

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

JUL 17 2015

SC Court of Appeals

R. Keith Kelly, Circuit Court Judge

Case No. 2012-CP-04-02770
Appellate Case No.: 2014-002488

West Anderson Water District, ...Appellant,

v.

City of Anderson, South Carolina, ...Respondent.

RECORD ON APPEAL

VOLUME II of III (Pages 499-948)

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STATE OF SOUTH CAROLINA
Secretary of State
ARTICLES OF INCORPORATION

Filing Fee \$10.00
Certified Copy 2.50
Total Fee Due \$12.50

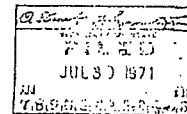
OF

WEST ANDERSON RURAL WATER AND SEWER COMPANY, INC.

For Use By
The Secretary of State
File No. C984591
Fee Paid \$ 12.50
C. B. 3
Date Jul 30 1971

(File This Form in
Duplicate Originals)
(Act R1256, Acts of South Carolina
General Assembly, 1964)

This Space For Use By
The Secretary of State



(1) Name of corporation West Anderson Rural Water and Sewer Company, Inc.
Route 9, Box 325, Anderson, South Carolina 29621

(2) Address of corporation c/o Ralph Sutherland
(Street, Number and City)

This corporation is a nonprofit organization which is financed in whole or in part by a loan made under the provisions of the Consolidated Farmers Home Administration Act of 1961, as amended, and no part of the income or assets of which shall be distributed to its members.

(3) The purposes for which the corporation is organized are as follows:

- a. To acquire, construct, maintain, operate and provide water distribution and supply facilities (and/or sewerage collection and disposal facilities) to individuals, farms, businesses, corporations and political subdivisions within the hereinafter described geographical area.
- b. To effectuate the purposes contained in a. above, the corporation is to exercise all rights, duties, privileges and powers granted and vested into nonprofit corporations of like purpose created and existing pursuant to and by virtue of Act No. 1030 of 1964 of the General Assembly of South Carolina and amendments thereto.

(4) The period of duration of the corporation shall be perpetual (~~thirty years~~).

(5) The names and residences of the members are as follows:

<u>Ralph Sutherland</u>	<u>Route 9, Box 325, Anderson, S. C. 29621</u>
<u>Charles C. Glenn</u>	<u>Route 7, Anderson, S. C. 29621</u>
<u>Harold Clarke</u>	<u>Route 2, Anderson, S. C. 29621</u>
<u>C. D. Chambers</u>	<u>Route 7, Anderson, S. C. 29621</u>
<u>Fleet McCain, Jr.</u>	<u>Route 2, Anderson, S. C. 29621</u>
<u>Billy E. McLean</u>	<u>Route 7, Anderson, S. C. 29621</u>

(6) The qualifications of the members and the manner of their admission to the corporation shall be as follows:

Individuals, corporations and political subdivisions having reasonable accessibility to the facilities and services of the corporation who comply with the requirements for membership as may be contained within the By-Laws of the corporation and approved by a majority of the members of the Board of Directors of the corporation.

(7) The affairs of the corporation shall be managed by what officer Board of Directors

(8) The dates on which the above managing officers will be elected or appointed shall be at the time of the annual membership meeting.

SCSOS 0002

(9) The names of the officers who are to serve until the first election or appointment under the C. Articles of Incorporation are as follows: Ralph Sutherland, President; Charles Glenn, Vice President; Fleet McClain, Jr., Secretary; and C. D. Chamblee, Treasurer.

(10) The number of persons constituting the first Board of Directors, Managers, or Trustees (which shall not be less than three) are nine (9) and their names and addresses are as follows:

Ralph Sutherland, Route 9, Anderson, S. C. 29621 D. Neil Chamblee, Rt. 4,
(Box 325) Anderson, S. C. 29621
Charles C. Glenn, Route 7, Anderson, S. C. 29621 David Elrod, Rt. 9,
Anderson, S. C. 29621
Harold Clarke, Route 2, Anderson, S. C. 29621
C. D. Chamblee, Route 7, Anderson, S. C. 29621 Herman Haynie, Rt. 7,
Anderson, S. C. 29621
Fleet McClain, Jr., Route 7, Anderson, S. C. 29621
Billy F. McLees, Route 7, Anderson, S. C. 29621

(11) The by-laws of the corporation are to be made, altered or rescinded by the members pursuant to the provisions of the By-Laws of the corporation.

(12) Amendments to the Articles of Incorporation may be proposed and adopted by the members of the corporation in the following manner:

a. Amendments of these Articles of Incorporation may be adopted by a vote of a majority of the voting members present at any special or regular meeting of the corporation if the members have been given at least 10 days written notice of said meeting and the notice has contained a copy of the proposed amendments.
b. For so long as the corporation is indebted for a loan or loans made to them from the United States of America through the Farmers Home Administration, the Articles of Incorporation shall not be altered, amended, or repealed without the prior consent of the State Director of the Farmers Home Administration for the State of South Carolina.

(13) Provisions which the incorporators may choose to insert for the conduct of the affairs of the corporation and any provision creating, dividing, limiting and regulating the powers of the corporation, the Directors, Managers or Trustees and the members, including, but not limited to provisions establishing classes of membership and limiting voting rights to one or more of such classes are as follows: See Schedule "A" attached hereto and made a part hereof, which is the geographical area to be served by the facilities and services of the corporation.

Ralph Sutherland
Charles C. Glenn
C. D. Chamblee
Fleet McClain, Jr.
Billy F. McLees

(14) Personally appeared before me, the above named incorporators, do hereby certify that they are the incorporators of the within named corporation and are authorized to execute this document, that each for himself does hereby further certify that he has read the foregoing document, understands the meaning and purport of the statements therein contained and the same are true to the best of his information and belief.

Sworn to and subscribed before me this

29th day of July, 1971.

C. D. Chamblee
Notary Public

My Commission Expires: Aug 6, 1978

SCSOS 0003

GEORGE P. SULLIVAN
ASSOCIATE

WILLIAM L. THOMPSON

ATTORNEY AT LAW
110 WEST BROADWAY STREET
ANDERSON, S. C. 29621

TELEPHONE: 661
134-3211 234-5078

July 29, 1971

Honorable O. Frank Thornton
Secretary of State
Columbia, South Carolina

Dear Mr. Thornton:

I represent West Anderson Rural Water and Sewer Company, Inc.

Enclosed you will find original and copy of Articles of Incorporation along with my check in the amount of \$13.50 to cover total fee due. I am also enclosing Schedule "A" which shows the geographical area to be serviced by the facilities and services of the corporation.

I would greatly appreciate your returning a Certified copy of the Articles of Incorporation to me.

I would like to take this opportunity to thank you for your assistance in this matter.

With warmest personal regards, I am

Sincerely,

William L. Thompson
William L. Thompson

WLT:ref

Encls.

SCSOS 0004

SCHEDULE "A"

WEST ANDERSON RURAL WATER AND SEWER COMPANY, INC.

Anderson, South Carolina

Geographical Boundaries and Description of Area

This district contains approximately 1,400 houses, about 1,000 of which are expected to sign for water initially.

Geographical boundaries are those:

Starting at the intersection of Highway 29 South and State Road 65 (Dow Boulevard near Dow Badische), thence along the southeastern side of U. S. Highway 29 to Hartwell Lake; thence along the eastern shore of Hartwell Lake in a northerly direction to State Road 161; thence down the eastern side of State Road 161 to Pearman Dairy Road; thence along the south side of Pearman Dairy Road in a westerly direction to the intersection of State Road 71; thence along the eastern side of State Road 71 to State Road 34 (Whitchell Road); thence along the south side of State Road 34 to the intersection of State Road 603; thence along the eastern side of State Road 603 to the intersection of State Road 103; thence along the northern side of State Road 103 to the intersection of Airport Road; thence along the eastern side of Airport Road to the intersection of State Road 22; thence along the northern side of State Road 22 to intersection of State Road 258; thence along the eastern side of State Road 258 to the intersection of State Road 65; thence along the northeastern side of State Road 65 to the intersection of U. S. Highway 29, point of the beginning.

Numerous wells have gone dry in this area, creating a dire need for this service.

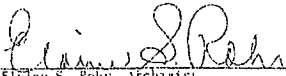
SCSOS 0005

STATE OF SOUTH CAROLINA
ARCHIVES & HISTORY

THIS IS TO CERTIFY THAT this and the attached is
a true and accurate copy of the Consolidated Farmers Home Administration File of
West Anderson Rural Water and Sewer Company, Inc. (includes Articles of
Incorporation), 30 July 1971
located in records of the SC Secretary of State, Corporations Division
Consolidated Farmers Home Administration Files, S2131G2, File No. CH1a91

now on deposit with South Carolina Department of
Archives and History

GIVEN UNDER MY HAND AND THE SEAL OF THE DEPARTMENT
THIS February 7, 2015



Elaine S. Kohn, Archivist
Reference Services

SCSOS 0006

2-19-73

①

RESOLUTION

WHEREAS, West Anderson Rural Water and Sewer Company, Incorporated, a non-profit organization existing under the laws of the State of South Carolina, by virtue of a charter issued by the State of South Carolina, dated July 30, 1971, and amended on December 22, 1972, is desirous of a water franchise area in Anderson County, and

WHEREAS, the Anderson County Water Authority, has agreed to grant to West Anderson Rural Water and Sewer Company, Incorporated a water franchise area, and

WHEREAS, due and timely notice of this meeting was heretofore given, and

AND NOW, THEREFORE, in this meeting duly assembled in Anderson, South Carolina, this 19th day of February, 1973.

It is resolved that A. P. Durham, as Chairman and G. Ross Anderson, Jr., as Secretary, be authorized to execute and deliver to West Anderson Rural Water and Sewer Company, Incorporated, a water franchise to the area which is described in Exhibit A and attached hereto and by reference incorporated into this Resolution.

CERTIFICATION

I, the undersigned, as Secretary of the above named Authority, hereby certify that the members of said Authority on the 19th day of February, 1973, had 7 members present.

Thompson
&
Sullivan
Attorneys

AGE _____
OF _____
PAGES _____
Y _____

Thompson
&
Sullivan
Attorneys

OF _____ PAGES

B. Ross Anderson,
Secretary

505

SCHEDULE A

LEGAL DESCRIPTION

WEST ANDERSON RURAL WATER & SEWER CO., INC.
ANDERSON, SOUTH CAROLINA

Geographical Boundaries of Area

Starting at the intersection of U. S. Highway 29 South and State Road 65 (Dow Boulevard near the Dow Badische Plant), thence in a southerly direction along the Eastern side of U. S. Highway 29 for approximately 300 feet to a culvert; thence in a westerly direction along the center of said culvert and drainage ditch for approximately 2,400 feet to an existing pond; thence in a southwesterly direction along the center of said pond and tributary to Richland Creek; thence in a westerly direction along the center of Richland Creek to Big Caneroostee Creek; thence in a southwesterly direction along the center of Big Caneroostee Creek to the Savannah River; thence in a northwesterly direction along the center of the Savannah River to Hartwell Dam; thence in a northerly direction along the Eastern shore of Hartwell Lake to State Road (161); thence in a southerly direction along the Eastern side of State Road 161 to the intersection with Pearman Dairy Road; thence in a westerly direction along the South side of Pearman Dairy Road for approximately 0.5 mile to the intersection with Dunn Road; thence in a southerly direction along the Eastern side of Dunn Road for approximately 0.6 mile to the intersection with Cann Road; thence along the Eastern side of Cann Road in a southerly direction for approximately 0.5 mile to intersection of Garrard Road; thence along Eastern side of Garrard Road for approximately 0.7 mile to intersection with Centerville Road (State Road 71); thence in a southwesterly direction along North side of Centerville Road (State Road 71) for approximately one (1) mile to intersection with Five Mile Creek; thence in a southerly direction along the center of Five Mile Creek for approximately 0.7 mile to intersection with New Prospect Church Road; thence along the Northern side of New Prospect Church Road for approximately 0.9 mile to Highway No. 24; thence along the southern side of U. S. Highway No. 24 in a westerly direction approximately 0.7 mile to intersection of Airport Road; thence in a southerly direction along the Eastern side of the Airport Road for approximately 1.5 miles to the intersection of State Road 22; thence in an Easterly direction along the Northern side of State Road 22 for approximately 0.5 mile to the intersection with State Road

WAWD 00006

258; thence in a southerly direction along the Eastern side of State Road 258 for approximately 1 mile to the intersection with State Road 65; thence in a Southeasterly direction along the Northeast side of State Road 65 for approximately 1.1 mile to the intersection with U. S. Highway No. 29, point of the beginning.

Where " along the Eastern (or Western, etc.) side of the road" appears in the foregoing, houses adjacent to that side of the road are meant to be included.

WAWD 00007

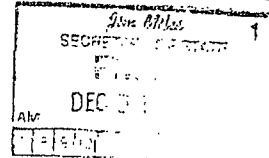
CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

FEB 07 2014

Mark H. Williams
SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF CONVERSION
AND
CHARTER
UNDER TITLE 33, CHAPTER 36 OF THE
CODE OF LAWS OF SOUTH CAROLINA 1976



TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant to Section 33-36-1320 of the 1976 South Carolina Code of Laws, as amended, the applicant delivers to the Secretary of State these articles of conversion and charter.

1. The name of the nonprofit corporation is West Anderson Rural Water and Sewer Company, Inc.
2. Date incorporated July 30, 1971
3. Conversion to a public service district was authorized on October 18, 2001
4. The petition required by Section 33-36-1310 of the 1976 South Carolina Code of Laws, as amended, seeking a new charter converting and constituting the applicant nonprofit corporation a public service district, a public body politic and corporate, was made to the Secretary of State on December 31, 2001
5. The petition is granted as of the date hereof, unless a later date is specified: _____
6. The name of the public service district is West Anderson Water District
7. Attach an exhibit describing the public service district's service area.

West Anderson Water District

Name of Public Service District

Signature of Officer

STEVE C. Williams

Printed Name of Officer

November 30, 2001

Date

SCSOS 0007

LEGAL DESCRIPTION

May 18, 1922

WEST ANDERSON RURAL WATER SUPPLY CO., INC.
ANDERSON, SOUTH CAROLINA

Geographical Boundaries of Area

Starting at the intersection of U. S. Highway 29 South and State Road 61 (now Boulevard near the Badische Plant), thence in a southeasterly direction along the eastern side of U. S. Highway 29 for approximately 500 feet to a culvert; thence in a westerly direction along the center of said culvert and drainage ditch for approximately 2,400 feet to an existing pond; thence in a southwesterly direction along the center of said pond and tributary to Highland Creek; thence in a westerly direction along the center of Highland Creek to Big Genorostee Creek; thence in a southwesterly direction along the center of Big Genorostee Creek to the Savannah River; thence in a northwesterly direction along the center of the Savannah River to Hartwell Dam; thence in a northerly direction along the eastern shore of Hartwell Lake to the Carolina & Northwestern Railroad tracks; thence in a southeasterly direction along the center of the tracks for approximately 1 mile to the intersection with Peasman Dairy Road; thence in a westerly direction along the south side of Peasman Dairy Road for approximately 0.4 miles to the intersection with Dunn Road; thence in a southerly direction along the eastern side of Dunn Road to include Lake View Subdivision for approximately 0.6 miles to the intersection with Dixon Road; thence along the eastern side of Dixon Road in a southerly direction for approximately 0.5 miles to the intersection of Gerrard Road; thence along the eastern side of Gerrard Road for approximately 0.7 miles to the intersection with Centerville Road (S. C. Road 71); thence in a southeasterly direction along the north side of Centerville Road (State Road 71) for approximately one (1) mile to the intersection with Five Mile Creek; thence in a southerly direction along the center of Five Mile Creek for approximately 0.7 miles to the intersection of New Prospect Church Road; thence along the northern line of New Prospect Church Road for approximately 0.5 miles to the intersection of Brandridge Road; thence in an easterly direction along the north side of Brandridge Road and including Pinwell Subdivision approximately 0.9 miles to the intersection of Warner Road; thence in a southerly direction along the eastern side of Warner Road approximately 0.5 miles to the intersection of U. S. Highway 29; thence in an easterly direction along the northern side of U. S. Highway 29 for approximately 1,100 feet to include the present West Anderson meter pit location; thence in a westerly direction back along the southern

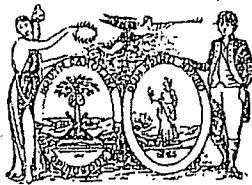
SCSOS 0008

side of U. S. Hwy. 24 for approximately 350 feet to the Three Mile Creek tributary; thence in a southwesterly direction along the center of said tributary for approximately 0.7 miles to Three Mile Creek; thence in a southwesterly direction along the center of said creek to Dobbins Bridge Rd. (State Rd. 72); thence in an easterly direction along the north side of Dobbins Bridge Rd. for approximately 1.2 miles to the southernmost entrance road to Greenbriar Subdivision; thence in a southwesterly direction along the southeastern side of Dobbins Bridge Rd. to include Cloverdale Subdivision for approximately 0.8 miles to State Rd. 250; thence in a southerly direction along the eastern side of State Rd. 250 to include Rucker Subdivision for approximately 1 mile to the intersection with State Rd. 65; thence in a southeasterly direction along the northeastern side of State Rd. 65 for approximately 1.1 miles to the intersection with U. S. Hwy. 29, the Point of Beginning.

Where "along the eastern (or western, etc.) side of the road" appears in the foregoing, houses adjacent to that side of the road are meant to be included.

SCSOS 0009

The State of South Carolina



Office of Secretary of State Jim Miles Certificate of Conversion, Public Service District

I, Jim Miles, Secretary of State of South Carolina Hereby certify that:

WEST ANDERSON WATER DISTRICT, formerly known as WEST ANDERSON RURAL WATER AND SEWER COMPANY, INC., a nonprofit corporation, is designated a public service district, a body politic and corporate of the State of South Carolina pursuant to S.C. Code 36-36-1310, et seq. on July 30th, 1971. This designation is made upon the proper filing of a petition of conversion to the Secretary of State and subsequent verification of the contents therein for conversion to a public service district.

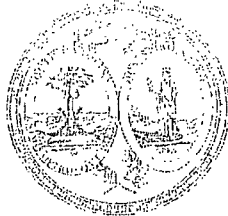
Given under my Hand and the Great Seal of
the State of South Carolina this 31st day of
December, 2001.

A handwritten signature of Jim Miles in cursive script, written over a horizontal line.

Jim Miles, Secretary of State

WAWD 00017

The State of South Carolina



Office of Secretary of State Mark Hammond

Certificate Under Seal

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

"WEST ANDERSON WATER DISTRICT", formerly known as "WEST ANDERSON RURAL WATER AND SEWER COMPANY, INC.", a nonprofit corporation, is designated a public service district, a body politic and corporate of the State of South Carolina pursuant to S.C. Code 36-36-1310, et seq. on July 30th, 1971. This designation is made upon the proper filing of a petition of conversion to the Secretary of State and subsequent verification of the contents therein for conversion to a public service district.

Given under my Hand and the Great
Seal of the State of South Carolina this
7th day of February, 2014.

Mark Hammond
Mark Hammond, Secretary of State

SCSOS 0001

John Moore

From: Frankie McClain
Sent: Saturday, December 29, 2001 10:25 AM
To: John Moore; Dan McLeod (E-mail); Richard Shirley; Chuck Joye (E-mail); Tommi Jones (E-mail); Terry Pruitt (E-mail)
Cc: Daryll Parker (E-mail); Edward Boyles (E-mail); Jim Brailsford (E-mail); Peggy Maxwell; Linda McConnell; Robert Hobson (E-mail)
Subject: Re: City of Anderson
John,

Your summary is fairly accurate. I would make the following comments:

1a. Line and tank ownership.

I think ACJMWWS takes the position that they will own the lines servicing OCF and Michelin. It should be made clear that the City owns those lines and the OCF tank. These customers are in other geographical districts and problems could develop if future governing bodies of those districts decide they want to service them.

1c. Water Purchase Agreement.

I agree with Dan on the \$700 trade for the positive majority issue. If we want to barter, let's trade the taps for ownership of the lines and tanks.

The present schedule of allocated capacity lists Clemson University as a member. I think they should be and would like to know how they were dissuaded. If they are not going to be a member, there should be a clear understanding of the disposition of their allocated capacity and voting power.

1d & 1e. Bylaws.

I think there is an understanding that the bylaws will be amended to mirror the language in the statute. The only votes that will not be based on flow will be the election of officers and the authorization to borrow funds. If this is the understanding, Robert Galloway and I should be able to draft the amended bylaws. I so no reason this couldn't be done as soon as all other issues have been resolved.

I will bring a copy of the letter on the taps to the next meeting. I'll also try to contact Steve Potts. Please let me know if there's anything else you need from me. You and the Mayor did a super job Thursday.

Frankie

----- Original Message -----

From: John Moore
To: Dan McLeod (E-mail); Richard Shirley; Richard Shirley; Chuck Joye (E-mail); Tommi Jones (E-mail); Terry Pruitt (E-mail); Frankie McClain
Cc: Daryll Parker (E-mail); Edward Boyles (E-mail); Jim Brailsford (E-mail); Peggy Maxwell; Linda McConnell; Robert Hobson (E-mail)
Sent: Friday, December 28, 2001 10:30 AM
Subject: City of Anderson

<<Duke Water - Negotiating Meeting Summary 12-27-01.doc>>

12/31/01

LJS/CITY002790

Negotiating Team:

Here is my first effort at summarizing the City's and ACJMWS's positions. This is a framework. Please help me with details. Would like your comments by Monday evening in order to revise and get out to ACJMWS and Duke Duke on Wednesday.

Thanks,

John

12/31/01

LJS/CITY002791

June 22, 2012
J. Franklin McClain, Esquire
City Attorney
City of Anderson
401 S. Main Street
Anderson, SC 29624

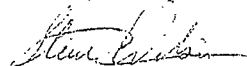
Re: Sale of Water Service in the West Anderson Water District Service Area

Dear Mr. McClain:

We understand that the City of Anderson intends to provide water service to Michelin in connection with the new plant that Michelin has announced that it will begin to construct later this year. The property for the proposed site lies within the service area of the West Anderson Water District. Any provision of water service to this property by the City of Anderson would be improper and illegal.

This is to advise you that West Anderson Water District objects to the City of Anderson providing any water service to this property, and further, that the West Anderson Water District will take legal action to stop your providing this service if necessary. West Anderson Water District, however, wishes to avoid resorting to the courts to resolve this issue. To that end, we will be happy to meet with you to discuss our position and to discuss other issues relative to this matter.

Sincerely,



Steve Wilson

WAWD 00039

**WEST ANDERSON WATER DISTRICT (WAWD)
BOARD MEETING
JUNE 26, 2012
7:00 PM**

DIRECTORS PRESENT: Dwight Edwards, President; Billy McLees, Vice President; Toddy Hopkins; Cecil Harbin; Hap Rhodes; Barry Schumpert; Phil Anderson; Mac McGee; John Lollis, Secretary; Steve Wilson, Treasurer.

VISITORS PRESENT: None

Dwight Edwards called the meeting to order. Billy McLees opened the meeting in prayer.

Notice of meeting was posted at the office and sent to the Anderson Independent-Mail, 24 hours before the meeting.

John Lollis read the minutes from the May 24, 2012 meeting. They stand approved as read.

NEW OFFICE / OPERATION CENTER UPDATE:

Steve Wilson gave an update on the new office and said he signed the contract with the builder on Friday, June 22, 2012.

WATER SERVICE TO MICHELIN:

Steve Wilson explained the matter of boundaries and the dispute with the City of Anderson over the water service to Michelin. Cecil Harbin made the motion to stop the City of Anderson from providing water service to any future building sites of Michelin since the site falls within our boundaries. Second was made by Dwight Edwards. All concurred.

HIRE WATER OPERATOR:

Steve Wilson asked the Board if he could hire a Water Operator. Toddy Hopkins made a motion to hire a Water Operator. Second was made by Mac McGee. All concurred.

NEW BUSINESS:

Steve Wilson informed the Board about our stolen trailer. Sammy Joe Walker was found guilty and ordered to pay restitution to West Anderson Water District.

Dwight Edwards made the motion to adjourn meeting @ 8:08 pm. Second was made by Mac McGee. All concurred.

WAWD 00049



Construction Permit Application Water/Wastewater Facilities

BUREAU OF WATER

DELEGATED REVIEW PROJECT SUBMITTAL: Yes ☐ EXPEDITED REVIEW PROGRAM SUBMITTAL: Yes ☐
SELECT ONE ☒ Water Facilities ☐ Wastewater Facilities ☐ Combined Water & Wastewater Facilities

I. Project Name: West Anderson Water District - Richland Dr. W. Exl. County: Anderson

II. Project Location (street names, etc.): Along US Hwy 29S and Richland Dr. Begins approx. 1500' south of intersection with US 29 and Masters Blvd.

III. Project Description(s): Water System: 12" DIP water line for 550' on west side of US Hwy 29 and 3800' of 12" DIP along south side of Richland Drive

Wastewater System: _____

Project Type (A-Z): Water: A Wastewater: _____ (See instructions for the appropriate project code)

IV. Initial Owner: [Time of Application] Name/Organization: West Anderson Water District
Address: 2767 Whitehall Rd City: Anderson State: SC Zip: 29625
Phone #: (864) 225-5741 E-mail (Initial Owner): wawc_steve@bellsouth.net

V. Final Owner: [After Construction] Name/Organization: Same
Address: _____ City: _____ State: _____ Zip: _____
Phone #: () _____ E-mail (Final Owner): _____

VI. Entity Responsible for Final Operation & Maintenance of System:
Water System: Name: West Anderson Water District Address: 2767 Whitehall Rd
City: Anderson State: SC Zip: 29625 Phone #: (864) 225-5741 Fax #: (864) 226-1011
Wastewater System: Name: _____ Address: _____
City: _____ State: _____ Zip: _____ Phone #: () _____ Fax #: () _____

VII. Engineering Firm: Name: F&S Surveyors Engineers and Planners Address: 211 Society St
City: Anderson State: SC Zip: 29621 Phone #: (864) 226-0980 Fax #: (864) 226-8363
E-mail (Design Engineer): wmccoy@issep.com

VIII. Is this project: A) Part of a phased project? No ☒ Yes ☐ If Yes, Phase _____ of _____
B) A revision to a previously permitted project? No ☒ Yes ☐ If Yes, Permit #: _____
Date Approved: _____ Project name (if different): _____
C) Submitted based on a Schedule of Compliance or Order issued by DHEC? No ☒ Yes ☐ Order #: _____
D) Anticipating funding by the State Revolving Fund (SRF)? No ☒ Yes ☐
E) Crossing a water body (e.g., river, creek)? No ☒ Yes ☐ If Yes, Name of water body: _____

IX. Are Standard Specifications approved by DHEC being used on this project? No ☐ Yes ☒ If Yes:
Water: Date Approved: 08-01-2000 Approved for whom: Farmer & Simpson Engineers
Wastewater: Date Approved: _____ Approved for whom: _____

X. Wastewater Systems: A) Type: Domestic ☐ Process (Industrial) ☐ Combined (Domestic & Process) ☐
B) Average Design Flow 1. Project: _____ GPD 2. Treatment system: _____ GPD

C) Sewers or Pretreatment 1. Name of facility (e.g., POTW) treating the wastewater: _____
2. NPDES/ND Number of facility in Item #1: _____

Treatment Systems 3. Date Preliminary Engineering Report (PER) approved: _____
4. NPDES/ND application submitted? No ☐ Yes ☐ If Yes, Date: _____

Disposal Sites 5. Effluent Disposal Site (Description): _____
6. Sludge Disposal Site (Description): _____

DEC 1970 (March 2008)

518

Water Supply Construction Permit Bureau of Water



Permission is Hereby Granted To:

**WEST ANDERSON WATER DISTRICT
2767 WHITEHALL RD
ANDERSON SC 29625**

for the construction of a distribution system in accordance with the construction plans, specifications, design calculations and the SCDHEC Construction Permit Application signed by William McCoy, Professional Engineer, S.C. Registration Number: 3551

Project Name: WEST ANDERSON WATER DISTRICT - RICHLAND DR. WL EXT.

County: Anderson

Location: Along US Hwy 29S and Richland Dr. Begins Approx. 1500' South of Intersection with US 29 and Masters Blvd

Project Description: Install approximately 550 LF of 12" DIP water main, 3800 LF of 12" DIP water main and all necessary appurtenances.

Service By: Water will be provided by the West Anderson Water District (System Number: 0420006).

Special Conditions:

1. All construction and materials for this project must conform to the Standard Specifications for F&S SURVEYORS ENGINEERS & PLANNERS INC.

In accepting this permit, the owner agrees to the admission of properly authorized persons at all reasonable hours for the purpose of sampling and inspection

NOTE: This is a permit for construction only and does not constitute State Department of Health and Environmental Control approval, temporary or otherwise, to place the system in operation. An Approval to Place in Operation is required and can be obtained following the completion of construction by contacting the ANDERSON EQC OFFICE at 864-260-5569. Additional permits may be required prior to construction (e.g., stormwater).

Permit Number: 28874-WS

Date of Issue: February 06, 2013

Expiration Date: Construction must be completed and the Approval to Place in Operation granted prior to **February 06, 2016** or this permit will expire.

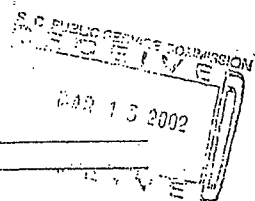
Ann R. Clark, Director
Stormwater, Construction, and Agriculture
Permitting Division

JRA

Bureau of Water, DHEC, 2600 Bull Street, Columbia, SC 29201

05.23.13 000001

Execution Copy



ASSET PURCHASE AGREEMENT

by and between

BIG CREEK WATER AND SEWERAGE DISTRICT,
BROADWAY WATER AND SEWERAGE DISTRICT,
HAMMOND WATER COMPANY,
POWDERSVILLE WATER COMPANY,
SANDY SPRINGS WATER COMPANY,
STARR-IVA WATER COMPANY, and
WEST ANDERSON WATER COMPANY

and

DUKE ENERGY CORPORATION

Dated as of February 14, 2000

08.25.12 City 000065



5000001

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Execution Copy

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of February 14, 2000 (this "Agreement"), is by and between BIG CREEK WATER AND SEWERAGE DISTRICT and BROADWAY WATER AND SEWERAGE DISTRICT, each of which is a public body corporate and politic of the State of South Carolina (each of the foregoing a "Member" and a "Municipal Member"), and HAMMOND WATER COMPANY, POWDERSVILLE WATER COMPANY, SANDY SPRINGS WATER COMPANY, STARR-IVA WATER COMPANY, and WEST ANDERSON WATER COMPANY, each of which is a South Carolina non-profit corporation (each of the foregoing a "Member" and a "Non-profit Member" and, collectively, with the Municipal Members, the "Members"); and DUKE ENERGY CORPORATION, a North Carolina corporation (the "Seller").

Background Statement

The Seller, through its water systems division, is engaged in the business of supplying water for residential, commercial, industrial and municipal purposes through an operation located in Anderson County, South Carolina (the "Business").

The Members are members of the Anderson County Water Association and are in the process of establishing, pursuant to the South Carolina Joint Municipal Water Systems Act, South Carolina Code Section 6-25-5 *et seq.*, a joint water system to operate a water system in Anderson County, South Carolina that will be a public body corporate and politic of the State of South Carolina and will be known as the Anderson County Joint Municipal Water System (the "Purchaser").

The Members desire that the Purchaser acquire and assume from the Seller, and the Seller desires to transfer and assign to the Purchaser, substantially all of the assets relating to the Business and certain liabilities associated with the Business, all on the terms and subject to the conditions set forth in this Agreement.

Statement of Agreement

In consideration of the mutual representations, warranties, covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINED TERMS

1.1 Definitions As used in this Agreement, the following terms have the following meanings:

"Accounts Receivable" means any and all amounts due and owing to the Seller arising out of the Business, as the term "accounts receivable" is understood under GAAP, including all

such amounts described for the Seller in the Interim Schedule of Assets and Liabilities as accounts receivable.

"Acquisition Proposal" has the meaning given to it in Section 7.11.

"Affiliate" means, with reference to a Person, any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with the specified Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Assets" has the meaning given to it in Section 2.1 of this Agreement.

"Assumed Liabilities" has the meaning given to it in Section 2.3.

"Base Purchase Price" has the meaning given to it in Section 3.1.

"Business" has the meaning given to it in the Background Statement to this Agreement.

"Business Day" means a day other than a Saturday, Sunday or day on which commercial banks in Charlotte, North Carolina are generally closed for business.

"Capital Expenditures" means all capital expenditures (including all cash payments made and current liabilities incurred) made by the Seller from October 1, 1999 through the Effective Time that relate to capital projects of the Business listed on Schedule 1.1C or that are made by the Seller in the ordinary course of the Business consistent with past practices.

"Capital Expenditures Schedule" has the meaning given to it in Section 8.3(d)(ii).

"Closing" has the meaning given to it in Section 4.1.

"Closing Date" has the meaning given to it in Section 4.2.

"Closing Schedule of Assets and Liabilities" has the meaning given to it in Section 3.6(a).

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statute thereto, together with the regulations thereunder, in each case as in effect from time to time.

"Contract" means any legally binding obligation or agreement to which the Seller is a party that relates exclusively to the Business, whether or not reduced to writing, and specifically including without limitation any note, bond, mortgage, lease of real or personal property, license and other instrument, but not including Permits.

"Distribution System" means the water delivery and distribution system, valves, hydrants, fittings, meters, and meter boxes owned by the Seller in connection with the Assets and by which water is delivered to customers of the Business.

"Distribution System Easements and Rights of Way" means all easements and rights of way that are vested in the Seller and that are used exclusively in the Business in connection with the Distribution System.

"Effective Time" has the meaning given to it in Section 4.3.

"Employees" means all persons employed (including without limitation individuals employed on a full time, part-time or temporary basis, and individuals leased from third parties) by the Seller and performing services related exclusively to the Business, as well as J. Michael Snow, Stephen D. Alexander, Henry R. Payne, Terry L. Pruitt, Connie S. Finger, and Jill D. Dunn.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 26019 *et seq.*; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136, *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*; the Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §§ 1251 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §§ 300f, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, *et seq.*; as any of the above statutes have been amended as of the date hereof, all rules and regulations promulgated pursuant to any of the above statutes, and any other foreign, federal, state or local law, statute, ordinance, rule or regulation governing environmental matters, as the same have been amended as of the date hereof.

"ERISA" means the Employment Retirement Income Security Act of 1974, as amended, and any successor statute thereto, in each case as in effect from time to time.

"Escrow Agent" has the meaning given to it in Section 3.4.

"Escrow Fund" has the meaning given to it in Section 3.4.

"Estimated Purchase Price" has the meaning given to it in Section 3.3.

"Excluded Assets" has the meaning given to it in Section 2.2.

"Excluded Contracts" has the meaning given to it in Section 2.2(c).

"Final Purchase Price" has the meaning given to it in Section 3.1.

"Financial Statements" means (i) the unaudited pro forma historical income statement information of the Business for the fiscal years ended December 31, 1998 and 1997, prepared as if the Business were owned and operated as a single business entity during such period, (ii) the unaudited pro forma historical Schedules of Assets and Liabilities of the Business in aggregate

with the Seller's Anderson County water system as of December 31, 1998 and 1997, prepared as if the Business and the Seller's Anderson County water system were owned and operated together as a single business entity as of such dates, and (iii) the Schedule of Assets and Liabilities as of September 30, 1999.

"Fixed Assets" means, collectively, (a) all equipment (including ground storage tanks, elevated storage tanks, water pumps, and water filtration equipment), machinery, furniture and furnishings, fixtures and tools that are owned by the Seller, are located on the Real Property, and are used in connection with the Business or being constructed or installed for use in connection with the Business; (b) all vehicles that are owned by the Seller and used exclusively in connection with the Business, and (c) the Distribution System.

"GAAP" or "generally accepted accounting principles" means generally accepted accounting principles as recognized by the American Institute of Certified Public Accountants, as in effect from time to time, consistently applied and maintained on a consistent basis for the Seller throughout the period indicated and consistent with the Seller's prior financial practices.

"Governmental Authority" means any nation, province, state or other political subdivision thereof, and any agency, natural person or other entity exercising executive, legislative, regulatory or administrative functions of or pertaining to government.

"Hazardous Material" means any substance or material meeting any one or more of the following criteria: (a) it is or contains a substance designated as a hazardous waste, hazardous substance, hazardous material, pollutant, contaminant or toxic substance under any Environmental Law; (b) its presence at some quantity requires investigation, notification or remediation under any Environmental Law; or (c) it contains, without limiting the foregoing, asbestos, polychlorinated biphenyls, petroleum hydrocarbons, petroleum derived substances or waste, crude oil or any fraction thereof, nuclear fuel, natural gas or synthetic gas.

"Health Agency" means any state department of public health or department of health or similar state regulatory body or any federal or state regulatory body having jurisdiction over environmental protection or environmental conservation or similar matters.

"Interim Schedule of Assets and Liabilities" means the Schedule of Assets and Liabilities dated as of September 30, 1999.

"Inventory" means all inventories of water of the Seller that are held for sale to customers in the ordinary course of the Business and all inventories of materials and supplies held for use in the ordinary course of the Business.

"Intellectual Property" means all patents, copyrights, trademarks, service marks, trade secrets, know-how, and computer software programs of the Seller used exclusively in connection with the Business.

"Knowledge" and "know" means, when referring to the knowledge of the Seller, the actual knowledge of Robert S. Lillen, R. Sean Trauschke, or J. Michael Snow.

"Leased Real Property" means all of the real property described on Schedule 5.15(b).

"Liabilities" means all liabilities or obligations of any nature whatsoever, whether absolute or contingent, due or to become due, accrued or unaccrued, known or unknown, direct or consequential or otherwise.

"Lien" means any mortgage, claim, lien, security interest, pledge, escrow, charge or other similar encumbrance.

"Material Adverse Effect" means any change or effect (a) that would be materially adverse to the condition (financial or otherwise) or results of operation of the Business, excluding changes and effects resulting from general economic and industry conditions not specific to the Business and changes and effects the consequences of which should be recoverable through increased rates, or (b) that would materially impair the ability of the Seller to consummate the transactions contemplated by this Agreement.

"Members" means, collectively, the Municipal Members and the Non-profit Members.

"Multiemployer Plans" has the meaning given to it in Section 5.11(c).

"Municipal Members" means, collectively, Big Creek Water and Sewerage District and Broadway Water and Sewerage District, each of which is a public body corporate and politic of the State of South Carolina.

"Non-profit Members" means, collectively, Hanmon Water Company, Powdersville Water Company, Sandy Springs Water Company, Starr-Iva Water Company, and West Anderson Water Company, each of which is a South Carolina non-profit corporation.

"Owned Real Property" means all of the real property described on Schedule 5.15(a).

"Permits" means all licenses, permits, authorizations, registrations, certificates of occupancy, franchises and approvals of any nature issued by any Governmental Authority to the Seller or otherwise obtained by the Seller from any Governmental Authority that are held by the Seller as of the date of this Agreement and that are held exclusively in connection with the operation of the Business.

"Permitted Liens" means any of the following Liens: (a) Liens in favor of carriers, warehousemen, mechanics, landlords and materialmen and other similar Persons that are incurred in the ordinary course of business for sums not yet due and payable; (b) Liens for current Taxes incurred in the ordinary course of business that are not delinquent or remain payable without any penalty or are being contested in good faith by appropriate proceedings and with respect to which adequate reserves are maintained; (c) rights reserved to any Governmental Authority to regulate the affected property; (d) statutory Liens of banks and statutory rights of set-off; (e) as to any leased assets or properties, rights of the lessors thereof; (f) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation and other types of social security, unemployment insurance, or old age pension programs mandated under applicable laws or regulations; (g) with respect to the Owned Real Property, other imperfections of title and

encumbrances that do not, individually, or in the aggregate, materially impair the continued use and operation of the Owned Real Property in the Business as presently conducted; (h) with respect to the Owned Real Property, easements, rights of way, mineral rights or other similar reservations and restrictions that are set forth in the deeds to the Owned Real Property or that affect title thereto or that do not materially or adversely affect or interfere with the Seller's use of the Owned Real Property; and (i) the Liens listed on Schedule 1.1P.

"Person" means a corporation, a company, a limited liability company, an association, a joint venture, a partnership, an organization, a business, an individual, a trust, a Governmental Authority or any other legal entity.

"Plan" means any employee pension, retirement, profit-sharing, stock bonus, incentive, deferred compensation, stock option, employee stock ownership, hospitalization, medical, dental, vacation, insurance, sick pay, disability, severance or other plan, fund, program, policy, Contract or arrangement, whether arrived at through collective bargaining or otherwise, providing employee benefits (including but not limited to any "employee benefit plan" as that term is defined in Section 3(3) of ERISA and any employee benefit plan that is a "cafeteria plan" as described in Section 125 of the Code) currently maintained or previously maintained by, sponsored in whole or in part by, or contributed to by the Seller, for the benefit of employees or retirees of the Business, dependents and spouses of employees or retirees of the Business, independent contractors of the Business, or other beneficiaries related to the Business, whether created in writing, through an employee manual or similar documents, or orally.

"Post-Closing Adjustment" has the meaning given to it in Section 3.6(h).

"Purchase Price Adjustment" has the meaning given to it in Section 3.2.

"Purchaser" means the joint water system being formed by the Members pursuant to pursuant to the South Carolina Joint Municipal Water Systems Act, South Carolina Code Section 6-25-5 *et seq.* that will be a public body corporate and politic of the State of South Carolina and will be known as the Anderson County Joint Municipal Water System.

"Purchaser Claims" has the meaning given to it in Section 9.2(c).

"Purchaser Damages" has the meaning given to it in Section 9.2(a).

"Purchaser Indemnitees" has the meaning given to it in Section 9.2(a).

"Real Property" means, collectively, the Owned Real Property and the Leased Real Property.

"Recovery Threshold" means \$702,000, less the amount by which such amount is reduced pursuant to Section 7.5(h).

"Retained Real Property" has the meaning given to it in Section 2.6(a).

"Schedule of Assets and Liabilities" means, as of any date, an unaudited schedule presenting the Assets and the Liabilities of the Business as at such date as if such Assets and Liabilities were the only Assets and Liabilities of a single, stand-alone business entity, and classifying and valuing such Assets and Liabilities in accordance with GAAP, but excluding the Liabilities for commitments made to extend service and all existing and unexpired refund agreements entered into by the Seller pursuant to the Seller's service regulations, which commitments and refund agreements the Purchaser will assume pursuant to Section 2.3 of this Agreement.

"Seller" means Duke Energy Corporation, a North Carolina corporation.

"Seller Damages" has the meaning given to it in Section 9.3(a).

"Tax Return" means any report, return or other information required to be supplied to a taxing authority in connection with Taxes.

"Taxes" means any taxes, assessments, duties, fees, levies, imposts, or other governmental charges of any nature whatsoever imposed by any Governmental Authority and any liabilities with respect thereto, including any penalties, additions to tax, fines or interest thereon.

"Termination Date" has the meaning given to it in Section 10.1(g).

"Transaction Agreements" means this Agreement, the Transition Services Agreement, and the assignment and assumption agreement to be executed by the Seller and the Purchaser as of the Closing Date.

"Transition Services Agreement" has the meaning given to it in Section 2.4.

"Utilities Commission" means any state public utility control or public service commission or similar state regulatory body.

1.2 Interpretation. The following provisions shall govern the interpretation of this Agreement:

(a) "Herein" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, subsection, Exhibit or Schedule; references to this Agreement include the Exhibits and Schedules to this Agreement; and, unless the context requires otherwise, references to Exhibits and Schedules refer to the Exhibits and Schedules to this Agreement.

(b) Headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(c) Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing individuals shall include Persons and vice versa.

(d) The calculation of time within which or following which any act is to be done or step is to be taken pursuant to this Agreement excludes the date which is the reference day in calculating such period.

(e) Performance on holidays is not required hereunder. Whenever anything is required to be done or any action is required to be taken hereunder on or by a day which is not a Business Day, then such thing may be validly done and such action may be validly taken on or by the next succeeding day that is a Business Day.

(f) The term "including" shall be deemed to mean "including without limitation."

(g) Except as specifically provided otherwise in this Agreement, all accounting terms used herein that are not specifically defined shall have the meanings customarily given them in accordance with GAAP.

(h) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

ARTICLE II

CONTEMPLATED TRANSACTIONS

2.1 Purchase of Assets. At the Closing, upon and subject to the terms of this Agreement, the Seller shall sell and deliver to the Purchaser, and the Members shall cause the Purchaser to purchase from the Seller, all of the Seller's right, title, and interest in and to the following assets, rights and properties, together with all additions made thereto and excluding all dispositions thereof in the ordinary course of business, in each case excluding the Excluded Assets (such purchased assets are referred to herein as the "Assets"):

- (a) all Accounts Receivable;
- (b) all Fixed Assets;
- (c) all Owned Real Property;
- (d) all Inventory;
- (e) all Permits that are transferable;
- (f) all Intellectual Property;
- (g) all rights under the Contracts, including without limitation those that are listed on Schedule 5.7, other than any rights under such Contracts arising as a result of the breach thereof prior to the Closing Date.

(h) all books, files, records, documents, data, plans, proposals and all other recorded knowledge, whether in written, electronic, visual or other form, related exclusively to the Business;

(i) the Distribution System Easements and Rights of Way;

(j) all prepaid items, unbilled costs and fees related exclusively to the Business; and

(k) the Business as a going concern and all of the goodwill associated with the Business.

2.2 Excluded Assets. The Assets shall not include any of the following assets, rights and properties of the Seller (the "Excluded Assets"), all of which shall be retained by the Seller:

(a) all cash, marketable securities, short-term investments of cash, and other cash equivalents;

(b) intercompany (including without limitation interdivisional) receivables;

(c) all Permits, to the extent not transferable;

(d) the registered service mark, Duke Water SystemsSM;

(e) the rights arising under those Contracts set forth on Schedule 2.2(e) and the rights arising under those Contracts (other than the Contract, dated June 2, 1967, by and between the United States of America and Duke Power Company), as to which the Seller, after exercising reasonable commercial efforts, has failed to obtain all required third-party consents to effect their assignment to the Purchaser (collectively, the "Excluded Contracts");

(f) any rights of the Seller under this Agreement or any other Transaction Agreement;

(g) all claims and rights of the Seller to federal, state and local Tax refunds, refund claims and credits, deductions or other Tax benefits of the Seller;

(h) all rights under the Contracts arising as a result of the breach thereof prior to the Closing Date;

(i) rights in or with respect to the Plans;

(j) all assets, rights and properties of the Seller that are used by the Seller in connection with its corporate governance and administrative activities relating to the Business, including billing and collections, customer service, legal, accounting, benefits administration, maintenance, media relations, and purchasing services; and

(k) the assets, rights and properties set forth on Schedule 2.2(k).

