

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Authority)
to Transfer the Facilities of)
SOUTH SEAS UTILITY COMPANY)
Certificate No. 268-S)
in Lee County, Florida to)
AQUASOURCE UTILITY, INC.)

Docket No. 982017-SU

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APPLICATION OF AQUASOURCE UTILITY, INC.
FOR AUTHORITY TO TRANSFER FACILITIES AND
CERTIFICATE NO. 268-S

AQUASOURCE UTILITY, INC. (hereinafter referred to as "AquaSource" or "Buyer") by and through its undersigned attorneys and pursuant to the provisions of Rule 25-30.037, Fla. Admin. Code and Section 367.071, Fla. Stat., files this Application for authority to Transfer Certificate No. 268-S currently held by South Seas Utility Company ("Seller") to Buyer. In support of this Application, Seller states:

1. The complete name and address of the Seller, is:

South Seas Utility Company
Post Office Box 194
Captiva, FL 33924

2. The complete name and address of the Buyer is:

AquaSource Utility, Inc.
16810 Barker Springs, Suite B-215
Houston, TX 77084

3. The name and address of the person authorized to receive notices and communications in respect to this application is:

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blainstone Pines Drive
Tallahassee, Florida 32301

Document filed with filing and
for deposit.
of check
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Initials of person who forwarded check.

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FPSC-RECORDS/REPORTING

4. Buyer is a Texas corporation authorized to do business in Florida on August 25, 1998.

5. The names and addresses of Buyer's corporate officers and directors are as follows:

Roy H. Moore, President
Edward R. Wallace, Vice-President/Director
Michael J. Miller, Vice President
Carmela Laurella, Vice President
Cary Thomas, Secretary
Linda C. Law, Secretary
Carol Marine, Assistant Secretary
Ann Reitmeyer, Assistant Secretary
16810 Barker Springs, Suite B 215
Houston, Texas 77084

6. Buyer currently owns no water or wastewater utilities in Florida although it has several transfer applications pending before the Commission. The names of other water or wastewater utilities owned by Buyer are as follows:

AquaSource Utility, Inc.
AquaSource Services and Technologies, Inc.
AquaSource Whisenant, Inc.
AquaSource/AU, Inc.
AquaSource/CB, Inc.
AquaSource/DWC, Inc.
AquaSource/GWS, Inc.
AquaSource/HCUC, Inc.
AquaSource/HCUW, Inc.
AquaSource/IWS, Inc.
AquaSource/MMS, Inc.
AquaSource/S&B, Inc.
Britmore Utility, Inc.
Buffalo Creek Utility, Inc.
Creekside Utilities, Inc.
Lakeside Utilities, Inc.
Sandy Creek Utilities, Inc.
Peek Road Utilities, Inc.
Redwood Utilities, Inc.
Rivercrest Water Systems, Inc.
Suburban Austin Water Systems, Inc.
The Reynolds Group, Inc.
Hendricks County Wastewater, LLC
Country View Sewage Plant Inc.
Chimney Wood Sewage Works, Inc.

Wastewater One, LLC
Water One, Inc.
Wildwood Shores Utilities Corp.
Wymberley Sanitary Works, Inc.
Woodcreek Utilities, Inc.

7. A copy of the Asset Purchase Agreement, which includes the purchase price, terms of payment, and a list of the assets purchased and liabilities assumed and not assumed and disposition of customer deposits and interest thereon is attached hereto as Exhibit "A".

8. There are no guaranteed revenue contracts, developer agreements, customer advances, debt of the utility, and leases that must be disposed of in association with the transfer of the Utility.

9. Buyer will purchase Seller's water and wastewater system in a cash transaction financed by its parent, DQE, Inc. A copy of DQE, Inc.'s financial statements are attached hereto as Exhibit "B".

10. The transfer of the water and wastewater facilities of Seller to Buyer is in the public interest for the following reasons:

(i) Although AquaSource is a relatively new corporation in Florida, its experienced staff has been providing operation, maintenance and management services for municipal and private water utilities for more than 25 years. It is constantly expanding its technical capabilities and are implementing improved quality control, maintenance management, and training and safety programs. These improvements provide direct tangible benefits to utilities

owned and operated by AquaSource and municipal utilities served by AquaSource. It currently operates water and wastewater systems serving approximately 125,000 customers.

