord. # 27, July '58, as amended by Ord. # 188, Sept. '89, and Ord. #250, March 2005)

18-117. Rates - outside the corporate limits.¹ The rates for water service outside the corporate limits of the City of Whitwell shall be one hundred twenty percent (120%) of those applying within the corporate limits and a service line maintenance fee of two (\$2.00) dollars per month per meter shall be added to the monthly bill of all customers receiving water from the City of Whitwell, Tennessee outside the city limits thereof. This shall be in addition to the aforesaid charges.

		Old Rates	New Rates
Outside City-	Minimum Bill	15.72	18.08
	Next 2,000 Gallons	3.70	4.26
	Next 2,000 Gallons	3.35	3.86
	Next 2,000 Gallons	2.75	3.17

(Ord. # __, Aug. '92, as amended by Ord. #250, March 2005)

¹Ordinances #203, June 1997, 233, July 2003, and 240, June 2004, of record in the office of the recorder do not specifically amend the municipal code. These ordinances do however adjust the water rates.

18-118. Bills. Bills for water used shall be dated and sent out at such times as may be directed by the superintendent of the municipal water system. (Ord. # 27, July '58)

18-119. Construction contractors. During the construction of any building and before any water is installed as herein provided, the contractor so constructing such building may be permitted to use the municipal water supply by making application therefor, and paying a flat rate as prescribed in section 18-113 of this chapter. (Ord. # 27, July '58)

18-120. Non-payment. The water supply may be shut off from any premises for which the water bill remains unpaid for a period of ten (10) days after the bill is rendered and mailed. The reconnection fee if water service has been terminated for non-payment shall be \$30.00 for those properties located inside the municipal boundaries of the City of Whitwell and it shall be \$36.00 for those properties located outside the municipal boundaries of the City of Whitwell (Ord. # 27, July '58, as amended by Ord. # 188, Sept. '89; and further amended by Ord. #204, Sept. 1997)

18-121. Lien. Charges for water, tapping charges, installation charges, and all other charges made for water furnished or services rendered by the water system shall be a lien upon the premises as provided by statute. Whenever a bill for water services, or for other charges hereinabove mentioned, remains unpaid sixty (60) days after it has been rendered, the city recorder may file with the Registrar of Marion County, Tennessee, a statement of lien claimed. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the city claims a lien for this amount as well as all charges for water services or other charges hereinabove referred to subsequent to the period covered by the bill.

If the consumer of water whose bills remain unpaid is not the owner of the premises, and the city recorder has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the city recorder whenever such bills remain unpaid for a period of sixty (60) days after it has been rendered.

The failure of the city recorder to record such lien or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as mentioned in the following section. (Ord. # 27, July '58, as amended by Ord. # 79, May '64)

18-122. Foreclosure of lien. Property subject to a lien for unpaid water charges, or for other unpaid charges as set forth in the preceding section, shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure

of statutory liens. Such foreclosure shall be by bill of equity in the name of the city. (Ord. # 27, July '58, as amended by Ord. # 79, May '64)

18-123. Water emergency. In the event of an emergency where the water within the city water system is depleted or the city water system is unable to produce sufficient water supply for the purpose that it was created and for the use of regular service customers by reason of the raw water source being depleted, the methods of treatment being curtailed, the pumping facilities being inoperative or the storage facilities malfunctioning or any item necessary in the furnishing or producing of water for the service customers, then and in that event the water system customers shall be restricted according to the type of the emergency existing at the time and the usage of the water shall be limited as directed by an announcement made by the management of the system. This announcement shall be made by radio or other public means in order for water customers to be notified of the said emergency.

In the event of an emergency the fire department will not answer any fire calls outside of the corporate limits of the City of Whitwell. (Ord. # 188, Sept. '89)

18-124. Future extensions and elevation limitations. (1) No new water lines or installations shall be made by the City of Whitwell Waterworks to an area where the elevation exceeds 750 feet (seven hundred and fifty feet).

(2) No future extensions will be made by the City of Whitwell Waterworks to the area serviced by the Ketner Cove pumping station.

(3) No exceptions will be made to the above sections of this chapter unless improvements or updates are made to the Ketner Cove pumping station allowing for additional customers to be serviced. (Ord. # 186, Aug. '89)

18-125. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city.

18-126. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence.

18-127. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by

high pressure, low pressure, or fluctuations in pressure in the city's water mains.

18-128. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off.

18-129. Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.

18-130. Interruption of service. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption.

18-131. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.¹

¹Administrative ordinances and regulations are of record in the office of the city recorder.

18-132. Flat fee increase. (1) A flat fee of \$6.00 will be set for all city water customers in the amount of \$6.00.

(2) Those customers having received an initial fee charge will be increased to the total amount of \$6.00.

(3) The receipts from this section which will take effect on and after June 1, 1996 shall be used solely for the repair of water lines within the water line system of the City of Whitwell.

The flat fee of \$6.00 may also be used in the repayment of a loan borrowed for the sole purpose of repairing the water lines and acquiring additional water lines, meters, tanks, pumping equipment, easements and property associated and needed in the water department. (Ord. #200, May 1996, as amended by Ord. #237, March 2004)

18-133. Regulation of the use of master water meters. (1) For purposes of the enforcement of this section a "trailer park" is defined as two (2) or more mobile homes located on a single tract of land with a common landlord;

(2) For purposes of the enforcement of this section, a "household" is defined as each individual apartment or mobile home;

(3) Each and every existing and future trailer park and/or apartment building is hereby required to either come under this master meter program or install at least one (1) individual water meter per household;

(4) There shall be a maximum of ten (10) households per each individual master meter;

(5) Before the issuance of any additional master meters, the applicant must come before the board of commissioners and be granted permission by the board of commissioners who shall have the discretion to grant or deny each application;

(6) Each household connected to the city's water lines shall be charged a monthly maintenance fee of \$6.00 per month.

