

ROSE, SUNDSTROM & BENTLEY LLP  
RECEIVED-FPSC

www.rsbatorneys.com

11 FEB 28 AM 11:09

Please Respond to the Lake Mary Office

COMMISSION  
CLERK

CHRISTIAN W. MARCELLI  
STEVEN T. MINDLIN, P.A.  
THOMAS F. MULLIN  
CHASITY H. O'STEEN  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON

February 28, 2011

ROBERT M.C. ROSE, (1924-2006)

VIA HAND DELIVERY

110061-WS

FREDERICK L. ASCHAUER, JR.  
CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, P.A.  
JOHN J. FUMERO, P.A.  
BRIDGET M. GRIMSLEY  
JOHN R. JENKINS, P.A.  
KYLE L. KEMPER

Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

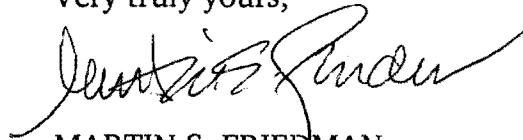
RE: Docket No. \_\_\_\_\_; Application for Authority to Transfer the Assets of Service Management Systems, Inc., and Certificate Nos. 517-W and 450-S to Aquarina Utilities, Inc. in Brevard County, Florida  
Our File No.: 45052.01

Dear Ms. Cole:

Enclosed for filing are the original and seven (7) copies of the Application of Aquarina Utilities, Inc., for Authority to Transfer Assets and Certificate Nos. 517-W and 450-S of Service Management Systems, Inc. Also enclosed is our firm's check in the amount of \$2,250.00 representing the appropriate filing fee.

Should you or the Staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

COM  
MFA  
ECR 4  
GCL  
RAD  
BSC  
ADM  
OPC  
CLK

MSF/tlc  
Enclosures

cc: Mr. Reginald J. Burge (w/enclosures)

DOCUMENT NUMBER - DATE

01299 FEB 28 =

FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Authority to Transfer )  
the Assets of SERVICE MANAGEMENT )  
SYSTEMS, INC., and Certificate Nos. )  
517-W and 450-S in Brevard County, )  
Florida to AQUARINA UTILITIES, INC. )  
\_\_\_\_\_ )

Docket No. 110001 -WS

**APPLICATION OF AQUARINA UTILITIES, INC., FOR AUTHORITY TO  
TRANSFER ASSETS AND CERTIFICATE NOS. 517-W AND 450-S**

AQUARINA UTILITIES, INC., (hereinafter referred to as "Buyer") by and through its undersigned attorneys and pursuant to the provisions of Rule 25-30.037, Fla. Admin. Code, and §367.071, Fla. Stat., file this Application for authority to transfer the water and wastewater assets and Certificate Nos. 517-W and 450-S of Service Management Systems, Inc. ("Seller") to Buyer. In support of this Application, the Buyer states:

1. The complete name and address of the Seller is:

Service Management Systems, Inc.  
826 Creel Street  
Melbourne, FL 32935

2. The complete name and address of the Buyer is:

Aquarina Utilities, Inc.  
1726 NE Darlich Avenue  
Jensen Beach, FL 34957

3. The name and address of the person authorized to receive notices and communications in respect to this Application is:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
766 N. Sun Drive, Suite 4030  
Lake Mary, FL 32746  
PHONE: (407) 830-6331  
FAX: (407) 830-8522  
E-MAIL: [mfriedman@rsbattorneys.com](mailto:mfriedman@rsbattorneys.com)

DOCUMENT NUMBER-DATE

01299 FEB 28 =

FPSC-COMMISSION CLERK

4. Buyer is a Florida corporation authorized to do business in Florida since December 20, 2010.

5. The names and addresses of Buyer's officers, directors and shareholders are as follows:

Title: P, Dir.:  
Hackney, Heather L.  
2340 NE Dixie Hwy  
Jensen Beach, FL 34957 US

Title: S.T., Dir.:  
Burge, Reginald J.  
1705 NE Darlich Avenue  
Jensen Beach, FL 34957 US

Title: Dir.:  
Burge, Kevin R.  
1726 NE Darlich Avenue  
Jensen Beach, FL 34957 US

6. Buyer owns no other water or wastewater utilities in Florida. However, Reginald Burge is an officer and shareholder in Gold Coast Utility Corp., which is a certificated water and wastewater utility in Polk County, Florida. Reginald Burge was also an officer and shareholder in Laniger Enterprises, Inc., which was previously certificated to provide water and wastewater service in Martin County, Florida (since sold to Martin County), and Burkim Enterprises, Inc., which was certificated to provide water and wastewater service in Brevard County, Florida (since sold to Brevard County).

7. A copy of the Purchase and Sale Agreement and amendments thereto, ("Agreement"), which includes the purchase price, terms of payment, and a list of the assets purchased and liabilities assumed and not assumed and disposition of customer deposits and interest thereon is attached hereto as Exhibit "A". In accordance with the

terms of the Agreement, the closing is contingent upon approval by the Commission. Pursuant to Section 367.071(1), Florida Statutes, the sale closed February 22, 2011.

8. There are no customer deposits, guaranteed revenue contracts, developer agreements, or debt of the Seller that must be disposed of in association with the transfer of the utility systems.

9. The purchase will be financed with a combination of debt and equity.

10. The transfer of the water and wastewater facilities of Seller to Buyer is in the public interest in that Seller acquired the utility assets through foreclosure and from the outset, desired to sell its water and wastewater system as it had no interest in owning this water and wastewater system.

With respect to the Buyer's technical and financial ability, Reginald Burge has been an officer and shareholder of utilities regulated by the Commission since 1988. The operating personnel will be retained from Seller. A proforma Balance Sheet of Buyer will be filed as Late Filed Exhibit "B". The Personal Financial Statement of the majority shareholders of Buyer will be provided upon request.

Buyer will fulfill the commitments, obligations and representations of the Seller with regard to utility matters. For these reasons, it is in the public interest to grant approval of the transfer to Buyer.

11. The Seller's water and wastewater rates were last set in a staff assisted rate case which culminated in Order No. PSC-03-1342-PAA-WS dated November 24, 2003. Based upon that Order, the water rate base as of December 31, 2002, was \$456,731 and wastewater rate base was \$142,224.

12. There is no proposal at this time for inclusion of an acquisition adjustment resulting from the current transfer.

13. The books and records of the Seller are available for inspection by the Commission however, due to the fact that Seller obtained the Utility System through foreclosure, they may not be adequate for the purposes of establishing rate base of the water and wastewater systems as of the date of closing.

14. Seller will cooperate with Buyer in providing to the Florida Public Service Commission any information necessary in order for the Commission to evaluate rate base.

15. After reasonable investigation, the Buyer has determined that the systems being acquired appear to be in satisfactory condition and in substantial compliance with all applicable standards set by Florida Department of Environmental Protection ("DEP").

16. The real property upon which the water and wastewater plants are located are among the assets purchased by Buyer. Attached hereto as Exhibit "C" is a copy of the executed Special Warranty Deed. A copy of the recorded Special Warranty Deed will be filed upon return from recordation in the Public Records of Brevard County, Florida.

17. There are no outstanding regulatory assessment fees due. Seller will be responsible for payment of all regulatory assessment fees through Closing. Buyer will be responsible for payment of all regulatory assessment's fees due for revenues received from the date of Closing forward. No fines or refunds are owed.

18. The original and two copies of revised Water and Wastewater Tariffs reflecting the change in ownership will be filed as Composite Late Filed Exhibit "D".

19. Seller has been unable to locate Water Certificate No. 517-W and Wastewater Certificate No. 450-S, and would note that the Commission no longer issues actual Certificates for water and wastewater utilities.

20. An Affidavit that the actual notice of the Application was given to the entities on the list provided by the Commission in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, is attached hereto as Exhibit "E."

21. An Affidavit that the actual notice of the Application was given to each customer in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, will be filed as Late Filed Exhibit "F."

22. An Affidavit that the notice of the Application was published once in a newspaper of general circulation in the territory in accordance with Rule 25-30.030, Florida Administrative Code, will be filed as Late Filed Exhibit "G".

23. The water system has the present capacity to serve between 501 and 2,000 ERCs and the wastewater system has the present capacity to serve up to 500 ERCs. Pursuant to Rule 25-30.020, Florida Administrative Code, the appropriate filing fee is \$2,250 (\$1,500 for water and \$750 for wastewater).

Respectfully submitted on this 28<sup>th</sup> day of February, 2011, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
766 N. Sun Drive, Suite 4030  
Lake Mary, Florida 32746  
PHONE: (407) 830-6331  
FAX: (407) 830-8522

By:   
MARTIN S. FRIEDMAN  
For the Firm

## **EXHIBITS**

- A: Purchase and Sale Agreement
- B: Proforma Balance Sheet
- C: Special Warranty Deed
- D: Water and Wastewater Tariffs
- E: Affidavit of Notice to Entities
- F: Affidavit of Notice to Customers
- G: Affidavit of Publication of Notice

**EXHIBIT "A"**

**Purchase and Sale Agreement**



**PURCHASE AND SALE AGREEMENT  
(ASSETS)**

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made as of September 28, 2010 ("Effective Date"), by and between FL-Service Management, LLC ("Seller"), and Reginald J. Burge ("Buyer").

