

BUTLER | SNOW

April 8, 2021

VIA ELECTRONIC FILING

Hon. Kenneth C. Hill, Chairman
c/o Ectory Lawless, Docket Room Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243
TPUC.DocketRoom@tn.gov

RE: *Joint Petition of Tennessee-American Water Company and Thunder Air, Inc. d/b/a Jasper Highlands Development, Inc. for the Approval of an Asset Purchase Agreement and for the Issuance of a Certificate of Convenience and Necessity; Docket No. 20-00011*

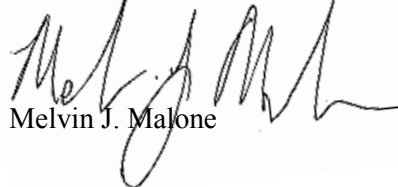
Dear Chairman Hill:

Consistent with both the Joint Petition and the Commission's order, enclosed are the following: (1) copies of all recorded warranty deeds for the real property transferred to TAWC; (2) copies of the Bill of Sale for all tangible and intangible personal property transferred to TAWC; (3) copies of all easements and any other transferable property rights transferred to TAWC; (4) copies of any schedules attached to the Purchase Agreement that were either updated or completed in association with the closing; and (5) a copy of the executed Purchase Agreement.

As required, one (1) hard copy will be mailed to your office. Should you have any questions concerning this filing, or require additional information, please do not hesitate to contact me.

Very truly yours,

BUTLER/SNOW LLP



Melvin J. Malone

clw

Attachments

cc: Elaine Chambers, TAWC
William H. Horton, Thunder Air, Inc.
Daniel P. Whitaker III, Consumer Advocate Unit

*The Pinnacle at Symphony Place
150 3rd Avenue South, Suite 1600
Nashville, TN 37201*

MELVIN J. MALONE
615.651.6705
melvin.malone@butlersnow.com

T 615.651.6700
F 615.651.6701
www.butlersnow.com

BUTLER SNOW LLP

Return To
Jones Title Ins. Agency, Inc.
518 Georgia Ave. STE. 200
Chattanooga, TN 37403

19-0118
THIS INSTRUMENT WAS PREPARED
BY AND SHOULD BE RETURNED TO:
C. Palmer Pillans
Butler Snow LLP
150 3rd Avenue South, Suite 1600
Nashville, Tennessee 37201

GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

BK/PG: 537/87-91
21000180

5 PGS:AL-WARRANTY DEED	
DAVID BATCH: 79945	01/11/2021 - 11:30:33 AM
VALUE	53100.00
MORTGAGE TAX	0.00
TRANSFER TAX	196.47
RECORDING FEE	25.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	224.47

STATE OF TENNESSEE, MARION COUNTY
DEBBIE PITTMAN
REGISTER OF DEEDS

Address New Owner(s)	Send Tax Bills To:	Map & Parcel No.:
Tennessee-American Water Company 109 Wiehl Street Chattanooga, Tennessee 37403	Tennessee-American Water Company 109 Wiehl Street Chattanooga, Tennessee 37403	133E B 023 118-009

GENERAL WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, the receipt of which is hereby acknowledged, **THUNDER AIR, INC.**, a Tennessee corporation **d/b/a Jasper Highlands Development, Inc.** ("Grantor"), has this day bargained and sold, and does hereby transfer and convey unto **TENNESSEE-AMERICAN WATER COMPANY**, a Tennessee public utility corporation ("Grantee"), all right, title and interest in and to a certain tract or parcel of land located in Marion County, Tennessee as described on Exhibit A, which is attached hereto and made a part hereof.

TO HAVE AND TO HOLD said real estate, with the appurtenances, hereditaments, estate, title and interest thereto belonging, to Grantee, its successors and assigns, forever.

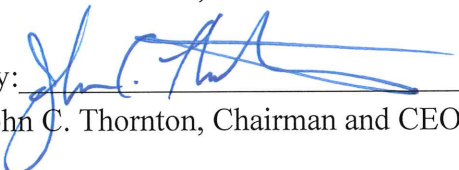
AND Grantor covenants that it is lawfully seized and possessed of said real estate in fee simple, has a good right to convey it, and that the same is unencumbered, except as set forth on Exhibit B hereto. Grantor further covenants and binds itself, its successors and assigns, to warrant and forever defend the title to said real estate to Grantee, its successors and assigns against the lawful claims of all persons claiming by, through or under Grantor but no further or otherwise, and except as set forth on Exhibit B hereto.

Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, Grantor has executed this instrument as of the ____ day of December, 2020.

GRANTOR


THUNDER AIR, INC.

By: 
John C. Thornton, Chairman and CEO

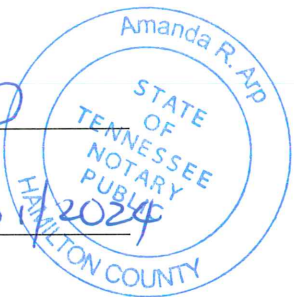
STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

Personally appeared before me, the undersigned, a Notary Public for the State and County aforesaid, John C. Thornton, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the Chairman and CEO of Thunder Air, Inc., a Tennessee corporation, the within named bargainor, and that he/she as such Chairman and CEO and being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing his/her name as Chairman and CEO of Thunder Air, Inc.

Witness my hand and seal, at office in Hamilton County, Tennessee this 30 day of December, 2020.

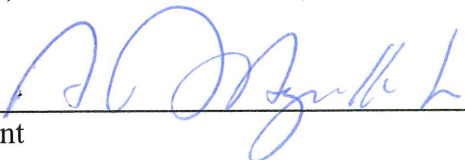

Notary Public

My commission expires: 04/01/2024



STATE OF Georgia)
COUNTY OF Chatham)

The actual consideration or value, whichever is greater, for this transfer is \$53,100.00.


Affiant

Subscribed and sworn to before me,
this 30 day of December, 2020.



Notary Public

My Commission Expires: 12/01/2023

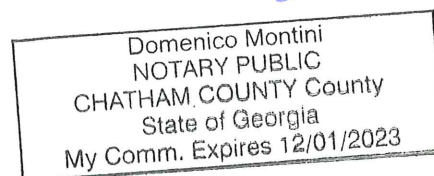


Exhibit "A"

Real Property Description

Tract 1 (Lower Pump Station)

Being Lot 23 of Timber Ridge Estates, of record in Plat Book 4 Page 360 in the Register's Office of Marion County, Tennessee, containing 1.64 acres more or less.

Being a portion of the property conveyed to Thunder Air, Inc. of record in Deed Book 493, Page 1473, Register's office for Marion County, Tennessee.

Tract 2 (Upper Pump Station)

Commencing at the Southeast Corner of Lot 223, Jasper Highlands Subdivision, of record in Plat Book 5, Page 899, et seq.; thence running a tie line South 01°28'29" West for a distance of 145.67' to a ½" rebar and cap set in the Western Right of Way of Jasper Highlands Parkway and the point of beginning of the hereinafter described parcel; thence along a curve to the right, having a radius of 375', an arc length of 139.58' and being subtended by a chord which bears South 14°13'39" West, for a chord distance of 138.51' to a ½" rebar and cap; thence leaving said Right of Way with a severance line North 71°04'58" West for a distance of 62.58' to a ½" rebar and cap in the center of a ditch; thence said ditch and severance line the following chord bearing and distances North 05°54'34" East for a distance of 46.10' to a point, North 7°18'48" East for a distance of 46.46' to a point; thence North 18°38'21" West for a distance of 4.55' to a point; thence North 06°06'46" East for a distance of 49.21' to a ½" rebar and cap; thence leaving said ditch South 68°23'46" East for a distance of 84.75' to the point of beginning, containing 0.25 acres, more or less.

Being a portion of the property conveyed to Thunder Air, Inc. of record in Deed Book 493, Page 1477, Register's office for Marion County, Tennessee.

Exhibit "B"

Permitted Exceptions

1. Taxes and assessments for the year 2021 and subsequent years, not yet due and payable.
2. Rights of others in and to the use of the easements and Shared Access Road as set out in Mutual Access Easement Agreement dated January 9, 2013, recorded in Deed Book 448, Page 240, in the Register's Office of Marion County, Tennessee, as to Tracts One and Two.
3. Agreement Regarding Access Rights recorded in Deed Book 448, Page 249, as affected by instruments recorded in Deed Book 457, Page 520, Deed Book 479, Page 166, Deed Book 488, Page 1294, and in Deed Book 490, Page 1168 and Deed Book 498, Page 912, in the Register's Office of Marion County, Tennessee, as to Tracts One and Two.
4. Rights of third parties to the use of the access roads in Jasper Highlands, as to Tracts One and Two.
5. Any and all outstanding mineral rights, as to Tracts One and Two.
6. The following easements, restrictions, requirements and other matters as shown on plats of record in Plat Book 4, Page 360, as to Tract One:
 - a) 10' drainage easement; and
 - b) 40' front setback line.
7. Oil and Gas Lease recorded in Lease Book 9, Page 126, as assigned by Assignment recorded in Lease Book 10, Page 54, and in Book 260, Page 574, in the Register's Office of Marion County, Tennessee.
8. Restrictive Covenants recorded in Deed Book 139, Page 122, as modified by Waiver of Restrictive Covenants recorded in Deed Book 302, Page 610, in the Register's Office of Marion County, Tennessee, as to Tract One.
9. Declaration of Protective Covenants, Conditions and Restrictions for Jasper Highlands recorded in Book 439, Page 202, as amended in Book 440, Page 1256, Book 466, Page 85, and as affected by Variance from the Declaration of Protective Covenants, Conditions and Restrictions for Jasper Highlands recorded in Deed Book 493, Page 1482, and as amended and restated at Book 499, Page 377, said Register's Office, as to Tracts One and Two.
10. First Amendment to Mutual Access Easement Agreement and Amendment Regarding Access Rights recorded in Book 498, Page 912, and Second Amendment to Mutual Access Easement Agreement and Amendment Regarding Access Rights recorded in Book 510, Page 49, in said Register's Office.

BILL OF SALE

THIS BILL OF SALE is made and delivered this 30th day of December, 2020 (the "*Effective Date*"), by and from **THUNDER AIR, INC.**, a Tennessee corporation, d/b/a **JASPER HIGHLANDS DEVELOPMENT, INC.**, ("*Seller*"), to **TENNESSEE-AMERICAN WATER COMPANY**, a Tennessee public utility corporation ("*Buyer*"), pursuant to an Asset Purchase Agreement by and between Seller and Buyer and dated December 30, 2020 (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 a water system operated by the Seller and identified as the "Water System" 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 are hereby acknowledged by the Seller, and for performing other obligations as required by the Purchase Agreement, Seller does now hereby bargain, sell, convey, transfer, assign, and deliver to Buyer, its successors and assigns forever, all of the Seller's right, title, and interest in and to all of the Seller's property and assets used in or related to the continuing operation of the Water System, including, but not limited to, the following (collectively, the "*Assets*"):

- (a) the Assigned Contracts (as defined in Section 5.1(c) of the Purchase Agreement);
- (b) all interests in real estate (excepting public streets and public rights-of-way), water sources, wells, mains, pipes, pipelines, manholes, pumps, facilities, meters, tanks, storage facilities, valves, hydrants, water treatment facilities, water system network and related appurtenances, structures, improvements, fixtures, rights-of-way, rights, uses, franchises, licenses and easements owned by Seller and relating to the Water System, or in which Seller has an interest, and all hereditaments, tenements and appurtenances belonging, appertaining or relating thereto;
- (c) all machinery, equipment, tools, keys and locks, leasehold improvements, goods, and other tangible personal property relating to the Water System owned by Seller, or in which Seller has an interest;
- (d) all lubricants, spare parts, fuel, chemicals, raw materials, and other supplies and inventories ("*Supplies*") owned by the Seller, or in which the Seller has an interest, relating to the Water System;
- (e) all rights to warranties received from the suppliers of any machinery, equipment, facilities or Supplies, and related claims, credits, and rights of recovery with respect thereto;
- (f) all rights of Seller under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit, certificate, or other authorization or approval of any nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating to the Water System;
- (g) all Permits of or held by the Seller (to the extent transferable to Buyer under applicable law) and all pending applications therefore, renewals thereof or exemptions therefrom, including but not limited to those listed in Schedule 4.1(q) of the Purchase Agreement;

- (h) all rights and choses in action of Seller arising out of occurrences before or after the Closing relating to the Assets, including any rights of Seller under any warranties or insurance claims related to the Assets;
- (i) all of the intangible rights and property of Seller utilized by Seller in the operation of the Water System; and
- (j) all information, files, records, data, plans, contracts and recorded knowledge relating to the Assets, including customer and supplier lists and property records, related to the foregoing.

