

LAKE OSBORNE WATERWORKS, INC.

September 28, 2017

FILED 10/3/2017
DOCUMENT NO. 08053-2017
FPSC - COMMISSION CLERK

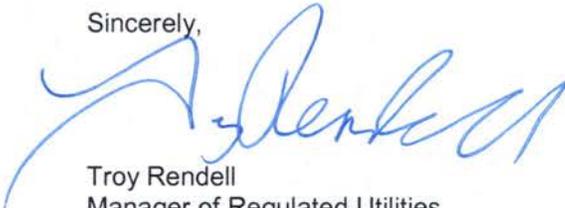
Office of Commission Clerk
Florida Public Service Commission
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Re: Application for Transfer to a Governmental Authority and Cancellation of Certificate No. 053-W in Palm Beach County by Lake Osborne Waterworks, Inc.

Dear Commission Clerk,

Lake Osborne Waterworks, Inc. (Lake Osborne) hereby submits its application for transfer to a governmental authority and cancellation of Certificate No. 053-W in Palm Beach County by Lake Osborne Waterworks, Inc.

Sincerely,



Troy Rendell
Manager of Regulated Utilities
// for Lake Osborne Waterworks, Inc.

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COMMISSION
CLERK

APPLICATION FOR TRANSFER TO A GOVERNMENTAL AUTHORITY

**(Pursuant to Section 367.071, Florida Statutes, and
Rule 25-30.038, Florida Administrative Code)**

To: **Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850**

The undersigned hereby makes application for acknowledgement of the transfer of all or part of the utility's water and/or wastewater facilities in Palm Beach County, Florida, and cancellation or amendment of Water Certificate No. 053-W and/or Wastewater Certificate No. _____ and submits the following information:

PART I APPLICANT INFORMATION

A) Contact Information for Utility/Seller. The utility/seller's certificated name, address, telephone number, and if applicable, fax number, e-mail address, and website address. The utility's name should reflect the business and/or fictitious name(s) registered with the Department of State's Division of Corporations:

Lake Osborne Waterworks, Inc.

Utility Name

4939 Cross Bayou Blvd

Office Street Address

New Port Richey

FL

34655

City

State

Zip Code

same

Mailing Address (if different from Street Address)

City

State

Zip Code

(727) 848-8292

(727) 848-7701

Phone Number

Fax Number

46-2237195

Federal Employer Identification Number

trendell@uswatercorp.net

E-Mail Address

www.mywaterservice.com

Website Address

053-W

Water Certificate No.

Wastewater Certificate No.

- B) The contact information of the seller's authorized representative to contact concerning this application:

Troy Rendell

Name

4939 Cross Bayou Blvd.

Mailing Address

New Port Richey

FL

34655

City

State

Zip Code

(727) 848-8292

Phone Number

(727) 848-7701

Fax Number

trendell@uswatercorp.net

E-Mail Address

- C) Contact Information for Governmental Authority. The name, address, telephone number, and if applicable, fax number, and e-mail address of the governmental authority.

City of Lake Worth

Governmental Authority's Name

7 North Dixie Highway

Office Street Address

Lake Worth

FL

33460

City

State

Zip Code

(561) 586-1675

Phone Number

() -

Fax Number

bshields@lakeworth.org

E-Mail Address

D) The contact information of the governmental authority's authorized representative to contact concerning this application:

Brian Shields, Utility Director

Name

301 College Street

Mailing Address

Lake Worth

FL

33460

City

State

Zip Code

(561) 586-1675

() -

Phone Number

Fax Number

bshields@lakeworth.org

E-Mail Address

PART II TRANSFER OF FACILITIES

A) DESCRIPTION OF SALE/TRANSFER AGREEMENT

1) Exhibit ____ - Provide the date on which the governmental authority assumed ownership or proposes to assume ownership, operation, management, or control of the utility. The transfer of facilities, or any portion thereof, from a regulated utility to a governmental authority shall be effective as of the date the governmental authority assumes ownership, operation, management, or control.

September 28, 2017

2) Exhibit A - Provide a copy of the contract or other document transferring the utility system to the governmental authority.

3) Exhibit ____ - Provide a statement that the governmental authority obtained from the utility or Commission the most recent available annual report.