(7) The owner of each apartment building or trailer park shall be required to pay a one time usage fee of \$50.00 for each individual apartment or mobile home that they own and lease to others. The owner of such rental property shall be allowed to make payments on the total amount due the city under this provision. The total of said payments is due in full within a reasonable amount of time not to exceed one (1) year from the date that this section becomes applicable to the owner. Should the owner need additional time to pay this amount, he/she may come before the board of commissioners and request additional time in which to make these payments. The board of commissioners shall then grant the owner additional time to pay this amount upon a showing of good cause.

(8) This section supersedes any and all preexisting ordinances regarding the use of master meters. (Ord. #207, April 1998)

CHAPTER 2

SEWAGE AND HUMAN EXCRETA DISPOSAL¹

SECTION

- 18-201. Definitions.
- 18-202. Places required to have sanitary disposal methods.
- 18-203. When a connection to the public sewer is required.
- 18-204. When a septic tank shall be used.
- 18-205. Outdoor toilet facilities.
- 18-206. Owner to provide disposal facilities.
- 18-207. Occupant to maintain disposal facilities.
- 18-208. Only specified methods of disposal to be used.
- 18-209. Enforcement.
- 18-210. Correction of violations noted.
- 18-211. Violations.

18-201. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) Accessible sewer. A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within 100 feet of any boundary of said property measured along the shortest available right-of-way.

(2) Health officer. The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) Human excreta.² The bowel and kidney discharges of human beings.

(4) Sewage. All water-carried wastes from residences, buildings, or industrial establishments containing human excreta.

(5) Approved septic tank. A watertight covered receptacle of impervious material, of which the location, construction, and method of disposal of effluent have been approved by the health officer of the state, constructed according to plans furnished by the state's health officer or the following specifications:

The length of the tank, from inlet to outlet, shall be not less than one and one-half (1 1/2) times the width and the effective depth, from the water level to the bottom of the tank, shall be not less than four (4) feet.

¹See title 13 of this code for provisions relating to the administration and operation of the sewer system.

²See title 10, Animal Control, for provisions regulating animal waste disposal.

The capacity shall be determined by the amount of sewage to be treated, but no tank shall have effective capacity of less than sixty (60) cubic feet; an addition of eight (8) cubic feet shall be made for each person in excess of six (6), this rule to be applied up to a total of twenty-five (25) persons. The inlet and outlet pipes shall be located in opposite ends of the tank, at approximately the same elevation or with the inlet slightly higher, and the open ends inside the tank shall be submerged by use of a T or quarter bend.

The tank shall have a tight, substantial cover, provided with manholes for cleaning, and tight fitting manhole covers. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply.

(6) Other approved method. Any chemical toilet or other toilet device (other than a sanitary sewer or septic tank as described above) the type, location, and construction of which have been approved by the health officer. (Ord. # 15, May '57, as modified)

18-202. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits of the police jurisdiction of the City of Whitwell shall be required to have a sanitary method of disposal of sewage and human excreta as required by this chapter. (Ord. # 15, May '57)

18-203. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, flush closets shall be provided, the wastes from such closets shall be discharged through a proper connection to said sewer, and on any lot or premise provided with a connection to the sewer, no other method of human excreta disposal shall be employed. (Ord. # 15, May '57)

18-204. When a septic tank shall be used. Wherever flush closets are installed and their use permitted by the health officer, and an accessible sewer does not exist, the wastes from such closets shall be discharged into an approved septic tank. (Ord. # 15, May '57)

18-205. Outdoor toilet facilities. It shall be unlawful for any person within the city to use or keep any outdoor toilet facilities, or use, own, operate, or maintain any such toilet facilities for the disposal or deposit of human waste of any nature or character, which facilities are not connected, in an approved manner, with the sanitary sewer system of the city. The further use of such type of toilet facilities not connected with the sanitary sewer system of the city, whether such person be the owner or tenant of the premises involved, is prohibited.

All such toilet facilities now in use or in existence shall be dismantled and removed, and any openings or pits in the ground or otherwise shall be covered with at least two feet of dirt.

18-206. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary human excreta disposal are required by this chapter, to provide such facilities. (Ord. # 15, May '57)

18-207. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for human excreta disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (Ord. # 15, May '57)

18-208. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of except by a sanitary method of disposal as specified in this chapter. (Ord. # 15, May '57)

18-209. Enforcement. It shall be the duty of the health officer, immediately upon being so directed by the Board of Commissioners, to make an inspection of the methods of disposal of sewage and human excreta. Said inspection shall be repeated at least once a year thereafter. Written or verbal notification of any violation of the chapter shall be given by the health officer to the person or persons responsible under this chapter for the correction of the condition, and correction shall be made after notification. If the health officer shall advise any person that the disposal of sewage made by such person constitutes an immediate and serious menace, failure to remove such menace shall be punishable as provided herein; but such person shall be allowed a reasonable period of time within which to make permanent correction.

All methods of disposal of sewage and human excreta which do not constitute an immediate and serious menace, but which do not comply with the sanitary method of disposal of sewage and human excreta, as defined herein, shall be corrected by the persons responsible therefor under section 18-206 and 18-207 of this chapter. (Ord. # 15, May '57, as modified)

18-210. Correction of violations noted. If the provisions of this chapter have not been complied with within ten days following the date of notification of the violation, the City of Whitwell shall have the right to make or have made such changes or corrections as are deemed necessary by the health officer to meet the requirements of this chapter. The cost of changes and corrections necessary to meet the provisions of § 18-202 and § 18-206 of this chapter shall be charged to the owner. The cost of changes and corrections necessary to meet

the provisions of § 18-207 of this chapter shall be charged to the occupant. (Ord. # 15, May '57)

18-211. Violations. Any person, firm, association, or corporation, or the agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor. (Ord. # 15, May '57, as modified)

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

- 18-301. Definitions.
- 18-302. Compliance.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspection required.
- 18-306. Right of entry for inspection.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Requirements shall apply to all served by the city.
- 18-311. Violations.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) Public water system. The waterworks system which furnishes water to Whitwell Waterworks for general use and which is recognized as a public water system by the Tennessee Department of Health and Environment.