Notwithstanding the foregoing, the Assets do not include the following assets of the Seller (collectively, the “*Excluded Assets*”):

- (a) The portion of the water pipes extending from each customer’s water meter to the customer’s residence;
- (b) Any and all piping and fixtures internal to each individual customer’s structure (whether residential, commercial, industrial or other types); and
- (c) Seller’s cash on hand on the date of Closing and Seller’s account receivables related to the Water System for services rendered through the close of business on the Closing Date.

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, security interests 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.

All capitalized terms in this Bill of Sale not defined herein are subject to the definition of such terms in the Purchase Agreement.

[Signature on following page]


IN WITNESS WHEREOF, Seller is executing this Bill of Sale as of the Effective Date.

SELLER:

THUNDER AIR, INC.

a Tennessee corporation and d/b/a

JASPER HIGHLANDS DEVELOPMENT, INC.


By: 
John C. Thornton, Chairman and CEO

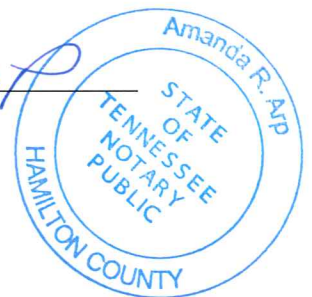
STATE OF TENNESSEE

COUNTY OF Hamilton

On this 30 day of December, 2020, before me appeared John C. Thornton, as Chairman and CEO of **THUNDER AIR, INC.**, a Tennessee corporation d/b/a **JASPER HIGHLANDS DEVELOPMENT, INC.**, known personally to me and duly sworn by me, and that he is duly authorized to sign this Bill of Sale on behalf and to bind the Seller thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.


NOTARY PUBLIC



19-0118
This instrument prepared by:
C. Palmer Pillans
Butler Snow LLP
150 Third Avenue South, Suite 1600
Nashville, Tennessee 37201

Maximum principal indebtedness for
Tennessee recording tax purposes is \$ -0-

WATER LINE AND WATER TANK EASEMENT AGREEMENT

THIS **WATER LINE AND WATER TANK EASEMENT AGREEMENT** ("Easement"), is made and entered into this 30th day of December, 2020, by and between **THUNDER AIR, INC.**, a Tennessee corporation d/b/a **Jasper Highlands Development, Inc.** ("Grantor"), and **TENNESSEE-AMERICAN WATER COMPANY**, a Tennessee public utility corporation, with offices located at 109 Wiehl Street, Chattanooga, TN 37403 ("Grantee").

WHEREAS, Grantor owns that certain real property more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area"); and

WHEREAS, the parties hereto desire to enter into this Easement to provide certain easements and rights as described below over the Easement Area;

NOW, THEREFORE, in consideration of the premises, the mutual promises and benefits hereinafter set forth, and other good and valuable consideration, the receipt and legal sufficiency of all of which hereby are acknowledged, Grantor does hereby grant and convey unto the Grantee, its heirs and assigns, the easements over and to the Easement Area and does by these presents grant, sell, convey, and confirm, unto the Grantee, its successors and assigns, the right and easement on Grantor's aforementioned property for, including but not limited to, the following purposes:

1. To install, construct, operate, use, maintain, paint, repair and replace a water tank and related appurtenances.
2. To bring in contractors, equipment and materials required by Grantee to perform the necessary work to maintain, repair, replace, paint or to strip paint from the water tank.
3. To build and construct a parking area and Grantee shall have the right to use gravel, rock or pave the surface area of said Easement.
4. To install, construct, reconstruct, operate, use, improve, expand, maintain, repair and replace buildings, sheds, water lines, pumps, valves, vaults, blocking, bollards and appurtenances.
5. To install, use, maintain, repair and replace fencing, electrical lighting or any other type of equipment or facilities necessary for the security and operation of the water tank or facilities.
6. To install, use, maintain, repair and replace electric, electrical switchgear and telecommunication antennas and lines and equipment and any other utilities or facilities that may be required by Grantee for the operation of the water tank or water distribution system.

Return To
Jones Title Ins. Agency, Inc.
518 Georgia Ave. STE. 200
Chattanooga, TN 37403

7. To use for storage of materials and for parking of equipment and vehicles.
8. To use for ingress and egress purposes and for any and all purposes that Grantee deems necessary for the operation of the water tank or its water distribution system.
9. To lease, sublease or license others to occupy the Easement.

Grantor agrees (1) not to obstruct or interfere with Grantee's ingress and egress on and to the Easement; (2) not to obstruct or interfere with Grantee's normal use or maintenance of the water tank; (3) not to erect or cause to be erected any building or structure or create or permit any hazard or obstruction of any kind within the Easement Area, which, in the sole judgment of Grantee, will interfere with Grantee's use of the Easement Area; and (4) not to add or remove any fill or ground cover in the Easement Area without the prior written approval of Grantee.

This Easement is accepted by Grantee with the understanding and on the condition, that whenever it shall make any excavations in the Easement Area the Grantee shall restore the ground, as nearly as practicable to its former condition.

Grantee shall agree to maintain the Easement Area, including maintaining the fence and reasonable landscaping requirements.

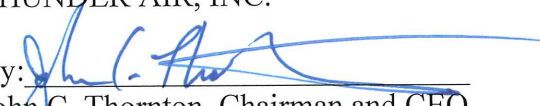
Grantor will warrant and defend the title to said Easement during its existence with the Grantee for its use and benefit against all parties whomsoever.

[Signature Pages Follow]

IN WITNESS WHEREOF, this instrument has been executed on this 30th day of December, 2020.

GRANTOR

THUNDER AIR, INC.

By: 
John C. Thornton, Chairman and CEO

STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

Personally appeared before me, the undersigned, a Notary Public for the State and County aforesaid, John C. Thornton, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the Chairman and CEO of Thunder Air, Inc., a Tennessee corporation, the within named bargainer, and that he/she as such Chairman and CEO and being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing his/her name as Chairman and CEO of Thunder Air, Inc.

Witness my hand and seal, at office in Hamilton County, Tennessee this 30 day of December, 2020.


Notary Public

My commission expires: 04/01/2024



GRANTEE

TENNESSEE-AMERICAN WATER COMPANY

By: [Signature]
Name: Anthony D'Aguillo
Title: Vice-President of Operations

STATE OF Georgia)
COUNTY OF Chatham)

Personally appeared before me, the undersigned, a Notary Public for the State and County aforesaid, Anthony D'Aguillo, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Vice-President of Operations of Tennessee-American Water Company, a Tennessee public utility corporation, the within named bargainor, and that he as such Vice-President of Operations and being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing his name as Vice-President of Operations of Tennessee-American Water Company.

Witness my hand and seal, at office in Savannah,
Georgia this 30 day of December, 2020.

Domenico Montini
NOTARY PUBLIC
CHATHAM COUNTY County
State of Georgia
My Comm. Expires 12/01/2023

Notary Public
My commission expires: 12/01/2023
[Signature]

EXHIBIT A
EASEMENT AREA

Commencing at ½" Rebar and Cap at the North East corner of Lot 118, Jasper Highlands Subdivision Phase 1-B of record in Plat Book 5 Page 811, Registers Office Marion County Tennessee; thence with a tie line N13°54'26"E a distance of 4902.94' to a point, said point being located S23°57'37"E a distance of 29.40' from the Southernmost corner of the chain link fence surrounding the existing water tank, said point being the point of beginning of the hereinafter described tract; thence parallel and 20' outside the existing chain link fence the following chord bearings and distances: N66°49'13"W a distance of 54.12' to a point; thence N32°31'19"W a distance of 60.85' to a point; thence N26°58'14"E a distance of 64.25' to a point; thence S67°25'48"E a distance of 92.71' to a point; thence S18°53'59"W a distance of 99.66' to a point, said point being the point of beginning and having an area of .21 Acres.

FOR PRIOR TITLE SEE INSTRUMENT OF RECORD IN BOOK 510 PAGE 49
REGISTER'S OFFICE MARION COUNTY, TN.

BK/PG: 537/92-96
21000181



5 PGS:AL-AGREEMENT		
DAVID BATCH: 79945	01/11/2021 - 11:30:33 AM	
VALUE		0.00
MORTGAGE TAX		0.00
TRANSFER TAX		0.00
RECORDING FEE		25.00
ARCHIVE FEE		0.00
DP FEE		2.00
REGISTER'S FEE		0.00
TOTAL AMOUNT		27.00

STATE OF TENNESSEE, MARION COUNTY
DEBBIE PITTMAN
REGISTER OF DEEDS

Schedule 1.4
List of Excluded Assets

The Excluded Assets are listed in Section 1.4. There are no additional Excluded Assets to list on this schedule.

Schedule 4.1(b)
Assets Subject to Leasehold Interest

None.

The prior lease arrangement with the homeowner's association has been terminated.

Schedule 4.1(f)
Required Approvals

None.

Schedule 4.1(i)
Undisclosed Liabilities

None.

Schedule 4.1(k)
List of Contracts

Seller has no contracts to transfer or disclose to Buyer.

Schedule 4.1(k)(i)
Refund Arrangements

None.

Schedule 4.1(l)(i)
Rights in Real Property and Leases

Owned Real Property

1. Upper Pump Station: Approximately 0.25 acres located at the southeast corner of Jasper Highlands lot 223 (Out of Tax Map No. 118-009)
2. Lower Pump Station: Approximately 1.64 acres located at Timber Ridge Estate lot 23 (Tax Map No. 133E B 023)

Leased Real Property

None.

Schedule 4.1(l)(ii)
Easements and Rights of Way

1. Water Tank –Approximately 0.21 acre easement for water tank at NE corner of Jasper Highland (Phase 1-B) lot 118; further described as follows:

Commencing at ½” Rebar and Cap at the North East corner of Lot 118, Jasper Highlands Subdivision Phase 1-B of record in Plat Book 5 Page 811, Registers Office Marion Count Tennessee; thence with a tie line N13°54'26"E a distance of 4902.94' to a point, said point being located S23°57'37"E a distance of 29.40' from the Southernmost corner of the chain link fence surrounding the existing water tank, said point being the point of beginning of the hereinafter described tract; thence parallel and 20' outside the existing chain link fence the following chord bearings and distances: N66°49'13"W a distance of 54.12' to a point; thence N32°31'19"W a distance of 60.85' to a point; thence N26°58'14"E a distance of 64.25' to a point; thence S67°25'48"E a distance of 92.71' to a point; thence S18°53'59"W a distance of 99.66' to a point, said point being the point of beginning and having an area of .21 Acres.

2. Easements and Right-of-Ways for all water lines and other water-related assets.

Schedule 4.1(l)(iii)
Options and Rights of First Refusal

None.

Schedule 4.1(l)(v)
Taxes and Assessments

None.

Schedule 4.1(l)(vi)
Necessary Repairs to Real Property

None.

Schedule 4.1(m)
Litigation

Seller has no litigation to disclose to Buyer.

Schedule 4.1(p)
Violations of Law

None.

Schedule 4.1(q)
Permits

Tennessee Department of Environment and Conservation PWSID #0008286

Schedule 4.1(r)(iv)
Environmental Conditions

None.

Schedule 4.1(t)
Current Extension Deposit Agreements

None.

Schedule 4.1(u)
ICSU Agreements

None.

Schedule 5.1(c)
Assigned Contracts

None.

Schedule 8.1(g)
Opinion of Seller's Counsel

Tennessee-American Water Company
109 Wiehl Street
Chattanooga, Tennessee 37403

Re: Sale of Certain Assets of Thunder Air, Inc. to Tennessee-American Water Company

Dear Sir/Madam:

We have served as legal counsel to Thunder Air, Inc., a Tennessee corporation ("Seller"), in connection with the sale of a water supply system owned by Seller to Tennessee-American Water Company ("TAWC") pursuant to an Asset Purchase Agreement between Seller and TAWC dated the date of this letter (the "Agreement"). This opinion is delivered to you pursuant to Section 8.1(g) of the Agreement. Capitalized terms used and not otherwise defined in this opinion shall have the meanings given to them in the Agreement.