The City of Lake Worth has obtained a copy of the most recent annual report.

- 4) Exhibit _____ - Provide a statement describing the disposition of customer deposits and interest thereon.

All customer deposits were transferred to the City of Lake Worth - see attached Closing Statement.

- 5) Exhibit _____ - Provide a statement regarding the disposition of outstanding regulatory assessment fees, fines or refunds owed. The transfer of a regulated utility to a governmental authority shall not affect the utility's obligation to complete payment of regulatory assessment fees pursuant to Rule 25-30.120, F.A.C.

Lake Osborne Waterworks will pay the regulatory assessment fees for 2017 from January 1st until September 28, 2017, - the date of closing.

B) DESCRIPTION OF FACILITIES NOT TRANSFERRED

If a utility is transferring only a portion of its facilities to a governmental authority, it must provide the following additional information:

- 1) Exhibit N/A - A list of any utility assets not transferred to the governmental authority, if such remaining assets constitute a system providing or proposing to provide water or wastewater service to the public for compensation.
- 2) Exhibit N/A - A legal description of the territory not transferred to the governmental authority in the format prescribed in Rule 25-30.029, F.A.C.
- 3) Exhibit N/A - An official county tax assessment map or other map showing township, range, and section with a scale such as 1" = 200' or 1" = 400', with the remaining territory plotted thereon, consistent with the legal description provided in II.B.1.b. above.
- 4) Exhibit N/a - A tariff containing all rates, classifications, charges, rules, and regulations, which shall be consistent with Chapter 25-9, F.A.C. See Rule 25-30.038, F.A.C., for information about water and wastewater tariffs that are available and may be completed by the applicant and included in the application.

PART III SIGNATURE

Please sign and date the utility's completed application.

APPLICATION SUBMITTED BY:



Applicant's Signature

Troy Rendell

Applicant's Name (Printed)

Manager of Regulated Utilities

Applicant's Title

September 29, 2017

Date

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LAKE OSBORNE WATERWORKS SYSTEM

JOINT CLOSING STATEMENT

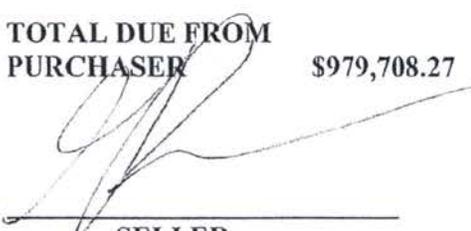
SELLER: Lake Osborne Waterworks, Inc., a Florida Corporation

PURCHASER: City of Lake Worth, a Florida Municipality

Date: September 28, 2017

SELLER CREDITS		SELLER DEBITS	
Purchase Price	\$1,000,000.00		
Deposits Held by Purchaser due to Seller	\$ 36,002.00		
Charges due from Seller to Purchaser For purchased water due Bill Dated August 8, 2017		\$ 18,595.36	
Bill Dated September 8, 2017		\$ 16,530.40	
Bill for 8/30/17 to 9/27/17		\$ 16,065.00	
Customers' Deposit Held by Seller July 2017		\$ <u>9,652.37</u>	
Adjustment for Seller's Unbilled Revenue from 9/23/17 to 9/27/17	\$ <u>4,549.40</u>		
Totals	\$1,040,551.40	\$ 60,843.40	

**TOTAL DUE FROM
PURCHASER \$979,708.27**

By: 
SELLER

By: 
PURCHASER

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that **LAKE OSBORNE WATERWORKS, INC., a Florida corporation** (collectively, the "Grantor") for and in consideration of the sum of Ten Dollars & 00/100 (\$10.00) and other good and valuable consideration, lawful money of the United States, to them paid by the **CITY OF LAKE WORTH, a Florida Municipality** (the "Grantee"), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer and deliver unto the Grantee, its heirs, executors, administrators and assigns, the following goods and chattels of the "water system" owned and operated by Grantor and more particularly defined and described as follows:

All real and personal property used or held exclusively for use in the provision of potable water services to the customers of and in connection with the water system of Grantor, including its customers' deposits.