(2) Cross-connection. Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain, contaminated water, sewage, or other waste of liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections.

(3) Auxiliary intake. Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) By-pass. Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) Inter-connection. Any system of piping or other arrangement whereby the public water system is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(6) Person. Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency. (Ord. # 182, Dec. '88)

18-302. Compliance. The Whitwell Public Water System is to comply with Sections 68-13-701 through 68-13-719 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective on-going program to control these undesirable water uses. (Ord. # 182, Dec. '88)

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, by-pass, or inter-connection is at all time under the direct supervision of the water plant operator of the Whitwell Public Water System. (Ord. # 182, Dec. '88)

18-304. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water is stored therein is circulated through a piping system, shall file with the water plant operator a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. # 182, Dec. '88)

18-305. Inspection required. It shall be the duty of the water plant operator of the Public Water System to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved, shall be established by the water plant operator of the Whitwell Public Water System and as approved by the Tennessee Department of Health and Environment. (Ord. # 182, Dec. '88)

18-306. Right of entry for inspection. The water plant operator or his authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Whitwell Public Water System for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. # 182, Dec. '88)

18-307. Correction of existing violations. Any person who now has cross-connections, auxiliary intakes, by-passes, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the water plant operator of the Whitwell Public Water System. The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, section 68-13-711, within a reasonable time and within the time limits set by the Whitwell Public Water System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customers on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is corrected immediately. (Ord. # 182, Dec. '88)

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system;
- (3) That the nature and mode of operation within a premises are such that frequent alternations are made to the plumbing;
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The water plant operator of the Whitwell Public Water System, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the water plant operator of the Whitwell Public Water System prior to installation and shall comply with the criteria set forth by the Tennessee

Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Whitwell Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the water plant operator or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the water plant operator shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or the occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the water plant operator of the Whitwell Public Water System.

The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise the removal, by-passing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Whitwell Public Water System. (Ord. # 182, Dec. '88)

18-309. Unpotable water to be labeled. The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. # 182, Dec. '88)

18-310. Requirements shall apply to all served by the city. The requirements contained herein shall apply to all premises served by the Whitwell Public Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for

the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Whitwell corporate limits. (Ord. # 182, Dec. '88)

18-311. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction therefore, shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500), and each day of continued violation after conviction shall constitute a separate offense.

Should any part(s) of this chapter be declared invalid for any reason, no other part(s), of this chapter shall be affected thereby. (Ord. # 182, Dec. '88)

DIRECT TESTIMONY

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**JOINT PETITION OF)
TENNESSEE-AMERICAN WATER)
COMPANY, THE CITY OF)
WHITWELL, TENNESSEE, AND THE)
TOWN OF POWELLS CROSSROADS,)
TENNESSEE, FOR APPROVAL OF A)
PURCHASE AGREEMENT AND A)
WATER FRANCHISE AGREEMENT)
AND FOR THE ISSUANCE OF A)
CERTIFICATE OF CONVENIENCE)
AND NECESSITY)
)**

DOCKET NO. 12-_____

**DIRECT TESTIMONY OF
DERON E. ALLEN**

Q: PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT AND TITLE.

A: My name is Deron E. Allen. I am the President of Tennessee American Water Company ("TAWC").

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?

A: The purpose of my testimony is to provide information to support the Joint Petition filed by TAWC, the City of Whitwell, Tennessee ("Whitwell") and the Town of Powells Crossroads ("Crossroads"), Tennessee for the approval of the purchase of the assets that make up the City of Whitwell's water system (the "System"), approval of a franchise agreement between TAWC and Crossroads and the grant of a Certificate of Public Convenience and Necessity to TAWC. The Asset Purchase Agreement between TAWC and Whitwell (the "Purchase Agreement") is attached to the Joint Petition as **Exhibit A**, and the Water Franchise Agreement between TAWC and Crossroads (the "Franchise Agreement") is attached to the Joint Petition as **Exhibit B**.

Q: PLEASE DESCRIBE HOW TAWC INTENDS TO MAINTAIN THE SYSTEM AS A SEPARATE BUSINESS UNIT FROM AN ACCOUNTING PERSPECTIVE.

A: All revenues and expenses relative to the System will be recorded on the books of TAWC in what is called a "business unit" within TAWC's accounting system, which will allow us to clearly identify all revenues and expenses attributable to the System. This is similar

to how we treat the Suck Creek system. Likewise, capital expenditures associated with the System will be kept and recorded separately. In addition, we will also separately track the water sales (gallons) and number of customers who are served by the System. In any future rate request, until and unless TAWC petitions the Authority for approval to combine the rates of any portion or all of the TAWC and the (Whitwell) System, capital costs will be allocated to the System based on the investment in the System.

Q: PLEASE PROVIDE A BRIEF DESCRIPTION OF SYSTEM.

A: The City of Whitwell operates a water system that serves approximately 2,750 metered customers, the majority (~70%) are located outside the Whitwell city limits. Whitwell's source of supply is the Sequatchie River. The Sequatchie River has an estimated 402 square miles of drainage area providing an average daily flow over 600 mgd. Historically, and on an annual basis, the Sequatchie River floods the surrounding low lying plains during wet months and then runs very low (25 to 75 mgd) during the drier months.

The Whitwell water treatment plant produces water at a rate up to 840 gpm, withdrawing raw water from the Sequatchie River and pumping it to a flash mixer. The flow is then split and runs in parallel treatment trains through flocculators, sedimentation basins and filters. The plant had a max day (May 2005) where it exceeded its design rate of 1.2 mgd by 0.176 mgd. The plant has limited automatic controls. The plant was constructed in 1981.