**RECITALS**

A. Service Management Systems, Inc. ("SMS") is a Class C water and wastewater utility operating in Brevard County, Florida pursuant to certificates of authorization issued by the Florida Public Service Commission ("FPSC");

B. Compass Bank ("Lender") previously loaned SMS One Million Dollars (\$1,000,000) for a reverse osmosis facility and other water and wastewater utility facilities (the "SMS Loan"). The SMS Loan was evidenced by a promissory note dated December 23, 2003, in the original principal amount of \$1,000,000.00 made by Lender to SMS, which was modified and renewed by the Renewal Promissory Note dated December 19, 2006, in the original principal amount of \$918,382.39. The SMS Loan was evidenced, secured and guaranteed pursuant to certain loan documents, including the Mortgage, Security Agreement and Financing Statement recorded on January 2, 2004, in Official Records Book 5161, page 3750 of the public records of Brevard County, Florida, as modified by the Mortgage and Loan Document Modification Agreement recorded February 1, 2007, in Official Records Book 5745, page 2732 of the public records of Brevard County, Florida (collectively, the "Mortgage"). Reference to the Loan Documents shall include the Mortgage. The Mortgage encumbers the real and personal property described on Schedule 1 attached hereto (collectively the "Utility Assets");

C. As a result of a default of the SMS Loan, an action was instituted in the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida titled Compass Bank v. Service Management Systems, Inc., et al., (Case No. 05-2008-CA-61639) to foreclose the Mortgage, and a Summary Final Judgment of Foreclosure was entered in favor of Lender on February 25, 2010 (the "Foreclosure Judgment"), a copy of which is attached hereto as Exhibit "A";

D. Pursuant to the Order Appointing Receiver dated February 3, 2010, Dennis Basile was appointed receiver of the Utility Assets, a copy of which is attached hereto as Exhibit "B";

E. Pursuant to the Foreclosure Judgment, the Utility Assets, which were subject to the lien of the Mortgage, were sold to Seller (or its assignee), the highest bidder at the foreclosure sale held on March 31, 2010 ("Foreclosure Sale"), and on April 15, 2010, a Certificate of Title for the Utility Assets ("Certificate of Title") was issued to Seller (or its assignee), a copy of which is attached hereto as Exhibit "C";

F. Buyer is engaged in the business of furnishing water and wastewater service to the public in various communities throughout Florida; and

G. Seller desires to sell without recourse, representation or warranty, and Buyer desires to purchase from Seller, all of Seller's right, title and interest in the Utility Assets, all upon and pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, based on the above Recitals (which are incorporated into and made part of this Agreement by this reference), and for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### AGREEMENT

#### 1. Purchase and Sale.

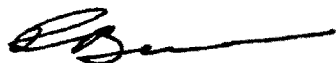
1.1 Purchase and Sale. The Seller, at Closing (as hereinafter defined) shall sell, transfer and assign unto the Buyer WITHOUT WARRANTY, REPRESENTATION OR RECOURSE OF ANY KIND, express or implied, except to the limited extent expressly set forth herein, all of its right, title and interest in and to the Utility Assets arising under the Judgment and Certificate of Title, and the Buyer, at Closing shall assume all of Seller's duties and obligations relating to the Utility Assets.

1.2 Purchase Price. In consideration of the sale, transfer, conveyance and assignment of the Seller's right, title and interest in, to and arising under Utility Assets, the Buyer hereby agrees to pay to the Seller the amount of \$550,000.00 (the "Purchase Price"). The Purchase Price shall be paid at the Closing by wire transfer payable to closing agent.

1.3 Deposit. Within three (3) days of the Effective Date, Buyer shall deposit in immediately available funds the sum of \$27,500 (the "Deposit") by wire transfer to the title insurance company ("Escrow Holder") to be held in escrow subject to the terms of this Agreement (the "Escrow"). The Deposit shall be nonrefundable as to Buyer if Buyer does not elect to terminate this Agreement prior to the expiration of the Contingency Period pursuant to Section 1.4 below, provided, however the Deposit shall be applied toward the Purchase Price.

1.4 Contingencies. Upon execution of this Agreement, the Seller will seek management approval and have until October 6, 2010 ("Contingency Period"), to obtain such approvals of the Agreement. If the Seller is unable to obtain its approvals before the end of the Contingency Period, Seller may terminate this Agreement by giving written notice to Buyer prior to 5:00 P.M. Eastern Time on the last day of the Contingency Period, whereupon the Deposit (if already deposited with Escrow Holder) shall be returned to Buyer and Seller and Buyer shall have no further obligations hereunder except as expressly provided to survive any termination of this Agreement. During the Contingency Period Buyer may continue to undertake its due diligence and inspections regarding the Utility Assets. If Buyer determines not to proceed under this Agreement beyond the Contingency Period, then Buyer may terminate this Agreement by giving written notice to Seller prior to 5:00 P.M. Eastern Time on the last day of the Contingency Period, whereupon the Deposit (if already deposited with Escrow Holder) shall be returned to Buyer and Seller and Buyer shall have no further obligations hereunder except as expressly provided to survive any termination of this Agreement.

*Buyer must be able to obtain financing*



2. **Closing Date.**

2.1 **Closing; Closing Date.** The closing of this transaction ("Closing") will be deemed to have occurred when Buyer has paid the entire Purchase Price to Seller (which receipt of readily available funds has been confirmed by Seller) and Seller has delivered Seller's Closing Documents (as hereinafter defined) to Buyer as provided in this Agreement. The Closing shall occur no later than 10:00 a.m. Eastern Time on October 22, 2010 (the "Outside Closing Date") unless otherwise agreed by Seller and Buyer in writing. The date on which the Closing actually occurs is referred to in this Agreement as the "Closing Date."

2.2 **Closing Costs.** Buyer will pay all closing costs, including, without limitation, escrow fees and costs, filing fees, title insurance premiums, cost of recording and transfer, mortgage and other taxes relating to the transaction, as applicable. All such costs and expenses shall be referred to herein as the "Closing Costs".

2.3 **Payments.** Buyer shall deposit into Escrow, at least one (1) business day prior to the Closing, funds in an amount equal to the sum of the Purchase Price (less the Deposit to be applied thereto) plus the Closing Costs.

3. **Assumption of Obligations.** Buyer hereby agrees upon the Closing to assume and perform in accordance with the terms thereof, all of the duties and obligations of Seller arising from, out of or with respect to the Utility Assets, and upon the Closing, Buyer shall hold Seller harmless from any liability for performance or nonperformance of such duties and obligations, including but not limited to any leases and the loan which SMS obtained from the Florida Department of Environmental Protection State Revolving Fund ("SRS Loan"), and any regulatory assessment fees which may arise or relate to the use and operation of any of the Utility Assets. If Buyer does not promptly take such actions, Seller may take any or all of such actions and charge the cost thereof to Buyer. In no event shall Seller's counsel be deemed to be counsel to Buyer with respect to any such matters.

4. **Seller's Representations and Warranties.** The purchase and sale of the Utility Assets as described in this Agreement is made without representation, warranty, recourse or guaranty of any kind, express or implied, except that Seller represents and warrants to Buyer as of the date hereof as follows:

4.1 **Authority.** Seller holds the entire interest in the Utility Assets as set forth in and by virtue of the Certificate of Title, and has power and authority to execute, deliver and perform its obligations under this Agreement and Seller's closing documents and the right to transfer such interest to the Buyer. Seller has not previously conveyed or encumbered its interest in the Utility Assets.

Other than the foregoing representations and warranties of the Seller, the Seller makes no representation or warranty in connection with this transaction or any aspect of the Utility Assets, or the Seller's interest therein, including but not limited to, the status of title to the Utility Assets, the value or physical condition of the Utility Assets or any improvement thereon, or the financial condition of SMS, or any rights, claims, obligations or duties with respect to the SRS Loan and any leases related to the use of the Utility Assets. The provisions of this Section 4 will survive

the Closing and will supersede any contrary provision contained in any documents including, but not limited to, Seller's closing documents; provided, however, the representations and warranties set forth in Section 4 shall only survive for a period of 30 days after the Closing Date.

5. **Buyer's Representation and Warranties.** Buyer represents and warrants to Seller as of the date hereof and as of the Closing Date:

5.1 **Authority.** Buyer (i) (if Buyer is an entity) is duly organized and validly existing under the laws of its jurisdiction of organization or incorporation; (ii) Buyer has full power and authority to execute, deliver and perform its obligations under this Agreement; and (iii) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

5.2 **Own Account.** The Buyer is purchasing the Utility Assets for its own account, without view to, or any present intention of, distribution thereof or of any interest therein.

5.3 **No Involvement.** Neither the Buyer nor any of its partners, members, shareholders, employees or agents: (i) is a Borrower or a guarantor of the SMS Loan; (ii) is now or ever was affiliated in any manner with the Borrower or the current owners(s) of the Utility Assets; (iii) is now or ever was an employee of the Seller or an affiliate of the Seller, or has participated in any manner in the decision, approval, disapproval, recommendation, advice, investigation nor otherwise in any matter related to the SMS Loan; (iv) is now or ever was involved in any litigation with SMS or the Seller or its predecessors of any of its affiliates; or has made a claim against any of them, or (v) has had a claim against it asserted by, any federal savings bank, bank savings and loan, thrift, thrift and loan, national association or similar financial institution, other than claims that were ultimately resolved in the buyer's favor by a court of competent jurisdiction or by arbitrator or other alternative dispute resolve with jurisdiction over the issue.

