

## Asset Acquisition Agreement

This Asset Acquisition Agreement ("Agreement") is entered into as of this \_\_\_ day of \_\_\_\_\_ 2005, among Washington Water Service Company, a Washington corporation ("Purchaser"), and Gamble Bay Water Company, Inc., a Washington corporation ("Seller"), with reference to the following recitals:

### RECITALS

- A. Seller owns and operates five (5) public water systems (Water Systems) regulated by the Washington State Utilities and Transportation Commission (WUTC) and The Washington State Department of Health (DOH), that are known as Bucklin, ID #66936L; Phelps Road, ID #63210W; Foss Road, ID #63918X; Johanson, ID #36782F; and Northwood, ID # 62100E. The Seller's Water Systems are located in Kitsap County, Washington and serves approximately 188 customers.
- B. Seller and Purchaser believe that the sale of the assets and business hereunder is in the best interest of the population served by the Seller's Water Systems, in view of Purchaser's expertise and financial resources.
- C. The proposed transactions hereunder are subject to the approval of the WUTC and acceptance by Purchaser and Seller of conditions made by WUTC.
- D. Seller desires to sell to Purchaser and Purchaser desires to purchase from Seller all of Seller's Water System's assets, on the terms and subject to the conditions herein set forth.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which shall be deemed a relevant part of this Agreement, and the mutual covenants, promises, agreements, representations and warranties contained herein, for good and valuable consideration, the parties hereto agree as follows:

#### 1. TRANSFER OF ASSETS

- 1.1. Agreement to Sell. Upon the terms and subject to all of the conditions contained herein, Seller agrees to sell, assign, transfer and deliver to Purchaser on the Closing Date (as defined in Section 4.1 hereof), and Purchaser hereby agrees to purchase and accept from Seller on the Closing Date, the Acquired Assets (as defined in Section 1.2 hereof). Seller shall deliver to Purchaser at the Closing appropriate bills of sale, assignments of easements, grant deeds or other documents of conveyance necessary to effect the transfer of title to the Acquired

Assets to Purchaser on the Closing Date, in form and substance satisfactory to Purchaser and its counsel.

1.2. Description of Assets. For purposes of this Agreement, the term "Acquired Assets" shall refer to the assets described in the following:

1.2.a. Water System. All water equipment and facilities, wells, pumping equipment, connections, tanks, reservoirs, mains, meters and hydrants and all other appurtenances pertaining to operating the water systems that are owned by Seller and described in Schedule 1.2 (a) hereof.

1.2.b. Real Property and Easements. All real property, easements and other real property rights held or owned by Seller, described in Schedule 1.2 (b) hereof.

1.2.c. Other Assets. All other tangible assets owned by the Seller and used in the Seller's business, including but not limited to vehicles, personal property (office furniture, office and computer equipment, fixtures, computer software and other tangible property) all rights under contracts, all claims and all prepaid expenses, and described in Schedule 1.2 (c) hereof.

1.2.d. Inventory. All inventories owned by Seller, including but not limited to component parts and spare parts and described in Schedule 1.2 (d) hereof.

1.2.e. Books and Records. Copies of all books, records, files, contracts, and other data of Seller relating to Acquired Assets, whether or not located at its principal place of business, and whether or not located at its principal place of business, and whether or not in tangible form or in the form of intangible computer storage media, such as disks, tapes, and other similar storage media.

1.2.f. Name. All rights to the names Bucklin, Foss Road, Johanson, Northwood, and Phelps Road Water Systems.

1.2.g. Licenses. All licenses of Seller described in Schedule 5.20 hereof.

1.2.h. Deposits. All deposits with government agencies, vendors, contractors and other entities described in Schedule 1.2 (h) hereof.

1.2.i. Intangible Property. All of the interest of Seller in any intangible property owned by the Seller and used in Seller's business and to the extent approved by Purchaser in writing pursuant to the

provisions of this Agreement, any and all contracts including, but not limited to employees, warranties, guarantees, agreements, utility contracts, operating and customer account records, maps and drawings, permits, franchises, licenses, water rights, claims, prepaid expenses, grants, certificates and privileges and other rights owned by Seller relating to or used in connection with the ownership, operation, use, occupancy or enjoyment of all or any part of the Seller's business all of which are collectively referred to as the "Intangible Property". The Intangible Property shall include, without limitation, all customer service contracts and all site plans, plans and specifications, "as-built" plans and drawings, permits and other governmental reviews, approvals and entitlements related to Water Systems and such of the foregoing as have been heretofore prepared, applied for, obtained or otherwise are in the name or possession of, under the control of or available to Seller. Intangible Property is set forth in Schedule 1.2(i).

- 1.3. Excluded Assets. Any and all assets not to be acquired by the Purchaser shall be considered "Excluded Assets." These Excluded Assets described in Schedule 1.3 hereof shall not be considered Acquired Assets.

## 2. LIABILITIES AND SALES TAXES

- 2.1. Liabilities Not Being Assumed. Purchaser will not assume or be obligated to satisfy or perform any other existing liabilities, or commitments of Seller, whether fixed or contingent, known or unknown, including but not limited to Seller's tax, environmental and water quality liabilities and obligations to its employees as they exist at closing, except for those liabilities listed on Schedule 2.1

- 2.2. Excise and Property Tax. Seller shall pay all sales, use and transfer taxes arising out the transfer of the Acquired Assets except sales/use tax on vehicles and shall pay its portion, prorated as of the Closing Date, of state and local real and personal property taxes of the business. Purchaser shall not be responsible for any taxes of any kind related to any period before the Closing Date, excluding any sales/use tax on vehicles.

## 3. PURCHASE PRICE AND PAYMENT THEREFORE OTHER PAYMENTS.

- 3.1. Purchase Price. As consideration for the sale, assignment, transfer and delivery of the Acquired Assets by Seller to Purchaser, and upon the terms and subject to all of the conditions contained herein, Purchaser agrees to pay \$1.00 (One and 00/100 Dollars) together with

assumption of debt, issue and deliver to Seller as described in Schedule 3.1

- 3.2. Allocation of Purchase Price. The Purchase Price shall be allocated among the various categories of Acquired Assets in accordance with Schedule 3.2 hereof.

#### 4. THE CLOSING

- 4.1. Closing Date. The closing ("Closing") of the transactions contemplated by this Agreement shall take place at a location mutually agreed upon by the parties, during regular business hours, on the 3 business day after the effective date of the WUTC authorization referred to in Section 9.1 or at such other time as the parties may agree ("Closing Date").

