

AGREEMENT FOR SALE

THIS AGREEMENT is entered into as of the 6th day of March, 2003 by the Sun Valley Utilities, Inc. ("Seller") and the City of Holbrook, an Arizona Municipal Corporation ("Buyer").

1. Recitals.

- 1.1 Seller owns and operates Sun Valley Utilities, Inc. ("Hereinafter known as the water system"). Seller provides water utility service to approximately 80 customers in the area of Sun Valley, Navajo County, Arizona, under a Certificate of Convenience and Necessity ("CC&N") issued by the Arizona Corporation Commission ("ACC") on _____ (Decision No. _____).
- 1.2 Buyer is an Arizona Municipal Corporation authorized to provide water service pursuant to A.R.S. § 9-511.

2. Consideration.

- 2.1 For consideration of the purchase of the water district, Buyer agrees to bring water from the City of Holbrook to the Sun Valley area within 5 years from the date of this agreement. Seller agrees after purchase by the Buyer to pay the prevailing rate for residential customers in the City of Holbrook. Seller agrees that Buyer can change the commercial rates at Buyer's discretion.
- 2.2 Buyer agrees, as soon as possible, to drill a new well at the cost of Buyer and to provide engineering, site surveys and ADEQ permits at Buyers cost.
- 2.3 Seller agrees to turn over all records relating to the water system to Buyer, including all billing software.
- 2.4 Seller agrees that it has disclosed all conditions relating to the system to Buyer. Seller agrees that after the closing date herein, Buyer is entitled to all revenue from the operation of the water system.

3. Assets Purchased.

- 3.1 It is the intent of the parties that Buyer is purchasing substantially all assets of the Seller, real and personal, tangible and intangible, as of the Closing Date. This is to include all water lines, easements wells, future well sites, storage tanks, valves,

pumps and related devices, buildings and improvements, other equipment, certain listed parts and supplies, waterworks software, water in place or storage, well registration, customer deposits, company name and goodwill, and customer lists.

- 3.2 Seller shall execute, on or before the Closing Date, in a form satisfactory to Buyer's counsel, all such warranty deeds, assignments, bills of sale, transfer of easements and all other instruments as may be required to convey to Buyer, free and clear of any liens or encumbrances except those of the Seller as described herein (or as may be approved in writing by Buyer), the assets of Seller being purchased as of the Closing Date.
- 3.3 Concerning water usage by Seller's customers prior to the Closing Date, Seller shall be entitled to payments for usage by (1) current accounts and (2) delinquent accounts. Such accounts shall be fixed on the Seller's books as of the closing date. Buyer is entitled to all payments after the date of closing except on delinquent accounts. Buyer will remit to seller any payments received on any delinquent accounts after the date of closing.
- 3.4 Seller shall be responsible for paying all utility bills (electricity, etc.) of Seller for usage through the Closing Date. Buyer will be responsible for all utility usage after the closing date.
- 3.5 Except as expressly set forth in this agreement, Seller makes no warranty or representation, express or implied, as to the water system, its assets, its viability or its profitability. Buyer has made such inspections and investigations and obtained such independent advice as Buyer has deemed necessary and appropriate for purposes of making an informed decision to purchase the water system. Buyer is purchasing the water system "as is" and shall have no claim against Seller for any defect in the water system or any other matter with the exception of a breach of Seller's representations as set forth in section 5.
4. **Liabilities of Seller.** Buyer shall assume all contractual obligations and other liabilities of Seller that have been disclosed to Buyer as of the Closing Date. Seller shall document to Buyer's satisfaction such contractual obligations and other liabilities, if any, on or before the Closing Date.
5. **Seller's Representations.** Seller represents and warrants to Buyer as follows:
 - 5.1 Seller is the sole owner of the water system. No other person or legal entity has any ownership interest in the water system.
 - 5.2 To the best of Seller's knowledge, Seller is in good standing with the ACC and has filed all reports and other filings required by state statutes or ACC regulations.

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 - 5.2 To the best of Seller's knowledge, Seller is in good standing with the ACC and has filed all reports and other filings required by state statutes or ACC regulations.

Seller has not been notified by the ACC of any pending or contemplated investigation or other administrative action against or concerning the water system.