In connection with the transactions contemplated by the Agreement, we have reviewed the following documents, all dated effective as of even date herewith:

1. The Agreement, with all exhibits and schedules;
2. The Bill of Sale;
3. The Assignment and Assumption of Water Service Contract;
4. The Assignment of Licenses, Permits, Warranties and General Intangibles;
5. The Special Warranty Deed, to be recorded in the Register's Office of Marion County, Tennessee;
6. The Easement for Water Tank, to be recorded in the Register's Office of Marion County, Tennessee;
7. The 1445 Affidavit;
8. TAWC's Officer's Certificate;
9. Seller's Officer's Certificate.

The foregoing documents and agreements may be collectively referred to in this letter as the "Purchase Documents." In addition, we have reviewed such other documents, made such investigations of fact, examined such questions of law, and done such other things as we have deemed necessary in order to render this opinion.

We have assumed the truth and accuracy of the representations and warranties made by the parties in the Purchase Documents. Except as otherwise stated herein, we have not made any independent investigations as to the accuracy or completeness of such representations, warranties or certifications or as to any other matters.

Based on the foregoing, but subject to all the qualifications hereinafter set forth, we are of the opinion that:

1. Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Tennessee. The certificate of existence that we have relied upon in rendering this opinion is attached hereto as Exhibit A.

2. Seller has the full power and lawful authority to enter into the Agreement and all related agreements and to consummate and perform the transactions contemplated hereby and thereby. Seller has duly and validly authorized the execution and delivery of the Agreement and all related documents and agreements to which Seller is a party by all necessary proceedings, and the Agreement and all related documents and agreements constitute the valid and binding obligations of Seller enforceable against it in accordance with their terms.

Limitations. Each and every opinion in this letter is subject to all of the following limitations:

(a) This opinion is rendered in connection with the transactions under the Purchase Documents and is not given for the benefit of any other party, person or entity except for TAWC and TAWC's successors and assigns, including (without limitation) any title insurance company issuing title insurance in connection with the purchase, and is not to be used for any other purpose or disclosed to any other person or governmental or political entity without our prior written consent;

(b) This opinion is effective as of the date hereof, except as otherwise noted herein, and we assume no obligation to inform you of any change in our opinion or facts or changes in law coming to our attention subsequent to such date;

(c) In giving each opinion in this letter, we have assumed the genuineness of all signatures, other than those of Seller, and the authenticity of all documents submitted to us as originals and the conformity to original documents of documents submitted to us as copies. Further, we have assumed that all documents have or will be duly executed and delivered by TAWC and that adequate consideration exists as to transactions contemplated by the Purchase Documents, that there have been no oral or written modifications to the Purchase Documents, and that no waiver of provisions has occurred by actions or conduct of the parties;

(d) Except as otherwise stated herein, we have relied upon the truthfulness and completeness of the disclosures and representations made by or on behalf of the Seller to us regarding facts, circumstances, matters, and situations upon which our opinion is based, and

upon such other facts of which we have gained actual knowledge, as below defined, in the course of our representation of the Seller in this matter;

(e) Notwithstanding any other portion of our opinion, the enforceability of the Purchase Documents is limited by (i) all applicable bankruptcy, reorganization, insolvency, receivership, moratorium or similar laws, and (ii) any prior or subsequent conduct of the parties (such as conduct constituting waiver or wrongful inducement) relating to or affecting generally the enforcement of rights;

(f) Notwithstanding any other portion of our opinion, we express no opinion as to whether a particular court may grant any remedy, specifically including, and without limiting the generality of the foregoing, specific performance, injunctions or restraining orders with respect to the enforcement of all or any part of the provisions of the Purchase Documents, all of which are subject to the discretion and interpretation of courts; further, the enforceability of the rights and remedies under the Purchase Documents may also be limited by certain laws and judicial rulings which may affect certain remedial provisions therein and by defenses such as estoppel and waiver and by other equitable considerations;

(g) We express no opinion as to the enforceability of indemnification or exculpation provisions or any other provisions to the extent the same are contrary to public policy or law;

(h) We are licensed to practice law in the State of Tennessee and express no opinion herein regarding matters governed by other laws, and although we may render an opinion on a matter, such is not an opinion as to whether the matter would or would not be governed or controlled by the laws of the State of Tennessee;

(i) We express no opinion on the enforceability of provisions requiring written modifications or the enforceability of severance clauses;

(j) We express no opinion with respect to the accuracy of the description of any property described in the Purchase Documents, and we have assumed, without any investigation, that any description of such property is sufficient to enable its proper identification and for purposes of recordation of the Purchase Documents;

(k) We make no representation as to any unrecorded liens, encroachments, zoning, land restrictions or covenants, environmental matters, or application of federal or state securities laws. Our opinion expressly does not extend to any matter relating to such matters or any other matters not specifically set forth in this opinion letter;

(l) Except for our reliance upon specific documents which have been identified herein as reviewed by our firm, upon which we have relied in rendering the foregoing opinions, we have not undertaken any independent investigation to determine the existence or absence of such facts, and no inference as to our knowledge of the existence or absence of such facts should be drawn from our representation of the Seller. We have not undertaken any independent search of any records of the Seller relative to determining the existence of any documents or circumstances which would alter, amend, replace or repeal the Seller's representations or warranties.

(m) We have not examined any documents or made any examinations relating to the state of title to any property described in the Purchase Documents or otherwise and, accordingly, we express no opinion as to any state of title of any such property or the existence or nonexistence of any mortgage, encumbrance, restriction, covenant, lien or other matter affecting any such title, nor do we express any opinion with respect to the Seller's interest, if any, in such property;

(n) We are assuming the proper and due recordation of the Purchase Documents, related statements, the release of any existing deed of trust, and any other notices and documents which are intended to be recorded, and the payment of the appropriate privilege taxes, fees and costs;

(o) Whenever this opinion is qualified by the phrase "of which we are aware" or "to our knowledge" with respect to the existence or absence of facts, it is intended to indicate that during the course of our representation as counsel to Seller in connection with the sale, no information has come to our attention which would give us actual knowledge of the existence or absence of such facts. However, we have not undertaken any independent investigation to determine the existence or absence of such facts, and any limited inquiry undertaken by us during the preparation of this opinion should not be regarded as such an investigation. No inference as to our knowledge of the existence or absence of such facts should be drawn from the fact of our representation as counsel to Seller in connection with the sale.

Sincerely,

WILLIAM H. HORTON
For Horton, Ballard & Pemerton, PLLC

cc: Thunder Air, Inc.

Schedule 8.1(j)
Certification of Financial Information

Seller hereby certifies that the Marlin Financial & Leasing Corp. debt is the only debt related to the Water System.

Seller hereby certifies that there are no unexpired customer advances for construction or unexpired contributions in aid of construction as of the Closing Date.

Seller hereby certifies that there are no additions or retirements to the Water System during the period from the date of execution of this Agreement to the Closing Date.

Schedule 8.1(o)
TPUC Approvals

See attached.

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

JOINT PETITION OF TENNESSEE)
AMERICAN WATER COMPANY AND THUNDER)
AIR, INC. DOING BUSINESS AS JASPER)
HIGHLANDS DEVELOPMENT, INC. FOR) DOCKET NO.
THE APPROVAL OF AN ASSET PURCHASE) 20-00011
AGREEMENT AND FOR THE)
ISSUANCE OF A CERTIFICATE OF)
CONVENIENCE AND NECESSITY)

TRANSCRIPT OF REMOTE COMMISSION CONFERENCE

Monday, December 14, 2020

Reported By:
Virginia Dodge, RDR, CRR, LCR

1 (The aforementioned electronic-only
2 Commission Conference came on to be heard on Monday,
3 December 14, 2020, and was held via WebEx Conferencing
4 Platform, beginning at 9:07 A.M., before Chair
5 Kenneth C. Hill, Vice Chair Herbert Hilliard,
6 Commissioner John Hie, Commissioner David F. Jones and
7 Commissioner Robin L. Morrison, when the following
8 proceedings were had, to-wit:)

9
10 THE CLERK: Section 4, Commissioners
11 Morrison, Hilliard and Hie. Docket number 20-00011.
12 Tennessee American Water Company. Joint petition of
13 Tennessee American Water Company and Thunder Air, Inc.
14 doing business as Jasper Highlands Development, Inc.
15 for the approval of an asset purchase agreement and for
16 the issuance of a certificate of convenience and
17 necessity. Deliberations.

18 VICE CHAIR HILLIARD: Based upon the
19 evidentiary record and existing information on file
20 with the Commission, I find that Tennessee American
21 Water Company, Inc. has the requisite managerial,
22 technical and financial capabilities to operate the
23 water system located within the Jasper Highlands
24 development. Tennessee American is also in good
25 standing with the Commission and in compliance with all

1 Commission rules.

2 I therefore move approval for
3 Tennessee American to amend its certificate of
4 convenience and necessity to include the Jasper
5 Highlands development.

6 Further, I find that the acquisition
7 of the assets of Thunder Air, Inc. by Tennessee
8 American is in the public interest and that the
9 negotiated purchase price is reasonable, based in part
10 upon the fact that the purchase price is well below the
11 book value of the net assets being transferred to
12 Tennessee American by Thunder Air.

13 I also find the conditions outlined in
14 the petition to be reasonable, including the
15 application of Tennessee American's existing capital
16 investment and purchased water, wheeling water costs,
17 waste disposal and TPUC inspection fee, PCOP, riders to
18 Thunder Air customers, adoption of the approved
19 Tennessee American depreciation rates for the acquired
20 assets and deferring up to 10,000 in due diligence
21 costs as a regulatory asset, for which amortization
22 over a 10-year period will begin immediately at
23 closing.

24 I find, however, that the proposed
25 accounting treatment of post closing payments by

Tennessee American should be denied. After review of the Uniform System of Accounts and financial accounting standards issued by the Financial Accounting Standards Board, I find that Tennessee American's obligation for post closing payments should not be recognized as customer advances for construction but rather as a regulatory liability.

Finally, all other issues related to ratemaking and future recoveries shall be deferred to future proceedings.

I so move.

COMMISSIONER MORRISON: Commissioner Morrison second; vote yes.

COMMISSIONER HIE: Commissioner Hie votes aye.

(End of requested transcript.)

C E R T I F I C A T E

I, Virginia Dodge, Registered
Diplomate Reporter and Tennessee Licensed Court
Reporter and Notary Public, hereby certify that I
reported the foregoing proceedings at the time and
place set forth in the caption thereof; that the
proceedings were stenographically reported by me; and
that the foregoing proceedings constitute a true and
correct transcript of said proceedings to the best of
my ability.

I FURTHER CERTIFY that I am not
related to any of the parties named herein, nor their
counsel, and have no interest, financial or otherwise,
in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto
affixed my official signature and seal of office this
28th day of December, 2020.

Virginia Dodge
My Commission Expires: 9/25/2022
Tennessee LCR No. 734, Exp: 6/30/22
Tennessee CCR No. 0499, Exp: 6/30/22
RDR/CRR #835835

ASSET PURCHASE AGREEMENT
BETWEEN THE
THUNDER AIR, INC., D/B/A JASPER HIGHLANDS DEVELOPMENT, INC.
AND
TENNESSEE-AMERICAN WATER COMPANY

December 30, 2020

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE Agreement (“**Agreement**”), dated as of the 30th day of December, 2020 (the “**Effective Date**”) by and between the **THUNDER AIR, INC.**, a Tennessee corporation d/b/a **Jasper Highlands Development, Inc.** (“**Seller**”), and **TENNESSEE-AMERICAN WATER COMPANY**, a Tennessee public utility corporation (“**TAWC**”).

RECITALS

A. Seller owns, maintains and operates a water supply system which provides water services to customers located within that certain residential development known as Jasper Highlands Subdivision (the “**Subdivision**”) and which is primarily located in Marion County, Tennessee (the “**Water System**”).

B. Seller has developed Phase 1, Phase 2 and Phase 3 of the Subdivision and there are currently One Hundred Thirty-nine (139) active customers served by the Water System.

C. TAWC is a regulated public utility that furnishes water services to the public in multiple counties throughout Tennessee.

D. Seller desires to sell, and TAWC desires to purchase the Water System, as well as substantially all assets, properties and rights of Seller owned and used in connection with the Water System, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the recitals and the covenants, representations, warranties and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE 1

THE TRANSACTION

1.1 Sale and Purchase of Assets. Subject to the terms, representations and conditions set forth in this Agreement, TAWC shall purchase from Seller, and Seller shall sell, assign, transfer, grant, convey and deliver to TAWC at Closing (hereinafter defined), the Assets. The term “**Assets**” means all of the assets, properties and rights of Seller (whether tangible, intangible, real, personal or mixed) that are held or used in connection with the Water System, except for the Excluded Assets. The Assets shall be sold free and clear of all mortgages, liens, pledges, security interests, charges, claims, restrictions and encumbrances of any and all nature (collectively, the “**Encumbrances**”).