The Whitwell distribution system consists of approximately 45 miles of mains ranging in size from ¾-inch to 12-inch, five pump stations, seven storage tanks and 108 hydrants. The seven storage tanks provide 930,000 gallons of storage. However, only two have monitoring capabilities. The majority of system meters are beyond a 15-year life and must be replaced. The distribution system is challenged with high water losses (previously reported up to 50%) due to aged meters, poorly constructed water line extensions (particularly in the former West Valley Water Association portions system) and an overall lack of system reinvestment.

Q: PLEASE EXPLAIN WHAT TYPES OF UPGRADES ARE NEEDED TO ADDRESS ANY DEFICIENCIES THAT THE SYSTEM CURRENTLY HAS.

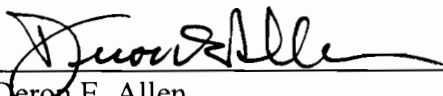
A: Whitwell's water system is generally well-run, but infrastructure upgrades and improvements will be required to meet System demands. Initially, TAWC plans to survey and map the System in order to develop a prioritized list of necessary capital improvements. Capital improvements are expected to include replacing poorly constructed and leaking water mains, replacing broken or inoperative hydrants, installing additional valves, replacing inoperative valves, intake modifications, tank and booster station telemetry, security fencing at tank and booster locations, meters and automated plant controls. TAWC has pursued discussions with the City of Dunlap to interconnect and provide an alternative source of supply to service the Whitwell system in times of peak demand.

59 Q: ARE YOU AWARE OF ANY OPPOSITION OR OBJECTIONS TO TAWC'S
60 REQUEST FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY
61 FROM THOSE CURRENTLY SERVED BY THE SYSTEM.

62 A: No, I am not.

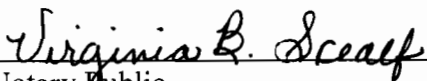
63 Q: DOES THIS CONCLUDE YOUR TESTIMONY?

64 A: Yes.



Deron E. Allen
President
Tennessee-American Water Company

Sworn to and subscribed before me this
13th day of December, 2012



Notary Public

My Commission Expires: 9/10/2016

ButlerSnow 14771929v1



**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**JOINT PETITION OF)
TENNESSEE-AMERICAN WATER)
COMPANY, THE CITY OF)
WHITWELL, TENNESSEE, AND THE)
TOWN OF POWELLS CROSSROADS,)
TENNESSEE, FOR APPROVAL OF A)
PURCHASE AGREEMENT AND A)
WATER FRANCHISE AGREEMENT)
AND FOR THE ISSUANCE OF A)
CERTIFICATE OF CONVENIENCE)
AND NECESSITY)
)**

DOCKET NO. 12-_____

**DIRECT TESTIMONY OF
DANIEL P. BICKERTON**

1 **Q: PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT AND TITLE.**

2 A: My name is Daniel P. Bickerton. I am the Director of Business Development for
3 American Water Works Service Company, Inc., providing business development related
4 services to American Water Works Company, Inc.'s Central Division subsidiaries
5 including Tennessee-American Water Company ("TAWC"). I have been actively
6 involved in and am familiar with TAWC's proposed purchase of the City of Whitwell,
7 Tennessee's water system.

8 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

9 A: The purpose of my testimony is to provide information to support the Joint Petition filed
10 by TAWC, the City of Whitwell, Tennessee ("Whitwell"), and the Town of Powells
11 Crossroads, Tennessee ("Crossroads") for the approval of the purchase of the assets that
12 make up Whitwell's water system, approval of a franchise agreement between TAWC
13 and Crossroads and the grant of a Certificate of Public Convenience and Necessity to
14 TAWC. The Asset Purchase Agreement between TAWC and Whitwell (the "Purchase
15 Agreement") is attached to the Joint Petition as **Exhibit A**, and the Water Franchise
16 Agreement between TAWC and Crossroads (the "Franchise Agreement") is attached to
17 the Joint Petition as **Exhibit B**.

18 **Q: CAN YOU SUMMARIZE WHITWELL'S CURRENT SERVICE AREA?**

19 A: Yes. Whitwell is a Tennessee municipality that currently owns and operates a water
20 supply system, water treatment and storage systems and water distribution systems within
21 the City of Whitwell, Tennessee, the Town of Powells Crossroads, Tennessee,
22 unincorporated portions of Marion County, Tennessee and unincorporated portions of
23 Sequatchie County, Tennessee, the location of such systems are generally shown on the
24 map attached to the Joint Petition as **Exhibit C** (collectively the "System").

25 **Q: PLEASE IDENTIFY A BRIEF HISTORY OF THE STEPS THAT LED UP TO**
26 **THE EXECUTION OF THE PURCHASE AGREEMENT THAT IS PENDING**
27 **FOR APPROVAL BEFORE THE AUTHORITY.**

28 A: TAWC was initially contacted by a former Whitwell mayor a few years ago, shortly after
29 Whitwell's acquisition of the West Valley Water Association system. While that
30 particular opportunity did not materialize, over the years that followed TAWC personnel
31 made occasional inquiries with Whitwell officials to determine if there was any interest
32 in further discussions. In early 2011, representatives of TAWC met with Whitwell
33 Mayor Steve Hudson, who indicated he would be interested in receiving a proposal from
34 TAWC for consideration by the Whitwell Board of Commissioners. The initial due
35 diligence was undertaken by TAWC to provide such a proposal but was delayed to allow
36 Whitwell to complete audited financial statements. Whitwell officials acknowledged that
37 several former city employees, including the former city recorder, were charged with
38 embezzlement from the city. In early June 2012, the Whitwell 2011 audit report was
39 completed.

40 TAWC officials appeared before the Whitwell Board of Commissioners during a June 25,
41 2012 work session to discuss and outline a framework for an asset acquisition.
42 Numerous questions and issues were discussed and negotiated but no decisions were
43 made. Further discussions took place thereafter and a formal proposal was presented to
44 the Whitwell Board of Commissioners on August 2, 2012 for review and approval. After
45 three separate readings approving an ordinance authorizing the sale of the Whitwell water
46 systems assets to TAWC, the purchase agreement was executed on October 30, 2012.

