

**DAVID N. APPLEBY PC  
ATTORNEY AT LAW**

119 NORTH SECOND STREET  
POST OFFICE BOX 158  
OZARK, MISSOURI 65721  
417.581.2411 / 417.581.2447 facsimile  
e-mail applebylaw@aol.com  
e-mail mowen@applebylaw.com

DAVID N. APPLEBY

MORGAN N. ASH

April 15, 2010

MISSOURI PUBLIC SERVICE COMMISSION  
SECRETARY/CHIEF REGULATORY LAW JUDGE  
PO BOX 360  
JEFFERSON CITY MO 65102-0360


**FILED<sup>3</sup>**  
APR 19 2010  
Missouri Public  
Service Commission

RE: BEAR CREEK WATER & SEWER CO LLC

Dear Sir:

Accompanying Amended Applications for sale of water company and sewer company are sent to you for filing in compliance with the requirements of the Missouri Public Service Commission Law.

Very truly yours,

  
David N. Appleby

enclosure

cc: BEAR CREEK WATER & SEWER CO LLC

PUBLIC COUNSEL  
TRUMAN BUILDING  
301 WEST HIGH STREET  
JEFFERSON CITY MO 65102

JERRY SCHEIBLE PE  
UTILITY REGULATORY ENGINEER  
MISSOURI PUBLIC SERVICE COMMISSION  
PO BOX 360  
JEFFERSON CITY MO 65102-0360

**BEFORE THE PUBLIC SERVICE COMMISSION OF  
THE STATE OF MISSOURI**

IN THE MATTER OF APPLICATION OF )  
BEAR CREEK WATER AND SEWER, LLC )  
TO SELL ITS SEWER SYSTEM IN )  
TANEY COUNTY, MISSOURI )  
TO TABLE ROCK LAKE COMMUNITY )  
SERVICE, INC., IN TANEY COUNTY, )  
MISSOURI )

Case No. SM-2010-0241

**AMENDED APPLICATION TO SELL SEWER SYSTEM**

COMES NOW BEAR CREEK WATER AND SEWER, LLC and in support of its  
application pursuant to Section 393.190, RSMo, states as follows:

1. That Seller is the owner of a certain sewer system in Taney County, Missouri. Its principal office is located at 4279 Highway 160 Walnut Shade, Missouri 65771.
2. That the Buyer Table Rock Lake Community Service, Inc. is a corporation created and operating pursuant to Missouri Law; and, that said Buyer further intends to immediately transfer the sewer system to Ozark Clean Water Company, a not-for-profit sewer company pursuant to §393 RSMo.
3. A certified copy of a resolution by the Board of Directors of Buyer authorizing the purchase is shown at Exhibit "A" attached hereto and incorporated herein; and a certified copy of a resolution by the Board of Directors of OCWC authorizing purchase is shown at Exhibit "B" attached hereto and incorporated herein.
4. Correspondence, communications, orders, and decisions in this matter should be addressed to:

DANNY R. BROWN, MANAGING MEMBER  
BEAR CREEK WATER AND SEWER, LLC  
4279 HIGHWAY 160  
WALNUT SHADE, MO 65771  
417-334-4926

DAVID N. APPLEBY  
ATTORNEY AT LAW  
119 N SECOND STREET  
PO BOX 158  
OZARK, MO 65721  
417-581-2411

5. That Buyer intends to purchase all the assets of the sewer system (excluding the certificate of convenience and necessity) upon the terms and conditions set forth in Agreement for Transfer of Sewer System, which is marked Exhibit "C" attached hereto and incorporated herein. Upon closing, Buyer will immediately transfer ownership to Ozark Clean Water Company (OCWC) a not-for-profit sewer company organized pursuant to §393 RSMo, and as such exempt from regulation by the Commission, upon the terms and conditions set forth in an agreement, which is marked Exhibit "D" attached hereto and incorporated herein.
6. The proposed transaction is not detrimental to the public interest in that service provided will not be changed. Notice to all present customers in the form shown at Exhibit "E" will be given at the direction of the Commission.
7. Upon closing, Seller intends to discontinue and Buyer will immediately transfer ownership to OCWC who will without interruption begin the rendition of sewer service in the service area.
8. The proposed transfer will have no impact on tax revenues of Taney County as shown by Exhibit "F" attached hereto, and incorporated herein..

WHEREFORE, Seller respectfully requests an order and decision of this Commission:

- (i) approving the sale and transfer of all of said sewer works and related assets of said sewer system by Seller to Buyer, and subsequent immediate transfer by

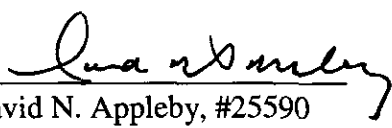
Buyer to said Ozark Clean Water Company; and,

- (ii) authorizing Seller to discontinue providing service in its service area as of the date of transfer to OCWC and immediate continuance of service by OCWC, and cancelling the existing tariff and certificate of convenience and necessity once the transfer to said OCWC is accomplished; and,
- (iii) for such other relief deemed meet and proper to accomplish the purposes of this application.