1.2 Assets Further Defined.

The Assets shall, without limitation to the definition stated above, include the following, other than the Excluded Assets:

- (a) the Assigned Contracts (as defined in **Section 5.1(c)**);
- (b) all interests in real estate (excepting public streets and public right-of-ways), water sources, wells, mains, pipes, pipelines, manholes, pumps, facilities, meters, tanks, storage facilities, valves, hydrants, water treatment facilities, water system network and related appurtenances, structures, improvements, fixtures, rights-of-way, rights, uses, franchises, licenses and easements owned by Seller and relating to the Water System, or in which Seller has an interest, and all hereditaments, tenements and appurtenances belonging, appertaining or relating thereto;
- (c) all machinery, equipment, tools, keys and locks, leasehold improvements, goods, and other tangible personal property relating to the System owned by Seller, or in which Seller has an interest;
- (d) all lubricants, spare parts, fuel, chemicals, raw materials, and other supplies and inventories (“**Supplies**”) owned by the Seller, or in which the Seller has an interest, relating to the System;
- (e) all rights to warranties received from the suppliers of any machinery, equipment, facilities or Supplies, and related claims, credits, and rights of recovery with respect thereto;
- (f) all rights of Seller under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit, certificate, or other authorization or approval of any nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating to the Water System;
- (g) all Permits of or held by the Seller (to the extent transferable to TAWC under applicable law) and all pending applications therefore, renewals thereof or exemptions therefrom, including but not limited to those listed in **Schedule 4.1(q)**;
- (h) all rights and choses in action of Seller arising out of occurrences before or after the Closing relating to the Assets, including any rights of Seller under any warranties or insurance claims related to the Assets;
- (i) all of the intangible rights and property of Seller utilized by Seller in the operation of the System; and
- (j) all information, files, records, data, plans, contracts and recorded knowledge relating to the Assets, including customer and supplier lists and property records, related to the foregoing.

1.3 Retained Liabilities.

- (a) Except as explicitly provided in **Section 1.3(b)** below, TAWC shall not assume and shall not be liable for any liabilities or obligations of Seller of any nature whatsoever (including any obligations related to the Assets or operation of the Water System), whether express or implied, fixed or contingent, known or unknown at the time of Closing. Except as explicitly provided in **Section 1.3(b)** below, all of Seller’s liabilities and obligations, whether incurred in connection with the operation of the Water System, ownership of the Assets or otherwise, shall

remain the sole responsibility of, and shall be retained, paid, performed and discharged solely by Seller. Without limiting the foregoing, Seller shall be and shall remain liable for all obligations and liabilities relating to (i) employees of Seller (including those who worked on the Water System) and any employee benefits related thereto (including any pension benefits), (ii) all taxes on the business of Seller, (iii) accounts payable of the Seller, and (iv) failure to comply with any Environmental Laws or any Permits for the Assets or operation of the Water System on or before the Closing Date.

(b) Following the Closing, TAWC shall assume only those contractual liabilities arising after the Closing Date under the Assigned Contracts (specifically excluding any liability under the Assigned Contracts arising out of or relating to a breach or other circumstances that occurred on or prior to the Closing Date), including maintenance and repairs related to the Water System.

1.4 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, the Assets shall not include any of the following:

(a) The portion of the water pipes extending from each customer's water meter to the customer's residence (the "**Customer Service Lines**");

(b) Any and all piping and fixtures internal to each individual customer's structure (whether residential, commercial, industrial or other types);

(c) Seller's cash on hand on the date of Closing and Seller's account receivables related to the Water System for services rendered through the close of business on the Closing Date;

(d) All rights of Seller under this Agreement and related Bill of Sale and Assignment of Contracts Agreement as it pertains to the transfer and sale herein contemplated; and

(e) the specific assets, properties and rights of Seller set forth on **Schedule 1.4**.

1.5 Accounts Receivable. Accounts receivable for services related to the System rendered through the close of business on the Closing Date shall be excluded assets as per **Section 1.4**, and accounts receivable for services related to the Water System rendered thereafter shall belong to TAWC.

ARTICLE 2

PURCHASE PRICE

2.1 Purchase Price for the Assets. Subject to the terms and conditions of this Agreement, the purchase price (the "**Purchase Price**") for the Assets shall be **Two Million Three Hundred Ninety-eight Thousand Two Hundred and 00/100 Dollars (\$2,398,200.00)**., of which the sum of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) shall be payable directly to Seller on the Closing Date by wire transfer or by corporate check, at the Seller's discretion (the "**Closing Payment**"). Any payments made in advance by Seller's water customers for post-Closing service will be apportioned at Closing. TAWC shall receive a credit toward the Closing Payment (starting with credit toward any cash payment required from TAWC) at Closing

for the prorated amount of such advance payments for the period of the payment that is intended to follow Closing.

2.2 Post-Closing Payments.

(a) Subject to the terms and conditions of this Agreement, One Thousand Eight Hundred and 00/100 Dollars (\$1,800.00) of the Purchase Price shall be made to the Seller post-Closing pursuant to this **Section 2.2(a)**. TAWC will pay Seller a one-time post-Closing payment of One Thousand Eight Hundred and 00/100 Dollars (\$1,800.00) for each new customer added to the Water System within ten (10) years of the Closing Date (defined below). Payments made by TAWC pursuant to this **Section 2.2(a)** will be made (a) only after each such respective new customer has been served by the Water System for twelve (12) consecutive months and (b) once annually to Seller on a date agreed to by Seller and TAWC. TAWC and Seller further agree that payments made by TAWC pursuant to this **Section 2.2(a)** shall not exceed the lesser of Eight Hundred Ninety-eight Thousand Two Hundred and 00/100 Dollars (\$898,200.00) or payment for Four Hundred Ninety-nine (499) new customers added to the Water System.

(b) TAWC and Seller further agree that Seller shall not be responsible for costs associated with adding customers to the Water System after the Closing Date, and which such customers being added are located within Phases 1, 2 and 3 of the Subdivision.

ARTICLE 3

THE CLOSING

3.1 Closing. Subject to the terms and conditions of this Agreement, the closing of the sale and purchase of the Assets (“**Closing**”) shall take place at a location and time of day agreed upon by the parties, commencing, on or before the later to occur of: (a) within thirty (30) days following the date on which all of the conditions set forth in Articles 6, 7 and 8 of this Agreement have been met (or waived), or (b) or at such later date as is agreed upon by the parties. The date of the Closing is referred to herein as the “**Closing Date**”.

3.2 Deliveries and Proceedings at Closing.

(a) Subject to the terms and conditions of this Agreement, at the Closing, Seller shall deliver or cause to be delivered to TAWC:

- (i) Bills of Sale and instruments of assignment duly executed by Seller as necessary to transfer all of the Assets comprising tangible personal property to TAWC in a form acceptable to TAWC, including an assignment of contracts agreement covering the assignment and assumption of the Assigned Contracts in substantially the form of **Exhibit A (“Assignment of Contracts Agreement”)**;
- (ii) A copy of each permit, license, easement, land-right and other necessary authority for the operation of the Water System and the Assets, in each case validly issued in the name of the Seller, and showing in full force and effect;

- (iii) The consents to transfer all Assigned Contracts, leases, intellectual property, Permits and other Assets requiring such consents to be transferred to TAWC, with all such transfers on terms and conditions acceptable to TAWC;
- (iv) All written consents (of third parties or otherwise) and governmental approvals necessary to ensure that TAWC will continue to have the same full rights with respect to the Assets that Seller had immediately prior to the Closing;
- (v) an assignment of all of the Assets that are intangible personal property in a form reasonably acceptable to TAWC;
- (vi) Evidence satisfactory to TAWC of the transfer of all utilities with respect to the Water System from Seller to TAWC in accordance with **Section 6.1(c)** below;
- (vii) All such general warranty deeds, bills of sale, and other instruments of transfer and conveyance in order to sell, transfer, assign, convey and deliver title to the real estate and easements that are necessary for or used in connection with the operation of the Water System to TAWC, duly executed and acknowledged by Seller and in recordable form, each sufficient to convey the title and rights of access to the Assets;
- (viii) Such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by TAWC, each in form and substance reasonably satisfactory to TAWC;
- (ix) a certificate as to the accuracy of Seller's representations and warranties as of the Effective Date of this Agreement and as of Closing in accordance with **Section 8.1(b)** and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before Closing in accordance with **Section 6.1**;
- (x) a certificate of the Secretary of Seller, dated as of the Closing, certifying: (a) that attached are true copies of the duly adopted resolutions of the Seller's governing body authorizing the execution of this Agreement and the sale of all Assets; and (b) the incumbency, signatures and authority of the governing body members of Seller executing this Agreement or any agreement contemplated hereby on behalf of Seller;
- (xi) As applicable, a payoff letter from each lender (whether institutional or otherwise) from which Seller has incurred indebtedness or borrowed money that is outstanding, and a release of all Encumbrances relating to the Assets (along with Form UCC3 Financing Statements effectuating a termination of all outstanding financing statements covering the Assets) executed, filed and/or recorded by the holder of or parties to each such Encumbrance, if

any, in each case in substance and form reasonably satisfactory to TAWC and its counsel;

- (xii) The certificates and other documents required to be delivered by Seller under this Agreement as set forth in **Section 8.1** hereof;
- (xiii) The Opinion of Seller's counsel as set forth in **Section 8.1(g)** hereof; and
- (xiv) All such other agreements, documents and instruments of conveyance required by this Agreement or as shall, in the reasonable opinion of TAWC and its counsel, be necessary to transfer the Assets to TAWC in accordance with this Agreement, and where necessary, in recordable form.

(b) Subject to the terms and conditions of this Agreement, at the Closing, TAWC shall deliver or cause to be delivered to Seller:

- (i) The Closing Payment;
- (ii) Certified copies of the resolutions duly adopted by TAWC's Board of Directors authorizing the execution, delivery and performance of this Agreement; and
- (iii) The certificates and other documents required to be delivered by TAWC under this Agreement as set forth in **Section 8.2** hereof.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF SELLER

4.1 Seller's Representations. Seller hereby represents and warrants to TAWC as follows:

(a) Organization; Legal Authority. The Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Tennessee, and Seller has the full power and lawful authority to transfer to TAWC the rights, title and interest in and to the Assets.

(b) Assets Ownership. Seller has clear, good, and marketable right and title to, or a valid leasehold interest in, all of the assets, property and facilities comprising the Assets, free and clear of all Encumbrances. **Schedule 4.1(b)** denotes all Assets that are subject to a leasehold interest (i.e., not owned by Seller). None of the Assets are leased or on loan by Seller to any third party. The Assets constitute all of the assets, property and facilities that, together with the rights granted or conveyed under the transaction documents, are necessary for the operation of the Water System, the business thereof, and the Assets as conducted as of the date hereof. Upon the Closing, TAWC shall continue to be vested with good title or a valid leasehold interest in the Water System and all of the Assets.

(c) Financial Statements. The Seller's Financial Statements that have been made available to TAWC by Seller have been prepared by Seller on a consistent basis and certified as

being true and correct. The Financial Statements were prepared from the books and records of Seller, are true, correct and complete 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 (subject in the case of the Unaudited Financial Statements to normal year-end adjustments and the absence of footnotes).

(d) Due Authorization; Valid and Binding; No Encumbrances. Seller has the full power and lawful authority to enter into this Agreement and all related agreements and to consummate and perform the transactions contemplated hereby and thereby. Seller has duly and validly authorized the execution and delivery of this Agreement (which has been duly executed and delivered) and all related documents and agreements to which Seller is a party by all necessary proceedings, and this Agreement and all related documents and agreements constitute the valid and binding obligations of Seller enforceable against it in accordance with its terms. 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, all related agreements, or the consummation by Seller of the transactions contemplated herein or therein. Neither the contemplated transactions, nor this Agreement will result in the creation of any Encumbrance against any of the Assets.

(e) Current Operations. Seller has all requisite power and authority and all agreements, contracts, commitments, leases, certificates, licenses, Permits, regulatory authorizations and other instruments required to conduct the operation of the Water System as it has been and is now being conducted and to own and operate the Assets.