(ii) The Buyer will continue to employ the operations and clerical personnel currently employed by the Seller after the purchase. While the Buyer has not previously owned or operated any other water or wastewater utilities in Florida, the continued employment of the personnel who operate the utility on a day to day basis will ensure that water and wastewater services will continue with the same high quality of service that has existed under the previous ownership. No changes in the operation of this system will be readily apparent.

(iii) Buyer has the financial resources to provide real and significant benefits to the utility customers as the utility's capital or operational needs demand. See attached Exhibit "C". Therefore, the Buyer has the technical capability and the financial ability to efficiently and effectively provide high quality water and sewer service to the utility service area and the customers therein. Buyer will fulfill the commitments, obligations and representations of the Seller with regard to utility matters. For all the above stated reasons, it is in the public interest to grant approval of the transfer to Buyer.

11. Attached hereto as Composite Exhibit "D" is a copy of Buyer's financial statement.

12. The Utility had a rate base as of March 31, 1990 of approximately \$1,165,041. The Commission has previously considered

the rate base of the utility system by Order No. 22094 issued October 6, 1989.

13. There is no proposal for inclusion of an acquisition adjustment resulting from the current transfer.

14. The books and records of the Seller are available for inspection by the Commission and are adequate for the purposes of establishing rate base of the wastewater system.

15. Seller will cooperate with Buyer in providing to the Florida Public Service Commission any information necessary in order for the Commission to evaluate the Utility's rate base since its last rate case referenced in paragraph 12 above.

16. After reasonable investigation, the Buyer has determined that the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by Florida Department of Environmental Protection ("DEP"). The wastewater system is subject to a Consent Order entered into with DEP on October 29, 1998.

17. As part of the transfer of the utility assets, ownership of all Utility land will be transferred to the Buyer pursuant to the Asset Purchase Agreement. A copy of the deed transferring this property to Seller, including the legal description, is attached to the Asset Purchase Agreement. An executed and recorded copy of a Deed transferring the wastewater treatment facility parcel will be filed subsequent to Closing.

18. All outstanding regulatory assessment fees due as of March 31, 1998 for the year ended December 31, 1997 have been paid

by Seller. Seller will be responsible for payment of all regulatory assessment fees through Closing and Seller will make payment for those fees within two months of the date of Closing. Buyer will be responsible for payment of all regulatory assessments fees due for revenues due from the date of Closing forward. No other fines or refunds are owed.

19. The original and two copies of revised Tariffs reflecting the change in ownership are attached hereto as Composite Exhibit "E".

20. Wastewater Certificate Number 268-S is attached hereto for proper amendment.

21. An Affidavit that the actual notice of the application was given to the entities on the list provided by the Commission in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, will be filed as Exhibit "F".

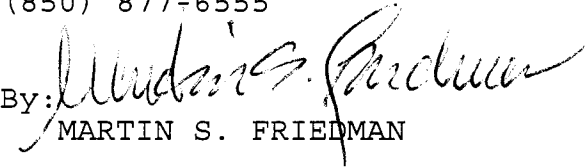
22. An Affidavit that the actual notice of the application was given to the each customer in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, will be filed as Late Filed Exhibit "G".

23. An Affidavit that the notice of the application was published once in a newspaper of general circulation in the territory in accordance with Rule 25-30.030, Florida Administrative Code, will be filed as Late Filed Exhibit "H".

24. The maximum number of ERC's the wastewater system can serve is 877. Pursuant to Rule 25-30.020(c), Florida Administrative Code, the appropriate filing fee is \$1,500.

Respectfully submitted on this
30th day of December, 1998, by:

ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555

By: 
MARTIN S. FRIEDMAN

aqua\southsea\transfer.app

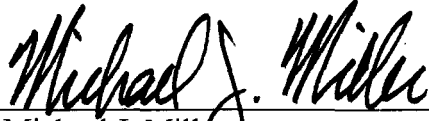
AFFIDAVIT

STATE OF Texas

COUNTY OF Travis

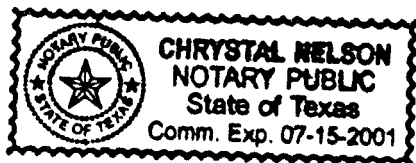
I, Michael J. Miller, do solemnly swear or affirm that the facts stated in the forgoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitute a complete statement of the matter to which it relates.