- 4.2. Seller's Obligations at Closing. At the Closing, against delivery of the items specified in Section 4.3 hereof, Seller shall deliver to Purchaser the Acquired Assets and the documents described in Schedules 1.2(a)-(j) hereof and will thereafter have no rights or obligations to the Water Systems listed on 1.2 (a).

- 4.3. Purchaser's Obligation at the Closing. At the Closing, Purchaser shall deliver to Seller the purchase price specified in Section 3.1 in a form of cash.

#### 5. SELLER'S REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Purchaser as follows:

- 5.1. Organization, Good Standing and Qualification. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington and has all necessary corporate powers to own, lease and operate its assets and properties and to carry on its business as now owned and operated by it. Seller is not doing business in any state other than Washington. Seller does not own, directly or indirectly, any interest or investment (whether equity or debt) in or control any corporation, partnership, business, trust, joint venture or other entity.

- 5.2. Authority. Seller has the full corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. The Board of Directors have duly and effectively approved Seller's execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and no other corporate proceeding on the part of Seller is necessary to authorize this Agreement and the transactions that it contemplates. This Agreement has been duly and validly executed by Seller and is a valid and binding

agreement of Seller enforceable in accordance with its terms.

- 5.3. Financial Statements. Seller has delivered to Purchaser the unaudited balance sheets of Seller as of April 1, 2005 and the related unaudited statements of income and retained earnings for the year's then ending, certified by the President of Seller. These financial statements are hereinafter collectively referred to as the "Seller Financial Statements." To the best of Seller's knowledge, the Seller Financial Statements are true and correct in all material respects, fairly present the financial position of Seller as of the respective dates of the balance sheets included in the Seller Financial Statements, and the results of its operations for the respective periods indicated.
- 5.4. Absence of Specified Changes, Claims and Litigation. Except as described in Schedule 5.4 hereof, since December 31, 2004, there has not been any:
- 5.4.a. Transaction by Seller except in the ordinary course of business as conducted on that date consistent with past practices;
  - 5.4.b. Capital expenditure by Seller exceeding \$2,000.00;
  - 5.4.c. Obligations incurred by Seller, except trade or business obligations incurred in the ordinary course of business consistent with past practices;
  - 5.4.d. Cancellation or compromise of any debt or claim, except in the ordinary course of business consistent with past practices;
  - 5.4.e. Material adverse change in the financial condition, liabilities, assets, business, results of operation or prospects of Seller;
  - 5.4.f. Destruction, damage to or loss of any assets of Seller (whether or not covered by insurance) that materially and adversely affects the financial condition, business, operations or prospects of Seller;
  - 5.4.g. Sale or transfer of any asset of Seller, except in the ordinary course of business consistent with past practices;
  - 5.4.h. Execution, creation, amendment or termination of any contract, agreement or license to which Seller is a party, except in the ordinary course of business consistent with past practices;

- 5.4.i. Waiver or release of any right or claim of Seller, except in the ordinary course of business;
- 5.4.j. Mortgage, pledge or other encumbrance of any asset of Seller;
- 5.4.k. Cancellation or the giving of notice of cancellation of any policy insuring Seller, its business or assets;
- 5.4.l. Other event or condition of any character that has or might reasonably have a material and adverse effect on the financial condition, assets, business, results of operation or prospects of Seller; or
- 5.4.m. Agreement by Seller to do any of the things described in the preceding clauses (a) through (l) except as agreed to in writing by Purchaser.
- 5.5. Tax Returns and Audits. Within the times and in the manner prescribed by law, Seller has filed or caused to be filed all federal, state and local tax returns required by law, and has paid all taxes, assessments and penalties due and payable. These tax returns reflect accurately all liability for taxes of Seller for the periods covered thereby.
- 5.6. Real Property Owned by Seller. Seller owns or, pursuant to Section 7.12, is in the process of obtaining the rights in and to all of the real property on which the wells and storage tanks of Seller are located. Within a reasonable period after the date hereof, Seller will deliver to Purchaser a true, complete and accurate legal description of all real property and easements owned or held by Seller, together with all privileges and appurtenances thereto and all plants, building, structures, installations, fixtures, improvements, betterments and additions situated thereon.
- 5.7. Real Property Leased to or by Seller. Except as described in Schedule 5.7 hereof, Seller is not a party to any agreement for the lease of real property.
- 5.8. Tangible Personal Property. Except as described in Schedule 5.8 hereof, no personal property used by Seller in connection with its business is held under any lease, security agreement, conditional sales contract, or other title retention or security arrangement or is located other than in possession of Seller. Seller owns all tangible personal property necessary to conduct its business as now conducted.
- 5.9. Title to and Condition of Assets and Properties. Seller has sole and exclusive good and marketable title to

all of the Acquired Assets and all of its properties and assets reflected in the Seller Financial Statements and all assets acquired by Seller subsequent to **May 31, 2005** (except in each case those disposed of in the ordinary course of business since December 31, 2004), free and clear of mortgages, liens, pledges, charges, encumbrances, equities, claims, easements, rights of way, covenants, conditions, or any other restriction or defect in title, except for the liens of current taxes and assessments, and easements, rights of way, encumbrances, restrictions, clouds and defects which do not materially and adversely affect the operations of or the fair market values of its assets or properties. All of Seller's real property, its pipes, wells and water storage facilities, and all machinery, equipment, fixtures, automobiles, and other physical assets owned, leased, or used by Seller in the conduct of its business as presently conducted is in good operating condition and repair, ordinary wear and tear excepted, and to the best of the Seller's and Shareholders' knowledge are free from any defects, except (i) such defects that are correctable through routine maintenance, (ii) such minor defects that do not materially interfere with the continued use of such property in the conduct of Seller's normal operations, and (iii) such defects as described in Schedule 5.9 hereof. Neither any officer, director nor employee of Seller owns, or has any interest, directly or indirectly, in any of the real or personal property used by Seller in the conduct of its business. Seller does not occupy any real property in violation of any law, regulation or decree.

- 5.10. Zoning. The zoning of each parcel of real property owned or used by Seller in the conduct of its operations permits the presently existing improvements and the continuation of the business presently being conducted on such parcel.
- 5.11. Business. Seller is engaged in the business of a public water company serving the area of Kitsap County, Washington, and with respect to which, it holds a valid certificates of Operating Permits issued by DOH, copies of which will be delivered to Purchaser by Seller within a reasonable period after the date hereof.
- 5.12. Physical Assets. Except as described in Schedule 5.12 hereof, to the best of the Seller's knowledge the physical assets of Seller are in sound operating condition and there are no material arrears in the maintenance of any such physical assets.
- 5.13. Litigation. To the best of Seller's knowledge, and except as described in Schedule 5.13 hereof, there is no action, suit, proceeding, claim arbitration, or investigation, audit, inquiry or hearing, at law or in

equity, before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or other person pending or, to the knowledge of Seller, threatened, against Seller or relating to or affecting Seller, its business, assets or properties or any basis for such action, suit, proceeding, claim investigation, audit, inquiry, or hearing to the knowledge of Seller or the Shareholders. Seller is not presently engaged in any legal action to recover money due it or damages sustained by it.