5.4 **AS-IS.** Except as expressly set forth herein in Section 4, the Seller has made no warranties or representations to the Buyer or any agent of the Buyer with respect to the Utility Assets; the Buyer is familiar with the Utility Assets and their condition and value; the Buyer has conducted and will continue to conduct its own examination and investigation of the Utility Assets and is not relying and will not rely upon the Seller in any manner or to any extent with respect to the Buyer's purchase of the Utility Assets; and the transactions to be consummated hereby are on a strict "AS IS" basis.

5.5 **Bankruptcy.** Buyer has not filed and is not planning to file any petition seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law relating to bankruptcy or insolvency, nor has any such petition been filed against Buyer. No general assignment of Buyer's property has been made for the benefit of creditors, and no receiver, master, liquidator or trustee has been appointed for Buyer or any of its properties. Buyer is not insolvent and the consummation of the transactions contemplated by this Agreement shall not render Buyer insolvent.

5.6 **ERISA.** Buyer is not directly or indirectly purchasing the Utility Assets on behalf of, as investments manager of, as named fiduciary of, as trustee of, or with assets of

any employee benefit plan within the meaning of Section 3(s) of the Employee Retirement Income Security Act of 1974, as amended, or a plan with the meaning of Section 4975(e)(1) of the Internal Revenue Code, as amended.

5.7 **OFAC Certification**(a) Buyer is (a)(i) not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation currently identified in the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and/ or any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation (collectively, the "List"), and is (ii) not a person or entity with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States, (b) none of the funds or other assets of Buyer constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person (as hereinafter defined), and (c) no Embargoed Person has any interest of any nature whatsoever in Buyer (whether directly or indirectly). Buyer and each of its subsidiaries, predecessors, direct and indirect owners, if any, have at all applicable times been, are now and will upon Closing be, in compliance with all laws, statutes, rules and regulations or any federal, state or local governmental authority in the United States of America applicable to such parties and all beneficial owners of Buyer, including without limitation, the requirements of Executive Order No. 133224, 66 Fed Reg. 49079 (September 25, 2001) and other similar requirements of OFAC. After due investigation and inquiry, Buyer has no knowledge or notice of any fact, event, circumstance, situation or condition which could reasonably be expected to result in (i) any action, proceeding, investigation, charge, claim, report or notice being filed, or (ii) the imposition of any civil or criminal penalty against any of them for any failure to so comply.

(b) The term "Embargoed Person" means any person, entity, or government subject to trade restrictions under United States law, including, but not limited to, the International Emergency Economic Act, 50 U.S.C. §1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. I et seq., and any Executive Orders or regulations promulgated thereunder.

6. **Taxes, Fees, Etc.** Buyer and Seller will share equally all transfer, filing and recording fees, taxes, costs and expenses, and all applicable mortgage recording taxes, documentary stamp taxes and similar taxes, if any, current ad valorem real estate taxes due in connection with the Utility Assets required shall be pro rata and paid by either Seller or Buyer in connection with the transactions contemplated by this Agreement, and will indemnify, defend and hold Seller harmless for, from and against any and all claims, liability, costs and expenses arising out of or in connection with the failure of Buyer to pay any such amounts on a timely basis.

7. **Brokers.**

7.1 **Seller's Representations and Warranties.** Seller represents and warrants to Buyer that Seller has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payments in connection with the sale pursuant to this Agreement.

7.2 **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payments in connection with the sale of the Utility Assets pursuant to this Agreement.

8. **Termination; Remedies Upon Default.** Anything herein to the contrary notwithstanding, this Agreement and the transactions contemplated hereby may be terminated at any time prior to the Closing Date: (i) by mutual written consent of Buyer and Seller; or (ii) by either Buyer or Seller if there shall exist any final non-appealable order of any Governmental Authority restraining, enjoining or prohibiting the consummation of the transactions contemplated hereby, this Agreement shall be terminated, whereupon (a) all further obligations of the parties hereunder shall terminate without further liability of any party to any other Party, (b) each party will pay all of its own costs and expenses incurred in connection with the negotiation, preparation and performance on its part of this Agreement, including the fees, expenses and disbursements of counsel; provided, however, that termination of this Agreement pursuant to clause (ii) of this Section 8 shall be without prejudice to the rights and remedies available to the parties under applicable law (including the right to recover expenses, costs and other damages) as a result of any breach by either Party of its representations, warranties or obligations hereunder, and (c) Seller shall be entitled to receive, and Buyer shall instruct the Escrow Holder to pay to Seller, the Deposit. If either party (the "Defaulting Party") fails or refuses to consummate the purchase and sale of the Utility Assets pursuant to this Agreement, or fails to perform any of its other obligations hereunder, or breaches the terms and conditions of any other agreement between the parties, in each case on or prior to the Closing Date, then the other party (the "Non-Defaulting Party") shall have the right to (i) terminate this Agreement by giving written notice thereof to the Defaulting Party on or prior to the Closing Date, whereupon neither party shall have any further rights or obligations hereunder, and (ii) exercise any rights or remedies the Non-Defaulting Party may have at law or in equity by reason of such breach or default including, without limitation, the recovery of reasonable out-of-pocket expenses, including attorney's fees ("Costs") incurred by the Non-Defaulting Party in enforcing the provisions of this Agreement; provided, however, (a) if Buyer is the Non-Defaulting Party, Buyer's actual damages shall be limited to the return of its Deposit and in no event shall Buyer be entitled to seek specific performance, (b) if Seller is the Non-Defaulting Party, Seller, in addition to all rights it may have under clauses (i) and (ii) above, shall be entitled to retain the Deposit and any Costs and (c) neither Party shall be entitled to seek consequential, punitive or exemplary damages from the other Party.

9. **Buyer's Indemnity.** Buyer will indemnify, defend and hold Seller and its agents, directors, officers, employees, attorneys, successors and assigns harmless for, from and against all costs, expenses, liabilities and damages of any kind or nature whatsoever incurred by them (including any attorneys' fees incurred defending any claim) caused, or alleged by the claimant to have been caused, by any actions or omissions of Buyer or its agents, directors, officers, employees, attorneys, successors or assigns in connection with the Utility Assets and the execution and delivery of this Agreement or the consummation of the transactions contemplated thereby.

10. **Release by Buyer.** In connection with the purchase and sale of the Utility Assets contemplated hereby, Buyer waives any and all claims, actions, suits, costs, obligations,

liabilities and demands of any nature that Buyer may have against Seller, and each of their respective agents, directors, officers, employees, attorneys, successors and assigns in connection with the Utility Assets, and the transactions contemplated hereby or otherwise (including without limitation any claim of contribution or reimbursement), other than claims, actions, suits, costs, obligations, liabilities and demands arising out of Seller's willful misconduct or intentional fraud in connection with the sale of the Utility Assets pursuant to this Agreement. Buyer expressly waives the benefits of any applicable statute providing in essence that:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor."

Buyer's Initial:     *BB*    

11. **Survival.** Except as set forth herein, the obligations of the parties hereunder shall survive the closing of the transaction contemplated hereby.

12. **Limitation on Assignment by Buyer.** The Buyer may not sell, assign, grant a participation in, or otherwise transfer its rights under this Agreement without Seller's prior written consent which consent may be unreasonably withheld or delayed in Seller's sole discretion; provided, however, that the Buyer may assign this Agreement and its rights hereunder to a single purpose entity controlled by Buyer and duly formed, qualified and in good standing under the laws of the State of Florida.

13. **Approvals.**

13.1 **Florida Public Service Commission.** The sale of Utility Assets contemplated by this Agreement is subject to and contingent upon approval of the FPSC; however, as provided in Section 367.071, Florida Statutes, the parties' desire to close the transaction in advance of the FPSC's approval. In the event that the FPSC does not approve the sale and transfer of the Utility Assets as specifically contemplated in this Agreement, or otherwise approves the transfer and sale of the Utility Assets with conditions that are not acceptable to Seller in Seller's sole discretion, then the Utility Assets shall be repurchased by Seller by the same means as the Utility Assets were purchased by the Buyer pursuant to this Agreement. Within ten (10) days following the execution of the Agreement, Buyer and Seller will file a joint application with the FPSC requesting approval of the transfer of Utility Assets subject to this Agreement. Buyer and Seller shall cooperate with each other in the filing, and the cost of preparing and processing the joint application shall be borne by the Buyer.

13.2 **Other.** Except as otherwise provided herein, Buyer shall pay for and have sole responsibility for preparing and processing all requests for regulatory approvals required as a result of the transfer of Utility Assets under this Agreement, provided that Seller shall cooperate, at no expense to Seller, with Buyer in the preparation of such requests for regulatory approvals.

14. **Miscellaneous.**

14.1 **Time of the Essence.** Time is of the essence in the performance of each of the Buyer's obligations hereunder.

14.2 **Applicable Law.** This Agreement will be construed in accordance with the internal laws of the State of where the Property is located, without giving effect to any rules or principles thereof relating to choice of law or conflict of laws.

14.3 **Captions and Headings.** The captions and headings contained in this Agreement are for convenience of reference only, and will not be deemed to modify, expand or limit the provisions of this Agreement.