2.3 Assumption of Liabilities

(a) Assumed Liabilities. On the Closing Date, the Members shall cause the Purchaser to assume, and shall cause the Purchaser to thereafter timely pay and perform, the following obligations and liabilities of the Seller existing as of the Effective Time (the "Assumed Liabilities"):

(i) The Liabilities of the Seller reflected on the Interim Schedule of Assets and Liabilities;

(ii) the Liabilities of the Seller arising out of the operation of the Business in the ordinary course after the date of the Interim Schedule of Assets and Liabilities, other than Liabilities arising from the Seller's negligence or breach of contract; and

(iii) the obligations after the Effective Time under all of the Contracts other than the Excluded Contracts.

(b) No Other Assumed Liabilities. Except as set forth in Section 2.3(a) above or as otherwise expressly provided herein, the Purchaser shall not assume or become liable for the payment or performance of any Liabilities of the Seller.

2.4 Additional Transactions. At the Closing, the Seller shall enter into, and the Members shall cause the Purchaser to enter into, an agreement mutually agreeable to the Purchaser and the Seller (the "Transition Services Agreement"), incorporating substantially the terms included on the term sheet attached hereto as Exhibit A, to address the interim operating services to be provided by the Seller to the Purchaser in connection with the transition of the Business following the Closing.

2.5 Procedures for Non-Transferable Assets. If any Contracts included among the Assets are not assignable or transferable either by virtue of the provisions thereof or under applicable law without the consent of some other party or parties, the Seller shall use reasonable commercial efforts to obtain such consents prior to the Closing Date. If any such consents cannot be obtained, the parties intend that the Purchaser nevertheless receive the economic benefits of, and perform the obligations under, such Contracts as if such Contracts have been assigned to the Purchaser. Accordingly, the Seller agrees to subcontract such Contracts to the Purchaser at the price specified in each such Contract without any additional mark-up and on the same terms and conditions; and the Purchaser shall be responsible for the costs associated with the performance of such Contracts and shall be entitled to and shall receive all the revenues from such Contracts. If subcontracting any such Contract is not permitted, the Seller shall cooperate with the Purchaser, and the Members shall cause the Purchaser to cooperate with the Seller, in any reasonable arrangement designed to give to the Purchaser the benefits of and obligations under such Contract.

2.6 Real Property Rights.

(a) In the special warranty deeds conveying the Owned Real Property to the Purchaser, the Seller shall reserve to itself appropriate rights of way and easements in the Owned

Real Property (i) for the purpose of operating and maintaining power distribution and transmission lines and other power distribution and transmission assets and for other purposes customarily contained in power utility easements and rights of way; and (ii) for access by the Seller to such of the Seller's real property that will be subdivided and retained by the Seller as described in Schedule 5.15(a) (the "Retained Real Property").

(b) In the special warranty deeds conveying the Owned Real Property to the Purchaser, the Seller shall grant to the Purchaser appropriate rights of way and easements in the Retained Real Property (i) for the purpose of operating and maintaining the Distribution System and for other purposes customarily contained in water utility easements and rights of way and (ii) for access by the Purchaser to the Owned Real Property.

ARTICLE III

PURCHASE PRICE; ADJUSTMENTS AND PAYMENT

3.1 Purchase Price. In consideration of the transfer to the Purchaser of the Assets and subject to the terms and conditions of this Agreement, the Members shall cause the Purchaser to pay to the Seller the aggregate amount of Seventy Million Two Hundred Thousand Dollars (\$70,200,000) (the "Base Purchase Price"), subject to any reduction in the Base Purchase Price elected by the Seller pursuant to Sections 7.5, 7.6 or 7.7 and subject to the Purchase Price Adjustment to be made pursuant to Section 3.2 below (as so adjusted, the "Final Purchase Price").

3.2 Purchase Price Adjustment. The Base Purchase Price shall be adjusted as follows (such adjustment being referred to herein as the "Purchase Price Adjustment"):

(i) The Base Purchase Price shall be increased by the dollar amount, if any, by which (A) the sum of the value of the current assets of the Business as shown on the Closing Schedule of Assets and Liabilities plus Capital Expenditures as shown on the Capital Expenditures Schedule exceeds (B) the value of the current liabilities of the Business as shown on the Closing Schedule of Assets and Liabilities.

(ii) The Base Purchase Price shall be decreased by the dollar amount, if any, by which (A) the value of the current liabilities of the Business as shown on the Closing Schedule of Assets and Liabilities exceeds (B) the sum of the value of the current assets of the Business as shown on the Closing Schedule of Assets and Liabilities plus Capital Expenditures as shown on the Capital Expenditures Schedule.

3.3 Estimation of Final Purchase Price. As soon as is practicable but in any event no fewer than two Business Days prior to the Closing Date, the Seller shall deliver to the Purchaser a certificate, dated as of the date of delivery, setting forth the Seller's reasonable, good faith estimate of the Purchase Price Adjustment and the Final Purchase Price (the "Estimated Purchase Price")

3.4 Earnest Money Escrow. As security for the performance by the Members of its obligations hereunder, Seven Hundred Thousand Dollars (\$700,000) (together with all earnings thereon, the "Escrow Fund") has been deposited by the Members with First Union National Bank (the "Escrow Agent") upon the execution and delivery of this Agreement, to be held and disbursed by the Escrow Agent in accordance with this Agreement and the Escrow Agreement, dated as of the date hereof, by and between the Seller, the Members, and the Escrow Agent.

3.5 Closing Payment, Disbursement of Escrow Fund. At the Closing, the Members shall cause the Purchaser to pay to the Seller by wire transfer of immediately available funds to an account designated by the Seller an amount equal to the Estimated Purchase Price. Upon such payment of the Estimated Purchase Price, the Members and the Seller shall jointly direct the Escrow Agent to pay to the Members the entire amount of the Escrow Fund.

3.6 Post-Closing Adjustment.

(a) Within forty-five days after the Closing Date, the Seller shall cause to be prepared and shall deliver to the Purchaser a Schedule of Assets and Liabilities (the "Closing Schedule of Assets and Liabilities"), as of the Effective Time (as if such assets and liabilities were at that time assets and liabilities of the Seller rather than having been transferred to the Purchaser pursuant to this Agreement). In connection with the preparation of the Closing Schedule of Assets and Liabilities, the Seller shall have access to both the Assets and books and records of the Business relevant to the preparation of the Closing Schedule of Assets and Liabilities, and the Members shall cause the Purchaser to direct its personnel to cooperate with the Seller as may be necessary for the Seller to prepare such Closing Schedule of Assets and Liabilities; provided, however, that such preparation by the Seller shall be conducted in a manner that does not interfere unreasonably with the operation of the Business. The Purchaser shall have the right to audit the preparation of the Closing Schedule of Assets and Liabilities and the Capital Expenditures Schedule to be provided to the Purchaser at Closing in accordance with Section 8.3(d)(ii) and shall have full access to the workpapers of the accountants and other personnel preparing the Closing Schedule of Assets and Liabilities and the Capital Expenditures Schedule, and the Seller shall direct such personnel to cooperate with the Purchaser as may be necessary for the Purchaser to audit such preparation. Based on the Closing Schedule of Assets and Liabilities and the Capital Expenditures Schedule, the Seller shall compute the Purchase Price Adjustment and the Final Purchase Price. The Seller shall also compute the difference between the Estimated Purchase Price as provided by the Seller pursuant to Section 3.3 and the Final Purchase Price as determined by the Seller pursuant to this Section 3.6(a) (the "Post-Closing Adjustment"). The Seller shall deliver to the Purchaser a certificate attached to the Closing Schedule of Assets and Liabilities setting forth its calculation of the Purchase Price Adjustment, the Final Purchase Price, and the Post-Closing Adjustment.

(b) If the Purchaser does not accept the Closing Schedule of Assets and Liabilities, the Purchase Price Adjustment, the Final Purchase Price, or the Post-Closing Adjustment prepared by the Seller, the Members shall cause the Purchaser to give written notice to the Seller within thirty days after delivery thereof. The notice shall set forth in detail the basis for the Purchaser's objection. The Purchaser shall be deemed to have accepted the Closing Schedule of Assets and Liabilities, the Purchase Price Adjustment, the Final Purchase Price, and the Post-Closing

Adjustment prepared and proposed by the Seller at 5:00 p.m. Charlotte, North Carolina time on the 30th day after delivery thereof if the Purchaser has not by then given the Seller timely written notice of objection. If the Purchaser and the Seller are unable to resolve a disagreement with respect to the Closing Schedule of Assets and Liabilities, the Purchase Price Adjustment, the Final Purchase Price, or the Post-Closing Adjustment within thirty days after delivery of the Purchaser's written notice, the Seller shall engage, and the Members shall cause the Purchaser to engage, a "big five" independent certified public accounting firm mutually agreeable to the Seller and the Purchaser to resolve the issues. The accounting firm shall apply GAAP consistent with the Seller's past practices to the issues at hand (except it shall assume that the current assets and current liabilities included in the Closing Schedule of Assets and Liabilities were, as of the Effective Time, assets and liabilities of the Seller rather than having been transferred to the Purchaser pursuant to this Agreement) and shall not have the power to alter, modify, amend, add to or subtract from any term or provision of this Agreement. The decision of the accounting firm shall be rendered within twenty days of the engagement and shall be binding on the parties. The Seller on the one hand shall pay, and the Members shall cause the Purchaser on the other to pay, one-half of the cost of engaging such accounting firm to perform the services described herein.

3.7 Post-Closing Payment. In the event that the Final Purchase Price exceeds the Estimated Purchase Price, the Members shall cause the Purchaser to pay the Post-Closing Adjustment to the Seller. In the event that the Estimated Purchase Price exceeds the Final Purchase Price, the Seller shall pay the Post-Closing Adjustment to the Purchaser. Any such payment pursuant to this Section 3.7 shall be made by wire transfer of immediately available funds within five days after acceptance of the Post-Closing Adjustment by the Purchaser or, in the case of resolution of any disputed matter, within five days after the Post-Closing Adjustment is finally determined as provided above.

3.8 Real Property Expenses. The Seller shall pay all applicable real property transfer taxes, sales taxes, deed stamps and similar taxes on the deeds conveying the Owned Real Property. The Members shall cause the Purchaser to pay any recording fees for such deeds and assignments, and the cost of any surveys, title examination and title insurance obtained by the Purchaser.

ARTICLE IV

CLOSING; EFFECTIVE TIME

4.1 Closing. The closing of the transactions contemplated herein (the "Closing") shall take place on the Closing Date at the Charlotte, North Carolina offices of Robinson, Bradshaw & Hinson, P.A. or at such other location to which the parties to this Agreement may mutually agree. At the Closing, the parties will execute and deliver all documents necessary to effect the transactions contemplated herein.

4.2 Closing Date. The Closing of the transactions contemplated herein shall occur at 10:00 a.m., Charlotte, North Carolina time, on the last day of the calendar month which includes the earlier of (i) the Termination Date or (ii) the date forty-five (45) days after the date on which

all consents necessary for the consummation of the transactions contemplated by this Agreement have been obtained or on such other date as the parties to this Agreement may mutually agree (the "Closing Date"). The parties agree to use reasonable commercial efforts to cause the Closing to occur as soon as possible.

4.3 Effective Time. The effective time of the transfer of the Assets and assumption of the Assumed Liabilities shall be deemed to be 11:59 p.m. on the Closing Date (the "Effective Time").

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller represents and warrants to the Members as follows:

5.1 Organization, Qualification. The Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of North Carolina, is duly qualified and in good standing to do business as a foreign corporation in each jurisdiction in which the operation of the Business makes such qualification necessary, and has all requisite corporate power and authority to own, lease and operate the Real Property and the Assets and to carry on the Business as presently conducted.

5.2 Authority. The Seller has the full corporate power and authority to execute and deliver the Transaction Agreements and to consummate the transactions contemplated thereby. The execution and delivery of the Transaction Agreements and the consummation of the transactions contemplated thereby have been duly and validly authorized and approved by all necessary corporate action on behalf of the Seller and no other corporate proceedings are necessary to authorize the Transaction Agreements or the consummation of the transactions contemplated thereby. This Agreement has been duly and validly executed and delivered by the Seller, and at the Closing the other Transaction Agreements will be duly and validly executed by the Seller. Assuming this Agreement and the other Transaction Agreements constitute or will constitute legal, valid and binding agreements of the Members or the Purchaser, as the case may be, this Agreement and the other Transaction Agreements constitute or, upon execution, will constitute legal, valid and binding agreements of the Seller, enforceable against the Seller in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and to general principles of equity.

5.3 Consents and Approvals, No Violations.

(a) The execution, delivery and performance of the Transaction Agreements by the Seller and the Seller's compliance with the terms thereof will not, except as set forth on Schedule 5.3 (i) conflict with any provision of the articles of incorporation or bylaws of the Seller; (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any Contract to which the Seller is a party, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite

waivers or consents have been obtained and except for such defaults (or rights of termination, cancellation or acceleration) under Excluded Contracts that would not have a material effect on the Seller's ability to consummate the transactions contemplated hereby and to carry out its obligations hereunder; or (iii) violate any statute, law, rule, regulation, order, writ, injunction or decree of any Governmental Authority but excluding from the foregoing clauses (ii) and (iii) such defaults, impositions and violations that, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority or by any other Person, is required by or with respect to the Seller in connection with the execution and delivery of the Transaction Agreements by the Seller or the consummation of the transactions contemplated thereby, except as set forth on Schedule 5.3 and except for those required under or in relation to (A) laws, rules, regulations, practices and orders of Utilities Commissions, (B) laws, rules, regulations, practices and orders of Health Agencies, (C) antitrust or other competition laws of other jurisdictions, (D) consents and approvals required in connection with the assignment of Contracts pursuant to this Agreement and (E) such consents, approvals, orders, authorizations, registrations, declarations and filings the failure of which to make or obtain would not reasonably be expected to result in a Material Adverse Effect.

5.4 Financial Statements. True and complete copies of the Financial Statements have been delivered or made available to the Members. Such Financial Statements contain classifications and valuations in accordance with GAAP consistent with the Seller's past practices and fairly present the results of operations and financial position of the Business on a pro forma basis for the periods and as of the dates set forth therein, except that the Financial Statements do not reflect the Liabilities for commitments made to extend service and all existing and unexpired refund agreements entered into by the Seller pursuant to the Seller's service regulations.

5.5 Undisclosed Liabilities. To the knowledge of the Seller, except as otherwise disclosed in or contemplated by this Agreement, the Seller has no Liabilities with respect to the Assets or the Business except (i) such Liabilities that are reflected in the Interim Schedule of Assets and Liabilities, and (ii) Liabilities incurred in the ordinary course of business after the date of the Interim Schedule of Assets and Liabilities.

5.6 Absence of Certain Changes. Since the date of the Interim Schedule of Assets and Liabilities, the Seller has not: (a) conducted the Business other than in the ordinary course consistent with past practices in substantially the same manner as presently conducted, with all reasonable efforts made consistent with past practices to preserve the goodwill of the Business and the Seller's relationships with the customers, suppliers and others with whom it deals in connection with the Business and to keep available the services of its Employees, (b) entered into any Contract, assumed any Liability with respect to the Business or otherwise conducted the Business other than in the ordinary course of business consistent with past practice; (c) suffered any Material Adverse Effect, other than changes relating to the industry in general and not specifically relating to the Seller, or (d) done any act or incurred any event that would be or cause

a violation of the Seller's covenants and agreements set forth in Section 7.1 below were such act undertaken or event incurred at any time after the date hereof but prior to the Closing Date.

5.7 Certain Contracts and Arrangements. All Contracts existing as of the date hereof are either (i) listed on Schedule 5.7, (ii) Excluded Contracts, (iii) Contracts for the purchase or sale of goods or services entered into in the ordinary course of business and not involving a financial obligation in excess of \$35,000 per year, (iv) Contracts cancelable without penalty on 90 days' notice or less, (v) licenses for the use of off-the-shelf computer software or (vi) Contracts that, in the aggregate, do not impose a material obligation on the Seller. Each Contract listed on Schedule 5.7 is a legal, valid, and binding obligation of the Seller, and, to the knowledge of the Seller, the other party or parties to such Contract. The Seller is not in breach or default in any material respect under any of such Contracts and, to the knowledge of the Seller, no other party to any such Contract is in breach or default in any respect thereunder, except, in either case, such breaches that, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5.8 Litigation. Except as disclosed on Schedule 5.8, there are no claims, actions, suits, investigations or proceedings pending or, to the knowledge of the Seller, threatened against the Seller that relate to the Business or any of the Assets before any Governmental Authority or arbitration tribunal that might reasonably be expected to have a Material Adverse Effect.

5.9 Compliance with Applicable Laws. To the knowledge of the Seller, the Seller is in compliance in all material respects with applicable laws relating to ownership, leasing and operating the Assets and carrying on the Business.

5.10 Employees; Labor Matters.

(a) A true and complete list of all Employees as of February 9, 2000 is attached hereto as Schedule 5.10(a). Robert S. Lilien is a Senior Vice President of the Seller responsible for certain diversified businesses of the Seller, of which the Business is a division. R. Sean Trauschke is employed in the Seller's Treasury Department and is responsible for coordinating the sale of the Business. J. Michael Snow is the Manager of the Business's operations.

(b) Except as disclosed on Schedule 5.10(b), the Seller is not a party to any collective bargaining agreement with respect to the Business, nor has it recognized or received a demand for recognition of any collective bargaining representative with respect thereto, and during the past three years there have been no material labor strikes, disputes or work stoppages with respect to the Business and, to the knowledge of the Seller, no such actions are threatened against the Seller. There are no unfair labor practice claims or charges pending against the Seller with respect to the Business.

5.11 Employee Benefit Plans.

(a) Schedule 5.11 contains a complete list of all Plans. True and complete copies of all Plans, including any trust instruments and insurance contracts, if any, forming a part thereof, and all amendments thereto have been delivered or made available to the Members or the Purchaser.

(b) The Seller has not incurred (nor has any event occurred that could result in the Seller incurring) any liability in connection with any existing or previously existing Plan that could become, on or after the Closing Date, an obligation or liability of the Purchaser.

(c) Multiemployer Plans. In the past five calendar years, the Seller has not had any complete or partial withdrawal from any "multiemployer plan" (as defined in Section 3(37) or 4001(a)(3) of ERISA) ("Multiemployer Plan") involving employees of the Business that could result, directly or indirectly, in any withdrawal liability under Subtitle E of Title IV of ERISA. The Seller does not participate in or contribute to, nor in the past five calendar years has the Seller participated in or contributed to, any Multiemployer Plan involving employees of the Business.

5.12 Taxes.

(a) (i) There is no action, suit, proceeding, investigation, audit, claim or assessment pending or, to the knowledge of the Seller, proposed with respect to Taxes related to the Business, and (ii) there are no Liens for Taxes upon the Assets, other than Liens for Taxes not yet past due.

(b) The Seller has disclosed on its federal income Tax Returns covering taxes related to the Business all positions taken therein with respect to Taxes related to the Business that could give rise to a substantial understatement of its federal income Tax related to the Business within the meaning of Section 6662 of the Code.

5.13 Permits.

(a) Schedule 5.13(a) to this Agreement lists all of the material Permits that are necessary (i) to enable the Seller to own, lease or otherwise hold the Assets; and (ii) to enable the Seller to carry on the Business as presently conducted.

(b) The Permits listed on Schedule 5.13(a) are in full force and effect, and no material violations of any of the Permits have occurred or, to the knowledge of the Seller, have been alleged to have occurred. Furthermore, no proceedings are pending or, to the knowledge of the Seller, threatened, that would have the effect of revoking or materially limiting or affecting the transfer or renewal of any of the Permits. The Permits listed on Schedule 5.13(a), except as identified on Schedule 5.13(b), may not be assigned to the Purchaser without the consent of a Person other than the Seller.

5.14 Personal Property. The Seller owns and has good, valid and marketable title to all of the Assets constituting personal property free and clear of all Liens except Permitted Liens.

5.15 Real Property.

(a) The real property described on Schedule 5.15(a) constitutes all real property owned by the Seller and occupied in connection with the operation of the Business. For the purposes of this Section 5.15 and the schedules referenced in this Section 5.15, the phrase

"occupied in connection with the operation of the Business" shall not include real property that is occupied only by virtue of the fact that it contains assets that comprise the Distribution System.

(b) The real property described on Schedule 5.15(b) constitutes all real property leased by the Seller as lessee and occupied in connection with the operation of the Business.

(c) Except as disclosed on Schedule 5.15(c), no condemnation of any Owned Real Property has occurred, is pending or, to the knowledge of the Seller, is threatened. To the knowledge of the Seller, the conduct of business by the Seller within the Owned Real Property complies in all material respects with all applicable legal requirements relating to the Owned Real Property, including requirements under the applicable zoning ordinances, building code requirements and any requirements under applicable private restrictions.

5.16 Accounts Receivable. All of the Accounts Receivable are valid and genuine and were acquired or arose in the ordinary course of the Business.

5.17 Fixed Assets. Schedule 5.17 contains a complete and accurate list of all Fixed Assets with an original cost in excess of \$10,000. All of the Fixed Assets are in sufficient operating condition and repair to permit the operation of the Business in accordance with past practices.

5.18 Intellectual Property. Except as disclosed on Schedule 5.18, the Seller owns no registered trademarks, registered service marks, registered copyrights or patents used in the Business. The Seller has the right to use all trademarks, service marks, trade names, copyrights, patents and other Intellectual Property used in the Business as it presently uses them. To the knowledge of the Seller, no trademark, trade name, copyright or patent used by the Seller in the Business is the subject of any infringement action, or action seeking to deny, modify or revoke any registration or application therefor or renewal thereof. To the knowledge of the Seller, the Seller is entitled to use all designs, processes, licenses and all other Intellectual Property used by it in the Business, and the Seller has not granted to any third party any right, title or interest in or to any such Intellectual Property.

5.19 Environmental Matters.

(a) Except as disclosed on Schedule 5.19(a):

(i) To the knowledge of the Seller, Hazardous Materials have not at any time been illegally generated, used, treated, released or stored on the Real Property in material amounts by the Seller;

(ii) To the knowledge of the Seller, the Seller's operation of the Business is in material compliance with all applicable Environmental Laws;

(iii) There are no material pending or, to the knowledge of the Seller, threatened, written demands, claims or notices of noncompliance or violation against or to the Seller with respect to the Business relating to an Environmental Law; and, to the knowledge of the Seller, there are no conditions or occurrences on any Owned Real

Property that would reasonably be expected to lead to any such demands, claims or notices against or to the Seller; and

(iv) To the knowledge of the Seller, there are no underground storage tanks located on any Owned Real Property.

(b) To the knowledge of the Seller, the Seller, in connection with the Business: (i) has never sent or disposed of, otherwise had taken or transported, arranged for the taking or disposal of (on behalf of itself, a customer or any other party) or in any other manner participated or been involved in the taking of or disposal or release of a Hazardous Material to or at a site that is contaminated by any Hazardous Material or that, pursuant to any Environmental Law, (1) has been placed on the "National Priorities List", the "CERCLIS" list, or any similar state or federal list, or (2) is subject to or the source of a claim, an administrative order or other request to take "removal", "remedial", "corrective" or any other "response" action, as defined in any Environmental Law, or to pay for the costs of any such action at the site; (ii) is not involved in (and has no basis to reasonably expect to be involved in) any suit or proceeding and has not received (and has no basis to reasonably expect to receive) any notice, request for information or other communication from any Governmental Authority or other third party with respect to a release or threatened release of any Hazardous Material or a violation or alleged violation of any Environmental Law, and has not received (and has no basis to reasonably expect to receive) notice of any claims from any Person relating to property damage or to personal injuries from exposure to any Hazardous Material; and (iii) has timely filed every report required to be filed, acquired all necessary certificates, approvals and permits, and generated and maintained all required data, documentation and records under all Environmental Laws, except in such case in which the failure to do so would not reasonably be expected to have a Material Adverse Effect.

5.20 Year 2000 Compliance. To the knowledge of the Seller, all computer software used by the Seller in the operation of the Business is capable of accurately receiving, storing and processing date-related data for all dates before, on and after January 1, 2000, except where such failure would not reasonably be expected to have a Material Adverse Effect.

5.21 Books and Records. All the books and records of the Business have been maintained in the ordinary course of the Business consistent with its past practices.

5.22 Transfer of the Assets. Except as disclosed on Schedule 5.22, the Assets and the Excluded Assets include all of the assets and properties necessary to conduct the Business in the manner in which the Business has previously been conducted.

5.23 Regulation as a Utility. The Business is regulated as a public utility in North Carolina and South Carolina. The Business is not subject to regulation as a public utility or public service company (or similar designation) by any other state in the United States, by the United States or any agency or instrumentality of the United States or by any foreign country.

5.24 Brokers and Finders. The Seller has not employed any broker or finder in connection with the transactions contemplated by this Agreement, other than A.G. Edwards & Sons Inc. or incurred any liability for any brokerage fees, commissions or finders' fees in

connection with the transactions contemplated by this Agreement, other than to A.G. Edwards & Sons, Inc.

5.25 Disclaimer of Additional Warranties. Except as expressly set forth in this Agreement, or any of the certificates or instruments delivered pursuant to the terms hereof, the Seller makes no representations or warranties, express or implied, at law or in equity, with respect to the Business or the Assets, including any representation or warranty of merchantability, suitability or fitness for a particular purpose, or as to the quality of the Assets, or any part thereof, the condition or workmanship thereof, or the absence of any defects therein, whether latent or patent, and any such representations or warranties contained in material previously delivered to the Members by the Seller, are hereby expressly disclaimed.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF THE MEMBERS

6.1 Organization and Authority of the Municipal Members. Each of the Municipal Members represents and warrants to the Seller as follows with respect to itself:

(a) It is a public body corporate and politic duly organized, validly existing and in good standing under the laws of the State of South Carolina. Such Municipal Member has delivered to the Seller true and correct copies of its municipal charter and bylaws, as amended to the date of this Agreement.

(b) Such Municipal Member has full governmental and corporate power and authority to execute this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by such Municipal Member and the consummation of the transactions contemplated hereby have been duly and validly authorized and approved by all necessary governmental and corporate action on behalf of such Municipal Member, and except for approval of the Purchaser's consummation of the transactions contemplated by this Agreement and the approval of the issuance, sale, and delivery of the Purchaser's bonds to finance the payment of the Final Purchase Price, no other governmental or corporate proceedings on behalf of such Municipal Member are necessary to authorize this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by such Municipal Member. Assuming this Agreement constitutes a legal, valid and binding agreement of the Seller, this Agreement constitutes a legal, valid and binding agreement of such Municipal Member, enforceable against such Municipal Member in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and to general principles of equity.

6.2 Organization and Authority of the Non-profit Members. Each of the Non-profit Members represents and warrants to the Seller as follows with respect to itself:

(a) It is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina. Such Non-profit Member has delivered to the

Seller true and correct copies of its articles of incorporation and bylaws, as amended to the date of this Agreement

(b) Such Non-profit Member has full corporate power and authority to execute this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by such Non-profit Member and the consummation of the transactions contemplated hereby have been duly and validly authorized and approved by all necessary corporate action on behalf of such Non-profit Member, and except for approval of the Purchaser's consummation of the transactions contemplated by this Agreement and approval of the issuance, sale, and delivery of the Purchaser's bonds to finance the payment of the Final Purchase Price, no other corporate proceedings on behalf of such Non-profit Member are necessary to authorize this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by such Non-profit Member. Assuming this Agreement constitutes a legal, valid and binding agreement of the Seller, this Agreement constitutes a legal, valid and binding agreement of such Non-profit Member, enforceable against such Non-profit Member in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and to general principles of equity.

6.3 Organization and Authority of the Purchaser. Each of the Members represents and warrants to the Seller as follows with respect to itself and the Purchaser:

(a) The Purchaser shall be, upon formation, a public body corporate and politic duly organized, validly existing and in good standing under the laws of the State of South Carolina. Such Member shall cause the Purchaser to deliver to the Seller a true and correct copy of its municipal charter and bylaws as soon as the Purchaser is formed.

(b) As of the Closing, the Purchaser will have full governmental power and authority to execute the Transaction Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. As of the Closing, the execution and delivery by the Purchaser of the Transaction Agreements to which it is a party and the consummation of the transactions contemplated by this Agreement and the other Transaction Agreements will have been duly and validly authorized and approved by all necessary governmental and corporate action on behalf of the Purchaser, and no other governmental or corporate proceedings will be necessary to authorize the Transaction Agreements or the consummation of the transactions contemplated thereby. As of the Closing, the Transaction Agreements to which the Purchaser is a party will be duly and validly executed by the Purchaser. Assuming the Transaction Agreements to which the Purchaser is a party will constitute legal, valid and binding agreements of the Seller, the Transaction Agreements to which the Purchaser is a party will constitute, upon execution, legal, valid and binding agreements of the Purchaser, enforceable against the Purchaser in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and to general principles of equity.

6.4 Consents and Approvals. Each of the Members represents and warrants to the Seller as follows with respect to itself and the Purchaser:

(a) The execution, delivery and performance by such Member of this Agreement and by the Purchaser of the other Transaction Agreements and the compliance by such Member and the Purchaser with the terms thereof will not: (i) conflict with any provision of the municipal charter or articles of incorporation, as the case may be, or bylaws of the Purchaser or such Member; (ii) violate any statute, law, rule, regulation, order, writ, injunction or decree of any Governmental Authority but excluding from the foregoing clause (ii) such defaults, impositions and violations that, in the aggregate, could not reasonably be expected to impair materially such Member's ability to perform its obligations under this Agreement.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority or by any other Person, is required by or with respect to such Member or the Purchaser in connection with the execution and delivery of this Agreement by such Member or the consummation of the transactions contemplated hereby by such Member and the except for those required under or in relation to (A) laws, rules, regulations, practices and orders of any Utilities Commissions, (B) laws, rules, regulations, practices and orders of any Health Agencies, and (C) antitrust or other competition laws of other jurisdictions (D) the South Carolina Joint Municipal Water Systems Act, South Carolina Code Section 6-25-5 *et seq.*

6.5 Financing; Securities Laws. Each of the Members represents and warrants to the Seller as follows with respect to itself and the Purchaser: Such Member and the Purchaser have the ability to obtain all funds necessary to enable such Member and the Purchaser to perform this Agreement in accordance with its terms. Such Member agrees that at all times between the date hereof and the Closing Date it will take, and will cause the Purchaser to take, all necessary or advisable actions to ensure that funds sufficient to permit the Purchaser to pay the amount required to be paid pursuant to Section 3.5 will be available on the Closing Date. Such Member has taken, and the Purchaser will have taken as of the Closing, all actions required to comply with all applicable federal and state securities laws in connection with obtaining funds necessary to pay the Final Purchase Price, and such Member agrees that, between the date hereof and the Closing Date, such Member will take, and will cause the Purchaser to take, all actions required to comply with such laws.

6.6 Litigation. Each of the Members represents and warrants to the Seller with respect to itself and the Purchaser that, except as disclosed on Schedule 5.8 with respect to threatened litigation by the City of Anderson, there are no legal, administrative, arbitration or other proceedings or governmental investigations pending or, to the knowledge of such Member, threatened against such Member or the Purchaser that could reasonably be expected to impair materially the Members' ability to perform their obligations under this Agreement.

6.7 Commissions. Each of the Members represents and warrants to the Seller with respect to itself and the Purchaser that no broker, finder or other Person is entitled to any

brokerage fees, commissions or finder's fees in connection with the transactions contemplated hereby by reason of any action taken by such Member or the Purchaser.

ARTICLE VII

COVENANTS OF THE PARTIES

7.1 Conduct of Business. Except as indicated on Schedule 7.1 or as otherwise contemplated by this Agreement, during the period from the date of this Agreement to the Closing Date, the Seller will conduct the Business in a manner consistent with prior practice and in the ordinary and usual course. Without limiting the generality of the foregoing, except as shown on Schedule 7.1 or as otherwise contemplated by this Agreement, prior to the Closing Date, without the prior written consent of the Members or the Purchaser, the Seller will not:

- (a) amend its articles of incorporation or bylaws in any manner that would adversely affect its ability to comply with its obligations under this Agreement;
- (b) grant to any Employee any increase in compensation other than increases in the ordinary course of business;
- (c) cancel any indebtedness arising out of the Business owing to the Seller or waive any claims or rights of substantial value arising out of the Business;
- (d) make any change in any method of accounting or accounting practice or policy with respect to the Business, except as may be required by GAAP;
- (e) fail to maintain the Seller's books and accounts with respect to the Business in the usual and regular manner;
- (f) sell, lease, license or otherwise dispose of, or agree to sell, lease, license or otherwise dispose of, any of the assets used exclusively in the Business other than in the ordinary course of business;
- (g) take any action that would make any of the representations or warranties of the Seller contained in this Agreement untrue or incorrect or would result in any of the conditions set forth in this Agreement not being satisfied;
- (h) enter into, cancel or modify any Contract or permit the Business to assume any liability other than in the ordinary course of business consistent with past practices;
- (i) without the prior written consent of the Members or the Purchaser, which shall not unreasonably be withheld, make any Capital Expenditures related to the projects listed on Schedule 1.1C under the heading "Capital Budget 2001 & Beyond" prior to January 1, 2001; or
- (j) agree, whether in writing or otherwise, to do any of the foregoing.

7.2 Access to Information

(a) From the date of this Agreement to the Closing Date, the Seller will (i) give the Purchaser and its authorized representatives reasonable access during normal business hours to the facilities, personnel, operations, books and records of the Business, (ii) cause its officers or other appropriate officials to furnish the Members or the Purchaser with such financial and operating data and other information with respect to the Business as the Members or the Purchaser may from time to time reasonably request; provided, however, that any such investigation by the Members or the Purchaser shall be conducted in such a manner as not to interfere unreasonably with the Seller's business operations and in such a manner as to retain the confidentiality of the proposed transaction.

(b) The Members shall hold, and shall cause their consultants and advisors and the Purchaser and its consultants and advisors to hold, in strict confidence all documents and information concerning the Seller furnished to the Members or the Purchaser in connection with the transactions contemplated by this Agreement, and the Sellers shall hold, and shall cause its consultants and advisors to hold, in strict confidence all documents and information concerning the Members or the Purchaser furnished to the Seller in connection with the transactions contemplated by this Agreement; provided, however, that in each case any party may disclose any document or information (i) that is already public knowledge prior to such disclosure or (ii) to the extent that, in the reasonable opinion of the disclosing party's legal counsel, such disclosure is necessary in order to conform to the requirements of any applicable securities laws and regulations, including without limitation the rules of any securities exchange, but only after the disclosing party has given prior written notice of the disclosure to the non-disclosing parties.

(c) After the Closing, the Seller will use, and the Members shall cause the Purchaser to use, reasonable commercial efforts to furnish the other and its authorized representatives such financial and operating data and other information with respect to the Business as each may from time to time reasonably request.

7.3 Employees and Employee Benefits

(a) From the date of this Agreement to the Closing Date, the Seller shall provide the Purchaser with reasonable access to the Employees during normal business hours. The Purchaser shall be entitled to encourage the Employees to accept any employment offered by the Purchaser.

(b) For purposes of employee benefits under the Seller's Plans, all of the Employees who accept employment with the Purchaser shall be considered terminated employees and shall have no further rights accrue to them under the Seller's Plans after the Closing Date.

7.4 Noncompetition by the Seller

(a) The Seller agrees that for a period of three (3) years after the date hereof, without the Purchaser's prior written consent, it will not, directly or indirectly, either as principal, agent, manager, partner, shareholder, consultant or otherwise, (i) become engaged or involved in any business (other than as a less than 5% equity owner of any corporation traded on any national,

international or regional stock exchange or in the over-the-counter market) that competes with the Purchaser in the Business; or (ii) induce or attempt to induce any customer, supplier, employee, consultant, contractor or agent of the Purchaser to reduce, terminate, restrict or otherwise alter its business relationship with the Purchaser. If any provision or part of this Section 7.4 is held to be unenforceable because of the duration of such provision or the geographic area covered thereby as provided in Section 7.4(b) below, the parties hereto agree to modify such provision, or that the court making such determination shall have the power to modify such provision, to reduce the duration or area of such provision or both, or to delete specific words or phrases herefrom ("blue-penciling"), and, in its reduced or blue-penciled form, such provision shall then be enforceable and shall be enforced. The parties intend the above restrictions on competition to be completely severable and independent, and any invalidity or unenforceability of any one or more of such restrictions shall not render invalid or unenforceable any one or more of the other restrictions.

(b) The provisions of Section 7.4(n) shall be limited in scope and effective only within the County of Anderson, South Carolina.

(c) Notwithstanding the foregoing, it shall not be a violation of this Section 7.4 if the Seller shall come to own, through the acquisition, directly or indirectly, whether by merger or otherwise, another business which, among other business activities engages in a business that competes with the Purchaser in the Business, provided that the Seller (i) promptly notifies the Purchaser that it has made an acquisition of a business that competes with the Purchaser in the Business and (ii) divests itself of that portion of the acquired business that competes with the Purchaser in the Business within two years after consummating the acquisition thereof.

(d) The Seller acknowledges that the Purchaser may have no adequate means to protect its rights under this Section 7.4 other than by securing an injunction (a court order prohibiting the Seller from violating this Agreement). The Seller agrees that the Purchaser may enforce this Section 7.4 by obtaining a preliminary and permanent injunction and any other appropriate equitable relief in any court of competent jurisdiction. The Seller acknowledges that the recovery of damages will not be an adequate means to redress a breach of this Section 7.4, but nothing in this Section 7.4 shall prohibit the Purchaser from pursuing any remedies in addition to injunctive relief, including recovery of damages.

7.5 Environmental Testing and Remediation.

(a) From the date of this Agreement through May 30, 2000, the Seller will permit the Members, the Purchaser and their authorized representatives to make such reasonable environmental inspections thereof as the Members or the Purchaser may request and to conduct such tests, studies and surveys and take samples at the sole cost and expense of the Members or the Purchaser as the Members reasonably deem, or the Purchaser reasonably deems, necessary for evaluating the environmental condition of the Owned Real Property and the improvements thereon. Notwithstanding the foregoing, the right of the Members, the Purchaser, and their authorized representatives to enter upon and conduct tests upon the Owned Real Property is expressly made subject to the following terms and conditions. Any samples shall be taken only at the locations approved in advance by the Seller, and the Members shall first verify, or the

Members shall cause the Purchaser to verify, as the case may be, that no utilities or other improvements shall be damaged by any such sampling. The Members shall undertake, and shall cause the Purchaser to undertake, all such work in accordance with applicable legal requirements and in a manner that minimizes any disruption to the Owned Real Property and operations thereon. The Members shall provide, and shall cause the Purchaser to provide, the Seller with not less than two business days prior written notice of the date on which any entry upon the Owned Real Property shall occur hereunder. Promptly upon completion of any entry upon the Owned Real Property hereunder, the Members shall repair, or the Members shall cause the Purchaser to repair any damage caused by such entry. The Members shall, or Members shall cause the Purchaser to, remove from the Owned Real Property and properly dispose of in accordance with all applicable legal requirements any waste materials generated in connection with sampling work. To the extent permitted by law, the Members shall, and the Members shall cause the Purchaser to indemnify, defend and hold harmless the Seller and its agents, employees, heirs, successors and assigns from and against any and all liens, liabilities, damages, claims, demands, costs and expenses of every kind and nature (including reasonable attorneys' fees) arising from any injury or damage to any person (including death), property or business in connection with entry upon the Owned Real Property hereunder, these obligations to survive expiration or earlier termination of this Agreement.

(b) If the Members, the Purchaser, or their authorized representatives determine that Hazardous Materials are located on the Owned Real Property, the Members shall furnish to the Seller, or shall cause the Purchaser to furnish to the Seller, the findings of a qualified environmental assessment firm demonstrating the existence of any Hazardous Materials in, on or under such Owned Real Property requiring remediation under applicable law relating to Hazardous Materials and providing a reasonable estimate of the cost of the required remediation. If the estimated cost of the remediation does not exceed the \$100,000, the Recovery Threshold shall be decreased by the estimated cost of such remediation. If the estimated cost of such remediation is in excess of the \$100,000 but is less than or equal to \$2,000,000, the Seller may elect to perform such remediation or reduce the amount of the Base Purchase Price by the estimated cost of such remediation. If the estimated cost of such remediation is in excess of \$2,000,000, the Seller may elect to perform such remediation, reduce the Base Purchase Price by the cost of such remediation or terminate this Agreement. If the estimated cost of such remediation is in excess of \$2,000,000 and the Seller elects to reduce the Base Purchase Price by the cost of such remediation, the Members may elect to terminate this Agreement. The provisions of this Section 7.5(b) shall only apply to the extent that: (A) remediation of the Hazardous Materials is required pursuant to an applicable Environmental Law that is in effect and is enforceable or is required by any Governmental Authority, (B) the remediation standards that must be met in order to satisfy the requirements of the applicable Environmental Law are those remediation standards that would be the least stringent remediation standards, taking into account that the normal operating condition at the affected facility shall be maintained at all times, that would be applicable given the use of the property or as required by any Governmental Authority; and (C) the estimated cost of such remediation assumes that such remediation will be conducted using the most cost effective methods, taking into account that the normal operating condition at the affected facility shall be maintained at all times, for remediation with applicable Environmental Laws.

7.6 Casualty and Restoration. If any part of the Assets is damaged or destroyed by casualty loss prior to the Closing Date, and the cost of restoring the damaged or destroyed Assets to a condition reasonably comparable to their prior condition does not exceed \$5,000,000, the Seller may elect to perform such restoration (as long as such restoration can be completed by the Termination Date) or reduce the amount of the Base Purchase Price by the estimated cost of such restoration (as estimated by a qualified firm reasonably acceptable to the Members and the Seller). If the cost of restoration is in excess of \$5,000,000, the Seller may elect to perform such restoration (as long as such restoration can be completed by the Termination Date), reduce the Base Purchase Price by such estimated cost of restoration or terminate this Agreement. If the cost of the restoration is in excess of \$5,000,000 and the Seller elects to reduce the Base Purchase Price by such estimated cost of restoration, the Members may elect to terminate this Agreement.

7.7 Condemnation. If any part of the Assets is taken by condemnation prior to the Closing Date, but such Assets do not either (i) include the Seller's Anderson County water treatment facility or (ii) have a condemnation value in excess of \$10,000,000, the Seller may elect to provide substitute facilities of approximately equal value and utility or reduce the Base Purchase Price by such condemnation value. If taken Assets either include the Seller's Anderson County water treatment facility or have a condemnation value in excess of \$10,000,000, the Seller may elect to provide substitute facilities of approximately equal value and utility, reduce the Base Purchase Price by such condemnation value, or terminate this Agreement. If taken Assets either include the Seller's Anderson County water treatment facility or have a condemnation value in excess of \$10,000,000, the Members may terminate this Agreement.

7.8 Filings:

(a) Subject to the terms and conditions of this Agreement, the Seller and each of the Members will use, and the Members will cause the Purchaser to use, reasonable commercial efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the transactions contemplated by this Agreement by the Closing Date. In furtherance and not in limitation of the foregoing, the Seller and each of the Members shall use, and the Members shall cause the Purchaser to use, reasonable commercial efforts to (i) make all appropriate filings and submissions with any Utilities Commission, Health Agency or other Governmental Authority that may be necessary, proper or advisable under applicable laws or regulations in respect of any of the transactions contemplated by this Agreement, (ii) cooperate in all respects with each other in connection with any such filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party, (iii) promptly inform the other parties of any communication received by such party from, or given by such party to, Utilities Commissions, Health Agencies, or any other Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, in each case regarding any of the transactions contemplated hereby and (iv) permit the other parties to review any communication given by it to, and consult with each other in advance of any meeting or conference with, Utilities Commissions, Health Agencies, or any such other Governmental Authority or, in connection with any proceeding by a private party, with any other Person, and to the extent permitted by Utilities Commissions, Health Agencies, or such other applicable

Governmental Authority or other Person, give the other parties the opportunity to attend and participate in such meetings and conferences.

(b) In furtherance and not in limitation of the covenants of the parties contained in Section 7.8(a), if any administrative or judicial action or proceeding, including any proceeding by a private party, is instituted (or threatened to be instituted) challenging any transaction contemplated by this Agreement as violative of any applicable law or regulation, each of the Members and the Seller shall cooperate with each other and the Purchaser, and the Members shall cause the Purchaser to cooperate with the Seller, in all respects and use reasonable commercial efforts to contest and resist any such action or proceeding and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order, whether temporary, preliminary or permanent, that is in effect and that prohibits, prevents or restricts consummation of the transactions contemplated by this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, nothing in this Section 7.8 shall limit the right of the Members or the Seller to terminate this Agreement pursuant to Section 10.1(g) or 10.1(h) so long as such party has complied in all respects with its obligations under this Section 7.8.

(c) If any objections are asserted with respect to the transactions contemplated hereby under any applicable law or regulation or if any suit is instituted by any Governmental Authority or any private party challenging any of the transactions contemplated hereby as violative of any applicable law or regulation, the Seller and each of the Members shall use, and the Members shall cause the Purchaser to use, reasonable commercial efforts to resolve any such objections or challenges as such Governmental Authority or private party may have to such transactions under such law or regulation so as to permit consummation of the transactions contemplated by this Agreement.

(d) Notwithstanding anything contained herein to the contrary, after the Closing Date, the Members shall cause the Purchaser to use reasonable commercial efforts to make all appropriate filings and submissions with any Health Agency (including all reporting required by the Environmental Protection Agency) that may be necessary, proper or advisable under applicable laws or regulations with respect to the year in which the transactions contemplated hereunder are consummated.

7.9 Consummation of Agreement Each of the Seller and the Members shall use, and the Members shall cause the Purchaser to use, reasonable commercial efforts (which efforts shall include the reasonable prosecution of a lawsuit against any party that attempts to interfere with the consummation of transactions contemplated by this Agreement) to perform or fulfill all conditions and obligations to be performed or fulfilled by it under this Agreement so that the transactions contemplated hereby shall be consummated. The Seller shall not take any action or fail to take any commercially reasonable action if such action or failure could reasonably be expected to cause the representations of the Members contained in this Agreement to become false. None of the Members shall take any action or fail to take any commercially reasonable action, or permit the Purchaser to take any action or fail to take any commercially reasonable action, if such action or failure could reasonably be expected to cause the representations of the Seller contained in this Agreement to become false. Except for events that are the subject of specific provisions of this Agreement, if any event should occur, either within or outside the

control of the Members, the Purchaser or the Seller, that would materially delay or prevent fulfillment of the conditions upon the obligations of any party hereto to consummate the transactions contemplated by this Agreement, the Members and the Seller will use their, and the Members will cause the Purchaser to use its, respective best, diligent and good faith efforts to cure or minimize the same as expeditiously as possible.

7.10 Public Announcements. The Seller will consult with the Members and the Purchaser and the Members shall consult with the Seller and shall cause the Purchaser to consult with the Seller before issuing any press release or otherwise making any public statements with respect to the sale of the Assets hereunder and shall not issue any such press release or make any such public statement that is not approved by the other party or parties, as the case may be, which approval shall not be unreasonably withheld, except as may be required by law or court order, in which case the Seller and each of the Members will make, and the Members will cause the Purchaser to make, reasonable efforts to consult with each other prior to the making of such public statement.