FURTHER AFFIANT SAYETH NAUGHT.



Michael J. Miller
Vice-President

Sworn to and subscribed before me this 25 day of November, 1998,
by Michael J. Miller, who is personally known to me or who provided
Driver's License as identification.





Print name: Chrystal Nelson
NOTARY PUBLIC
My commission Expires: 7-15-2001



FLORIDA
Public Service Commission

CERTIFICATE NUMBER

268-S

Upon consideration of the record it is hereby ORDERED
that authority be and is hereby granted to

South Seas Utility Company

Whose principal address is

13391 McGregor Blvd.

Ft. Myers, Florida 33919 (Lee County)

to provide Wastewater service in accordance with
the provisions of Chapter 367, Florida Statutes, the Rules,
Regulations and Orders of this Commission in the territory de-
scribed by the Orders of this Commission.

This Certificate shall remain in force and effect until sus-
pended, cancelled or revoked by Orders of this Commis-
sion.

ORDER 8851 DATED 04/27/79 DOCKET 780586-S
ORDER 8851-A DATED 05/09/79 DOCKET 780586-S
ORDER 25242 DATED 10/22/91 DOCKET 910858-SU
ORDER PSC-93-1487 DATED 10/12/93 DOCKET 930673-SU

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



Steve Fibble
Director
Division of Records & Reporting



FLORIDA
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BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION


Director
Division of Records & Reporting

ASSET PURCHASE AGREEMENT

THIS AGREEMENT (the "Agreement") dated the 18th day of December, 1998 (the "Effective Date"), by and among AquaSource Utility, Inc. (the "Buyer") at 16810 Barker Springs, Suite B-215, Houston, Texas 77084, South Seas Utility Company, a Florida Corporation (the "Seller") at 8270-105 College Parkway, Ft. Myers, Florida 33919, and The Mariner Group (the "Parent") at 8270-105 College Parkway, Ft. Myers, Florida 33919, sets forth the terms and conditions by which Buyer shall acquire all the assets of the Seller used in Seller's operation of a water and/or wastewater utility system (the "Assets"). The Buyer, Seller and Parent are referred to collectively as the "Parties."

RECITALS

WHEREAS, Seller owns and operates a water and/or wastewater utility business known as South Seas Utility Company, located in Lee County, Florida (the "Business");

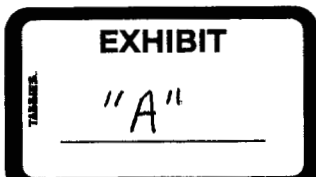
WHEREAS, Seller desires to sell and Buyer desires to purchase all the Assets utilized in the Business on and subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the covenants herein contained, the Parties agree as follows:

Section I - Definitions

1.1 **Definitions:** In this Agreement the following terms have the meaning specified or referred to in this Section I:

"Assets" shall mean all right, title, and interest in and to all the assets owned by the Seller and utilized in Seller's Business operations including all: (a) fee property, real property, leaseholds and subleases, improvements, fixtures, easements, right-of-way, and other appurtenances thereto (the "Real Property"); (b) tangible personal property (such as machinery, equipment, inventories, and supplies); (c) accounts and notes receivable; (d) customer deposits and interest thereon; (e) licenses and permits associated with Seller's operations; (f) contracts and agreements and other similar arrangements and rights thereunder; (g) franchises, approvals, permits, licenses, orders,



registrations, Certificates of Convenience and Necessity (CCN), variances, and similar rights obtained from governments and the governmental agencies; and (h) books, ledgers, files, documents, correspondence, lists, and plats.

"*Business*" has the meaning set forth above.

"*Buyer*" has the meaning set forth above.

"*Closing*" shall mean the consummation of the transactions contemplated by this Agreement.

"*Closing Date*" shall have the meaning set out in Section II below.

"*Effective Date*" has the meaning set forth above.