- 5.14. Rates. There are no WUTC proceedings or investigations pending or, to the knowledge of Seller, threatened against Seller, which might adversely affect the business or financial condition of Seller or the water rates of Seller presently in effect.
- 5.15. Condemnation. No elections have been held or other actions taken authorizing the commencement of proceedings toward condemnation of any of the properties of Seller, and, to the best knowledge of Seller, no such actions have been proposed.
- 5.16. Existing Employment Contracts. Seller has no collective bargaining or employment agreements or any agreements that contain severance, termination, vacation or sick pay obligations with any of its officers or employees, other than currently effective vacation and sick policies, copies of which have been furnished to Purchaser by Seller. There are no pension, bonus, profit-sharing, stock option, health insurance benefit, or other plans, agreements or arrangements providing for officer or employee remuneration or benefits to which Seller is bound, other than the Seller's currently effective health insurance plans, copies of which have been furnished to Purchaser. There is no pending or, to the knowledge of Seller, threatened labor dispute, strike or work stoppage affecting Seller's business.
- 5.17. Liabilities; Other Contracts. Except as set forth in the Seller's Financial Statements or described in Schedule 5.17 hereof, there are no debts, liabilities or obligations, fixed or contingent, known or unknown, to which Seller, its business or assets are subject, other than those incurred subsequent to April 1, 2005 in the ordinary course of business consistent with past practices. Seller is not a party to, nor are its assets bound by, any agreement not entered into in the ordinary course of business consistent with past practices, any indenture, mortgage, deed of trust, lease or any agreement that is unusual in nature, duration or amount (including, without limitation, any agreement requiring the performance by Seller of any obligation for a period of time extending beyond one year from the Closing Date,

calling for consideration of more than \$2,000, or requiring purchase at prices in excess of prevailing market prices). Seller is not a party to, nor is Seller or any of its assets bound by, any agreement that is materially adverse to the business, assets, prospects or financial condition of Seller.

5.18. Compliance with Laws. Except as described in Schedule 5.18 hereof, the Seller has always complied with, and is not in violation of, applicable federal, state or local statutes, laws and regulations (including, without limitation, any applicable environmental, building, zoning, or other law, ordinance or regulation) affecting its properties or the operation of its business.

5.19. Compliance with Water Quality Regulations and Requirements. Except as described in Schedule 5.19 hereof, the water, which Seller provides to its customers has always complied with all applicable federal, state and local regulations and requirements.

5.20. Licenses. Seller possesses and holds in its name all licenses, permits, consents, franchises, approvals, authorization, qualifications, and orders of all governments and governmental agencies (hereinafter collectively referred to as "Licenses") required to enable Seller to conduct its business as presently conducted and to own, lease and operate its assets as presently owned, leased and operated. Schedule 5.20 hereof describes all Licenses that are held by Seller. Except as described in Schedule 5.20, all of the Licenses held by Seller are in full force and effect and there is no default of any provision thereof which would affect the ability of Seller to engage in its business or which would result in imposition of a criminal or monetary penalty in excess of \$250 in any single instance, or \$1,000 in the aggregate. No action is pending or, to Seller's knowledge, threatened, seeking the suspension, modification, cancellation, revocation or limitation of any License and, to their knowledge, there is no basis for such actions.

5.21. Agreement Will Not Cause Breach or Violation. Neither the entry into this Agreement nor the consummation of the transactions contemplated hereby will result in or constitute any of the following: (i) a breach of any term or provision of this Agreement, (ii) a default or any event that, with notice or lapse of time, or both, would be a default, breach or violation of the Articles of Incorporation or By-Laws of Seller or of any lease, franchise, License, promissory note, conditional sales contract, commitment, indenture, mortgage, deed of trust, or other agreement, instrument, or arrangement to which Seller or the Shareholders is a party or by which the

Shareholders or Seller or its assets are bound, (iii) an event that would permit any party to terminate any agreement or policy of insurance or to accelerate the maturity of any indebtedness or other obligation of Seller, (iv) the creation or imposition of any lien, charge or encumbrance on any of the assets of Seller, or (v) the violation of any law, regulation, ordinance, judgment, order or decree applicable to or affecting Seller or its business, assets or financial condition.

5.22. Authority and Consents. No approvals or consents of any person other than the WUTC are necessary for or in connection with the execution, delivery and performance of Seller's obligations hereunder.

5.23. Duration of Representation and Warranties. The representation and warranties made herein above will be correct and accurate in all material respects as of the Closing Date, and shall survive the Closing Date.

## 6. PURCHASER'S REPRESENTATIONS AND WARRANTIES

Purchaser hereby represents and warrants to Seller as follows:

6.1. Organization, Good Standing and Qualification.

Purchaser is a corporation duly organized, existing and in good standing under the laws of the State of Washington, and has all necessary corporate powers to own and operate its properties and to carry on its business as now owned and operated by it.

6.2. Authority and Consents. Purchaser has the right, power, legal capacity and authority to enter into and perform its obligations under the Agreement, and no approvals or consents of any persons, other than the WUTC, are necessary in connection therewith. The execution and delivery of this Agreement and the consummation of the transactions hereunder by Purchaser have been, or prior to the Closing will have been, duly authorized by all necessary corporate action of Purchaser, approval by Board of Directors and no further corporate authorization is or will be necessary on the part of Purchaser. This Agreement constitutes a legal, valid and binding obligation of Purchaser enforceable in accordance with its terms.

6.3. Books and Records. Purchaser reviewed the books and records prior to executing this Agreement, and based upon their review, Purchaser satisfied itself as to the financial condition of Seller's business. Purchaser did not rely on any statement or representation by Seller, or any of its employees or agents, in reviewing the books and records or in making their decision to enter into this Agreement.

6.4. Duration of Representation and Warranties. The representation and warranties made herein above will be correct and accurate in all material respects as of the Closing Date.