(f) Approvals or Violations. **Schedule 4.1(f)** sets forth a list of each consent, waiver, authorization, approval or Permit of any governmental authority or other person, and each declaration, notice to, or registration with any governmental authority, required to be obtained, given or made by Seller in connection with the execution and delivery of this Agreement and each related agreement, and the performance by Seller of its obligations under this Agreement and all related agreements and the transactions contemplated hereunder and thereunder. Except for those items set forth on **Schedule 4.1(f)**, this Agreement does not require any further approvals of any other party, does not violate any law, ordinance or regulation, does not conflict with any order or decree, and does not conflict with or result in a breach of any contract, lease or Permit to which Seller is a party or is otherwise bound or affected, or by which the Assets may be bound or affected. The execution and delivery of this Agreement and all related documents and agreements, and the consummation of the transactions contemplated hereby and thereby, do not and will not violate, conflict with or result in the breach of any term, condition or provision of Seller's articles of incorporation, bylaws or other governing documents, or any instrument, contract, lease, agreement, Permit, certificate or other document to which Seller is a party or is otherwise bound or affected, or by which the Assets may be bound or affected.

(g) Accounts Receivable. All accounts receivable being retained by Seller under **Section 1.5** (whether billed or unbilled) (collectively, the "**Retained Accounts Receivable**"), are valid, genuine and existing and arose (or will have arisen on or prior to Closing) from bona fide sales of products or services actually made in the ordinary course of business on or prior to the Closing Date. All products and services with regard to the Retained Accounts Receivable have

been provided by Seller (and no further obligations exist), and no offset, agreement for deduction, free goods, discount or deferred price or quantity adjustment has been made with respect to any Retained Accounts Receivable (or with respect to TAWC's accounts receivable for the period after Closing).

(h) Free Service; Customer List; Prepayments. Seller has not entered into any agreements or other understandings for the provision of free or otherwise subsidized or discounted services to any parties. The data contained in the customer records provided to TAWC under **Section 6.1(i)** is true and accurate in all material respects. Seller has not received payments made in advance by any third party (including Seller's water customers) for future service (including service after the Closing) with regard to the Water System or the Assets.

(i) Undisclosed Liabilities. Except as set forth in **Schedule 4.1(i)**, there are no material liabilities or obligations of Seller, either accrued, absolute, liquidated or unliquidated, contingent or otherwise, relating to the Assets that would be required to be set forth on a balance sheet prepared under GAAP applicable to municipalities, other than liabilities incurred in the ordinary course. There is no basis for any claim against Seller, the Water System or any of the Assets for any such liability or obligation, and there is no basis for any such liability or obligation to become the liability or obligation of TAWC from and after the Closing.

(j) Intentionally Omitted.

(k) Contracts. **Schedule 4.1(k)** contains a true, complete and accurate list of all agreements (including all verbal agreements), contracts, leases (including any leasehold interests constituting part of the Assets as described in **Section 4.1(b)**), licenses, commitments, arrangements and instruments related to the Assets to which Seller is a party or the Assets are otherwise subject or bound, along with all amendments and addenda related thereto (collectively, the "**Contracts**"). **Schedule 4.1(k)** also identifies with an asterisk any Contract which requires consent to, or prohibits, assignment of the Contract. All Contracts are in full force and effect and are valid and enforceable in accordance with their terms, and to the best of Seller's knowledge, the parties thereto are in material compliance with the provisions thereof, and there exists no event or condition which with the giving of notice or lapse of time, or both, would constitute a default thereunder. Seller has received, or will receive prior to the Closing, the written consent of each party to the Assigned Contracts designated on **Schedule 4.1(k)** as requiring consent to the assignment, or otherwise complied with Seller's obligations under **Section 6.1(b)** hereof. Seller has delivered to TAWC correct and complete copies of those Contracts requested by TAWC, as well as copies of the requisite assignments for each of the Assigned Contracts which effectuates the transfer of the Assigned Contracts to TAWC as of the Closing Date. Except as disclosed on **Schedule 4.1(k)(i)**, Seller is not a party to any contract or subject to any arrangement for future payment of refunds under any extension agreement, customer deposit agreement or similar arrangement (including any prepaid tap fee) with respect to the Assets or the Water System.

(l) Adequacy of Property Rights; Real Property and Easements.

(i) Seller possesses all property rights necessary to operate the Assets, and 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. As it relates to the Assets, **Schedule 4.1(I)(i)** contains a complete and accurate list of the real property owned by Seller and a complete and accurate list of each lease of real property to which Seller is a party (as the lessor, lessee or otherwise). Seller's current use and occupancy of the real property and its operation of the Water 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. To the best of Seller's knowledge, all leases, licenses, rights of way, and easements related in any manner to the Assets and properties comprising the Assets and all other instruments, documents and agreements pursuant to which Seller has obtained the right to use any real property in connection with the Assets are in good standing, valid and effective in accordance with their respective terms, and with respect thereto, there is no existing material default or event that could constitute a material default. The real property is properly classified under applicable zoning laws, ordinances, and regulations for the current and continued operation of the Water System on the real property. No proceeding that could adversely affect the zoning classification of the real property is pending or threatened. At and after the Closing, TAWC shall have the right to maintain and use the real property, including the space, facilities and appurtenances outside of 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. Seller has made available to TAWC copies of all title reports, surveys, title policies and appraisals in Seller's possession relating to the real property.

- (ii) Set forth on **Schedule 4.1(I)(ii)** hereto is a true, correct and complete list of all easements and rights of way relating to the real property and the Assets. All of such easements and rights of way are valid and will be transferred to TAWC and remain in full force as of the Closing and thereafter. 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. At and after the Closing, TAWC shall have all rights, easements and agreements necessary for the use and maintenance of water, sewer or other utility pipelines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the real property to operate and maintain the Water System.
- (iii) 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, except as otherwise set forth on **Schedule 4.1(I)(iii)**.
- (iv) 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 applicable law, and the same use thereof by TAWC following Closing will not result in any violation of any such code, ordinance, regulation or standard. 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, that would interfere with the use or occupancy of such real property or the continued operation of the Water System as currently conducted.

- (v) There is no unpaid tax, levy or assessment against the real property (except for encumbrances relating to assessments not yet due and payable), nor is there pending or threatened any condemnation proceeding against the real property or any portion thereof. **Schedule 4.1(I)(v)** contains a list of all impending taxes, levies and assessments that are due and owing after the Closing Date.
- (vi) Except as set forth in **Schedule 4.1(I)(vi)**, there is no condition affecting the real property or the improvements located thereon that requires repair or correction to restore the same to reasonable operating condition.

(m) Litigation. Except as disclosed on **Schedule 4.1(m)**, there is no action, suit, claim or litigation, arbitration, proceeding, judgment, injunction, audit or legal, administrative or governmental investigation pending (including any citations, notices, summons or orders), and none are known to be threatened against, pertaining to or affecting the Water System or any of the Assets (including any such actions, litigation and other claims against Seller) before any court, arbitrator or governmental authority (including any governmental agency board or instrumentality), nor is there any order, writ, injunction or decree of any court, arbitrator or governmental authority, in existence against, pertaining to or affecting the Seller (including its commissioners, directors or officers), the Water System or any of the Assets. Except as noted in **Schedule 4.1(m)**, all matters disclosed in **Schedule 4.1(m)** are fully covered by Seller's insurance. There are no known laws, ordinances, regulations or official orders now in effect or pending that could reasonably be expected to have a material adverse effect on the Water System or the ownership, condition or operation of the Water System or the Assets. There are no actions, suits, claims, proceedings or investigations pending or, to the knowledge of the Seller, threatened against the Seller, and the Seller is not subject to any outstanding judgment, order or decree of any court or governmental body, which would in either case, reasonably be expected to prevent or materially interfere with or delay the Seller's ability to perform its obligations under this Agreement.

(n) Tax Matters.

- (i) 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 material 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. There are no Encumbrances on any

of the Assets that arose in connection with any failure (or alleged failure) to pay any tax.

- (ii) To the best of Seller's knowledge, 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, supplier, vendor, creditor, or other third party. Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.
- (iii) There are no audits or examinations of any tax returns pending or threatened that relate to Seller's operation of the Water System or the 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 Water System, 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 Water System or the Assets.

(o) No Material Adverse Conditions; Insurance. To the best of Seller's knowledge, there are no facts, circumstances or conditions existing or threatened that would have, or would be reasonably be expected to have, a material adverse effect on the condition, properties, assets, indebtedness, liabilities, commitments, operations or prospects of the Water System or the Assets. Seller maintains and has maintained appropriate insurance necessary for the full protection of all of the Assets, the Water System, and all related 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 claims or 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 claims or 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.

(p) Compliance with Law. To the best of Seller's knowledge, except as disclosed on **Schedule 4.1(p)**, Seller is and has been in material compliance with all laws, ordinances, and governmental rules and regulations, whether civil or criminal, of any federal, state, local or foreign governmental authority applicable to the operation of the Water System and the Assets, including any Environmental Laws (defined below) and employee labor, pension and benefits laws, to which Seller, the Water System or the Assets are subject, and has not failed to obtain, or to adhere to the requirements of, any certificate, license, Permit or other governmental authorization necessary for the operation of the Water System and the Assets, nor has Seller committed any violation of law or any provision of its governing documents applicable to the Water System or the Assets. Except as disclosed on **Schedule 4.1(p)**, Seller has not received, and has no reason to believe that it will receive, notice of any violation of law.

(q) Adequacy of Permits. Set forth in **Schedule 4.1(q)** is a complete and correct list of all permits, licenses, franchises, registrations, certificates, consents, orders, adjudications, variances, waivers, privileges, approvals and other authorizations, including any authorizations issued, granted, approved or allowed by or obtained from, or required to be obtained from, any

governmental authority, including any environmental permits, operating permits and approvals (collectively, the “**Permits**”) held by Seller in the continuing operation of the Water System and for the Assets. Such Permits constitute all those necessary for the continuing operation of the Water System and for the Assets, and are all valid and subsisting and in full force and effect. To the best of Seller’s knowledge, no fact or circumstance exists that 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, and 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. Seller likewise has obtained and continues to possess all Permits required under, by or pursuant to Environmental Laws (defined below), has filed such timely and complete renewal applications as may be required prior to the Closing Date, and also has complied with all reporting and record keeping requirements under Environmental Laws (defined below).

(r) Environmental Matters.

- (i) To the best of Seller’s knowledge, there are no past or present events, conditions, circumstances, activities, practices, incidents, actions or plans pertaining or relating to the Assets or the Water System that may materially impede or prevent compliance with Environmental Laws, and 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 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.
- (ii) There are no pending or threatened claims, liens, 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 Seller’s real property or any other properties and assets (whether real, personal or mixed) in which Seller has or had an interest. Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has any material environmental, health and safety liabilities with respect to the Seller’s 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.

- (iii) To the best of Seller's knowledge, there are no hazardous materials, except those used in connection with the ordinary course operation of the Water System and which are used in accordance with and in compliance with all Environmental Laws, 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. To the best of Seller's knowledge, 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 (e.g., other properties that may impact or affect the Assets or the Water System), or any geologically or hydrologically adjoining property, whether by Seller or any other person.
- (iv) Except as set forth in **Schedule 4.1(r)(iv)**, none of the following exists at the Water System or on the real property that is part of the Assets: (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.
- (v) Seller has delivered to TAWC 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, analyses, tests and monitoring to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Seller.
- (vi) Seller has been and is in compliance with all orders, decrees, judgments and notices issued against the Seller under or in connection with all Environmental Laws.
- (vii) As used in this Agreement, the term "**Environmental Laws**" shall include all federal, state, and local environmental laws and regulations, including, but not limited to the Clean Water Act ("**CWA**"), also known as the Federal Water Pollution Control Act ("**FWPCA**"), 33 U.S.C. § 1251 et seq., the

Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2601 et seq., the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”), 7 U.S.C. §§ 136 et. seq., the Safe Drinking Water Act (“SDWA”), 42 U.S.C. §§ 300 (f) et seq., the Surface Mining Control and Reclamation Act (“SMCRA”), 30 U.S.C. §§ 1201 et seq., the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 et seq., the Superfund Amendment and Reauthorization Act of 1986 (“SARA”), Public Law 99-499, 100 Stat., 1613, the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. 6901, the Atomic Energy Act (“AEA”), Act of August 30, 1954, Ch. 1073, 68 Stat. 919 (codified as amended in scattered sections of 5 U.S.C. and 42 U.S.C.), Emergency Planning and Community Right to Know Act (“EPCRA”), 42 U.S.C. §§ 11001 et seq., Hazardous Materials Transportation Act (“HMTA”), 49 U.S.C. §§ 5101 et seq.. Any reference to a legislative act or regulation shall be deemed to include all amendments thereto and all regulations, orders, decrees, judgments, opinions directives or notices issued thereunder.