7.11 Acquisition Proposals. From the date hereof until the earlier of the Effective Time or the date this Agreement is terminated pursuant to ARTICLE X, the Seller will not, and will not permit any of its directors, officers, employees, agents or representatives, to directly or indirectly (i) solicit, initiate, encourage or otherwise facilitate the initiation or submission of any inquiries, requests for information, proposals or offers from any Person relating to any merger, consolidation, exchange offer, tender offer, business combination, recapitalization, acquisition or purchase with or by any third party (other than the Purchaser) of all or any substantial portion of the Assets (an "Acquisition Proposal"); (ii) agree to, approve, recommend, or endorse any Acquisition Proposal; or (iii) enter into or participate in any discussions or negotiations regarding any of the foregoing, or furnish any other Person any information with respect to the Seller in connection with any Acquisition Proposal.

7.12 Notice of Events.

(a) The Members will, and will cause the Purchaser to, promptly, and in no event later than three (3) business days after obtaining knowledge thereof, give oral and written notice to the Seller of (i) any material default or breach by the Members with respect to any of the Members' representations and warranties in this Agreement or the due and timely performance of any of the Members' covenants and agreements contained in this Agreement, or (ii) any other matter that has impaired materially, or might reasonably be expected to impair materially, the Members' or the Purchaser's ability to perform its obligations under this Agreement; and

(b) The Seller will promptly, and in no event later than three (3) business days after obtaining knowledge thereof, give oral and written notice to the Purchaser of (i) any material default or breach by the Seller with respect to any of the Seller's representations and warranties in this Agreement or the due and timely performance of any of the Seller's covenants and agreements contained in this Agreement, (ii) any matter that has resulted in, or might reasonably be expected to result in, a Material Adverse Effect, or (iii) any other matter that has impaired materially, or might reasonably be expected to impair materially, the Seller's ability to perform its obligations under this Agreement.

7.13 Post-Closing Access to the Assets: The Members shall cause the Purchaser to permit the Seller to have access to the Assets for a reasonable period of time following the Closing for the purpose of allowing the Seller to remove any of the Seller's assets that do not constitute the Assets.

7.14 Formation of the Purchaser Financing: The Members shall use their best efforts to (i) form the Purchaser and to cause the Purchaser to purchase the Assets hereunder and to perform such other obligations required to be performed by the Purchaser hereunder; and (ii) to cause the Purchaser to sell and deliver its revenue bonds in an amount sufficient for the Purchaser to pay the Final Purchase Price to the Seller.

7.15 Allocation of Purchase Price: Following delivery of the Closing Schedule of Assets and Liabilities, the Seller shall use, and the Members shall cause the Purchaser to use, reasonable commercial efforts to agree on an allocation of the Final Purchase Price among the Assets (with the remainder of the Final Purchase Price being allocated to goodwill). The Seller and the Members agree that the Seller shall report, and the Members shall cause the Purchaser to report, the transactions contemplated by this Agreement for income tax purposes in accordance with the agreed upon allocation of the Final Purchase Price, pursuant to Section 1060 of the Code and the regulations thereunder, and agree not to take, in any filing with or accompanying any Tax Return reporting any part of the transaction undertaken herein, a position inconsistent with such allocations; provided, however, that if the Seller and the Purchaser are unable to reach an agreement with respect to the allocation of the Final Purchase Price, each party may allocate the Final Purchase Price among the Assets as it deems appropriate.

ARTICLE VIII

CLOSING CONDITIONS

8.1 Mutual Conditions: The respective obligations of each of the parties to this Agreement to effect the transactions contemplated hereby shall be subject to the fulfillment at or prior to the Closing Date of the following conditions:

(a) None of the Seller, the Purchaser or the Members shall be subject on the Closing Date to any order, decree or injunction of a court of competent jurisdiction that enjoins or prohibits the consummation of this Agreement and no Governmental Authority shall have instituted a suit or proceeding that is then pending that seeks to enjoin or prohibit the transactions contemplated hereby. If the Seller, the Purchaser, or any of the Members, is subject to any such order, decree or injunction or the subject of any such suit or proceeding, then such Person shall take, or in the case of the Purchaser, the Members shall cause the Purchaser to take, any steps within such Person's control to cause any such order, decree or injunction to be modified so as to permit the Closing and to cause any such suit or proceeding to be dismissed.

(b) No federal, state, local or foreign, if any, law, statute, regulation, code, ordinance or decree shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other Governmental

Authority of competent jurisdiction shall be in effect, having the effect of making the transactions contemplated herein illegal or otherwise prohibiting consummation of the transactions contemplated herein; provided, however, that the provisions of this Section 8.1(b) shall not relieve the Seller or the Members of its or their obligations to effect the transactions contemplated by this Agreement if such party's or parties' failure to fulfill its obligations pursuant to Section 7.8 shall have been the cause of, or shall have resulted in, such order or injunction.

(c) All approvals required for the transactions contemplated herein from Utilities Commissions and Health Agencies shall have been obtained.

(d) The Closing of the transactions contemplated by this Agreement shall be in compliance with all applicable state and federal laws, including without limitation all laws that would render the transactions contemplated by this Agreement void or voidable.

8.2 Conditions to the Obligations of the Seller. The obligations of the Seller to effect the transactions contemplated hereby shall be subject further to the fulfillment of the following conditions, any one or more of which may be waived by the Seller:

(a) All representations and warranties of the Members contained in this Agreement shall be true and correct in all material respects as of the Closing Date as though made as of such date (except as otherwise contemplated by this Agreement). The Members and the Purchaser shall have performed and complied in all material respects with all of the Members' covenants and agreements contained in this Agreement required to be performed and complied with by them at or prior to the Closing. The Seller shall have received a certificate with respect to the matters set forth in this Section 8.2(a) signed on behalf of the Members by authorized officers.

(b) (i) All documents required to have been delivered by the Members or the Purchaser to the Seller at or prior to the Closing shall have been delivered, (ii) the Transition Services Agreement shall have been executed and delivered by the Purchaser and (iii) all actions required to have been taken by the Members or the Purchaser at or prior to the Closing shall have been taken.

(c) The Seller shall have received the opinion of counsel to the Purchaser, as to the matters set forth on Exhibit B, dated the Closing Date and in form and substance reasonably satisfactory to the Seller.

(d) As of the Closing Date, the Seller shall have received from the Purchaser the following documents:

(i) a certificate of corporate existence of the Purchaser from the State of South Carolina;

(ii) a true and complete copy of the municipal charter of the Purchaser and all amendments thereto certified by its state of incorporation;

(iii) a true and complete copy of the bylaws of the Purchaser certified by its Secretary.

(iv) a certificate from the Secretary of the Purchaser that its municipal charter has not been amended since the date of the certificate described in subsection (ii) above, and that nothing has occurred since the date of issuance of the certificate of existence specified in subsection (i) above, that would adversely affect the Purchaser's corporate existence or good standing;

(v) a true and complete copy of the resolutions of the commissioners of the Purchaser authorizing the execution, delivery and performance of this Agreement, and all instruments and documents to be delivered in connection herewith, and the transactions contemplated hereby by the Purchaser, certified by its Secretary;

(vi) a certificate from the Secretary of the Purchaser as to the incumbency and signatures of its officers who will execute documents at the Closing;

(vii) an assignment and assumption agreement in form and substance satisfactory to the Seller; and

(viii) such other documents, opinions and certificates that the Seller may have reasonably requested in connection with the consummation of the transactions contemplated by this Agreement.

(c) All consents required of any Person in order to effect the release of the Seller from future performance of the Contracts listed on Schedule 5.3 and all consents required of any Person in order to effect the consummation of the transactions contemplated hereby, including without limitation all consents required of any Utilities Commissions and Health Agencies, shall have been obtained, and no such consent shall contain as a condition to such consent that the Seller transfer or refund any part of the Final Purchase Price to any Person.

(f) The Purchaser shall have paid the Estimated Purchase Price.

8.3 Conditions to the Obligations of the Members and the Purchaser. The obligations of the Members and the Purchaser to effect the transactions contemplated hereby shall be subject further to the fulfillment of the following conditions, any one or more of which may be waived by the Members or the Purchaser.

(a) All representations and warranties of the Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date as though made as of such date (except as otherwise contemplated by this Agreement). The Seller shall have performed and complied in all material respects with all its covenants and agreements contained in this Agreement required to be performed and complied with by it at or prior to the Closing. The Purchaser shall have received a certificate with respect to the matters set forth in this Section 8.3(a) signed on behalf of the Seller by an authorized officer.

(b) (i) All documents required to have been delivered by the Seller to the Purchaser at or prior to the Closing shall have been delivered, (ii) the Transition Services Agreement shall have been executed and delivered by the Seller, and (iii) all actions required to have been taken by the Seller at or prior to the Closing shall have been taken.

(c) The Purchaser shall have received the legal opinions of the Seller and Robinson, Bradshaw & Hinson, P.A., together addressing the matters set forth on Exhibit C, each dated the Closing Date and in form and substance reasonably satisfactory to the Purchaser.

(d) As of the Closing Date, the Purchaser shall have received from the Seller the following documents:

(i) a certificate of corporate existence of the Seller from the State of North Carolina,

(ii) a schedule prepared by the Seller setting forth in reasonable detail the Capital Expenditures to be included in the calculation of the Purchase Price Adjustment (the "Capital Expenditures Schedule");

(iii) a bill of sale and an assignment and assumption agreement, in form and substance satisfactory to the Purchaser.

(iv) special warranty deeds, in the form of Exhibit D attached hereto, conveying the Owned Real Property, reserving the easements and rights of way described in Section 2.6(a), and granting the easements and rights of way described in Section 2.6(b);

(v) one or more assignments of easements and rights of way, in the form of Exhibit E attached hereto, conveying the Seller's rights to the Distribution System Easements and Rights of Way, and

(vi) such other documents, opinions and certificates that the Purchaser may have reasonably requested in connection with the proper and effective conveyance of the Assets free and clear of all liens, claims, encumbrances, and restrictions whatsoever, (excluding the Excluded Assets and except for Permitted Liens), and the consummation of the other transactions contemplated by this Agreement.

(e) All consents required of any Person in order to effect the assignment of the Contracts listed on Schedule 5.3 and all consents of any Person required to effect the consummation of the transactions contemplated hereby, including without limitation all consents required of any Utilities Commissions and Health Agencies, shall have been obtained.

(f) Title insurance insuring fee simple title to the Owned Real Property in the Purchaser, free and clear of all Liens, other than the Permitted Liens, shall be obtainable by the Purchaser.

(g) The Members shall have formed the Purchaser.

(h) The Purchaser shall have sold and delivered its revenue bonds in an amount sufficient to pay the Final Purchase Price to the Seller.

ARTICLE IX

SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION

9.1 Survival of Representations. All representations, warranties, covenants and agreements made by the parties to this Agreement or pursuant hereto shall survive the Closing, but all claims made by virtue of such representations, warranties, covenants and agreements shall be made exclusively under, and subject to the limitations set forth in, this ARTICLE IX.

9.2 Seller's Agreement to Indemnify.

(a) Indemnification. Subject to the limitations, conditions and provisions set forth in this ARTICLE IX, the Purchaser shall be entitled to recover from the Seller all losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or incurred by the Purchaser or any of its shareholders, directors, officers, Affiliates, employees and agents (the "Purchaser Indemnitees") (i) resulting from a breach of any covenant, agreement, representation or warranty of the Seller contained in this Agreement, or (ii) with respect to any Liabilities relating to the Business that the Purchaser does not assume pursuant to the terms of this Agreement (clauses (i) and (ii), collectively, the "Purchaser Damages").

(b) Limitation of Liability. The Purchaser's right to recover any Purchaser Damages from the Seller shall be subject to all of the following limitations:

(i) The Purchaser may not recover any Purchaser Damages until the aggregate amount of Purchaser Damages exceeds the Recovery Threshold, and any Purchaser Damages shall be reimbursed by the Seller only to the extent of such excess over the Recovery Threshold.

(ii) The Purchaser may not recover any Purchaser Damages on an aggregate basis in excess of thirty percent of the Final Purchase Price.

(iii) The Purchaser shall have the right to recover only those Purchaser Damages as to which the Purchaser has given the Seller written notice within one year after the Closing Date. Any written notice delivered by the Purchaser to the Seller pursuant to this subparagraph (iii) shall set forth with specificity the basis of the claim for Purchaser Damages and an estimate of the amount thereof.

(iv) All Purchaser Damages shall be computed net of the present value of any income tax benefit resulting therefrom to the Purchaser or any proceeds paid or payable as a result of any insurance coverage with respect thereto that reduces the Purchaser Damages that would otherwise be sustained.

(v) Anything in this Agreement to the contrary notwithstanding, no shareholder, director, officer, Affiliate, employee or agent of the Seller shall have any personal liability to the Purchaser or any other Persons as a result of the breach of any representation, warranty, covenant or agreement of the Seller contained herein.

(c) Condition of Indemnification. The right of the Purchaser to be reimbursed for claims for Purchaser Damages resulting from the assertion of liability by third parties ("Purchaser Claims") shall be subject to the following additional terms and conditions:

(i) Within ten days after receiving notice thereof, the Purchaser shall give the Seller written notice of any Purchaser Claims together with a statement of any available information regarding such claim; provided, however, that any failure to give notice within such ten-day period shall not effect the Purchaser Indemnitee's rights hereunder except to the extent such failure shall have prejudiced the Seller with respect to such claim. The Seller shall have the right to undertake the defense thereof by counsel of its own choosing. The Purchaser may, by counsel, participate in such proceedings, negotiations or defense, at its own expense, but the Seller shall retain control over such litigation except as hereinafter set forth. In all such cases, the Purchaser shall give reasonable assistance to the Seller, including making employees of the Purchaser available without charge as reasonably requested.

(ii) If within ten days after receiving notice of any such Purchaser Claim, the Seller fails to notify the Purchaser of its intention to defend, or if the Seller at any time notifies the Purchaser of its decision to abandon their defense, the Purchaser shall (upon further notice to the Seller) have the right to undertake the defense, compromise or settlement of such Purchaser Claim, subject to the right of the Seller to assume the defense of such Purchaser Claim at any time prior to final settlement, compromise or determination thereof.

(iii) Without the prior written consent of the Purchaser, the Seller shall not enter into any settlement of any Purchaser Claim, if pursuant to or as a result of such settlement (i) injunctive or other equitable relief would be imposed against the Purchaser or (ii) such settlement would lead to liability or create any financial or other obligation on the part of the Purchaser for which the Purchaser is not entitled to indemnification hereunder.

9.3 Members' Agreement to Indemnify.

(a) Indemnification. To the extent permitted by law, the Members hereby severally and not jointly agree to indemnify, defend and hold the Seller and its shareholders, directors, officers, Affiliates, employees and agents harmless from and against all demands, claims, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or suffered or incurred by any of such Persons (i) resulting from a breach of any covenant, agreement, representation or warranty of the Members contained in this Agreement or (ii) with respect to any of the Assumed Liabilities (clauses (i) and (ii), collectively, the "Seller Damages"). The Members several liability shall be in proportion to each Member's contribution to the Escrow Fund.

(b) Limitation of Liability. The Seller's right to recover any Seller Damages from the Members shall be subject to all of the following limitations:

(i) The Seller may not recover any Purchaser Damages until the aggregate amount of Seller Damages exceeds one percent of the Base Purchase Price, and any Seller Damages shall be reimbursed by the Members only to the extent of such excess over one percent of the Base Purchase Price.

(ii) The Seller may not recover any Seller Damages on an aggregate basis in excess of thirty percent of the Final Purchase Price.

(iii) The Seller shall have the right to recover only those Seller Damages as to which the Seller has given the Members written notice within one year after the Closing Date. Any written notice delivered by the Seller to the Members pursuant to this subparagraph 9.2(b)(iii) shall set forth with specificity the basis of the claim for Seller Damages and an estimate of the amount thereof.

(iv) All Seller Damages shall be computed net of the present value of any income tax benefit resulting therefrom to the Seller or any proceeds paid or payable as a result of any insurance coverage with respect thereto that reduces the Seller Damages that would otherwise be sustained.

(v) Anything in this Agreement to the contrary notwithstanding, no shareholder, director, officer, Affiliate, employee or agent of the Members shall have any personal liability to the Seller or any other Persons as a result of the breach of any representation, warranty, covenant or agreement of the Members contained herein.

9.4 Remedies. The Members understand and agree that, absent intentional fraud, the Purchaser's right to indemnification and other rights under ARTICLE IX shall constitute the Members' and the Purchaser's sole and exclusive remedy against the Seller with respect to any claim by the Members or the Purchaser or its Affiliates against the Seller arising under or related to this Agreement, the Transaction Agreements or the transactions contemplated hereby.

ARTICLE X TERMINATION

10.1 Termination. This Agreement may be terminated:

- (a) at any time by mutual written consent of the Seller and the Members;
- (b) by the Seller if there has been a material misrepresentation or a material default or breach by the Members with respect to any of the Members' representations and warranties in this Agreement or the due and timely performance of any of the Members' covenants and agreements contained in this Agreement and such misrepresentation, default or breach is not cured by the date thirty (30) days after receipt by the Purchaser or any of the Members of written notice specifying in reasonable detail such misrepresentation, default or breach;

(c) by the Members if there has been a material misrepresentation or a material default or breach by the Seller with respect to the Seller's representations and warranties in this Agreement or the due and timely performance of any of the Seller's covenants and agreements contained in this Agreement, and such misrepresentation, default or breach is not cured by the date thirty (30) days after receipt by the Seller of written notice specifying in reasonable detail such misrepresentation, default or breach;

(d) by the Seller pursuant to Section 7.5, 7.6 or 7.7;

(e) by the Members pursuant to Section 7.5, 7.6 or 7.7;

(f) by the Members if the Seller refuses to allow the Members or the Purchaser to undertake any reasonable environmental investigation in accordance with Section 7.5;

(g) by either the Seller or the Members if the Closing shall not have occurred on or before the date eighteen (18) months after the date of this Agreement (the "Termination Date"); provided, however, that the right to terminate this Agreement under this Section 10.1(g) shall not be available to any party whose failure to fulfill any obligation under this Agreement (including without limitation Section 7.8) has to any extent been the cause of, or resulted in, the failure of the Closing to occur on or before the Termination Date; and

(h) by either the Seller or the Members if any Governmental Authority (i) shall have issued an order, decree or ruling or taken any other action (which the parties shall have used reasonable commercial efforts to resist, resolve or lift, as applicable, in accordance with Section 7.8) permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and nonappealable or (ii) shall have failed to issue an order, decree or ruling or to take any other action (which order, decree, ruling or other action the parties shall have used reasonable commercial efforts to obtain, in accordance with Section 7.8); in each case (i) and (ii) that is necessary to fulfill the conditions set forth in Section 8.1(c), as applicable, and such denial of a request to issue such order, decree, ruling or take such other action shall have become final and nonappealable; provided, however, that the right to terminate this Agreement under this Section 10.1(h) shall not be available to any party whose failure to comply with Section 7.8 has to any extent been the cause of such action or inaction.

10.2 Procedure and Effect of Termination or Failure to Close

(a) In the event of termination of this Agreement and abandonment of the transactions contemplated hereby by the Seller or the Members pursuant to Section 10.1, prompt written notice thereof shall be given to the other party and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by any of the parties hereto. If this Agreement is terminated as provided herein:

(i) All further obligations of the parties hereunder shall terminate, except the obligations contained in Sections 7.2(b), 10.2(b) and 11.2 shall survive;

(ii) All filings, applications and other submissions relating to the transactions contemplated by this Agreement shall, to the extent practicable, be withdrawn from the agency or Person to which made; and

(iii) None of the parties hereto shall have any further obligation to any other party under this Agreement unless such termination was the result of an intentional breach by a party of any representation, warranty, covenant or other provision of this Agreement, or an intentional act or omission by a party that resulted in the breach of any representation, warranty, covenant or other provision of this Agreement, in which case the other party hereto shall be entitled to seek any remedy to which such other party may be entitled at law or in equity for such violation or breach of this Agreement.

(b) The Seller and the Members agree that if this Agreement is terminated by the Seller or the Members for any reason other than a termination of this Agreement in accordance with Sections 10.1(c), 10.1(d), 10.1(e) or 10.1(f) hereof, the Members shall pay to the Seller the Escrow Fund in order to compensate and reimburse Seller for time expended and expenses incurred by the Seller in connection with this Agreement. Because the Seller's actual damages and expenses would be difficult to ascertain if the transactions contemplated by this Agreement fail to close, the Seller and the Members agree that the amount of the Escrow Fund is a reasonable estimate of such damages and expenses. If the Seller becomes entitled to the Escrow Fund because of the termination of this Agreement other than a termination of this Agreement in accordance with Sections 10.1(c), 10.1(d), 10.1(e) or 10.1(f), the Members and the Seller shall jointly direct the Escrow Agent in writing to pay the Escrow Fund to the Seller.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Submission to Jurisdiction. Each of the parties hereto hereby irrevocably consents, to the maximum extent permitted by law, that all actions and proceedings relating to this Agreement or the transactions contemplated hereby shall be brought in any court of general jurisdiction in Mecklenburg County, North Carolina, or in the United States District Court for the Western District of North Carolina; provided, however, that any disagreement provided to be resolved by accountants hereunder shall be so resolved, which resolution shall be conclusive and binding in such courts. Each of the parties hereto waives any objection that it may have to the conduct of any action or proceeding in any such court based on improper venue or *forum non conveniens*, waives personal service of any and all process upon it, and consents that all service of process may be made by mail or courier service directed to it at the address set forth herein and that service so made shall be deemed to be completed upon the earlier of actual receipt or ten days after the same shall have been posted. Nothing contained in this Section 11.1 shall affect the right of any party hereto to serve legal process in any other manner permitted by law.

11.2 Expenses. Whether or not the transactions contemplated hereby are consummated, (i) all filing fees and other costs required to be paid to obtain any consent required of any Person to consummate the transactions contemplated hereby will be borne by the

Members, or the Members shall cause the Purchaser to bear such filing fees and other costs; and (ii) except as provided in Section 10.2(b) or as otherwise provided herein, all other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including the preparation and execution of this Agreement and performance of the transactions contemplated hereby, and all fees and expenses of investment bankers, finders, brokers, agents, representatives, consultants, counsel and accountants will be paid by the party incurring such costs and expenses.

11.3 Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties hereto will use all reasonable commercial efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement.

11.4 Amendment and Modification. This Agreement may be amended, modified or supplemented only by written agreement of the Seller and the Members at any time prior to the Closing Date with respect to any of the terms contained herein.

11.5 Waiver of Compliance; Consents. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, representation, warranty, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section.

11.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given when delivered by hand or by facsimile transmission or mailed by registered or certified mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice; provided that notices of a change of address shall be effective only upon receipt thereof):

(a) If to the Seller, to:

Duke Energy Corporation
Wachovia Building, 13th Floor
400 South Tryon Street
Charlotte, North Carolina 28202
Attention: Robert S. Lilien

Facsimile: (704) 382-1867

Copies to:

Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246
Attention: Kent J. McCready

Facsimile: (704) 378-4000

(b) If to the Members or the Purchaser, to:

Anderson County Water Association
P.O. Box 495
La France, South Carolina 29656
Attention: Charles R. Gibson

Facsimile: (864) 646-6188

Copies to:

Hill, Wyatt & Bannister, L.L.P.
100 Williams Street at Pettigru Street
Greenville, South Carolina 29602
Attention: Leo H. Hill

Facsimile: (864) 235-0199

11.7 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other party or parties, as the case may be; provided, however, that following the establishment of the Purchaser in accordance with applicable law, the obligations of the Members under this Agreement may be assumed by the Purchaser by Purchaser's execution of a counterpart of this Agreement or by such instrument as may be agreed to by the Seller and the Members. Upon such assumption by the Purchaser, the obligations of the Members to "cause the Purchaser" to do or undertake any matter shall be deemed to be the obligations of the Purchaser to do or undertake such matter, and except with respect to Sections 3.4, 7.2(b), 10.2(b), 11.2, and 11.12, (i) all of the agreements and obligations of the Members hereunder shall be and become the agreements and obligations of the Purchaser, (ii) the Members shall be relieved of any and all further obligation or liability with respect to this Agreement, and (iii) the Purchaser shall succeed to the rights of the Members with respect to this Agreement.

11.8 Governing Law. The execution, interpretation and performance of this Agreement shall be governed by the internal laws and judicial decisions of the State of North Carolina.

11.9 Counterparts. 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.

11.10 Severability. If any provision of this Agreement shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect.

11.11 Parties in Interest. Nothing in this Agreement, express or implied, other than as otherwise specifically provided herein, is intended to or shall confer upon any Person other than the parties hereto any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

11.12 Approval of Members. Any consent, approval, direction or decision to be made by the Members hereunder may be made by any Members who, in the aggregate, have contributed a majority of the Escrow Funds, and the Seller may rely for all purposes on decisions made by such a majority.

11.13 Entire Agreement. This Agreement, including the Exhibits and Schedules hereto and the documents delivered pursuant to this Agreement, embody the entire agreement and understanding of the parties hereto in respect of the subject matter hereof. The Exhibits and Schedules hereto are an integral part of this Agreement and are incorporated by reference herein. The Members acknowledges that the Seller has not made any, and makes no, promises, representations, warranties, covenants or undertakings, other than those expressly set forth herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to the transactions contemplated by this Agreement.

05.23.13 000048

IN WITNESS WHEREOF, the Seller and the Members have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

DUKE ENERGY CORPORATION

By: Robert S. Lillen
Name: Robert S. Lillen
Title: Senior Vice President - Diversified Businesses

MEMBERS:

BIG CREEK WATER AND SEWERAGE DISTRICT

By: _____
Name: _____
Title: _____

BROADWAY WATER AND SEWERAGE DISTRICT

By: _____
Name: _____
Title: _____

HAMMOND WATER COMPANY

By: _____
Name: _____
Title: _____

(Signatures continued on following page)

05.23.13 000049

IN WITNESS WHEREOF, the Seller and the Members have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

DUKE ENERGY CORPORATION

By: _____
Name: _____
Title: _____

MEMBERS:

BIG CREEK WATER AND SEWERAGE DISTRICT

By: William A. Boyers
Name: William A. Boyers
Title: Chairman

BROADWAY WATER AND SEWERAGE DISTRICT

By: B. D. Derby, Jr.
Name: B. D. DERBY, JR.
Title: VICE CHAIRMAN

HAMMOND WATER COMPANY

By: Michael Kowalski
Name: Michael Kowalski
Title: Vice Chairman

(Signatures continued on following page)

08.25.12 City 000113

5000049

05.23.13 000050

POWDERSVILLE WATER COMPANY

By:

Robert R. Steeber
Name: ROBERT R. STEEBER
Title: VICE-PRESIDENT

SANDY SPRINGS WATER COMPANY

By:

Charles R. Gissel
Name: CHARLES R. GISSER
Title: Chairman

STARR-IVA WATER COMPANY

By:

Joe H. Theodora Way
Name: JOE H. THEODORA WAY
Title: CHAIRMAN

WEST ANDERSON WATER COMPANY

By:

Rex D. Hurley
Name: REX D. HURLEY
Title: PRESIDENT B.O.D.

08.25.12 City 000114

5000050

05.23.13 000051

IN WITNESS WHEREOF, the Purchaser, by causing this Agreement to be signed by its duly authorized officer as of the 13th day of March, 2006, assumes the obligations of the Members under this Agreement in accordance with Section 11.7 hereof.

PURCHASER:

ANDERSON COUNTY JOINT MUNICIPAL
WATER SYSTEM

By: Alton R. Hogg
Name: Alton R. Hogg
Title: Chairman

WATER SERVICE AGREEMENT

This Agreement is made and entered into as of the 3rd day of July, 2000, by and between DUKE WATER SYSTEMS, a Division of Duke Energy Corporation, a corporation organized and existing under the laws of the State of South Carolina (hereinafter designated as "DWS") and MICHELIN NORTH AMERICA, INC., One Parkway South, Greenville, South Carolina (hereinafter designated as "MNA").

WITNESSETH

That in consideration of the covenants and agreements hereinafter contained and other valuable considerations, the parties hereto, for themselves, their successors and assigns, mutually agree as follows:

1. **Terms.** DWS will deliver water to MNA, which MNA will use and pay for, subject to the terms and conditions of this Agreement. The original term of this Agreement shall be Ten Years from the delivery date or October 1, 2000, whichever is earlier, and shall be renewable at the expiration of the original term. Either of the parties hereto may terminate this Agreement at any time during the term hereof by giving at least three (3) years written notice of such termination to the other party. Nonetheless, either party may terminate this Agreement for cause or for material breach upon sixty (60) days' written notice to the other party. The sale, delivery and use of water hereunder and all service to be rendered or performed by DWS in connection therewith, shall be subject to and in accordance with the terms and conditions of DWS's Service Regulations on file with the South Carolina Public Service Commission (hereinafter referred to as the "Commission"). The Service Regulations are incorporated by reference and made a part hereof as though fully set forth herein. Said Service Regulations are subject to change, revision, alteration, or substitution, either in whole or in part, upon order of the Commission or any other regulatory authority having jurisdiction, and any such change, revision, alteration or substitution shall immediately be made a part hereof as though fully written herein, and shall nullify any prior provision in conflict herewith. DWS reserves the right and MNA hereby grants DWS the right after ninety (90) days notice to suspend the furnishing of any water hereunder or to terminate this Agreement for breach of any of DWS's Water Service Regulations; provided however, that, where an emergency exists, or where a dangerous condition is found to exist on MNA's premises, the water may be shut off without such notice. Upon the termination or expiration of this Agreement, it is expressly agreed and understood that DWS shall have the right, upon reasonable notice to MNA, to enter upon the premises of MNA at such place or places in which any meter or other property of DWS is located and to remove the same.

2. **Services.** (a) The water to be delivered hereunder shall be supplied from DWS's waterworks system in Anderson County, South Carolina, and shall be delivered, except as hereinafter provided for, twenty-four (24) hours a day, three hundred sixty-five (365) days per year. Said water shall be provided to MNA at a



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delivery point suitable to serve MNA's property located in the State of South Carolina, County of Anderson, described as follows:

At a point on MNA's property just west of a county road (Michelin Boulevard), approximately 2,200 feet north of its intersection with U. S. Rte. 29 South.

- (b) The meter(s) used to measure and record the amount of water delivered, will be provided by DWS and at the cost of MNA. Such meter(s) shall be located at the above described delivery point(s) and shall remain the property of DWS. DWS shall test such meter(s) at times and intervals specified in its Service Regulations to establish their accuracy.
- (c) Satisfactory pits or housing shall be provided by MNA for said meter(s) and associated piping and accessories. MNA agrees to furnish land and/or rights of way for said meter pit(s), apparatus and appliances, at no charge to DWS, and, if for any reason it becomes necessary to relocate said meter pit, apparatus and appliances, all costs of relocation will be paid by MNA.
- (d) Appropriate backflow prevention equipment is required on the MNA side of the meter in its service line. MNA shall be responsible for all costs associated with installing the proper backflow preventers at the metering station, including any pit(s), required valves and accessories. All responsibility for ongoing maintenance and operation of the backflow preventers and their respective pit(s) is MNA's. MNA agrees to test the backflow preventers after installation and annually thereafter. The testing and any required maintenance shall be performed by a technician certified by the South Carolina Department of Health and Environmental Control (hereinafter referred to as SCDHEC).
- (e) The total installation of the meter and backflow preventers, and pit(s) to house them shall be in accordance with all applicable regulations promulgated by SCDHEC.

3. Delivery.

- (a) DWS will begin to deliver water hereunder or be able to do so, at such date on or before October 1, 2000, as may be mutually agreed upon by the parties hereto, and MNA will be ready to receive and use water on said date.
- (b) Sale, delivery and use of water hereunder shall be subject to and in accordance with the terms and conditions of DWS's Water Rate Schedule No. 7, now on file with the Commission and hereby incorporated by reference and made a part hereof as though fully set forth herein. Said Rate Schedule is subject to change, revision, alteration or substitution, either in whole or in part upon approval of the Commission or any other regulatory authority having jurisdiction, and any such change, revision, alteration or substitution shall immediately be made a part hereof as though fully written herein and shall nullify any prior provision of this Agreement in conflict herewith.

(c) MNA agrees to purchase its water needs from DWS. MNA agrees to pay all reasonable costs associated with the installation of new facilities required to bring water service from DWS's existing water system to a point or points on MNA's property, said point or points being delineated by MNA. All new facilities installed between DWS's existing water system and the metered delivery point to MNA, including the meter(s) and excluding the pit or housing, shall be titled to DWS by MNA.

(d) The maximum amount of water allowed for MNA's use through this metered delivery will be 2 CCF (1,500 gallons) per minute.

4. Force Majeure. "Force Majeure" means any cause beyond the reasonable control of, and without the fault or negligence of, the Party claiming Force Majeure. It shall include, without limitation, sabotage, strikes or other labor difficulties, riots or civil disturbances, acts of God, hurricanes, earthquakes, explosions, lightning, landslides, fires, floods, droughts, low water, or similarly cataclysmic occurrences, accidents, acts of Government or binding orders of any court or agency, inability to obtain necessary equipment or material, equipment breakdowns, modification or maintenance work on DWS's water system, or any other cause beyond the Party's control, then and in such event the Party claiming Force Majeure shall not be liable during such period of prevention. The Party claiming Force Majeure shall use all reasonable efforts within its control to remove and overcome such cause or causes.

5. Suspension of Service During Emergency. DWS reserves the right and MNA hereby grants to DWS the right to suspend the furnishing of any water hereunder during any system-wide emergency. Such emergency will be declared by DWS to MNA. The system-wide emergency may be declared in DWS' sole discretion and DWS may assign, in its sole discretion, priorities for water usage during such a declared emergency.

6. Payment. Bills rendered to MNA under this Agreement are due and payable at the office of DWS on the issuance date of the bill. Bills are past due and delinquent on the fifteenth day after the date of the bill. In addition, all bills not paid by the twenty-fifth day after the billing date shall be subject to a late charge per month on the unpaid amount at the rate specified in Water Rate Schedule No. 7. If the bill has not been paid after the twenty-fifth day from the billing date, then DWS may, at its option and in addition to any other available rights or remedies, suspend the delivery of water hereunder until MNA has made payment of all money due. This option may be exercised by DWS as often as any such default shall occur, and delay or omission on the part of DWS to exercise such option shall not be deemed a waiver of its right to exercise such option whenever such default on the part of MNA shall occur.

7. Set Offs and Counterclaims. No claims or demands which MNA may

have against DWS shall be set off or counterclaimed against the payment of any sum of money due hereunder, and all such sums shall be paid as herein provided, regardless of any such claim or demand.

8. Condition. The obligations of DWS hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. DWS shall not be liable to MNA for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

9. Warranty. (a) DWS represents that it owns the infrastructure to deliver water service and warrants that it will provide water service to MNA's property located at a point in the southwestern quadrant of the intersection of U. S. Route 29 South and Lee Dobblins Road (S-4-65), Tract 8, upon MNA's request and according to MNA's criteria stipulated in this Agreement. DWS warrants to use all reasonable means at its disposal to ensure the uninterrupted supply of water to MNA.

(b) MNA AGREES THAT IF THE WATER DELIVERED HEREUNDER IS USED FOR FIRE PROTECTION PURPOSES, SUCH USE SHALL BE AT MNA'S RISK AND MNA FURTHER AGREES THAT DWS SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY FIRE EVEN IF SUCH LOSS OR DAMAGE IS OCCASIONED FROM THE FAILURE OF DWS TO SUPPLY WATER HEREUNDER.

(c) LIMITED WARRANTY: DWS WARRANTS THAT THE SERVICES PROVIDED HEREUNDER, WITHIN THE LIMITS PRESCRIBED BY THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION, SHALL BE PROVIDED WITH PROFESSIONAL THOROUGHNESS AND COMPETENCE AND IN ACCORDANCE WITH GENERALLY AND CURRENTLY ACCEPTED GOOD PRINCIPLES AND PRACTICES. DWS SHALL, AT NO COST TO MNA, PROMPTLY CORRECT ANY SERVICES WHICH HAVE FAILED SAID WARRANTY. NO OTHER WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, IS INCLUDED IN THIS AGREEMENT.

10. Limitation of Liabilities. DWS's TOTAL CUMULATIVE LIABILITY TO MNA FOR CLAIMS OF ANY KIND WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER ANY WARRANTY OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF, OR RELATED TO THIS AGREEMENT, SHALL IN NO CASE EXCEED THE COMPENSATION PAID TO DWS UNDER THIS AGREEMENT FOR THE HIGHEST TWELVE CONSECUTIVE MONTHS' BILLS. IN NO EVENT SHALL DWS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES AS A RESULT OF BREACH OF CONTRACT, WARRANTY, GUARANTEE, INDEMNITY, OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY.

11. Survival of Termination. THE PROVISIONS OF SECTIONS 9 AND 10 SHALL APPLY NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT AND SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND SHALL REMAIN IN FULL FORCE AND EFFECT.

12. Assignment. This Agreement and its terms, conditions, obligations and liabilities shall be binding upon the parties hereto and their successors and assigns; provided, however, MNA may not assign this Agreement or otherwise transfer its rights or obligations hereunder without DWS's prior written consent. Duke Energy Corporation is currently entertaining bids for its water systems. In the event that Duke Energy Corporation sells its water systems, MNA hereby agrees to the assignment of this Agreement to DWS's successor.

13. Choice of Law and Jurisdiction. This Agreement shall be construed and interpreted in accordance with the laws of the State of South Carolina, excluding its choice of law rules. Any dispute arising out of or related to this Agreement shall be litigated in a court of the State of South Carolina. Each party expressly submits to the jurisdiction of the Courts of the State of South Carolina.

14. Integration. This Agreement is a complete contract and contains the entire agreement between the parties relating to the subject matter hereof. All prior communications, understandings, or representations, whether written or oral, are hereby superseded. No modification, amendment or other change in this Agreement shall be effective for any purpose unless specifically set forth in writing signed by the party to be bound thereby.

15. Headings. Section headings are for the convenience of reference only and shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

MICHELIN NORTH AMERICA, INC.

BY: Martin A. Wardle
Martin Wardle
Vice President of Purchasing

DUKE WATER SYSTEMS

BY: Michael Snow
Michael Snow
Manager, Duke Water Systems

TELEPHONE NO. 864-225-5741

FAX NO. 864-226-1011

WEST ANDERSON WATER CO., INC.

2767 WHITEHALL ROAD
ANDERSON, S.C. 29625

September 6, 2000

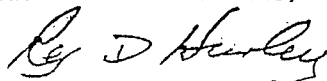
J. Michael Snow, P.E.
314 Tribble Street
P O Box 158
Anderson SC 29622

Dear Mr. Snow:

The Board of Directors of the West Anderson Water Company has been informed that you have signed a contract with Michelin to supply water to the new Michelin plant, which is clearly in the legally designated territory of the West Anderson Water Company.

Please know that we will not tolerate this illegal encroachment on our service area. We will take whatever action necessary to protect our assigned area. In addition to the water service areas established by Anderson County, the Federal Government has agreed upon the assigned areas in the disbursement of federal loans. All revenues and potential revenues originating in our service area have been pledged to USDA Rural Development (formerly FHA), thus our service is protected by US Code Sect. 1926B.

For the Board of Directors,



Rex D. Hurley, President



ROBINSON, BRADSHAW & HINSON, P.A.

ATTORNEYS AT LAW

DAVID L. LITTLE, JR.
DIRECT DIAL (803) 325-2904
DIRECT FAX (803) 985-3794
E-MAIL DLITTLE@RBH.COM

THE GUARDIAN BUILDING
223 E. MAIN STREET, SUITE 600
P. O. DRAWER 12070
ROCK HILL, SOUTH CAROLINA 29731
TELEPHONE (803) 325-2900
FAX (803) 325-2929

CHARLOTTE OFFICE
101 NORTH TRYON STREET, SUITE 1900
CHARLOTTE, N.C. 28246
TELEPHONE (704) 377-2536
FAX (704) 378-4000

September 27, 2000

Via Facsimile and U.S. Mail

Mr. Rex D. Hurley
President
West Anderson Water Company, Inc.
2767 Whitehall Road
Anderson, South Carolina 29825

Re: Water Service Agreement with Michelin North America, Inc.

Dear Mr. Hurley:

I am responding, on behalf of our client, Duke Energy Corporation ("Duke Energy"), to your letter to Mr. Michael Snow dated September 6, 2000.

In the letter you allege that Duke Energy's having entered into the Water Service Agreement dated July 3, 2000 with Michelin North America, Inc. (the "Agreement") amounts to an "illegal encroachment on [West Anderson's] service area." Neither the law nor the facts supports such an allegation.

As an initial matter, we have seen no evidence that West Anderson has the exclusive right to supply water in its designated service area. Moreover, the Michelin plant does not lie entirely within such area. A substantial part of the plant, as well as the location of Duke Energy's point of service to the plant, lies outside of West Anderson's service area. Thus, even if West Anderson has the exclusive right to supply water in its service area, Duke Energy's agreement with Michelin does not encroach on that area, illegally or otherwise.

West Anderson likewise cannot avail itself of the protections of 7 U.S.C. § 1926(b). In order to qualify for § 1926(b) protection, West Anderson must show that (i) it has a qualifying outstanding FmHA (USDA Rural Development) loan obligation; and (ii) it has provided or made service available to the Michelin site. West Anderson cannot establish either element.

R-65850v01_03227.01092

WAWD 00033

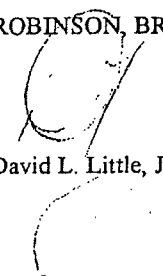
Mr. Rex D. Hurley
September 27, 2000
Page 2

First, it is our understanding that West Anderson does not currently have any outstanding qualifying FmHA loan obligations. Second, to prove that it has provided or made service available to the Michelin plant site, West Anderson must show that it has facilities within or adjacent to the Michelin site that are adequate to provide the requested service. West Anderson has no such facilities. Accordingly, West Anderson cannot avail itself of the protections of § 1926(b).

Duke Energy is confident that it has not "illegally encroached" on West Anderson's service area, that it had the legal right to enter into the Agreement, and that it has the right to supply water to Michelin pursuant to the Agreement.

Very truly yours,

ROBINSON, BRADSHAW & HINSON, P.A.



David L. Little, Jr.

DLL/dsv
cc: Mr. Robert S. Trauschke

FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT, dated as of the 1st day of August, 2001 (this "Amendment"), is between Duke Energy Corporation, a North Carolina corporation (the "Seller"), Anderson County Joint Municipal Water System, a public body corporate and politic of the State of South Carolina (the "Purchaser"), Big Creek Water and Sewerage District and Broadway Water and Sewerage District, each of which is a public body corporate and politic of the State of South Carolina (each of the foregoing a "Member" and a "Municipal Member"), and Hammond Water Company, Powdersville Water Company, Sandy Springs Water Company, Starr-Iva Water Company, and West Anderson Water Company, each of which is a South Carolina non-profit corporation (each of the foregoing a "Member" and a "Non-profit Member" and, collectively, with the Municipal Members, the "Members") and amends the Asset Purchase Agreement (the "Purchase Agreement"), dated as of February 14, 2000, between the Seller and the Members (whose obligations thereunder, with certain exceptions, were assumed by the Purchaser).

BACKGROUND STATEMENT

Pursuant to the Purchase Agreement, the Purchaser has agreed to purchase from the Seller, and the Seller has agreed to sell to the Purchaser, the Seller's water system in Anderson County, South Carolina, through a purchase and sale of substantially all of the system's assets.

The Purchaser, the Members and the Seller desire to amend the Purchase Agreement as provided herein.

STATEMENT OF AGREEMENT

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.1 Capitalized Terms. Capitalized terms used herein without definition shall have the meanings given to them in the Purchase Agreement.



08.25.12 City 000117

5000052

ARTICLE II
AMENDMENTS

2.1 Purchase Price.

(a) Section 3.1 of the Purchase Agreement is hereby amended to reduce the Base Purchase Price from \$70,200,000 to \$68,000,000.

(b) The parties agree that if the Closing Schedule of Asset and Liabilities is prepared as of a date that is not the last day of a month, certain appropriate line items (including unbilled accounts receivable, taxes, and accrued equipment lease obligations) shall be determined by prorating monthly numbers on a basis reasonably acceptable to the parties.

(c) The definition of the term "Capital Expenditures" in Section 1.1 is hereby amended to substitute the date August 15, 2001 for the date October 1, 1999. Accordingly, the only Capital Expenditures that will increase the Base Purchase Price are those made on or after August 15, 2001.

(d) The definition of the term "Governmental Authority" in Section 1.1 is hereby amended by adding the phrase ", judicial" following the word "legislative" therein.

2.2 Closing Date. Section 4.2 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

4.2 Closing Date. The Closing of the transactions contemplated herein shall occur at 10:00 a.m., Charlotte, North Carolina time, on November 6, 2001, or on such other date as the parties may mutually agree (the "Closing Date"). The parties agree to use reasonable commercial efforts to cause the Closing to occur as soon as possible.

2.3 Effective Time. Section 4.3 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

4.3 Effective Time. The effective date of the transfer of the Assets and assumption of the Assumed Liabilities shall be deemed to be 11:59 p.m. on the date immediately prior to the Closing Date (the "Effective Time").

2.4 Financial Statements. Section 5.4 of the Purchase Agreement is hereby amended to add the following to the end of the such section immediately before the period: "and except that the Financial Statements do not reflect any allocated pension expense relating to the participation of the Employees in any pension plans maintained by the Seller".

2.5 Conduct of the Business. Section 7.1(i) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

(i) without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed, make any Capital Expenditures after August 14, 2001, except for (i) individual Capital Expenditures not exceeding \$10,000 made in the ordinary course of the Business, (ii) Capital Expenditures required to be made by the Seller in emergency situations, and (iii) Capital Expenditures for line extensions made in the ordinary course of the Business;

2.6 Closing Documents.

(a) Section 8.2 of the Purchase Agreement is hereby amended to add the following new subparagraph (d)(ix):

(ix) A right of way agreement in substantially the form of Exhibit D-1 attached hereto conveying transmission line rights-of-way over and upon each parcel of the Real Property upon which the Seller operates or maintains any electric power transmission line.

(b) The Purchase Agreement is hereby amended to add to it as Exhibit D-1 the form of right-of-way agreement attached to this Amendment as Exhibit D-1.

(c) Exhibits D and E attached to the Purchase Agreement are hereby deleted and Exhibits D and E attached to this Amendment are substituted therefor.

2.7 Termination Date. Section 10.1(g) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

(g) By either the Seller or the Purchaser if the Closing shall not have occurred on or before December 17, 2001 (the "Termination Date"); provided, however, that the right to terminate this Agreement under this Section 10.1(g) shall not be available to any party whose failure to fulfill any obligation under this Agreement (including without limitation Section 7.8) has to any extent been the cause of, or resulted in, the failure of the Closing to occur on or before the Termination Date; and

2.8 Termination Rights. Section 10.1(h) of the Purchase Agreement is hereby amended by inserting the phrase "(b) or" into the reference to "Section 3.1(c)" therein, so that, as amended, such reference shall be to "Section 3.1(b) or (c)"

2.9 Transition Services. Exhibit A to the Purchase Agreement is hereby amended as follows:

(a) Term. The term of the Transition Services Agreement shall end on the earlier of (i) the date six months after the Closing Date and (ii) February 1, 2002.