47 **Q: WHY IS TAWC INTERESTED IN ACQUIRING THE WATER ASSETS OF THE**
48 **CITY OF WHITWELL?**

49 A: TAWC continuously explores opportunities to reduce costs, increase revenues, or
50 otherwise enhance its business to keep ratepayer costs low and minimize rate increases.
51 One way to do that is to grow TAW's customer base, particularly by providing service in
52 areas within close geographic proximity to current TAWC operations. In many of these
53 situations, there is a greater opportunity to benefit both TAW's existing customers and
54 potential new customers from economies of scale. We believe that customer growth
55 through quality acquisitions provides immediate revenue benefits, a larger customer base
56 on which to spread fixed costs and serves to mitigate future rate increase impacts.

For a number of years, Whitwell has faced challenges operating its water system, including providing a sufficient water supply to its customers during dry periods without exceeding the water treatment plant's design capacity, operating at a loss year after year, limiting new taps due to System limitations, extremely high water losses and the ever increasing need to replace infrastructure. TAWC strongly believes that it has the capabilities, resources, expertise and experience to address these issues while maintaining reasonable rates for all Whitwell customers.

Q: HOW IS THE PURCHASE PRICE FOR THE WHITWELL WATER ASSETS DETERMINED?

A: The purchase price calculation for the water utility assets of Whitwell was agreed to under an arms-length transaction. The purchase price will be equal to the rate base value of the Whitwell water utility assets in service as of the date of closing, similar to the calculation provided in **Exhibit 1**.

TAWC relied upon the financial statements, records and reports provided by Whitwell officials and its accountant to support the original cost value of utility plant in service ("UPIS"). Whitwell records UPIS at original cost but does not maintain continuing property records. As discussed previously, Whitwell does produce audited financial statements. Due to financial reporting changes promulgated under GASB 34, in 2003, Whitwell wrote-off all contributions in aid of construction ("CIAC") on its balance sheet and booked subsequent CIAC as revenue. TAWC proposes to re-establish the CIAC balance previously written-off, as well as those recorded as revenue, to be consistent with TAWC's accounting treatment for such.

TAWC proposes to calculate accumulated amortization on the CIAC balance written-off in 2003 by applying the percentage of accumulated depreciation in 2003 to 2003 UPIS and taking that percentage times the CIAC balance written-off. Annual amortization of CIAC from 2003 through Closing would equal the annual depreciation rate taken each year by Whitwell. All account balances are projected forward to a proposed closing date.

Q: IF AN ACQUISITION ADJUSTMENT WAS RECORDED, EXPLAIN TAWC'S PROPOSED REGULATORY TREATMENT OF THIS ACQUISITION ADJUSTMENT OR ANY OTHER RELATED MATTERS?

A: TAWC proposes no utility plant acquisition adjustment with this transaction as the purchase price should be equivalent to the Whitwell system rate base at closing assuming the adjustments previously mentioned. In addition, TAWC is seeking authorization for future recovery of various expenses necessary to conduct due diligence and promulgate the closing of this transaction estimated to total \$55,000. TAWC is proposing that these expenses be deferred until closing and upon closing be accounted for as a regulatory asset to be amortized over the remaining life of the Whitwell assets. TAWC recognizes that the authorization would not be an approval of the costs themselves, which would be necessary after review in TAWC's next rate case.

96 **Q: ARE THERE ANY OTHER ACCOUNTING ADJUSTMENTS BEING**
97 **PROPOSED POST-CLOSING?**

98 A: Yes. TAWC proposes to adopt the current TAWC's depreciation rates and CIAC
99 amortization rates as approved by the Authority for Whitwell upon Closing.

100 **Q: AS PART OF THE PURCHASE AGREEMENT, DOES TAWC ALSO OBTAIN A**
101 **FRANCHISE FROM WHITWELL TO USE THE PUBLIC RIGHTS-OF-WAY**
102 **WITHIN THE CITY OF WHITWELL?**

103 A: Yes. A franchise is provided within the terms and conditions of the Purchase Agreement
104 to allow TAWC to use all public rights-of-way, streets, alleys, sidewalks and utility
105 easements that are necessary to install, operate, modify and maintain the System within
106 the City of Whitwell. In addition, there is no franchise fee imposed under the Purchase
107 Agreement.

108 **Q: HAS TAWC OBTAINED A SIMILAR FRANCHISE FROM CROSSROADS?**

109 A: Yes. The Franchise Agreement grants TAWC the right to use all public rights-of-way,
110 streets, alleys, sidewalks and utility easements that are necessary to install, operate,
111 modify and maintain the System within the Town of Powells Crossroads. There is no
112 franchise fee imposed under the Franchise Agreement.

113 **Q: WHAT IS THE RATE STRUCTURE THAT IS PROPOSED BY TAWC ONCE IT**
114 **ACQUIRES THE SYSTEM?**

115 A: The Purchase Agreement provides that TAWC will continue to provide service to
116 Whitwell's customers at the rates they are paying now, until such time as different rates
117 may be submitted to and approved by the Tennessee Regulatory Authority ("Authority").
118 TAWC is adopting the Whitwell rates in order to cover the costs of operating the System
119 and initial System improvements. TAWC would like to implement a late fee consistent
120 with TAWC's existing tariff for the sake of billing consistency and eliminate the
121 Whitwell tap fee/meter fee to be consistent with the current Chattanooga tariff. TAWC
122 fully expects to address several tariff issues in future filings with the Authority, such as
123 the implementation of a meter charge based on the size of the meter, separate rate
124 schedules for customers located inside Whitwell and those located outside Whitwell, as
125 well as the addition of a private fire service rate schedule.