(s) Brokers. Seller has not employed any investment banker, broker or finder or incurred any liability for any investment banking fees, brokerage fees, commissions or finders’ fees or any similar other fees or commissions in connection with the transactions contemplated by this Agreement for which TAWC has or could have any liability.

(t) Customer Advances. Set forth in **Schedule 4.1(t)** is a complete and accurate list of all unexpired customer advances for construction held by Seller as of the date of this Agreement and extension deposit agreements (or similar agreements) to which Seller is a party (each an “**Extension Deposit Agreement**”), and which contain unexpired obligations of Seller to provide for the payment of periodic refunds to parties making advances for the construction of facilities for water service. Seller will provide to TAWC within fifteen (15) days of the execution of this Agreement (to be updated at Closing), accurate and complete copies of each such customer advances and Extension Deposit Agreement. All records of Seller relating to each Extension Deposit Agreement are complete and accurate in all material respects and, together with the relevant Extension Deposit Agreement, represents all the information reasonably required to determine Seller’s obligations to each party to the Extension Deposit Agreements; and there are no disputes or disagreements with any party to an Extension Deposit Agreement relating to the amount due under that agreement or the method of calculating that amount. **Schedule 4.1(t)** may be updated at Closing only with the mutual consent of the parties.

(u) Interconnection and Supply Agreements. **Schedule 4.1(u)** contains a true, complete and accurate list of all agreements (including all verbal agreements and intermunicipal agreements), contracts, leases, licenses, commitments, arrangements and instruments related to the purchase and supply of water for use in the Water System (each individually an “**ICSU Agreement**” and collectively, the “**ICSU Agreements**”). **Schedule 4.1(u)** also identifies with an asterisk any ICSU Agreement which requires consent to, or prohibits, assignment of the ICSU Agreement. All ICSU Agreements are in full force and effect and are valid and enforceable in accordance with their terms, and to the best of Seller’s knowledge, the parties thereto are in material compliance with the provisions thereof, and there exists no event or condition which with the giving of notice or lapse of time, or both, would constitute a default thereunder. Seller has

received, or will receive prior to the Closing, the written consent of each party to the Assigned Contracts designated on **Schedule 4.1(u)** as requiring consent to the assignment, or otherwise complied with Seller's obligations under **Section 6.1(b)** hereof. Seller has delivered to TAWC correct and complete copies of all ICSU Agreements, as well as copies of the requisite assignments for each of the Assigned Contracts which effectuates the transfer of the Assigned Contracts to TAWC as of the Closing Date.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF TAWC

5.1 **TAWC's Representations.** TAWC hereby represents and warrants to Seller as follows:

(a) **Organization.** TAWC is a public utility corporation duly organized, validly existing and subsisting under the laws of the State of Tennessee.

(b) **Due Authorization; Valid and Binding.** TAWC has the full power and lawful authority to execute this Agreement and, to consummate and perform the transactions contemplated hereby, and TAWC has duly and validly authorized the execution of this Agreement by all necessary proceedings. This Agreement constitutes the valid and binding obligations of TAWC.

(c) **Assigned Contracts.** TAWC has disclosed on **Schedule 5.1(c)** those Contracts which TAWC has agreed to assume ("**Assigned Contracts**"), subject to receiving all necessary consents to assignment in accordance with the terms of **Section 8.1(i)**. TAWC may update **Schedule 5.1(c)** between the date hereof and up to twenty (20) days before Closing to include any of the Contracts.

(d) **Financial Wherewithal.** TAWC has sufficient funds on hand to pay the amounts due pursuant to this Agreement.

(e) **Absence of Litigation.** There are no actions, suits, proceedings or investigations pending or, to the knowledge of TAWC, threatened against TAWC, and TAWC is not subject to any outstanding judgment, order or decree of any court or governmental body, which would in either case, reasonably be expected to prevent or materially interfere with or delay TAWC's ability to perform its obligations under this Agreement.

(f) **Brokers.** TAWC has not employed any investment banker, broker or finder or incurred any liability for any investment banking fees, brokerage fees, commissions or finders' fees or any similar other fees or commissions in connection with the transactions contemplated by this Agreement for which the Seller has or could have any liability.

ARTICLE 6

COVENANTS

6.1 Covenants of Seller. From and after the date of this Agreement, Seller covenants and agrees that:

(a) Non-Solicitation. Unless and until such time as this Agreement is terminated pursuant to **Article 10**, Seller shall not, and will cause each employee, officer, governing body, and agent not to, directly or indirectly: (i) submit, solicit, initiate, encourage or discuss any proposal or offer from any Person (defined herein) relating to any sale of all or any portion of the Assets or a sublease or assignment of any lease or any similar transaction involving Seller and the Water System or the Assets; (ii) enter into any agreement or commitment related to any such transaction; or (iii) furnish any information with respect to or assist or participate in or facilitate in any other manner any effort or attempt by any Person to do or seek any of the foregoing. Seller shall notify TAWC immediately if any Person makes any proposal, offer, inquiry or contact with respect to any of the foregoing. As used in this Agreement, “**Person**” shall mean any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union or other entity or governmental authority.

(b) Conduct of Business. Between the date of this Agreement and the Closing Date, Seller shall carry on the operation and management of the Water System, the business and the Assets in the ordinary course of business, consistent with past practice and procedures, and in compliance with all laws, not introduce any materially new method of management or operation, use reasonable best efforts to preserve the Water System, the business and the 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 that is sufficient to operate the Water System in accordance with past practice and procedures, maintain the Assets in substantially the condition currently existing, normal wear and tear excepted, and comply in all material respects with the Permits. Without limiting the foregoing, Seller shall not sell, lease, dispose, retire, distribute, create or assume any lien, or encumber any of the Assets, or construct, purchase or acquire any new assets, properties or rights relating to the Water System or Assets, or enter into a commitment or contract to do any of the foregoing (other than the purchase and use of supplies and maintenance of the Water System and the Assets in the ordinary course of business and consistent with past practices and procedures), without the prior written consent of TAWC.

(c) Contracts and Commitments. Except normal and usual commitments for the purchase of materials and supplies consistent with past practice and procedures, no contract or commitment shall be entered into by or on behalf of Seller relating to the Water System or the Assets that would place an Encumbrance thereon or materially affect the operation of the Water System, the business or the Assets after Closing, except for those commitments approved or ratified in writing by TAWC. Seller shall use reasonable commercial efforts to obtain, prior to Closing, the written consent of each party to the Assigned Contracts designated on **Schedule 4.1(k)** and **Schedule 4.1(u)** as requiring consent to the assignment. Notwithstanding any other provision of this Agreement, to the extent that any consent necessary for the assignment from Seller to TAWC of the Assigned Contracts is not obtained, or cannot be obtained, prior to the Closing Date, Seller shall use its commercially reasonable efforts to secure an arrangement reasonably satisfactory to TAWC intended to provide for TAWC following the Closing all of the material benefits of Seller under such Assigned Contracts; provided, that nothing in this **Section 6.1(c)** shall

constitute a waiver of the condition set forth in **Section 8.1(i)**; and provided, further, that TAWC shall not be obligated to assume, and shall not be liable under, any Assigned Contract for which Seller has not obtained all necessary consents, or otherwise secured an alternative arrangement satisfactory to TAWC (in its sole discretion) as provided above. Seller shall transfer all of the utilities used or necessary for the Water System from Seller to TAWC effective as of the Closing Date, and Seller shall be responsible to pay all bills and fees for these utilities for the period prior to and including the Closing Date. TAWC shall provide any necessary information reasonably required by Seller to effectuate this transfer.

(d) Release of Encumbrances. Seller shall take all action necessary to cause the release, cancellation and discharge of any and all Encumbrances, so that as of the Closing Date, the Assets will be free and clear of any and all such Encumbrances. Seller also agrees not to create any new Encumbrances on the Water System or Assets from and after the date of this Agreement without the prior written consent of TAWC.

(e) Material Events and Circumstance. Seller shall promptly inform TAWC in writing of any specific event or circumstance of which Seller is aware, or of which Seller receives notice, that has or is reasonably likely to have, individually or in the aggregate, taken together with the other events or circumstances, a material adverse effect on the Water System or the Assets.

(f) Supplemental Information.

(i) Seller shall provide TAWC, within fifteen (15) days of execution or the date of receipt thereof, a copy of (a) each of the Contracts entered into by Seller after the date hereof and prior to Closing relating to the Water System or the Assets; (b) a copy of any written notice of assessments for public improvements against any of the Assets received after the date hereof and prior to Closing; (c) any writs of summons or complaints filed against Seller or its representatives for any and all claims relating to the Water System or the Assets; and (d) a copy of the filing of any condemnation, eminent domain or similar proceeding affecting all or any portion of the Water System or the Assets received after the date hereof, but prior to the Closing.

(ii) Seller shall notify TAWC within fifteen (15) days of the receipt of any notice of violation.

(g) Regulatory Consents. Seller shall at all times, use its best efforts to and diligently pursue all approvals, authorizations, consents and Permits required to be obtained to consummate the transaction contemplated by this Agreement. Seller shall (i) as promptly as practicable, make or cause to be made such filing and submissions under the laws, rules and regulations applicable to it as may be required for Seller to sell the Assets pursuant to the terms of this Agreement; and (ii) keep TAWC apprised of the status of any filing or submission to any such governmental or regulatory agency.

(h) Access. Seller shall provide TAWC and its representatives free and full access to and right to inspect, during normal business hours and upon prior written notice, all of the premises, properties, assets, records, Permits, contracts and other documents relating to the Assets

and shall permit TAWC to consult with its officers, employees and other representatives for purposes of making such investigation of the Assets as TAWC shall desire to make, provided that no investigation shall unreasonably interfere with the Seller's operation of the Water System.

(i) Customer List. Within [thirty (30) days] of execution of this Agreement, Seller shall provide TAWC an accurate and complete listing of all customers of the Water System. This customer list shall provide the customer names, service addresses, billing addresses, and meter sizes and serial numbers in meter reading route sequence and shall denote those customers from which Seller has received notice to cancel or intend to cancel their account with Seller (or TAWC after Closing). This customer list shall be true and correct as of the date such list is provided to TAWC and shall be updated at Closing and provided to TAWC at Closing so as to be true and correct as of the Closing Date.

(j) Rates. Prior to the Closing, Seller shall reduce the water rate that is in effect as of the Effective Date by the amount of TAWC then-current cumulative Capital Recovery Riders surcharge, which is estimated to be approximately [_____] and ___/100 per centum (___%). Subsequent to the Closing, the rates shall be subject to any changes, increases or decreases, permitted, approved and/or ordered by the Tennessee Public Utility Commission, including those related to TAWC's Capital Recovery Riders and its Production Costs and Other Pass-Throughs Rider.

(k) Customer Advances. Prior to the Closing Date, Seller shall complete the construction of all mains and facilities for which Seller has received customer advances and return all unexpended customer advances to the appropriate depositor. Provided, however, that for projects acceptable to and approved in writing by TAWC, Seller may pay over to TAWC the unexpended, customer advances, and TAWC shall assume all of the responsibility of Seller as to those unexpired customer advances and shall be bound by the terms and conditions contained in the Extension Deposit Agreements. TAWC shall not assume any responsibility for any unexpired customer advances received by Seller, or for any Extension Deposit Agreements to which Seller becomes a party, except as specifically agreed to in writing.

(l) Updating of Information. Between the date of this Agreement and the Closing Date, Seller will deliver revised or supplementary Schedules to this Agreement, containing accurate information as of the Closing Date, in order to enable TAWC to confirm the accuracy of Seller's representations and warranties and otherwise effectuate the provisions of this Agreement. The receipt by TAWC of any revised or supplementary Schedules to this Agreement shall in no way prejudice TAWC's right to terminate this Agreement based upon the failure of any condition to be satisfied under **Section 8.1** hereof or seek indemnification under **Section 9.1**. Seller will promptly inform TAWC, in writing, of the occurrence or failure of any action or event that would violate Seller's representations and warranties under this Agreement or render them inaccurate as of the date hereof or the Closing Date or that would constitute a breach of any covenant of Seller under this Agreement or a failure of any condition to the obligations of either Seller or TAWC under this Agreement.