All rights, interests, privileges, easements, licenses and prescriptive rights, rights to use public and private roads, highways, streets, and other interests owned and/or used by the Grantor in connection with the construction, reconstruction, installation, maintenance, repair and operation used in the provision of potable water services to the customers of and in connection with the water system of Grantor. Any interest in Easements for potable water purposes of the Grantor.

All equipment and attendant infrastructure utilized by the Grantor exclusively in connection with and necessary to operate the water systems, including, without limitation, all water transmission, distribution, and other water facilities, valves, meters, service connections, and all other water service connections, and all other water and physical facilities and property installations for use in the provision of potable water services to the customers of and in connection with the water system of Grantor.

All current customer and computer records, billing and payment records, surveys, as-built water plans, engineering and other drawings, designs, blueprints, plans and documents used or held for use with the water system, accounting and customer records and all other information, computer data and business records in the possession of the Grantor which relate or are used in the provision of potable water services to the customers of and in connection with the water system of Grantor.

All existing certificates, permits and other governmental authorizations and approvals of any kind whatsoever necessary to operate and maintain the water system in accordance with all governmental requirements, all choses in action, including but not limited to; warranty claims, claims for damages, the right to sue for any past infringement, or any other cause of action.

Grantor warrants that the water system is free of and without any outstanding claims, fees fines, penalties or other liabilities for any orders of or charges due to the Florida Public Service Commission or any other regulatory authority which has oversight of or over the operations of the water system and Grantor has undertaken to seek and obtain all releases or relinquishment of all jurisdictional oversight from the Florida Public Service Commission or any

other regulatory authority which has oversight of or over the operations of the water system used in the provision of potable water service to the customers of the Grantor which have or had accrued or known of as of the closing date of the transfer related to the water system used in the provision of potable water service to the customers of the Grantor.

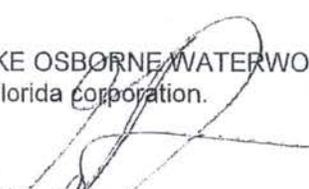
All terms and conditions of the Purchase and Sale Agreement executed for the water system by the parties is incorporated and adopted as if part of this Bill of Sale as if it included herein in its entirety.

Cash sums which represent the water system customers' water service security deposits held by the Grantor.

TO HAVE AND TO HOLD the same unto the Grantee, its heirs, executors, administrators and assigns forever.

AND we do, for ourselves, our heirs, executors and administrators, covenant to and with the Grantee, its heirs executors, administrators, and assigns, that it is the lawful owner(s) of the goods and chattels; that they are free from all encumbrances; that we have good right to sell the same aforesaid, and that we will warrant and defend the sale of the property, goods and chattels hereby made, unto the Grantee, its heirs, executors, administrators and assigns against the lawful claims and demands of all persons whomsoever.

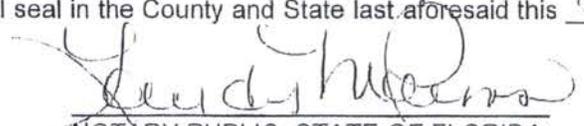
LAKE OSBORNE WATERWORKS, INC.,
A Florida corporation.

BY 
GARY A. DEREMER, PRESIDENT

STATE OF FLORIDA
COUNTY OF PASCO

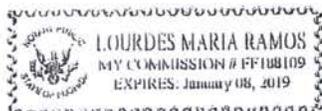
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared **GARY A. DEREMER, as President of LAKE OSBORNE WATERWORKS, INC.** who is (X) personally known to me, or () has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 05 day of September 2017.


NOTARY PUBLIC, STATE OF FLORIDA

Lourdes M Ramos
(Print Name)

My Commission Expires:



AGREEMENT OF PURCHASE AND SALE OF WATER SYSTEM
LAKE OSBORNE WATERWORKS, INC.
AND
CITY OF LAKE WORTH, FL

THIS AGREEMENT is made and entered into this 19th day of Sept, 2017, by and between LAKE OSBORNE WATERWORKS, INC., a Florida corporation, (hereafter "Seller"), and CITY OF LAKE WORTH, FL. a Florida municipal, (hereafter "Buyer").