6.5. Execution of this Agreement. To the Best of Purchaser's knowledge Execution of this Agreement by Purchaser will not constitute any of the following: (i) a breach of any term or provision of this Agreement, (ii) a default or any event that, with notice or lapse of time, or both, would be a default, breach or violation of the Articles of Incorporation by-laws of Purchaser or of any lease, franchise, license, promissory note, conditional sales contract, commitment, indenture, mortgage, deed of trust, or other agreement instrument, or arrangement to which Purchaser is a party or by which the Purchaser or its assets are bound.

## 7. SELLER'S OBLIGATION BEFORE CLOSING

Seller covenants that, except as otherwise agreed or waived in writing by Purchaser, from the date of this Agreement until the Closing:

7.1. Access to Premises and Information. Purchaser and its counsel, accountants and other representatives shall have full access during normal business hours to all Seller's properties, books, accounts, records, contracts and documents of or relating to Seller and its assets, properties and business. Seller shall furnish or cause to be furnished to Purchaser and its representatives all data and information concerning the business, finances and properties of Seller that may reasonably be requested.

7.2. Conduct of Business in Normal Course. Seller shall carry on **with** its business and activities diligently and in substantially the same manner as they have been carried on through June 30, 2005, and shall not make or institute any change in management, accounting or operations that will vary materially from the methods used by the Seller as of that date.

7.3. Preservation of Business and Relationships. Seller shall use its best efforts, without making any commitments or agreements on behalf of Purchaser, to preserve its business organization intact, and to preserve its present relationships with suppliers, customers and others having business relationships with it.

7.4. Maintain Insurance. Seller shall continue to carry its existing insurance, subject to variations in amounts required by the ordinary operations of its business. At the request of Purchaser and at Purchaser's sole expense,

Seller shall cause the amount of insurance which, at the date of this Agreement, Seller carries to be increased by such amount or amounts as Purchaser shall specify.

- 7.5. New Transactions. Seller shall not do, or agree to do, any of the following acts without the prior written consent of Purchaser:
- 7.5.a. Enter into any contract, commitment or transaction not in the usual and ordinary course of its business, consistent with past practices;
  - 7.5.b. Except as listed in Schedule 7.5(b), enter into any contract, commitment or transaction in the usual and ordinary course of business involving an amount exceeding one thousand dollars (\$1,000) individually or two thousand dollars (\$2,000) in the aggregate;
  - 7.5.c. Make any capital expenditures in excess of five thousand dollars (\$5,000) for any single item or in the aggregate, or enter into any leases of capital equipment or property under which the annual lease charge is in excess of one thousand five hundred dollars (\$1,500); or
  - 7.5.d. Sell or dispose of any capital assets with a net book value in excess of one thousand dollars (\$1,000) individually or two thousand dollars (\$2,000) in the aggregate.
  - 7.5.e. Payment of Liabilities and Waiver of Claims. Except as identified in Schedule 7.5, seller shall not do, or agree to do, any of the following acts (i) pay any obligation or liability, fixed or contingent, other than current liabilities, (ii) waive or compromise any right or claim or (iii) cancel, without full payment, any note, loan or other obligation owing to Seller.
- 7.6. Existing Agreements. Seller shall not modify, amend, cancel or terminate any of its existing contracts or agreements, or agree to do any of those acts.
- 7.7. Representations and Warranties True at Closing. Seller shall use their best efforts to assure that all of their representations and warranties set forth in this Agreement or in any Exhibit, Schedule, letter, certificate, memorandum and in any other written document furnished by Seller or Controlling Party or on his, its or their behalf, in connection with this Agreement will also be true and correct as of the Closing Date as if made on that date and that all conditions precedent to Closing shall have been met.

- 7.8. WUTC Filings. Seller shall cooperate fully with Purchaser in preparing and filing such joint applications to the WUTC as necessary or appropriate to obtain WUTC approval of the transactions contemplated by this Agreement.
- 7.9. Maintenance of Inventories. Seller shall maintain normal quantities of materials and supplies determined in accordance with the practices of Seller in existence on April 30, 2005.
- 7.10. Employees and Compensation. Seller shall not do, or agree to do, any of the following: (i) grant any increase in salaries payable or to become payable to any officer or employee, or (ii) increase benefits payable or to become payable to any officer or employee.
- 7.11. Transfer of Real Property Interest. Purchaser shall be satisfied with respect to the Seller's ability to transfer title to Purchaser for all real property and/or easements described in Schedule 7.11 herein. Purchaser and Seller shall jointly prepare legal descriptions for all real property interest to be transferred from Seller to Purchaser ("Legal Descriptions"). Prior to the Closing, Purchaser, Seller and Shareholders shall amend Schedule 1.2 (b) contained in this Agreement to include the Legal Descriptions.
- 7.12. Conveyance Documents. Seller shall convey the Assets to Purchaser by a Bill of Sale in the Form as set forth by Schedule 7.12(a) attached hereto. Seller shall convey the Real Property, to Purchaser by a Grant Deed in the Form as set forth by Schedule 7.12(b) attached hereto. Seller shall convey the Intangible Property to Purchaser by an Assignment of Intangible Property in the form of Schedule 7.12(c) attached hereto. Seller shall convey the Operating Easements to Purchaser by an Assignment of Easements in the form of Schedule 7.12(d) attached hereto.

## 8. PURCHASER'S OBLIGATIONS BEFORE CLOSING

Purchaser shall cooperate fully with Seller in preparing and filing such joint applications to the WUTC as necessary or appropriate to obtain WUTC approval of the transactions contemplated by this Agreement.

## 9. CONDITIONS PRECEDENT TO PURCHASER'S PERFORMANCE

The obligations of Purchaser under this Agreement are subject to the satisfaction, at or before the Closing, of all the conditions set out below in this Section 9. Purchaser may waive any or all of these conditions, other than those set forth in Section 9.1 and 9.2 hereof, in accordance with Section 13.2 hereof; provided, however, that no such waiver of a condition shall constitute a

waiver by Purchaser of any of its other rights or remedies, at law or in equity, if Seller or the Shareholders shall be in default of any of their representations, warranties, covenants or agreements under this Agreement.