(m) Retention of Records. Seller shall preserve any books and records relating to the Water System and the business that are not delivered to TAWC 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 TAWC and its authorized representatives following the Closing at TAWC'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 TAWC, TAWC and any of its agents, representatives, advisors or consultants reasonable access to all properties, books, contracts and records of Seller related to the Water System and employees of or servicing the business for information related to periods up to and including the Closing.

(n) Municipal Ordinances. To the extent that the Water System is located within municipalities that have ordinances or laws that require properties to connect to and remain connected to the Water System, Seller shall use reasonable commercial efforts to cause such municipalities to maintain such ordinances or laws so long as the Assets, or modifications, renewals, replacements thereto, exist within the municipal boundaries of such municipalities.

6.2 Title Information. Within thirty (30) days following the execution of this Agreement, Seller shall deliver to TAWC true, correct and complete copies of all existing title policies, surveys, leases, deeds, instruments and agreements in Seller's possession relating to title to the real estate and easements constituting any part of the Assets, as well as any amendments thereto through to Closing. Thereafter, TAWC and Seller shall conduct an abstract of such title information to determine whether Seller has sufficient real estate rights and continuous rights-of-way to permit TAWC, upon Closing, to operate a continuous water system, including lines, facilities fittings and appurtenances necessary to operate such water system, and that such rights are represented by legal instruments in appropriate form, duly recorded. Upon notification by TAWC that such legal rights for the Water System are not sufficient for the operation of the Water System, Seller shall, at its sole expense, secure such additional legal rights as TAWC may request. Title to the real property constituting the Assets shall be insurable by a title company of TAWC's choosing (in its sole discretion), at regular rates, as a good and marketable title, free and clear of all liens and Encumbrances and exceptions to coverage, except for any permitted liens, pursuant to an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006 (the "**Title Policy**").

6.3 Dual Meter Readings. On or about the Closing Date, TAWC and Seller shall take a dual meter reading for each customer of the Water System, which shall be used for (i) Seller to issue a final invoice to customers covering the period on and before the Closing Date, and (ii) TAWC to obtain its initial meter reading for future invoices covering the period after the Closing Date. The parties shall coordinate in good faith and agree upon these meter readings at such time, which shall be used for such invoices and all accounts receivable being retained by Seller (per **Section 1.5**).

6.4 Further Assurances. Each party to this Agreement shall cooperate and deliver such instruments and take such action as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby. After the Closing, each party shall take such other actions and execute such other documents, agreements, instruments, certifications, and further assurances as Seller or TAWC, as the case may be, may reasonably require in order to make effective the transactions contemplated hereby (including to transfer to TAWC or to put TAWC more fully in possession of any of the Assets).

6.5 Cooperation. 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 herein. Any and all filing fees in respect of such filings shall be paid by Seller, with the exception of those fees implemented by TPUC (as defined below in **Section 7.1**), which shall be paid by TAWC. 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 not obtained prior to Closing, 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. Seller hereby agrees to cooperate with TAWC to ensure a proper transition of all customers with respect to billing and customer service activities, including assisting TAWC to place all customer information in a format reasonably requested by TAWC.

6.6 Water System Growth. With Seller's planned continued development of the Subdivision, the parties hereto recognize and agree that future expansions and growth of the Water System within the Subdivision, including the extension of any main(s) and related facilities in the Subdivision, shall need to transfer to TAWC for proper operation of the Water System. To facilitate the expansion and growth of the Water System within the Subdivision, TAWC and Seller covenant and agree (a) that each shall negotiate and execute an Acquisition Agreement in form and substance acceptable to TAWC to transfer to TAWC the ownership of and the responsibility for continued operation, maintenance, repair and replacement of such main(s) and appurtenant facilities constructed and installed by Seller (the "**Acquisition Agreement**") and (b) any extension deposit agreement(s) (or similar agreement) entered into by Seller or TAWC for the development and expansion of the Water System in the Subdivision will be in form and substance acceptable to TAWC (the "**Developer Extension Deposit Agreement**"). The proposed forms of Acquisition Agreement and Developer Extension Deposit Agreement are attached hereto as **Exhibit B** and **Exhibit C**. The Acquisition Agreement and Developer Extension Deposit Agreement will each require the review and approval of TPUC (as defined below in **Section 7.1**).

6.7 Condition of Property. Except as otherwise set forth in this Agreement, Buyer acknowledges that the Assets are bought "as-is" and there are no express or implied warranties of any kind with respect to the condition of the Assets, including warranties of merchantability or fitness for a particular purpose.

ARTICLE 7

TENNESSEE PUBLIC UTILITY COMMISSION APPROVAL

7.1 Tennessee TPUC Approval. The obligation of TAWC to consummate the transactions contemplated by this Agreement are conditioned upon TAWC receiving the approvals of the Tennessee Public Utility Commission ("**TPUC**"). TAWC covenants and agrees to initiate, and use commercially reasonable efforts to prosecute the necessary proceedings to obtain the approval of TPUC for: (a) this Agreement and the transactions contemplated hereby which require

approval by the TPUC, including the transfer by sale of the Assets to TAWC and the Assignment of Contracts Agreement; (b) the right of TAWC to provide water service to the public primarily in the service area presently being served by Seller's Water System; (c) a tariff, on such terms and conditions which are acceptable to TAWC, and which set forth the rates, rules and regulations for water service for the service area presently being served by Seller's Water System; and (d) any other approval as may be appropriate to consummate the transactions contemplated by this Agreement. Seller, by this Agreement, covenants and agrees to provide such information, documents and assistance as may be reasonably requested by TAWC in connection with any such proceedings and to otherwise cooperate in the initiation and prosecution of any such proceeding.

ARTICLE 8

CONDITIONS PRECEDENT

8.1 Conditions Precedent to TAWC's Obligations. The obligation of TAWC to consummate the transactions contemplated hereby are subject to the satisfaction, on or prior to the Closing, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by TAWC in its sole discretion):

(a) Consents and Approvals. Seller shall have obtained the written, final and unappealable approvals, authorizations and consents (including consents for Permit transfers) that are required to consummate the transactions contemplated by this Agreement and for TAWC to operate the Water System and the Assets after the Closing, including the approval of every regulatory agency of federal, state or local government that may be required in TAWC's opinion, each in form and substance (including with respect to the terms and conditions contained in any such approval) acceptable to TAWC in its sole and absolute discretion, and all waiting periods under existing laws, and all extensions thereof, the passing of which is necessary to consummate the contemplated transactions and finalize a Closing, shall have expired.

(b) Representations and Warranties. Seller's representations and warranties set forth in this Agreement or in any Schedule, list, certificate or document delivered pursuant to this Agreement shall be true, correct and accurate as of the date made and at and as of the time of the Closing with the same force and effect as though such representations and warranties were made at and as of the Closing Date (without giving effect to any supplement to the Schedules), and TAWC shall have received from a proper representative of Seller a certificate to such effect, in form and substance reasonably satisfactory to TAWC.

(c) Performance of Covenants and Agreements. Seller shall have performed and complied with in all material respects all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing, and TAWC shall have received from a proper representative of Seller a certificate to such effect, in form and substance reasonably satisfactory to TAWC.

(d) Adverse Change. There shall not have been a material adverse change, occurrence or casualty, financial or otherwise, to the Water System or the Assets (including a material loss of customers or Contracts), whether covered by insurance or not.

(e) Release of Liens. All necessary action shall have been taken to cause the release, cancellation and discharge of any and all of the Encumbrances so that as of the Closing, the Assets shall be free and clear of any and all Encumbrances, and Seller shall have provided TAWC with such opinions, instruments or documents as TAWC may reasonably request, and in form and substance satisfactory to TAWC, evidencing the release, cancellation and discharge of any and all Encumbrances and that the Assets are not subject to any liens or Encumbrances.

(f) Bulk Water Supply Agreement. On or before Closing, TAWC shall have negotiated and executed a bulk water supply agreement (the “**Bulk Water Agreement**”) with the Town of South Pittsburg, Tennessee on terms and conditions agreeable to TAWC.

(g) Opinion of Counsel. Seller shall have delivered to TAWC a written Opinion of Seller’s counsel, dated as of the Closing Date and addressed to TAWC, in the form set forth in **Schedule 8.1(g)**.

(h) Certificate of Secretary. Seller shall have delivered to TAWC a certificate of the Secretary of Seller, dated as of the Closing Date, containing such exhibits and confirmations and as required in **Section 3.2(a)(x)**.

(i) Contractual Consent. Seller shall have obtained written approvals, authorizations and consents of transfer to all Assigned Contracts and Permits, to the extent specifically required by the terms of such Assigned Contracts and Permits.

(j) Certification of Financial Information. Seller shall have delivered to TAWC a certificate, in substantially the form set forth in **Schedule 8.1(j)**, executed by its authorized representative in the form and substance satisfactory to TAWC, listing (i) the amount of its net outstanding long-term debt or notes, if any, related to the Water System (ii) all unexpired customer advances for construction and unexpired contributions in aid of construction as of the Closing Date, and (iii) any and all additions or retirements to the Water System during the period from the date of execution of this Agreement to the Closing Date, together with the cost thereof.

(k) Closing Deliveries. Seller shall have delivered all documents required to be delivered by it pursuant to **Section 3.2(a)**.

(l) 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, that 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 TAWC to own any of the Assets or operate the Water System; or (iv) adversely affect the Water System’s prospects or the value or condition of any of the Assets or the Water System.

(m) Due Diligence. TAWC shall have completed and be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the Water System, the Assets and Seller, including with the results of any environmental assessment performed with respect to any real property or the Assets or chain of title search, all material contracts and operating Permits and licenses of the Water System, and the Seller’s operations, contracts, employment practices,

compliance, accounting and other items as TAWC deems necessary, as each of the foregoing items relate to the Water System or the Assets.

(n) Authorization of Contemplated Transactions. TAWC shall have obtained all necessary corporate approvals to consummate the contemplated transactions, including the approval of its Board of Directors.

(o) TPUC Approval. The TPUC shall have entered an order (or orders) providing the approvals set forth in **Section 7.1** and **Section 8.1(f)** and approval of the refund payable from TAWC to Seller as set forth in **Schedule 8.1(o)**, and such order(s) shall not be subject to appeal, challenge, supersedeas or injunction.

8.2 Conditions Precedent to Seller's Obligations. The obligation of Seller to consummate the transactions contemplated hereby are subject to the satisfaction, on or prior to the Closing, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Seller in its sole discretion):

(a) Representations and Warranties. TAWC's representations and warranties contained in this Agreement or in any Schedule, list, certificate or document delivered pursuant this Agreement shall be true, correct and accurate as of the date made and at and as of the time of the Closing, with the same force and effect as though such representations and warranties were made at and as of the Closing Date (without giving effect to any supplement to the Schedules), and Seller shall have received from an officer of TAWC a certificate to such effect, in form and substance reasonably satisfactory to Seller.

(b) Performance of Agreements. TAWC shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing, and Seller shall have received from an officer of TAWC a certificate to such effect, in form and substance reasonably satisfactory to Seller.

(c) Closing Deliveries. TAWC shall have delivered the Closing Payment and all documents required to be delivered by it pursuant to **Section 3.2(b)**.

ARTICLE 9

INDEMNIFICATION

9.1 Indemnification By Seller. Seller shall fully pay, protect, defend, indemnify and hold harmless TAWC and its affiliates and their respective officers, directors and agents and representatives ("TAWC Indemnified Parties") from any and all Damages arising out of, resulting from, relating to or caused by: (i) a misrepresentation, inaccuracy in or breach of (or any claim by any third party alleging or constituting a misrepresentation, 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 Seller; (ii) any and all liabilities of Seller of any nature (including the retained liabilities in **Section 1.3(a)**), whether due or to become due, whether accrued, absolute, contingent or otherwise, whether accruing prior to or after the Closing Date, or arising out of any transaction entered into, any state of facts existing

or any event occurring on or prior to such date, and any Encumbrance affecting the Assets or the Water System that arose on or prior to the Closing Date; (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 Assets or the Water System at any time on or prior to the Closing Date; (iv) claims made by any third party relating to the ownership and/or operation of any of the Assets or the Water System on or prior to the Closing Date; (v) any proceeding now existing or hereafter arising and relating to the Assets or the Water System and arising from events or matters occurring on or prior to the Closing Date, regardless of when realized; (vi) all assets, properties and rights of Seller excluded from the Assets; (vii) any and all liabilities relating to the employees, agents and independent contractors of Seller who performed services for Seller or related to the Water System or the Assets, regardless of whether such liabilities arose from events occurring prior to or after the Closing; (viii) the failure to comply with the provisions of any so-called bulk transfer or bulk sale law of any jurisdiction in connection with the sale of the Water System and the Assets to TAWC, and (ix) transaction costs and expenses incurred by or on behalf of Seller in connection with this Agreement or the contemplated transactions.