RECITALS

1. The Seller is the owner of a water transmission and distribution system which is located within Palm Beach County, Florida and outside of the city limits of Buyer, but within the Buyer's service area;
2. The Buyer desires to purchase the Seller's water system and the Seller desires to sell to the Buyer the Seller's water system;
3. Due to the efficiencies and economies of scale achieved by the Buyer operating the public water system, the Seller and Buyer have determined that it is in the best interest of the present and future customers of both the Seller and the Buyer that they be combined, with the Buyer purchasing the water systems of the Seller, thereafter owning and operating the systems as part of the unified Buyer water system;
4. Pursuant to the Buyer's governmental powers and pursuant to Chapters 163,166, and 180, Florida Statutes, and other applicable laws, the parties hereto have the authority and power to execute and deliver this Agreement and to carry out their respective obligations hereunder;
5. Pursuant to sections 180.03, 180.14, and 180.16, Florida Statutes, the Seller and Buyer respectively, have complied with the legal requirements set forth therein, and have determined that the purchase and sale of the water system by the Buyer and from the Seller is in the public interest;
6. The parties have negotiated in good faith and are empowered to be bound by the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the above recitals and benefits to be derived from the mutual observation of the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct, and incorporated herein by specific reference.

SECTION 2. PURCHASE AND SALE OF WATER SYSTEM. The Seller agrees to sell and the Buyer agrees to purchase the following assets:

2.1. **Water System.** The system consisting of all real and personal property used or held exclusively for use in connection with the water system, including customer deposits. The water system shall not include any vehicles, trailers, mobile pumps, and cash derived from the fees, charges and monthly rates charged by the Seller and received by the Seller up to and including the Closing Date;

2.2. **Service Areas.** The Service Area shall be as set forth on Exhibit "A" of this Agreement and without the corporate limits of the Buyer.

2.3. **General Easements and Other Rights.** All rights, interests, privileges, easements, licenses and prescriptive rights, rights to use public and private roads, highways, streets, and other interests owned and /or used by the Seller in connection with the construction, reconstruction, installation, maintenance, repair and operation of the water system (collectively "Easements"), as set forth on Exhibit "B" of this Agreement. Easements located or shown on recorded plats and rights to locate lines in dedicated public rights-of-way are not included on Exhibit "B", but any interest in Easements for potable water purposes of the Seller shall be conveyed to the Buyer and transferred at the Closing Date;

2.4. **Infrastructure and Equipment.** All equipment and attendant infrastructure utilized by the Seller exclusively in connection with and necessary to operate the water systems, including, without limitation, all water transmission, distribution, and other water facilities, valves, meters, service connections, and all other water service connections, and all other water and physical facilities and property installations in use in connection with the operation of the water system and owned by the Seller;

2.5. **Customer/Computer Records (Including Billing and Payment Records) and Plans and Specifications.** All current customer and computer records, billing and payment records, surveys as-built water plans, engineering and other drawings, designs, blueprints, plans and documents used or held for use with the water system, accounting and customer records and all other information, computer data and business records in the possession of the Seller which relate to the operation of the water system. The Seller shall not be obligated to provide any documents which Seller does not maintain in the regular course of business or which do not relate to the operation the water system;

(1) All existing certificates permits, and other governmental authorizations and approvals of any kind whatsoever necessary to operate and maintain the water system in accordance with all governmental requirements, all choses and action, including but not limited to; warranty claims, claims for damages, the right to sue for any past infringement, or any other cause of action;

(2) At or before the Closing Date, (i) the Seller agrees to deliver to the Buyer all original Permits, and (ii) the Buyer agrees to prepare and the parties agree to execute necessary forms required by governmental agencies to transfer and to assume the Buyer's future obligations under the Permits;

2.7 Customer Deposits. Cash sums which represent the water system customers' water service security deposits held by the Seller shall be transferred to the Buyer at Closing;

2.8 Excluded and Included Charges and Assets. The following assets of Seller relating to the water system shall not be included in the Purchased Assets:

(1) The Seller's cash and bank accounts, including all cash collected through the Closing Date, including but not limited to revenues, fees and other charges levied by the Seller.