- 9.1. Authorization of WUTC. WUTC authorization for Purchaser to acquire the Acquired Assets pursuant to the terms and conditions of this Agreement shall be in full force and effect on the Closing Date.
- 9.2. Accuracy of Seller's Representations and Warranties. The representations and warranties of Seller in this Agreement shall be true on and as of the Closing Date as though such representations and warranties were made on and as of that date.
- 9.3. Absence of Liens. Except for obligations to be satisfied out of proceeds at closing as identified on Schedule 9.3, at or prior to the Closing, Purchaser shall have received a UCC search report dated as of a date not more than five (5) days before the Closing Date issued by the Washington Secretary of State indicating that there are no filings under the Uniform Commercial Code on file with such Secretary of State which name Seller as debtor or otherwise indicating any lien on the Acquired Assets.
- 9.4. Seller's Corporate Approval. Seller shall have received corporate authorization and approval for the execution and delivery of this Agreement and shall have taken all corporate action necessary or proper to fulfill its obligations to be performed under this Agreement on or before the Closing Date.
- 9.5. Seller Performance. Seller and Shareholders shall have performed, satisfied and complied with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by them on or before the Closing Date.
- 9.6. Certification by Seller. Seller shall have furnished Purchaser with a certificate, dated the Closing Date, signed by Seller certifying, in such detail as Purchaser and its counsel may reasonably request, that the conditions specified in Sections 9.4, 9.5, 9.6 and 9.7 hereof have been fulfilled. Certification is set forth in Schedule 9.8 attached hereto.
- 9.7. Absence of Litigation. No action, suit or proceeding before any court or any governmental body or authority (other than the WUTC authorization specified in Section 9.1) pertaining to the transactions contemplated by this Agreement or to their consummation shall have been instituted or threatened on or before the Closing Date.

- 9.8. Consents. All necessary agreements, consents and approvals of any persons to the consummation of the transactions contemplated by this Agreement, or otherwise pertaining to the matters covered by it, shall have been obtained by Seller and delivered to Purchaser, including but not limited to the consent of Lein Holder of Debts assumed in Paragraph 2.1.
- 9.9. Approval of Documentation. The form and substance of all certificates, instruments, opinions and other documents delivered to Purchaser under this Agreement shall be satisfactory in all reasonable respects to Purchaser and its counsel.
- 9.10. No Material Adverse Change. Prior to the Closing, there shall have been no material adverse change in the Acquired Assets or liabilities, the business or condition, financial or otherwise, the results of operations, or prospects of Seller as described in the Annual Report of Seller as of December 31, 2000 filed with the WUTC, whether (without limitation) as a result of any legislative or regulatory change, revocation of any franchise or license, fire, accident, storm or other casualty or labor or civil disturbance or act of God.

#### 10. CONDITIONS PRECEDENT TO SELLER'S PERFORMANCE

The obligations of Seller under this Agreement are subject to the satisfaction, at or before the Closing, of all the conditions set out below in this Section 10. Seller may waive any or all of these conditions in accordance with Section 13.2 hereof; provided, however, that no such waiver of a condition shall constitute a waiver by it of any of its other rights or remedies, at law or in equity, if Purchaser shall be in default of any of its representations, warranties, covenants or agreements under this Agreement.

- 10.1. Accuracy of Purchaser's Representations and Warranties. The representations and warranties by Purchaser contained in this Agreement shall be true on and as of the Closing Date as though such representations and warranties were made on and as of that date.
- 10.2. Purchaser's Performance. Purchaser shall have performed, satisfied and complied with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by Purchaser on or before the Closing Date.
- 10.3. Purchaser's Corporate Approval. Purchaser shall have received corporate authorization and approval for the execution and delivery of this Agreement and shall have taken all corporate action necessary or proper to fulfill

its obligations to be performed under this Agreement on or before the Closing Date.

10.4. Certification by Purchaser. Purchaser shall have furnished Seller with a certificate, dated the Closing Date, signed by an officer of Purchaser, certifying, in such detail as they and their counsel may reasonably request, that the conditions specified in Sections 10.1, 10.2 and 10.3 hereof have been fulfilled. Certification by Purchaser is set forth in Schedule 10.4 attached hereto.

10.5. Debts and Taxes: Seller to pay all debts and taxes incurred prior to April 30, 2005. Accounts receivable for water provided to customers prior to April 30, 2005 shall remain the property of Seller.

#### 11. SELLER'S OBLIGATIONS AFTER THE CLOSING

11.1. Indemnification. Seller agree to indemnify, defend and hold harmless Purchaser against any and all losses, claims, liabilities, damages, actions, costs or expenses, including attorney's fees and costs (the "Indemnified Losses") arising from, in connection with, or with respect to the following items:

11.1.a. Any breach of any representation, warranty, covenant or agreement of Seller contained in this Agreement, or any agreement, certificate or document executed and delivered by them, or their affiliates pursuant hereto or in connection with any of the transactions contemplated in this agreement;

11.1.b. Any failure by Seller to satisfy, perform or pay any liabilities relating to Seller, except those specifically assumed by Purchaser and identified in Schedule 2.1 contained in this Agreement.

11.1.c. For a period of two years any and all actions, suits, proceedings, claims or demands by third parties ("Third Party Claims") and losses, liabilities, expenses or judgments relating thereto, directly resulting from or arising from matters (i) relating to Seller, its business or the Acquired Assets, which occurred or are alleged to have occurred prior to the Closing, except claims based upon regulatory changes accruing after the date of closing.

11.1.d. If a Third Party claim is made against Purchaser, Purchaser shall notify Seller in writing, and in reasonable detail, of the Third Party Claim within thirty (30) business days after it receives written notice thereof; provided, however, that failure to give such notice shall not affect the indemnification

obligation provided hereunder except to the extent Seller shall have been actually prejudiced as a result of such failure. Thereafter, Purchaser shall deliver to Seller, within five (5) business days after Purchaser's receipt thereof, copies of all notices and documents (including court papers) received by Purchaser relating to Third Party Claim. Purchaser shall have the right to assume the defense of any Third Party Claim with counsel selected by it. Seller shall have the right to veto the counsel selected by Purchaser, as long as there is a reasonable basis for the

Seller's objection relating to either quality of counsel or cost. Seller shall have the right to participate in the defense and to employ a counsel, at their expense, separate from the counsel employed by Purchaser. Counsel for Purchaser shall cooperate and share information with counsel for Seller if they participate in the defense of the Third Party Claim, but Purchaser shall control such defense at all times; provided that Purchaser shall not settle, compromise or otherwise resolve the claim without Seller's written consent if the settlement, compromise or resolution requires Seller to pay any sums to the Third Party or Purchaser, other than costs of defense to Purchaser as set forth herein; and provided, further, that if Seller refuses to settle, compromise or otherwise resolve the claim as recommended by Purchaser, Seller shall be solely responsible for payment of any sums required to ultimately resolve the matter (whether settlement or judgement) above the amount recommended by Purchaser to settle, compromise or resolve the matter. Seller shall be liable to Purchaser for the reasonable fees and expenses of the counsel it employs to defend the Third Party Claim; provided, that any fees and expenses incurred as a result of defense which involves claims which are both within and outside of the Seller's indemnification obligations shall be prorated between Seller and Purchaser upon a basis agreed to by Purchaser and Seller

If Purchaser does not elect to assume the defense of a Third Party Claim, Seller and Shareholders shall be obligated to assume the defense thereof at their own expense. Purchaser shall be entitled to participate in the defense thereof with separate counsel employed at its own expense.