Respectfully Submitted,  
Bear Creek Water and Sewer, LLC

By: 

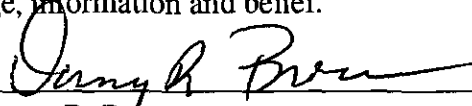
Danny R. Brown, Managing Member

  
David N. Appleby, #25590  
119 North Second Street  
P.O. Box 158  
Ozark, MO 65721  
417-581-2411

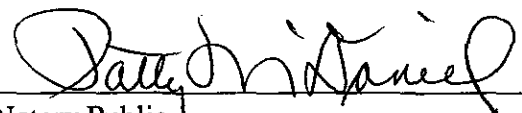
**VERIFICATION**

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF CHRISTIAN )

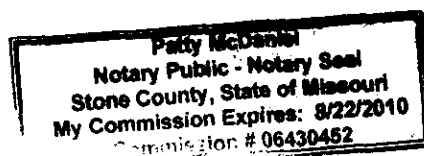
Danny R. Brown, being of age and duly sworn, states that he is the Managing Member of Bear Creek Water and Sewer, LLC, and that he has the authority to make this Application for sale of said system, and that he has read the application and the allegations contained therein are true and correct according to his best knowledge, information and belief.

  
\_\_\_\_\_  
Danny R. Brown

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of April, ~~2009~~ <sup>2010</sup>

  
\_\_\_\_\_  
Notary Public

My commission expires:



**A RESOLUTION OF TABLE ROCK LAKE COMMUNITY SERVICE, INC. OF STONE COUNTY, MISSOURI APPROVING A CONTRACT WITH BEAR CREEK WATER AND SEWER, LLC.**

**BE IT RESOLVED BY THE BOARD OF TRUSTEES OF TABLE ROCK LAKE COMMUNITY SERVICE, INC. OF STONE COUNTY, MO, AS FOLLOWS:**

**Section 1.** The contract with Bear Creek Water and Sewer, LLC, attached hereto as Exhibit A and incorporated herein by reference is approved as an obligation of this corporation.

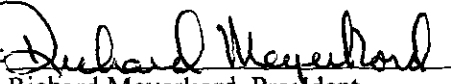
**Section 2.** The President and Secretary of the Board of Trustees are authorized and directed to execute the same.

**Section 3.** Copies of the agreement are to be provided to the seller's attorney, David N. Appleby, 119 North 2<sup>nd</sup> Street, P.O. Box 158, Ozark, Missouri 65721 for presentation to the Missouri Public Service Commission in connection in with the seller's application for approval of the transaction.

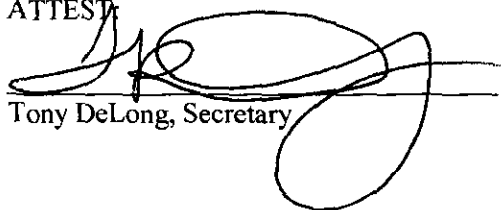
**PASSED, APPROVED and ADOPTED** by the Board of Trustees of Table Rock Lake Community Service, Inc. of Stone County, Missouri this 4<sup>th</sup> day of September, 2009.

**TABLE ROCK LAKE COMMUNITY  
SERVICE, INC. OF STONE COUNTY,  
MISSOURI**

(SEAL)

By:   
Richard Meyerkord, President

ATTEST

  
Tony DeLong, Secretary

**CERTIFICATION**

I, the undersigned Secretary of the Board of Trustees of Table Rock Lake Community Service, Inc. of Stone County, Missouri hereby certify that the above and foregoing resolution is a true and correct copy of the resolution adopted by said Corporation's Board of Trustees as the same appears of record in my office and that the same has not been amended or repealed as of the 4<sup>th</sup> day of September 2009.

(SEAL)

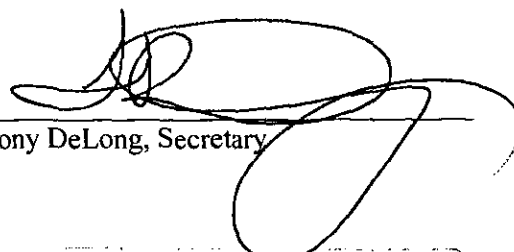
  
Tony DeLong, Secretary

Exhibit A Page 1/1

**A RESOLUTION OF OZARKS CLEAN WATER COMPANY OF STONE COUNTY,  
MISSOURI APPROVING A CONTRACT WITH TABLE ROCK LAKE COMMUNITY  
SERVICE, INC., D/B/A AS TABLE ROCK LAKE WATER QUALITY, INC.**

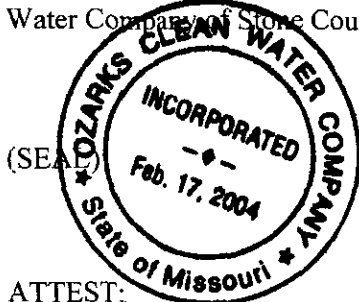
**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF OZARKS CLEAN WATER  
COMPANY, STONE COUNTY, MO, AS FOLLOWS:**

**Section 1.** The contract with Table Rock Lake Community Service, Inc., D/B/A Table Rock Lake Water Quality, Inc., attached hereto as Exhibit A and incorporated herein by reference is approved as an obligation of this corporation.