"*Environmental, Health, and Safety Laws*" means all laws of federal, state, and local governments (and all agencies thereof) concerning pollution or protection of the environment, public health and safety, including laws relating to emissions, discharges, releases, or threatened releases of pollutants, contaminants or chemical, industrial, hazardous, or toxic materials or waste into ambient air, surface water, ground water, or lands or otherwise.

"*Escrow Agent*" shall be AquaSource, Inc. located at 16810 Barker Springs Road, Suite B215, Houston, Texas 77084.

"*FPSC*" shall mean the Florida Public Service Commission.

"*FPSC Approval*" shall mean compliance with the requirements contained in and derived from Section 367.071, Florida Statutes and regulations promulgated thereunder.

"*Knowledge*" an individual will be deemed to have "Knowledge" of a particular fact or other matter if such individual has actual awareness of such fact or matter; or a prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the

course of conducting a reasonably comprehensive investigation concerning the existence of such fact or other matter.

"Liability" means any liability (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including liability for taxes.

"Ordinary Course of Business" means the ordinary course of business of Seller consistent with past custom and practice.

"Parties" has the meaning set forth above.

"Purchase Price" has the meaning set out in Section II below.

"Seller" shall have the meaning set forth above.

"Tax" means any federal, state, or local income, or gross receipts, license, payroll, employment, severance, unemployment, disability, real property, personal property, sales, use, transfer, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

Section II Purchase and Sale of Assets: Closing

2.1 Purchase and Sale of Assets: Subject to the terms and conditions of this Agreement, the Buyer agrees to purchase from the Seller and the Seller agrees to sell, transfer, convey, and deliver to the Buyer, all of the Assets free and clear of all liens, security interests, options, rights of first refusal, mortgages, charges, indebtedness, deeds of trust, leases or security agreements to the Buyer on the Closing Date against receipt by Seller of the Purchase Price. Buyer shall not assume and shall not be obligated to pay, perform or discharge and debts, liabilities or obligations of the Seller, whether or not related to the Assets.

2.2 Purchase Price: In consideration for the sale of the Assets, the Buyer agrees to pay Seller on the Closing Date One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000) (the "Purchase Price") subject to the following conditions. The Purchase Price shall be adjusted at the Closing to account for any Taxes due or paid on a pro-rata basis from and after the Closing Date. The Purchase Price shall be further adjusted ninety (90) days after the Closing to reflect any adjustments for (i) receivables of the Company as of the opening day of business on the Closing Date; (ii) prepayments made by the Company in the ordinary course of business relating to any period following the opening of business on the Closing Date; (iii) customer deposits owed by the Company; and (iv) any other assets or liabilities, whether known or unknown, that become known during that period. This adjustment may require a refund by the Seller of a portion of the Purchase Price paid at the Closing or an increase in the Purchase Price paid by the Buyer to the Seller.

2.3 Escrowed Purchase Price: Within five (5) business days of the execution of this Agreement by the Buyer and Seller, the Buyer shall deliver the Purchase Price to the Escrow Agent ("Escrowed Purchase Price"). In the event this Agreement is terminated due to conditions as set forth in Sections VI and VII herein, the Escrow Agent shall disburse the entire Escrowed Purchase Price to the Buyer.

2.4 The Closing: The closing of the transactions contemplated by this Agreement (the "Closing") shall take place via mail or facsimile, or at Buyer's principal place of business located at 16810 Barker Springs, Suite B-215, Houston, Texas, on or before the fifth (5th) business day after the conditions set forth in this Agreement have been satisfied or waived or such other date as the Parties may mutually determine (the "Closing Date"). At the Closing, the Seller shall deliver to the Buyer a Bill of Sale and such other instruments of transfer, assignment, and conveyance in the form and substance as set forth in Exhibit A and B, and reasonably satisfactory to Buyer sufficient to transfer to and effectively vest in Buyer all right, title, and interest in the Assets together with possession of the Assets free and clear of all encumbrances. At the Closing, and pursuant to the attached escrow agreement (Exhibit D), the Escrow Agent shall deliver the Escrowed Purchase Price less any adjustments indicated herein via wire transfer to Seller at the following location:

Name of Bank: NATIONS BANK
 Account Number: 1630075659
 ABA Number: 067001013
 Name on Account: MARINER GROUP INC. (Includes affiliates & South Seas Utility, Inc.)