Seller's obligations under this Section shall not apply to any Third Party Claim of less than twenty thousand dollars (\$20,000.00). Seller will satisfy all of its obligations under this section by its current General Liability Occurrence Policy. Upon closing the Seller will add the purchaser as an additional insured to this

General Liability Occurrence Policy and will maintain both names as insured until coverage is cancelled concurrent with dissolution of the Corporation.

11.2. Duration of Indemnification. Except as described in Schedule 11.2 hereof, the obligations agreed to by Seller in Sections 11.1 (a) through (d) shall survive the Closing Date for a period of 2 years.

11.3. Access to Records. From and after the Closing, Seller shall allow Purchaser and its counsel, accountants, and other representatives such access to records, which, after the Closing, are in the custody or control of Seller as Purchaser reasonably requests.

## 12. PURCHASER'S OBLIGATIONS AFTER THE CLOSING

12.1. Indemnification. Purchaser agrees to indemnify, defend and hold harmless Seller against any and all losses, claims, liabilities, damages, actions, costs or expenses, including attorney's fees and costs (the "Indemnified Losses") arising from, in connection with, or with respect to the following items:

12.1.a. Any breach of any representation, warranty, covenant or agreement of Purchaser contained in this Agreement,

12.1.b. Any and all actions, suits, proceedings, claims or demands by third parties, or assessments or judgments in their favor, directly resulting from or arising from matters relating to (i) the Acquired Assets which occurred or are alleged to have occurred after the Closing or (ii) liabilities assumed by Purchaser and identified in Schedule 2.1 contained in this Agreement.

12.1.c. Duration of Indemnification. The obligations agreed to by Purchaser in Section 12.1 (a) and (b) shall survive the Closing Date for a period of two (2) years.

## 13. COSTS

13.1. Finder's or Broker's Fees. Each of the parties represents and warrants that it has not dealt with any broker or finder in connection with any of the transactions contemplated by this Agreement, and, insofar as it knows, no broker or other person is entitled to any commission or finder's fee in connection with any of these transactions.

13.2. Escrow and Title Expenses. Seller shall pay for all costs, fees and expenses incurred or to be incurred by it

relating to title insurance. Seller shall pay the transfer tax associated with the transfer of all real property and easements by it to Purchaser. Seller and Purchaser shall each pay on half of any escrow agent fees.

13.3. Survey and Related Expenses. Seller shall pay for all costs, fees and expenses incurred or to be incurred by it relating to perfecting the transfer of certain real property interests to Purchaser described in Schedule 7.12.

13.4. All Other Expenses. Except for those expenses described in Sections 13.2 and 13.3, each of the parties shall pay all costs and expenses incurred or to be incurred by it in negotiating and preparing this Agreement and in closing and carrying out the transactions contemplated by this Agreement.

#### 14. FORM OF AGREEMENT

14.1. Headings. The subject headings of the Articles and Sections of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

14.2. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

14.3. Counterparts. This Agreement may be executed simultaneously 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.

#### 15. PARTIES

15.1. Parties in Interest. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provisions

give any third persons any right of subrogation or action over against any party to this Agreement.

15.2. No Assignment. This Agreement may not be transferred, assigned, pledged or hypothecated by any party hereto, except with the consent of all the parties hereto. This Agreement shall be binding on and shall inure to the benefit of the parties to it and their respective heirs, legal representatives, successors and permitted assigns.

16. REMEDIES

16.1. Recovery of Litigation Costs. If any legal action or other proceeding is brought by either Seller, Purchaser, for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

16.2. Non-Exclusivity of Remedies. The remedies provided for in this Section 16 are not intended, and shall not be deemed, to be exclusive or restrictive of any other rights to which the parties are entitled by law or equity with respect to any breach or default of any representations, warranties, covenants or agreements under this Agreement.

17. NOTICES. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail registered or certified, postage prepaid, and properly addressed as follows:

Gamble Bay Water Co, Washington Water Service Company Inc.:	
Michael K. Knapp, Michael P. Ireland	
President	P.O. Box 336
PO Box 709	Gig Harbor, WA 98335
Keyport, WA 98345	

17.1. Any party may change its address for purposes of this Section 17 by giving the other party written notice of the new address in the manner set forth above.

18. GOVERNING LAW



Witness my hand and official seal hereto affixed by the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON    )  
                                  ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared to me known to be Mike Knapp the President of Gamble Bay Water Company, Inc., the corporation, that executed the foregoing instrument, and acknowledged the said instrument to be a free and voluntary act and deed of said corporation, for the uses and proposed there in mentioned, and on oath stated that he was authorized to execute the said instrument.

Witness my hand and official seal hereto affixed by the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing at \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

SCHEDULE 1.2 (a)

WATER SYSTEMS ASSETS

Use this as example--put in actual:

<u>Type of Asset</u>	<u>Description of Asset</u>	<u>Quantity</u>
Structures:	Pumphouses --	5
Wells and/or Springs	Well/springs	8
Pumping Equipment	Bucklin--Submersible -7hp--3phase Booster pumps-- Fire flow--	
Water Treatment Equipment	none	
Reservoirs	Bucklin 12,500 gallons--Mt Baker Silo 1979;	4
	Below this line is NOT from Gamble Bay	
Generators		
Water Treatment Equipment	Chlorination Equipment, which include: Div 1-LM1 Injector Pump Campers-LM1 Injector Pump Div 8- LM1 Injector Pump	3
Reservoir and Tanks	Reservoir 1 (Div 5) Mt. Baker Silo 50K gal.	1
	Reservoir 2 (Campers) Mt. Baker Silo 200K gal.	1
	Reservoir 3 (Campers) Mt. Baker Silo 200K gal.	1
	Reservoir 4 (Div 8) Mt Baker Silo 162.5K gal	1
	Reservoir 5 (Div 8) Mt. Baker Silo	1

	162.5K gal.	