**Section 2.** The President and Secretary of the Board of Directors are authorized and directed to execute the same.

**Section 3.** Copies of the agreement are to be provided to the David N. Appleby, Attorney at Law, 119 North 2<sup>nd</sup> Street, P.O. Box 158, Ozark, Missouri 65721 for presentation to the Missouri Public Service Commission in connection in with the application for approval of the transaction.

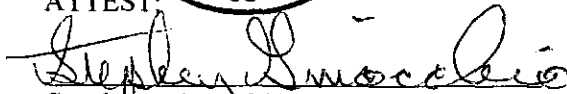
**PASSED, APPROVED and ADOPTED** by the Board of Directors of Ozarks Clean Water Company of Stone County, Missouri this 4<sup>th</sup> day of September, 2009.



**OZARKS CLEAN WATER COMPANY OF  
STONE COUNTY, MISSOURI**

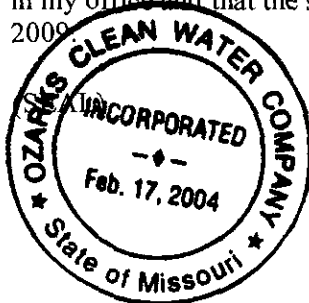
By:   
David Casaletto, President

ATTEST:

  
Stephen Ginocchio, Secretary

**CERTIFICATION**

I, the undersigned Secretary of the Board of Directors of Ozarks Clean Water Company of Stone County, Missouri hereby certify that the above and foregoing resolution is a true and correct copy of the resolution adopted by said Corporation's Board of Directors as the same appears of record in my office and that the same has not been amended or repealed as of the 4<sup>th</sup> day of September 2009.



  
Stephen Ginocchio, Secretary

## AGREEMENT FOR TRANSFER OF SEWER SYSTEM

THIS AGREEMENT (the "Agreement"), made and entered into this 4 day of December, 2009, by and between Bear Creek Water and Sewer, LLC., ("Seller") and Table Rock Lake Community Service, Inc., ("Buyer").

### WITNESSETH:

WHEREAS, the Seller has developed, and operates as a regulated sewer corporation, sewer facilities in an unincorporated area of Taney County, Missouri (hereinafter the "Sewer System"); and,

WHEREAS, Buyer and Seller are bodies organized and existing under the Constitution and the laws of the State of Missouri with all the requisite power necessary to enter into the transaction described hereinafter; and,

WHEREAS, Seller desires to transfer all the assets, property and real estate connected with the Sewer System; and,

WHEREAS, Buyer desires to accept all of the assets, property and real estate connected with the Sewer System; and,

WHEREAS, the parties have reached an understanding with respect to the transfer by the Seller to the Buyer of all of the Sewer System.

NOW, THEREFORE, it is mutually agreed that:

#### 1. TRANSFER OF ASSETS.

For and in consideration as stated herein, and the covenants and promises hereinafter set forth, the Seller agrees that on the closing date, the Seller shall transfer, assign and deliver to Buyer all of Seller's then existing assets pertaining to the provision of sewer service in the Sewer System located in Taney County, in the State of Missouri, and related properties, including, without limitation, the following:

- A. The land, buildings, interests in land, easements, rights of way, permits and leases generally described in Exhibit A, attached hereto;
- B. All of Seller's sewer service facilities, equipment, lines, plant, pipes, manholes and appurtenances;
- C. Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items located in



Taney County, Missouri, and used or held for use in connection with the Sewer System as generally described in Exhibit B, attached hereto;

D. All of Seller's rights, title and interest in and to any franchise agreements, franchise rights warranties, contracts, supply contracts, agreements, and utility deposits pertaining to, allocable to or arising out of the provision of sewer service in Taney County;

E. All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the sewer service, except accounts receivable accrued through the end of the month in which Buyer commences operation;

F. All assets not described which are located in Taney County, Missouri, and used or useful in the Seller's sewer service.

G. The assets to be delivered, as above described, are hereinafter collectively described as the "Assets."

2. **CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any sewer easements. The real estate will be conveyed by general warranty deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment, in a form satisfactory to Buyer.

3. **REGULATORY APPROVAL.**

The Seller agrees to make application to the Missouri Public Service Commission for authority to complete the transfer of the Assets. Buyer agrees to assist in this process when requested to do so by Seller. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources for transfer of Seller's discharge and/or operating permits and other permits, if any.

4. **FAIR MARKET VALUE:**

For tax purposes, Seller may obtain an appraisal of the assets, at its own expense.