- 5.3 To the best of Seller's knowledge, Sun Valley is in good standing with the Arizona Department of Environmental Quality ("ADEQ") and has filed all reports, water samples and other filings required by state or ADEQ regulations. Seller has not been notified by ADEQ of any pending or other administrative action against or concerning the water system.
 - 5.4 To the best of Seller's knowledge, all income tax, property tax and other tax obligations of Seller (to the extent they may affect the water system) are current. The Seller has not been notified by any taxing authority of any pending or contemplated investigations or other administrative action against or concerning the water system.
 - 5.5 To the Best of Seller's knowledge, there are no pending or threatened lawsuits, claims, administrative proceedings or other actions against Seller. There are no liens, encumbrances, judgments or other matters affecting Seller or its operations that have not been disclosed to Buyer.
 - 5.6 Except for the matters set forth in Section 4, there are no contractual obligations or other liabilities of Seller.
 - 5.7 Seller has not dumped, buried, released or otherwise disposed of any hazardous materials or other environmental pollutants on any real property being acquired by Buyer. Seller knows of no dumping, burial, release or other disposal of hazardous materials or other environmental pollutants on any real property being acquired by Buyer. Seller is not aware of any environmental problems that may affect the well sites, quality of water or service or delivering to the customers.
 - 5.8 Seller has obtained all such independent legal, accounting and other advice as Seller has deemed necessary and appropriate in connection with this transaction. Seller understands that Buyer has no obligation and shall have no liability to Seller for any legal, tax or other consequences to Seller arising out of this transaction.
6. **Buyer's Representations.** Buyer represents and warrants to Seller that Buyer is a Municipal Corporation under Arizona law and is authorized to enter into this transaction and operate the water system. All actions required by law for this Agreement to be a valid and binding obligation of Buyer have been taken or will have been taken as of the Closing Date.
 7. **Conditions to Closing.** The closing of this transaction shall occur on or before March

31, 2003. If this transaction does not close on or before this date, Seller and Buyer agree to mutually extend the closing date. The actual date of closing shall be the Closing Date. The following conditions must be fulfilled before this transaction shall close (unless the party for whose benefit a condition exists shall have waived the condition or extended the time for fulfillment in writing):

- 7.1 Seller's Board of Directors shall have (1) adopted and mailed a Resolution of Intention in accordance with A.R.S. §§ 48-919 and 48-916; (2) heard any protests in accordance with A.R.S. § 48-919; and (3) adopted a Resolution Ordering Improvement authorizing this transaction in accordance with A.R.S. § 48-909.
- 7.2 Seller shall have provided Buyer, at Buyer's expense, a commitment for title insurance issued by Transnation Title Company, showing that Seller has good and marketable title to the real property assets of Sun Valley being acquired by Buyer and that these assets are free and clear of any liens or encumbrances. Any others may be approved in writing by Buyer. Buyer shall be responsible for paying the premium on such policy. Buyer shall not object to reservations or exceptions for property taxes and other assessments constituting liens but which are not yet due or delinquent, to easements for utilities, rights-of-way or drainage, or to covenants, conditions and restriction, except to the extent that any of the foregoing would unreasonably affect the operation of the water system.
- 7.3 Seller shall have executed and delivered to Escrow Agent, in recordable form satisfactory to Buyer's counsel, a warranty deed, naming Buyer as grantee, to the Well Sites described in Section 7.5, and any other interests in real property owned by Seller. Seller agrees to assign all easements relating to the water system to the Buyer.
- 7.4 Seller shall have identified, with reasonable accuracy, the location of all water lines that are part of the water system. For any and all water lines across or under real property not owned or controlled by Seller as to which Seller has obtained written easements as of the Closing Date, Seller shall have executed and delivered to Escrow Agent, in recordable form satisfactory to Buyer's counsel, assignments thereof naming Buyer as grantee (together with the easement itself, if it has not previously been recorded). If it becomes necessary after the Closing Date for Buyer to establish prescriptive rights in any water lines as to which Seller has not obtained written easement, Seller shall cooperate with Buyer in establishing such prescriptive rights and/or obtaining the necessary easements.
- 7.5 Seller shall have executed and delivered to Escrow Agent a bill of sale in favor of Buyer, in a form satisfactory to Buyer's counsel, for all personal property assets of Seller being acquired by Buyer.