In addition, Escrow Agent shall retain ten percent (10%) of the Purchase Price for ninety (90) days after the Closing to satisfy any adjustments that may be required by the terms and conditions of this Agreement. At the end of said ninety-(90) day period, any funds remaining will be paid to Seller.

Section III - Representations and Warranties of the Seller

3.1 Except as set forth in the attached Disclosure Schedule (Exhibit C), the Seller and Parent represent and warrant that:

- (a) each has all the requisite power and authority to enter into this Agreement;
- (b) to the Knowledge of the Seller and Parent, there are no Liabilities associated with the Assets;
- (c) Seller has committed no violations of any Environmental, Health, and Safety Law;
- (d) Seller has good and marketable title to all Real Property listed on Exhibit B purported to be owned in fee, and good and merchantable title to all of its other material Assets, free from all liens and encumbrances;
- (e) there are no actions, claims, suits, or proceedings to which Seller is a party pending or to the Knowledge of Seller and Parent, threatened, that may have any effect on the Assets;
- (f) Seller or Parent is not and upon consummation of the transactions contemplated hereby, will not be in default under any contract relating to the Assets and, to the Knowledge of the Seller and Parent, no other party thereto is in default;
- (g) all returns of Taxes, information and other reports required to be filed in any jurisdiction by Seller and Parent have been timely filed and all such returns are

true and correct in all material respects and all Taxes that are due have been paid;
and

- (h) the representations and warranties of Seller and Parent contained in this Agreement, and all other documents and information furnished to Buyer are complete and accurate and do not and will not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements made and to be made not misleading.

Section IV - Representations and Warranties of the Buyer

4.1 Buyer represents and warrants to Seller as follows:

- (a) Buyer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas.
- (b) this Agreement constitutes a legally binding and enforceable obligation of the Buyer enforceable against the Buyer in accordance with its terms.
- (c) there are no proceedings or other actions commenced against the Buyer that may prevent or delay the closing of the transactions contemplated hereby.
- (d) Subsequent to the Closing Date, Buyer shall provide wastewater capacity to the property known as Plantation East if development in the area requires such service. The said property may currently be outside the existing FPSC certificated area. Exhibit E contains the legal description of Plantation East.

Section V - Agreements Through Closing

5.1 During the period from the Effective Date of this Agreement and until the Closing:

- (a) the Seller shall provide Buyer with reasonable access to the Assets and will operate the Business in the Ordinary Course of Business;
- (b) the Seller will not, without consent of Buyer, acquire or dispose of any Assets, terminate or amend any contract or lease, or commit to do any of the foregoing or make any other commitments or take any actions that are outside the Ordinary Course of Business;

- (c) Buyer and Seller shall cooperate to the maximum extent possible to satisfy all regulatory requirements necessary for this transaction.

Section VI - Buyer's Conditions to Close:

6.1 The Buyer's obligation to consummate the transactions contemplated by this Agreement are subject to the following conditions:

- (a) the representations and warranties of Seller and Parent will be accurate at and as of the Closing Date as though such representations and warranties had been made at and as of such date;
- (b) all statutory requirements for the valid consummation of the transactions contemplated herein shall have been fulfilled and all governmental consents, approvals, or authorizations necessary for the valid consummation of the transactions contemplated herein shall have been obtained including, but not limited to, the FPSC Approval; however such requirements may be waived at Buyers sole discretion;
- (c) no action or suit shall have been commenced and no statute, rule, regulation, or order shall have been enacted or proposed, that reasonably may be expected to prohibit Buyer's ownership of the Assets or render the Buyer unable to purchase the Assets, make the sale of the Assets illegal or impose material limitations on the ability of the Buyer to exercise full rights of ownership of the Assets;
- (d) the completion of a Phase I Report regarding the facilities of Seller and, if recommended, the completion of a Phase II Report, each performed pursuant to ASTM Protocol, and the contents of each such report being to the reasonable satisfaction of Buyer; however such requirements may be waived at Buyers sole discretion; and
- (e) Buyer shall have completed to its satisfaction a due diligence review of the Assets and the associated Business of the Seller.