5. **CLOSING.**

The closing of the sale shall take place at a mutually agreeable location within thirty days after the effective date of any necessary regulatory authority approval, or at such other time as the parties hereto

may mutually agree. At the closing, Seller shall deliver to the Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in the Buyer such title to the Assets to be transferred. From time to time, at Buyer's request, whether at or after the closing and without further consideration, the Seller will execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to the Buyer any of the Assets to be transferred hereunder, and will assist the Buyer in the collection or reduction to possession of such Assets. The Seller will pay all sales, transfer and documentary taxes, if any, payable in connection with the transfers and deliveries to be made to the Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets, except for those liabilities and obligations which Seller has hereinunder agreed to retain.

6. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

**A. Organization and Standing of Seller.**

Seller is a body organized, existing under the constitution and laws of the State of Missouri in good standing, and has all the requisite power and authority to sell the Sewer System business and its Assets pursuant to the terms of this agreement.

**B. Liabilities.**

All liabilities or obligations of Seller, whether accrued, absolute, contingent or otherwise pertaining to or arising out from the Sewer System are liabilities and obligations of the Seller.

**C. Absence of Certain Changes.**

After Buyer's inspection and acceptance of the Sewer System, there shall not be:

- i. Any material change in the business or operations of the Sewer System;
- ii. Any damage, destruction or loss whether or not covered by insurance, materially

and adversely affecting the Sewer System's assets.

**D. Title to Properties.**

Seller has, or shall have, good and marketable title to all of the Sewer Assets. Seller also owns the Assets to be transferred under this agreement, in all cases, free and clear of all liens, mortgages, pledges, leases, options, rights of first refusal, conditional sales agreements, encumbrances or other charges except liens for taxes not yet due or payable, easements or right of ways, streets, railways, pipelines, electric transmission and distribution lines, telephone lines, drainage rights and other similar rights or restrictions of record which do not, either individually or in the aggregate have a materially adverse effect on the value or utility of the Assets to be sold hereunder. Seller makes no warranty concerning the merchantability or status of the title of the real estate upon which the easements are located.

Seller agrees to identify any and all interests in land (including easements or license agreements) it has obtained in connection with its operation and maintenance of the Sewer System and provide Buyer or Buyer's representatives copies of the same or a reference to the book and page number of the records of the Taney County Recorder's Office where such easements are recorded.

**E. Authority to Operate.**

The Assets described at Section 1 of this agreement, constitute all of the assets presently owned by the Seller pertaining to the Sewer System. To the best of Seller's knowledge, the Sewer System is being conducted, and as of the closing date, will be conducted in full compliance with requirements of all regulatory bodies exercising jurisdiction with regard to rates and conditions of service, and with local building and zoning codes. Seller has received no notice of any violation of federal or state safety or environmental statute, rule or regulation which remains uncorrected.

**F. Litigation.**

There is no litigation or proceeding pending, or to the knowledge of the Seller threatened, against or relating to the Seller, its properties, or the Sewer System, nor does the Seller know or have reasonable grounds to know of any basis for any such action, or of any governmental investigation relative to the Seller, its properties, or the Sewer System, except as otherwise disclosed to Buyer.

**G. No Violation or Breach.**

The performance of this agreement by the Seller, including any preconditions or surviving warranties or representations, is not in violation of any laws, statutes, local ordinances, state or federal regulations, court orders or administrative order or ruling, nor is such performance in violation of any loan documents, conditions or restrictions in effect for financing, whether secured or unsecured.

**7. BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

**A. Organization and Standing of Buyer.**

Buyer is a body organized, existing under the Constitution and laws of the State of Missouri, and has the requisite power to accept the assets which are to be transferred pursuant to the terms of this agreement.

**B. Authority.**

The execution and delivery of this agreement by Buyer and the transfer of the Assets as contemplated hereby have been duly authorized by the Buyer, and all necessary action on the part of the Buyer has been taken to authorize the execution and delivery of this agreement and to consummate the transfer contemplated hereby.

**8. CONDITIONS PRECEDENT.**

All obligations of the Buyer under this agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

**A. Regulatory Approval.**

The Missouri Public Service Commission and Missouri Department of Natural Resources shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to the Buyer from the Seller. Both parties shall diligently pursue the required approvals and authorizations contemplated herein. In the event the parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated by \_\_\_\_\_, 200\_\_, this Agreement shall automatically terminate.

**B. Representations and Warranties True at Closing.**

The Seller's representations and warranties contained in this agreement shall be true at the time of closing as though such representations and warranties were made at such time.

**C. Performance.**

The Seller shall have performed and complied with all agreements and conditions required by this agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date.

**D. No Casualty.**

The system at any location shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

**9. FEES AND COMMISSIONS.**

Each party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee in connection with the transactions contemplated by this agreement. Each party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the parties for their mutual benefit shall be equally divided.

**10. BENEFIT.**

All of the terms of this agreement shall be binding upon, and enure to the benefit of, and be enforceable by, the respective legal representatives of the Seller, and the successors and assigns of the Buyer.