(2) All unpaid and disputed charges for water services by Seller's customers incurred prior to Closing will be retained by the Seller;

(3) Federal, state or local tax or other deposits maintained by Seller any governmental authority or private vendor for Seller's use;

(4) The Seller's deposit held by Buyer which shall be returned to Seller at closing;

(5) The Seller's unbilled revenues existing prior to closing shall be transferred to Buyer for the consideration of ninety-five (95%) percent of the total amount of said unbilled revenues at the time of the closing;

(6) All billed revenues for service billed before Closing and received after the day of closing shall remain the property of the Seller; and

(7) Any other asset specifically excluded elsewhere in this Agreement.

(8) Seller will be liable for all incurred but not paid charges for services and purchases made by the Seller up to the date of Closing.

SECTION 3. PURCHASE PRICE, PAYMENT AND OTHER CONSIDERATION.

3.1 Total Purchase Price. The total purchase price shall be One Million and 00/100 dollars (\$1,000,000), payable as set forth herein, less customer deposits, plus the agreed upon unbilled revenue as described in 2.8(5);

3.2 Payment Terms. The Buyer shall pay to the Seller at Closing, cash in the amount of One Million and 00/100 Dollars (\$1,000,000) as the purchase price less any adjustments or plus such other amounts as set forth herein.

3.3 Time is of the Essence: The Seller desires that the Closing shall occur on or before October 1, 2017; Buyer will exercise due diligence in seeking to meet the Closing date but cannot assure completion by that date. Failure to close on or before October 1, 2017, will not be a breach of this agreement and the parties will pursue closing as soon thereafter as possible in the event closing does not occur on or before October 1, 2017.

3.4 Executory Contracts. The Buyer will not assume any of the Seller's executory contracts and it is the responsibility of Seller to terminate any and all executory contracts by or as part of closing;

3.5 Operational Issues. The Seller will continue operating the water system until the Closing Date. The Buyer will operate the water system beginning immediately after the Closing Date. The Seller shall pay all operation and maintenance expenses of the system up to the day of closing. The Seller shall pay to Buyer for water purchased by Seller from Buyer at the now existing rate less the twenty-five (25%) percent surcharge imposed by Buyer upon Seller pursuant to 180.191, Florida Statutes. The Seller shall not be responsible to pay to Buyer any past due charges existing as of the date of execution of this Agreement and all such past due charges shall be forgiven by Buyer.

3.6 Conversion Issues. The parties acknowledge that an efficient transfer and conversion of the water system will require good faith cooperation on the part of both parties. Each party agrees to provide such cooperation. Without limitation, the Buyer will need information and access to the water system prior to Closing, which the Seller agrees to provide, and may need information after Closing, which the Seller agrees to provide to the extent reasonably possible. Upon approval of this Agreement by the Buyer, the Seller shall undertake, at Seller's sole expense, to file all necessary documents with the State of Florida Public Service Commission to revoke and terminate the Seller's Certificate of Authority to provide water service to the Service Area as shown on Exhibit "A" of this Agreement and seek and obtain a transfer of the service area to the Buyer.

3.7 Indemnification. Each party shall be liable for its own actions and omissions. The foregoing shall not constitute a waiver of sovereign immunity beyond the limits set forth in section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement by party to indemnify the other for such other's negligent, reckless or intentional act or omissions;

3.8 Warranties. The parties agree that the Buyer is accepting all water system and related appurtenant equipment in an "as is, where is" condition, based upon its own due diligence;

3.9 Pre-Existing Judgments, Orders, Etc., Relating to the Seller's Utility System. To the extent that any court or administrative regulatory body or agency (local, state for federal) has entered any judgments, orders or other compulsory

directives to the City relating to the water system such judgments, orders or directives shall be the sole responsibility and liability of the Seller;

3.10 **Pre-Existing Liabilities, Conditions, Etc.** The intent of the parties is that the Seller shall be responsible and liable for all liabilities accruing and conditions existing on or prior to the Closing Date and the Buyer shall be responsible and liable for all liabilities accruing and conditions created after the Closing Date. Without limitation, the Buyer shall have no responsibility or liability with respect to claims, losses, damages, mitigation, remediation or clean-up of any type relating to any hazardous materials, pollution, environmental contamination, violation of Environmental Laws or similar conditions known, or should have known, to exist by the Seller at any time prior to the Closing Date, which shall be the sole responsibility and liability of the Seller. The Seller's responsibility and liability for such matters shall survive the Closing;