Section VII - Termination

7.1 Anything herein to the contrary notwithstanding, this Agreement shall terminate upon the occurrence of any of the following events: (i) by mutual consent of Buyer and Seller, or (ii) written notice from the Buyer to Seller or Seller to the Buyer if the Closing has not occurred on or before twelve (12) months from the date of this Agreement, or (iii) a decision of the FPSC not to approve the transactions contemplated by this Agreement.

Section VIII - Indemnification

8.1 **Survival; Right to Indemnification Not Affected By Knowledge:** All representations, warranties, covenants, and obligations in this Agreement or any document delivered pursuant to this Agreement will survive the Closing. The right to indemnification will not be affected by any investigation or any Knowledge acquired at any time with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant, or obligation.

8.2 **Post Closing Indemnity:** For a two (2) year period following the Closing Date, except with respect to Seller's and Parent's indemnification for Taxes which has no time limitation, the Seller and Parent shall jointly and severally indemnify and hold harmless Buyer and its officers, directors, shareholders, employees, agents, and assigns from and against any claim arising out of, resulting from, or in any way related to:

- (a) a breach of, or the failure to perform or satisfy, any of the representations, warranties, and covenants made by Seller and Parent in this Agreement;
- (b) violations or claimed violations of any Environmental, Health, and Safety Law which relate in any way to the ownership, occupancy, use, operation, or conditions of any present or former properties of the Seller on or before the Closing Date; and
- (c) any cleanup or remediation requirement or liability respecting a release or threatened release of any hazardous substances to the extent that those hazardous substances are present at any present or former properties of the Seller on or before the Closing Date.

8.3 Limited to the Purchase Price herein, Seller and Parent shall reimburse Buyer for any actual loss or expenses that Buyer may incur as a result of Seller's and Parent's indemnification.

Section IX - Covenants after Closing:

9.1 Seller and Buyer agree as follows:

- (a) Non-Compete. During the two (2) year period following the Closing, the Seller and Parent shall not directly or indirectly compete with the Buyer in Buyer's operation of the Assets or with the Buyer in the water and/or wastewater utility business in general in the State of Florida.
- (b) Operations. Seller agrees to provide reasonable assistance to the Buyer in the administration and operations of the Assets and associated Business for a period of one hundred twenty (120) days from the Closing Date.

Section X - Public Service Commission Approval

10.1 The Parties acknowledge and agree that the FPSC has the power and jurisdiction to approve or disapprove the transactions contemplated by this Agreement. Notwithstanding anything to the contrary set forth herein, the Parties agree that the review or approval by the FPSC of this Agreement or the transactions contemplated hereby is not a condition to any party's obligations to close or to consummate the transactions contemplated by this Agreement. Should the FPSC disapprove this transfer, then the Parties shall be put back into their respective positions prior to the execution of this Agreement.

10.2 The Buyer (i) promptly and at its sole cost and expense shall apply for all necessary approvals and authorization required from the FPSC, and (ii) agrees to use its reasonable best efforts, at its sole cost and expense, to obtain such approvals and authorizations from the FPSC.

Section XI - General Provisions

11.1 **Expenses:** Each Party shall be responsible for its own expenses incurred in connection with this Agreement including any broker's fees.

11.2 **Further Assistance:** Seller shall execute and deliver without additional expense to the Buyer such additional documents as are reasonably necessary to transfer the Assets and the Business to the Buyer.

11.3 **Governing Law:** This Agreement together with its Exhibits supersedes all previous agreements and understandings between the Parties and shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of Florida.

[SIGNATURES ON NEXT PAGE]

11.4 Miscellaneous: This Agreement may be executed in one or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be delivered by facsimile transmission.

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

BUYER

AquaSource Utility, Inc.

By: 

Michael J. Miller
Vice President

SELLER

South Seas Utility Company, Inc.