(b) Services. The Seller shall not be required to provide any information technology services to the Purchaser; provided, that pursuant to the Transition Services Agreement, the Seller shall agree to turn over to the Purchaser on computer-readable disks billing and collection information with respect to customers of the Business, but only to the extent that such billing and collection information is maintained by the Seller in such form and only to the extent necessary to permit the Purchaser to proceed with billing and collection for such customers in the future.

ARTICLE III AGREEMENTS

3.1 Capital Expenditures. The Purchaser hereby acknowledges that the Seller has not undertaken, and has no plans to undertake prior to the Closing Date, a number of capital projects listed on Schedule 1.1(c) to the Purchase Agreement.

3.2 Telecommunications Equipment. The Seller shall be permitted to maintain its telecommunications equipment on the Owens Corning Fiberglass Tank located on Starr Highway in Anderson, South Carolina, for a period of one year after the Closing Date, at no cost to the Seller, and shall be permitted reasonable access to such telecommunications equipment.

The Seller shall have the right to remove its telecommunications equipment from the Owens Corning Fiberglass Tank at any time during such one-year period. After the expiration of such one-year period, any telecommunications equipment not removed shall become the property of the Purchaser and the Purchaser shall have no obligation to the Seller with respect thereto. The Seller agrees to (a) repair any damage to any property of the Purchaser resulting from the Seller's operation, maintenance, repair, replacement or removal of such equipment, and (b) to indemnify and hold the Purchaser harmless from any loss or liability for any damage to, or destruction of, property or any injury, death or other loss to persons resulting directly or indirectly from the acts or omissions of any officer, employee, agent, contractor or any other person acting on behalf of the Seller in connection with the Seller's operation, maintenance, repair, replacement or removal of such equipment.

3.3 Industrial Contracts. The Purchaser hereby waives any objection it may have to the Water Service Agreement, dated July 3, 2000, between the Seller and Michelin North America, Inc. The Seller agrees that, from the date hereof until the Closing or the earlier termination of the Purchase Agreement, it will not enter into any water supply contract with an industrial customer without the prior written consent of the Purchaser (which shall not be unreasonably withheld or delayed), unless the contract includes a provision permitting assignment to the Purchaser upon the Closing and a provision that, upon such assignment, water will be supplied by the Purchaser at the rate or rates Purchaser charges to similarly situated industrial customers.

3.4 Assumption of Contracts. The Purchaser shall use commercially reasonable efforts to cause each of the Seller's wholesale customers that is a party to a

water purchase agreement with the Seller to terminate its water purchase agreement effective on the Closing Date and to enter into a replacement purchase agreement directly with the Purchaser. In addition, the Seller and the Purchaser shall cooperate to obtain the release of the Seller with respect to all contracts to be assigned to the Purchaser, and the assignment and assumption agreement to be entered into and delivered by the parties at the Closing shall provide that the Purchaser (i) shall fully perform the Seller's obligations under the assigned contracts and (ii) shall, if a release of the Seller is not obtained, indemnify the Seller, to the extent permitted by law, for any breach by the Purchaser of any such contracts.

3.5 Environmental Inspections. The Seller agrees to allow the Purchaser, at any time from the date hereof through August 15, 2001, to collect and analyze additional soil samples from the Real Property on which the Mauldin Street Water Tank is located, all in compliance with the provisions of the Purchase Agreement.

3.6 Sludge. The Purchaser acknowledges the existence of the sludge pile (the "Sludge Pile") currently stored on the Real Property outside of the two storage lagoons. If the Seller has not removed the Sludge Pile from the Real Property prior to the Closing Date, in consideration of the Purchaser's accepting the obligation to handle and dispose of the Sludge Pile, the Base Purchase Price shall be reduced by an amount equal to \$295,000.

3.7 Failure to Obtain Certain Consents. The Parties agree that if they are unable to obtain the consents necessary to permit the assignment of the Seller's water service contracts with any of Clemson University, the City of Clemson or, if required, the City of Anderson, the Parties, in accordance with Section 2.5 of the Purchase Agreement, shall negotiate in good faith to agree upon an arrangement that will give the Purchaser the benefits of and obligations under such water service contracts without undue burden on or liability to the Seller, including an arrangement pursuant to which the Purchaser shall sell water to the Seller on a wholesale basis and the Seller shall continue to supply water pursuant to such contracts.

3.8 Early Termination. If the following actions have not taken place by the following dates, Section 7.11 of the Purchase Agreement ("Acquisition Proposals") shall be deemed void and of no further force or effect and the Seller shall have the right, exercisable at any time thereafter, to terminate the Purchase Agreement.

Action	Date
(a) A substantially complete bond document package shall have been submitted to the prospective bond insurers	September 21, 2001
(b) A substantially complete draft of the final feasibility study for the preliminary official statement shall have been delivered to the underwriter's counsel for the bonds	October 15, 2001

The procedure and effect of any such termination of the Purchase Agreement shall be as provided in Section 10.2 of the Purchase Agreement, and the Seller shall be entitled to retain the Escrow Fund upon any such termination.

3.9 Escrow. Notwithstanding Section 10.2(b) of the Purchase Agreement, in either of the following two circumstances the Members and the Seller shall jointly direct the Escrow Agent in writing (i) to release \$600,000 of the Escrow Fund to the Members, (ii) in order to compensate and reimburse the Seller for a portion of the time expended and the costs incurred by the Seller in connection with this Purchase Agreement, to pay \$100,000 of the Escrow Fund to the Seller, and (iii) to release a proportionate amount of accrued interest to each:

- (a) If the Purchase Agreement has been terminated pursuant to Section 10.1(g) at a time when (I) the South Carolina Public Service Commission has not approved the consummation of the transactions contemplated by the Purchase Agreement; the U.S. Army Corps of Engineers has not consented to the assignment to the Purchaser of the Contract, dated June 2, 1967, by and between the United States of America and Duke Power Company; or a suit or administrative proceeding is pending that seeks to enjoin or prohibit the transactions contemplated hereby or has the effect of preventing or precluding the performance of any party's covenants hereunder, whether through direct action or through the denial or appeal of a required regulatory approval or the consent of the U.S. Army Corps of Engineers, and the existence of such suit or proceeding prevents the Purchaser from financing the purchase of the Assets on commercially reasonable terms, and (II) the Seller has not offered to the Purchaser to amend the Purchase Agreement to extend the Termination Date in order for the parties to attempt to subsequently obtain such approval or consent (as necessary) or defend such suit or proceeding; or
- (b) If the Purchase Agreement is terminated pursuant to Section 10.1(h).

ARTICLE IV

MISCELLANEOUS

4.1 Effectiveness of this Amendment. This Amendment shall be effective only upon execution hereof by the parties hereto.

4.2 Effect of Amendment. From and after the effective date of this Amendment, all references to the Purchase Agreement set forth in any other document or other agreement or instrument shall, unless otherwise specifically provided, be references to the Purchase Agreement as amended by this Amendment. This Amendment is limited as specified and shall not constitute or be deemed to constitute an amendment, modification or waiver of any provision of the Purchase Agreement except as expressly

set forth herein. Except as expressly amended hereby, the Purchase Agreement shall remain in full force and effect in accordance with its terms.

4.3 Governing Law. The execution, interpretation and performance of this Amendment shall be governed by the internal laws and judicial decisions of the State of North Carolina.

4.4 Counterparts. This Amendment 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.

4.5 Severability. If any provision of this Amendment shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect.

4.6 Successors and Assigns. This Amendment shall be binding upon, inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto.

05.23.13 000059

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized officers as of the date first above written.

DUKE ENERGY CORPORATION

By: Robert L. Hildebrand

Title: Senior Vice President

ANDERSON COUNTY JOINT
MUNICIPAL WATER SYSTEM

By: _____

Title: _____

BIG CREEK WATER AND
SEWERAGE DISTRICT

By: _____

Title: _____

BROADWAY WATER AND
SEWERAGE DISTRICT

By: _____

Title: _____

HAMMOND WATER COMPANY

By: _____

Title: _____

(Signatures continued on following page)

08.25.12 City 000124

5000059

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized officers as of the date first above written.

DUKE ENERGY CORPORATION

By: _____
Title: _____

ANDERSON COUNTY JOINT
MUNICIPAL WATER SYSTEM

By: Alton R. Boyes
Title: Chairman

BIG CREEK WATER AND
SEWERAGE DISTRICT

By: Alton R. Boyes
Title: Chairman

BROADWAY WATER AND
SEWERAGE DISTRICT

By: Barney D. Danks
Title: Vice Chairman

HAMMOND WATER COMPANY

By: D. H. H. H. H.
Title: President

(Signatures continued on following page)

05.23.13 000061

POWDERSVILLE WATER COMPANY

By: *Arthur W. Stecker*
Title: *President*

SANDY SPRINGS WATER COMPANY

By: *Charles L. Wilson*
Title: *Pres*

STARR-IVA WATER COMPANY

By: *Boyd H. Henderson*
Title: *Pres*

WEST ANDERSON WATER
COMPANY

By: *J. T. Hopkins*
Title: *Pres.*

08.25.12 City 000126

5000061

Anderson County Water Association

P.O. Box 299, La France, South Carolina 29656
Phone: 864-646-0017 Fax: 864-646-6188

Minutes of the Anderson County Water Association

September 11, 2001, 9 a.m.
at Sandy Springs Water Company

Present: Frank Turner, Hammond; Bud Whelchel, Sandy Springs; Chairman Charlie Gibson, Sandy Springs; Randy Looper, Big Creek; Ed Chamblee, Hammond; Vice Chairman Norbert Steeber, Powdersville; Barney Darby, Broadway; O.S. Kirkpatrick, Hammond; Leo Treadaway, Starr-Iva; Steve Wilson, West Anderson; Marshall Kowalski, Hammond; Toddy Hopkins, West Anderson; David A. Davis, Belton-Honea Path; Alton R. Boggs, Big Creek; Kent Guthrie, Anderson County Water System; William McCoy, Anderson County Water System; and Bruce Cannon, Anderson County Water Association.

Absent: Douglas Locke, Broadway; Ned McGill, Starr-Iva; Robert Stevenson, Pioneer; and Charles Privette, Highway 88.

Mr. Randy Looper opened the meeting with prayer.

On a motion by Barney Darby, seconded by Randy Looper, minutes of the August 14, 2001, meeting were approved with a correction on the dates for the Annual Conference of the National Rural Water Association. The conference dates are September 16-19, 2001.

As a follow-up to the August 14 minutes, it was agreed that Mr. Gibson will talk further with Jim Bailes about Mr. Bailes' request for donations to build a headquarters and a training center for the South Carolina Rural Water Association. It appeared that some companies are interested in contributing to the project but they would like to know about the facility and where it will be located. Suggestions for training programs included use of the technical colleges as training sites. Mr. Gibson said that he would discuss this suggestion with Mr. Bailes.

On the conversion of the affected water companies to public service districts, Attorney Leo Hill was quoted as saying it is very important for the companies to proceed with the conversion process in order to complete it by the end of the year. Mr. Gibson said, "This is the most important thing you can do." The group agreed to set October 15-19 as the week for companies to vote on the conversion. Companies were advised to use the document from Mr. Hill, dated August 13, 2001, and distributed at the ACWA's August 14, 2001, meeting as a guide for the conversion. A one-sheet outline of the Conversion Steps was distributed as a quick-reference guide to the steps explained in Mr. Hill's handout. A copy of the outline is filed with these minutes.

(Continued on Page 2.)



SI 00442

In discussing the progress on the purchase of the Duke Water System, Mr. Gibson and Mr. Guthrie said they had been informed by the city of Anderson and Duke Energy that the two had reached an agreement for the city to purchase the retail system within the city limits and some retail accounts contiguous to the city. They said that Duke had agreed to adjust the price for the entire system, wholesale and retail, from \$68 million to \$63.5 million, and the reduction would be prorated between the city and the ACWA. According to discussions, Mr. Guthrie said that, deducting the \$18 million to be allotted for the city's purchase, the total cost for the ACWA's acquisitions will be \$46.85 million. He cautioned that discussions are continuing. Mr. Gibson said that he, Mr. Guthrie and Mr. McCoy have met with Pendleton and Williamston regarding long-term contracts and had informed them that letters of intent would be needed from them by September 17, 2001. They were informed that an extra assessment on rates would be necessary for wholesale customers who did not sign long-term contracts. Mr. Gibson said that efforts have been made to set up meetings with Homeland Park and a meeting will be scheduled with the city of Clemson.

Mr. Guthrie said that he has received a draft of a proposed joint news release from the city of Anderson, the ACWA, and Duke Energy about the agreement on the purchase of the Duke System. It was agreed that Mr. Guthrie, Mr. McCoy, and Mr. Cannon will review the draft, make changes if necessary, and add the Association's input.

Mr. Gibson distributed a proposed statement from the Association concerning the joint purchase of the Duke System. After making some changes and on a motion by Mr. Kirkpatrick, seconded by Alton Boggs, the statement was unanimously approved. A copy is filed with these minutes.

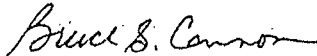
Mr. Gibson reported that the Personnel Committee has narrowed the field of candidates for the General Manager's position to two. The committee will meet immediately following this meeting.

Mr. McCoy said that maps of the companies' service districts are being finalized and will be presented to each company upon completion for your agreement and for you to send to the Secretary of State for approval.

There being no further business, the meeting adjourned at 10:08.

Attachments filed with these minutes: Conversion Steps
Conversion Statement

Respectfully submitted,



Bruce Cannon
Transition Team Member

SI 00443

Anderson County Water Association

P.O. Box 299, La France, South Carolina 29656
Phone: 864-646-0017 Fax: 864-646-6188

Minutes of the Anderson County Water Association

September 21, 2001, 9 a.m.
at Sandy Springs Water Company

Present: Charlie Gibson, Sandy Springs; O.S. Kirkpatrick, Hammond; David A. Davis, B-HP; Alton Boggs, Big Creek; Kent Guthrie, ACWS; Leo Treadaway, Starr-Iva; William McCoy, ACWS; Robert J. Stevenson, Pioneer; Marshall Kowalski, Hammond; Toddy Hopkins, West Anderson; Randy Looper, Big Creek; Norb Steeber, Powdersville; Frank Turner, Hammond; Charles Privette, Hwy. 88; Bud Whelchel, Sandy Springs; Steve Wilson, West Anderson; and Bruce Cannon, ACWS.

Absent: Douglas Locke, Broadway.

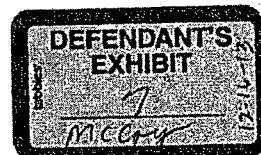
Chairman Gibson opened the meeting at 10 a.m. by calling on Randy Looper for the prayer.

Mr. Gibson said that the five companies seeking conversion to Special Purpose Districts are working toward having their individual company meetings during the week of October 15. Attorney Leo Hill will provide the necessary documents and assist the companies with getting the process started in time for the October meetings.

Mr. Gibson called attention to a survey sheet requesting information on training that each company would like to be offered. He asked that the companies complete the form and return it by next meeting. The association will explore training available and determine programs that can be offered through Tri-County Tech, the SCRWA, or other providers.

Chairman Gibson reported that the city of Anderson and Duke had reached an agreement for the city to purchase Duke's retail system inside the city and part of the retail system in the "donut" adjacent to the city limits. In the accord, Duke would reduce the price for the entire system from \$68 million to \$63.5 million. As now being discussed, according to Mr. Guthrie, the difference (\$4.5 million) would be split evenly between the city of Anderson and the ACJMWS. The city would pay \$15.58 million for its portion of the purchase from Duke and the ACJMWS would pay \$47.92 million.

The Board unanimously approved the following motion by Randy Looper, seconded by O.S. Kirkpatrick: The Association recommends that the Joint System purchase the wholesale system inside and outside the city of Anderson for \$47.92 million



SI 00450

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and also certain retail customers outside the city limits for the purpose of service area boundary alignment. These retail customers will be assigned to appropriately located association members as agreed to earlier by City Manager John Moore and representatives of the Association.

Mr. McCoy said that maps of the companies' district boundaries and the Duke Retail System are almost complete and should be ready for the companies in the next few days.

On a motion by Randy Looper and seconded by Alton Boggs, the Board unanimously agreed to recommend to the Anderson County Joint Municipal Water System to split the responsibilities of the General Manager into two positions, Manager of Operations and Manager of Administration. Further, the Association will recommend to the ACJMWS that the Operations position be offered to Henry Payne, currently employed by Duke's Anderson operation, and the Administrative position be offered to Kent Guthrie, currently part-time co-manager of the ACJMWS and Manager of Sandy Springs Water Company.

Mr. Gibson said that the city of Anderson has requested that two representatives of its alliance be added to the ACJMWS's transition team. The city has indicated that it wishes to place its administrator John Moore and Clemson Administrator Rick Cotton on the team. By consensus, the Association recommends to the ACJMWS that Mr. Moore and Mr. Cotton be added to the team. It was agreed, by consensus, that Kent Guthrie and William McCoy will remain members of the Transition Team.

After reviewing Working Draft #5 of the Bylaws (a copy filed with these minutes) showing changes in the General Manager's position, the Board unanimously approved the draft as presented. The motion was made by Frank Turner and seconded by Marshall Kowalski.

Mr. Guthrie and Mr. McCoy recommended that the Association approve a list of capital improvements that need to be made to the Duke Water System. (The list is filed with these minutes.) They felt that these improvements should not be delayed until the purchase of the Duke System is complete. The Board unanimously passed a motion by Bud Wheelchel, seconded by Mr. Steeber, to approve the list of improvements.

The meeting adjourned at 11:05.

Respectfully submitted,


Bruce S. Cannon
Transition Team

SI 00451

07.10.13 000001

11/12/01

John Moore

From: John Moore
Sent: Monday, November 12, 2001 9:04 AM
To: Kent Guthrie (E-mail)
Cc: Bill Austin (E-mail); Shawn Trauskey (E-mail); Mary Lou Snipes (E-mail); Margaret Pope (E-mail)
Subject: Duke Water Issues

Kent:

There are so many issues that still to be resolved, I am not sure where to start. Plus, if you are as busy as I am trying to keep the closing on track, meeting to resolve these issues is going to be tough.

Anyway, here is what I have still out there:

- Territories - Need meeting with City and water companies regarding this matter. It is important that we resolve so that City doesn't need to intervene with Secretary of State.
- ✓ Value of Customers - Need to determine the valuation method for industrial and residential customers that water companies want to purchase from City (i.e. BASF, OCF, West Anderson area, etc.).
- Duke Employees - Need to discuss last week's interviews and who needs to go where.
- ✓ Pumped vs Non-Pumped rates - Need to finalize methodology.
- Assets - Need to define lines the City will get. Need lease for tanks. Need agreement on building. *Jim Crockett*

Let me know your schedule and thinking, and we will try to address one at a time.

John

633 / residential
↗



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11-13-01

John Moore

From: John Moore
 Sent: Tuesday, November 13, 2001 8:25 AM
 To: Mary Lou Snipes (E-mail)
 Cc: Bill Austin (E-mail); Richard Shirley; Richard Shrlley (E-mail)
 Subject: Territorial Issue

Mary Lou:

Would you check with Bill to determine if he can take a conference call from Mayor Shirley and me sometime this morning? Also, please ask Bill to read the following text before the call. It should enlighten him about this issue.

We need to discuss this issue of territories. It appears that Leo Hill, based on his conversation with Jim Brailsford, is not happy with the way the City is handling this issue. In particular, he appears to believe that I have committed the City to allow the expansion of the water companies' territories into the current Duke retail territory.

Background:

I did meet with Kent Guthrie and William McCoy on several occasions to discuss these matters. Different maps at different times were presented. Only last week did I receive the final map prepared by Benson Engineers. In every meeting, it was portrayed to me that over the years, Duke had crossed the water companies' territorial lines and served customers in the then existing water territory. I told Kent and William that I had no problem in returning these customers to the water companies for a fair reduction in the City's retail system price, if it was clearly documented that Duke had crossed the line. No documentation has ever been presented. Plus, I was never told that the water companies would be redefining their territories. I learned this through a Hammond water customer and friend who brought me the public notice letter. I always assumed that this transfer or sell of customers would occur after the closing of the whole deal.

In the meantime, Design South has been working with Duke Water on the City's behalf to develop a map to include with the City's Asset Purchase Agreement. There are definite conflicts between the City/Duke map and the water companies' map. I am also finding out that Duke did not cross existing water company territorial lines. It appears that the water companies are unilaterally considering these disputed territories theirs and are now claiming them through their special purpose district process.

Now, I am hearing that Mr. Hill is saying that the City's objection to this redefining will delay the process and cause the ACJMWS not to meet the 12/31 closing date. I am sorry, but the City will not back off what is rightfully in the current Duke retail territory prior to determining the value of these customers and whether they are should remain City customers or written determination of just compensation is agreed upon.

Conclusion:

I have always agreed to a principle that the water companies should have what is rightfully theirs. I have taken the word of Kent and William that the maps they presented were the existing water company territories (legally defined) plus what they now serve. I still stand by this principle. However, it appears that my early lack of knowledge has led to misunderstanding. It seems that the best course of action is to move forward with the City buying the current Duke retail customers, and the water companies defining their territories to be the last recorded boundary lines plus what they are currently serving. After the closing, any changes can be negotiated.

Look forward to hearing from you,

John



08.01.13 000001

11-20-01

Water Purchase Agreement

HILL & HILL, LLC
HAYNSWORTH SINKLER BOYD, P.A.

THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10 OF THE SOUTH CAROLINA CODE OF LAWS (1976).

WATER SALE AND PURCHASE AGREEMENT

This WATER SALE AND PURCHASE AGREEMENT made as of this _____ day of _____, 2001, by and between the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as “Seller”), and the _____, South Carolina, a _____ (hereinafter referred to as the “Purchaser”).

BACKGROUND AND FINDINGS

△ Seller was organized under the provisions of △ Section 6-25-5 et seq., Code of Laws △ of South Carolina (1976), as amended, as a body politic and corporate for the purpose of acquiring the Duke Energy Water Filtration Plant and the Transportation and Distribution System (collectively the “Duke Facilities”) situated on Lake Hartwell△ and in surrounding areas. The Duke Facilities are the potable water source for and △ provide wholesale water to the △ municipalities of Anderson, Williamston, Clemson and Pendleton, South Carolina, to the Public Service Districts of Big Creek Water and Sewerage District (“Big Creek”), Broadway Water and Sewerage District△ (“Broadway”), [insert correct names of Districts, as converted] [Hammond Water △ District], [Powdersville Water △ District], [Sandy Springs Water △ District], [Starr-Iva Water △ District], and [West Anderson Water △ District]. In addition, water is provided

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by the Duke Facilities to Clemson University and △, on a retail basis, to certain commercial, industrial and residential customers.

△ Seller has negotiated an agreement with Duke Energy Corporation ("Duke Energy") whereby it will acquire all of the facilities and assets related to the △ Duke Facilities, including Duke △ Energy's existing contracts. The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have opportunity to make recommendations for future policies and operations. △ Seller, in order to acquire the △ Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, △ and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Hence, this agreement between these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who △ have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchaser agree as follows:

ARTICLE I

REPRESENTATIONS AND TERM

△ Section 1.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina that will acquire, own and operate a 32 MGD surface water treatment plant as part of its Waterworks System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

△ Section 1.02. Representations of Purchaser. The Purchaser hereby represents that it is △ a valid [municipality/public service district] and a public body politic and corporate of the State of South Carolina owning and operating a water distribution system which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 1.03 Term of Agreement. This agreement shall be effective on the date of △ Seller's acquisition of the △ Duke Facilities and shall extend for so long as △ such facilities, as operated and maintained as described herein, are capable of producing and delivering the allocated volume to the Purchaser, but no less than the later of thirty (30) years or the final maturity on any outstanding bonds. Upon its effective date, this

Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment Purchaser hereby consents.

ARTICLE II

DEFINITIONS

Section 2.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

“Agreement” means this Water Sale and Purchase Agreement between Seller and Purchaser, as the same may from time to time be modified or amended.

“Allocated Capacity” means that portion of the capacity of the Plant to be made available to the Purchaser or reserved to Seller. The initial Allocated Capacities of the Plant are set forth in Exhibit “A” hereto. Any increase in Plant capacity resulting other than from expansion of the Plant as contemplated by Section 3.08 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

“Allocated Percentage” means, with respect to each party to this Agreement, the percentage derived by dividing such party's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit “A”.

“Arbitration Panel” means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

“Board” means the Board of Commissioners of Seller, the governing body of Seller.

"Bonds" means (A) those bonds initially issued by Seller to acquire the Facilities (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year.

"Bond Year" means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

"Capital Charge" means one twelfth (1/12) of a hundred and thirty percent (130%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by the Purchaser's Allocated Percentage.

"Facilities" means the Plant, all related transmission pipes and any related elevated tanks, machinery and equipment and any replacement or substitute facilities as well as any additional related facilities used to produce or supply water for wholesale delivery; provided, however, that such term shall not include any facilities owned or operated by Seller as a part of the Retail System.

"Fiscal Year" means the Fiscal Year of Seller's System as shall from time to time be determined by Seller.

"Force Majeure" means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or

military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

△**"Improvement Bonds"** means all waterworks △ **system** revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Sections 3.07 and 3.08 of this Agreement.

△**"Ordinance/Resolution"** means the Bond Ordinance/Resolution adopted by **the governing body of** Purchaser on △ _____ and references herein to such Bond Ordinance/Resolution shall be to the provisions of such as adopted on such date notwithstanding any subsequent amendment, modification, repeal or revision of such Bond Ordinance/Resolution or any provision thereof or the payment or defeasance of any obligations issued thereunder or secured thereby. [This will be applicable only in the case of Purchasers with outstanding debt.]

△**"Operation and Maintenance △ Expenses"** means all reasonable recurring direct expenses required to operate the Facilities and deliver potable water to the distribution system and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, any expenses relating to booster pumps

required for transmission of water to Purchaser and other direct expenses necessary for the wise and prudent functioning of the Facilities.

△“Participant” means △ the Purchaser and any purchaser who participates in a similar contract with △ Seller and is a △ governmental entity or a water company organized under △ Section 33-36-1710 △ et seq. of the South Carolina Code of Laws 1976, as amended.

△“Plant” means Seller’s existing 32 MGD water treatment plant and △ any other expansions, improvements or alterations to △ such plant.

△“Purchaser” means _____, South Carolina and its successors and assigns.

△“Purchaser’s System” means the △ water distribution system of Purchaser.

△“Renewal and Replacement △ Fund” means the Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

“Retail System” means the portions of the System existing solely for the purpose of providing retail water service to ^{Buyer’s} ~~Seller’s~~ customers.

“Seller”[△] means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

△“Seller’s System” or “System” means the Waterworks System of the Seller, including all △ of the Facilities △ and facilities constituting the Retail System, and any improvements or expansion of the Facilities and such facilities of the Retail System.

“Territorial Map”[△] means that map prepared by _____ dated _____ setting forth the agreed upon territorial boundaries of the various Purchasers purchasing

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required for transmission of water to Purchaser and other direct expenses necessary for the wise and prudent functioning of the Facilities.

△“Participant” means △ the Purchaser and any purchaser who participates in a similar contract with △ Seller and is a △ governmental entity or a water company organized under △ Section 33-36-1710 △ et seq. of the South Carolina Code of Laws 1976, as amended.

△“Plant” means Seller’s existing 32 MGD water treatment plant and △ any other expansions, improvements or alterations to △ such plant.

△“Purchaser” means _____, South Carolina and its successors and assigns.

△“Purchaser’s System” means the △ water distribution system of Purchaser.

△“Renewal and Replacement △ Fund” means the Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

“Retail System” means the portions of the System existing solely for the purpose of providing retail water service to Seller’s customers.

“Seller”[△] means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

△“Seller’s System” or “System” means the Waterworks System of the Seller, including all △ of the Facilities △ and facilities constituting the Retail System, and any improvements or expansion of the Facilities and such facilities of the Retail System.

“Territorial Map”[△] means that map prepared by _____ dated _____ setting forth the agreed upon territorial boundaries of the various Purchasers purchasing

water from the seller. This map incorporated by reference into this agreement. Copies of it are on file with the Seller and the several Purchasers. A reduced copy of this map is attached as Exhibit B.

△“Trans-Line” means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

ARTICLE III

SALE AND PURCHASE OF WATER

Section 3.01. △ Sale of Water. (A) On and after the effective date of this Agreement, Seller shall make available and, as required, deliver to Purchaser for so long as the Facilities are in operation, but not less than the later of (A) thirty (30) years or (B) the final maturity of any outstanding Bond an amount of potable water equal to △ Purchaser's Allocated Capacity to supply △ Purchaser's daily demand for potable water. Such potable water △ shall be delivered to Purchaser at a metering site provided by Seller, such site to be agreed upon between Seller and Purchaser. Such potable water shall be provided at the metering site at an operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in Exhibit △“C” hereto. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to Purchaser △ Purchaser's Allocated Percentage of the available treated water until normal service is restored. Seller reserves the right and Purchaser grants the right to Seller to suspend the furnishing of any water

during any System wide emergency. Such emergency will be declared by Seller to Purchaser.

(B) Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be Δ Purchaser's risk and Purchaser further agrees that Sellers shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to Purchaser.

(C) The obligations of Δ Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchise, and permits for the delivery of such water. Δ Seller shall not be liable to Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchise, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning the earlier of (i) the month immediately succeeding the month in which its Allocated Capacity is made available to it pursuant to Section 3.01 hereof or (ii) if Δ Seller's failure to make available and deliver water on or before _____, is a result of Force Majeure, then at the earliest possible date, and in each succeeding month during the term of this Agreement, Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor Δ a monthly amount equal to:

- (A) the Capital Charge, plus
- (B) (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser to

all water delivered to all purchasers of water from the Δ System for the preceding month, Δ i.e.,

Monthly O&M Payment = 1/12 O&M Budget Δ x $\frac{\text{Purchaser's metered Flow Last Month}}{\text{Total treated Flow Last Month}}$ plus

- Δ (C) all expenses of operation and maintenance and of capital recovery of booster pumps in the preceding month required for transmission of water to Purchaser; Δ [provided, that for the first twenty-four (24) months of delivery of water to Purchaser that this component will be fixed at the rate of \$.20 per 1,000 gallons delivered to Purchaser.]

The next monthly payments by Purchaser pursuant to paragraphs (A) and (B) of this Section 3.02 due after _____ of each year shall be adjusted as follows: (x) Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to Δ Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made [in the Renewal and Replacement Fund, or] in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds and (y) the next monthly payment by Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior budget year.

The obligation of Purchaser to make the payments of the Capital Charge provided by this Section 3.02 shall be absolute and Δ unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any Facilities, any acts or circumstances which may constitute failure of

consideration, destruction of or damage to the Facilities, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Purchaser obligates and binds itself to punctually make the payments of the Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of Purchaser for payment of the Capital Charge under this Agreement shall be limited to the gross revenues [as defined in the △ Ordinance/Resolution] derived by Purchaser from the operation of △ Purchaser's System remaining after payment of costs of operating and maintaining △ Purchaser's System, which gross revenues are hereby pledged for the payment of the Capital Charge.

[This pledge subject to terms of Ordinance/Resolution]

Section 3.03. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, and maintain a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at least annually and upon the request of either party when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by Purchaser for the same calendar period during the prior year plus △ three percent (3%). Seller, with the agreement of Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.03. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the water treatment plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the

same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.03. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by the Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

Section 3.04. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the Facilities in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.05. Books and Records. Seller shall maintain separate accounting records for a Seller's System which records shall be maintained in accordance with generally accepted accounting principles and shall show the allocation of expenses of the System as between the Facilities and a Seller's other assets, or operations. All books and records of Seller pertaining to a Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.06. Budget. Seller shall establish an annual budget for Operation and Maintenance Expenses for the Facilities and shall provide a copy of such budget to the Purchaser upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to Purchaser. Seller shall

provide a financial statement to Purchaser comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit of Operation and Maintenance Expenses of the Facilities certified by a firm of certified public accountants or an auditing firm.

Section 3.07. Capital Costs Not Related to Increases of Δ Purchaser's Allocated Capacity. (A) The cost of future capital improvements to the Facilities for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

Δ (B) The cost of future capital improvements to the Facilities to extend the useful life of the Facilities or to maintain treatment capacities shall also be shared on the basis of Allocated Percentages. If Plant capacity is expanded in order to provide water to other new water service areas, bulk or industrial users or other political subdivisions, with no direct benefit to Purchaser, then Purchaser shall not be obligated to participate in the capital cost of such improvement(s).

Δ (C) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Δ Section 3.08. Expansion of the Facilities to Provide Additional Capacity.

(A) Seller and Purchaser recognize that it cannot presently be determined what their

respective future requirements for water will be and that one or both of such parties may at some future time require additional capacity in the Facilities. It is the intention of the parties hereto to provide such additional capacity as shall be needed by the respective parties with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event either party to this Agreement shall determine that it requires additional capacity, it shall so notify the other party in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other party hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

^Δ(B) Seller agrees to undertake the design and construction of the facilities necessary to provide the additional capacity requested by this Section 3.08 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

^Δ(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

^Δ(ii) Seller shall not be required to add capacity to the Plant in increments of less than five million (5,000,000) gallons;

^Δ(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and

financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through an increase in the minimum charge to provide for payment of ^Δ Purchaser's proportionate share of obligations issued by Seller to provide financing (provided that Purchaser shall demonstrate compliance with the requirements of Section 3.11(B)(ii) hereof); or (c) other arrangements for funding or payment satisfactory to Seller; and

(iv) a supply of water is available and necessary permits can be obtained.

^Δ(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the Capacity of the Plant or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.09. ^Δ Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities. (A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by either party to this Agreement of any water received by such party from the Facilities, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

^Δ(B) Either party to this Agreement may sell or lease all or any portion of its Allocated Capacity to the other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

△(C) Either party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

△(i) the Allocated Capacity shall first be offered to the other party to this Agreement, on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

△(ii) if the other party elects not to purchase any portion, then that portion may △ then be offered to a new purchaser;

△(iii) as a condition to such sale or lease, such new purchaser shall become △ a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

△(iv) no such sale, lease or other disposition of Allocated Capacity shall △ relieve either party of primary responsibility for the performance of its obligations under this Agreement; and

△(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to the other party an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any bonds or other obligations issued in connection with the financing of any portion of △ Seller's System.

△ Section 3.10. Priority of Pledge; Additional Obligations; and Rate Covenant.

(A) Purchaser agrees that it will not grant any pledge of, or interest in, the revenues △ of △ Purchaser's system prior or superior to the pledge thereof securing payment of the △ Capital Charge hereunder. Except as permitted herein, Purchaser agrees that it will not △ pledge, or grant an interest in, said revenues on a parity with the pledge thereof securing △ payment of the Capital Charge hereunder. [This paragraph subject to terms of Ordinance/Resolution]

(B) Purchaser△ covenants that at all times during the term of this Agreement it will △ impose rates and charges for services provided by △ Purchaser's System sufficient at all △ times to enable Purchaser to meet its obligations hereunder.

ARTICLE IV

RENEWAL AND REPLACEMENT FUND;
ADVISORY COUNCIL

Section 4.01. Renewal and Replacement Fund; Use; Investments. △ Seller △ shall establish as part of △ Seller's System a Renewal and Replacement Fund for the △ Facilities. The△ Renewal and Replacement Fund is intended to build up and maintain a △ reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, △ betterments and extension of the Facilities. Money in the Renewal and Replacement Fund △ shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the △ Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for △ those things which are reasonably necessary to maintain the

Facilities in good repair and Δ working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults Δ of Bonds; and (5) for optional redemption of Bonds.

Section 4.02. Repayments to Purchaser. If, at the end of any Fiscal Year, Δ Purchaser is not in default under this Agreement, Seller shall, within thirty (30) days after Δ the next _____ succeeding the end of such Fiscal Year, deposit in its General Fund, from revenues Δ of Δ Seller's System, an amount equal to one-sixth (1/6) of the aggregate Capital Charge paid Δ by Purchaser during such Fiscal Year less the amount of the minimum charge, if any, Δ deposited in the Renewal and Replacement Fund during such Fiscal Year pursuant to Δ Section 4.01(A) hereof, and shall pay from its General Fund, but only from the deposit Δ made pursuant to this Section 4.02, to Purchaser an amount equal to one-sixth (1/6) of the Δ minimum charge paid by Purchaser during such Fiscal Year less the amount of the Δ minimum charge deposited in the Renewal and Replacement Fund during such Fiscal Year Δ pursuant to Section 4.01(A) hereof. In the event any amount shall be owed to Seller by Δ Purchaser at the end of any such Fiscal Year, Seller may offset such amount against Δ amounts otherwise payable to Purchaser pursuant to this Section 4.02 and pay over to Δ Purchaser pursuant to this Section 4.02 such amounts net of the amount owed to Seller by Δ Purchaser.

Δ Section 4.03. Advisory Council. The parties hereto shall establish an Advisory Δ Council Δ ("Council"). The purpose of the Council is to provide a means of cooperation and Δ communication between the parties to this Agreement and other similar Purchasers. Δ The Council will receive input and recommendations from the

parties to this Agreement Δ relating to the operation and capital needs of the Facilities. The Council shall consist of the Δ chief operating officer of the Purchaser and the chief operating officer of the other such Δ entities that have signed similar contracts with the Seller, or the designee of such officer. Δ The duties of the Council shall include, but not be limited to:

Δ (i) review the operation and maintenance budget;

Δ (ii) receive input and make recommendations on upgrades needed to meet regulatory requirements;

Δ (iii) receive input and make recommendations on other capital improvement needs;

Δ (iv) review plans for plant expansions;

Δ (v) receive and review audits of the Facilities operations;

Δ (vi) review the response by the Seller to any findings raised during the course of any audit; and

Δ (vii) review and recommend revisions of funding requirements for the Renewal and Replacement Fund.

(viii) review and make recommendations as to rates and charges.

Seller shall take into consideration any recommendations made by the Council; however, the parties hereto agree that the final decision and responsibility is that of Seller. Seller shall not be bound by any recommendation or determination of the Council.

ARTICLE V

EVENTS OF DEFAULT; REMEDIES

Section 5.01. Events of Default; Remedies.

(A) [△](1) In the event Purchaser should fail to make any payment required by this Agreement, after ten (10) days written notice to Purchaser of such failure, Seller may institute such action as may be necessary including an action for specific performance to enforce payment of such amounts (including interest on past due amounts at the rate of one and one-half percent (1.5%) per month). In the event of a default in payment Seller may elect to proceed with legal action without mediation or arbitration under section 5.02.

(2) [△] The remedies herein granted to Seller as to payment default shall be exclusive and shall be in lieu of all other remedies including termination of service, that Seller may have at law or in equity, and Purchaser shall have no right of off set against Seller against [△] Purchaser's obligation to make payment.

Section 5.02 [△]. Mediation and Arbitration. As a prerequisite to Arbitration any dispute should first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for Mediation, can not agree on a Mediator within ten(10) days a request by either party can be made to the American Arbitration Association (AAA) to appoint a Mediator and mediation should proceed under the AAA commercial mediation Rules.

After failing to resolve the dispute by mediation, either party may request the AAA to appoint an Arbitration Panel composed of a professional engineer, a certified

public accountant and a practicing attorney each of whom may have some background in utilities, water treatment and water distribution. Arbitration shall proceed at the earliest possible date under the AAA commercial Arbitration Rules.

The place for mediation or Arbitration shall be Anderson, South Carolina, unless the parties agree otherwise.

Any Judgment upon the award may be entered in any court having jurisdiction.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Ownership of Facilities. The Facilities shall at all times be the sole and absolute property of Seller.

Section 6.02. Governance of Seller as a Joint System.

△ Big Creek, △ Broadway△ and △ Belton Honea Path Water Authority△ were the original members of Seller upon its initial organization as a joint system. However it was contemplated at that time that other entities, including nonprofit water companies, would be admitted to membership. A subsequent change in State law permitted nonprofit water companies to convert to public service districts. Accordingly, each converted district will be, along with each municipal member of Seller, a voting participant and member of Seller with a designated appointee △ on the Board of Seller.

Further, each voting Participant and any non-member Participant will appoint one representative to the Advisory Council △ referred to in Section 4.03 of this Agreement. The Advisory Council △ is to make recommendations to the △ Board

as to future rates, extensions and capital expenditures and report Δ to the Board as provided in the by-laws of Seller. Δ

Section 6.03. Voting Units. Every member of the Δ Board shall have one vote Δ . Δ In addition, each Board Δ member shall have one vote for each unit of flow measured by the immediate prior Δ year's water purchase from Δ Seller, or Δ Seller's predecessor. Δ For these purposes, a unit of flow shall be determined by dividing the total flow of all Board Δ members by 1000. Voting units shall be prorated Δ ; based on the above, on _____ of each year, but total voting units shall not exceed Δ 1000 units plus one vote for each Board member. For example if there are twelve (12) Board members, there would be 1012 total votes.

Δ As new Board members are added, each shall have one vote plus the votes allocated as provided in the above Δ paragraph.

Section 6.04. Territorial Boundaries. In order to do successful planning, financing, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territory of the parties to this agreement and service area the territory of other entities who are to sign similar agreements with the Joint System.

Each entity whose territorial rights is shown upon this map shall be entitled to distribute water purchased from the Joint System to retail customers within its territory but not beyond those limits without the consent of the other entity into which an extension is proposed.

Nothing herein shall prohibit either party from constructing new trans-lines, or maintaining existing trans-lines, through Δ another's territory to serve customers in its

own territory. Consent to use the streets and public ways for rights of way purposes [△] for wholesale lines and for trans-lines is expressly [△] given one to the other, subject to compliance with engineering and traffic safety standards.

Section 6.05. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the [△] Seller's System by the Purchaser.

Section 6.06. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid, or given when dispatched by telegram when telegraphic notice is permitted by express provisions of this Agreement, addressed as follows:

[△][list here the addresses] .

Either party hereto may, by notice given to the other party to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.07. Beneficiaries. This Agreement shall inure to the benefit of and shall be binding upon Seller, Purchaser and their respective successors or assigns.

[△] Section 6.08. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

[△] Section 6.09. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

^ Section 6.10. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.11. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written:

SOUTH
ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM,
CAROLINA, as Seller

△
By: _____
△ Its: _____
△ Witnesses:
△ _____

_____, as
Purchaser

△
By: _____
△ Its: _____
Witnesses:

----- COMPARISON OF HEADERS -----

-HEADER 1-
DRAFT △ 9/7/01
HILL & HILL, LLC
△ HAYNSWORTH SINKLER BOYD, P.A.

2nd Version of 1st Draft
November 21, 2001

**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10
OF THE SOUTH CAROLINA CODE OF LAWS (1976).**

WATER SALE AND PURCHASE AGREEMENT

This **WATER SALE AND PURCHASE AGREEMENT** made as of this _____ day of December, 2001, by and between the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the _____, South Carolina, a _____ (hereinafter referred to as the "Purchaser").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell and the ^{definition?} Transportation Mains which transport the treated water from this Plant to various areas in Anderson County (together, the "Duke Facilities"). The Duke Facilities have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of Big Creek Water and Sewerage District, Broadway Water and Sewerage District, Hammond Water District,

LJS/CITY001528

Homeland Park Water and Sewerage District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water District, and West Anderson Water District. In addition, Duke Energy Corporation ("Duke Energy") has also, through its retail distribution system, provided potable water within the corporate limits of the City of Anderson, to Clemson University and to certain commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire all of the facilities and assets related to the Duke Facilities, including Duke Energy's existing contracts. The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Simultaneously with the transfer of the Duke Facilities to the Seller, the City of Anderson and the special purpose districts of Starr-Iva Water District and West Anderson Water District are acquiring the retail distribution facilities of Duke Energy.

Adlt
S:J
W.A

Hence, this Agreement between these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchaser agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

“Additional Capital Charge” means one twelfth (1/12) of a hundred and thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by the Purchaser’s Allocated Pumping Percentage.

“Agreement” means this Water Sale and Purchase Agreement between Seller and Purchaser, as the same may from time to time be modified or amended.

“Allocated Capacity” means that portion of the capacity of the Facilities to be made available to the Purchaser or reserved to Seller. The initial Allocated Capacities of the Facilities are set forth in ^{Incorrect} Exhibit “A” hereto. Any increase in the capacity of the Facilities resulting other than from expansion of the Facilities as contemplated by Section 3.09 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

“Allocated Percentage” means with respect to the Purchaser, the percentage derived by dividing the Purchaser’s Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit “A.”

"Allocated Pumping Percentage" means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the acquisition of the Facilities which will especially benefit such Pumped Purchaser due to pumping requirements.

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.12 hereof.

"Arbitration Panel" means the panel of three (3) arbitrators appointed and selected pursuant to Section 6.02 hereof.

"Board" means the Board of Commissioners of Seller, the governing body of Seller. *More info?*

"Bonds" means (A) those bonds initially issued by Seller to acquire the Facilities (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

"Bond Year" means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

"Booster Pump Stations" means all facilities directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

"Capital Charge" means one twelfth (1/12) of a hundred and thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal

and Interest Requirement on all Bonds in the then current Bond Year multiplied by the Purchaser's Allocated Percentage.

"Consulting Engineers" shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

"Facilities" means the Plant, all related transmission pipes and any related elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include any facilities owned or operated by the Purchaser as a part of its distribution system.

"Fiscal Year" means the Fiscal Year of Seller's System as shall from time to time be determined by Seller.

"Force Majeure" means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

“Improvement Bonds” means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.08 of this Agreement.

“Operational Pumping Charge” means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller’s System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to Purchaser; and for the second twelve (12) months of delivery of water to Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller’s System for the first twelve (12) months of delivery of water to the Participants.

“Operation and Maintenance Expenses” means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to Purchaser and other direct expenses necessary for the wise and

prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

"Participant" means the Purchaser and any purchaser who participates in a similar contract with Seller and is a governmental entity existing as a political subdivision of the State of South Carolina. The term "Participant" includes Pumped Purchasers and those purchasers who receive water from Seller's System without any requirement of pumping.

"Plant" means Seller's existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

*40 MPD
permitted
20 + 40*

"Potable Water" means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

"Pumped Purchaser" means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" means _____, South Carolina and its successors and assigns.

"Purchaser's Ordinance/Resolution" means the Bond Ordinance/Resolution adopted by the governing body of Purchaser on _____ and references herein to

such Bond Ordinance/Resolution shall be to the provisions of such as adopted on such date notwithstanding any subsequent amendment, modification, repeal or revision of such Bond Ordinance/Resolution or any provision thereof or the payment or defeasance of any obligations issued thereunder or secured thereby.

“Purchaser’s System” means the water distribution system of Purchaser.

“Renewal and Replacement Fund” means the Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

“Seller” means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

“Seller’s Bond Resolution” means

“Seller’s System” or **“System”** means the Waterworks System of the Seller, including all of the Facilities and any improvements or expansions which may be made to the Facilities from time to time.

“System Depreciation Charge” means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Renewal and Replacement Fund.

“System Depreciation Rate” means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12) of Seller’s annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller’s System for that Fiscal Year.