SECTION 4. REPRESENTATIONS AND WARRANTIES OF SELLER. The Seller represents and warrants, to the best of the Seller's knowledge, to the Buyer as follows:

4.1 **Organization, Standing and Power.** The Seller is a Florida corporation formed under the laws of the State of Florida. The Seller has all requisite power and authority to own, lease, and sell its properties being conveyed hereunder and the water system, and to conduct its businesses related thereto as it is currently being conducted;

4.2 **Authority for Agreement.** The Seller has the power and authority to execute and deliver this Agreement and to carry out its obligation hereunder. This Agreement has been duly authorized by all action required to be taken by the Seller, has been duly executed and delivered by the Seller and constitutes a valid and binding obligation of the Seller, enforceable in accordance with its terms;

4.3 **Delivery of Resolution.** The Seller will deliver to Buyer a Corporate Resolution of the Seller approving the Seller's execution and performance of this Agreement promptly after Seller's execution hereof, within ten (10) days after adoption of said Resolution by the Seller;

4.4 **No Liens or Encumbrances.** Except as otherwise specifically set forth in this Agreement or as may be released prior to the Closing Date there are no mortgages, liens, claims, bond covenants, or encumbrances of any type or nature upon or against the water system including, but not limited to, mortgages, financing statements, or instruments filed in Palm Beach County. The Seller is in exclusive ownership, possession, and control of the water system except for nonexclusive easements, and Seller shall deliver possession and control of the water system to the Buyer at Closing;

4.5 **Litigation.** There are no actions, suits, or proceedings at law or in equity, threatened or pending against the Seller before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or

foreign, relating to or affecting the water system. The Seller agrees and warrants that it shall have a continuing duty to disclose up to and including the Closing Date the existence and nature of all threatened or pending judicial or administrative notices, claims suits, actions, proceedings, and orders which in any way relate to or affect the water system.

4.6 **Leases.** None of the water system is subject to any interest of any lessor or lessee;

4.7 **No Governmental Violations.** The Seller is not aware and does not know, or should have known, and has not been notified of the existence of any violations or claimed violations of any governmental rules, regulations, permitting conditions, or other governmental requirements, decree of any court or any administrative agency applicable to the ownership, maintenance or operation of the water system. The Seller shall be responsible for any such violations occurring prior to the Closing Date even if the Seller or the Buyer only receives notice after the Closing Date;

4.8 **No Record Violations.** The Seller is not aware, does not know, or should have known, and has not been notified of any restrictions or conditions of record which would adversely affect the use of the water system;

4.9 **Survival of Covenants.** The Seller agrees that its representations and warranties set forth herein are true and correct as of the date of the execution hereof and shall be true and correct at the time of the Closing Date, and shall survive the Closing Date;

SECTION 5. REPRESENTATIONS AND WARRANTIES OF BUYER. The Buyer represents and warrants, to the best of the Buyer's knowledge, to the Seller, as follows:

5.1 **Authority for Agreement.** The Buyer has the authority and power to execute and deliver this Agreement and to carry out its obligations hereunder. The Buyer has held all of the necessary public hearings to authorize the Buyer's purchase of the water system;

5.2 **Delivery of Resolution.** The Buyer will deliver to Seller a certified copy of the minutes or any resolution of the Buyer approving the Buyer's execution and performance of this Agreement. Promptly after Buyer's execution hereof, within ten (10) days after adoption of said Resolution by the Buyer's.

5.3 **Litigation.** There are no actions, suits, or proceedings at law or in equity, pending against Buyer before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Buyer's right and ability to make and perform this Agreement; nor is the Buyer aware of any facts which to its knowledge are likely to result in any such action, suit or proceeding;

5.4 **Survival of Covenants.** The Buyer agrees that its representations set forth herein are true and correct as of the date of the execution hereof and shall be true and correct at the time of the Closing Date, and shall survive the Closing Date;

SECTION 6. ADJUSTMENTS AND PRORATIONS; CLOSING COSTS. At the time of Closing Date, the parties covenant and agree that the following adjustments shall be made:

6.1 **Taxes.** If any real and personal property taxes for the year of closing are due on any real and/or personal property which is being conveyed by the Seller to the Buyer, such taxes shall be prorated as of 11:59 p.m. of the Closing Date and shall be paid by the Seller.