**11. GOVERNING LAW.**

This agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state.

**12. COUNTERPARTS.**

This agreement may be executed simultaneously in one or more counterparts, each of which shall

be deemed an original, but all of which shall constitute one and the same instrument. This agreement shall not be binding until executed by all parties.

**13. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any person other than the parties and heir respective successors and permitted assigns.

**14. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement among the parties and supersedes any prior understandings, agreements or representations by or among the parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**15. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective successors and permitted assigns. No party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

**16. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**17. NOTICES.**

All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given and effective five (5) business days after it is sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth below:

If to Buyer:

Richard Meyerkord, President  
Table Rock Lake Community Service, Inc.  
2 Kissee Avenue  
P.O. Box 606  
Kimberling City, Missouri 65686

If to Seller:

David N. Appleby Attorney at Law PC  
119 N. 2<sup>nd</sup> Street  
P.O. Box 158  
Ozark, Missouri 65721

Any party may send any notice, request, demand, claim or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail or electronic mail), but no such notice, request, demand, claim or other communication shall be deemed to have been duly given unless and until it is actually received by the intended recipient. Any party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other parties notice in the manner herein set forth.

**18. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**19. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**20. CONSTRUCTION.**

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. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**21. INCORPORATION OF EXHIBITS.**

Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**22. DEFAULT; ATTORNEY'S FEES.**

If either party shall default in its performance under this Agreement, which default results in the expenditure of attorney's fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing party shall receive its reasonable and actually incurred attorney's fees in addition to any other damages recovered.

IN WITNESS WHEREOF, the parties have duly executed this agreement as of the day and year first above written.

BEAR CREEK WATER & SEWER, LLC

By: Danny R. Brown  
Danny R. Brown, Managing Member

TABLE ROCK LAKE COMMUNITY  
SERVICE, INC. D/B/A TABLE ROCK  
LAKE WATER QUALITY, INC.

By: Richard Meyerkord  
Richard Meyerkord, President

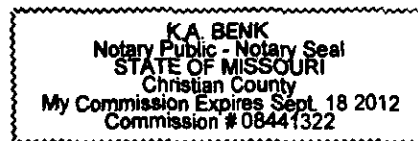
STATE OF MISSOURI )  
                                  )ss.  
COUNTY OF CHRISTIAN

On this 3 day of November, 2009, before me appeared Danny R. Brown to me personally known, who being by me duly sworn, did say that he is the Managing Member of Bear Creek Water & Sewer, LLC, a limited liability company, and that said instrument was signed and sealed in behalf of said limited liability company by authority of its Members, and said Danny R. Brown acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Ozark, Missouri, the day and year first above written.

K.A. Benk  
Notary Public

My Commission Expires: 9-18-2012





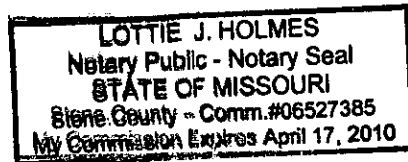
STATE OF MISSOURI     )  
                                  )ss.  
COUNTY OF stone     )

On this 4<sup>th</sup> day of September, 2009, before me appeared Richard Meyerkord, to me personally known, who being by me duly sworn, did say that he is the President of Table Rock Lake Community Service, Inc. DB/A Table Rock Lake Water Quality, Inc., a corporation, and that the seal affixed to the foregoing Agreement to Provide Sewer Services is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Richard Meyerkord acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in  
Kimberling, Missouri, the day and year first above written.  
city

Lottie J. Holmes  
Notary Public

My Commission expires: 04-17-2010



## **AGREEMENT FOR SALE OF SEWER SYSTEM**

**THIS AGREEMENT** (the "Agreement"), made and entered into this 4<sup>th</sup> day of September 2009, by and between Ozarks Clean Water Company (the "Buyer") and Table Rock Lake Community Service, Inc. d/b/a Table Rock Lake Water Quality, Inc., (the "Seller").

### **WITNESSETH:**

**WHEREAS**, the Seller owns sewer facilities in an unincorporated area of Taney County, Missouri (hereinafter the "Bear Creek Sewer System" or, the "Sewer System"); and,

**WHEREAS**, Buyer and Seller are bodies corporate, organized and existing under the constitution and the laws of the State of Missouri with all the requisite power necessary to enter into the transaction described hereinafter; and,

**WHEREAS**, Seller desires to sell all the assets, property and real estate connected with the Bear Creek Sewer System; and,

**WHEREAS**, Buyer desires to purchase all of the assets, property and real estate connected with the Bear Creek Sewer System; and,

**WHEREAS**, the parties have reached an understanding with respect to the sale by the Seller and the purchase by the Buyer of all of the Bear Creek Sewer System.