14.4. **Counterparts; Electronically Transmitted Signatures.** This Agreement may be executed by the parties in multiple counterparts, each of which will be considered an original and all of which, together, will be considered one document. Transmission of a signed copy of this Agreement by one party (or its counsel) to the other party (or its counsel) by fax, e-mail or similar electronic means will have the same force and effect as delivery of the original, manually-signed counterpart so transmitted.

14.5 **Entire Agreement; Modifications.** This Agreement constitutes the final expression of the entire agreement of the parties with respect to the subject matter of this Agreement, and the provisions of this Agreement may only be modified by the written agreement of Seller and Buyer. This Agreement supersedes all prior agreements, oral or written, by the parties with respect to the subject matter of this Agreement. Neither party is relying on any oral, written or implied representation or warranty not expressly set forth in this Agreement.

14.6 **Notices.** All notices and other communications required or permitted by this Agreement must be in writing and will be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally-recognized overnight courier service (costs prepaid), (b) sent by facsimile or e-mail with confirmation of transmission by the transmitting equipment, or (c) received or rejected by the addressee if sent by certified mail with return receipt requested, in each case to the following addresses, fax numbers or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, fax number, e-mail address or person as a party may designate for itself by notice to the other party):

Seller: FL-Service Management, LLC  
c/o Matthew Hickey  
8333 Douglas Avenue, Suite 700  
Dallas, TX 75225  
Email: matthew.hickey@bbvacompass.com

Buyer:

Reginald Burge





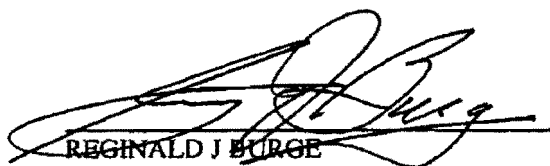
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

**SELLER:**

FL-SERVICE MANAGEMENT, LLC

By: Deborah Laycock  
Name: Deborah Laycock  
Title: VP

**BUYER:**

  
REGINALD J BURGE

**SCHEDULE 1**  
**"UTILITY ASSETS"**

## **LEGAL DESCRIPTION**

**STAGE 1, TRACT D, AQUARINA P.U.D. STAGE 1, TRACTS C & D, STAGE 2, TRACTS B, D & H,  
STAGE 3, STAGE 4, TRACTS B, I, & X, STAGE 5, ACCORDING TO THE PLAT THEREOF AS  
RECORDED IN PLAT BOOK 41, PAGES 88 THROUGH 92, INCLUSIVE, OF THE PUBLIC RECORDS OF  
BREVARD COUNTY, FLORIDA.**

All machinery, apparatus, equipment, fittings, and fixtures, whether actually or constructively attached to the real property described in Exhibit "A" (the "Property"), and all building materials of every kind and nature, and all trade, domestic, and ornamental fixtures and all personal property now or hereafter located in, upon, over, or under the Property or any part thereof on or off-site benefiting the Property and used or usable or intended to be used in connection with any present or future operation of said Property, including, but without limiting the generality of the foregoing: all heating, air-conditioning, lighting, incinerating, and power equipment; all engines, compressors, pipes, pumps, tanks, motors, conduits and switchboards; all plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus; all boilers, furnaces, oil burners, vacuum cleaning systems, elevators, and escalators; all built-in stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets, and partitions; all rugs and carpets; laundry equipment; together with all contract rights to acquire any of the foregoing and all deposits and payments made under contracts for the acquisition of same; together with all additions and accessions thereto and replacements thereof and proceeds therefrom.

All awards in condemnation proceedings and in lieu thereof and all insurance loss proceeds and claims therefor. All insurance policies of Debtor related to the Collateral and Property.

All contracts, now existing or hereafter executed, with general contractors, subcontractors, surveyors, materialmen, suppliers and/or laborers in connection with or pertaining to the construction of buildings or any other improvements on the Property.

Any agreements for architectural/engineering services between Debtor and any architect/engineer which is hereinafter entered into with respect to the construction of improvements on the Property.

Drawings, plans and specifications prepared by any architect/engineer in connection with the construction of improvements on the Property.

Any and all building permits, governmental permits, licenses or other governmental authorizations or approvals in favor of or in the name of Debtor now existing or hereafter executed, authorizing the construction of the improvements on the Property, including, but not limited to, stormwater permits, water distribution system permits, Department of Transportation permits, sewage collection system permits, and concurrency reservation certificates.

Any and all utility service agreements wherein a utility company, utility provider and/or a county or municipality has agreed to provide utilities to the Property.

All leases, contracts, binders or other agreements between Debtor and a tenant or buyer of the Property or any portion thereof for the lease or purchase and sale of any portion of the Property, including such leases, contracts, binders or other agreements which may hereafter come into existence with respect to the Property or any portion thereof.

IN THE CIRCUIT COURT, EIGHTEENTH  
JUDICIAL CIRCUIT, IN AND FOR  
BREVARD COUNTY, FLORIDA

CASE NO.: 05-2008-CA-61639  
DIVISION: R

COMPASS BANK,

Plaintiff,

vs.

SERVICE MANAGEMENT SYSTEMS,  
INC.; AQUARINA COMMUNITY  
SERVICES, INC.; and CONSOLIDATED  
ENVIRONMENTAL ENGINEERING, LLC,

Defendants.

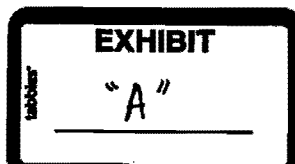
---

**SUMMARY FINAL JUDGMENT OF FORECLOSURE**

THIS CAUSE is before the Court, upon the Plaintiff's Motion for Summary Final Judgment of Foreclosure ("Motion") filed by Plaintiff, Compass Bank ("Plaintiff"), and the Court having reviewed the pleadings and affidavits filed herein by Plaintiff, the Stipulation filed by the Plaintiff and the Borrower, Service Management Systems, Inc. ("Borrower"), and being otherwise fully advised in the premises:

IT IS ORDERED AND ADJUDGED that:

1. Service of process has been duly and regularly obtained over Defendants, Borrower, Aquarina Community Services Association, Inc., and Consolidated Environmental Engineering, LLC.
2. The Plaintiff is the owner and holder of the Note and the Mortgage described in the Complaint.



3. The equities of this action are in favor of Plaintiff, and Plaintiff is entitled to the foreclosure of its Mortgage and Note, and is due the following sums from Borrower:

<u>Item</u>	<u>Amount</u>
Principal	\$1,053,119.83
Interest at legal rate of 8% (8/4/09-12/31/09)	34,392.30
Interest at legal rate of 6% (1/1/10-2/9/10)	6,751.51
<u>Filing fees</u>	<u>331.00</u>
<b>TOTAL</b>	<b>\$1,094,594.64</b>

4. Plaintiff holds a lien for the total sum set forth herein superior to any claims, interests or estates of the Borrower and all unknown parties claiming interests by, through, under or against a named defendant to this action, or having or claiming to have any right, title or interest in the property more fully described in Exhibit "A" (hereinafter referred to as the "Property"), a water and wastewater utility located in Brevard County, Florida.

5. If the total sum set forth herein, with interest thereon at the rate of six percent (6%) and all costs of this action accruing subsequent to this judgment, are not paid immediately, the Clerk of this Court shall sell the Property at a public sale on March 31, 2010, at 11:00 a.m. to the highest bidder for cash, except as hereinafter set forth, and will be held at the Brevard County Government Center North, Brevard Room, 518 South Palm Avenue, Titusville, Florida pursuant to Florida Statute 45.031(10).

6. As the Property is a water and wastewater utility subject to the regulation by the Florida Public Service Commission, any party that takes "ownership or control" through "foreclosure" is required to "continue service without interruption..." pursuant to F.S. 367.071(6) until such time as the utility is sold, assigned or transferred in accordance with the provisions of F.S. 367.071(1). This provision shall be included in the Notice of Sale to be published in accordance with statutory requirements

7. **IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO FINAL JUDGMENT.**

8. **IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN SIXTY (60) DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.**

9. The Court hereby authorizes Plaintiff to assign its bid rights under this Judgment to a third party by the filing of a written assignment of bid with the Clerk of the Court prior to the issuance of the Certificate of Title without further order of this Court.

10. Plaintiff shall advance all subsequent costs of this action, and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the Property at the sale. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the total sum with interest as described herein and costs accruing subsequent to this judgment or such part of it as necessary to pay the bid in full.

11. On filing the Certificate of Title with respect to the Property, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of Plaintiff's costs; second, documentary stamps affixed to the Certificate; third, Plaintiff's attorneys' fees; fourth, the total sum due to Plaintiff, as set forth herein, less the items paid, plus interest at the rate prescribed by law from this date to the date of the sale to Plaintiff; and shall retain any amount remaining pending the further order of this Court. Any amounts so retained are to be distributed to the Defendant as determined by order of this Court.

12. The successful bidder and purchaser at the foreclosure sale of the real property being foreclosed herein shall pay, in addition to the amount bid, any documentary stamps and Clerk's fee, including registry fee, relating to the issuance of the Certificate of Title to be issued by the Clerk to the successful bidder and purchaser. At the time of the sale the successful high bidder shall post with the Clerk a deposit equal to five percent of the final bid. The deposit shall be applied to the sale price at the time of payment. If final payment is not made within the prescribed period, the Clerk shall re-advertise the sale as provided in this section, and pay all costs of the sale from the deposit. Any remaining funds shall be applied toward the judgment.