126 **Q: WILL THE ACQUISITION OF THE SYSTEM IMPACT THE RATES OF**
127 **CURRENT TAWC RATEPAYERS?**

128 A: No. The System will be kept separate and apart from the TAWC's existing system for
129 purposes of accounting and ratemaking. TAWC may propose to combine the rates for
130 both the (Whitwell) System and the other portions or the balance of the TAWC system as
131 appropriate at a future rate proceeding. The System will be operated by TAWC as a
132 separate business unit in the TAWC accounting system. Testimony from Deron Allen
133 provides more detail in regard to how the accounting will take place.

134 **Q: ARE YOU REQUESTING A CERTIFICATE OF CONVENIENCE AND**
135 **NECESSITY ("CCN") FROM THE AUTHORITY IN ORDER TO OPERATE**
136 **THE SYSTEM?**

137 A: Yes. Our request for a Certificate of Convenience and Necessity is outlined in the Joint
138 Petition. TAWC has established in the record of this case that the present and future
139 public convenience and necessity require that it establish and operate the System. In
140 addition, the area served by the System is currently served by the City of Whitwell and
141 not by a competing private company or public utility district.

142 **Q: ARE YOU AWARE OF ANY OPPOSITION OR OBJECTIONS TO TAWC'S**
143 **REQUEST FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY**
144 **FROM THOSE CURRENTLY SERVED BY THE SYSTEM.**

145 A: No, I am not.

146 **Q: IN YOUR OPINION, HOW DOES THE APPROVAL OF THIS PETITION**
147 **IMPACT PUBLIC INTEREST?**

148 A: Water utilities are one of the most capital intensive utilities in the industry. In properly
149 maintaining and supporting a water system, the owner and operator thereof is confronted
150 with a host of pressures, primary of which are increasing costs, enhanced water quality
151 regulations and the ever-recurring need for capital investments. Aging infrastructure and
152 technological advances must be consistently studied and appropriately addressed.
153 TAWC has a proud 125 year history of providing safe, reliable drinking water to its
154 customers. During its 125 years of operation, TAWC has never received a United States
155 Environmental Protection Agency notice of violation of any type (water quality or
156 documentation). This transaction will benefit the customers of the System through the
157 professional management, long-term planning, and sustained investment by TAWC. The
158 approval of the petition is necessary and proper for the public convenience and to
159 properly conserve and protect the public interest.

160 **Q: THE PURCHASE AGREEMENT AND THE FRANCHISE AGREEMENT BOTH**
161 **REFERENCE THAT TWAC WILL FOLLOW CERTAIN RULES AND**
162 **REGULATIONS. WHAT RULES AND REGULATIONS DO YOU INTEND TO**
163 **FOLLOW?**

164 A: TAWC intends to apply and follow its applicable tariffs related to the System, as
165 approved by the Authority, along with the rules and regulations of the Authority.

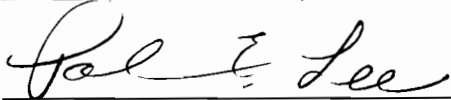
166 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

167 A. Yes.



Daniel P. Bickerton
Director for Business Development
American Water Service Company, Inc.

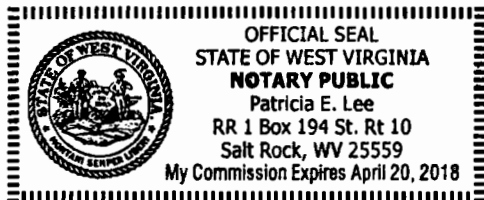
Sworn to and subscribed before me this
11 day of December, 2012



Notary Public

My Commission Expires: April 20, 2018

ButlerSnow 14771924v1



Tennessee-American Water Company and
City of Whitwell
Calculation of Purchase Price Assuming a 12/31/12 Closing Date
EXHIBIT 1

Line No.	Account Description	Actual Account Balance @ 6/30/11	Going-Level Adj.	Estimated Account Balance @ 12/31/12	Notes	Adjusted Account Balance @ 12/31/12	Adj.	Notes	Estimated Closing Balance @ 12/31/12
1	Utility Plant	\$6,010,735	\$500,000	\$6,510,735	¹	\$6,421,182		¹³	\$6,421,182
2	Accumulated Depreciation	3,264,676	307,468	3,572,144	²	3,569,104		¹³	\$3,569,104
3	Net Utility Plant	2,746,059	192,532	2,938,591		2,852,078			2,852,078
4	Contributions in Aid of Construction	0	0	0		0		¹⁴	\$2,389,090
5	Accumulated Amortization of CIAC	0	0	0		0		¹⁵	\$1,100,694
6	Unamortized CIAC	0	0	0		0			1,288,396
7	Rate Base	\$2,746,059	\$192,532	\$2,938,591		\$2,852,078	(\$1,288,396)		\$1,563,682

8 Notes:

- 9 /1 - Assumed capital investment associated with Powells Crossroads CDBG project.
10 /2 - Assumes continued depreciation expense based on actual FY6/11 (\$153,734) depreciation expense
11 /3 - Estimated adjustments for assets to be retained by Whitwell
12 /4 - Reinstated CIAC previously written off in 2003 and CIAC recorded to revenue post-2003
13 /5 - Calculation of amortization of CIAC based on % accumulated depreciation to utility plant in 2003 and annual depreciation rate post-2003

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

DOCKET NO. 12- _____

**DIRECT TESTIMONY OF
STEVE HUDSON**

1 **Q: PLEASE STATE YOUR NAME AND PLACE OF RESIDENCE.**

2 A: My name is Steve Hudson. I am a resident of the City of Whitwell, Tennessee
3 ("Whitwell"). I am also the Mayor of Whitwell. Accordingly, I am personally familiar
4 with the facts associated with Tennessee-American Water Company's ("TAWC")
5 purchase of Whitwell's water system.