SCHEDULE 1.2 (a) Continued

	Concrete Silo tank	
Transmission Mains	10'' - intertie	4,900lf
	8'' PVC and AC	59,136lf
	6'' PVC and AC	12,692lf
	4'' PVC and AC	8448lf
	2'' PVC and AC	4224lf
Services	Customer service lines-active residential	1024
	Non-residential	324
Hydrants	1972 all campers	12
	1999	13
Other Equipment	Backflow Prevention devices at pools	
All Inventories	All inventories, including but not limited to component parts and spare parts used in Seller's water business and not listed in this Schedule.	
Misc. Assets	Any miscellaneous or fully depreciated assets used in Seller's water business and not listed in this Schedule.	

SCHEDULE 1.2 (b)

REAL PROPERTY AND INDEX OF EASEMENTS

<b>Index of Easement</b>					
File #	Date	Sec.	Township	Range	Description
1. Bucklin		27	25N	02E	Lot 3 of John P. Fors SP of Stetson tract #10 ½ --AFN1086357
2. Bucklin					
3					

<b>Real Estate Index</b>		
Parcel #	Short Description	Legal Description
R4000090590—where was this number gotten from?	Parcel the well site (which well site?) is on	See Attached
032502-3-028-2004	Sec 03/Tn25N/Rg02E	METES & BOUNDS (BEING A WELL SITE) Phelps Road
052602-2-066-2006	Sec05/Tn26/Rg2E	METES & BOUNDS--Northwood
012601-3-022-2101	Sec01/Tn26/Rg1E	METES & BOUNDS--Foss Road





SCHEDULE 1.2 (h)

DEPOSITS

Put in ``NONE`` if there are no deposits



SCHEDULE 1.3

EXCLUDED ASSETS

To Be Provided Prior To Closing

DRAFT March 25, 2005

SCHEDULE 2.1

**ASSUMED LIABILITIES**

SCHEDULE 3.1

Purchase Price and Payment There of; Other Payments

Acquire the assets of Bucklin, ID #66936L; Phelps Road, ID #63210W; Foss Road, ID #63918X; Johanson, ID #36782F; and Northwood, ID # 62100E, from Gamble Bay Water Co. for a cash payment of \$1.00 and assumption by Purchaser of State Drinking Water Revolving Fund debt of Three Hundred Eleven Thousand Three Hundred Forty-Three 27/100 Dollars (\$311,343.89). And privately held debt of Twenty-one Thousand Four Hundred Forty-five & 43/100 Dollars (\$21,445.43)

SCHEDULE 3.2

ALLOCATION OF PURCHASE PRICE

For Bucklin, ID #66936L; Phelps Road, ID #63210W; Foss Road, ID #63918X; Johanson, ID #36782F; and Northwood, ID # 62100E

To Be Completed Prior to UTC Filing

<u>Acct. No.</u>	<u>Description</u>	<u>Book Value</u>	<u>Purchase Price</u>	<u>Market Differential</u>	<u>Purchase Price</u>
1303	Land	3950.00			
1304	Structures	0			
1307	Wells	17397.00			
1309	Supply Mains				
1311	Pump Equipment	3904.00			
1320	Other Source Plant				
1330	Storage	1420.00			
1331	Transmission and Distribution	381677.00			
1333	Service				
1334	Meter Installation	5914.00			
1408	Accumulative Depreciation	42785.29			
1411	Acquisition Adjustment				
	LTD - State Revolving Fund	311343.89			
3715	CIAC -	60121.00			
3721	Accumulative Amort. CIAC	0			

NOTE: The parties will review this allocation of assets prior to closing to properly address allocation including but not limited to intangibles, water rights and other issues.

SCHEDULE 5.4  
SPECIFIED CHANGES

To Be Provided Prior To Closing

SCHEDULE 5.7

LEASE OF REAL PROPERTY

Well site for Well #2 Bucklin Water System, Morrie Blossom  
Lessee?

SCHEDULE 5.8

TANGIBLE PERSONAL PROPERTY

To Be Provided Prior to Closing

SCHEDULE 5.9  
ASSET DEFECTS

SCHEDULE 5.12

**Material Arrears in Maintenance of Physical Assets**

SCHEDULE 5.13

**Litigation**

Pending Action of \_\_\_\_\_ Lawsuit

SCHEDULE 5.17

**Liabilities; Other Contracts**

Should we put the T & T agreement in here?

Use as example--put in actual:

1. Lease agreements with Konica copy machine (Office Systems Northwest)
2. Pitney Bowes Postage machine and meter

DRAFT March 25, 2005

SCHEDULE 5.18

**Compliance With Laws**

DRAFT March 25, 2005

SCHEDULE 5.19

**Compliance With Water Quality Regulations**

SCHEDULE 5.20

**Licenses**

1. Public Water System Supply Operating Permit from Washington State Department of Health

DRAFT March 25, 2005

SCHEDULE 7.5 (b)

**Financial Commitments Exempted From Limits**

See Schedule 5.17

SCHEDULE 7.6

**Payment of Liabilities and Waiver of Claims**

1. Debts and Taxes: Seller to pay all debts, including those owed to Purchaser, and taxes incurred prior to April 30, 2005. Accounts receivable for water provided to customers prior to April 30, 2005, shall remain the property of Seller

I put this also in Section 10 as 10.5--don't know exactly where you want it.

SCHEDULE 7.12

**Transfer of Real Property Interests**

<b>Real Estate Index</b>		
<b>Parcel #</b>	<b>Short Description</b>	<b>Legal Description</b>
R4000090590	Parcel the well site (which well site?) is on	See Attached

See SCHEDULE 1.2 (b) for **Index Of Easements**

SCHEDULE 7.12 (a)

Bill of Sale

See Attached

DRAFT March 25, 2005

SCHEDULE 7.12(b)  
Form of Grant Deed

See Attached

SCHEDULE 7.12(c)

Form of Assignment of Intangibles

**Assignment of intangible property,  
Contracts, warranties and guarantees**

This Assignment of Intangible Property, Contracts, Warranties and Guarantees is executed as of this \_\_\_\_ day of \_\_\_\_\_, 2005, by Seller, Gamble bay Water Co., Inc., ('Assignor') in favor of WASHINGTON WATER SERVICE COMPANY, a Washington corporation, ('Assignee'), pursuant to that certain Asset Acquisition Agreement and Plan of Reorganization dated as of \_\_\_\_\_, 2005, (the 'Agreement'), by and between Assignor, as seller, and Assignee, as purchaser.

FOR VALUE RECEIVED, Assignor hereby grants, conveys, transfers and assigns to Assignee all of Assignor's right, title and interest in, to and under the Intangible Property (as defined in the Agreement) including, without limitation, the Intangible Property described in Schedule 1.2(j) attached hereto and made a part hereof. The capitalized terms in Schedule 1.2(j) shall have the meanings given in the Agreement.