13. On filing the Certificate of Sale with respect to the Property, Borrower and all unknown parties claiming interests by, through, under or against a named defendant since the filing of the Notice of Lis Pendens in this action are foreclosed of all estate, interest or claim in the Property. On filing the Certificate of Title, the purchaser or purchasers at the sale shall be let into possession of the Property, and the Clerk of the Circuit Court shall issue a Writ of Possession upon demand by the purchaser or purchasers.

DONE AND ORDERED in Chambers, in Brevard County, Florida, this the \_\_\_\_\_ day of February, 2010.

Original Signed On

FEB 23 2010

By Tonya Rainwater  
Circuit Judge

\_\_\_\_\_  
TONYA B. RAINWATER  
CIRCUIT COURT JUDGE

Copies furnished to:

Patrick P. Patangan, Esq., counsel for Compass Bank  
Dennis Fairbanks, Esq., counsel for Service Management Systems, Inc.  
Edward J. Kinberg, Esq., counsel for Aquarina Community Services Association, Inc.  
Jerry G. Jester, Esq., counsel for Consolidated Environmental Engineering, LLC



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**STAGE 1, TRACT D, AQUARINA P.U.D. STAGE 1, TRACTS C & D, STAGE 2, TRACTS B, D & H,  
STAGE 3, STAGE 4, TRACTS B, I, & X, STAGE 5, ACCORDING TO THE PLAT THEREOF AS  
RECORDED IN PLAT BOOK 41, PAGES 88 THROUGH 92, INCLUSIVE, OF THE PUBLIC RECORDS OF  
BREVARD COUNTY, FLORIDA.**

ALL OF DEBTOR'S RIGHT, TITLE AND INTEREST IN THE FOLLOWING:

All machinery, apparatus, equipment, fittings, and fixtures, whether actually or constructively attached to the real property described in Exhibit "A" (the "Property"), and all building materials of every kind and nature, and all trade, domestic, and ornamental fixtures and all personal property now or hereafter located in, upon, over, or under the Property or any part thereof on or off-site benefiting the Property and used or usable or intended to be used in connection with any present or future operation of said Property, including, but without limiting the generality of the foregoing: all heating, air-conditioning, lighting, incinerating, and power equipment; all engines, compressors, pipes, pumps, tanks, motors, conduits and switchboards; all plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus; all boilers, furnaces, oil burners, vacuum cleaning systems, elevators, and escalators; all built-in stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets, and partitions; all rugs and carpets; laundry equipment; together with all contract rights to acquire any of the foregoing and all deposits and payments made under contracts for the acquisition of same; together with all additions and accessions thereto and replacements thereof and proceeds therefrom.

All awards in condemnation proceedings and in lieu thereof and all insurance loss proceeds and claims therefor. All insurance policies of Debtor related to the Collateral and Property.

All contracts, now existing or hereafter executed, with general contractors, subcontractors, surveyors, materialmen, suppliers and/or laborers in connection with or pertaining to the construction of buildings or any other improvements on the Property.

Any agreements for architectural/engineering services between Debtor and any architect/engineer which is hereinafter entered into with respect to the construction of improvements on the Property.

Drawings, plans and specifications prepared by any architect/engineer in connection with the construction of improvements on the Property.

Any and all building permits, governmental permits, licenses or other governmental authorizations or approvals in favor of or in the name of Debtor now existing or hereafter executed, authorizing the construction of the improvements on the Property, including, but not limited to, stormwater permits, water distribution system permits, Department of Transportation permits, sewage collection system permits, and concurrency reservation certificates.

Any and all utility service agreements wherein a utility company, utility provider and/or a county or municipality has agreed to provide utilities to the Property.

All leases, contracts, binders or other agreements between Debtor and a tenant or buyer of the Property or any portion thereof for the lease or purchase and sale of any portion of the Property, including such leases, contracts, binders or other agreements which may hereafter come into existence with respect to the Property or any portion thereof.

IN THE CIRCUIT COURT, EIGHTEENTH  
JUDICIAL CIRCUIT, IN AND FOR  
BREVARD COUNTY, FLORIDA

CASE NO.: 05-2008-CA-61639  
DIVISION: R

COMPASS BANK,

Plaintiff,

vs.

SERVICE MANAGEMENT SYSTEMS,  
INC.; AQUARINA COMMUNITY  
SERVICES, INC.; and CONSOLIDATED  
ENVIRONMENTAL ENGINEERING, LLC,

Defendants.

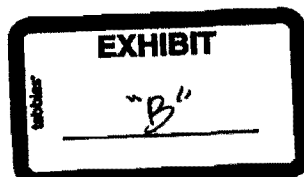
---

**ORDER APPOINTING RECEIVER**

THIS CAUSE came before the Court on the Motion for the Appointment of a Receiver filed by the Plaintiff, Compass Bank ("Lender"), and the Court having reviewed the Court file, the Brief in Support of Compass Bank's Motion for Appointment of Receiver filed by Defendant, Aquarina Community Services Association, Inc., and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED as follows:

1. Appointment. Dennis Basile ("Receiver") is hereby appointed Receiver of the real and personal property which is described in and encumbered by the Mortgage and other Loan Documents sought to be foreclosed in this action, including all real, personal, and intangible property, whether now existing or hereafter arising, wherever located, including, but not limited to, the real property located in Brevard County, Florida which is more fully described



in the Mortgage attached to the Complaint (the "Mortgaged Property"), such appointment to be effective upon execution of this Order and to continue until further order of this Court.

2. Oath. Within ten days of the date of this Order, the Receiver shall execute the Oath agreeing to accept the appointment as receiver and to perform the duties set forth in this Order.

3. Inventory. The Receiver shall prepare and file in the Court on or before thirty (30) days from the date the Receiver takes possession, a full and detailed inventory, under oath, of all the real and personal property, assets, and effects of every nature involved in the Mortgaged Property of which the Receiver is hereby given custody (including all permits and other land use entitlements and approvals, and all files regarding same).

4. Possession of Mortgaged Property. The Receiver shall immediately take possession of all the assets, files, papers, records including all computer files and all account management software required to access, manage, manipulate and invoice client accounts, documents, rents, income, securities, choses in action, books of account, including but not limited to the general ledger of the utility, receivables, cash on hand, whether in a bank or otherwise, customer deposits, guaranteed revenue contracts, developer agreements, customer advances, leases, operating agreements, permits, including permits issued by the Florida Department of Environmental Protection and the relevant water management district, utility tariffs, consent decrees, notices of violations, federal and state tax returns of the utility, and all other property, real, personal, or mixed, of Defendant, Service Management Systems, Inc. ("Borrower") which constitutes the Mortgaged Property and which are within the jurisdiction of this Court, and shall retain custody of all such property, records, and documents until further order of this Court. All persons or corporations now or hereafter in possession of the Mortgaged

Property, or any part thereof, or any other of the items entrusted to the Receiver, shall forthwith surrender such possession to the Receiver. Plaintiff shall have access to the above records and documents upon reasonable notice and during business hours. For the purpose of taking possession of the Mortgaged Property and managing the Mortgaged Property, the Receiver is hereby authorized to employ agents, servants and employees and to contract as reasonably necessary. The Receiver shall collect and safeguard the rents, issues, profits and revenues from the Mortgaged Property.

5. Turnover of Mortgaged Property. The parties, and their respective employees and agents are directed, within five days of the date of this Order, to deliver and turn over to the Receiver all of the Mortgaged Property as described in Paragraphs 1 and 4 of this Order, including without limitation, all rents and income generated by the Mortgaged Property, cash on hand, whether in a bank or otherwise, records and documents relating to the business operations of the Mortgaged Property (including all licenses, permits and other land use entitlements, approvals and files), as well as all computer files and all account management software required to access, manage, manipulate and invoice client accounts, the Mortgaged Property itself, and any other non-confidential information not specifically described in this Order, but which is reasonably necessary for the Receiver to perform his duties as described herein.

6. Specific Duties of Receiver. The Receiver shall manage, preserve, protect, and maintain the Mortgaged Property in a reasonable, prudent, diligent and efficient manner. Without limitation of that general duty, the Receiver shall have the following specific duties (if the Receiver has access to sufficient funds from the operation of the Mortgaged Property or the issuance of the Receiver's Certificates to pay for the following):

(a) Management and Preservation of the Mortgaged Property. Manage the daily operations of the Mortgaged Property and collect the revenues generated by the operation and use of the Mortgaged Property. Also, take such actions as may be necessary to obtain, maintain, preserve, manage and protect the Mortgaged Property from diminution in value wherever located, including: (i) pay the normal, ordinary and necessary operating expenses of the Mortgaged Property; (ii) take action to enforce, preserve and, as appropriate, negotiate modifications to agreements relating to the Mortgaged Property; (iii) make, cancel, enforce or modify contracts, leases or licenses relating to the Mortgaged Property.

(b) Mortgaged Property Maintenance and Repair. The Receiver shall maintain the buildings, appurtenances and grounds of the Mortgaged Property substantially in accordance with their current condition, and shall make such other repairs and renovations as are necessary and appropriate for the continued operations of the utility in accordance with state and federal law, but only to the extent the Receiver determines, after consultation with Plaintiff, that such repairs and renovations are economically feasible and in the best interest of the Mortgaged Property.