As used in this Agreement, the term “**Damages**” means all losses, damages, assessments, judgments, awards, fines, penalties, taxes, interest, costs and expenses (including actual, reasonable out-of-pocket third party costs, fees and expenses of legal counsel and reasonable out-of-pocket third party costs, fees and expenses of investigation).

9.2 Indemnification by Seller for Environmental Matters. In addition to the provisions of **Section 9.1**, Seller hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless the TAWC Indemnified Persons, and will pay to the TAWC Indemnified Persons the amount of any Damages (including costs of cleanup, containment or other remediation) arising, directly or indirectly, from or in connection with:

(a) Any environmental, health and safety liabilities arising out of or relating to: (i) (A) the ownership, operation or condition at any time on or prior to the Closing Date of the Assets or any other properties (whether real, personal or mixed and whether tangible or intangible) in which Seller has or had an interest; or (B) any hazardous materials or other contaminants that were present on or in the Assets or any other properties at any time on or prior to the Closing Date; or (ii) (A) any hazardous materials or other contaminants, wherever located, that were, or were allegedly, generated, transported, stored, treated, released or otherwise handled by Seller or by any other Person for whose conduct it is or may be held responsible at any time on or prior to the Closing Date; or (B) any hazardous activities that were, or were allegedly, conducted by Seller or by any other Person for whose conduct it is or may be held responsible on or prior to the Closing Date; or

(b) Any bodily injury (including illness, disability and death), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any Person, including any employee or former employee of Seller or any other Person for whose conduct it is or may be held responsible, in any way arising from or allegedly arising from any hazardous activity conducted or allegedly conducted with respect to the Assets or the real property by Seller prior to the Closing Date, or from hazardous material that was: (i) present or suspected to be present on or before the Closing Date on or at the real property (or present or suspected to be present on any other property, if such hazardous material emanated or allegedly emanated from any of the real property and was present or

suspected to be present on any of the real property on or prior to the Closing Date); or (ii) released or allegedly released by Seller or any other Person for whose conduct it is or may be held responsible, at any time on or prior to the Closing Date.

(c) TAWC shall control any cleanup, any related proceeding and any other proceeding with respect to which indemnity may be sought under this **Section 9.2**.

9.3 Indemnification By TAWC. TAWC agrees to indemnify, defend and hold harmless Seller and its affiliates and their respective officers, directors and agents at all times after the date of this Agreement, from, against and in respect of any and all Damages resulting from (i) a misrepresentation, an inaccuracy in or breach of (or any claim by any third party alleging or constituting a misrepresentation, an 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 TAWC, (ii) any claim or proceeding relating to the Assets or the Water System and arising from events or matters occurring after the Closing Date, and (iii) any and all liabilities of any nature related to TAWC's operation of the Water System and the Assets and occurring after the Closing Date, including obligations to maintain and repair the Water System after the Closing Date.

9.4 Survival of Representations and Warranties. All representations, warranties, covenants and agreements made by the parties in this Agreement or in any agreement, document, statement or certificate furnished hereunder or in connection with the negotiation, execution and performance of this Agreement shall survive the Closing. Notwithstanding any investigation or audit conducted before or after the Closing Date, or the decision of any party to complete the Closing, each party shall be entitled to rely upon the representations, warranties, covenants and agreements set forth herein and therein. 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 for purposes of determining the amount of any Damages.

9.5 Notice of Claim. If 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 ten (10) days after the Indemnified Party provides notice to the Indemnifying Party of such amount.

ARTICLE 10

TERMINATION

10.1 Termination. This Agreement may be terminated at any time prior to the Closing only (a) by mutual written consent of Seller and TAWC; (b) by TAWC upon written notice to the

Seller, if the Closing shall not have occurred on or prior to three hundred sixty-five (365) days from the Effective Date; provided, however, that the right to terminate this Agreement under this **Section 10.1** shall not be available if a breach by TAWC under this Agreement has caused or resulted in the failure of the Closing to occur on or before such date; (c) by TAWC, if TAWC is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a breach of a representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and Seller has not cured such breach within fifteen (15) 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 TAWC, if, at any time before Closing, TAWC is not satisfied (in its sole and absolute discretion) with the results of its due diligence review of the Water System and the Assets or the prospects of obtaining all regulatory consents and approvals; (e) if the Tennessee Department of Environment and Protection (“**TNDEC**”) prohibits the purchase of Seller’s Assets for environmental reasons or if TNDEC imposes different water quality requirements on Buyer as a condition to purchasing Seller’s Assets; (f) if TAWC has not obtained the executed Bulk Water Agreement; (g) 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 TAWC and TAWC has not cured such breach within fifteen (15) 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); or (h) by Seller or TAWC 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.

10.2 Effect of Termination. The right of each party to terminate this Agreement under **Section 10.1** 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 10.1**, all further obligations of the parties under this Agreement will terminate, except that the obligations set forth in this **Section 10.1** (“**Effect of Termination**”) and **Article 11** (“**Miscellaneous**”) 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 11

MISCELLANEOUS

11.1 Contents of Agreement. Parties in Interest. This Agreement sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended or modified except by written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between or among any or all of the

parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.

11.2 Binding Effect. All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the legal representatives, successors and assigns of Seller or TAWC.

11.3 Waiver. Any term or provision of this Agreement may be waived at any time by the party or parties entitled to the benefit thereof by a written instrument executed by such party or parties.

11.4 Transfer Taxes. Any transfer taxes imposed on the conveyance or transfer of any real property pursuant to this Agreement shall be split equally by TAWC and Seller (i.e., each pay 50% of such taxes).

11.5 Notices. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally, by facsimile (if followed by overnight courier on the same date) or sent by nationally recognized overnight courier, as follows:

If to TAWC:

Tennessee-American Water Company
109 Wiehl Street
Chattanooga, Tennessee 37403
Attention: President
Fax: [_____]

With a required copy to:

Tennessee-American Water Company
109 Wiehl Street
Chattanooga, Tennessee 37403
Attention: General Counsel

If to Seller:

Thunder Air, Inc.
d/b/a Jasper Highlands Development, Inc.,
John Thornton, Owner
P.O. Box 4737
Chattanooga, Tennessee 37405

or to such other address as the addressee may have specified in a written notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered.

11.6 Law to Govern. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Tennessee without giving effect to any conflicts of law's provisions. In the event of any litigation or claim regarding breach of this Agreement, the Circuit Court of Hamilton County, Tennessee would have sole venue and jurisdiction. As to any matter relating to any required regulatory approval of this Agreement, the parties agree that the TPUC has jurisdiction to govern all matters involving the transactions contemplated by this Agreement and all such agreements, documents and instruments related to or required pursuant to this Agreement and the provision of water service by TAWC to the residents serviced by the Water System.

11.7 No Benefit to Others. The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto, and their legal representatives, successors and assigns, and they shall not be construed as conferring any rights on any other persons.

11.8 Interpretation. All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires. Unless otherwise indicated, the words "including", "includes", "included" and "include", when used, are deemed to be followed by the words "without limitation."

11.9 Schedules. All Schedules referred to herein are intended to be and hereby are specifically made a part of this Agreement.

11.10 Severability. Any provision of this Agreement that is invalid or unenforceable in any jurisdiction or under any circumstance shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction or under any circumstance shall not invalidate or render unenforceable such provision in any other jurisdiction or under any other circumstance, unless, in either event, the involved or unenforceable provision causes this Agreement to fail of its essential purpose.

11.11 Counterparts. This Agreement may be executed by facsimile, electronically or by exchange of documents in PDF format, and in several counterparts, each of which shall be deemed an original instrument and all of which together shall constitute a single agreement. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

11.12 Risk of Loss. Seller assumes risk of loss in connection with the Assets prior to Closing, including risk of loss from fire and other casualty. In the event of any loss or damage to any of the Assets, TAWC at its option, prior to or at Closing shall have the right to (i) request that the damaged asset be replaced or restored to substantially the same condition of the asset as of the date of this Agreement; (ii) request an adjustment to the Purchase Price as can be agreed upon by

the parties, or (iii)_request the insurance proceeds of the Seller and/or other moneys to enable TAWC to make a proper restoration of the damaged asset.

11.13 Environmental Assessment. Without limiting the parties rights and obligations under this Agreement (including **Sections 6.1(h), 8.1(l) and 10.1(d)**), after the date of this Agreement and until the Closing Date, TAWC shall have the reasonable right to enter upon the property and facilities constituting the Water System, after making reasonable prior arrangement with Seller, for the purposes of conducting an environmental assessment of the Water System. TAWC shall notify Seller in writing if the environmental assessment reveals the presence of oil or petroleum products or any hazardous or toxic wastes or materials or storage of fuel tanks or any other environmental hazard or contamination. Within fifteen (15) days of the date of such notice, Seller shall advise TAWC in writing as to whether Seller can cure the environmental hazard or contamination and, if so, what remediation actions Seller will take to cure. In connection with such environmental assessment, TAWC shall have the right, in TAWC's sole discretion, to terminate this Agreement upon written notice to Seller.

11.14 Specific Performance and Injunctive Relief; Remedies. The parties hereto 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. Therefore, in addition to any other remedy provided for in this Agreement or under applicable law, a 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 if 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 hereby irrevocably waive any defense based on the adequacy of a remedy at law that 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.


[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have duly executed this Agreement on the date first written.

SELLER:

THUNDER AIR, INC.,

a Tennessee corporation d/b/a Jasper Highlands
Development, Inc.

By: 
Name: John C. Thornton
Title: Chairman & CEO

TAWC:

TENNESSEE-AMERICAN WATER COMPANY,

a Tennessee public utility corporation

By: _____
Name: Darlene Williams
Title: President

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have duly executed this Agreement on the date first written.

SELLER:

THUNDER AIR, INC.,
a Tennessee corporation d/b/a Jasper Highlands
Development, Inc.

By: _____
Name: _____
Title: _____

TAWC:

TENNESSEE-AMERICAN WATER COMPANY,
a Tennessee public utility corporation

By: Grant A. Evitts
Name: Grant A. Evitts
Title: President

List of Exhibits

Exhibit A – Assignment of Contracts Agreement

Exhibit B – Acquisition Agreement

Exhibit C – Proposed form of Extension Deposit Agreement

List of Schedules

Schedule 1.4 – List of Excluded Assets

Schedule 4.1(b) – Assets Subject to Leasehold Interest

Schedule 4.1(f) – Required Approvals

Schedule 4.1(i) – Undisclosed Liabilities

Schedule 4.1(k) – List of Contracts

Schedule 4.1(k)(i) – Refund Arrangements

Schedule 4.1(l)(i) – Rights in Real Property and Leases

Schedule 4.1(l)(ii) – Easements and Rights of Way

Schedule 4.1(l)(iii) – Options and Rights of First Refusal

Schedule 4.1(l)(v) – Taxes and Assessments

Schedule 4.1(l)(vi) – Necessary Repairs to Real Property

Schedule 4.1(m) – Litigation

Schedule 4.1(p) – Violations of Law

Schedule 4.1(q) – Permits

Schedule 4.1(r)(iv) – Environmental Conditions

Schedule 4.1(t) – Current Extension Deposit Agreements

Schedule 4.1(u) – ICSU Agreements

Schedule 5.1(c) – Assigned Contracts

Schedule 8.1(g) – Opinion of Seller’s Counsel

Schedule 8.1(j) – Certification of Financial Information

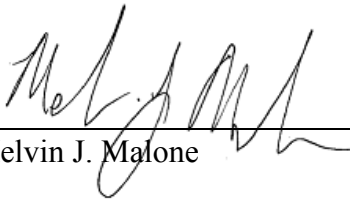
Section 8.1(o) – Refund payable to Seller

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Daniel P. Whitaker, III
Assistant Attorney General
Economic and Regulatory Section
Financial Division, Consumer Advocate Unit
Office of the Tennessee Attorney General
John Sevier Building, 4th Floor
500 Dr. Martin L. King Jr. Blvd.
Nashville, TN 37243
Daniel.Whitaker@ag.tn.gov

This the 8th day of April, 2021.



Melvin J. Malone