"Territorial Map" means that map prepared by _____ dated _____
setting forth the agreed upon territorial boundaries of the various Purchasers purchasing
water from the Seller. This map is incorporated by reference into this Agreement. Copies of
it are on file with the Seller and the several Purchasers. A reduced copy of this map is
attached as Exhibit B.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses
the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that, on or before the effective date of this Agreement, will acquire, own and operate the Facilities as part of its System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell to meet its obligations under this Agreement, as evidenced by its _____ Permit, issued by the _____, on _____, a true copy of which has been delivered to Purchaser.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with Purchaser in the issuance of any bonds or other obligations proposed to be issued by Purchaser and secured by revenues of Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances

under which they were made, not misleading;

(D) Make available certified copies of official proceedings and records, if applicable;

(E) Provide reasonable certifications to be used in a transcript of closing documents;

(F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Purchaser. The Purchaser hereby represents that it is a validly created [municipality/public service district] and a public body politic and corporate of the State of South Carolina owning and operating a water distribution system which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations. Purchaser covenants and

agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection therewith, Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by

08.01.13 000039

Purchaser.

Section 2.06 Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the Facilities and shall extend for a period of fifty (50) years from such date. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment Purchaser hereby consents.

(End of Article II)

ARTICLE III**SALE AND PURCHASE OF WATER****Section 3.01. Sale of Water.**

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available an amount of Potable Water equal to Purchaser's Allocated Capacity. Such Potable Water shall be delivered to Purchaser at a metering site provided by Seller, such site to be agreed upon between Seller and Purchaser. Such Potable Water shall be provided at the metering site at an operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in State Primary Drinking Water Regulations (R. 61 – 58). In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to Purchaser Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared by Seller to Purchaser.

(B) Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at Purchaser's risk and Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to Purchaser.

(C) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchise, and permits for the delivery of such water.

Seller shall not be liable to Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchise, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning the earlier of (i) the month immediately succeeding the month in which its Allocated Capacity is made available to it pursuant to Section 3.01 hereof or (ii) the month in which Bonds are first issued, and in each succeeding month during the term of this Agreement, Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (A) the Capital Charge, plus
- (B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered ^{C/L no meters} to all Participants of water from Seller's System for the preceding month, i.e.,

$$\text{Monthly O\&M Payment} = 1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}} ; \text{ plus}$$

- (C) the System Depreciation Charge, if any, plus
- (D) the Additional Capital Charge, plus
- (E) the Operational Pumping Charge.

The monthly payments made by Purchaser during a Fiscal Year pursuant to paragraphs (A) and (B) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (x) Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge and Additional

Capital Charge in such month in an amount equal to Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds and (y) the next monthly payment by Purchaser pursuant to paragraph (B) and (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of Purchaser to make the payments of the Capital Charge and the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any Facilities, any acts or circumstances which may constitute failure of consideration, destruction of or damage to the Facilities, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of Purchaser for payment of the Capital Charge and the Additional Capital Charge under this Agreement shall be limited to the gross revenues derived by Purchaser from the operation of Purchaser's System remaining after payment of costs of operating and maintaining Purchaser's System. The Purchaser's obligation to pay the Capital Charge and the Additional Capital Charge shall constitute an obligation under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with

the provisions thereof, a pledge of and lien upon the [revenues] of the Purchaser's System is hereby granted to Seller. The obligation to pay the Capital Charge and the Additional Charge is junior to the obligations of the Purchaser made in connection with the issuance of its outstanding debt secured by a pledge of and lien upon the [revenues] of Purchaser's System and which debt includes the following:

Section 3.03. In the event any Participant fails to make its payments to the Seller by the tenth (10th) day as provided in Section 6.01 (4) hereof, Seller shall provide notice to all non-defaulting Participants by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, Purchaser does hereby agree to pay all amounts then due from the defaulting Participant multiplied by the quotient obtained by dividing its Allocated Percentage by the Allocated Percentages of all non-defaulting Participants in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Participants their pro rata portions (determined in the foregoing manner) of the defaulting Participant's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Participant transferred pursuant to this Section 3.03 to non-defaulting Participants shall become a part of and shall be added to the Allocated Capacities of the transferee Participants by an amendment to Exhibit A hereof, and the transferee Participants shall

thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Participant with all costs and expenses incurred by Seller pursuant to this Section 3.03. The defaulting Participant shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Participant to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.03, are received by Seller for that portion of the defaulting Participant's Allocated Capacity which has been transferred as provided in this Section 3.03. A defaulting Participant may redeem its Allocated Capacity by paying to the non-defaulting Participants all amounts paid by the non-defaulting Participants with respect to the defaulting Participant's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Participants to the date of repayment by the defaulting Participant. In such event, the defaulting Participant's Allocated Capacity shall be restored to it.

Section 3.04. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at least annually and upon the request of either party when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of Purchaser, shall establish a schedule for the reading of

Oct. special language for City

meters for the measurement of flows pursuant to this Section 3.04. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.04. In the event that it shall be determined pursuant to any interim reading made at Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by the Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

Section 3.05. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the Facilities in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.06. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles and shall show the allocation of expenses of the System as between the Facilities and Seller's other assets, or operations. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.07. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to the Purchaser upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to Purchaser. Seller shall provide quarterly financial statements to Purchaser comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for each Fiscal Year for expenditures to be made from the Renewal and Replacement Fund and shall provide a copy of such budget to the Purchaser upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to Purchaser. Seller shall provide quarterly financial statements to Purchaser comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.08. Capital Costs Not Related to Increases of Purchaser's Allocated Capacity.

(A) The cost of future capital improvements to the Facilities for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

(B) The cost of future capital improvements to the Facilities to extend the useful life of the Facilities or to maintain treatment capacities shall also be shared on the basis of Allocated Percentages. If the capacity of the Facilities is expanded in order to provide water to other new water service areas, bulk or industrial users or other political subdivisions, with no direct benefit to Purchaser, then Purchaser shall not be obligated to participate in the capital cost of such improvements.

(C) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Section 3.09. Expansion of the Facilities to Provide Additional Capacity.

(A) Seller and Purchaser recognize that it cannot presently be determined what their respective or any other Participant's future requirements for water will be and that one or both of such parties, or another Participant may at some future time require additional capacity in the Facilities. It is the intention of the parties hereto to provide such additional capacity as shall be needed by the respective parties or by another Participant with the costs

of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event either party to this Agreement shall determine that it requires additional capacity, it shall so notify the other party in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, either party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other party hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the Facilities necessary to provide the additional capacity requested by this Section 3.09 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

- (i) the requested availability date shall be not less than thirty (30) months following the date of the notice;
- (ii) Seller shall not be required to add capacity to the Plant in increments of less than five million (5,000,000) gallons;
- (iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the Purchaser as well as all other costs incurred in

connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the capacity of the Facilities or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.10. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by either party to this Agreement of any water received by such party from the Facilities, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Either party to this Agreement may sell or lease all or any portion of its Allocated Capacity to the other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Either party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

(i) the Allocated Capacity shall first be offered to the other party to this Agreement and to the other Participants, on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if the other party and the other Participants elect not to purchase any portion, then that portion may then be offered to a new purchaser who is not a Participant;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve either party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to the other party an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.11. Priority of Pledge; Additional Obligations; and Rate Covenant.

(A) Purchaser agrees that it will not grant any pledge of, or interest in, the revenues of Purchaser's System prior or superior to the pledge thereof securing payment of any amounts hereunder. Except as permitted herein, Purchaser agrees that it will not pledge, or

grant an interest in, said revenues on a parity with the pledge thereof securing payment of the Capital Charge or Additional Capital Charge hereunder. [This paragraph subject to terms of Ordinance/Resolution]

(B) Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by Purchaser's System sufficient at all times to enable Purchaser to meet its obligations hereunder.

Section 3.12. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by Purchaser, such payment (less the interest included pursuant to Section 6.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve

Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of Purchaser's Capital Charge and Additional Capital Charge with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV

Renewal and Replacement Fund

Section 4.01. Renewal and Replacement Fund; Use; Investments. Seller shall establish as part of Seller's System a Renewal and Replacement Fund for the Facilities. The Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of Bonds; and (5) for optional redemption of Bonds.

Section 4.02. Deposits to Renewal and Replacement Fund. All amounts paid by the Purchaser in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within Renewal and Replacement Fund. Prior to the commencement of each Fiscal year, Seller shall establish a balance which shall be retained within the Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers

and shall, in any event, be a sum in excess of the budgeted amount established for the Renewal and Replacement Fund pursuant to the provisions of Section 3.07(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Participant based on its Allocated Percentage. In the event a deficit has occurred in the Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify the Purchaser that a System Depreciation Charge will be due for each remaining month of that Fiscal Year.

(End of Article IV)

ARTICLE V
ADVISORY COUNCIL

Section 5.01. Membership and Purpose of Advisory Council. The parties hereto shall establish an Advisory Council ("Council"). The purpose of the Council is to provide a means of cooperation and communication between the parties to this Agreement and the other Participants. The Council will receive input and recommendations from the parties to this Agreement relating to the operation and capital needs of the Facilities. The Council shall consist of the chief operating officer of each Participant, or the designee of such officer. The duties of the Council shall include, but not be limited to:

- (i) review the operation and maintenance budget;
- (ii) receive input and make recommendations on upgrades needed to meet regulatory requirements;
- (iii) receive input and make recommendations on other capital improvement needs;
- (iv) review plans for plant expansions;
- (v) receive and review audits of the Facilities operations;
- (vi) review the response by the Seller to any findings raised during the course of any audit;
- (vii) review and recommend revisions of funding requirements for the Renewal and Replacement Fund; and
- (viii) review and make recommendations as to rates and charges.

Seller shall take into consideration any recommendations made by the Council;
however, the parties hereto agree that the final decision and responsibility is that of Seller.
Seller shall not be bound by any recommendation or determination of the Council.

(End of Article V)

ARTICLE VI**EVENTS OF DEFAULT; REMEDIES****Section 6.01. Events of Default; Remedies.**

(A) (1) In the event that Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to Purchaser of such failure, bring action against Purchaser for the specific performance by Purchaser of such other covenant or agreement or, in the event that such failure impairs Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event Purchaser has not paid Seller all amounts required under the provisions of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice

to Purchaser proceed under the provisions of Section 3.03 hereof and cease and discontinue the furnishing of water to the Purchaser and Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating Purchaser's Allocated Capacity among the non-defaulting Participants as set forth in Section 3.03.

(5) Purchaser shall not be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, Purchaser may, after ten (10) days written notice to Seller of such failure, bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to Purchaser by reason hereof, Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 6.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration any dispute should first be submitted to mediation before an

experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article VI)

ARTICLE VII

MISCELLANEOUS

Section 7.01. Ownership of Facilities. The Facilities shall at all times be the sole and absolute property of Seller.

Section 7.02. Territorial Boundaries. In order to successfully plan and finance, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territory of the parties to this Agreement and service area the territory of other entities who are to sign similar agreements with the Seller.

Each entity whose territorial rights are shown upon this map shall be entitled to distribute water purchased from the Seller to retail customers within its territory but not beyond those limits without the consent of the other entity into which an extension is proposed.

Nothing herein shall prohibit either party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to compliance with engineering and traffic safety standards.

Section 7.03. Sites for Additional Tanks. In the event Seller determines that it is necessary to construct storage tanks as improvements to the Facilities and the desired locations for such tanks are within the service area of Purchaser, Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in order to acquire the sites.

Section 7.04. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by the Purchaser.

Section 7.05. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid, or given when dispatched by telegram when telegraphic notice is permitted by express provisions of this Agreement, addressed as follows:

[list here the addresses]

Either party hereto may, by notice given to the other party to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 7.06. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of Seller and Purchaser and their respective successors and assigns. It is specifically acknowledged by both parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement shall be pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may sell or otherwise realize upon such security in foreclosure or other suitable proceedings, possess or take control of the Purchaser's System or cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 7.07. Compliance with Requirements of Internal Revenue Code.

(A) The Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a non-governmental party within the meaning set forth in §1-141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) The Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 7.08. Severability. In the event, any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.09. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.10. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 7.11. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

(End of Article VII)

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM, SOUTH
CAROLINA, as Seller

By: _____
Its: _____

Witnesses:

_____, as Purchaser

By: _____
Its: _____

Witnesses:

Exhibit AAll Participants

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	9.34	29.2%
Big Creek Water and Sewerage District	1.30	4.1
Broadway Water and Sewerage District	1.14	3.6
Clemson, City of	2.12	6.6
Clemson University	2.23	7.0
Hammond Water District	2.74	8.6
Homeland Park Water and Sewerage District	1.13	3.5
Pendleton, Town of	.65	2.0
Powdersville Water District	.71	2.2
Sandy Springs Water District	3.96	12.4
Starr-Iva Water District	2.03	6.4
West Anderson Water District	3.22	10.1
Williamston, Town of	1.43	4.5

Pumped Purchasers

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	10.29%
Clemson, City of	16.84
Clemson University	17.72
Hammond Water District	1.69
Pendletown, Town of	5.14
Powdersville Water District	5.63
Sandy Springs Water District	31.39
Williamston, Town of	11.30

08.01.13 000067

	1999 Volume	Percent
Duke Retail(Inside City)	1,073,791	16.8%
Duke Retail(Outside City)	1,030,726	16.2%
Clemson	437,601	6.9%
Pendleton	148,775	2.3%
Homeland Park	227,445	3.6%
Williamston	306,518	4.8%
Sandy Springs	743,337	11.7%
Big Creek	278,449	4.4%
Hammond	514,755	8.1%
Broadway	196,470	3.1%
Starr Iva	409,395	6.4%
West Anderson	436,424	6.8%
Powdersville	71,437	1.1%
US Utilities	20,152	0.3%
Clemson Univ	481,433	7.5%
Total	6,376,708	100.0%

32 MGD Capacity

LJS/CITY001568

08.01.13.000968

*Pumped -
Non
Pumped*

Below this line reflects Anderson as a Wholesale Customer

Table 6

Wholesale Sales
Anderson Joint System

Current Scenario

City In, 5.25% and 5% increases

1 - Control Cell: set at zero if City of Anderson is NOT going to buy the retail system.

Wholesale Sales (kgal)

		CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
1997 pump						
Sandy Springs	P	921,870	963,354	1,006,705	1,048,973	1,088,852
Big Creek	P	299,406	311,382	323,837	335,172	346,903
Hammond	N	638,789	667,534	697,573	725,476	754,495
Broadway	N	249,592	254,584	259,875	264,869	270,166
Starr Iva	N	446,958	455,895	465,013	474,313	483,799
West Anderson	N	625,954	638,473	651,242	664,267	677,553
Anderson as Wholesale Customer	N	1,069,429	1,080,123	1,090,924	1,101,833	1,112,852
Doughnut as Wholesale Customer	N	1,065,705	1,076,362	1,087,125	1,097,997	1,108,977
Powdersville	P	133,570	136,241	138,966	141,745	144,580
Honea Path	N	-	-	-	-	-
Clemson	P	457,515	462,090	466,711	471,378	476,092
Clemson Univ.	P	490,949	500,768	510,783	520,999	531,419
Homeland Park	N	247,342	252,288	257,334	262,481	267,730
Town of Pendleton	P	142,540	145,391	148,299	151,265	154,290
Town of Williamston	P	313,160	319,424	325,812	332,328	338,975
US Utilities	N	21,580	22,011	22,451	22,900	23,358
Total Wholesale (kgal)		7,124,354	7,285,920	7,462,452	7,613,997	7,780,041

Summary of Water Sales

Pumped	P	2,759,010	2,838,650	2,921,113	2,999,860	3,081,111
Non-Pumped	N	4,365,345	4,447,270	4,531,339	4,614,137	4,698,930
Retail / Inside	n/a	n/a	n/a	n/a	n/a	n/a
Retail / Outside	n/a	n/a	n/a	n/a	n/a	n/a
Total Water Sales (kgal)		7,124,354	7,285,920	7,462,452	7,613,997	7,780,041

LJS/CITY001569

08.01.13 000069

8-24-01

BoV
Rates

Based on \$47.92M Wholesale Purchase

Table 1 Anderson County Joint Municipal Water System Projected Sales					
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
Thousands of Gallons					
Wholesale System					
Members	3,316,136	3,427,463	3,543,012	3,652,815	3,766,348
Non-Members	3,808,219	3,858,457	3,909,440	3,961,181	4,013,693
<i>Total</i>	7,124,354	7,285,920	7,452,452	7,613,997	7,780,041
Total Water Sales	7,124,354	7,285,920	7,452,452	7,613,997	7,780,041

LJS/CITY001570

08.01.13 000070

Table 2 Anderson County Joint Municipal Water System Projected Rate Increases					
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
Wholesale System					
Members	5.25%	5.25%	5.25%	5.25%	3.50%
Non-Members	5.25%	5.25%	5.25%	5.25%	3.50%

LJS/CITY001571

08.01.13 000071

Table 3 Anderson County Joint Municipal Water System Projected Revenue from Sales					
	CY 2002 (\$,000)	CY 2003 (\$,000)	CY 2004 (\$,000)	CY 2005 (\$,000)	CY 2006 (\$,000)
Wholesale System					
Members	\$ 4,433	\$ 4,785	\$ 5,165	\$ 5,566	\$ 5,900
Non-Members	<u>1,561</u>	<u>1,672</u>	<u>1,790</u>	<u>1,916</u>	<u>2,017</u>
<i>Total Wholesale</i>	5,995	6,456	6,955	7,482	7,917
Total Rate Revenue	\$ 5,995	\$ 6,456	\$ 6,955	\$ 7,482	\$ 7,917

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Table 4 Anderson County Joint Municipal Water System Projected Operating Expenses					
	CY 2002 (\$,000)	CY 2003 (\$,000)	CY 2004 (\$,000)	CY 2005 (\$,000)	CY 2006 (\$,000)
Administrative and General	\$ 435	\$ 447	\$ 461	\$ 474	\$ 488
Treatment / Supply	1,597	1,668	1,742	1,818	1,898
Transmission / Distribution (1)	438	451	464	477	491
Total Operating Expenses	\$ 2,470	\$ 2,566	\$ 2,666	\$ 2,769	\$ 2,877
Notes: (1) The costs considered here are for the wholesale portion of the system only. True retail distribution costs are removed from this analysis and will be borne by the operator of the retail system.					

Table 5 Anderson County Joint Municipal Water System Projected Financial Operations						
	CY 2002 (\$,000)	CY 2003 (\$,000)	CY 2004 (\$,000)	CY 2005 (\$,000)	CY 2006 (\$,000)	
Beginning Balance (1)	\$ 1,300	\$ 2,145	\$ 3,075	\$ 4,098	\$ 5,219	
Projected Revenues from Sales						
Members	4,433	4,785	5,165	5,566	5,900	
Non-Members	1,561	1,672	1,790	1,916	2,017	
Total Revenue from Sales	5,995	6,456	6,955	7,482	7,917	
Other Operating Revenue	137	140	144	147	151	
Gross Revenue	6,131	6,596	7,098	7,630	8,068	
Operating Expenses	(2,470)	(2,566)	(2,666)	(2,769)	(2,877)	
Net Revenue	3,661	4,030	4,432	4,860	5,191	
Debt Service (2)	(2,817)	(3,100)	(3,409)	(3,738)	(3,738)	
Net from Operations	845	930	1,023	1,122	1,452	
Debt Service Coverage	130%	130%	130%	130%	139%	
Notes:						
(1) Balance includes accounts receivable and working capital.						
(2) Preliminary debt service on wholesale borrowing amount.						

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Table 6 Anderson County Joint Municipal Water System Cumulative Wholesale Rate Increases												
			CY 2002		CY 2003		CY 2004		CY 2005		CY 2006	
Non-Pumped												
Rate per Kgal	\$	0.7230	\$	0.7610	\$	0.8009	\$	0.8430	\$	0.8872	\$	0.9183
Percent Increase				5.25%		5.25%		5.25%		5.25%		3.50%
Cumulative Increase				5.25%		10.78%		16.59%		22.71%		27.01%
Pumped												
Rate per Kgal	\$	0.9156	\$	0.9637	\$	1.0143	\$	1.0675	\$	1.1236	\$	1.1629
Percent Increase				5.25%		5.25%		5.25%		5.25%		3.50%
Cumulative Increase				5.25%		10.78%		16.59%		22.71%		27.01%

Table 1 Anderson County Joint Municipal Water System Projected Sales					
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
Thousands of Gallons					
Retail System					
Inside	1,018,503	1,028,688	1,038,975	1,049,365	1,059,859
Outside	1,014,957	1,025,106	1,035,357	1,045,711	1,056,168
<i>Total</i>	2,033,460	2,053,795	2,074,333	2,095,076	2,116,027
Wholesale System					
Members	3,316,136	3,427,463	3,543,012	3,652,815	3,766,348
Non-Members	1,673,086	1,701,972	1,731,391	1,761,351	1,791,865
<i>Total</i>	4,989,221	5,129,435	5,274,403	5,414,167	5,558,213
Total Water Sales	7,022,681	7,183,230	7,348,735	7,509,243	7,674,240

Table 2 Anderson County Joint Municipal Water System Projected Rate Increase					
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
Retail System					
Inside	5.25%	5.25%	5.25%	5.25%	6.00%
Outside	5.25%	5.25%	5.25%	5.25%	6.00%
Wholesale System					
Members	5.25%	5.25%	5.25%	5.25%	6.00%
Non-Members	5.25%	5.25%	5.25%	5.25%	6.00%

Table 5 Anderson County Joint Municipal Water System Projected Financial Operations						
	CY 2002 (\$,000)	CY 2003 (\$,000)	CY 2004 (\$,000)	CY 2005 (\$,000)	CY 2006 (\$,000)	
Beginning Balance (1)	\$ 1,300	\$ 2,538	\$ 3,825	\$ 5,258	\$ 6,841	
Projected Revenues from Sales						
Inside Retail	1,933	2,055	2,184	2,322	2,486	
Outside Retail	1,324	1,407	1,496	1,590	1,702	
Members	2,808	3,058	3,329	3,615	3,953	
Non-Members	1,561	1,672	1,790	1,916	2,066	
Total Revenue from Sales	7,627	8,191	8,799	9,443	10,207	
Other Operating Revenue	137	140	144	147	151	
Gross Revenue	7,763	8,331	8,942	9,590	10,358	
Operating Expenses	(3,064)	(3,177)	(3,295)	(3,416)	(3,542)	
Net Revenue	4,699	5,154	5,647	6,174	6,816	
Debt Service (2)	(3,461)	(3,866)	(4,215)	(4,591)	(5,046)	
Net from Operations	1,238	1,287	1,432	1,583	1,770	
Debt Service Coverage	136%	133%	134%	134%	135%	
Notes:						
(1) Balance includes accounts receivable and working capital						
(2) Preliminary debt service from Paine Webber on July 3, 2001						

Table 6 Anderson County Joint Municipal Water System Cumulative Wholesale Rate Increases						
		CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
Non-Pumped						
Rate per Kgal	\$ 0.7230	\$ 0.7610	\$ 0.8009	\$ 0.8430	\$ 0.8872	\$ 0.9404
Percent Increase		5.25%	5.25%	5.25%	5.25%	6.00%
Cumulative Increase		5.25%	10.78%	16.59%	22.71%	30.08%
Pumped						
Rate per Kgal	\$ 0.9156	\$ 0.9637	\$ 1.0143	\$ 1.0675	\$ 1.1236	\$ 1.1910
Percent Increase		5.25%	5.25%	5.25%	5.25%	6.00%
Cumulative Increase		5.25%	10.78%	16.59%	22.71%	30.08%

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LJS/CITY001577

Table 3 Anderson County Joint Municipal Water System Projected Revenue from Sales					
	CY 2002 (\$,000)	CY 2003 (\$,000)	CY 2004 (\$,000)	CY 2005 (\$,000)	CY 2006 (\$,000)
Retail System					
Inside	\$ 1,933	\$ 2,055	\$ 2,184	\$ 2,322	\$ 2,486
Outside	1,324	1,407	1,496	1,590	1,702
Total Retail	3,257	3,462	3,680	3,912	4,188
Wholesale System					
Members	\$ 2,808	\$ 3,058	\$ 3,329	\$ 3,615	\$ 3,953
Non-Members	1,561	1,672	1,790	1,916	2,066
Total Wholesale	4,370	4,729	5,119	5,531	6,019
Total Projected Revenue	\$ 7,627	\$ 8,191	\$ 8,799	\$ 9,443	\$ 10,207

Table 4 Anderson County Joint Municipal Water System Projected Operating Expenses					
	CY 2002 (\$,000)	CY 2003 (\$,000)	CY 2004 (\$,000)	CY 2005 (\$,000)	CY 2006 (\$,000)
Salaries (1)	\$ 1,185	\$ 1,220	\$ 1,257	\$ 1,294	\$ 1,333
Variable Expenses (2)	995	1,048	1,104	1,162	1,223
Supply Operations (3)	74	76	78	80	82
Treatment Operations (3)	148	152	156	160	165
Transmission and Distribution	407	418	430	441	454
Customer Accounts Expense	184	189	194	199	205
Administrative and General	73	75	77	79	81
Total Operating Expenses	\$ 3,064	\$ 3,177	\$ 3,295	\$ 3,416	\$ 3,542
Notes:					
(1) Includes salary overheads					
(2) Power and water purchase expenses					
(3) Excludes power and water purchase expenses					

Table 1 Anderson County Joint Municipal Water System Projected Sales					
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
	Thousands of Gallons				
Retail System					
Inside	1,018,503	1,028,688	1,038,975	1,049,365	1,059,859
Outside	1,014,957	1,025,106	1,035,357	1,045,711	1,056,168
<i>Total</i>	<u>2,033,460</u>	<u>2,053,795</u>	<u>2,074,333</u>	<u>2,095,076</u>	<u>2,116,027</u>
Wholesale System					
Members	3,316,136	3,427,483	3,543,012	3,652,815	3,766,348
Non-Members	1,673,086	1,701,972	1,731,391	1,761,351	1,791,865
<i>Total</i>	<u>4,989,221</u>	<u>5,129,435</u>	<u>5,274,403</u>	<u>5,414,167</u>	<u>5,558,213</u>
Total Water Sales	7,022,681	7,183,230	7,348,735	7,509,243	7,674,240

Table 2 Anderson County Joint Municipal Water System Projected Rate Increase					
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006
Retail System					
Inside	5.25%	5.25%	5.25%	5.25%	6.00%
Outside	5.25%	5.25%	5.25%	5.25%	6.00%
Wholesale System					
Members	5.25%	5.25%	5.25%	5.25%	6.00%
Non-Members	5.25%	5.25%	5.25%	5.25%	6.00%

Projected O&M Anderson Joint Water System	Current Scenario									City In, 5.25% and 5% increases									
	CY 2002	CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010		CY 2002	CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010
Total Salaries (Total Operations) (1)	\$ 911,194	\$ 938,630	\$ 966,686	\$ 995,687	\$ 1,026,667	\$ 1,066,324	\$ 1,088,014	\$ 1,120,664	\$ 1,164,274										
Salary Overhead Rate	30%	30%	30%	30%	30%	30%	30%	30%	30%										
Salary Overheads	273,368	281,689	290,006	298,706	307,667	316,897	326,404	336,196	346,282										
Variable Expenses Unit Cost (\$/kg) (2)	0.1396	0.1438	0.1481	0.1526	0.1572	0.1619	0.1667	0.1717	0.1769										
Total Treated Water Quantity (kgallons)	7,124,354	7,285,920	7,452,452	7,613,997	7,780,041	7,908,663	8,039,587	8,172,857	8,308,518										
Projected Variable Expenses (3)	\$ 994,783	\$ 1,047,863	\$ 1,103,968	\$ 1,161,736	\$ 1,222,683	\$ 1,280,183	\$ 1,340,417	\$ 1,403,616	\$ 1,469,617										
Other Non-salary Expenses (4)																			
Source of Supply Operations Expenses Excluding Purchased Water & Power (7)																			
Source of Supply Operations Expenses	2,236	2,297	2,360	2,425	2,492	2,561	2,631	2,703	2,778										
Source of Supply Maint. Expenses	71,854	73,624	75,649	77,729	79,887	82,063	84,320	86,638	89,021										
Treatment Operations	39,282	40,383	41,473	42,613	43,785	44,989	46,226	47,498	48,804										
Treatment Maintenance	108,569	111,555	114,622	117,775	121,013	124,341	127,781	131,274	134,884										
Total Supply & Treatment Non-salary	221,741	227,839	234,104	240,642	247,167	253,964	260,937	268,113	275,486										
Transmission and Distribution (4)																			
T&D Operations	223,794	229,949	236,272	242,770	249,446	256,306	263,354	270,596	278,038										
T&D Maintenance	183,107	188,142	193,316	198,633	204,095	209,708	215,475	221,400	227,489										
Total T&D Non-salary	406,901	418,091	429,589	441,402	453,641	466,013	478,829	491,996	506,526										
Customer Accounts Expense (4)																			
Contractual Services - Other	110,913	113,863	117,097	120,318	123,626	127,026	130,519	134,108	137,796										
Bad Debt Expense	37,689	38,725	39,790	40,884	42,009	43,164	44,351	45,571	46,824										
Miscellaneous	35,109	36,075	37,067	38,088	39,133	40,210	41,315	42,452	43,619										
Total Cust. Accounts Non-salary	183,711	188,763	193,964	199,288	204,768	210,400	216,186	222,131	228,239										
Administrative and General (4)																			
Materials and Supplies	24,803	25,485	26,186	26,906	27,648	28,400	29,187	29,990	30,814										
Contractual Services - Other	47,722	49,034	50,383	51,768	53,192	54,655	56,158	57,702	59,289										
Transportation Expenses	56	58	60	61	63	65	66	68	70										
Miscellaneous Expenses (allowance)	-	-	-	-	-	-	-	-	-										
Total A&G Non-salary	72,581	74,577.08	76,627.96	78,736.22	80,900.44	83,126.20	85,411.14	87,763.96	90,173.36										
Total Other Non-salary Expenses (6)	884,934	909,270	934,276	959,968	986,367	1,013,492	1,041,363	1,070,000	1,099,426										
Total O&M	\$ 3,064,270	\$ 3,177,223	\$ 3,294,936	\$ 3,416,096	\$ 3,542,274	\$ 3,666,896	\$ 3,796,198	\$ 3,930,367	\$ 4,069,699										
And Personnel, Utilities	2,659,421	2,804,034	2,941,813																
	3.89%	4.38%	4.87%																
Notes:																			
(1) From Table 3																			
(2) From Table 4; variable expenses based on Duke's FY 99 SC PSC numbers (power and chemicals)																			
(3) Product of Variable Expenses times total water treated by water plant (retail and wholesale)																			
(4) From Table 3																			
(5) Excludes variable expenses and salaries.																			

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Variable was \$ 804,302 89,891 Higher now 11.01%

Operational & Maintenance Expenses Summary Anderson Joint Water System									
O&M Expense Summary									
Salaries	\$ 911,194	\$ 938,530	\$ 968,686	\$ 995,667	\$ 1,025,557	\$ 1,056,324	\$ 1,088,014	\$ 1,120,854	\$ 1,154,274
Salary Overheads	273,358	281,559	290,006	298,706	307,867	316,897	326,404	336,196	346,282
Variable Expenses	994,783	1,047,863	1,103,968	1,161,736	1,222,683	1,280,183	1,340,417	1,403,516	1,469,617
Total Other Non-salary Expenses	884,934	909,270	934,275	959,968	986,367	1,013,492	1,041,383	1,070,000	1,099,425
Total O&M Expense	\$ 3,064,270	\$ 3,177,223	\$ 3,294,936	\$ 3,416,096	\$ 3,542,274	\$ 3,666,896	\$ 3,796,198	\$ 3,930,367	\$ 4,069,699
Allocation of O&M Between Retail and Wholesale									
Admin / General									
Salaries (Incl. Ohead)	334,554	344,590	354,928	365,576	376,543	387,839	399,475	411,459	423,803
Customer Accounts	183,711	188,783	193,954	199,268	204,768	210,400	216,188	222,131	228,239
A&G Expense	72,581	74,577	76,628	78,735	80,900	83,125	85,411	87,760	90,173
Admin / General Subtotal	590,846	607,951	625,510	643,579	662,212	681,364	701,071	721,350	742,215
Treatment / Supply									
Salaries (Incl. Ohead)	380,655	392,675	403,837	415,952	428,431	441,284	454,522	468,158	482,202
Variable Expenses	994,783	1,047,863	1,103,968	1,161,736	1,222,683	1,280,183	1,340,417	1,403,516	1,469,617
Supply Expense	221,741	227,839	234,104	240,542	247,157	253,954	260,937	268,113	275,486
Treatment / Supply Subtotal	1,597,179	1,667,776	1,741,909	1,818,230	1,898,270	1,976,421	2,056,877	2,139,787	2,227,306
Transmission									
Salaries (Incl. Ohead)	117,336	120,856	124,482	128,216	132,083	136,025	140,105	144,306	148,638
Transmission Expense	101,725	104,523	107,397	110,351	113,385	116,503	119,707	122,999	126,382
Transmission Subtotal	219,061	226,379	231,879	238,567	245,468	252,528	259,812	267,308	275,015
Distribution									
Salaries (Incl. Ohead)	352,008	362,568	373,445	384,649	396,188	408,074	420,316	432,925	445,913
Distribution Expense	305,176	313,566	322,191	331,052	340,156	349,510	359,121	368,997	379,145
Distribution Subtotal	657,184	676,137	695,637	716,700	736,344	757,584	779,437	801,923	826,058
Total O&M Expense	3,064,270	3,177,223	3,294,936	3,416,096	3,542,274	3,666,896	3,796,198	3,930,367	4,069,699

Allocation Percentages

Admin / General									
Customer Accounts									
Retail Customers	15,987	16,147	16,309	16,472	16,638	16,803	16,971	17,140	17,312
Percent	85.0%	85.0%	85.0%	85.0%	85.0%	85.0%	85.0%	85.0%	85.0%
Wholesale "Equivalents"	2,814	2,842	2,970	2,899	2,928	2,957	2,987	3,017	3,047
Percent	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%
All Other Admin / General									
Retail (Kgal)	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Percent	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Wholesale (Kgal)	7,124,354	7,285,920	7,452,452	7,613,997	7,780,041	7,908,863	8,039,587	8,172,857	8,308,518
Percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Treatment / Supply										
Retail (Kgal)	-	-	-	-	-	-	-	-	-	-
Percent	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Wholesale (Kgal)	7,124,354	7,285,920	7,452,452	7,613,897	7,780,041	7,908,663	8,039,587	8,172,857	8,308,518	8,308,518
Percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Transmission										
Retail (Kgal)	-	-	-	-	-	-	-	-	-	-
Percent	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Wholesale (Kgal)	7,124,354	7,285,920	7,452,452	7,613,897	7,780,041	7,908,663	8,039,587	8,172,857	8,308,518	8,308,518
Percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Distribution										
Retail Customers	15,987	16,147	16,309	16,472	16,636	16,803	16,971	17,140	17,312	17,312
Percent	88.7%	88.7%	88.7%	88.7%	88.7%	88.7%	88.7%	88.7%	88.7%	88.7%
Wholesale "Equivalents"	7,994	8,074	8,154	8,236	8,318	8,401	8,485	8,570	8,655	8,655
Percent	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%
Allocated Costs										
Admin / General										
Retail	\$ 158,217	\$ 160,513	\$ 164,927	\$ 169,463	\$ 174,123	\$ 178,911	\$ 183,831	\$ 188,887	\$ 194,081	\$ 194,081
Wholesale	\$ 434,629	\$ 447,418	\$ 460,583	\$ 474,138	\$ 488,089	\$ 502,453	\$ 517,240	\$ 532,483	\$ 548,134	\$ 548,134
Treatment / Supply										
Retail	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Wholesale	\$ 1,597,179	\$ 1,667,778	\$ 1,741,909	\$ 1,818,230	\$ 1,898,270	\$ 1,975,421	\$ 2,055,877	\$ 2,139,787	\$ 2,227,308	\$ 2,227,308
Transmission										
Retail	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Wholesale	\$ 219,081	\$ 225,379	\$ 231,879	\$ 238,567	\$ 245,448	\$ 252,528	\$ 259,812	\$ 267,308	\$ 275,019	\$ 275,019
Distribution										
Retail	\$ 438,123	\$ 450,758	\$ 463,758	\$ 477,134	\$ 490,896	\$ 505,056	\$ 519,825	\$ 534,815	\$ 550,039	\$ 550,039
Wholesale	\$ 219,081	\$ 225,379	\$ 231,879	\$ 238,567	\$ 245,448	\$ 252,528	\$ 259,812	\$ 267,308	\$ 275,019	\$ 275,019
Total Retail Allocation	\$ 594,340	\$ 611,271	\$ 628,685	\$ 646,598	\$ 665,019	\$ 683,967	\$ 703,456	\$ 723,502	\$ 744,120	\$ 744,120
Total Wholesale Allocation	\$ 2,469,931	\$ 2,565,952	\$ 2,666,250	\$ 2,769,500	\$ 2,877,255	\$ 2,982,929	\$ 3,092,742	\$ 3,206,865	\$ 3,325,479	\$ 3,325,479
Total O&M	\$ 3,064,270	\$ 3,177,223	\$ 3,294,935	\$ 3,416,096	\$ 3,542,274	\$ 3,666,896	\$ 3,796,198	\$ 3,930,367	\$ 4,069,599	\$ 4,069,599
Wholesale Only O&M	\$ 2,469,931	\$ 2,565,952	\$ 2,666,250	\$ 2,769,500	\$ 2,877,255	\$ 2,982,929	\$ 3,092,742	\$ 3,206,865	\$ 3,325,479	\$ 3,325,479
percentage savings	-19.4%	-19.2%	-19.1%	-18.9%	-18.8%	-18.7%	-18.5%	-18.4%	-18.3%	-18.3%

LJS/CITY001582

05.23.13.000062

Thanks. Copying City Acquisition Team for review.
John

-----Original Message-----

From: Kent Guthrie [mailto:sswater@mindspring.com]
Sent: Sunday, December 02, 2001 11:28 AM
To: John Moore
Subject: DHEC, Allocations

John,

We had the additional info that DHEC wanted from us hand delivered to Shawn Clark on Friday. I assume that this will complete the info they need from us, with one possible exception: They asked when all fourteen parties would be joining the ACWS and I told them everyone was working to get resolutions to join and contracts approved by Dec. 10. They may want to wait for documentation on this however I hope not. Good luck with your meeting Monday.

The allocations Margaret Pope sent out late Friday are based strictly on Duke's CY2000 flow #'s as I was given them, with 2 exceptions; \$55 MGD was added to the City of Anderson as a projection of the new Michelin plant and 2.00 MGD was added to Starr-Iva as a projection of future Genpower needs. The Michelin # is based on verbal info that Norb Staebber obtained from Michelin that indicated a range of usage of from 150M to 300M Gals/yr. (Note: BASF and Owens/Coming are in the City's allocation). The Starr-Iva people asked for the 2.00 MGD now, even though they may not need it for two years, because they are afraid they will not be able to purchase it for a reasonable price later. This was against my advice due to the fact that until Genpower comes on line their effective water rate is going to be very high and I do not believe they have an agreement with Genpower to pay this cost in the interim. We have tried to be sure that they understand this and have faxed them projected rates on the order of \$1.27 to \$1.35 for the first two years. Keep in mind that allocations do not affect voting since votes are based on historical flow not allocation. I am attaching another copy of current bylaws.

Call me if you have questions. I will be in about 8:30 Monday, before then you can call my mobile 303-8120.

KG

12/3/01

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3rd version of 1st Draft
December 2, 2001

**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10
OF THE SOUTH CAROLINA CODE OF LAWS (1976).**

WATER SALE AND PURCHASE AGREEMENT

This WATER SALE AND PURCHASE AGREEMENT made as of this _____ day of December, 2001, by and among the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the cities of Anderson, Clemson, Pendleton and Williamton and the special purpose districts of Big Creek Water and Sewerage District, Broadway Water and Sewerage District, Hammond Water District, Homeland Park Water and Sewerage District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell and the Transportation Mains which transport the treated water from this Plant to various areas in Anderson County (together, the "Duke Facilities"). The Duke Facilities have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton,

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and Williamston, South Carolina and to the public service districts of Big Creek Water and Sewerage District, Broadway Water and Sewerage District, Hammond Water District, Homeland Park Water and Sewerage District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District. In addition, Duke Energy Corporation ("Duke Energy") has also, through its retail distribution system, provided potable water within the corporate limits of the City of Anderson, to Clemson University and to certain commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire all of the facilities and assets related to the Duke Facilities, including all of Duke Energy's facilities that are necessary to serve Clemson University which will enter into a separate agreement with the Seller in order to purchase water on a wholesale basis from Seller. The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users. Simultaneously with the transfer of the Duke Facilities and the facilities necessary to serve Clemson University to the Seller, the City of Anderson and the special purpose districts of Broadway Water and Sewerage

District and West Anderson Water District are acquiring certain retail distribution facilities of Duke Energy.

Hence, this Agreement between these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

“Additional Capital Charge” means one twelfth (1/12) of a hundred and thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Pumping Percentage.

“Agreement” means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

“Allocated Capacity” means that portion of the capacity of the Facilities to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Facilities are set forth in Exhibit “A” hereto. Any increase in the capacity of the Facilities

resulting other than from expansion of the Facilities as contemplated by Section 3.09 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

“Allocated Percentage” means with respect to a Purchaser, the percentage derived by dividing a Purchaser’s Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit “A.”

“Allocated Pumping Percentage” means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the acquisition of the Facilities which will especially benefit such Pumped Purchaser due to pumping requirements.

“Annual Principal and Interest Requirement” means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.12 hereof.

“Arbitration Panel” means the panel of three (3) arbitrators appointed and selected pursuant to Section 6.02 hereof.

“Board” means the Board of Commissioners of Seller, the governing body of Seller.

“Bonds” means (A) those bonds initially issued by Seller to acquire the Facilities (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

“Bond Year” means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

“Booster Pump Stations” means all facilities directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

“Capital Charge” of a Purchaser means one twelfth (1/12) of a hundred and thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Percentage.

“Consulting Engineers” shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

“Facilities” means the Plant, all related transmission pipes and any related elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include any facilities owned or operated by a Purchaser as a part of its distribution system.

“Fiscal Year” means January 1 through December 31 of each year.

“Force Majeure” means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances

and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.08 of this Agreement.

"Maximum Instantaneous Delivery Rate" means the highest rate of delivery expressed in gallons per minute which Seller will sustain into Purchaser's System, determined by dividing the Allocated Capacity by 1,440.

"Operational Pumping Charge" means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to Purchaser; and for the second twelve (12) months of delivery of water to Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the first twelve (12) months of delivery of water to the Participants.

“Operation and Maintenance Expenses” means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

“Participants” means the Purchasers and Clemson University. The term “Participant” includes Pumped Purchasers and those Purchasers who receive water from Seller’s System without any requirement of pumping.

“Plant” means Seller’s existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

“Potable Water” means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

“Pumped Purchaser” means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

“Pumping Depreciation Charge” means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

"Pumping Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchaser for that Fiscal Year.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" or "Purchasers" means the cities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of Big Creek Water and Sewerage District, Broadway Water and Sewerage District, Hammond Water District, Homeland Park Water and Sewerage District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

"Purchaser's System" means the water distribution system of a Purchaser.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

"Seller" means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

"Seller's Bond Resolution" means

"Seller's System" or **"System"** means the Waterworks System of the Seller, including all of the Facilities and any improvements or expansions which may be made to the Facilities from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Territorial Map" means that map prepared by _____ dated _____ setting forth the agreed upon territorial boundaries of the various Participants purchasing water from the Seller. This map is incorporated by reference into this Agreement. Copies of it are on file with the Seller and the Participants. A reduced copy of this map is attached as Exhibit B.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that, on or before the effective date of this Agreement, will acquire, own and operate the Facilities as part of its System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell to meet its obligations under this Agreement, as evidenced by its _____ Permit, issued by the _____, on _____, a true copy of which has been delivered to Purchaser.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances

under which they were made, not misleading;

(D) Make available certified copies of official proceedings and records, if applicable;

(E) Provide reasonable certifications to be used in a transcript of closing documents;

(F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from a Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Each Purchaser. Each Purchaser hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina owning and operating a water distribution system which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations. Each Purchaser covenants and agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection

therewith, each Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by such Purchaser.

Section 2.06 Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the Facilities and shall extend for a period of fifty (50) years from such date. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III**SALE AND PURCHASE OF WATER****Section 3.01. Sale of Water.**

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Such Potable Water shall be delivered to each Purchaser at a metering site provided by Seller, such site to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site at an operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water Regulations (R. 61 – 58). Notwithstanding the foregoing, Seller shall undertake to provide Potable Water to each Purchaser at a minimum water pressure of 20 psi at the Maximum Instantaneous Delivery Rate. Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared by Seller to each Purchaser.

(B) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or

damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(C) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchise, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning in January, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

(A) the Capital Charge of such Purchaser, plus

(B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered to all Participants from Seller's System for the preceding month, i.e.,

Monthly O&M Payment = $1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}}$; plus

(C) the System Depreciation Charge, if any.

Beginning in January, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

(D) the Additional Capital Charge, plus

- (E) the Operational Pumping Charge, plus
- (F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A) and (D) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to each Pumped Purchaser's Allocated Pumped Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Pumped Facilities Renewal and Replacement Fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-

grading of any Facilities, any acts or circumstances which may constitute failure of consideration, destruction of or damage to the Facilities, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser for payment of the Capital Charge and all obligations of each Pumped Purchaser for payment of the Additional Capital Charge under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

Section 3.03. Priority of Pledge; Additional Obligations. Each Purchaser's obligation to pay the Capital Charge and each Pumped Purchaser's obligation to pay the Additional Capital Charge shall constitute an obligation under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's System is hereby granted to Seller.

Each Purchaser hereby represents that all obligations which are payable from the revenue of such Purchaser's System are set forth on Exhibit C attached hereto. Each Purchaser agrees that the obligations owed to the Seller as the Capital Charge and each Pumped Purchaser agrees that the obligations owed to the Seller as the Additional Capital Charge are secured by the pledge and lien status as the same are set forth on Exhibit C attached hereto. Each Purchaser, with respect to the Capital Charge, and each Pumped

Purchaser, with respect to the Additional Capital Charge, agrees that it will not grant any pledge of, or interest in the revenues of such Purchaser's System prior or superior to the pledge and lien given to secure the obligations set forth herein.

Section 3.04. Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01 (4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.05, are received

by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04. A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at least annually and upon the request of any party when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios

calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the Facilities in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles and shall show the allocation of expenses of the System as between the Facilities and Seller's other assets, or operations. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchaser's Allocated Capacity.

(A) The cost of future capital improvements to the Facilities for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

(B) The cost of future capital improvements to the Facilities to extend the useful life of the Facilities or to maintain treatment capacities shall also be shared on the basis of Allocated Percentages. If the capacity of the Facilities is expanded in order to provide water to other new water service areas, bulk or industrial users or other political subdivisions, with no direct benefit to Purchaser, then Purchaser shall not be obligated to participate in the capital cost of such improvements.