6 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

7 A: The purpose of my testimony is to provide information to support the Joint Petition,
8 which seeks in part the approval of the purchase of the assets that make up Whitwell's
9 water system and the grant of a Certificate of Public Convenience and Necessity to
10 TAWC. The Asset Purchase Agreement between TAWC and Whitwell (the "Purchase
11 Agreement") is attached to the Joint Petition as **Exhibit A**.

12 **Q: PLEASE GIVE THE AUTHORITY A BRIEF HISTORY OF WHITWELL'S**
13 **WATER SYSTEM AND THE EVENTS THAT LED UP TO THE**
14 **NEGOTIATIONS BETWEEN WHITWELL AND TAWC IN REGARD TO THE**
15 **TRANSFER OF THE ASSETS OF WHITWELL'S WATER SYSTEM.**

16 A: Whitwell currently owns and operates a water supply system that serves approximately
17 2,750 customers, the majority of which are located outside of the Whitwell corporate
18 boundaries. The system relies on the Sequatchie River as its sole source of supply for its
19 1.2 million gallons per day water treatment plant. The distribution system consists of
20 approximately 45 miles of pipe, 5 pump stations, 7 storage tanks and 108 hydrants
21 within the City of Whitwell, the Town of Powell's Crossroads, Tennessee,
22 unincorporated portions of Marion County, Tennessee and unincorporated portions of
23 Sequatchie County, Tennessee, the location of such systems are generally shown on the
24 map attached to the Joint Petition as **Exhibit C** (collectively the "System").

25 Since Whitwell's acquisition of the West Valley Water Association ("WVWA") in 2004,
26 Whitwell has been plagued by excessive water losses in the System. Prior to the
27 acquisition, WVWA was a bulk sales customer of Whitwell. In addition, during the hot,
28 dry summer months, flows in the Sequatchie River can get very low. Intake
29 modifications are necessary to accommodate these low flows, as well as an
30 interconnection with neighboring water systems.

31 While I am familiar with TAWC through my personal business dealings, others in
32 Whitwell were introduced to TAWC during the WVWA deliberations as TAWC had at
33 one time entertained the possibility of acquiring the WVWA system. Since that time,
34 there have been on-again, off-again discussions with TAWC about the acquisition of the
35 System.

36 Whitwell has done an admirable job of managing the System to date, but significant
37 infrastructure upgrades and improvements are required to meet current and future
38 customer demands. Some potential customers have been denied water service because of
39 the System's limitations. The impact of such improvements on customers' rates is a
40 challenge, as Whitwell has among the highest water rates in the Sequatchie Valley.

41 Over the past several years, Whitwell had been operating its water system under the
42 oversight of the Water and Wastewater Financing Board of the Tennessee State
43 Comptroller of the Treasury's Office due to System financial losses. The financial
44 challenges have been remedied for now. However, the high System water losses remain
45 an issue. It has been a challenge for our small community to maintain the System, invest
46 in infrastructure replacement and keep rates as low as possible particularly with less and
47 less grant funding available. It is apparent that a professionally run organization, like
48 TAWC, is in a better position to make the necessary capital investments and properly
49 manage the assets while keeping rates reasonably low to support our community for years
50 to come. Preparing Whitwell for the future is the basic premise behind this transaction.

51 **Q: HAS THE COMMUNITY BEEN SUPPORTIVE OF THE TRANSFER OF THE**
52 **SYSTEM TO TAWC?**

53 A: Yes. The community supports this transaction. Without addressing Whitwell's need for
54 an alternative source of water and making other necessary improvements to the System,
55 there was essentially little growth potential in the area. Also, the quality of the water
56 provided by the System needs improvements as well.

57 Q: ARE YOU AWARE OF ANY OPPOSITION OR OBJECTIONS TO TAWC'S
58 REQUEST FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY
59 FROM THOSE CURRENTLY SERVED BY THE SYSTEM?

60 A: No, I am not.

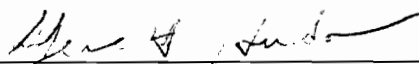
61 Q: THE PURCHASE AGREEMENT ALSO CONTAINS THE GRANT OF A
62 FRANCHISE TO TAWC TO ALLOW IT TO CONTINUE OPERATING WITHIN
63 THE PUBLIC RIGHTS OF WAY. PLEASE DESCRIBE THE EXTENT OF THE
64 NEGOTIATIONS OVER THE TERMS AND CONDITIONS OF THE
65 PURCHASE AGREEMENT, INCLUDING THE FRANCHISE.

66 A: There were numerous meetings and discussions between TAWC and representatives of
67 Whitwell over the terms and conditions of the Purchase Agreement and franchise. These
68 were arms-length negotiations and both parties were represented by attorneys. The
69 Purchase Agreement went through numerous drafts, and there was significant give and
70 take in the negotiations.

71 Q: IN YOUR OPINION, IS THE ACQUISITION BY TAWC OF THE SYSTEM, AND
72 THE FRANCHISE PROVIDED IN THE PURCHASE AGREEMENT, IN THE
73 PUBLIC INTEREST?

74 A: Yes. The Purchase Agreement and the franchise are necessary and proper for the public
75 convenience and properly conserves and protects the public interest both today and in the
76 future. On behalf of Whitwell, I am requesting that the Authority approve the Joint
77 Petition, including the granting of a Certificate of Convenience and Necessity to TAWC
78 to serve all of the customers currently served by the System.

79 No further questions.


Steve Hudson

Sworn to and subscribed before me this
18 day of December, 2012


Notary Public

My Commission Expires: 2-9-15

ButlerSnow 14771903v1



**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**JOINT PETITION OF
TENNESSEE-AMERICAN WATER
COMPANY, THE CITY OF
WHITWELL, TENNESSEE, AND THE
TOWN OF POWELLS CROSSROADS,
TENNESSEE, FOR APPROVAL OF A
PURCHASE AGREEMENT AND A
WATER FRANCHISE AGREEMENT
AND FOR THE ISSUANCE OF A
CERTIFICATE OF CONVENIENCE
AND NECESSITY**

DOCKET NO. 12-_____

**DIRECT TESTIMONY OF
RALPH CHAPIN**

Q: PLEASE STATE YOUR NAME AND PLACE OF RESIDENCE.