(c) Infrastructure Improvements. The Receiver shall have the authority, without further order of the Court, but subject to the prior written approval of Plaintiff, to: (i) take such actions as may be necessary or appropriate to ensure that any and all existing or future licenses, permits, applications and other governmental approvals and entitlements pertaining to the ownership, operation, management, use, or development of the Mortgaged Property are obtained and maintained in full force and effect; and (ii) enter

into a contract or contracts with third parties to obtain and maintain such permits, and to complete any required improvements in connection with such permits.

(d) Insurance. The Receiver shall maintain casualty insurance with respect to the Mortgaged Property, and if required by Plaintiff, liability, windstorm, flood, professional liability, and workers' compensation insurance with respect to the Mortgaged Property, all in such amounts and with such coverages as are required under the Mortgage sought to be foreclosed in this action. The Receiver is authorized to continue in existence all current insurance policies in place. The Receiver shall promptly investigate and, if necessary, file a full, prompt written report with the Clerk of this Court as to all serious and material accidents, claims for damage relating to the ownership, operation and maintenance of the Mortgaged Property, and any damage or destruction to the Mortgaged Property, and the estimated cost of repair thereof, and shall prepare any and all reports required by any insurance company in connection therewith.

(e) Operating Account for Mortgaged Property. Effective as soon as possible after entry of this Order, the Receiver shall establish and maintain a separate operating account into which the Receiver shall deposit all receipts from the Mortgaged Property and from which the Receiver shall disburse regularly and punctually, all amounts due and payable as reasonable, necessary and proper expenses incurred by the Receiver in the ownership, operation, management, protection, and conservation of the Mortgaged Property, including such operating expenses which were incurred but not yet paid for the period immediately preceding the date on which the Receiver was appointed, all subject to the terms of this Order.

(f) Records. The Receiver shall maintain a comprehensive system of office records, books, and accounts concerning the operation of the Mortgaged Property. Upon reasonable notice, and at all reasonable times, Plaintiff and its respective agents and other representatives shall have reasonable access to such records, accounts and books and to all vouchers, files, and all other material pertaining to the operation of the Mortgaged Property, all of which the Receiver agrees to keep safe, available and separate from any records not having to do with the operation of the Mortgaged Property.

(g) Legal Requirements. The Receiver shall ensure that all aspects of the Mortgaged Property, and its use, operation, management, and development, comply with any and all laws, regulations, orders or requirements affecting the Mortgaged Property issued by any federal, state, county or municipal authority.

(h) Use and Maintenance of Premises. The Receiver shall not permit the use of the Mortgaged Property for any purpose which will or might void any required policy of insurance or which might render any loss thereunder uncollectible, or which would be in violation of any law or government restriction.

(i) No Waste. Without the approval of this Court or Plaintiff, the Receiver shall not suffer, cause or permit: (i) any removal of any real or personal property owned or leased by Defendants over which this Court has jurisdiction and pertaining to the Mortgaged Property nor (ii) any waste of the Mortgaged Property or any of the components thereof.

(j) Budget. On or before the thirtieth day after entry of this Order, the Receiver shall furnish to Plaintiff and Borrower a detailed, projected, monthly operating budget for the Receiver and the Mortgaged Property (as may be amended from time to



time, the "Budget"), which shall be subject to the written approval of Plaintiff. Plaintiff shall advise the Receiver in writing within fifteen (15) days of receipt of the Budget, or any amendment thereof, whether Plaintiff approves or disapproves the Budget, or any amendment thereof. The approved Budget shall be provided to the Borrower.

7. Monthly Reports. The Receiver is directed to prepare, on or before the 15th day of each month, commencing the first full month following his appointment, so long as the Mortgaged Property shall remain in his possession or care, a full and complete report, under oath, setting forth for the prior month (of the most recent period since the last report) (i) the current status of all licenses, permits and other governmental entitlements and/or approvals, and (ii) all receipts and disbursements, cash flow, and reporting all changes in the assets in his charge, or claims against the assets, that have occurred during the preceding month. The Receiver is directed to file all reports with the Clerk of this Court. The Receiver is directed to serve a copy of each report on the attorneys of record for the Plaintiff and Defendants herein.

8. No Interference. Except as otherwise requested or authorized by the Receiver, or until further order of this Court, the parties, and their respective officers, directors, shareholders, agents, servants, employees, representatives, and attorneys are hereby enjoined from: (i) collecting, or attempting to collect, the receivables, income, revenues, profits, and bank accounts of the Mortgaged Property from and after the date of entry of this Order; (ii) interfering in any manner with the management of the Mortgaged Property by the Receiver as hereinabove described until further order of this Court; or (iii) acting or purporting to act on behalf of the Mortgaged Property, and/or the Receiver.

9. Consultants and Professionals. The Receiver is hereby empowered to employ independent legal counsel to furnish legal advice to the Receiver for such purposes as may be

necessary during the period of receivership. Upon further order of the Court, or with the prior approval of Plaintiff, the Receiver is also empowered to employ accountants, consultants, developers and other professionals, to furnish accounting and other advice and services to the Receiver, all for such purposes as may be reasonable and necessary during the term of the receivership. The Receiver may engage the service of a management company, and to hire such employees, as in the Receiver's judgment are necessary to operate, manage, secure, protect and maintain the Mortgaged Property.

10. Fees. Until further order of this Court, the Receiver shall be compensated at the rate of \$200 per hour, plus the reasonable and necessary out-of-pocket expenses incurred by the Receiver on behalf of the Mortgaged Property, including travel, lodging and meal expenses. All approved counsel, accountants, consultants and other professionals retained by the Receiver shall be compensated on hourly rate basis as approved by Plaintiff, or upon further order of this Court. The Receiver and all such approved accountants, attorneys, consultants and other professionals shall be paid on a monthly basis. To be paid on a monthly basis, the Receiver must file a statement of account with this Court and serve a copy on Plaintiff and Defendants for the time, fees and expenses of the Receiver and such approved accountants, attorneys, consultants and other professionals, incurred in the preceding calendar month. The statement of account shall be included in the monthly report of the Receiver as provided above. If no objection thereto is filed and served on or within ten business days following service on the parties, such statement of account may be paid from the operating account established under this Order. In the event objections are made to fees and/or expenses, objected-to fees and/or expenses shall be paid within ten business days of an agreement between Plaintiff and Receiver, or entry of an order of this Court adjudicating the matter. If an objection is timely filed and served, the contested

portion of such statement of account shall not be paid absent further order of this Court, but the uncontested portion shall be paid as provided herein. The fees, costs and expenses of the Receiver and his attorneys, accountants, consultants and other professionals shall be paid first from the operating account, and if insufficient, by Plaintiff as a protective advance under the Loan Documents, or by Receiver issuing a Receiver's Certificate to pay for such fees, costs and expenses all as determined by Plaintiff in its sole discretion.

11. Judicial Immunity. The Receiver and the Receiver's attorneys and agents: (i) may rely on any and all outstanding court orders, judgments, decrees and rules of law, and shall not be liable to anyone for their own good faith compliance with any such order, judgment, decree or rule of law; (ii) may rely on, and shall be protected in any action upon, any resolution, certificate, statement, opinion, report, notice, consent, or other document believed by them to be genuine and to have been signed or presented by the proper parties; (iii) shall not be liable to anyone for their good faith compliance with their duties and responsibilities as a receiver, or as attorney or agent for Receiver; and (iv) shall not be liable to anyone for their acts or omissions, except upon a finding by this Court that such acts or omissions were outside the scope of their duties or were grossly negligent or constitute misfeasance. Except for matters set forth in subsection (iv) of the preceding sentence, persons dealing with the Receiver shall only look to the receivership assets and bond posted by the Receiver to satisfy any liability, and neither the Receiver nor his attorneys or his agents shall have any personal liability to satisfy any such obligation.

12. Further Instructions. The Receiver may at any time upon notice to all parties, apply to this Court for further or other instructions or powers, whenever such instructions or additional powers shall be deemed necessary in order to enable him to perform properly and

legally the duties of his Receivership and to maintain, operate, protect and preserve the Mortgaged Property.

13. Jurisdiction. Jurisdiction of this action is retained to enter further orders as are appropriate.

DONE AND ORDERED at Brevard County, Florida, on the \_\_\_\_\_ day of February, 2010.

Original Signed On

\_\_\_\_\_  
TONYA B. RAINWATER  
CIRCUIT COURT JUDGE

FEB 03 2010

By Tonya Rainwater  
Circuit Judge

Copies furnished to:

Patrick P. Patangan, Esq., counsel for the Plaintiff  
Dennis Fairbanks, Esq., counsel for Service Management Systems, Inc.  
Edward J. Kinberg, Esq., counsel for Aquarina Community Services Association, Inc.  
Jerry Jester, Esq., counsel for Consolidated Environmental Engineering, LLC

# 9135283\_v2

44

IN THE CIRCUIT COURT, EIGHTEENTH JUDICIAL CIRCUIT, IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-2008-CA-61639 DIVISION: R

COMPASS BANK, Plaintiff,

vs.

SERVICE MANAGEMENT SYSTEMS, INC.; AQUARINA COMMUNITY SERVICES, INC.; and CONSOLIDATED ENVIRONMENTAL ENGINEERING, LLC, Defendants.