(C) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Section 3.10. Expansion of the Facilities to Provide Additional Capacity.

(A) Seller and each Purchaser recognize that it cannot presently be determined what their respective or any other Participant's future requirements for water will be and that one or both of such parties, or another Participant may at some future time require additional capacity in the Facilities. It is the intention of the parties hereto to provide such additional capacity as shall be needed by the respective parties or by another Participant with the costs

of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the Facilities necessary to provide the additional capacity requested by this Section 3.10 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

- (i) the requested availability date shall be not less than thirty (30) months following the date of the notice;
- (ii) Seller shall not be required to add capacity to the Plant in increments of less than five million (5,000,000) gallons;
- (iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs

incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the capacity of the Facilities or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the Facilities, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

(i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of

any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV**Renewal and Replacement Funds****Section 4.01. Facilities Renewal and Replacement Fund; Use; Investments.**

Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of Bonds; and (5) for optional redemption of Bonds.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount

established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify each Purchaser that a System Depreciation Charge will be due for each remaining month of that Fiscal Year.

Section 4.04. Pumping Facilities Renewal and Replacement Fund; Use; Investments. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to

defray the cost of unforeseen contingencies; (4) to prevent defaults of Bonds; and (5) for optional redemption of Bonds.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund.

All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund.

In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on its Allocated Pumping Percentage. In the event a deficit has occurred in the Pumping Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and

Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due for each remaining month of that Fiscal Year.

(End of Article IV)

ARTICLE V**EVENTS OF DEFAULT; REMEDIES****Section 5.01. Events of Default; Remedies.**

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter,

upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a

prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI

MISCELLANEOUS

Section 6.01. Ownership of Facilities. The Facilities shall at all times be the sole and absolute property of Seller.

Section 6.02. Territorial Boundaries. In order to successfully plan and finance, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territory of the parties to this Agreement.

Each entity whose territorial rights are shown upon this map shall be entitled to distribute water purchased from the Seller to retail customers within its territory but not beyond those limits without the consent of the other entity into which an extension is proposed.

Nothing herein shall prohibit either party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to compliance with engineering and traffic safety standards:

Section 6.03. Sites for Additional Tanks. In the event Seller determines that it is necessary to construct storage tanks as improvements to the Facilities and the desired locations for such tanks are within the service area of Purchaser, Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.04. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by the Purchaser.

Section 6.05. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit D attached hereto.

Either party hereto may, by notice given to the other party to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.06. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by both parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement shall be pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may sell or otherwise realize upon such security in foreclosure or other suitable proceedings, possess or take control of a Purchaser's System or cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.07. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a non-governmental party within the meaning set forth in §1-141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 6.08. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

Section 6.09. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.10. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.11. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

(End of Article VI)

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM, SOUTH
CAROLINA, as Seller

By: _____
Its: _____

Witnesses:

_____, as Purchaser

By: _____
Its: _____

Witnesses:

Exhibit AAll Participants

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of		
Big Creek Water and Sewerage District		
Broadway Water and Sewerage District		
Clemson, City of		
Clemson University (Joint Entity)		
Hammond Water District		
Homeland Park Water and Sewerage District		
Pendleton, Town of		
Powdersville Water District		
Sandy Springs Water District		
Starr-Iva Water District		
West Anderson Water District		
Williamston, Town of		

Pumped Purchasers

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	
Clemson, City of	
Clemson University (Joint Entity)	
Hammond Water District	
Pendletown, Town of	
Powdersville Water District	
Sandy Springs Water District	
Williamston, Town of	

08.01.13 000173

Exhibit B

Map

B-1

LJS/CITY001524

08.01.13 000174

Exhibit C

Descriptions of Each Purchaser's Debt and Lien Status of Obligations Hereunder.

C-1

LJS/CITY001525

08.01.13 000175

Exhibit D

Addresses of All Parties for the Receipt of Notice

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D-1

LJS/CITY001526



December 7, 2001

Mr. John Stathakis
Attorney at Law
Post Office Box 2167
Anderson, South Carolina 29622

Mr. Stephen Potts
Attorney at Law
Post Office Box 2861
Anderson, South Carolina 29622

RE: City of Anderson, Star/Iva PCD, and West Anderson PCD

Dear John and Steve:

It is my understanding from our discussions on December 6, 2001, that the entities have agreed in principle to the following:

1. The City of Anderson will service BASF and Owens Corning Fiberglass as its retail customers.
2. The Star/Iva Water District will continue to serve domestic water to BASF using the line along Maters Boulevard.
3. The City agrees that Star/Iva can tap onto the Owens Corning line provided there is available capacity.
4. West Anderson will verify the number of taps in the City's retail area that they desire to purchase. The parties will attempt to negotiate a reasonable price based upon the number of taps to be purchased.
5. The City will serve the Michelin plant which is to be located in the West Anderson District. The City will not utilize the 24-inch line to serve any other customers within the West Anderson Water District.

Of course, it is understood that the stipulations are contingent upon the successful acquisition of the retail system by the City of Anderson and the agreement of the governing bodies of the public entities involved.

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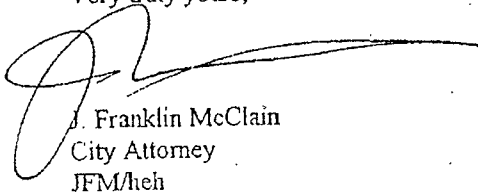
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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Mr. John Stathakis
Mr. Stephen Potts
Page Two
December 7, 2001

Please let me know if the above is a correct assessment of our meeting.
Thank you for your attention to this matter.

Very truly yours,



J. Franklin McClain
City Attorney
JFM/heh

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Frankie McClain

From: John Moore <jmoore@cityofandersonsc.com>
 To: Bill Ross (E-mail) <wross@svbk.com>; Chuck Joye (E-mail) <ChuckJ@DSouth.com>; Dan McLeod (E-mail) <dmcLeod@mcnair.net>; Daryll Parker (E-mail) <dparker@svbk.com>; Edward Boyles (E-mail) <edward.boyles@bankofamerica.com>; Frankie McClain <fmccclain@milenicom.com>; Jeff McGarvey (E-mail) <jmcgarvey@svbk.com>; Jim Brailsford (E-mail) <jbrailsford@mindspring.com>; Jim Broyles (E-mail) <jlmb@DSouth.com>; John Kersten (E-mail) <jkersten@svbk.com>; Linda McConnell (E-mail) <lmccConnell@cityofandersonsc.com>; Peggy Maxwell (E-mail) <pmaxwell@innova.net>; Richard <rmccConnell@cityofandersonsc.com>; Robert Hobson (E-mail) <r.hobson@bankofamerica.com>; Shirley (E-mail) <mayor@cityofandersonsc.com>; Tommy Dunaway (E-mail) <tdunawaylaw@mindspring.com>
 Sent: Wednesday, December 12, 2001 7:27 AM
 Subject: FW: Duke Water Update - Requested Conference Call with you

Team:
 I thought you might like a little fire and brim stone this morning before you start your day. I was raised in an old fashion Baptist church, however, I have since converted to Methodist.

John

-----Original Message-----

From: John Moore

Sent: Wednesday, December 12, 2001 7:00 AM

To: Kent Guthrie (E-mail); 'hoayne@duke-energy.com'

Subject: Duke Water Update - Requested Conference Call with you

Kent and Henry:

I heard that the City got beat up pretty bad by some folks yesterday. Let me say the following for the last time. "The City is committed to buying the retail system and being a member of the ACJMWS. The work (DHEC Business Plan, Employment offers, Draft Official Statement, Draft Bond Ordinance, Draft Feasibility Study, first reading of ordinances for Asset Purchase Agreement and Water Purchase Agreement, etc.) that the City has put forth the last two months should be evidence that it means business." Those who accuse the City of sabotage and bad faith need to move out of the way. They are "naysayers" impeding the progress of this community. I trust it at the ACJMWS management, being you, do not adhere to this kind of nonsense.

I plan to call you this morning at 8:45 a.m. I hope you can be available to discuss this matter. I will be out of town after 10:00 a.m.

It is time to get over finger pointing and move this deal to closure. Let's look at where we are. Since there has been the lack of agreement between the City and you regarding issues like territory, assets and billing, the City has been unable to complete its financing and "yes" will miss the 12/31 deadline. Now, what are our options? First, we demand a time extension from Duke after we resolve the three issues I mentioned above, and we move to close and own this system. Given where we are, this could be done early next year. We can establish a schedule with Duke. The second option is if Duke says no to the extension. Then the ACJMWS can try to close in an atmosphere of litigation that may take years. Duke, the ACJMWS, the City, the other water purchasers, and the community all win under the first option. Nobody wins in the second. Let's hope reasonable minds prevail. This is a most complex deal, and Duke will have to understand that it is taking more time than anticipated.

Now, let's go back to the issues between the City and you, representing the ACJMWS. These are the issues that are preventing the City from closing. Again, these are the following:

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- Ownership of the combination lines that are transmission/distribution/retail in nature within the City territory. These represent about a dozen lines.
- The territory - especially where West Anderson and the City border.
- The method of billing the City.

First, let's address the lines. Under 50%/50% joint ownership proposed by the City, both parties are protected. Neither party can do something to harm the other. The ACJMWS can maintain the lines under a separate agreement. The City will be helping defray the cost to the ACJMWS. However, this arrangement protects the City against arbitrary decisions of the ACJMWS management that may effect the City's ability to serve its customers. This 50/50 ownership is going to work with the Operation Center. Why not here? Both parties have interest.

Second, the City asked West Anderson to check the work it did regarding the boundary between the City and West Anderson. The City has yet to receive this information which was requested last week. The City cannot sign agreements when the boundaries are yet to be finalized. The City has always known that there were about 250 customers that West Anderson wanted to buy. The City agreed to lower the price from \$1500 per customer to \$700 per customer to move the deal forward. The City cannot agree to sell 470 (suggested by West Anderson) at this price. The \$1500 has been questioned, but it came from the discounted cash flow method of pricing the retail system. This is how Black & Veatch arrived at the \$17,000,000 that the City was originally to pay. Why should the City change the way the system is priced for these customers. Ask B&V to calculate the present value of a residential customer using 20 years and a 5% discount rate. The will arrive at \$1500.

Finally, the ACJMWS proposed a new method of billing the City this past Friday. It is contrary to everything that has been talked about. The Black & Veatch value of the City's system was based on billed flow, not some meter reading scheme. In fact, B&V's numbers do not include any factor for unaccounted for water, just billed flow. How can you expect the City to agree on some new method of billing that has an unknown impact on the already 40% increased water rates. In a perfect world, your scheme may work, but we are trying to close a \$63,500,000 deal and need to compromise and move on.

Now, all the above said, if you want to conclude this deal, it can be done simply and quickly. Agree to the joint ownership of the lines, get West Anderson's attorney to verify their boundary, and agree that the City's billing will be the total of billed flow plus 4% for unaccounted for water (the City had enough sense to add 4%). Otherwise, everyone is in for a long haul. Let's do this deal.

If the tone of this e-mail reflects any anger, let me set the record straight. "You are damn right that I am mad." I am disappointed in you, the management, for not standing up for what is fair and right. I am disappointed in you for not seeing the big picture enough to agree on some things to get this deal done. I trust that this will not be a reflection of how you will do business when the ACJMWS is up and running.

Feel free to share these thoughts with the appropriate parties. I plan to.

John

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GBLLC 000005

12/12/01

5th Draft
December 15, 2001

**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10
OF THE SOUTH CAROLINA CODE OF LAWS (1976).**

WATER SALE AND PURCHASE AGREEMENT

This **WATER SALE AND PURCHASE AGREEMENT** made as of this _____ day of December, 2001, by and among the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamton and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell, the Transportation Mains which transport the treated water from this Plant to various areas in Anderson County and a small area in

LJS/CITY001787

Pickens County and related facilities (the "Duke Facilities"). The Duke Facilities have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District. In addition, Duke Energy Corporation ("Duke Energy") has also, through its retail distribution system, provided potable water within the corporate limits of the City of Anderson, to Clemson University and to certain commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire all of the facilities and assets related to the Duke Facilities, including all of Duke Energy's facilities that are necessary to serve Clemson University which will enter into a separate agreement with the Seller in order to purchase water on a wholesale basis from Seller. Simultaneously with the transfer of the Duke Facilities and the facilities necessary to serve Clemson University to the Seller, the City of Anderson and the special purpose districts of The Broadway Water and Sewerage District of Anderson County and West Anderson Water District are acquiring certain retail distribution facilities of Duke Energy.

It is presently intended by the parties hereto that the City of Anderson will serve (1) two industries, BASF and Owens-Corning, located within the boundaries of Starr-Iva Water and Sewer District and (2) the industrial facilities of Michelin which are located in the boundaries of West Anderson Water District. Both Starr-Iva Water and Sewer District and

West Anderson Water District consent to the City of Anderson's providing such service to these industries. However, such consent is strictly limited to the provision of service to these named industrial customers and no further provision of service by the City of Anderson or by any other Purchaser shall be made to any customer located within the boundaries of Starr-Iva Water and Sewer District or within West Anderson Water District without the written consent of such Purchaser.

The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Each of the Purchasers has determined that it is in the best interests of its customers and residents located within its respective service area to participate in the acquisition by Seller of the Duke Facilities by becoming a member of Seller and to purchase certain rights to the use of the Duke Facilities. By joining together, economies of scale can be achieved and each Purchaser will be able to acquire a safe and secure source of potable water. Each Purchaser, recognizing the benefits to be gained by such joint action, has determined, pursuant to the provisions of this agreement, to purchase the right to receive a specified allocated capacity defined in terms of millions of gallons of potable water per day and to pay

for such amount of potable water by assuming the responsibility for a corresponding amount of the debt service on bonds issued by Seller to defray the acquisition of the Duke Facilities.

As a means of providing sufficient security to the holders of such bonds all members have agreed to share on a pro rata basis certain of the obligations of each Purchaser under the provisions of this agreement on a "step-up" basis. Such arrangement will insure that the financing of the acquisition of the Duke Facilities will be achieved at the lowest possible cost and that the Duke Facilities once acquired will remain under the control and operation of the Purchasers executing this agreement.

Hence, this agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

"Additional Capital Charge" means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual

Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser's Allocated Pumping Percentage.

"Agreement" means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

"Allocated Capacity" means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Purchasers are set forth in Exhibit "A" hereto. Allocated Capacity is expressed in million gallons per Day ("MGD") and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24) hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

"Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing a Purchaser's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit "A."

"Allocated Pumping Percentage" means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the acquisition of the System which will especially benefit such Pumped Purchaser due to pumping requirements.

“Annual Principal and Interest Requirement” means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.13 hereof.

“Arbitration Panel” means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

“Board” means the Board of Commissioners of Seller, the governing body of Seller.

“Bonds” means (A) those bonds initially issued by Seller to acquire the System, (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

“Bond Year” means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

“Booster Pump Stations” means all facilities directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

“Capital Charge” of a Purchaser means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Percentage.

"Consulting Engineers" shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

"Facilities" means the Plant, all related transmission pipes and any related elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any improvements made to the Facilities from time to time and all additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include the Booster Pump Stations or any facilities owned or operated by a Purchaser as a part of its distribution system.

"Facilities Renewal and Replacement Fund" means the Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

"Fiscal Year" means January 1 through December 31 of each year.

"Force Majeure" means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or a Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

“Improvement Bonds” means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement.

“Operational Pumping Charge” means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller’s System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to each Pumped Purchaser; and for the second twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller’s System for the first twelve (12) months of delivery of water to the Participants.

“Operation and Maintenance Expenses” means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and

prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

"Participants" means the Purchasers and Clemson University. The term **"Participant"** includes Pumped Purchasers and those Purchasers who receive water from Seller's System without any requirement of pumping.

"Plant" means Seller's existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

"Potable Water" means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

"Pumped Purchaser" means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

"Pumping Depreciation Charge" means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

"Pumping Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchasers for that Fiscal Year.

“Pumping Facilities Renewal and Placement Fund” means the Pumping Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.04 of this Agreement.

“Pumping Operation and Maintenance Expenses” means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

“Purchaser” or “Purchasers” means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

“Purchaser’s System” means the water distribution system of a Purchaser.

“Seller” means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

“Seller’s Bond Resolution” means a resolution entitled “A Resolution Providing for the Issuance and Sale of Waterworks System Revenue Bonds of Anderson County Joint Municipal Water System , South Carolina and other Matters Relating Thereto,” adopted December __, 2001.

"Seller's System" or "System" means the Waterworks System of the Seller, including all of the Facilities and the Booster Pump Stations and any improvements or expansions which may be made to the Facilities and the Booster Pump Stations from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Facilities Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03. hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that, on or before the effective date of this Agreement, will acquire, own and operate the System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell to meet its obligations under this Agreement, as evidenced by its _____ Permit, issued by the _____, on _____, a true copy of which has been delivered to each Purchaser.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances

under which they were made, not misleading;

(D) Make available certified copies of official proceedings and records, if applicable;

(E) Provide reasonable certifications to be used in a transcript of closing documents;

(F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as a Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from a Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Each Purchaser. Each Purchaser hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina owning and operating a water distribution system which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations. Each Purchaser covenants

and agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection therewith, each Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby

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incurred by such Purchaser.

Section 2.06 Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the System and shall extend for a period of thirty (30) years from such date but, thereafter may be renewed for periods that are the longer of (a) a period ending on the final maturity date of any Bonds then outstanding or proposed to be issued or (b) a five year period. Each Purchaser shall provide Seller with a written notice of its intention to renew or not to renew not less than six months prior to the end of each term including the initial thirty (30) year term. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III**SALE AND PURCHASE OF WATER****Section 3.01. Sale of Water.**

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Such Potable Water shall be delivered to each Purchaser at a metering site or sites provided by Seller, such site or sites to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site or sites at an operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water Regulations (R. 61 – 58). Notwithstanding the foregoing, Seller shall undertake to provide Potable Water to each Purchaser at a minimum water pressure of 20 psi. Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared by Seller to each Purchaser.

(B) In the event the Seller determines that a Purchaser is using water in excess of its Allocated Capacity, then such Purchaser shall be notified that it must acquire additional Allocated Capacity under the provisions of either Section 3.10 or Section 3.11 and each

Purchaser agrees to acquire such additional Allocated Capacity. During any period of time that the average daily consumption of water by a Purchaser in any month exceeds its Allocated Capacity, such Purchaser shall be subject to a penalty determined and thereafter imposed by the Seller.

(C) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(D) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning in January, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (A) the Capital Charge of such Purchaser, plus
- (B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for

the preceding month to all water delivered from Seller's System for the preceding month,
i.e.,

$$\text{Monthly O\&M Payment} = 1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}} ; \text{ plus}$$

(C) the System Depreciation Charge, if any.

Beginning in January, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (D) the Additional Capital Charge, plus
- (E) the Operational Pumping Charge, plus
- (F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A) and (D) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds, and such interest earnings have been credited to the appropriate debt service fund; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to each Pumped Purchaser's Allocated Pumped Percentage of the earnings realized in the immediately preceding Fiscal

Year on investments made in the Pumped Facilities Renewal and Replacement Fund to the extent such interest earnings have been credited to the appropriate debt service fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or upgrading of any component of the System, any acts or circumstances which may constitute failure of consideration, destruction of or damage to any component of the System, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser for payment of the Capital Charge and all obligations of each Pumped Purchaser for payment of the Additional Capital Charge under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

In the event any payment by a Purchaser to the Seller is insufficient to satisfy the Purchaser's entire then-current obligations under this Agreement, such payments shall be applied in the following order of priority: (1) Capital Charge, (2) Additional Capital Charge, (3) the Purchaser's share of the Operation and Maintenance Expense, (4) the Operational Pumping Charge, if any, (5) the System Depreciation Charge, if any, and (6) the Pumping Depreciation Charge, if any.

Section 3.03. Priority of Pledge; Additional Obligations. Each Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's System is hereby granted to Seller.

Each Purchaser hereby represents that all outstanding debt which is payable from the revenues of such Purchaser's System is set forth on Exhibit B attached hereto. Each Purchaser agrees that the obligations owed to the Seller hereunder are secured by the pledge and lien status as the same are set forth on Exhibit B attached hereto. Each Purchaser, with respect to the Capital Charge, and each Pumped Purchaser, with respect to the Additional Capital Charge, agrees that it will not grant any pledge of, or interest in the revenues of such Purchaser's System prior or superior to the pledge and lien given to secure the Capital Charge or the Additional Capital Charge and for purposes of each Purchaser incurring debt hereafter, the Capital Charge and the Additional Capital Charge, if appropriate, shall constitute revenue debt of such Purchaser.

Section 3.04. Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01(A)(4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.04, are received by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04. A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid

by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at a Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at such times as the Seller, in its discretion, deems necessary or upon the request of any Purchaser when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter.

A Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

It is recognized by and among the parties hereto that flow to the City of Anderson's retail system is not currently measured by wholesale master meters. Therefore, the flow to the City of Anderson shall be measured as follows: for the first twelve months of delivery of water by Seller to the City of Anderson, flow will be calculated by adding the sum of all retail, municipal and other meter readings that are part of the City of Anderson's system and said sum shall be multiplied by 1.04. The City of Anderson shall furnish these readings to the Seller on a monthly basis no later than the fifth day of the month. The Seller shall have the right to audit such computations at any time Seller believes an error has been made. During the first twelve months of delivery of water by Seller to the City of Anderson, the Seller and the City of Anderson shall engage an independent third party to study water loss in the City of Anderson's system and to develop a method of billing that is fair and equitable to both the City of Anderson and the Seller. The cost of the study will be paid equally by the City of Anderson and the Seller. The study shall include both the methodology of calculating the flow and the water loss percentages used in such methodologies. The recommendations included in the independent study results shall be binding on both parties. In the event that the implementation of such recommendations causes retail water rates

charged by the City of Anderson to rise by more than four percent, the recommendations shall be phased in over a three year period. At such time as wholesale master meters are installed to accurately measure flow to the City of Anderson either in whole or part, alternate billing methods shall no longer be used. The installation of master meters to measure flow to the City of Anderson shall be by mutual agreement with the cost to be paid equally by the City of Anderson and the Seller.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the System in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each

Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchaser's Allocated Capacity.

(A) The cost of future capital improvements to the Facilities for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

(B) The cost of future capital improvements to the Facilities to extend the useful life of the Facilities or to maintain treatment capacities or such other improvements as Seller determines necessary to the proper functioning of the Facilities shall also be shared on the basis of Allocated Percentages. If the capacity of the Facilities is expanded in order to

provide water to other new water service areas, bulk or industrial users or other political subdivisions, with no direct benefit to a Purchaser, then such Purchaser shall not be obligated to participate in the capital cost of such improvements.

(C) In the event the capital costs contemplated by (A) and (B) above would result in a Purchaser's share of such cost exceeding the sum of \$100,000, Seller agrees to finance the capital costs by the issuance of Bonds.

(D) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Section 3.10. Expansion of the Facilities to Provide Additional Capacity.

(A) It is the intention of the parties hereto that additional capacity as shall be needed by the respective parties shall be made available from time to time with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the Facilities necessary to provide the additional capacity requested by this Section 3.10 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

(ii) Seller shall not be required to add capacity to the Facilities in increments of less than two million (2,000,000) gallons; provided, however nothing in this paragraph (ii) prohibits the Seller and any Participant from agreeing to any particular increment of additional capacity to be so constructed;

(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the capacity of the Facilities or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the System, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

- (i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss

therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV**Renewal and Replacement Funds**

Section 4.01. Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement

Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify each Purchaser that a monthly System Depreciation Charge will be due. Such notice shall state the period during which a System Depreciation Charge will be due which period shall be not less than nine months.

Section 4.04. Pumping Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the

Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund.

All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on its Allocated Pumping Percentage. In the event a deficit has occurred in the Pumping Facilities

Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due. Such notice shall state the period during which a Pumping Depreciation Charge will be due which period shall be not less than nine months.

(End of Article IV)

ARTICLE V

EVENTS OF DEFAULT; REMEDIES

Section 5.01. Events of Default; Remedies.

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure, bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter,

upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a

prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI**MISCELLANEOUS**

Section 6.01. Ownership of Facilities. The System shall at all times be the sole and absolute property of Seller.

Section 6.02. Construction and Operation of Trans-Lines.

Nothing herein shall prohibit any party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to the appropriate proceedings being adopted by the party providing the consent and compliance with engineering and traffic safety standards. The owner of a Trans-Line is responsible for all expenses related to the operation and maintenance thereof. In the event a Trans-Line is jointly owned, such owners shall determine the pro-rata costs that each will bear.

Section 6.03. Sites for Additional Tanks, Booster Pump Stations and Trans-Lines.

In the event Seller determines that it is necessary to construct storage tanks, booster pump stations or Trans-Lines as improvements to the Facilities and the desired locations for such tanks, booster pump stations or Trans-Lines are within the service area of a Purchaser, each Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.04. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by the Purchaser.

Section 6.05. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit C attached hereto.

Any party hereto may, by notice given to the other parties to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.06. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by both parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement shall be pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.07. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a non-governmental party within the meaning set forth in

§1.141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 6.08. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

Section 6.09. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.10. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.11. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

08.01.13 000273

(End of Article VI)

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM, SOUTH
CAROLINA, as Seller

By: _____
Its: _____

Witnesses:

CITY OF ANDERSON, as Purchaser

By: _____
Its: _____

Witnesses:

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser

By: _____
Its: _____

Witnesses:

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser

By: _____
Its: _____

Witnesses:

CITY OF CLEMSON, as Purchaser

By: _____
Its: _____

Witnesses:

HAMMOND WATER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

HOMELAND PARK WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

TOWN OF PENDLETON, as Purchaser

By: _____
Its: _____

Witnesses:

POWDERSVILLE WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

SANDY SPRINGS WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

STARR-IVA WATER AND
SEWER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

08.01.13 000278

WEST ANDERSON WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

Exhibit AAll Participants

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	10.46	32.7%
Big Creek Water and Sewerage District	1.24	3.9
Broadway Water and Sewerage District	1.08	3.4
Clemson, City of	2.02	6.3
Clemson University (Joint Entity)	2.00	6.3
Hammond Water District	2.61	8.2
Homeland Park Water District	1.07	3.3
Pendleton, Town of	0.62	1.9
Powdersville Water District	0.58	1.8
Sandy Springs Water District	3.58	11.2
Starr-Iva Water and Sewer District	3.50	10.9
West Anderson Water District	2.24	7.0
Williamston, Town of	1.00	3.1

Pumped Purchasers

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	10.29%
Clemson, City of	16.84
Clemson University (Joint Entity)	17.72
Hammond Water District	1.69
Pendletown, Town of	5.14
Powdersville Water District	5.63
Sandy Springs Water District	31.39
Williamston, Town of	11.30

08.01.13 000280

Exhibit B

Descriptions of Each Purchaser's Debt and Lien Status of Obligations Hereunder.

C-1

LJS/CITY001835

08.01.13 000281

Exhibit C

Addresses of All Parties for the Receipt of Notice

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D-1

LJS/CITY001836

RESOLUTION NO. 01-08

WHEREAS, the certain entities (Big Creek Water and Sewerage District, Broadway Water and Sewerage District, Hammond Water Company, Powdersville Water Company, Sand Springs Water Company, Starr-Iva Water Company, and West Anderson Water Company) (the "Entities") and Duke Energy Corporation have heretofore entered into an Asset Purchase Agreement dated as of February 14, 2000, whereby the Entities have agreed to purchase Duke's water system division which is engaged in the business of supplying water for residential, commercial, industrial, and municipal purposes through an operation located in Anderson County, South Carolina (the "Duke Water System"); and

WHEREAS, the Entities are members of the Anderson County Water Association and are in the process of establishing, pursuant to the South Carolina Joint Municipal Water Systems Act, South Carolina Code Section 6-25-5 *et seq.*, a joint water system to operate a water system in Anderson County, South Carolina that will be a public body corporate and politic of the State of South Carolina and will be known as the Anderson County Joint Municipal Water System (the "ACWA"); and

WHEREAS, the City of Anderson, South Carolina (the "City") and Duke are in the process of negotiating the sale pursuant to an Asset Sale Agreement to the City of the retail portion of the Water System (the "Retail Assets"); and

WHEREAS, ACWA has forwarded to the City a proposed Water Purchase Agreement under which the City will be bound for a period of 30 years to purchase water from ACWA upon the terms and conditions set forth therein; and

WHEREAS, there are several substantial and significant modifications to the Asset Sale Agreement and Water Purchase Agreement which must be agreed to prior to the City's authorization and approval of these agreements.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANDERSON, SOUTH CAROLINA, AS FOLLOWS:

1. Prior to final City Council approval of the Asset Sale Agreement and Water Purchase Agreement, the following provisions to such agreements and the ACWA By-Laws must be made:
 - a) All lines which are located in the City's retail service area and which serve wholesale and retail customers shall be owned by the City, with an operating agreement with ACWA providing for reasonable use by the ACWA.

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GBLLC 000006

- b) Environmental concerns at various tank sites must be addressed by allowing the City sufficient time to conduct appropriate environmental studies.
 - c) The provisions of the Water Purchase Agreement regarding territorial maps, defining the purchaser's system, defining the City's purchased water costs and master meter requirements must be amended as proposed by the City.
 - d) The By-Laws of the Anderson County Water Association must be amended to reflect that all votes except as may be otherwise provided by the Joint Municipal Water Systems Act are based on allocated flow.
 - e) The By-Laws must conform to the Joint Municipal Water Systems Act regarding a quorum and the issuance of bonds.
 - f) Duke must extend the closing deadline until April 30, 2002, to allow the City sufficient time to conduct the necessary environmental studies, the amendments/review of the final documents, and obtain Corps of Engineers transfer permit.
 - g) Changes must be made to Transition Services Agreement such that Duke bears responsibility for any of its negligent acts in performing transition services.
2. ACWA shall provide to the City a complete list of all contractual obligations and other liabilities incurred by it through the date that the City becomes a member of the ACWA.
3. Representatives of the City must be allowed to participate in and vote upon all financing aspects of ACWA's purchase of the Water System including but not limited to, underwriter fees and structure and bond insurance premiums.

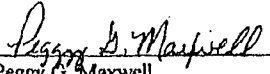
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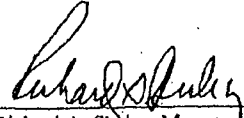
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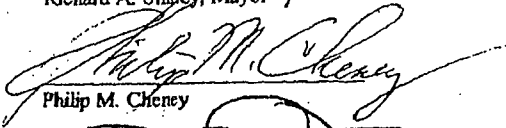
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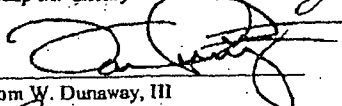
ADOPTED THIS 17th DAY OF December, 2001

ATTESTED TO:


Peggy G. Maxwell
City Clerk/Treasurer

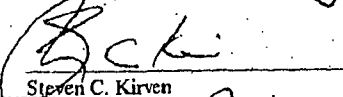

Richard A. Shirley, Mayor

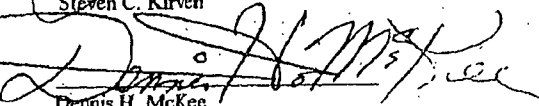

Philip M. Cheney

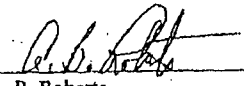

Tom W. Dunaway, III

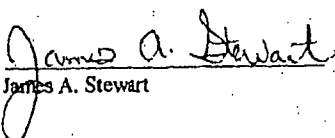
APPROVED AS TO FORM:


J. Franklin McClain
City Attorney

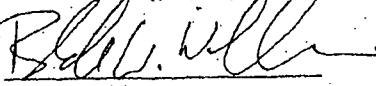

Steven C. Kirven


Dennis H. McKee

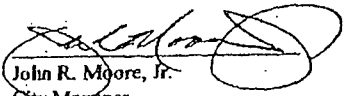

A. B. Roberts


James A. Stewart

Beatrice R. Thompson, Mayor Pro Tem


Blake W. Williamson

REVIEWED BY:


John R. Moore, Jr.
City Manager

COUNCILMEMBERS

5000069

GBLLC 000008

City of Anderson
Summary of Negotiations between the City of Anderson and ACJMWS
(Using City Council Resolution 01-08 as agenda)
December 27, 2001

1a. Issue of line and tank ownership.

Final City Position - Own all lines within service area except those in the vicinity of treatment plant (i.e. 30" line leaving WTP to Old Pearman Dairy Road; paralleling Old Pearman Dairy Road to Dixon Road; paralleling Dixon Road until it intersects Hwy. 28 Bypass. 24" line leaving WTP to Old Pearman Dairy Road; paralleling Old Pearman Dairy Road to the intersection of Hwy. 28 Bypass; then paralleling Hwy. 28 Bypass until intersecting with Clemson Boulevard to Lake Hartwell. 16" line paralleling Hwy. 28 Bypass from intersection of Dixon Road to the intersection of Old Pearman Dairy Road would be in ownership of ACJMWS). City would receive operating agreement from ACJMWS for the lines described above to allow service to retail customers in City service area.

ACJMWS would receive operating agreement guaranteeing unimpeded water to wholesale customers being served through City owned lines (i.e. Hammond, Broadway, Homeland Park, Starr-Iva and West Anderson). City owns all tanks (6) within service area. City would grant lease governing control to ACJMWS.

Final ACJMWS Position - Same as above except must have ownership of line along 28 By-Pass and own 3 tanks (Bolt Dr., Whitehall Rd., and OCF). City would receive operating agreement to use 28 By-Pass line.

Open: Need parties to agree on ownership of lines and tanks.

Need Operating Agreements prepared and accepted.

City would request that Duke include all records on file, plats, maps, drawings, specifications, studies, reports, customer lists, permits, operation and maintenance records, GPS documents in written, printed and digital format, and all other pertinent information related to Duke's retail system as part of Asset Purchase Agreement.

1b. Environmental Concerns at tank sites:

Final City Position - City learned that ACJMWS had conducted Phase 1 at Mauldin St. tank site. ACJMWS assumed that the other 5 sites would be the same. William McCoy will provide this report to City. McCoy stated that Mauldin St. tank site was not a problem and could be resolve by skimming top layer of soil or mixing soil if site needed to be disturbed. City will evaluate and decide whether or not to proceed with contract with Qore to have Phase 1 done at remaining 5 sites. Either way, time needed should not exceed 3 weeks.

Not an issue with ACJMWS or Duke.

Open: Need William McCoy to get Phase 1 of Mauldin St. tank site to Design South's Tommi Jones.

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Need Tommi Jones to determine if City is to proceed with Qore contract.

1c. Water Purchase Agreement.

Final City Position – City wants City territorial map attached to Agreement. City wants wording acknowledging City territory to be respected by water companies (Margaret Pope and Leo Hill to draft wording). City wants reference to its Asset Purchase Agreement with Duke. City does agree with last wording in Agreement Section 3.05 with regard to how City will be billed and master meter installation. City agreed to sell approximately 350 taps (250 to West Anderson and 100 to Broadway) for \$700 each. West Anderson has determined that it wants to purchase 383 or 133 more than the City agreed to. Need to determine purchase price of these 133 taps. City Attorney has letter he prepared to West Anderson and will have at next meeting.

Final ACJMWS Position – Same as above except want all taps at \$700. ACJMWS claimed it was trading “positive majority” vote which will be discussed in 1d for the \$700 for all taps.

Open: Need parties agreement on number of taps in West Anderson and Broadway. City need detailed listing of tap addresses from West Anderson and Broadway that they want considered.

Need parties to agree on price for taps over 350.

1d. By-Laws – Votes on Allocated Flow.

Final City Position – All votes, except officers, must have positive majority.

Final ACJMWS Position – Agree with positive majority if City sells West Anderson all 383 taps at \$700.

Open: Does ACJMWS only agree to positive majority if \$700 is in place?

1e. By-Laws – Quorum and Bond Issues.

Final City Position – These sections of By-Laws should reflect exact wording of State Code.

Final ACJMWS Position – Did not seem to be a problem. Robert Galloway and Frankie McClain had agreed on the wording.

Open: Do By-Laws need to be formerly amended by ACJMWS. If so, when?

What is Clemson University's membership status? Do they vote their flow? If not, how will their capacity and voting power be voted?

1f. Deadline Extension By Duke.

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Duke asked parties to submit realistic timelines for completing transaction. Parties acknowledged that closing must happen simultaneously. Margaret Pope stated that ACJMWS could close by January 31. Dan McLeod suggested February 28. City will have Bank of America put together realistic schedule assuming agreement of issues above by both parties at January 3 meeting.

Open: Bank of America to prepare City closing schedule. BofA to coordinate closing with Paine Webber/Haynesworth Sinkler Boyd.

1g. Transition Services Agreement.

Dan McLeod asked Bill Austin to assist in negligence wording. City agrees that billing service may be all that's needed.

Open: Need to determine deadline extension so City can see what it can do to lessen transition services needs.

2. Contractual Obligations.

ACJMWS through Kent Guthrie will get listing of contractual obligations and / or copies of contracts as needed to satisfy City.

Open: Receipt of listing and contract copies.

3. Bond Issue Costs:

City would like to see Bond Insurance Premium quote from FSA and projected interest rates on ACJMWS bond sale through Paine Webber. Margaret Pope agreed to provide to City.

Open: Receipt of above information by City.

5000074

GBLLC 000013

Anderson County Water System

P.O. Box 299, La France, South Carolina 29656
Phone: 864-646-0017 Fax: 864-646-6188

Meeting w/City of Anderson 12/27/01

Issue Status:

1. a) This issue has not been resolved although several proposals were discussed. One proposal that ACWS supported was to retain ownership of the transmission line on Highway 28 Bypass with an operational agreement with the City. The City will own the other "interior" transmission lines and provide ACWS with a similar operational agreement for those lines. ACWS would own lines from plant northwest of Whitehall Rd./28 intersection (to tank). There was little discussion about the other transmission lines that serve certain industries that the City will have as customers (Owens-Corning and BASF) and little discussion about the lines that actually serve as the supply lines to several of the members of ACWS that feed from these "interior" lines. ACWS does not believe that its members will allow the City to own transmission lines that are within the boundaries of any of the other members. This proposal was premised on there being an agreement that ACWS would soon build a loop around the eastern portion of its system in stages.

The City proposed ownership of all tanks by the City with operational agreement for ACWS on Whitehall Rd., OCF and Bolt Dr. ACWS proposed ownership by City of Mauldin St., Orr St., and Fant St. tanks and ownership by ACWS of Whitehall Rd., OCF, and Bolt Dr.

1. b) Issue between Duke and City. ACWS will allow access by City to environmental information.
1. c) Territorial map will go back in agreement. Billing/meter question hopefully resolved with further discussions on whether the City will pay for its master meters.
1. d) Vote to be based on actual flow.

ACWS agreed to super majority vote issue if all 383 taps in W. Anderson and apartments in Broadway are sold for \$700 per tap. The City stated that it would only allow 350 taps at this price.

1. e) Agreed.
1. f) Up to Duke. ACWS is willing to agree to an earlier date. A date of January 15 was discussed as a date for signing the contracts. In that event, a closing date acceptable to ACWS would be February 15.
1. g) Issue between Duke and City.

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GBLLC 000009

06.05.13 000007

123-156789

City of Anderson Atty.

01:28:27 p.m.

09-11-2012

11/18

2. ACWS will provide.
3. ACWS is more than willing to provide information on their bond issue. Both parties will work together to trade information necessary to support the other's bond issue.

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GBLLC 000010

6th Draft
January 17, 2002

**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10 OF
THE SOUTH CAROLINA CODE OF LAWS (1976).**

WATER SALE AND PURCHASE AGREEMENT

This **WATER SALE AND PURCHASE AGREEMENT** made as of this _____ day of December, 2001, by and among the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell, the Transportation Mains which transport the treated water from this Plant to various areas in Anderson County and a small area in Pickens County and related facilities (the "Duke Facilities"). The Duke Facilities have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of The Big Creek Water and Sewerage District of Anderson County, The

LJS/CITY002638

Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District. In addition, Duke Energy Corporation ("Duke Energy") has also, through its retail distribution system, provided potable water within the corporate limits of the City of Anderson, to Clemson University and to certain commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire all of the facilities and assets related to the Duke Facilities, including all of Duke Energy's facilities that are necessary to serve Clemson University which will enter into a separate agreement with the Seller in order to purchase water on a wholesale basis from Seller. Simultaneously with the transfer of the Duke Facilities and the facilities necessary to serve Clemson University to the Seller, the City of Anderson and the special purpose districts of The Broadway Water and Sewerage District of Anderson County and West Anderson Water District are acquiring certain retail distribution facilities of Duke Energy.

It is presently intended by the parties hereto that the City of Anderson will serve (1) two industries, BASF and Owens-Corning, located within the boundaries of Starr-Iva Water and Sewer District and (2) the industrial facilities of Michelin which are located in the boundaries of West Anderson Water District. Both Starr-Iva Water and Sewer District and West Anderson Water District consent to the City of Anderson's providing such service to these industries. However, such consent is strictly limited to the provision of service to these named industrial customers and no further provision of service by the City of Anderson shall be made to any customer located within the boundaries of Starr-Iva Water and Sewer District or within West Anderson Water District without the written consent of such Purchaser.

The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Each of the Purchasers has determined that it is in the best interests of its customers and residents located within its respective service area to participate in the acquisition by Seller of the Duke Facilities by becoming a member of Seller and to purchase certain rights to the use of the Duke Facilities. By joining together, economies of scale can be achieved and each Purchaser will be able to acquire a safe and secure source of potable water. Each Purchaser, recognizing the benefits to be gained by such joint action, has determined, pursuant to the provisions of this agreement, to purchase the right to receive a specified allocated capacity defined in terms of millions of gallons of potable water per day and to pay for such amount of potable water by assuming the responsibility for a corresponding amount of the debt service on bonds issued by Seller to defray the acquisition of the Duke Facilities. As a means of providing sufficient security to the holders of such bonds all members have agreed to share on a pro rata basis certain of the obligations of each Purchaser under the provisions of this agreement on a "step-up" basis. Such arrangement will insure that the financing of the acquisition of the Duke Facilities will be achieved at the lowest possible cost and that the Duke Facilities once acquired will remain under the control and operation of the Purchasers executing this agreement.

Hence, this agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

“Additional Capital Charge” means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser's Allocated Pumping Percentage.

“Agreement” means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

“Allocated Capacity” means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Purchasers are set forth in Exhibit “A” hereto. Allocated Capacity is expressed in million gallons per Day (“MGD”) and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24) hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to

average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

"Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing a Purchaser's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit "A."

"Allocated Pumping Percentage" means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the acquisition of the System which will especially benefit such Pumped Purchaser due to pumping requirements.

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.13 hereof.

"Arbitration Panel" means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

"Board" means the Board of Commissioners of Seller, the governing body of Seller.

"Bonds" means (A) those bonds initially issued by Seller to acquire the System, (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

"Bond Year" means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

“Booster Pump Stations” means all facilities directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

“Capital Charge” of a Purchaser means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Percentage.

“Consulting Engineers” shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

“Facilities” means the Plant, all related transmission pipes and any related elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any improvements made to the Facilities from time to time and all additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include the Booster Pump Stations or any facilities owned or operated by a Purchaser as a part of its distribution system.

“Facilities Renewal and Replacement Fund” means the Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

“Fiscal Year” means January 1 through December 31 of each year.

“Force Majeure” means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts,

droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or a Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement.

"Operational Pumping Charge" means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to each Pumped Purchaser; and for the second twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the first twelve (12) months of delivery of water to the Participants.

"Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to,

chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

"Participants" means the Purchasers and Clemson University. The term "Participant" includes Pumped Purchasers and those Purchasers who receive water from Seller's System without any requirement of pumping.

"Plant" means Seller's existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

"Potable Water" means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

"Pumped Purchaser" means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

"Pumping Depreciation Charge" means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

"Pumping Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchasers for that Fiscal Year.

"Pumping Facilities Renewal and Placement Fund" means the Pumping Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.04 of this Agreement.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" or "Purchasers" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

"Purchaser's System" means the water distribution system of a Purchaser.

"Seller" means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

"Seller's Bond Resolution" means a resolution entitled "A Resolution Providing for the Issuance and Sale of Waterworks System Revenue Bonds of Anderson County Joint Municipal Water System, South Carolina and other Matters Relating Thereto," adopted December __, 2001.

"Seller's System" or "System" means the Waterworks System of the Seller, including all of the Facilities and the Booster Pump Stations and any improvements or expansions which may be made to the Facilities and the Booster Pump Stations from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by

Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Facilities Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that, on or before the effective date of this Agreement, will acquire, own and operate the System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell to meet its obligations under this Agreement, as evidenced by its _____ Permit, issued by the _____, on _____, a true copy of which has been delivered to each Purchaser.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;

- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as a Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from a Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Each Purchaser Each Purchaser hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina owning and operating a water distribution system which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations Each Purchaser covenants and agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection therewith, each Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not

contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;

- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by such Purchaser.

Section 2.06 Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the System and shall extend for a period of thirty (30) years from such date and thereafter, absent receipt of notice from any Purchaser of its intent not to renew, shall be automatically extended for five year periods. In the event a Purchaser intends not to renew at the end of a term, such Purchaser shall notify the Seller of its intent, in writing, not less than six months prior to the end of such term. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III**SALE AND PURCHASE OF WATER****Section 3.01. Sale of Water.**

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Such Potable Water shall be delivered to each Purchaser at a metering site or sites provided by Seller, such site or sites to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site or sites at an appropriate operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water Regulations (R. 61 – 58). Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared by Seller to each Purchaser.

(B) In the event the Seller determines that a Purchaser is using water in excess of its Allocated Capacity, then such Purchaser shall be notified that it must acquire additional Allocated Capacity under the provisions of either Section 3.10 or Section 3.11 and each Purchaser agrees to acquire such additional Allocated Capacity. During any period of time that the average daily consumption of water by a Purchaser in any month exceeds its Allocated Capacity, such Purchaser shall be subject to a penalty determined and thereafter imposed by the Seller.

(C) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(D) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning in January, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

(A) the Capital Charge of such Purchaser, plus

(B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered from Seller's System for the preceding month, i.e.,

$$\text{Monthly O\&M Payment} = 1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}} ; \text{ plus}$$

(C) the System Depreciation Charge, if any.

Beginning in January, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

(D) the Additional Capital Charge, plus

(E) the Operational Pumping Charge, plus

(F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A) and (D) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds, and such interest earnings have been credited to the appropriate debt service fund; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to each Pumped Purchaser's Allocated Pumped Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Pumped Facilities Renewal and Replacement Fund to the extent such interest earnings have been credited to the appropriate debt service fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any component of the System, any acts or circumstances which may constitute failure of consideration, destruction of or damage to

any component of the System, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser for payment of the Capital Charge and all obligations of each Pumped Purchaser for payment of the Additional Capital Charge under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

In the event any payment by a Purchaser to the Seller is insufficient to satisfy the Purchaser's entire then-current obligations under this Agreement, such payments shall be applied in the following order of priority: (1) Capital Charge, (2) Additional Capital Charge, (3) the Purchaser's share of the Operation and Maintenance Expense, (4) the Operational Pumping Charge, if any, (5) the System Depreciation Charge, if any, and (6) the Pumping Depreciation Charge, if any.