6.2 **Buyer and Collection Transition.**

The Seller will continue operating the water system until the Closing Date, as set forth in Section 3.9. All rates, fees, and charges for water service through the Closing Date shall be the property of the Seller, except for the water system customer deposits held by Seller which shall be transferred to the Buyer at the Closing Date. With the first bill issue, subsequent to the Closing Date, the Buyer shall provide the Seller with a written notice to each customer that the water system has been transferred to the Buyer. All collections based on billings for water service provided subsequent to the Closing Date shall be the property of the Buyer.

6.3 **Developer Agreements.** The Buyer will assume the responsibility to provide water service to developers, if any, who have prepaid water and capital charges to the Seller, but have not yet connected to the Seller's water system without seeking additional charges from such developers.

6.4 **Adjustments/Prorations.** All adjustments and prorations shall be calculated as of 11:59 p.m. of the Closing Date;

6.5 **Releases/Satisfactions/Releases.** All costs of recording any releases, satisfactions, or similar instruments relating to the water system shall be paid by Seller.

6.6 **Rents.** If applicable, rents under any lease agreement assumed by Buyer hereunder shall be prorated as of the Closing Date;

6.7 **Utility Bills.** The bills for electricity and other utility services for the month in which the Closing shall take place shall be paid by Seller up to the date of the Closing Date and Buyer shall make arrangements for the appropriate utilities to bill Buyer for services rendered subsequent to the Closing Date;

6.8 **Other Bills.** All bills for other services, materials and supplies rendered in connection with the operation of the water system prior to the Closing shall be prorated as of the Closing Date and shall be paid by Seller and such costs incurred after the Closing Date shall be obligations of the Buyer;

6.9 Documentary Stamps. If any such documentary stamps are required on the deeds of conveyance of Real Property included in the sale of the water system, such taxes shall be paid by Buyer;

6.10 Recording Costs. The cost of recording the deed(s) of conveyance shall be paid by Buyer;

SECTION 7. CLOSING/CLOSING DATE. The Closing ("Closing") shall take place at a location in Palm Beach County mutually agreed upon by the Seller and the Buyer, and such Closing shall occur on or before October 1, 2017, ("the Closing Date").

SECTION 8. RESPONSIBILITY FOR PROFESSIONAL FEES AND COSTS. Each party shall be responsible for its own attorney's fees, engineering fees, accounting fees and other costs in connection with the preparation and execution of this Agreement, the closing of the transaction, and in connection with all judicial and administrative proceedings related to the acquisition of the water system.

SECTION 9. COMMISSIONS. The Seller and the Buyer warrant to the other that the transaction contemplated by this Agreement is a direct, private transaction between the Seller and the Buyer without the use of a broker or commissioned agent.

SECTION 10. FURTHER ASSURANCES. Each of the parties hereto agrees that, from time to time upon the reasonable request of the other party and at the expense of the Buyer and the Seller for each of their expenses, without further consideration, it shall execute and deliver to the requesting party any and all further instruments, affidavits, conveyances and transfers as may be reasonably required to carry out the provisions of this Agreement.

SECTION 11. NOTICES. Any notices required or allowed to be delivered hereunder shall be in writing and may either be (1) hand delivered, (2) sent by recognized overnight courier (such as Federal Express) or (3) mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed to a party at the address set forth opposite the party's name below, or to such other address as the party shall have specified by written notice to the other party delivered in accordance herewith;

SELLER: Lake Osborne Waterworks, Inc.
Gary A. Deremer, President
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

BUYER: City of Lake Worth, Florida
PAM TRIOLO, Mayor
7 North Dixie Highway
Lake Worth, FL 33460

SECTION 12. OTHER AGREEMENTS. The Seller and Buyer further agree as follows:

(1) **Buyer Responsible after Closing Date.** After the Closing Date, The Buyer will be responsible for all maintenance of the systems and for all Capital Improvements necessary to maintain the water system at the same or higher level than when maintained by the Seller. The Seller has a duty to repair, maintain and improve the system, as is customary, up through the date of closing.