SCOTT ELLIS  
2010 APR 15 P 2:30  
FILED IN 05-2008-CA-61639

**CERTIFICATE OF TITLE**

The undersigned Clerk of the Circuit Court certifies that he executed and filed a Certificate of Sale in this action on March 31, 2010, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections. The property described on **Exhibits "A" and "B" attached hereto** located in Brevard County, Florida, was sold to Assignee of Plaintiff, **FL - Service Management, LLC, a Florida limited liability company**, whose address is P.O. Box 10566, AL-BI-CH-NIA, Birmingham, AL 35296

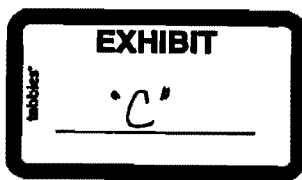
WITNESS my hand and the seal of this Court on this 15 day of April, 2010.

**SCOTT ELLIS**  
Clerk of the Circuit Court



By Jennifer Young  
Deputy Clerk

Copies to:  
All parties on attached Service List



Case # 05-2008-CA-061639-XXXX-XX  
Document Page # 47



**LEGAL DESCRIPTION**

**STAGE 1, TRACT D, AQUARINA P.U.D. STAGE 1, TRACTS C & D, STAGE 2, TRACTS B, D & H, STAGE 3, STAGE 4, TRACTS B, I, & X, STAGE 5, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 41, PAGES 88 THROUGH 92, INCLUSIVE, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.**

**EXHIBIT "A"**

**ALL OF DEBTOR'S RIGHT, TITLE AND INTEREST IN THE FOLLOWING:**

All machinery, apparatus, equipment, fittings, and fixtures, whether actually or constructively attached to the real property described in Exhibit "A" (the "Property"), and all building materials of every kind and nature, and all trade, domestic, and ornamental fixtures and all personal property now or hereafter located in, upon, over, or under the Property or any part thereof on or off-site benefiting the Property and used or usable or intended to be used in connection with any present or future operation of said Property, including, but without limiting the generality of the foregoing: all heating, air-conditioning, lighting, incinerating, and power equipment; all engines, compressors, pipes, pumps, tanks, motors, conduits and switchboards; all plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus; all boilers, furnaces, oil burners, vacuum cleaning systems, elevators, and escalators; all built-in stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets, and partitions; all rugs and carpets; laundry equipment; together with all contract rights to acquire any of the foregoing and all deposits and payments made under contracts for the acquisition of same; together with all additions and accessions thereto and replacements thereof and proceeds therefrom.

All awards in condemnation proceedings and in lieu thereof and all insurance loss proceeds and claims therefor. All insurance policies of Debtor related to the Collateral and Property.

All contracts, now existing or hereafter executed, with general contractors, subcontractors, surveyors, materialmen, suppliers and/or laborers in connection with or pertaining to the construction of buildings or any other improvements on the Property.

Any agreements for architectural/engineering services between Debtor and any architect/engineer which is hereinafter entered into with respect to the construction of improvements on the Property.

Drawings, plans and specifications prepared by any architect/engineer in connection with the construction of improvements on the Property.

Any and all building permits, governmental permits, licenses or other governmental authorizations or approvals in favor of or in the name of Debtor now existing or hereafter executed, authorizing the construction of the improvements on the Property, including, but not limited to, stormwater permits, water distribution system permits, Department of Transportation permits, sewage collection system permits, and concurrency reservation certificates.

Any and all utility service agreements wherein a utility company, utility provider and/or a county or municipality has agreed to provide utilities to the Property.

All leases, contracts, binders or other agreements between Debtor and a tenant or buyer of the Property or any portion thereof for the lease or purchase and sale of any portion of the Property, including such leases, contracts, binders or other agreements which may hereafter come into existence with respect to the Property or any portion thereof.

**EXHIBIT "B"**

4/4

SERVICE LIST

Dennis F Fairbanks, Esq.  
1600 Sarno Road, Suite 1  
Melbourne, Florida 32935  
*Attorney for Service Management Systems, Inc.*

Jerry G. Jester, Esq.  
P.O. Box 541196  
Merritt Island, FL 32954-1196  
*Attorney for Consolidated Environ. Engineering, LLC*

Edward J. Kinberg, Esq.  
1290 W. Eau Gallie Blvd.  
Melbourne, FL 32935  
*Attorney for Aquarina Community Services  
Association, Inc.*

Patrick P. Patangan, Esq.  
Holland & Knight LLP  
50 N. Laura St., Suite 3900  
Jacksonville, FL 32202  
*Attorneys for Plaintiff*



**AMENDMENT TO PURCHASE AND SALE AGREEMENT**

THIS AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is made as of October 11, 2010, by and between FL-Service Management, LLC ("Seller"), and Reginald J. Burge ("Buyer").

**RECITALS**

A. Buyer and Seller entered into the Purchase and Sale Agreement dated September 28, 2010 ("Purchase Agreement").

B. The Buyer and Seller have agreed to extend the Contingency Period and Outside Closing Date, and other agreements as set forth in this Amendment.

**NOW, THEREFORE**, for and in consideration of the foregoing, the mutual covenants and contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, do hereby agree as follows:

1. The Recitals set forth above are incorporated herein by reference thereto.
2. All defined terms herein shall have the same meaning as set forth in the Purchase Agreement unless a contrary or re-defined meaning is set forth herein.
3. The Purchase Agreement is in full force and effect. All of the terms and provisions of the Purchase Agreement not in conflict herewith shall remain in full force and effect.
4. The Buyer and Seller agree that the Contingency Period is extended until and including October 19, 2010, and the Outside Closing Date is extended until and including October 29, 2010. The Contingency Period or the Outside Closing Date, or both, may be further extended by the parties in writing.
5. The Purchase Agreement is subject to the Buyer obtaining on or before the Closing a loan ("Buyer's Loan") to finance a portion of the Purchase Price. If the Buyer can not obtain the Buyer's Loan on or prior to the Closing, Buyer may terminate the Purchase Agreement, whereupon the Deposit shall be returned to Buyer and whereupon all parties hereto shall be released from all liabilities and obligations hereunder.
6. This Amendment is binding upon the successors and assigns of the parties hereto.
7. **RADON GAS DISCLOSURE:** radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

8. This Amendment and any subsequent amendments hereto may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original and all of which shall be deemed to be one in the same instrument. Facsimile and email transmissions are deemed original signatures.

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

**SELLER:**

FL-SERVICE MANAGEMENT, LLC, a  
Florida limited liability company

By: Deborah Laycock  
Deborah Laycock, Vice President

**BUYER:**

REGINALDA BURGE  
REGINALDA BURGE

**AMENDMENT TO PURCHASE AND SALE AGREEMENT  
AND CLOSING MEMORANDUM**

THIS AMENDMENT TO PURCHASE AND SALE AGREEMENT AND CLOSING MEMORANDUM ("Closing Memorandum") is entered into this \_\_\_\_ day of February, 2011, by and between FL-Service Management, LLC ("Seller") and Aquarina Utilities, Inc. ("Buyer") as assignee of Reginald J. Burge with regards to the closing pursuant to the Purchase and Sale Agreement dated September 28, 2010, by and between Seller and Buyer, as amended on October 11, 2010 ("Agreement") to reinstate the Agreement and to address matters not specifically provided for in the Agreement.

1. The parties agree to reinstate the Agreement under its original terms and conditions, subject to the modifications and additional agreements set forth in this Closing Memorandum.

2. Seller shall pay all regulatory assessment fees due to the Florida Public Service Commission ("FPSC"), including fees through date of closing.

3. Seller shall file the 2010 Annual Report with the FPSC unless the FPSC waives such requirement.

4. Seller shall provide to Buyer a schedule of all customer deposits being held by Seller, and accrued interest through closing, and shall pay to Buyer an amount equal to the customer deposits plus interest.

5. Seller shall assign to Buyer any outstanding Developer Agreements, if any.

6. Seller shall provide to Buyer a schedule of all customer pre-payments made to Seller, and Seller shall pay Buyer an amount equal to the customer pre-payments.

7. The parties agree that the Outside Closing Date is extended until and including February 18, 2011.

AQUARINA UTILITIES, INC., a  
Florida corporation

\_\_\_\_\_  
By: Heather Hackney, President

FL-SERVICE MANAGEMENT, LLC, a  
Florida limited liability company

By: P.I. Holdings, No. 1, Inc., a Texas  
corporation

\_\_\_\_\_  
By: **Matthew Hickey**  
Its: **Vice President**

**AMENDMENT TO PURCHASE AND SALE AGREEMENT  
AND CLOSING MEMORANDUM**

THIS AMENDMENT TO PURCHASE AND SALE AGREEMENT AND CLOSING MEMORANDUM ("Closing Memorandum") is entered into this 17 day of February, 2011, by and between FL-Service Management, LLC ("Seller") and Aquarina Utilities, Inc. ("Buyer") as assignee of Reginald J. Burge with regards to the closing pursuant to the Purchase and Sale Agreement dated September 28, 2010, by and between Seller and Buyer, as amended on October 11, 2010 ("Agreement") to reinstate the Agreement and to address matters not specifically provided for in the Agreement.

1. The parties agree to reinstate the Agreement under its original terms and conditions, subject to the modifications and additional agreements set forth in this Closing Memorandum.

2. Seller shall pay all regulatory assessment fees due to the Florida Public Service Commission ("FPSC"), including fees through date of closing.

3. Seller shall file the 2010 Annual Report with the FPSC unless the FPSC waives such requirement.

4. Seller shall provide to Buyer a schedule of all customer deposits being held by Seller, and accrued interest through closing, and shall pay to Buyer an amount equal to the customer deposits plus interest.