Section 3.03. Priority of Pledge; Additional Obligations. Each Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's System as hereinafter described is hereby granted to Seller.

Each Purchaser hereby represents that all outstanding debt which is payable from the revenues of such Purchaser's System is set forth on Exhibit B attached hereto. Each Purchaser agrees that the obligations owed to the Seller hereunder are secured by the pledge and lien status as the same are set forth on Exhibit B attached hereto. Each Purchaser, with respect to the Capital Charge, and each Pumped Purchaser, with respect to the Additional Capital Charge, agrees that it will not grant any

pledge of, or interest in the revenues of such Purchaser's System prior or superior to the pledge and lien given to secure the Capital Charge or the Additional Capital Charge and for purposes of each Purchaser incurring debt hereafter, the Capital Charge and the Additional Capital Charge, if appropriate, shall constitute revenue debt of such Purchaser.

Section 3.04. Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01(A)(4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.04, are received by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04.

A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at a Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at such times as the Seller, in its discretion, deems necessary or upon the request of any Purchaser when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. A Purchaser may request a reading or check of a meter or meters at a time or times other than those

regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

It is recognized by and among the parties hereto that flow to the City of Anderson's retail system is not currently measured by wholesale master meters. Therefore, the flow to the City of Anderson shall be measured as follows: for the first twelve months of delivery of water by Seller to the City of Anderson, flow will be calculated by adding the sum of all retail, municipal and other meter readings that are part of the City of Anderson's system and said sum shall be multiplied by 1.04. The City of Anderson shall furnish these readings to the Seller on a monthly basis no later than the fifth day of the month. The Seller shall have the right to audit such computations at any time Seller believes an error has been made. During the first twelve months of delivery of water by Seller to the City of Anderson, the Seller and the City of Anderson shall engage an independent third party to study water loss in the City of Anderson's system and to develop a method of billing that is fair and equitable to both the City of Anderson and the Seller. The cost of the study will be paid equally by the City of Anderson and the Seller. The study shall include both the methodology of calculating the flow and the water loss percentages used in such methodologies. The recommendations included in the independent study results shall be binding on both parties. In the event that the implementation of such recommendations causes retail water rates charged by the City of Anderson to rise by more than four percent, the recommendations shall be phased in over a three year period. At such time as wholesale master meters are installed to accurately measure flow to the City of Anderson either in whole or part, alternate billing methods shall no longer be used. The installation of master meters to

measure flow to the City of Anderson shall be by mutual agreement with the cost to be paid equally by the City of Anderson and the Seller.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the System in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these

budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchaser's Allocated Capacity.

(A) The cost of future capital improvements to the Facilities for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

(B) The cost of future capital improvements to the Facilities to extend the useful life of the Facilities or to maintain all Purchasers' Allocated Capacities for Potable Water or such other improvements as Seller determines necessary to the proper functioning of the Facilities shall also be shared on the basis of Allocated Percentages. It is specifically agreed by the parties hereto, that it may be necessary to construct additional Facilities in order to provide the Allocated Capacities of Potable Water to the parties hereto and as set forth on Exhibit A attached hereto due to the tapping of water lines, described in the Operating Agreement entered into by the Seller and the city of Anderson and dated _____ (the "Operating Agreement"), certain of which are owned by the Seller and constitute Facilities and certain of which are owned by the city of Anderson. The cost of constructing such additional Facilities due to such circumstance shall be defrayed in accordance with the provisions of this Section 3.09. If the capacity of the Facilities is expanded in order to provide water to other

new water service areas, bulk or industrial users or other political subdivisions, with no direct benefit to a Purchaser, then such Purchaser shall not be obligated to participate in the capital cost of such improvements.

(C) In the event the capital costs contemplated by (A) and (B) above would result in a Purchaser's share of such cost exceeding the sum of \$100,000, Seller agrees to finance the capital costs by the issuance of Bonds.

(D) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Section 3.10. Expansion of the Facilities to Provide Additional Capacity.

(A) It is the intention of the parties hereto that additional capacity as shall be needed by the respective parties shall be made available from time to time with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the Facilities necessary to provide the additional capacity requested by this Section 3.10 in a timely

manner such that such capacity will be available on or before the date set forth in such notice, provided that:

(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

(ii) Seller shall not be required to add capacity to the Facilities in increments of less than two million (2,000,000) gallons; provided, however nothing in this paragraph (ii) prohibits the Seller and any Participant from agreeing to any particular increment of additional capacity to be so constructed;

(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the capacity of the Facilities or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the System, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

(i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the

exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital

Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV

Renewal and Replacement Funds

Section 4.01. Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify each Purchaser that a monthly System Depreciation Charge will be due. Such notice shall state the period during which a System Depreciation Charge will be due which period shall be not less than nine months.

Section 4.04. Pumping Facilities Renewal and Replacement Fund: Use. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund. All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hereof

and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on its Allocated Pumping Percentage. In the event a deficit has occurred in the Pumping Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due. Such notice shall state the period during which a Pumping Depreciation Charge will be due which period shall be not less than nine months.

(End of Article IV)

ARTICLE V

EVENTS OF DEFAULT; REMEDIES

Section 5.01. Events of Default; Remedies.

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure, bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each

Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel

composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI**MISCELLANEOUS**

Section 6.01. Ownership of Facilities. The System shall at all times be the sole and absolute property of Seller.

Section 6.02. Territorial Boudaries. In order to successfully plan and finance additions to their respective systems, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territories of the parties to this Agreement in order to set out the areas each intends to serve. The Territorial Map is attached hereto as Exhibit D.

Section 6.03. Construction and Operation of Trans-Lines.

Nothing herein shall prohibit any party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to the appropriate proceedings being adopted by the party providing the consent and compliance with engineering and traffic safety standards. The owner of a Trans-Line is responsible for all expenses related to the operation and maintenance thereof. In the event a Trans-Line is jointly owned, such owners shall determine the pro-rata costs that each will bear.

Section 6.04. Sites for Additional Tanks, Booster Pump Stations and Trans-Lines. In the event Seller determines that it is necessary to construct storage tanks, booster pump stations or Trans-Lines as improvements to the Facilities and the desired locations for such tanks, booster pump stations or Trans-Lines are within the service area of a Purchaser, each Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in

order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.05. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by any Purchaser.

Section 6.06. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit C attached hereto.

Any party hereto may, by notice given to the other parties to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.07. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by both parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement shall be pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.08. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a

non-governmental party within the meaning set forth in §1.141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 6.09. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

Section 6.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.11. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.12. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

(End of Article VI)

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM, SOUTH
CAROLINA, as Seller

By: _____
Its: _____

Witnesses:

CITY OF ANDERSON, as Purchaser

By: _____
Its: _____

Witnesses:

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser

By: _____
Its: _____

Witnesses:

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser

By: _____
Its: _____

Witnesses:

CITY OF CLEMSON, as Purchaser

By: _____
Its: _____

Witnesses:

HAMMOND WATER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

HOMELAND PARK WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

TOWN OF PENDLETON, as Purchaser

By: _____
Its: _____

Witnesses:

POWDERSVILLE WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

SANDY SPRINGS WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

STARR-IVA WATER AND
SEWER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

WEST ANDERSON WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

Exhibit AAll Participants

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	10.46	32.7%
Big Creek Water and Sewerage District	1.24	3.9
Broadway Water and Sewerage District	1.08	3.4
Clemson, City of	2.02	6.3
Clemson University (Joint Entity)	2.00	6.3
Hammond Water District	2.61	8.2
Homeland Park Water District	1.07	3.3
Pendleton, Town of	0.62	1.9
Powdersville Water District	0.58	1.8
Sandy Springs Water District	3.58	11.2
Starr-Iva Water and Sewer District	3.50	10.9
West Anderson Water District	2.24	7.0
Williamston, Town of	1.00	3.1

Pumped Purchasers

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	10.29%
Clemson, City of	16.84
Clemson University (Joint Entity)	17.72
Hammond Water District	1.69
Pendletown, Town of	5.14
Powdersville Water District	5.63
Sandy Springs Water District	31.39
Williamston, Town of	11.30

08.01.13 000324

Exhibit B

Descriptions of Each Purchaser's Debt and Lien Status of Obligations Hereunder.

C-1

LJS/CITY002680

08.01.13 000325

Exhibit C

Addresses of All Parties for the Receipt of Notice

D-1

LJS/CITY002681

7th Draft
January 28, 2002

WATER SALE AND PURCHASE AGREEMENT

This WATER SALE AND PURCHASE AGREEMENT made as of this _____ day of December, 2001, by and among the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell, the Transportation Mains which transport the treated water from this Plant to various areas in Anderson County and a small area in Pickens County and related facilities (the "Duke Facilities").

The Duke Facilities have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and

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Sewer District, and West Anderson Water District. In addition, Duke Energy Corporation ("Duke Energy") has also, through its retail distribution system, provided potable water within the corporate limits of the City of Anderson, to Clemson University and to certain commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire all of the facilities and assets related to the Duke Facilities, including all of Duke Energy's facilities that are necessary to serve Clemson University which will enter into a separate agreement with the Seller in order to purchase water on a wholesale basis from Seller. Simultaneously with the transfer of the Duke Facilities and the facilities necessary to serve Clemson University to the Seller, the City of Anderson and the special purpose districts of The Broadway Water and Sewerage District of Anderson County and West Anderson Water District are acquiring certain retail distribution facilities of Duke Energy.

It is presently intended by the parties hereto that the City of Anderson will serve (1) two industries, BASF and Owens-Corning, located within the boundaries of Starr-Iva Water and Sewer District and (2) the industrial facilities of Michelin which are located in the boundaries of West Anderson Water District. Both Starr-Iva Water and Sewer District and West Anderson Water District consent to the City of Anderson's providing such service to these industries. However, such consent is strictly limited to the provision of service to these named industrial customers and no further provision of service by the City of Anderson shall be made to any customer located within the boundaries of Starr-Iva Water and Sewer District or within West Anderson Water District without the written consent of such Purchaser.

The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local

distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Each of the Purchasers has determined that it is in the best interests of its customers and residents located within its respective service area to participate in the acquisition by Seller of the Duke Facilities by becoming a member of Seller and to purchase certain rights to the use of the Duke Facilities. By joining together, economies of scale can be achieved and each Purchaser will be able to acquire a safe and secure source of potable water. Each Purchaser, recognizing the benefits to be gained by such joint action, has determined, pursuant to the provisions of this agreement, to purchase the right to receive a specified allocated capacity defined in terms of millions of gallons of potable water per day and to pay for such amount of potable water by assuming the responsibility for a corresponding amount of the debt service on bonds issued by Seller to defray the acquisition of the Duke Facilities. As a means of providing sufficient security to the holders of such bonds all members have agreed to share on a pro rata basis certain of the obligations of each Purchaser under the provisions of this agreement on a "step-up" basis. Such arrangement will insure that the financing of the acquisition of the Duke Facilities will be achieved at the lowest possible cost and that the Duke Facilities once acquired will remain under the control and operation of the Purchasers executing this agreement.

Hence, this agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

“Additional Capital Charge” means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Pumping Percentage.

“Agreement” means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

“Allocated Capacity” means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Purchasers are set forth in Exhibit “A” hereto. Allocated Capacity is expressed in million gallons per Day (“MGD”) and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24) hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

"Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing a Purchaser's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit "A."

"Allocated Pumping Percentage" means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the acquisition of the System which will especially benefit such Pumped Purchaser due to pumping requirements.

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.13 hereof.

"Arbitration Panel" means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

"Board" means the Board of Commissioners of Seller, the governing body of Seller.

"Bonds" means (A) those bonds initially issued by Seller to acquire the System, (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

"Bond Year" means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

"Booster Pump Stations" means all facilities directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

“Capital Charge” of a Purchaser means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Percentage.

“Consulting Engineers” shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

“Facilities” means the Plant, all related transmission pipes and any related elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any improvements made to the Facilities from time to time and all additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include the Booster Pump Stations or any facilities owned or operated by a Purchaser as a part of its distribution system.

“Facilities Renewal and Replacement Fund” means the Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

“Fiscal Year” means January 1 through December 31 of each year.

“Force Majeure” means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or a Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement.

"Operational Pumping Charge" means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to each Pumped Purchaser; and for the second twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the first twelve (12) months of delivery of water to the Participants.

"Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

"Participants" means the Purchasers and Clemson University. The term "Participant" includes Pumped Purchasers and those Purchasers who receive water from Seller's System without any requirement of pumping.

"Plant" means Seller's existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

"Potable Water" means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

"Pumped Purchaser" means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

"Pumping Depreciation Charge" means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

"Pumping Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchasers for that Fiscal Year.

"Pumping Facilities Renewal and Placement Fund" means the Pumping Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.04 of this Agreement.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies,

and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" or "Purchasers" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

"Purchaser's System" means the water distribution system of a Purchaser.

"Seller" means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

"Seller's Bond Resolution" means a resolution entitled "A Resolution Providing for the Issuance and Sale of Waterworks System Revenue Bonds of Anderson County Joint Municipal Water System, South Carolina and other Matters Relating Thereto," adopted _____, 2002.

"Seller's System" or "System" means the Waterworks System of the Seller, including all of the Facilities and the Booster Pump Stations and any improvements or expansions which may be made to the Facilities and the Booster Pump Stations from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Facilities Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12)

of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that, on or before the effective date of this Agreement, will acquire, own and operate the System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell to meet its obligations under this Agreement, as evidenced by its _____ Permit, issued by the _____, on _____, a true copy of which has been delivered to each Purchaser.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;

(F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as a Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from a Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Each Purchaser. Each Purchaser hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina owning and operating a water distribution system which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations. Each Purchaser covenants and agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection therewith, each Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were

made, not misleading;

- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by such Purchaser.

Section 2.06 Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the System and shall extend for a period of thirty (30) years from such date and thereafter, absent receipt of notice from any Purchaser of its intent not to renew, shall be automatically extended for five year periods. In the event a Purchaser intends not to renew at the end of a term, such Purchaser shall notify the Seller of its intent, in writing, not less than six months prior to the end of such term. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III**SALE AND PURCHASE OF WATER****Section 3.01. Sale of Water.**

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Such Potable Water shall be delivered to each Purchaser at a metering site or sites provided by Seller, such site or sites to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site or sites at an appropriate operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water Regulations (R. 61 – 58). Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared by Seller to each Purchaser.

(B) In the event the Seller determines that a Purchaser is using water in excess of its Allocated Capacity, then such Purchaser shall be notified that it must acquire additional Allocated Capacity under the provisions of either Section 3.10 or Section 3.11 and each Purchaser agrees to acquire such additional Allocated Capacity. During any period of time that the average daily consumption of water by a Purchaser in any month exceeds its Allocated Capacity, such Purchaser shall be subject to a penalty determined and thereafter imposed by the Seller.

(C) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(D) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning in January, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (A) the Capital Charge of such Purchaser, plus
- (B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered from Seller's System for the preceding month, i.e.,

$$\text{Monthly O\&M Payment} = 1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}} ; \text{ plus}$$

- (C) the System Depreciation Charge, if any.

Beginning in January, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (D) the Additional Capital Charge, plus
- (E) the Operational Pumping Charge, plus

(F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A) and (D) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds, and such interest earnings have been credited to the appropriate debt service fund; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to each Pumped Purchaser's Allocated Pumped Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Pumped Facilities Renewal and Replacement Fund to the extent such interest earnings have been credited to the appropriate debt service fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any component of the System, any acts or circumstances which may constitute failure of consideration, destruction of or damage to any component of the System, and any failure on the part of Seller to perform and observe any

agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser for payment of the Capital Charge and all obligations of each Pumped Purchaser for payment of the Additional Capital Charge under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

In the event any payment by a Purchaser to the Seller is insufficient to satisfy the Purchaser's entire then-current obligations under this Agreement, such payments shall be applied in the following order of priority: (1) Capital Charge, (2) Additional Capital Charge, (3) the Purchaser's share of the Operation and Maintenance Expense, (4) the Operational Pumping Charge, if any, (5) the System Depreciation Charge, if any, and (6) the Pumping Depreciation Charge, if any.

Section 3.03. Priority of Pledge; Additional Obligations. Each Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's System as hereinafter described is hereby granted to Seller.

Each Purchaser hereby represents that all outstanding debt which is payable from the revenues of such Purchaser's System is set forth on Exhibit B attached hereto. Each Purchaser agrees that the obligations owed to the Seller hereunder are secured by the pledge and lien status as the same are set forth on Exhibit B attached hereto. Each Purchaser, with respect to the Capital Charge, and each Pumped Purchaser, with respect to the Additional Capital Charge, agrees that it will not grant any pledge of, or interest in the revenues of such Purchaser's System prior or superior to the pledge and lien given to secure the Capital Charge or the Additional Capital Charge and for purposes of each

Purchaser incurring debt hereafter, the Capital Charge and the Additional Capital Charge, if appropriate, shall constitute revenue debt of such Purchaser and, if possible, shall be issued on a parity with any outstanding revenue debt of the Purchaser. Any debt issued hereafter on a parity with the Capital Charge and the Additional Capital Charge shall be issued in accordance with the provisions set forth on Exhibit B attached hereto and which apply to such Purchaser. All Operation and Maintenance Expenses and Pumping Operation and Maintenance Expenses shall be treated as "operational and maintenance expenses" under all documents creating revenue debt previously or hereafter entered into by any Purchaser but shall be paid prior to any other "operational and maintenance expenses." All System Depreciation Charges and Pumping Depreciation Charges shall be treated as "depreciation charges" under all documents creating revenue debt previously or hereafter entered into by any Purchaser but shall be paid prior to any other "depreciation charges."

Section 3.04. Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01(A)(4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly

amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.04, are received by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04. A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at a Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at such times as the Seller, in its discretion, deems necessary or upon the request of any Purchaser when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter

malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. A Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

It is recognized by and among the parties hereto that flow to the City of Anderson's retail system is not currently measured by wholesale master meters. Therefore, the flow to the City of Anderson shall be measured as follows: for the first twelve months of delivery of water by Seller to the City of Anderson, flow will be calculated by adding the sum of all retail, municipal and other meter readings that are part of the City of Anderson's system and said sum shall be multiplied by 1.04. The City of Anderson shall furnish these readings to the Seller on a monthly basis no later than the fifth day of the month. The Seller shall have the right to audit such computations at any time Seller believes an error has been made. During the first twelve months of delivery of water by Seller to the City of Anderson, the Seller and the City of Anderson shall engage an independent third party to study water loss in the City of Anderson's system and to develop a method of billing that is fair and equitable to both the City of Anderson and the Seller. The cost of the study will be paid equally by the City of Anderson and the Seller. The study shall include both the methodology of calculating the flow and the water loss percentages used in such methodologies. The recommendations included in the independent study results shall be binding on both parties. In the

event that the implementation of such recommendations causes retail water rates charged by the City of Anderson to rise by more than four percent, the recommendations shall be phased in over a three year period. At such time as wholesale master meters are installed to accurately measure flow to the City of Anderson either in whole or part, alternate billing methods shall no longer be used. The installation of master meters to measure flow to the City of Anderson shall be by mutual agreement with the cost to be paid equally by the City of Anderson and the Seller.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the System in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchaser's Allocated Capacity.

(A) The cost of future capital improvements to the Facilities for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

(B) The cost of future capital improvements to the Facilities to extend the useful life of the Facilities or to maintain all Purchasers' Allocated Capacities for Potable Water or such other improvements as Seller determines necessary to the proper functioning of the Facilities shall also be shared on the basis of Allocated Percentages. It is specifically agreed by the parties hereto, that it may be necessary to construct additional Facilities in order to provide the Allocated Capacities of Potable Water to the parties hereto and as set forth on Exhibit A attached hereto due to the tapping of water lines, described in the Operating Agreement entered into by the Seller and the city of Anderson and dated _____ (the "Operating Agreement"), certain of which are owned by the Seller and constitute Facilities and certain of which are owned by the city of Anderson. The cost of

constructing such additional Facilities, all as set forth in paragraph 7 of the Operating Agreement, due to such circumstance shall be defrayed in accordance with the provisions of this Section 3.09 and each Purchaser does hereby specifically consent to the incurring the additional revenue debt by the Seller for such purposes. If the capacity of the Facilities is expanded in order to provide water to other new water service areas, bulk or industrial users or other political subdivisions, with no direct benefit to a Purchaser, then such Purchaser shall not be obligated to participate in the capital cost of such improvements.

(C) In the event the capital costs contemplated by (A) and (B) above would result in a Purchaser's share of such cost exceeding the sum of \$100,000, Seller agrees to finance the capital costs by the issuance of Bonds.

(D) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Section 3.10. Expansion of the Facilities to Provide Additional Capacity.

(A) It is the intention of the parties hereto that additional capacity as shall be needed by the respective parties shall be made available from time to time with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the

amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the Facilities necessary to provide the additional capacity requested by this Section 3.10 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

(ii) Seller shall not be required to add capacity to the Facilities in increments of less than two million (2,000,000) gallons; provided, however nothing in this paragraph (ii) prohibits the Seller and any Participant from agreeing to any particular increment of additional capacity to be so constructed;

(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of

any increase in the capacity of the Facilities or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the System, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

- (i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;
 - (ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;
 - (iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;
 - (iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement;
- and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall

be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV

Renewal and Replacement Funds

Section 4.01. Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify each Purchaser that a monthly System Depreciation Charge will be due. Such notice shall state the period during which a System Depreciation Charge will be due which period shall be not less than nine months.

Section 4.04. Pumping Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund. All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to

pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on its Allocated Pumping Percentage. In the event a deficit has occurred in the Pumping Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due. Such notice shall state the period during which a Pumping Depreciation Charge will be due which period shall be not less than nine months.

(End of Article IV)

ARTICLE V**EVENTS OF DEFAULT; REMEDIES****Section 5.01. Events of Default; Remedies.**

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure, bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each

Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing

attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI**MISCELLANEOUS**

Section 6.01. Ownership of Facilities. The System shall at all times be the sole and absolute property of Seller.

Section 6.02. Territorial Boundaries. In order to successfully plan and finance additions to their respective systems, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territories of the parties to this Agreement in order to set out the areas each intends to serve. The Territorial Map is attached hereto as Exhibit D.

Section 6.03. Construction and Operation of Trans-Lines.

Nothing herein shall prohibit any party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to the appropriate proceedings being adopted by the party providing the consent and compliance with engineering and traffic safety standards. The owner of a Trans-Line is responsible for all expenses related to the operation and maintenance thereof. In the event a Trans-Line is jointly owned, such owners shall determine the pro-rata costs that each will bear.

Section 6.04. Sites for Additional Tanks, Booster Pump Stations and Trans-Lines. In the event Seller determines that it is necessary to construct storage tanks, booster pump stations or Trans-Lines as improvements to the Facilities and the desired locations for such tanks, booster pump stations or Trans-Lines are within the service area of a Purchaser, each Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.05. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by any Purchaser.

Section 6.06. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit C attached hereto.

Any party hereto may, by notice given to the other parties to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.07. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by both parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement shall be pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.08. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a non-governmental party within the meaning set forth in §1.141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 6.09. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

Section 6.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.11. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.12. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

(End of Article VI)

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM, SOUTH
CAROLINA, as Seller

By: _____
Its: _____

Witnesses:

CITY OF ANDERSON, as Purchaser

By: _____
Its: _____

Witnesses:

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser

By: _____
Its: _____

Witnesses:

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser

By: _____
Its: _____

Witnesses:

CITY OF CLEMSON, as Purchaser

By: _____
Its: _____

Witnesses:

HAMMOND WATER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

HOMELAND PARK WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

TOWN OF PENDLETON, as Purchaser

By: _____
Its: _____

Witnesses:

POWDERSVILLE WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

SANDY SPRINGS WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

STARR-IVA WATER AND
SEWER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

WEST ANDERSON WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

Exhibit AAll Participants

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	10.46	32.7%
Big Creek Water and Sewerage District	1.24	3.9
Broadway Water and Sewerage District	1.08	3.4
Clemson, City of	2.02	6.3
Clemson University (Joint Entity)	2.00	6.3
Hammond Water District	2.61	8.2
Homeland Park Water District	1.07	3.3
Pendleton, Town of	0.62	1.9
Powdersville Water District	0.58	1.8
Sandy Springs Water District	3.58	11.2
Starr-Iva Water and Sewer District	3.50	10.9
West Anderson Water District	2.24	7.0
Williamston, Town of	1.00	3.1

Pumped Purchasers

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	10.29%
Clemson, City of	16.84
Clemson University (Joint Entity)	17.72
Hammond Water District	1.69
Pendletown, Town of	5.14
Powdersville Water District	5.63
Sandy Springs Water District	31.39
Williamston, Town of	11.30

08.01.13 000407

Exhibit B

Descriptions of Each Purchaser's Debt and Lien Status of Obligations Hereunder.

C-1

LJS/CITY002339

08.01.13 000408

Exhibit C

Addresses of All Parties for the Receipt of Notice

D-1

LJS/CITY002340

8th Draft
January 30, 2002

WATER SALE AND PURCHASE AGREEMENT

This **WATER SALE AND PURCHASE AGREEMENT** made as of this _____ day of _____, 2002, by and among the **ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM**, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell, certain transmission mains which transport treated water from this Plant to various areas in Anderson County and a small area in Pickens County and related facilities (the "Duke Facilities"). The Duke Facilities, together with certain water transmission facilities that the City of Anderson is purchasing from Duke Energy Corporation ("Duke Energy"), have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County,

LJS/CITY002216

Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District. In addition, Duke Energy has also, on a retail basis, provided potable water within and without the corporate limits of the City of Anderson, to Clemson University and to certain other commercial, industrial and residential customers. Simultaneously with the execution of this Agreement, Seller is entering into an Operating Agreement (the "Operating Agreement") with the City of Anderson for the provision of the operation of certain transmission mains and related facilities in order to insure its ability to serve certain of the Purchasers with potable water in accordance with the requirements of this Agreement.

Seller has negotiated an agreement with Duke Energy whereby it will acquire the Duke Facilities, including all of Duke Energy's facilities that are necessary to serve Clemson University which will enter into a separate agreement with the Seller in order to purchase water on a wholesale basis from Seller. Simultaneously with the transfer of the Duke Facilities and the facilities necessary to serve Clemson University to the Seller, the City of Anderson and the special purpose districts of The Broadway Water and Sewerage District of Anderson County and West Anderson Water District are acquiring certain facilities from Duke Energy.

It is presently intended by the parties hereto that the City of Anderson will serve (1) two industries, BASF and Owens-Corning, located within the boundaries of Starr-Iva Water and Sewer District and (2) the industrial facilities of Michelin which are located within the boundaries of West Anderson Water District. Both Starr-Iva Water and Sewer District and West Anderson Water District consent to the City of Anderson's providing such service to these industries. However, such consent is strictly limited to the provision of service to these named industrial customers and no further provision of service by the City of Anderson shall be made to any customer located within the

boundaries of Starr-Iva Water and Sewer District or within West Anderson Water District without the written consent of such Purchaser.

The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Each of the Purchasers has determined that it is in the best interests of its customers and residents located within its respective service area to participate in the acquisition by Seller of the Duke Facilities by becoming a member of Seller and to purchase certain rights to the use of the Duke Facilities. By joining together, economies of scale can be achieved and each Purchaser will be able to acquire a safe and secure source of potable water. Each Purchaser, recognizing the benefits to be gained by such joint action, has determined, pursuant to the provisions of this agreement, to purchase the right to receive a specified allocated capacity defined in terms of millions of gallons of potable water per day and to pay for such amount of potable water by assuming the responsibility for a corresponding amount of the debt service on bonds issued by Seller to defray the acquisition of the Duke Facilities. As a means of providing sufficient security to the holders of such bonds all members have agreed to share on a pro rata basis certain of the obligations of each Purchaser under the provisions of this agreement on a "step-up" basis. Such arrangement will insure that the financing of the acquisition of the Duke Facilities will be achieved at the lowest possible cost and that the Duke

Facilities once acquired will remain under the control and operation of the Purchasers executing this agreement.

Hence, this agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, ~~in consideration~~ of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

“Additional Capital Charge” means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Pumping Percentage.

“Agreement” means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

“Allocated Capacity” means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Purchasers are set forth in Exhibit “A” hereto. Allocated Capacity is expressed in million gallons per Day (“MGD”) and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24)

hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

"Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing a Purchaser's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit "A."

"Allocated Pumping Percentage" means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the acquisition of the System which will especially benefit such Pumped Purchaser due to pumping requirements.

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.13 hereof.

"Arbitration Panel" means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

"Board" means the Board of Commissioners of Seller, the governing body of Seller.

"Bonds" means (A) those bonds initially issued by Seller to acquire the System, (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

“Bond Year” means the period of time beginning the second day of _____ in each year and ending the first day of _____ in the next succeeding year.

“Booster Pump Stations” means all facilities directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

“Capital Charge” of a Purchaser means one twelfth (1/12) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year multiplied by a Purchaser’s Allocated Percentage.

“Consulting Engineers” shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

“Facilities” means the assets purchased by the Seller from Duke Energy and which include the Plant, related transmission pipes and elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any improvements made to the Facilities from time to time and all additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include the Booster Pump Stations or any facilities owned or operated by a Purchaser as a part of its distribution system.

“Facilities Renewal and Replacement Fund” means the Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

“Fiscal Year” means January 1 through December 31 of each year.

"Force Majeure" means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or a Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement.

"Operational Pumping Charge" means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to each Pumped Purchaser; and for the second twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the first twelve (12) months of delivery of water to the Participants.

“Operation and Maintenance Expenses” means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

“Participants” means the Purchasers and Clemson University. The term “Participant” includes Pumped Purchasers and those Purchasers who receive water from Seller’s System without any requirement of pumping.

“Plant” means Seller’s existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

“Potable Water” means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

“Pumped Purchaser” means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

“Pumping Depreciation Charge” means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

“Pumping Depreciation Rate” means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12)

of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchasers for that Fiscal Year.

"Pumping Facilities Renewal and Placement Fund" means the Pumping Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.04 of this Agreement.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" or "Purchasers" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

"Purchaser's System" means the water distribution system of a Purchaser.

"Seller" means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

"Seller's Bond Resolution" means a resolution entitled "A Resolution Providing for the Issuance and Sale of Waterworks System Revenue Bonds of Anderson County Joint Municipal Water System, South Carolina and other Matters Relating Thereto," adopted _____, 2002.

"Seller's System" or "System" means the Waterworks System of the Seller, including all of the Facilities and the Booster Pump Stations and any improvements or expansions which may be made to the Facilities and the Booster Pump Stations from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Facilities Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that, on or before the effective date of this Agreement, will acquire, own and operate the System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell to meet its obligations under this Agreement, as evidenced by its _____ Permit, issued by the _____, on _____, a true copy of which has been delivered to each Purchaser.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;

contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;

- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by such Purchaser.

Section 2.06 Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the System and shall extend for a period of thirty (30) years from such date and thereafter, absent receipt of notice from any Purchaser of its intent not to renew, shall be automatically extended for five year periods. In the event a Purchaser intends not to renew at the end of a term, such Purchaser shall notify the Seller of its intent, in writing, not less than six months prior to the end of such term. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water between the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III**SALE AND PURCHASE OF WATER****Section 3.01. Sale of Water.**

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Subject to the provisions of Section 3.05 hereof, Potable Water shall be delivered to each Purchaser at a metering site or sites provided by Seller, such site or sites to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site or sites at an appropriate operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water Regulations (R. 61 – 58). Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared in writing by Seller to each Purchaser.

(B) In the event the Seller determines that a Purchaser is using water in excess of its Allocated Capacity, then such Purchaser shall be notified that it must acquire additional Allocated Capacity under the provisions of either Section 3.10 or Section 3.11 and each Purchaser agrees to acquire such additional Allocated Capacity. During any period of time that the average daily consumption of water by a Purchaser in any month exceeds its Allocated Capacity, such Purchaser shall be subject to a penalty determined and thereafter imposed by the Seller.

(C) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(D) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning in _____, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (A) the Capital Charge of such Purchaser, plus
- (B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered from Seller's System for the preceding month, i.e.,

$$\text{Monthly O\&M Payment} = 1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}} ; \text{ plus}$$

- (C) the System Depreciation Charge, if any.

Beginning in January, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (D) the Additional Capital Charge, plus
- (E) the Operational Pumping Charge, plus

(F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A) ~~and (D) of this~~ Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds, and such interest earnings have been credited to the appropriate debt service fund; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to each Pumped Purchaser's Allocated Pumped Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Pumped Facilities Renewal and Replacement Fund to the extent such interest earnings have been credited to the appropriate debt service fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any component of the System, any acts or circumstances which may constitute failure of consideration, destruction of or damage to

any component of the System, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser for payment of the Capital Charge and all obligations of each Pumped Purchaser for payment of the Additional Capital Charge under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

In the event any payment by a Purchaser to the Seller is insufficient to satisfy the Purchaser's entire then-current obligations under this Agreement, such payments shall be applied in the following order of priority: (1) Capital Charge, (2) Additional Capital Charge, (3) the Purchaser's share of the Operation and Maintenance Expense, (4) the Operational Pumping Charge, if any, (5) the System Depreciation Charge, if any, and (6) the Pumping Depreciation Charge, if any.

Section 3.03. Priority of Pledge; Additional Obligations.

(A) Each Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's system as hereinafter described is hereby granted to Seller.

(B) Each Purchaser hereby represents that all outstanding debt which is payable from the revenues of such Purchaser's system is set forth on Exhibit B attached hereto. Each Purchaser agrees that the obligations owed to the Seller hereunder constitute obligations of the Purchaser payable as operating expenses of such Purchaser's system.

(C) Purchaser shall not issue bonds, notes or other evidences of indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of its respective system prior to or superior to such Purchaser's obligation to pay the operating expenses of its respective system (including payments to be made under this Agreement).

(D) Purchaser shall not execute or adopt any instrument securing bonds, notes or other indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of its system unless such instrument provides that any payments to be made under this Agreement shall be payable as operating expenses of such system. This paragraph (D) shall not apply to any instrument securing bonds, notes or other evidences of indebtedness outstanding on the date of this Agreement.

(E) Nothing contained in this Section 3.03 or any other provision of this Agreement shall be deemed to prevent any Purchaser from entering into contracts with the Seller with respect to the supply of Potable Water which contract payments are payable from the revenues derived from the ownership and operation of its system on a parity with the payments required to be made to Seller pursuant to this Agreement.

Section 3.04. Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01(A)(4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the

defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.04, are received by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04.

A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at a Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to

industry standards for accuracy at such times as the Seller, in its discretion, deems necessary or upon the request of any Purchaser when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Either party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. A Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

It is recognized by and among the parties hereto that flow to the City of Anderson's retail system is not currently measured by wholesale master meters. Therefore, the flow to the City of Anderson shall be measured as follows: for the first twelve months of delivery of water by Seller to the City of Anderson, flow will be calculated by adding the sum of all retail, municipal and other meter readings that are part of the City of Anderson's system and said sum shall be multiplied by 1.04. The City of Anderson shall furnish these readings to the Seller on a monthly basis no later than the fifth day of the month. The Seller shall have the right to audit such computations at any time

Seller believes an error has been made. During the first twelve months of delivery of water by Seller to the City of Anderson, the Seller and the City of Anderson shall engage an independent third party to study water loss in the City of Anderson's system and to develop a method of billing that is fair and equitable to both the City of Anderson and the Seller. The cost of the study will be paid equally by the City of Anderson and the Seller. The study shall include both the methodology of calculating the flow and the water loss percentages used in such methodologies. The recommendations included in the independent study results shall be binding on both parties. In the event that the implementation of such recommendations causes retail water rates charged by the City of Anderson to rise by more than four percent, the recommendations shall be phased in over a three year period. At such time as wholesale master meters are installed to accurately measure flow to the City of Anderson either in whole or part, alternate billing methods shall no longer be used. The installation of master meters to measure flow to the City of Anderson shall be by mutual agreement with the cost to be paid equally by the City of Anderson and the Seller.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the System in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget

for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchaser's Allocated Capacity.

(A) The cost of future capital improvements for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of Facilities, shall be shared by the parties hereto on the basis of Allocated Percentages.

(B) The cost of future capital improvements to extend the useful life of the Facilities or such improvements as are necessary to maintain all Purchasers' Allocated Capacities for Potable Water or such other improvements as Seller determines necessary to the proper functioning of the Facilities shall also be shared on the basis of Allocated Percentages. It is specifically agreed by the parties hereto, that it may be necessary to construct additional transmission mains in order to provide the Allocated Capacities of Potable Water to the parties hereto due to the tapping of water lines, all as described in the Operating Agreement. Each Purchaser agrees that the cost of constructing such additional transmission mains, as set forth in paragraph 7 of the Operating Agreement, shall be defrayed in accordance with the provisions of this Section 3.09 and shall constitute Facilities; and each Purchaser does hereby specifically consent to the incurring of the additional revenue debt by the Seller for such purposes.

(C) In the event the capital costs contemplated by (A) and (B) above would result in a Purchaser's share of such cost exceeding the sum of \$100,000, Seller agrees to finance the capital costs by the issuance of Bonds.

(D) Purchaser agrees that, to the extent that its Allocated Percentage of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its Allocated Percentage of such costs.

Section 3.10. Expansion of the Facilities to Provide Additional Capacity.

(A) It is the intention of the parties hereto that additional capacity as shall be needed by the respective parties shall be made available from time to time with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the Facilities necessary to provide the additional capacity requested by this Section 3.10 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

(ii) Seller shall not be required to add capacity to the Facilities in increments of less than two million (2,000,000) gallons; provided, however nothing in this paragraph (ii) prohibits the Seller and any Participant from agreeing to any particular increment of additional capacity to be so constructed;

(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional

capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the capacity of the Facilities or the installation of any additional Facilities in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the System, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

(i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such

instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund."

Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV

Renewal and Replacement Funds

Section 4.01. Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3 08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify each Purchaser that a monthly System Depreciation Charge will be due. Such notice shall state the period during which a System Depreciation Charge will be due which period shall be not less than nine months.

Section 4.04. Pumping Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund. All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hereof

and not used to fund a debt service fund established for an issue of Bonds or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on its Allocated Pumping Percentage.

In the event a deficit has occurred in the Pumping Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due. Such notice shall state the period during which a Pumping Depreciation Charge will be due which period shall be not less than nine months.

(End of Article IV)

ARTICLE V**EVENTS OF DEFAULT; REMEDIES****Section 5.01. Events of Default; Remedies.**

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure, bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each

Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel

composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI

MISCELLANEOUS

Section 6.01. Ownership of Facilities. The System shall at all times be the sole and absolute property of Seller.

Section 6.02. Territorial Boundaries. In order to successfully plan and finance additions to their respective systems, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territories of the parties to this Agreement in order to set out the areas each intends to serve. The Territorial Map is attached hereto as Exhibit D.

Section 6.03. Construction and Operation of Trans-Lines.

Nothing herein shall prohibit any party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to the appropriate proceedings being adopted by the party providing the consent and compliance with engineering and traffic safety standards. The owner of a Trans-Line is responsible for all expenses related to the operation and maintenance thereof. In the event a Trans-Line is jointly owned, such owners shall determine the pro-rata costs that each will bear.

Section 6.04. Sites for Additional Tanks, Booster Pump Stations and Trans-Lines. In the event Seller determines that it is necessary to construct storage tanks, booster pump stations or Trans-Lines as improvements to the Facilities and the desired locations for such tanks, booster pump stations or Trans-Lines are within the service area of a Purchaser, each Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in

order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.05. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by any Purchaser.

Section 6.06. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit C attached hereto.

Any party hereto may, by notice given to the other parties to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.07. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by both parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement shall be pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.08. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a

non-governmental party within the meaning set forth in §1.141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 6.09. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

Section 6.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.11. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.12. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

(End of Article VI)

IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT WATER
MUNICIPAL WATER SYSTEM, SOUTH
CAROLINA, as Seller

By: _____
Its: _____

Witnesses:

CITY OF ANDERSON, as Purchaser

By: _____
Its: _____

Witnesses:

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser

By: _____
Its: _____

Witnesses:

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser

By: _____
Its: _____

Witnesses:

CITY OF CLEMSON, as Purchaser

By: _____
Its: _____

Witnesses:

HAMMOND WATER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

HOMELAND PARK WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

TOWN OF PENDLETON, as Purchaser

By: _____
Its: _____

Witnesses:

POWDERSVILLE WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

SANDY SPRINGS WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

STARR-IVA WATER AND
SEWER DISTRICT, as Purchaser

By: _____
Its: _____

Witnesses:

WEST ANDERSON WATER DISTRICT,
as Purchaser

By: _____
Its: _____

Witnesses:

Exhibit AAll Participants

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	10.46	32.7%
Big Creek Water and Sewerage District	1.24	3.9
Broadway Water and Sewerage District	1.08	3.4
Clemson, City of	2.02	6.3
Clemson University (Joint Entity)	2.00	6.3
Hammond Water District	2.61	8.2
Homeland Park Water District	1.07	3.3
Pendleton, Town of	0.62	1.9
Powdersville Water District	0.58	1.8
Sandy Springs Water District	3.58	11.2
Starr-Iva Water and Sewer District	3.50	10.9
West Anderson Water District	2.24	7.0
Williamston, Town of	1.00	3.1

Pumped Purchasers

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	10.29%
Clemson, City of	16.84
Clemson University (Joint Entity)	17.72
Hammond Water District	1.69
Pendletown, Town of	5.14
Powdersville Water District	5.63
Sandy Springs Water District	31.39
Williamston, Town of	11.30

08.01.13 000451

Exhibit B

Descriptions of Each Purchaser's Debt and Lien Status of Obligations Hereunder.

C-1

LJS/CITY002257

08.01.13 000452

Exhibit C

Addresses of All Parties for the Receipt of Notice

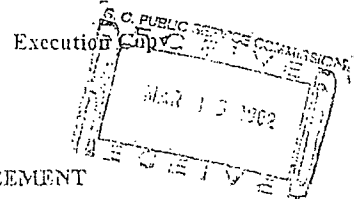
D-1

LJS/CITY002258

08.01.13 000453

Exhibit D

(Map)



SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT

THIS SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT, dated as of the 20th day of February, 2002 (this "Amendment"), is between Duke Energy Corporation, a North Carolina corporation (the "Seller"), Anderson County Joint Municipal Water System, a public body corporate and politic of the State of South Carolina (the "Purchaser"), and the following members of the Purchaser (the "Members"): Big Creek Water and Sewerage District and Broadway Water and Sewerage District, each of which is a public body corporate and politic of the State of South Carolina; and Hammond Water District (formerly, Hammonnd Water Company); Powdersville Water District (formerly, Powdersville Water Company); Sandy Springs Water District (formerly, Sandy Springs Water Company); Starr-Iva Water and Sewer District (formerly Starr-Iva Water Company); and West Anderson Water District (formerly, West Anderson Water Company), each of which is a public body corporate and politic of the State of South Carolina that was formerly a South Carolina non-profit corporation. This Amendment amends the Asset Purchase Agreement (the "Purchase Agreement"), dated as of February 14, 2000, between the Seller and the Members, as amended by the First Amendment to Asset Purchase Agreement dated August 1, 2001 (the "First Amendment").

BACKGROUND STATEMENT

Pursuant to the Purchase Agreement, the Purchaser agreed to purchase from the Seller, and the Seller agreed to sell to the Purchaser, the Seller's water system in Anderson County, South Carolina, through a purchase and sale of substantially all of the system's assets. The parties have agreed to amend the Purchase Agreement to sell the wholesale portion of the water system to the Purchaser and to sell the retail portion of the water system to the City of Anderson, South Carolina.

The Purchaser, the Members and the Seller desire to amend the Purchase Agreement as provided herein.

STATEMENT OF AGREEMENT

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.1 Capitalized Terms. Capitalized terms used herein without definition shall have the meanings given to them in the Purchase Agreement.



08.25.12 City 000128

5000170

ARTICLE II
AMENDMENTS

2.1 Purchase Price. Section 3.1 of the Purchase Agreement is hereby amended to reduce the Base Purchase Price from \$68,000,000 to \$47,870,000.

2.2 Conveyance to City of Anderson. The Purchaser acknowledges that the Seller intends to enter into an asset sale agreement dated as of the date hereof (the "Anderson Sale Agreement") with the City of Anderson ("Anderson") to convey directly to Anderson those Assets described on Exhibit A attached hereto (the "Retail Assets") for a purchase price of \$15,580,000. In addition, the Purchaser acknowledges that (i) the Anderson Sale Agreement contains a provision under which Anderson may request that the Seller purchase for Anderson's benefit certain vehicles (the "Retail Vehicles") that Seller currently leases for use in connection with the Retail Assets and (ii) upon such purchase the Retail Vehicles shall constitute "Retail Assets." The Retail Assets shall be deemed to be included in the definition of Excluded Assets (as defined in Section 2.2 of the Purchase Agreement).

2.3 Accounts Receivable.

(a) The definition of Accounts Receivable in the Purchase Agreement is hereby amended to read as follows:

"Accounts Receivable" means any and all amounts due and owing to the Seller arising out of the Seller's water system in Anderson County, South Carolina, as the term "accounts receivable" is understood under GAAP. The term "Accounts Receivable" shall include the value of all unbilled water service provided as of the relevant date of determination, regardless of whether such value would be considered accounts receivable under GAAP.

(b) No Accounts Receivable shall be conveyed to the Purchaser and all such Accounts Receivable shall instead be included in the Excluded Assets.

2.4 Retention of Liabilities. The Purchaser shall not assume the Liabilities of the Seller reflected on the Interim Schedule of Assets and Liabilities or the Liabilities of the Seller arising out of the operation of the Business in the ordinary course after the date of the Interim Schedule of Assets and Liabilities.

2.5 Purchase Price Adjustment. The Base Purchase Price shall not be adjusted by the current assets or current liabilities of the Business and shall instead only be adjusted by adding to the Base Purchase Price the Capital Expenditures shown on the Capital Expenditures Schedule. The "Purchase Price Adjustment" shall refer to the increase to the Base Purchase Price for such Capital Expenditures.

2.6 Post-Closing Adjustment. No Closing Schedule of Assets and Liabilities shall be prepared. The Purchaser shall have forty-five days after the Closing Date to audit the Capital Expenditures Schedule in accordance with Section 3.6(a) of the

Purchase Agreement and to object or accept such Capital Expenditures Schedule and the resulting Final Purchase Price, in accordance with Section 3.6(b) of the Purchase Agreement.

2.7 Transition Services. The Seller shall not provide any transition services to the Purchaser and the Seller and the Purchaser shall not enter into any Transition Services Agreement.

2.8 Closing Date. Section 4.2 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

4.2 Closing Date. The parties agree to use their best efforts to cause the Closing of the transactions contemplated herein to occur as soon as possible. The Closing shall take place on such date as the parties may mutually agree (the "Closing Date"), which shall in any event be on or prior to April 17, 2002.