**NOW, THEREFORE**, it is mutually agreed that:

#### **1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, and the covenants and promises hereinafter set forth, the Seller agrees that on the closing date, the Seller shall sell, transfer, assign and deliver to Buyer all of Seller's then existing assets pertaining to the provision of sewer service in the Bear Creek Sewer System located in Taney County, in the State of Missouri, and related properties, including, without limitation, the following:

- A. The land, buildings, interests in land, easements, rights of way, permits and leases;
- B. All of Seller's Sewer service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

C. Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items located in Taney County, Missouri, and used or held for use in connection with the Sewer System;

D. All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and utility deposits pertaining to, allocable to or arising out of the provision of sewer service in Taney County;

E. All of Seller's inventory, merchandise, contract rights, supplies, goodwill and general intangibles;

F. All assets not described which are located in Taney County, Missouri, and used or useful in the Seller's sewer service.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

2. **CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any sewer easements. The real estate will be conveyed by general warranty deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment, in a form satisfactory to Buyer.

3. **REGULATORY APPROVAL.**

The Seller agrees that the Missouri Public Service Commission will give authority to complete the transfer of the Assets. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources for transfer of Seller's discharge and/or operating permits and other permits, if any.

4. **PURCHASE PRICE.** Buyer agrees to pay to Seller at the Closing Ten Dollars (\$10.00) in cash or check (the "Purchase Price").

5. **CLOSING.**

The closing of the sale shall take place at a mutually agreeable location within thirty days after the effective date of any necessary regulatory authority approval, or at such other time as the parties hereto may mutually agree. At the closing, Seller shall deliver to the Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as

shall be effective to vest in the Buyer such title to the Assets to be sold as provided in this agreement and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request, whether at or after the closing and without further consideration, the Seller will execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to the Buyer any of the Assets to be sold hereunder, and will assist the Buyer in the collection or reduction to possession of such Assets. The Seller will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to the Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets, except for those liabilities and obligations which Seller has herein under agreed to retain.

6. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

A. **Organization and Standing of Seller.**

Seller is a body corporate organized, existing under the constitution and laws of the State of Missouri in good standing, and has all the requisite power and authority to sell the Sewer System business and its Assets pursuant to the terms of this agreement.

B. **Liabilities.**

All liabilities or obligations of Seller, whether accrued, absolute, contingent or otherwise pertaining to or arising out from the Bear Creek Sewer System are liabilities and obligations of the Seller.

C. **Absence of Certain Changes.**

After Buyer's inspection and acceptance of the Bear Creek Sewer System, there shall not be:

- i. Any material change in the business or operations of the Bear Creek Sewer System;
- ii. Any damage, destruction or loss whether or not covered by insurance, materially and adversely affecting the Bear Creek Sewer System's assets.

**D. Title to Properties.**

Seller has, or shall have, good and marketable title to all of the Sewer Assets. Seller also owns the Assets to be sold under this agreement, in all cases, free and clear of all liens, mortgages, pledges, leases, options, rights of first refusal, conditional sales agreements, encumbrances or other charges except liens for taxes not yet due or payable, easements or right of ways, streets, railways, pipelines, electric transmission and distribution lines, telephone lines, drainage rights and other similar rights or restrictions of record which do not, either individually or in the aggregate have a materially adverse effect on the value or utility of the Assets to be sold hereunder. Seller makes no warranty concerning the merchantability or status of the title of the real estate upon which the easements are located.

Notwithstanding, but not in limitation of, the foregoing, Seller agrees to provide within thirty days of the date first above written a plat of the distribution and collection lines showing the location of said lines with respect to lot lines, platted utility easements, if any, to the extent the same can be shown with reference to such lot lines and platted utility easements.

Seller agrees to identify any and all interests in land (including easements or license agreements) it has obtained in connection with its operation and maintenance of the Sewer System and provide Buyer or Buyer's representatives copies of the same or a reference to the book and page number of the records of the Taney County Recorder's Office where such easements are recorded.

Buyer shall have thirty days from the date of receipt of the distribution and collection line plat, and the description and identification of all easements, licenses or other interests in land Seller has obtained within which to determine 1) if Seller lacks an easement or other interest necessary for operation of the Sewer System or 2) an easement is defective in title or interest conveyed. If it appears that Seller lacks a valid easement for any portion of the Sewer System, or any easement identified suffers from a defect in title or interest conveyed, Buyer at its option may: 1) cancel this agreement, 2) independently negotiate with the owner of the affected property toward acquisition of water well, treatment plant, and distribution lines easement or other easements, 3) notify Seller that Buyer will cancel the agreement

unless a necessary easement is acquired or a defect satisfactorily cured or remedied and 4) undertake any action, which in Buyer's sole and absolute discretion, would correct an easement or remedy the situation caused by a lack of an easement or proper land interest. Buyer's failure to cancel this agreement, however, shall not relieve Seller from any of its duties of indemnification set forth in subsequent paragraphs herein, nor shall such failure be construed as Buyer's waiver of any such provisions.