By: 

Name: Joe K. Blacketer

Title: Authorized Agent

PARENT

The Mariner Group

By: 

Name: Allen TenBroek

Title: President, CEO

EXHIBIT A

BILL OF SALE AND ASSIGNMENT

THE STATE OF FLORIDA §

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LEE §

South Seas Utility Company, Inc., ("Grantor"), for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars cash and other good and valuable consideration paid to Grantor by AQUASOURCE UTILITY, INC., a Texas corporation ("Grantee"), the receipt and sufficiency of which is hereby acknowledged, has pursuant to the Asset Purchase Agreement between Grantor and Grantee dated December 18, 1998 (the "Agreement") granted, sold, and conveyed, and by these presents does grant, sell, and convey unto Grantee, its successors and assigns, the following:

1. Personal Property. All items of furniture, fixtures, equipment, and miscellaneous tangible personal property owned by Grantor, and located on or within or used in connection with the ownership or operation of the improvements located in Lee County, Florida consisting of all of the personal property used and/or owned by Grantor in connection with the water distribution system serving South Seas Plantation and surrounding areas, comprised of the parcel more particularly described on Schedule "1" (Asset Listing) attached hereto and incorporated herein as the "Project," and all of such items and personal property being collectively referred to herein as the "Personal Property".
2. Leases. All of Grantor's right, title, and interest as lessor or landlord in and under all leases and license agreements granting possessory rights in, on, or covering the Project (the "Leases").
3. Property Agreements. All of the Grantor's right, title, and interest as owner of the Project, to the extent Grantor's interest is assignable, in and to any and all agreements that relate solely to the ownership, use, leasing, management, advertising, security, maintenance, construction, or operation of the Project or the Personal Property (the "Property Agreements").
4. Intangibles. To the extent and relating solely to the ownership, development use, or projected use, maintenance, or operation of the Project, Personal Property, Leases, or Property Agreements, all of Grantor's right, title, and interest in and to all (i) plans, models, drawings, specifications, surveys, engineering reports, and other technical descriptions or materials that are in the possession of Grantor or its representatives (the "Plans"); (ii) warranties, guaranties, indemnities, and claims (the "Warranties"); (iii) licenses, permits, franchises, and similar rights issued by any federal, state, or municipal authority, including, without limitation, any waste, wastewater, storm sewer, or other utility capacity reservations or allocations

issued solely for the benefit of the Project or improvements to be constructed on the above described land (the "Permits"); and (iv) all other claims or causes of action (the "Intangibles").

- 5. Trade Names. All of Grantor's right, title, and interest in and to the use of the name "South Seas Utility Co., Inc." (the "Trade Name"), together with all "d/b/a's", assumed name certificates, certificates of the Secretary of State of Florida, trademark and copyright certificates, licenses, permits, and other similar instruments which evidence Grantor's right, title, and interest in the Trade Name and its use.

TO HAVE AND TO HOLD THE Personal Property, Leases, Property Agreements, Plans, Warranties, Permits, Intangibles, and Trade Names, together with all and singular rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successors and assigns, forever, and Grantor does hereby bind itself and its successors to WARRANT and FOREVER DEFEND title to the Personal Property, Leases, Property Agreements, Plans, Warranties, Permits, and Intangibles unto said Grantee, its successors and assigns, against the lawful claims of any and all persons lawfully claiming or to claim the same or any part hereof.

Grantor warrants that there are no liens, encumbrances, or security agreements affecting the Project and/or Grantor's interest in the Project.

IN WITNESS WHEREOF, Grantor has executed this Bill of Sale and Assignment as of the 18th day of December, 1998.

GRANTOR:

South Seas Utility Co. Inc
 By: [Signature]
 Name: Joe K. Blacketer
 Title: Authorized Agent

GRANTEE:

Aqua Source Utility, Inc.
[Signature]
MICHAEL J. MILLER
V. PRES

THE STATE OF FLORIDA §
 §
COUNTY OF LEE §

BEFORE ME, the undersigned authority on this day personally appeared Joe K. Blacketer, Authorized Agent of South Seas Utility Company, Inc., a Florida corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed as an individual and corporate officer.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 14th day of December, 1998.

Amy H. Fitzgerald
Notary Public in and for the State of Florida

Printed Name: Amy H. Fitzgerald
My Commission Expires: 1-1-02