2.9 Termination Date. Section 10.1(g) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

(g) By either the Seller or the Purchaser if the Closing shall not have occurred on or before April 17, 2002 (the "Termination Date"); provided, however, that the right to terminate this Agreement under this Section 10.1(g) shall not be available to any party whose failure to fulfill any obligation under this Agreement (including without limitation Section 7.8) has to any extent been the cause of, or resulted in, the failure of the Closing to occur on or before the Termination Date; and

2.10 Early Termination. Sections 3.2 and 3.8 of the First Amendment are hereby deemed terminated and of no further force or effect.

2.11 Financial Statements. The definition of "Financial Statements" in the Purchase Agreement is hereby amended to delete each reference to "Anderson County" and substitute in lieu thereof "Rutherford County, North Carolina".

2.12 Definitions of Assets.

(a) The following definitions in the Purchase Agreement are hereby amended to exclude the Retail Assets: Contract; Distribution System; Distribution System easements and Rights of Way; Fixed Assets; and Owned Real Property.

(b) The term Excluded Contracts includes the Contracts to be assigned to Anderson. The term Excluded Contracts also includes the Agreement, dated August 15, 1974, between the City of Anderson and Duke Power Company, as supplemented by the understanding with the City of Anderson regarding sewer billing and collection services, as described in the November 28, 1995, letter from J. Michael Snow to John Moore, Manager, City of Anderson.

(c) The Purchaser agrees that the Schedules to the Purchase Agreement need not be revised to exclude such assets.

2.13. Closing Documents: Exhibit E attached to the Purchase Agreement is hereby deleted and Exhibit F attached to this Amendment is substituted therefore.

2.14. Jurisdiction. Section 11.1 of the Purchase Agreement is hereby amended by deleting the words "Mecklenburg County, North Carolina, or in the United States District Court for the Western District of North Carolina" and substituting in lieu thereof "Greenville or Richland County, South Carolina, or in the United States District Court for the District of South Carolina".

2.15. Conditions to Close.

(a) The obligation of each of the Seller and the Purchaser to close the transactions contemplated by the Purchase Agreement, as hereby amended, is conditioned upon the simultaneous closing of the transactions contemplated by the Anderson Sale Agreement.

(b) Section 8.3 of the Purchase Agreement is hereby amended by adding the following subsection:

(i) The City of Anderson, South Carolina, shall have entered into an operating agreement with the Purchaser in the form of Exhibit H to the Asset Sale Agreement, dated the date hereof, between the Seller and the City of Anderson.

2.16. Governing Law. Section 11.8 of the Purchase Agreement is hereby amended by deleting the words "North Carolina" and substituting in lieu thereof the words "South Carolina".

2.17. Release of Seller. The Purchaser acknowledges that the Retail Assets are being excluded from the sale of the Seller's water system to the Purchaser and are being sold to Anderson, and the Purchaser hereby releases the Seller from any liabilities or obligations relating to any claims or disputes with respect to whether any particular asset is or is not included in the Retail Assets or in the assets being sold to the Purchaser.

ARTICLE III

AGREEMENTS

3.1. Leased Vehicles. If the Purchaser desires to purchase any of the vehicles, other than the Retail Vehicles, that the Seller leases as of or after the date hereof for use in the conduct of the Business (the "Leased Vehicles"), the Purchaser shall notify the Seller in writing which Leased Vehicles the Purchaser wishes to purchase at least 20 days prior to the Closing Date. After receiving such notice, the Seller shall take the necessary steps to purchase the Leased Vehicles desired by the Purchaser from their respective

lessors pursuant to the purchase options contained in the leases for such Leased Vehicles; provided, that, the Seller shall not have any obligation to purchase any Leased Vehicle that the Seller does not lease as of the date the Seller receives the notice from the Purchaser pursuant to this Article III and shall not have any obligation to purchase any Leased Vehicle that the Seller leases pursuant to a lease that does not contain a purchase option. After such purchase by the Seller, such Leased Vehicles shall be considered part of the Assets and shall be conveyed to the Purchaser as provided under the Purchase Agreement. In consideration of the purchase of the Leased Vehicles by the Seller for the benefit of the Purchaser, the Purchaser shall pay to the Seller on the Closing Date, in addition to all other amounts due to the Seller under the Purchase Agreement, the total amount of all costs and expenses, as provided by the Seller to the Purchaser in writing prior to the Closing Date, of the Seller in purchasing the Leased Vehicles desired by the Purchaser. Notwithstanding anything to the contrary contained herein or in any of the other Transaction Documents, the Purchaser agrees that the representations and warranties contained in Article V of the Purchase Agreement shall not apply to the Leased Vehicles included in the Assets. **SELLER MAKES NO EXPRESS WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO ANY OF THE LEASED VEHICLES SOLD TO THE PURCHASER HEREUNDER AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, AT LAW OR IN EQUITY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH LEASED VEHICLES.**

3.2 Operating Agreement. At the Closing, the Purchaser agrees to enter into an operating agreement with Anderson in the form attached hereto as Exhibit B.

3.3 Partial Release of Escrow. Promptly after the execution of this Amendment, the Seller agrees to sign a Joint Written Direction to the Escrow Agent instructing the Escrow Agent to release an amount from the Escrow Fund to the Purchaser so that the total amount released from the Escrow Fund from its inception is \$220,000.

ARTICLE IV

MISCELLANEOUS

4.1 Effect of Amendment. From and after the effective date of this Amendment, all references to the Purchase Agreement set forth in any other document or other agreement or instrument shall, unless otherwise specifically provided, be references to the Purchase Agreement as amended by this Amendment. This Amendment is limited as specified and shall not constitute or be deemed to constitute an amendment, modification or waiver of any provision of the Purchase Agreement except as expressly set forth herein. Except as expressly amended hereby, the Purchase Agreement shall remain in full force and effect in accordance with its terms.

05.23.13 000161

4.2 Governing Law. The execution, interpretation and performance of this Amendment shall be governed by the internal laws and judicial decisions of the State of North Carolina.

4.3 Counterparts. This Amendment 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.

4.4 Severability. If any provision of this Amendment shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect.

4.5 Successors and Assigns. This Amendment shall be binding upon, inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized officers as of the date first above written.

DUKE ENERGY CORPORATION

By: Robert A. Linder
Title: S.P. V.P.

ANDERSON COUNTY JOINT
MUNICIPAL WATER SYSTEM

By: Alton R. Beggis
Title: Chairman

BIG CREEK WATER AND
SEWERAGE DISTRICT

By: Alton R. Beggis
Title: Chairman

BROADWAY WATER AND
SEWERAGE DISTRICT

By: Douglas T. Lorde
Title: Chairman

HAMMOND WATER DISTRICT

By: Alton R. Beggis
Title: Chairman

(Signatures continued on following page)

05.23.13 000163

POWDERSVILLE WATER DISTRICT

By: *Robert H. Steubert*
Title: *President*

SANDY SPRINGS WATER DISTRICT

By: *Charles R. Selin*
Title: *Chairman*

STARR-IVA WATER AND SEWER DISTRICT

By: *Leo H. Quadranti*
Title: *Chairman*

WEST ANDERSON WATER DISTRICT

By: *J. T. Hopkins*
Title: *Chairman*

08.25.12 City 000135

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EXHIBIT A
RETAIL ASSETS

The Retail Assets consist of the following:

(a) All water mains and pipes used in the Seller's water system in Anderson County, South Carolina that are (i) owned by the Seller or in which the Seller has an ownership interest and (ii) located within the area described on Schedule 1 attached hereto, but excluding the water mains and pipes described on Schedule 2 attached hereto (the water mains and pipes that are included in the Retail Assets are referred to herein as the "Retail Mains and Pipes");

(b) All recorded and unrecorded water distribution and water transmission easements, rights of way and rights of encroachment to the extent the same contain (but only to the extent the same contain) Retail Mains and Pipes and are: (i) owned by the Seller or in which the Seller has an ownership interest; (ii) located within the area described on Schedule 1 attached hereto; and (iii) used by the Seller in connection with the Retail Mains and Pipes;

(c) All fire hydrants, meters and valves that are (i) owned by the Seller or in which the Seller has an ownership interest and (ii) connected to and served by the Retail Mains and Pipes;

(d) The fixed assets listed on Schedule 3 attached hereto;

(e) The Real Property (including the improvements thereon) listed on Schedule 4 attached hereto;

(f) All of the Seller's rights under all Contracts relating exclusively to the Retail System, including those Contracts listed on Schedule 5 attached hereto, other than any rights arising as a result of the breach of any such Contracts prior to the Closing Date and other than any Excluded Contracts;

(g) All of the Seller's books, files, records, documents, data, plans, proposals and all other recorded knowledge, whether in written, electronic, visual or other form, related exclusively to the Retail Business; and

(h) All Accounts Receivable, except for Accounts Receivable owing by Upstate Heater Utilities, Inc. and the following customers of the Seller's water system in Anderson County, South Carolina: Big Creek Water and Sewage District, Broadway Water and Sewage District, Hammond Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, West Anderson Water District, City of Clemson, Clemson University, Homeland Park Water and Sewage District, Town of Williamston and Town of Pendleton.

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The Retail Assets shall not include any other assets including (i) any water main or pipe associated with the Duke Water System to the extent the same is located outside of the geographic area described on Schedule 1 attached hereto; (ii) any land, building or structure, water storage tank or facility or associated pumping and related equipment not otherwise included above in the Retail Assets, including the Duke Water System water treatment plant and related assets; and (iii) any easement, right of way or other right appurtenant to or otherwise associated with any of the assets described in (i) and (ii) in this sentence.

08.25.12 City 000138

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Schedule 1
to
Exhibit A

Description and Geographic Area of Retail Mains and Pipes

The retail mains and pipes are located within the retail service area shown in gray on the attached map and as described below:

Service Area Boundary Description: Beginning where U.S. Highway 76 & S.C. Highway 28 crosses Lake Hartwell, thence eastwardly approximately four tenths of a mile along the Six and Twenty Arm of Lake Hartwell to the eastern property line of Middleton Shores S/D, thence southwardly along said property line to Old Mill Road, thence southeastwardly along Old Mill Road and extending one lot deep on the southern side of Old Mill Road until its intersection with U.S. 178, crossing Brown Road and continuing to Fritz Drive, thence northeastwardly along Fritz Drive approximately three tenths of a mile, then due east approximately three tenths of a mile to a ditch, thence northwardly along said ditch approximately three tenths of a mile to a tributary of Town Creek, thence southeastwardly along said tributary approximately four tenths of a mile to a point being common with the Anderson City Limits, thence northeastwardly approximately four tenths of a mile to the intersection of Kings Road and Hobson Road, thence southeastwardly along Hobson Road approximately six tenths of a mile to the property line of Peppertree S/D, thence southwestwardly, southeastwardly, and northeastwardly, all along the boundary of Peppertree S/D and back to Hobson Road, thence continuing southeastwardly along Hobson Road approximately two tenths of a mile to Concord Road, thence northeastwardly along Concord Road to Edgebrook Drive, thence southeastwardly along Edgebrook Drive approximately seven tenths of a mile, thence due south approximately four tenths of a mile to the curve in Cardinal Circle, thence along Cardinal Circle to the property line of Maredon Place S/D, thence along the property line boundaries of Maredon Place S/D in westerly, northwesterly, southwesterly and southeasterly directions to the western most property line of Cardinal Park, and thence along western most Cardinal Park property line to Reed Road, thence eastwardly along Reed Road to S.C. Highway 81, thence southwardly along S.C. Highway 81 approximately one fourth of a mile to Simpson Road, thence along the property line boundary of the Bi-Lo Shopping Center in southwestly, southeasterly and northeasterly directions back to Simpson Road approximately two tenths of a mile from S.C. Highway 81, thence southeastwardly along Simpson Road to Calhoun Street Extension, thence southwestwardly along Calhoun Street Extension approximately four tenths of a mile to a branch of Bailey Creek, thence southeastwardly along the branch through Rankins Lake to Bailey Creek, thence southwestly along Bailey Creek to Rogers Road, thence eastwardly along Rogers Road to Old Williamston Road, thence southwestwardly along Old Williamston Road approximately three tenths of a mile to Highland Acres S/D, thence approximately one mile along the western property line of Highland Acres S/D crossing Rocky River (ending common boundary with Hammond and beginning with Broadway) and along the northeastern property line of Cedar Ridge S/D to U.S. Highway 29, thence northeastwardly along U.S. Highway 29 to Plantation Road, thence southwardly along Plantation Road to Bellhaven Road, thence eastwardly along

Bellhaven Road to Cypress Lane, thence southwardly along Cypress Lane to Bolt Drive, thence northwestwardly along Bolt Drive back to Plantation Road and including Forest Hill Chapel, thence southwardly along Plantation Road to Sansbury Drive, thence northwestwardly along Sansbury Drive to Fairfield Drive, thence southwestwardly along Fairfield Drive to U.S. Highway 76 & 178, thence northwestwardly approximately three tenths of a mile along U.S. Highway 76 & 178 to the southernmost property boundary of Anderson Garden Apartments (*ending common boundary with Broadway and beginning with Homeland Park*), thence southwestwardly along said property line to Rocky River, thence northwestwardly along Rocky River to a branch stream located behind New Silverbrook Cemetery, thence southwestwardly approximately six tenths of a mile along said branch to White Street Extension, thence northwestwardly along White Street Extension to Shockley Ferry Road, thence northeastwardly along Shockley Ferry Road approximately four tenths of a mile to Cemetery Road, thence northwestwardly along Cemetery Road approximately one tenth of a mile to the Piedmont Northern Railroad rights-of-way, thence southwestwardly along said railroad rights-of-way approximately eight tenths of a mile to S. McDuffie Street, thence northwestwardly along S. McDuffie Street to Pecan Drive, thence along Pecan Drive to S. Main Street, thence southwardly approximately three and six tenths miles along S. Main Street, Hunt Street, Hillman Drive, and then cross country to and including all of the Wellington Mill property and to and including all of the Owens Corning Fiber Plant property and then back to Major Road, thence northwestwardly along Major Road approximately one tenth of a mile to the intersection of S.C. Highway 28 Bypass and S. Murray Avenue, thence northwestwardly along S.C. Highway 28 Bypass to Sayre Street, thence southwestwardly approximately two and one half miles along Sayre Street and U.S. Highway 29 down to and including the BASF Plant property and Michelin Plant property and then back to U.S. Highway 28 Bypass, thence northwestwardly approximately six tenths of a mile to Generostee Creek, thence southwestwardly approximately eight tenths of a mile to a branch of Generostee Creek (*ending common boundary with Homeland Park and beginning with West Anderson*), thence northwestwardly along said branch to Monitor Drive, thence westwardly along Monitor Drive to Y'all Road, thence northwestwardly along Y'all Road to Dobbins Bridge Road, thence in a northeasterly direction along Dobbins Road on the southeastern side of Dobbins Bridge Road to the western most entrance of Greenbrier Subdivision thence in a westerly direction along the northside of Dobbins Bridge Road to Michelin Blvd, thence northeastwardly along Michelin Boulevard to Three Mile Creek, thence northeastwardly along Three Mile Creek to S.C. Highway 24, thence westwardly along S.C. Highway 24 to Warner Road, thence northwardly along Warner Road to Standridge Road, thence westwardly along Standridge Road to Fretwell S/D, thence northwestwardly, southwestwardly and southeastwardly all along the boundaries of said S/D back to Standridge Road, thence westwardly along Standridge Road to New Prospect Church Road, thence northwestwardly approximately three tenths of a mile to Five Mile Creek, thence northeastwardly along Five Mile Creek to Centerville Road, thence northwestwardly along Centerville Road crossing Whitehall Road to Gerrard Road, thence northerly along Gerrard Road to Dixon Road, thence northwestwardly along Dixon Road to Dunn Road, thence northerly along Dunn Road to Old Pearman Dairy Road and the Southern Railroad tracks and rights-of-way, thence northerly along the Southern Railroad rights-of-way to Lake Hartwell, and thence northeastwardly along the Six and Twenty Arm of Lake Hartwell

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back to where U.S. Highway 76 & S.C. Highway 28 crosses Lake Hartwell.

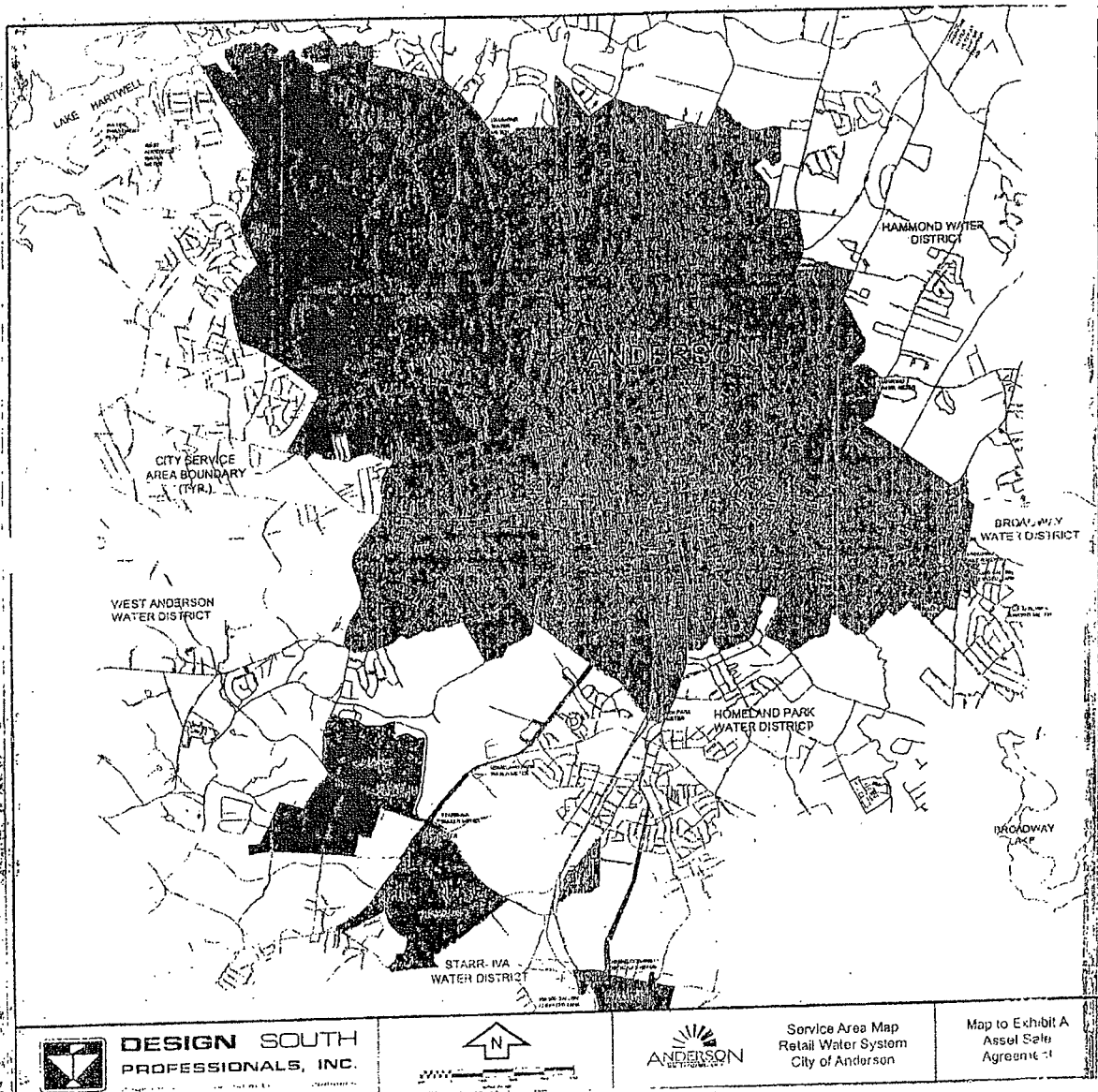
Because the map attached hereto which depicts the retail service area of the City of Anderson may not be drawn to scale, in the event of a discrepancy between such map and the description provided above, such description shall control the actual retail service area boundary.

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Schedule 2
to
Exhibit A

Excluded Mains and Pipes

The following mains are excluded from the conveyance to Anderson:

- (a) 30" line from the Water Filtration Plant (located at 998 Hunters Trail, Anderson, South Carolina) to S.C. 28 Bypass along Old Pearman Dairy Road, Dixon Road and Whitehall Road
- (b) 24" line from the Water Filtration Plant to the vicinity of Lake Hartwell and Clemson Boulevard along Old Pearman Dairy Road, S.C. 28 Bypass and Clemson Boulevard.
- (c) 16" line along S.C. 28 Bypass from the 30" line on Whitehall Road to the 24" line on Old Pearman Dairy Road.

05.23.13 000172

Schedule 3
to
Exhibit A

Vehicle List for City/Distribution

<u>VEHICLE #</u>	<u>TYPE VEHICLE</u>	<u>Tag #</u>	<u>Serial #</u>
00060	87 REID EQ HAUL PINTAL BALL TRL	PT10942	11RF25200H1010990
04178	88 DITCHWITCH TRENCHER		6E0875
05667	86 CLARK FORKLIFT		CP138I00478415FA
06214	77 HOMEMADE	PT15470	SCHD44701
07125	89 BMC HYDRA HAMMER		11594
09810	96 PROTECT-O SIGN/DIRECT		0696A40

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Schedule 4
to
Exhibit A

Real Property

- 1 Fifty percent interest in Water Office/Operations, 314 Tribble Street, Anderson, South Carolina (Duke Parcel No. 58851, approx. 4.91 acres; Duke Parcel No. 45531, approx. 1.76 acres; Duke Parcel No. 40940, approx. 0.20 acres; and Duke Parcel No. 45637, approx. 0.74 acres; less an approx. 0.50 acre tract of Duke Parcel No. 45637 which is occupied by the Seller's power distribution substation and not in connection with the operation of the Retail Business and which will be subdivided and retained by the Seller)
- 2 Whitehall Road Tank, Whitehall Road & Singer Road, Anderson, South Carolina (Duke Parcel No. 41525, approx. 0.69 acres).
- 3 Mauldin Street Tank, Mauldin Street & North Fant Street, Anderson, South Carolina (Duke Parcel No. 57789, approx. 0.48 acres).
- 4 Orr Street Tank, Orr Street & Manning Street, Anderson, South Carolina (Duke Parcel No. 45706, approx. 0.53 acres).
- 5 Fant Street Tank, South Fant Street, Anderson, South Carolina (Duke Parcel No. 57788, approx. 0.49 acres).
- 6 Bolt Drive Tank, Bolt Drive & Cypress Lane, Anderson, South Carolina (Duke Parcel No. 41038, approx. 0.85 acres).
- 7 Owens Corning Fiberglas Tank, Starr Highway (Highway 81 South), Anderson, South Carolina. The parcel on which this tank is located, Duke Parcel No. 44007, approx. 40.00 acres, will be subdivided and the Seller will retain all of the acreage for this parcel except for the portion on which the water tank and its enclosure fence are located. The portion to be retained by the Seller is not occupied by the Seller in connection with the operation of the Retail Business.
- 8 Homeland Park Booster Station, 3238 South Main Street at Hillman Drive, Anderson, South Carolina (Duke Parcel No. 45621, approx. 0.02 acres).

Anderson is to preserve a 50% interest as a tenant in common with the Purchaser

6. Anderson 05.23.13 000173

Schedule 5
to
Exhibit A

Certain Contracts and Arrangements

Water Service Agreements

1. Memorandum of Agreement, dated April 4, 1967, by and between Duke Power Company and Dow Badische Company.
2. Water Service Agreement, dated April 1, 1990, by and between Duke Power Company and Owens-Corning Fiberglas Corporation.
3. Water Service Agreement, dated April 7, 1995, by and between Duke Power Company and Plastic Omnium Industries, Inc.
4. Memorandum of Agreement, dated December 12, 1977, by and between Duke Power Company and Stauffer Chemical Company.
5. Agreement, dated August 10, 1987, by and between Duke Power Company and Culp Woven Velvets, Inc.
6. Water Service Agreement, dated July 3, 2000, by and between Duke Water Systems and Michelin North America, Inc.

Other Contracts and Agreements

1. All outstanding commitments made to extend service exclusively related to the Retail Business and all existing and unexpired refund agreements exclusively related to the Retail Business entered into pursuant to the Duke Power Company Water Department Service Regulations, dated July 10, 1990, filed with the South Carolina Public Service Commission.
2. Fire Protection Water Service Agreement, dated January 27, 1989, by Duke Power Company and Anderson Tie Station.²

² The rights and obligation of Anderson Tie Station are to remain with the Seller.

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EXHIBIT B

OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the "Agreement") dated this _____ day of _____ 2002, is by and between the City of Anderson, an incorporated municipality in the State of South Carolina (the "City"), and the Anderson County Joint Municipal Water System, a public body corporate and politic of the State of South Carolina ("System").

BACKGROUND STATEMENT

1. The System owns and operates certain water transmission mains in Anderson County, South Carolina (the "System Transmission Mains").

2. The City owns and operates certain water transmission mains located within and outside the City's corporate limits (the "City Transmission Mains").

3. The System Transmission Mains and the City Transmission Mains may hereafter be collectively referred to as the "Transmission Mains". Both the System Transmission Mains and the City Transmission Mains are shown on Exhibit A and Exhibit A-1 attached hereto; incorporated herein, and made a part of this Agreement.

4. The System sells water to the City on a wholesale basis using the Transmission Mains.

5. The City Transmission Mains also serve multiple other wholesale purchasers of the System and are therefore not operated exclusively for the benefit of the City.

6. The Transmission Mains also are integral parts of the City's retail water system and are therefore not operated exclusively for the benefit of the System.

7. The construction of Additional Transmission Mains (as described in paragraph 7(a) of this Agreement) is a common goal of each party and the construction thereof will be equally beneficial to the City and the System. Presently, potable water is transported and distributed to certain of the System's wholesale customers (West Anderson Water District, Homeland Park Water District, Starr-Iva Water and Sewer District, Broadway Water and Sewerage District, Hammond Water District) through the City Transmission Mains. The Additional Transmission Mains will allow the System to transport and distribute potable water to these wholesale customers without the need of the City Transmission Mains.

8. The parties hereto desire to enter into an agreement regarding the use, operation, maintenance, and other matters involving the System Transmission Mains, the City Transmission Mains, and the Additional Transmission Mains recognizing the needs of the System and the City.

9. This Agreement is necessary to allow each of the parties to finance the acquisition of their water systems from Duke Energy Corporation through the issuance of long-term revenue bonds.

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STATEMENT OF AGREEMENT

In consideration of the mutual agreements between the parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Right to Use Connections.

(a) In order to enable the System to perform its obligations under the Water Sale and Purchase Agreement dated _____ (the "Water Purchase Agreement"), the System is hereby granted the right to utilize the City Transmission Mains and related facilities necessary for the purpose of transporting and distributing potable water to the City and its other wholesale customers. The City hereby covenants not to interfere, obstruct or impede this right of use for water transmission purposes.

(b) In order to enable the City to perform its obligations to provide water to its retail customers, the City is hereby granted the right to utilize all Transmission Mains and related facilities necessary for the purpose of transporting and distributing potable water to its retail customers. The System hereby covenants not to interfere, obstruct or impede this right of use for water transmission purposes to the City's retail customers.

(c) Each party hereby agrees that the primary use of the Transmission Mains is to provide for the transportation and distribution of potable water for the benefit of the City's retail customers and the System's wholesale customers. There will be no charges or tariffs for the use of the Transmission Mains by the owner of the Transmission Mains to the other party. Subject to the limitations of Section 3 hereof to the Statement of Agreement portion of this Agreement, each party is entitled to make connections to the Transmission Mains free of charge provided, however (i) that such connection is made in good faith for the sole purpose of serving customers of the party making the connection, i.e., it is for actual use; (ii) such connection is for a line of at least six inches in diameter; (iii) such connection is to serve customers in the connecting party's service area; (iv) the party requesting the tap must obtain a certificate of availability of capacity (the "Certificate") from the System before any work is commenced, it being understood that the System will not unreasonably refuse to issue, or unreasonably delay issuing, such a Certificate to the City. The request for such Certificate shall set forth the size of the line, projected water demand and location of the water customer(s), the location of the line and tap, the projected completion date of preparatory work, and a cost estimate of the tap; and (v) the System makes a determination of the effect, if any, that such connection will have on the transportation and distribution of water to customers served by the Transmission Mains. In the event the System determines, in its reasonable discretion, that the requested connection will adversely affect the ability of the System to transport and distribute water to customers, both retail and wholesale, being served by the Transmission Mains, then such tap or connection shall not be made until System improvements can be implemented that will mitigate any negative conditions that were

anticipated as a result of the connection request all pursuant to and in accordance with the provisions of Section 3.09 of the Water Purchase Agreement.

(d) The City shall be entitled to tap the City Transmission Mains for lines that are less than six inches in diameter for the purpose of serving customers in the City's service area, provided that, for each such tap, (i) the City must give the System three business days' prior written notice of the City's intention to tap into the City Transmission Main, which notice shall include the size of the line to be connected, the projected water demand through the line, the location of the line and the tap, and the projected completion date of the tap, and (ii) the System does not, within two business days after receiving such written notice, notify the City that the System has determined that such a tap will adversely affect the ability of the System to transport and distribute water to customers.

(e) At any time that a connection is made to a System Transmission Main, the System shall determine whether a master meter must be installed.

2. Operation and Maintenance.

(a) Each owner agrees to pay all costs (including operational, maintenance, repairs and capital costs) involved in keeping the Transmission Mains owned by such party in good working order and condition, and to keep such Transmission Mains operational at all times. This includes the obligation to pay all costs related to the maintenance and operation of water facilities which are not Transmission Mains, including hydrants, but which are necessary, useful or appropriate in order to keep the Transmission Mains in good working order and operational and which water facilities are owned by the party who is responsible for such costs.

(b) In the event an owner of a Transmission Main does not maintain such Transmission Main in good working order and condition, the other party to this Agreement is hereby authorized to make any necessary repairs or perform such acts as are required to keep the Transmission Main in good working order; provided, however, prior to taking any such action, the party who is not the owner must give the owner written notice of such deficiency and a period of ten days, except in an emergency, shall have elapsed from the date of such notice with no remedial action undertaken by the owner during such period. The owner of the Transmission Main shall be responsible for the costs of any such repair.

(c) Each party hereby agrees that it will endeavor to use such efforts as are commercially reasonable and available in the operation and maintenance of the Transmission Mains owned by each party, so as to prevent the disruption of service to the other party's customers. To the extent it is reasonably possible to do so, each party will provide the other party with advance notice of any activities such party anticipates it needs to undertake in the operation and maintenance of the Transmission Mains owned by such party, which activities can be reasonably expected to disrupt service to the other party's customers.

3. Procedure for New Connections. The following procedure applies to any request by either the City or the System to tap into any part of a Transmission Main owned by the other party:

(a) Upon receipt of the Certificate from the System, as provided in (1)(c)(iv) herein, the party desiring to tap into a Transmission Main that it does not own (the "Connecting Party") will undertake and be responsible for all preparatory work to make the connection to the other party's Transmission Main, including excavation, location and avoidance of disruption of all other utilities, shoring, and work zone safety;

(b) Upon proper completion of the preparatory work, the Connecting Party will notify the owner of the Transmission Main (the "Owner Party"), and the Owner Party shall make a tap into the Transmission Main and furnish all material necessary to make the tap into the Transmission Main (including the tapping sleeve and valve). The Owner Party will perform such work in accordance with all applicable laws and regulations, but is not responsible for any other work (including, but not limited to, the location or quality of the new line to be connected to the Transmission Main, which shall be Connecting Party's responsibility);

(c) The Connecting Party will be responsible for furnishing and installing the valve box and riser in accordance with drawings and specifications which must be previously approved by the Owner Party and will be responsible for backfilling the excavation and asphalt or concrete repair;

(d) The Connecting Party will reimburse the Owner Party for its actual cost of labor and materials within thirty (30) days after receipt of an invoice from the Owner Party for such labor and materials. Any amount unpaid after the due date shall accrue interest at 8% per annum until paid;

(e) The Connecting Party agrees to indemnify, defend and hold harmless the Owner Party against all demands, claims, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or suffered or incurred by the Owner Party which result from the Connecting Party's activities in connecting to the Owner Party's Transmission Main; and

(f) Each party agrees to perform all work, including all preparatory work, in accordance with all applicable laws and regulations, including the South Carolina Department of Health and Environmental Control ("DHEC"), the South Carolina Department of Transportation and the Occupational Safety & Health Administration regulations.

4. Conveyance of Transmission Mains Upon Abandonment Should any of the System Transmission Mains in the City's service area be abandoned by the System, the System agrees to convey the abandoned System Transmission Mains to the City at no cost. The City agrees, however, to reimburse the System for all expenses (including reasonable attorneys' fees) incurred in connection with such conveyance.

5. Force Majeure: Limitations of Liability.

(a) In the event either party shall be wholly or partially prevented from performing hereunder, by reason of strike, fire, flood, drought, low water, accident, act of government (including regulatory agencies), or any other cause beyond its reasonable control, then and in such event neither party shall be liable to the other during such period of failure, prevention or interruption.

(b) The parties expressly understand and agree that in no event shall either party be liable to the other party for any indirect or consequential damages.

6. Meters and Backflow Preventers. The System shall be responsible for maintaining all master meters and pit locations for wholesale purchasers. Said meters shall remain the property of the System and shall be at all times, upon the request of the provided party, subject to such tests as may be necessary to establish their commercial accuracy. The City will be required to maintain reduced pressure backflow preventers on its service lines at points acceptable to the System and the City. The City shall be responsible for constructing and maintaining pits with natural drains to house the backflow preventers. Said preventers and pits shall be in accordance with DHEC specifications. Both parties shall have a Backflow Prevention Program in place and approved by DHEC.

7. Additional Transmission Mains.

(a) Both parties acknowledge that the System will be required to construct additional transmission mains and extensions to existing Transmission Mains (such additional transmission mains and extensions shall be referred to as the "Additional Transmission Mains") to "loop" or otherwise bypass the present retail service area of the City in order for the System to provide adequate service to its wholesale customers and to remove the System's wholesale customers from the City Transmission Mains. The System agrees to construct such Additional Transmission Mains and incur additional revenue debt for such purposes, and the City does hereby agree and consent to the construction of the Additional Transmission Mains to be owned and operated by the System. The Additional Transmission Mains shall be of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8) to transport and distribute potable water. Such construction shall commence within 5 years from the date hereof, provided the construction costs of such Additional Transmission Mains do not exceed \$5,000,000 (such amount to be increased on each anniversary hereof by 10%, compounded each anniversary). Pursuant to and in accordance with the provisions of Section 3.09 of the Water Purchase Agreement, the City hereby consents to such construction and agrees to pay its part of the debt service (as determined on Exhibit A to the Water Purchase Agreement) associated with the construction of any such Additional Transmission Mains.

(b) In addition, the City agrees to provide, upon request of the System and at no charge, full assistance and cooperation in obtaining rights-of-way or easements, whether over property of the City or third parties, where necessary or appropriate for the Additional Transmission Mains or for water tank sites.

(c) It is understood and agreed that the System's rights and interests in the City Transmission Mains and the Water Tanks and Booster System (as defined in paragraph 8 below) under this Agreement will terminate upon the connection to the Additional Transmission Mains by all of the System's wholesale customers (identified in paragraph 7 of the Background Statement).

(d) It is understood and agreed that, upon any partial looping of the City's retail service area, the System may elect, in its sole discretion, to remove wholesale customers from the City Transmission Mains.

(e) Prior to the termination of this Agreement upon the connection to the Additional Transmission Mains by all of the System's wholesale customers, the City and the System shall negotiate in good faith to execute and deliver a mutually satisfactory "mutual aid" agreement allowing for the use by the City and the System of each other party's Transmission Mains as a temporary backup supply of water during emergencies at any time after this Operating Agreement is terminated.

8. Water Tanks and Booster Station. The System agrees to lease the Bolt Drive water tank, the Owens Corning water tank, the Whitchall Road water tank and the Homeland Park Booster Station located at Hillman Drive (collectively, the "Water Tanks and Booster Station") from the City, at a rate of \$1.00 per year for a term of 99 years; provided, however, that upon completion of Additional Transmission Mains that are of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8), such leases shall terminate. These leases (the "Water Tank and Booster Station Leases") shall provide the System with the right to abandon the leases at any time with no penalty. The Water Tank and Booster Station Leases shall be in the form of the Lease Agreement between Clemson University and Duke Power Company, dated February 3, 1971, which provides for the lease of a certain parcel of land in Pickens County, South Carolina. However, the Lease Agreement between Clemson University and Duke Power Company only provides for the leasing of the real property upon which such tank is located. The Water Tank and Booster Station Leases shall provide that the Water Tanks and Booster Station shall be maintained by the City and shall be operated by the System in accordance with past practices using the System's SCADA equipment (or any successor operating system), and the Water Tank and Booster Station Leases shall contain such other provisions relating to the operation and maintenance of the Water Tanks and Booster Station as are agreed by the parties.

9. Governing Law. The execution, interpretation and performance of this Agreement shall be governed by the internal laws and judicial decisions of the State of South Carolina.

10. Severability. If any provision of this Agreement shall be held invalid or unenforceable, the remainder shall nevertheless remain in full force and effect.

11. Successors and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of the parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party hereto.

12. Approval by Commissioners of the System. This Agreement may be amended, modified or supplemented only by written agreement of the System and the City and, notwithstanding anything in this Agreement to the contrary, no such amendment, modification or supplement to this Agreement may be made by the System without first obtaining the affirmative vote of the holders of sixty percent (60%) of the votes entitled to be cast by all of the Commissioners of the System other than the Commissioners appointed by the City.

13. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14. Entire Agreement. This Agreement constitutes the entire understanding among the parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. No party hereto has relied, or will rely, upon any oral or written representation or oral or written information made or given to such party by any representative of the other party or anyone on its behalf.

15. Disputes. Either party may apply to the circuit courts of the State of South Carolina for temporary or permanent injunctive relief due to a breach of this agreement which relief may include, inter alia, mandatory, emergency relief. Notwithstanding the foregoing, any disputes between the parties hereto under the provisions hereof may be settled in accordance with the provisions of Section 5.02 of the Water Purchase Agreement.

16. Notice Provision. Any notice or other communication permitted or required by this Agreement shall be in writing and shall be deemed given when delivered by hand or by facsimile transmission or upon receipt by the addressee when deposited in the United States mail, first class postage pre-paid, and if to the City of Anderson addressed to:

City of Anderson

Facsimile Number: _____

05.23.13 000183

And if to the System, addressed to:

Anderson County Joint Municipal Water System

Facsimile Number: _____

Unless a different address shall have been designated by the respective entity by notice in writing.

17. Term. This Agreement shall be effective for a term of 99 years from the date hereof, provided, however, that this Agreement shall immediately terminate upon the construction of Additional Transmission Mains that are of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8).

18. Effectiveness. This Agreement shall be effective only upon the closing of the transactions contemplated by those certain purchase agreements between Duke Energy Corporation and the City and the System relating to the sale of the water system in Anderson County, South Carolina.

EXECUTION PAGE FOLLOWS

05.23.13 000184

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
by their duly authorized officers as of the date first above written:

CITY OF ANDERSON

By: _____
Title: _____

ANDERSON COUNTY JOINT
MUNICIPAL WATER SYSTEM

By: _____
Title: _____

08.25.12 City 000156

5000198

05.23.13 000185

08.25.12 City 000157

5000199

EXHIBIT E

ROBINSON, BRADSHAW & HINSON, P.A.
Attorneys at Law
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

THE STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

NON-WARRANTY DEED
AND ASSIGNMENT OF
EASEMENTS

KNOW ALL MEN BY THESE PRESENTS, That DUKE ENERGY CORPORATION, a North Carolina corporation and whose address is Wachovia Building, 13th Floor, 400 South Tryon Street Charlotte, NC 28202, Attention: Robert S. Lillien hereinafter called "Grantor", in consideration of the sum of _____ paid at and before the sealing of these presents by ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, a corporate body public and politic of the State of South Carolina hereinafter "Grantee" (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released and by these Presents does grant, bargain, sell and release unto the said Grantee, its successors and assigns (subject to the rights and easements reserved to Grantor below) all of Grantor's right, title and interest in and to those certain water distribution and water transmission easements, rights of way and rights of encroachment and those water distribution facilities located therein all as is more particularly described as follows (collectively, the "Property"):

(a) All recorded and unrecorded water distribution and water transmission easements, rights of way and rights of encroachment to the extent the same contain (but only to the extent the same contain) County Retail Mains and Pipes (defined below) and are: (i) owned by the Grantor or in which the Grantor has an ownership interest; and (ii) used by the Grantor in connection with such County Retail Mains and Pipes. To the extent any such easement, right of way or right of encroachment is utilized by Grantor for any purpose or purposes other than water distribution or water transmission, Grantor reserves the nonexclusive right to use the same for such other purpose or purposes and each of such rights reserved to Grantor and each of the rights transferred to Grantee hereunder are and shall be subject to the conditions that the same are and shall be nonexclusive and that the same shall be utilized by each party in such manner as shall not be inconsistent with and shall not interfere with the rights of the other party.

(b) All water mains and pipes used by Grantor in connection with Grantor's water system assets which Grantor has conveyed to Grantee contemporaneously herewith that are (i) owned by the Grantor or in which the Grantor has an ownership interest and (ii) located within Anderson County, South Carolina excluding and exclusive of the [legal description/area depicted] on Exhibit A attached to this Deed and made part of this Deed by this reference, but expressly including the water mains and pipes described on Exhibit B attached to this Deed and made part of this Deed by this reference (the included water mains and pipes are defined to as the "County Retail Mains and Pipes")

(c) All fire hydrants, meters and valves that are (i) owned by the Grantor or in which the Grantor has an ownership interest and (ii) connected to and served by the County Retail Mains and Pipes

(d) Any other provision of this Deed to the contrary notwithstanding, the Property shall not include any other assets including (i) any water main or pipe associated with Grantor's Duke Water System to the extent the same is located within the geographic area described on Exhibit A. (ii) any land, building or structure, water storage tank or facility or associated pumping and related equipment not otherwise included above in the

Property; and (ii) any easement, right of way or other right appurtenant to or otherwise associated with any of the assets described in (i) and (ii) in this sentence.

LESS AND EXCEPT and reserving to Grantor the rights and easements set forth below.

Reservation of Electric Power and Access Easements.

The easements described below are reserved and granted for the benefit of the following persons and/or entities (collectively, the "Grantor Beneficiaries"): (i) Grantor and its successors and assigns; and (ii) any appropriate public authority to whom or which any facility within the Electric Easement Areas (defined below) is dedicated now or hereafter for public use and/or maintenance.

GRANTOR HEREBY RESERVES for itself and each of the other Grantor Beneficiaries and Grantee, by its acceptance of this Deed, hereby grants to Grantor Beneficiaries the following nonexclusive, permanent, perpetual appurtenant rights and easements, each of which shall run with the title to and burden the Property conveyed by this Deed and benefit each of the Grantor Beneficiaries and be appurtenant to the property owned by each of the Grantor Beneficiaries:

(a) The nonexclusive, permanent, perpetual, appurtenant right and easement to use the Electric Easement Areas for electric utility purposes and for the purpose of operating and maintaining power distribution and transmission lines and other power distribution and transmission assets and facilities and for other purposes customarily contained in easements to electric power utilities and to install, maintain, construct, lay, operate, inspect, repair, replace and/or remove, from time to time, subject to the terms and provisions hereof, electric utility facilities within the Electric Easement Areas. Grantor shall have the right, without the joinder of Grantee or any other party, to dedicate any electric utility facility or facilities in the Electric Easement Areas to any appropriate public authority.

(b) A nonexclusive, permanent, perpetual, appurtenant right and easement for access, ingress, egress and regress over and upon so much of the Property as may be reasonably necessary to have access to the Electric Easement Areas and to exercise and enjoy the easements reserved and granted in the foregoing subparagraph (a).

(c) A perpetual easement and right of way 30 feet in width for the purposes hereinbelow set out, over and across the portions of the Property lying 15 feet on each side of the centerline of all existing overhead distribution lines crossing and/or located on the Property (collectively, the "Electric Easement Areas"). Within the right of way above referred, Grantor shall have the right to construct, maintain and operate with poles, crossarms, wires, guys, anchors, cables, transformers and other necessary apparatus and appliances, overhead lines for the purpose of transporting electricity and for the communications purposes of Grantor and its assigns. The following rights are also reserved by Grantor: the right to enter said right of way to inspect said lines, to perform necessary maintenance and repairs, and to make alterations and additions thereto; to remove from the right of way, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines and trees of any species that Grantor determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines; to trim or remove and to keep trimmed or removed dead, diseased, weak or leaning trees or limbs outside of the right of way which, in the opinion of Grantor, might interfere with or fall upon the electric or communication facilities within the right of way; and to install guy wires and anchors extending beyond the limits of the right of way when determined necessary by Grantor.

However, if and to the extent that any water facilities conveyed by Grantor to Grantee (the "Water Facilities") are located on the Property and exist within and/or encroach upon the Electric Easement Areas reserved to Grantor above, then Grantee shall have the right to continue to use, maintain, replace and repair such Water Facilities provided Grantee shall make commercially reasonable efforts not to interfere with the use, maintenance, replacement and/or repair of facilities of Grantor or damage facilities of Grantor within such Electric Easement Areas.

The within property is conveyed subject to:

Liens for valorem taxes and assessments for 2002 and subsequent years.

The easements reserved and granted above.

All valid and enforceable covenants, restrictions, easements and conditions of record, if any.

TOGETHER WITH all and singular the Rights, Members, Hereditaments and Appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the Property described above (subject to the rights and easements reserved to Grantor above) unto the said Grantee and its successors and assigns forever.

Notwithstanding the foregoing or any other provision of this Deed to the contrary notwithstanding, it is acknowledged and agreed that: Grantor does not know the extent to which it does or does not have an ownership interest in the Property and, therefore, Grantor does not make and hereby disclaims any warranty or other assurance regarding such Property.

In Witness Whereof, DUKE ENERGY CORPORATION has caused this instrument to be executed by its duly authorized officials, and its corporate seal to be hereto affixed this _____ day of _____ in the year of our Lord two thousand two and in the two hundred and twenty-sixth year of the Sovereignty and Independence of the United States of America.

Signed, sealed and delivered
in the presence of:

DUKE ENERGY CORPORATION

By: _____

President

Attest: _____
Assistant Secretary

[Corporate Seal]

05.23.13 000189

THE STATE OF NORTH CAROLINA)

COUNTY OF MECKLENBURG)

The forgoing instrument was acknowledged before me this, _____ day of _____, 2002, by _____ as _____ of Duke Energy Corporation, a North Carolina corporation on behalf of the corporation.

Notary Public for North Carolina

My Commission Expires: _____

(NOTARIAL SEAL)

5000203

08.25.12 City 000161

05.23.13 000190

EXHIBIT A

[Legal Description/Area Depicted and containing *excluded* Easements and Mains and Pipes]

08.25.12 City 000162

5000204

05.23.13 000191

EXHIBIT B

[Expressly *Included* Mains and Pipes]

[Insert narrative description of the mains described on Schedule 2 of Exhibit A to the Asset Purchase Agreement between the Grantor and the Grantee]

08.25.12 City 000163

5000205