Assignor hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Assignee, its nominees, successors and/or assigns, any new or confirmatory instruments and do and perform any other acts which Assignee, its nominees, successors and/or assigns, may reasonably request in order to fully assign and transfer to and vest in Assignee, its nominees, successors and/or assigns, and protect its and/or their rights, title and interest in and enjoyment of, all of the assets of Assignor intended to be transferred and assigned hereby, or to enable Assignee, its nominees, successors and/or/or assigns, to realize upon or otherwise enjoy any such assets.

Assignor hereby agrees to indemnify, defend, protect and hold harmless assignee from and against any and all liability, loss, costs, damage and expense (including, without limitation, attorneys' and paralegal' fees and costs and court costs) relating to Assignor's obligations with respect to the Intangible Property arising prior to the date hereof.

Assignee hereby assumes and agrees to perform or cause to be performed Assignor's obligations, if any, under the Intangible Property from and after the date of this instrument, and hereby agrees to indemnify, defend, protect and hold Assignor harmless from and against any and all liability, loss, cost, damage and expense (including, w without limitation, attorneys' and paralegal' fees and costs and court costs) relating thereto and arising from and after the date hereof.

The provisions of this Assignment of Intangible Property, Contracts, Warranties and Guarantees shall be binding upon and inure to the benefit of Assignor, Assignee and their successors and permitted assigns.

IN WITNESS WHEREOF, the undersigned have executed this assignment of Intangible Property, Contracts, Warranties and Guarantees as of the date first above written.

Assignor:  
  
Gamble Bay Water Co., Inc., a  
Washington corporation

Assignee:  
  
Washington Water Service Company, a Washington  
corporation

By:  
\_\_\_\_\_

By: \_\_\_\_\_  
Michael P. Ireland, President

— Mike Knapp, President:

DRAFT March 25, 2005

Schedule 7.12(d)  
Assignment of Easements

See Attached

SCHEDULE 9.3

**Absence of Liens**

SCHEDULE 9.8

**Certificate of President**  
**Gamble Bay Water Company, Inc.-**

The undersigned, Mike Knapp, hereby certifies that:

1. He is now and at all times herein mentioned has been the duly elected President of Gamble Bay Water Co., a Washington corporation ("Seller") and is authorized to execute this Certificate on its behalf.
  
2. All representations and warranties of Seller in the Asset Purchase Agreement ("Agreement") dated \_\_\_\_\_, 2005, by and among, **Seller**, **Washington Water Service Company** and in any exhibit or schedule thereto, are true and correct in all material respects as of the date hereof, as though such representations and warranties were made on and as of the date hereof.
  
3. The "Acquired Assets" as described in Sections 1.2(a) through 1.2(j) of the Agreement are free and clear of any and all mortgages, liens, pledges, charges, encumbrances, equities, claims, easements, rights-of-way, covenants, conditions, and any other restrictions or defects in title, except for the liens of current taxes and assessments, rights-of-way, encumbrances, restrictions, clouds and defects which do not materially and adversely affect the operation of or the fair market values of the Acquired Assets.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of this \_\_\_\_\_ day of \_\_\_\_\_ 2005

By: \_\_\_\_\_  
Mike Knapp, President

SCHEDULE 10.4

**Certificate of  
President Washington Water Service Company**

The undersigned, MICHAEL P. IRELAND, hereby certifies that:

1. He is now and at all times herein mentioned has been the duly elected President of Washington Water Service Company ("Purchaser") and is authorized to execute this Certificate on its behalf.
2. All representations and warranties by Purchaser contained in the Asset Purchase Agreement ("Agreement"), dated \_\_\_\_\_, by and among Purchaser, Washington Water Service Company, and in any exhibit or schedule thereto, are true and accurate in all material respects as of the date hereof, as though such representations and warranties were made on and as of the date hereof.
3. Purchaser has performed, satisfied and complied with all covenants, agreements and conditions required by the Agreement to be performed, satisfied or complied with by it on or before the date hereof.
4. Purchaser has received corporate authorization and approval for the execution and delivery of the Agreement, and has taken all corporate action necessary or proper to fulfill its obligations to be performed under the Agreement on or before the date hereof.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

Washington Water Service Company,  
A Washington Corporation

By: \_\_\_\_\_  
Michael P. Ireland, President

SCHEDULE 11.2

**Matters Excluded From The  
Two (2) Year Indemnification Period**





After Recording Return to:  
Washington Water Service Company  
P.O. Box 336  
Gig Harbor, WA 98335

**ASSIGNMENT OF EASEMENTS**

THIS ASSIGNMENT made this \_\_\_\_ day of \_\_\_\_\_, 2005 by and between Gamble Bay Water Company, Inc., a Washington Corporation the undersigned ASSIGNOR, and Washington Water Service Company, a Washington Corporation, the undersigned ASSIGNEE, the ASSIGNOR, for no monetary consideration, does assign, quit claim and transfer all of its rights, title and interest in the easement recorded for \_\_\_\_\_ water systems, State ID # \_\_\_\_\_ under Auditor's fee number and Utility Easement under recorded Auditor's fee number \_\_\_\_\_.

By accepting assignment of easement, ASSIGNEE releases ASSIGNOR from any and all conditions of said easement.

ASSIGNOR:

ASSIGNEE:

Gamble Bay Water Company, Inc.

Washington Water Service Company

By: \_\_\_\_\_  
Mike Knapp, President:

By: \_\_\_\_\_  
Michael P. Ireland, President

STATE OF WASHINGTON )  
 )  
County of \_\_\_\_\_ ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2005, the undersigned, a Notary Public in and for the State of Washington, duly commissioned an sworn, personally appeared before me known to be Mike Knapp, the President of Gamble Bay Water Co, the corporation, that executed the within and forgoing instrument, and acknowledged said instrument to be a free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS MY HAND and official seal this \_\_\_\_ day of \_\_\_\_\_, 2005

\_\_\_\_\_  
NOTARY PUBLIC in and for the state of Washington residing at  
\_\_\_\_\_

My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 )  
County of \_\_\_\_\_ ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2005, the undersigned, a Notary Public in and for the State of Washington, duly commissioned an sworn, personally appeared before me Michael P. Ireland, known to be President, of Washington Water Service Company, Inc., the corporation, that executed the within and forgoing instrument, and acknowledged said instrument to be a free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS MY HAND and official seal this \_\_\_\_ day of \_\_\_\_\_, 2005

\_\_\_\_\_  
NOTARY PUBLIC in and for the state of Washington residing at  
\_\_\_\_\_

My appointment expires: \_\_\_\_\_