E. **Authority to Operate.**

The Assets described at Section 1 of this agreement, constitute all of the assets presently owned by the Seller pertaining to the Bear Creek Sewer System. To the best of Seller's knowledge, the Sewer System is being conducted, and as of the closing date, will be conducted in full compliance with requirements of all regulatory bodies exercising jurisdiction with regard to rates and conditions of service, and with local building and zoning codes. Seller has received no notice of any violation of federal or state safety or environmental statute, rule or regulation which remains uncorrected.

F. **Litigation.**

There is no litigation or proceeding pending, or to the knowledge of the Seller threatened, against or relating to the Seller, its properties, or the Bear Creek Sewer System, nor does the Seller know or have reasonable grounds to know of any basis for any such action, or of any governmental investigation relative to the Seller, its properties, or the Bear Creek Sewer System, except as otherwise disclosed to Buyer.

G. **No Violation or Breach.**

The performance of this agreement by the Seller, including any preconditions or surviving warranties or representations, is not in violation of any laws, statutes, local ordinances, state or federal regulations, court orders or administrative order or ruling, nor is such performance in violation of any loan documents, conditions or restrictions in effect for financing, whether secured or unsecured.

7. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

A. **Organization and Standing of Buyer.**

Buyer is a body corporate organized, existing under the constitution and laws of the State of Missouri, and has the requisite power to purchase the assets which are to be sold pursuant to the terms of this agreement.

B. **Authority.**

The execution and delivery of this agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by the Buyer, and all necessary action on the part of the Buyer has been taken to authorize the execution and delivery of this agreement and to consummate the sale contemplated hereby.

8. **CONDITIONS PRECEDENT.**

All obligations of the Buyer under this agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

A. **Regulatory Approval.**

The Missouri Public Service Commission and Missouri Department of Natural Resources shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to the Buyer from the Seller. Both parties shall diligently pursue the required approvals and authorizations contemplated herein.

B. **Representations and Warranties True at Closing.**

The Seller's representations and warranties contained in this agreement shall be true at the time of closing as though such representations and warranties were made at such time.

C. **Performance.**

The Seller shall have performed and complied with all agreements and conditions required by this agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date.

D. **No Casualty.**

The system at any location shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

9. **INDEMNIFICATION.**

The Seller shall, and hereby agrees to indemnify and hold harmless the Buyer, at any time after the closing against and in respect of:

A. All liabilities or obligations of Seller, whether accrued, absolute, contingent or otherwise, and including all liabilities or obligations arising out of the transactions entered into, or any state of facts existing, prior to the date of closing;

B. Any claim, damage or deficiency resulting from any misrepresentation, untrue warranty, breach of warranty, or nonfulfillment of any agreement on the part of Seller under this agreement or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished to the Buyer under this agreement;

C. Any claim, liability, damage or obligation arising out of or attributable to, directly or indirectly, the storage or disposal of hazardous waste or materials prior to the date of closing;

D. All actions, suits, proceedings, demands, assessments, judgments, costs (including attorney's fees) and expenses incident to any of the foregoing;

E. All reasonable costs and expenses, including attorney's fees, reasonably incurred by Buyer to purchase or condemn easement rights if (i) such rights were to have been assigned under this agreement, but which Seller ultimately was unable to convey good and marketable title thereto for any reason, and (ii) such rights were used in, and necessary for, the operation of Seller's Sewer System business as of the closing date.

If any claim or demand is made against Buyer that, if sustained, would give rise to an obligation of the Seller pursuant to this section, the Buyer shall cause notice of the claim or demand to be delivered to the Seller and shall afford the Seller, at his own cost and expense, the opportunity to defend the claim using counsel selected by the Seller, but approved by the Buyer.

The Seller shall reimburse the Buyer, on demand, for any payment involuntarily made, required by law to be made, or with the consent of the Seller made by the Buyer at any time after the date of closing in respect of any liability, obligation or claim to which the indemnity and hold harmless by the Seller contained in this section relates.

10. **FEES AND COMMISSIONS.**

Each party represents that it has not retained any broker or finder and is not paying, and is not



obligated to pay, any finder's fee in connection with the transactions contemplated by this agreement. Each party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the parties for their mutual benefit shall be equally divided.

11. **BENEFIT.**

All of the terms of this agreement shall be binding upon, and enure to the benefit of, and be enforceable by, the respective legal representatives of the Seller, and the successors and assigns of the Buyer.

12. **GOVERNING LAW.**

This agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state.

13. **COUNTERPARTS.**

This agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This agreement shall not be binding until executed by all parties.

14. **NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the parties and their respective successors and permitted assigns.

15. **ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement among the parties and supersedes any prior understandings, agreements or representations by or among the parties, written or oral, to the extent they have related in any way to the subject matter hereof.

16. **SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective successors and permitted assigns. No party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonable withheld.