(2) The parties intend that this Agreement also represents a settlement of the Litigation: Lake Osborne Waterworks, Inc. v. City of Lake Worth, Florida, Case No. 502014CA00813XXXXAI, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida. Upon closing and transfer of the water utility, the Seller agrees to dismiss the above litigation with prejudice and each party shall bear their own fees and costs relating thereto.

SECTION 13. DEFAULT; REMEDIES/SPECIFIC PERFORMANCE. Should either party to this Agreement determine that the other is in default of any of the terms and conditions of this Agreement, written notice shall be given by the non-defaulting party allowing the defaulting party thirty (30) days from the date of receipt of such written notice to cure the defaults(s); provided, however, that if the default is of such a nature that it cannot reasonably be cured within thirty (30) days, the cure period shall be extended to that period required to cure the default through the exercise of reasonable diligence. After the closing of the transaction on the Closing Date, either or both parties shall be entitled to specific performance of all terms and conditions of the agreement unless specifically agreed to in writing by both parties.

SECTION 14. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

SECTION 15. BINDING EFFECT; NON-ASSIGNMENT. All of the provisions of this Agreement shall be binding upon and insure to the benefit of the Seller and the Buyer. Neither party may assign this Agreement without the express written consent of the other.

SECTION 16. APPLICABLE LAW. This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

SECTION 17. SURVIVAL OF AGREEMENT. All representative and warranties of the parties set forth in this Agreement, and all other provisions herein, shall survive the Closing. All obligations and commitments of the parties not fully performed as of the Closing Date, and not otherwise terminated in accordance with the terms of this Agreement, shall survive the Closing. The parties agree to mutually assist at their own expense in the resolution any regulatory proceedings relative to the transfer of the utility to the City.

SECTION 18. ENTIRE AGREEMENT. This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change is being sought.

SECTION 19. DISCLAIMER OF SECURITY. Notwithstanding any other provisions of this Agreement, the Seller and Buyer expressly acknowledge that they have no pledge of or lien upon any real property, personal property, or any existing or future revenue source of the other as security for any amounts of money payable by the other under this agreement.

SECTION 20. FORCE MAJEURE. In the event that the performance of this Agreement by either party to this Agreement is prevented, or interrupted in consequences of any cause beyond the control of either party, including but not limited to, man-made disasters, Acts of God or of the public enemy, national emergency, allocation of or other governmental restrictions upon the use of or availability of labor or materials, rationing, civil insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood tidal wave, fire, explosion bomb denotation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe, or plant failures and line breaks not reasonably preventable, neither party shall be liable for such non-performance.

SECTION 21. WAIVER. The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have for any subsequent breach, default, or non-performance of this Agreement shall not be affected by any previous waiver of course or dealing.

SECTION 22. NO TRANSFER OF POWERS. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. The governing body for the Buyer shall maintain all legislative authority with regard to its political subdivision. All of the privileges and immunities from liability; exemption from law, ordinances, and rules; and pensions and relief, disability, worker's compensation and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extraterritorially under the provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of the date and year written below their signatures.

ATTEST:

[Signature]
Secretary

LAKE OSBORNE WATERWORKS, INC.

BY: [Signature]
GARY DEREMER, PRESIDENT

Date: 9-13-17



ATTEST:

[Signature]
CITY CLERK

CITY OF LAKE WORTH, FLORIDA

By: [Signature]
PAM TRIOLO, MAYOR

Date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature]
GLEN J. TORCIVIA

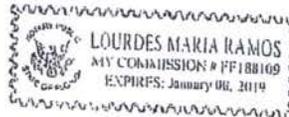
STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 13 day of Sept, 2017 by Gary A. Deremer, as President of Lake Osborne Waterworks, Inc. That he is () personally known to me or () has produced a Florida Driver's License as identification and did (did not) take an oath.

My Commission Expires: 1/8/2019

[Signature]
NOTARY PUBLIC, State of Florida

STATE OF FLORIDA
COUNTY OF PALM BEACH



The foregoing instrument was acknowledged before me this 19th day of September 2017, by PAM TRIOLO, MAYOR of the City of Lake Worth, Florida. That he is () personally known to me or () has produced a Florida Driver's License as identification and did (did not) take an oath.

My Commission Expires: Jan 2019

[Signature]
NOTARY PUBLIC, State of Florida