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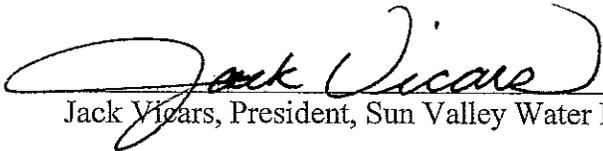
- 7.6 Seller will provide to Buyer a full and complete statement and accounting of Seller's finances, customers and operations as of the Closing Date.
- 7.7 This transaction shall have been approved in writing by the ACC pursuant to A.R.S. § 40-285. This approval, in the form of the ACC's order in Decision No. _____, entered on _____ day of 2003, is attached as Exhibit 2.
- 7.8 All necessary approvals of ADEQ shall have been obtained. At a minimum, Seller shall have provided to Buyer all test results submitted to ADEQ.
- 7.9 Seller and Buyer shall each have delivered to Escrow Agent a written notice that all Conditions to Closing as set forth herein have been fulfilled or waived and that this transaction may close.
8. **Escrow Agent.** Seller and Buyer shall appoint Transnation Title Company as Escrow Agent for this transaction. Seller and Buyer shall execute all such documents as may reasonably be required by Transnation Title Company for the company to act as Escrow Agent. Buyer will pay all closing costs.
9. **Indemnification.**
- 9.1 Seller shall indemnify and defend Buyer and its officials, employees, agents and insurers from and against any and all claims, actions, judgments, liabilities, losses or expenses, of every nature and kind, that they (or any of them) may suffer or incur as a result of any material misrepresentation (whether innocent, negligent or intentional) or omission in connection with Seller's representation as set forth in Section 5. Seller's indemnity hereunder shall extend to the members of the Holbrook City Council.
- 9.2 Buyer shall indemnify and defend Seller from and against any and all claims, actions, judgments, liabilities, losses or expenses, of every nature and kind, that it may suffer or incur as a result of any material misrepresentation (whether innocent, negligent or intentional) or omission in connection with Buyer's representations as set forth in Section 6. Buyer shall also indemnify and defend Seller from and against any and all claims, actions, judgments, liabilities, losses or expenses, of every nature and kind, concerning or arising out of the operation of the water system after the Closing Date, with the exception of matters within the scope of Seller's indemnity under Section 9.1.
- 9.3 The parties' respective obligations under Sections 9.1 and 9.2 shall survive the closing of this transaction.

10. General.

- 10.1 The rights, privileges and obligations of the parties under this Agreement shall be binding upon and inure to the benefit of their respective successors, personal representatives, heirs and assigns.
- 10.2 Jurisdiction and venue of any action concerning or arising out of this Agreement shall be in the Superior Court of Navajo County.
- 10.3 The prevailing party in any dispute concerning or arising out of this Agreement shall be entitled to an award of its reasonable attorney fees and other expenses.

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

Seller:



Jack Vicars, President, Sun Valley Water District, "Seller"

Buyer:



Bryan Smithson, Mayor, City of Holbrook, "Buyer"

Attest:



Cher Millage, CMC, City Clerk

Approved as to form:



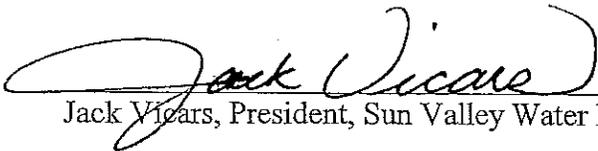
F. Morgan Brown, City Attorney

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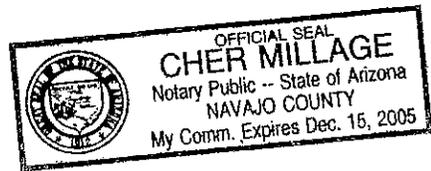
F. Morgan Brown, City Attorney

STATE OF ARIZONA)
) ss
COUNTY OF Navajo)

Subscribed and sworn to before me this 6th day of March, 2003, by JACK VICARS, President, Sun Valley Water District.

Cher Millage
Notary Public

My Commission Expires: 15 Dec 2005



STATE OF ARIZONA)
) ss
COUNTY OF Navajo)

Subscribed and sworn to before me this 17th day of March, 2003, by BRYAN SMITHSON, Mayor, CITY OF HOLBROOK.

Cher Millage
Notary Public

My Commission Expires: 15 Dec 2005