17. **HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

18. **NOTICES.**

All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given and effective five (5) business days after it is sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth below:

If to Buyer:

David Casaletto, President  
Ozarks Clean Water Company  
2 Kissee Avenue  
P.O. Box 973  
Kimberling City, Missouri 65686

If to Seller:

Richard Meyerkord, President  
Table Rock Lake Community Service, Inc.  
2 Kissee Avenue  
P.O. Box 606  
Kimberling City, Missouri 65686

Any party may send any notice, request, demand, claim or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail or electronic mail), but no such notice, request, demand, claim or other communication shall be deemed to have been duly given unless and until it is actually received by the intended recipient. Any party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other parties notice in the manner herein set forth.

19. **AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or

affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

20. **SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

21. **EXPENSES.**

Buyer and Seller will each bear its own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

22. **CONSTRUCTION.**

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. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

23. **INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

24. **DEFAULT; ATTORNEY'S FEES.**

If either party shall default in their performance under this Agreement, which default results in the expenditure of attorney's fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing party shall receive their reasonable and actually incurred attorney's fees in addition to any other damages recovered.

**IN WITNESS WHEREOF**, the parties have duly executed this agreement as of the day and year first above written.

TABLE ROCK LAKE COMMUNITY  
SERVICE, INC. D/B/A TABLE ROCK  
LAKE WATER QUALITY, INC., Seller

By:

Richard Meyerkord  
Richard Meyerkord, President



Ozarks Clean Water Company, Buyer

By:

David Casaletto  
David Casaletto, President

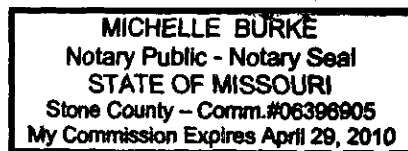
STATE OF MISSOURI )  
 ) ss.  
COUNTY OF Stone )

On this 6 day of April, 2010, before me appeared Richard Meyerkord to me personally known, who being by me duly sworn, did say that he is the President of Table Rock Lake Community Service, Inc., D/B/A Table Rock Lake Water Quality, Inc., a corporation, and that the seal affixed to the foregoing Agreement to Provide Sewer Services is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Richard Meyerkord acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Kimberling City, Missouri, the day and year first above written.

My commission expires: 4-29-10

Michelle Burke  
Notary Public

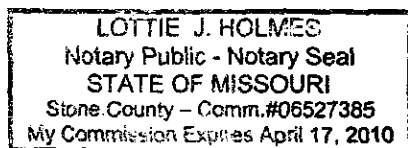


STATE OF MISSOURI )  
 ) ss.  
COUNTY OF Stone )

On this 5<sup>th</sup> day of April, 2010, before me appeared David Casaletto, to me personally known, who being by me duly sworn, did say that he is the President of Ozarks Clean Water Company a corporation, and that the seal affixed to the foregoing Agreement to Provide Sewer Services is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Richard Meyerkord acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Kimberling City, Missouri, the day and year first above written.

My commission expires: 04-17-2010



Lottie J. Holmes  
Notary Public

## NOTICE

TO: ALL SEWER CUSTOMERS OF BEAR CREEK WATER AND SEWER, LLC

Please take notice of the pending sale of the Sewer System of BEAR CREEK WATER AND SEWER, LLC to the TABLE ROCK LAKE COMMUNITY SERVICE, INC. and subsequent sale to OZARKS CLEAN WATER COMPANY. Such sale is contingent upon approval of the Missouri Public Service Commission. Rates for sewer service will remain the same as now authorized by the tariff of BEAR CREEK WATER AND SEWER, LLC; however, OZARK CLEAN WATER COMPANY in the future may increase rates. You may object to this sale by writing the Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, no later than \_\_\_\_\_. Questions about future sewer service may be answered by contacting TABLE ROCK LAKE COMMUNITY SERVICE, INC., RICHARD MEYERKORD, President, 2 Kissee Avenue, P.O. Box 606, Kimberling City, MO 65686,  
Telephone \_\_\_\_\_

BEAR CREEK WATER AND SEWER, LLC

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DANNY R. BROWN, Managing Member

Exhibit   E   Page   1

OFFICE OF THE ASSESSOR  
TANEY COUNTY, MISSOURI  
POST OFFICE BOX 612  
FORSYTH, MISSOURI 65653  
417-546-7242

Date: 1/12/10

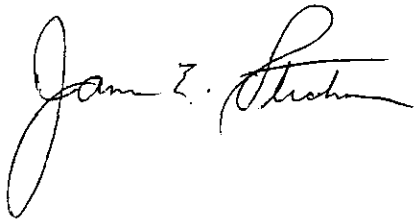
DAVID L RAUCH SECRETARY  
MISSOURI PUBLIC SERVICE COMMISSION  
PO BOX 360  
JEFFERSON CITY MO 65102

RE: DANNY R. BROWN AND LINDA BROWN  
(BEAR CREEK WATER AND SEWER, LLC)

To Whom It May Concern:

The proposed sale of assets to include treatment plant, real estate and easements of the Sewer Company ~~of~~ the Table Rock Lake Community Service, Inc., will not effect the tax revenues in Taney County, Missouri.

Very truly yours,



Assessor

Exhibit F Page 1