A: My name is Ralph Chapin. I am a resident of the Town of Powells Crossroads, Tennessee ("Crossroads"). I am also the mayor of Crossroads. Accordingly, I am personally familiar with the facts associated with Tennessee-American Water Company's ("TAWC") purchase of the City of Whitwell, Tennessee's water system and the water franchise granted to TAWC by Crossroads.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?

A: The purpose of my testimony is to provide information to support the Joint Petition filed by TAWC, Whitwell, and the Town of Powells Crossroads, Tennessee for the approval of the purchase of the assets that make up Whitwell's water system, approval of a franchise agreement between TAWC and Crossroads and the grant of a Certificate of Public Convenience and Necessity to TAWC. The Asset Purchase Agreement between TAWC and Whitwell (the "Purchase Agreement") is attached to the Joint Petition as **Exhibit A**, and the Water Franchise Agreement between TAWC and Crossroads (the "Franchise Agreement") is attached to the Joint Petition as **Exhibit B**.

Q: PLEASE GIVE THE AUTHORITY A BRIEF HISTORY OF THE EVENTS THAT LED UP TO THE NEGOTIATIONS BETWEEN CROSSROADS AND TAWC IN REGARD TO THE FRANCHISE AGREEMENT.

19 A: Crossroads is a Tennessee municipality that receives its water supply, water treatment
20 and other related services from Whitwell. I have been aware of the acquisition
21 discussions between TAWC and Whitwell for some time and support TAWC in its
22 efforts to acquire the Whitwell water system. Once an agreement was reached with
23 Whitwell, TAWC officials approached Crossroads with a proposed twenty-five-year
24 franchise arrangement upon TAWC becoming the owner and operator of the former
25 Whitwell water system within the Town of Powells Crossroads. TAWC required the
26 consent of Crossroads for the exclusive right, privilege, authority, license, and permission
27 to construct, install, operate, repair, replace, remove, and maintain all such water facilities
28 as may be necessary and convenient for the delivery of water service in, upon, along,
29 over, across, and under the public ways, public property and private easements within the
30 Town of Powells Crossroads.

31 Crossroads agrees that TAWC's water service and rates assessed within the Crossroads
32 franchise area, including any future annexed area, shall be subject to the rules and
33 regulations of the Tennessee Regulatory Authority (or any successor agency), and
34 Crossroads shall have no authority to determine or impose any rates, fees or charges for
35 customers of the TAWC water system within Crossroads. Fair and appropriate rate
36 making is an important issue with the community.

37 **Q: WHAT IS THE COMMUNITY'S RESPONSE TO THE TRANSFER OF**
38 **WHITWELL'S WATER SYSTEM TO TAWC?**

39 A: The community strongly supports Crossroads continuing to be served by Whitwell's
40 water system after the transfer to TAWC. In light of the transfer, the community also
41 supports the Franchise Agreement, as it secures reliable and safe water to Crossroads,
42 along with TAWC's management and operations abilities. TAWC's strong reputation as
43 a quality water provider, coupled with its ability to invest in infrastructure upgrades and
44 improvements while maintaining reasonable rates, are benefits greatly valued by the
45 community.

46 **Q: ARE YOU AWARE OF ANY OPPOSITION OR OBJECTIONS TO TAWC'S**
47 **REQUEST FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY**
48 **FROM CROSSROADS' CUSTOMERS CURRENTLY SERVED BY**
49 **WHITWELL'S WATER SYSTEM?**

50 A: No, I am not.


51 **Q: PLEASE DESCRIBE THE EXTENT OF THE NEGOTIATIONS OVER THE**
52 **TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT.**

53 A: There were several meetings and discussions between TAWC and representatives of
54 Crossroads over the terms and conditions of the Franchise Agreement. These were arms-
55 length negotiations and both parties were represented by attorneys. The Franchise
56 Agreement went through several drafts, and there was typical give and take in the
57 negotiations.

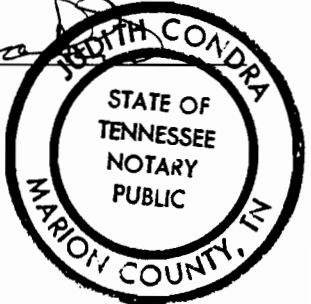
58 **Q: IN YOUR OPINION, IS THE ACQUISITION BY TAWC OF WHITWELL'S**
59 **WATER SYSTEM AND THE FRANCHISE AGREEMENT IN THE PUBLIC**
60 **INTEREST?**

61 A: Yes. It is in the best interests of Crossroads to continue to be served by Whitwell's water
62 system after the transfer of this system to TAWC. As I noted earlier, the residents of
63 Crossroads will benefit from TAWC's ownership. So, the Franchise Agreement is
64 necessary and proper for the public convenience and properly conserves and protects the
65 public interest. On behalf of Crossroads, I am requesting that the Authority approve the
66 Joint Petition, including the granting of a Certificate of Convenience and Necessity to
67 TAWC.

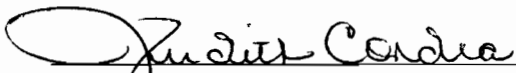
68 No further questions.



Ralph Chapin



Sworn to and subscribed before me this
12th day of December, 2012



Notary Public

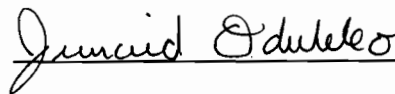
My Commission Expires: 3/4/14

ButlerSnow 14771916v1

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via either U.S. Mail, postage prepaid, or electronically to the following this 27th day of December, 2012.

Cynthia Kinzer
Ryan McGehee
Consumer Advocate and Protection Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202

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