5. Seller shall assign to Buyer any outstanding Developer Agreements, if any.

6. Seller shall provide to Buyer a schedule of all customer pre-payments made to Seller, and Seller shall pay Buyer an amount equal to the customer pre-payments.

7. The parties agree that the Outside Closing Date is extended until and including February 18, 2011.

AQUARINA UTILITIES, INC., a  
Florida corporation

FL-SERVICE MANAGEMENT, LLC, a  
Florida limited liability company

By: P.I. Holdings, No. 1, Inc., a Texas  
corporation

  
By: Heather Hackney, President

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

**EXHIBIT "B"**

WILL BE LATE FILED

**Proforma Balance Sheet**

**EXHIBIT "C"**

**Special Warranty Deed**

Prepared By and Return to:

Patrick P. Patangan, Esq.  
Holland & Knight LLP  
50 North Laura Street, Suite 3900  
Jacksonville, Florida 32202

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED** is made as of this \_\_\_ day of February, 2011, by and between **FL - SERVICE MANAGEMENT, LLC**, whose mailing address for notice purposes is P.O. Box 10566, AL-BI-CH-NIA, Birmingham, AL 35296 ("Grantor") in favor of **AQUARINA UTILITIES, INC.**, a Florida corporation, whose mailing address is 1726 NE Dalich Avenue, Jensen Beach, FL 34957 ("Grantee").

**RECITALS:**

That Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, by these presents does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns, that certain real property located in Brevard County, Florida (the "Property"), as more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.



TO HAVE AND TO HOLD, the same in fee simple forever.

AND, Grantor hereby covenants with Grantee that it is lawfully seized of the Property in fee simple; that it has good right and lawful authority to sell and convey the Property; and Grantor hereby covenants that Grantor will warrant and defend title to the Property against the lawful claims of all persons claiming by, through or under Grantor alone, but against none other.

The Property is subject to all limitations, restrictions, reservations and easements of record, if any, and subject to taxes for the year 2011 and subsequent years.

**IN WITNESS WHEREOF**, Grantor has caused these presents to be executed on the day and year first above written

Signed, sealed and delivered  
in the presence of:

  
Print Name: Donna Rhoads  
  
Print Name: Tracy Slade

**GRANTOR:**

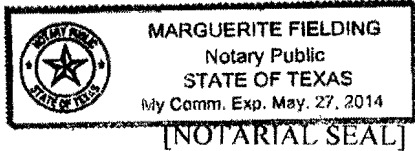
**FL - SERVICE MANAGEMENT, LLC**,  
a Florida limited liability company,

By: P.I. Holdings No. 1, Inc., a Texas  
corporation

By:   
Print Name: Matthew Hickey  
Its: Vice President

STATE OF TEXAS  
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 17 day of February, 2011,  
by Matthew Hickey as the Vice Pres. of P.I. Holdings No. 1, Inc., a Texas  
corporation, as manager of FL-Service Management, LLC, a Florida limited liability company,  
on behalf the company, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.



Marguerite Fielding  
Notary Public STATE OF TEXAS  
Print Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_



EXHIBIT "A"

**LEGAL DESCRIPTION**

**STAGE 1, TRACT D, AQUARINA P.U.D. STAGE 1, TRACTS C & D, STAGE 2, TRACTS B, D & H,  
STAGE 3, STAGE 4, TRACTS B, I, & X, STAGE 5, ACCORDING TO THE PLAT THEREOF AS  
RECORDED IN PLAT BOOK 41, PAGES 88 THROUGH 92, INCLUSIVE, OF THE PUBLIC RECORDS OF  
BREVARD COUNTY, FLORIDA.**

**COMPOSITE EXHIBIT "D"**

WILL BE LATE FILED

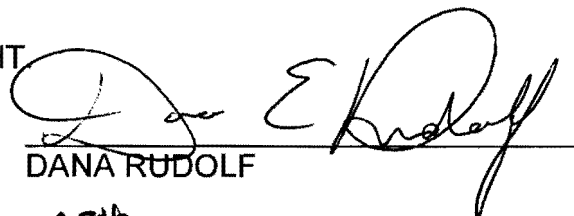
**Water and Wastewater Tariffs**

**AFFIDAVIT OF MAILING**

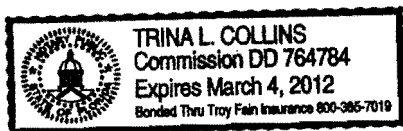
STATE OF FLORIDA  
COUNTY OF SEMINOLE

Before me, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared DANA RUDOLF, who, after being duly sworn on oath, did depose on oath and say that she is the secretary of Martin S. Friedman, attorney for Aquarina Utilities, Inc., and that on the 25<sup>th</sup> of February, 2011, she did send by U.S. Mail a copy of the notice attached hereto to each of the utilities, governmental bodies, agencies, or municipalities, in accordance with the list provided by the Florida Public Service Commission, which is also attached hereto.

FURTHER AFFIANT SAYETH NAUGHT

  
DANA RUDOLF

Sworn and subscribed to before me this 25<sup>th</sup> day of February, 2011, by Dana Rudolf, who is personally known to me or who has provided as identification.



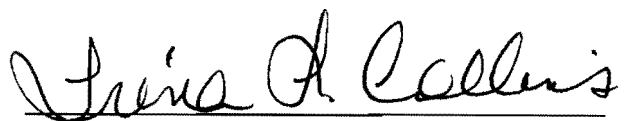
  
NOTARY PUBLIC - State of Florida  
Print Name: Trina L. Collins  
My Commission Expires: 3-4-12

EXHIBIT "E"

**NOTICE OF APPLICATION FOR TRANSFER UTILITY ASSETS  
AND WATER AND WASTEWATER CERTIFICATES**

NOTICE IS HEREBY given on the 25<sup>th</sup> day of February, 2011, pursuant to Section 367.071, Florida Statutes, of the Application for Transfer of the Utility Assets of Service Management Systems, Inc., and Certificate Nos. 517-W and 450-S to Aquarina Utilities, Inc., providing water and wastewater service to the following described territory in Brevard County, Florida:

**WATER SERVICE AREA**

A PORTION OF SECTIONS 25, 35 AND 36 TOWNSHIP 29 SOUTH, RANGE 38 EAST, SECTION 31, TOWNSHIP 29 SOUTH, RANGE 39 EAST, SECTION 1, TOWNSHIP 30 SOUTH, RANGE 38 EAST AND SECTION 6, TOWNSHIP 30 SOUTH, RANGE 39 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGIN AT THE SOUTHWEST CORNER OF SAID SECTION 25 AND RUN N00°19'34"W ALONG THE WEST LINE OF SAID SECTION 25 A DISTANCE OF 1327.58 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 25; THENCE RUN S88°30'24"E ALONG NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF SECTION 25 A DISTANCE OF 2634 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE RUN SOUTHERLY ALONG SAID MEAN HIGH WATER LINE THROUGH SAID SECTIONS 25, 36, 31 AND 6 A DISTANCE OF 12127 FEET MORE OR LESS TO THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 6; THENCE RUN N88°48'45"W ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SECTION 6 A DISTANCE OF 1524 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE INDIAN RIVER; THENCE RUN NORTHERLY ALONG THE MEAN HIGH WATER LINE OF THE INDIAN RIVER AND MULLET CREEK 16336 FEET MORE OR LESS TO THE NORTH LINE OF SAID SECTION 35; THENCE RUN S88°22'47"E ALONG THE NORTH LINE OF SECTION 35 A DISTANCE OF 982 FEET MORE OR LESS TO THE POINT OF BEGINNING.

**WASTEWATER SERVICE AREA**

A PORTION OF SECTIONS 25, 26, 35 AND 36 TOWNSHIP 29 SOUTH, RANGE 38 EAST, AND SECTION 31, TOWNSHIP 29 SOUTH, RANGE 39 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGIN AT THE WEST 1/4 CORNER OF SAID SECTION 25 AND RUN N00°18'50"W ALONG THE WEST LINE OF SAID SECTION 25 A DISTANCE OF 1340.83 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SAID SECTION 25; THENCE RUN S88°31'07"E ALONG NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25 A DISTANCE OF 1351 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE RUN SOUTHERLY ALONG SAID

MEAN HIGH WATER LINE THROUGH SAID SECTIONS 25, 36, AND 31 A DISTANCE OF 9203 FEET MORE OR LESS TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 36; THENCE RUN N88°23'42"W ALONG SAID LINE AND THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SECTION 36 A DISTANCE OF 790 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE INDIAN RIVER; THENCE RUN NORTHERLY ALONG THE MEAN HIGH WATER LINE OF THE INDIAN RIVER AND MULLET CREEK 8315 FEET MORE OR LESS TO THE SOUTH LINE OF SAID SECTION 26; THENCE RUN S88°22'47"E ALONG THE SOUTH LINE OF SAID SECTION 26 A DISTANCE OF 982 FEET TO THE COMMON CORNER OF SAID SECTIONS 25, 26, 35 AND 36; THENCE RUN ALONG THE WEST LINE OF SAID SECTION 25 N00°19'34"W 1327.58 TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 3 OF SAID SECTION 26; THENCE RUN N88°30'25"W ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 3 A DISTANCE OF 1276 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF MULLET CREEK; THENCE RUN NORTHERLY ALONG THE MEAN HIGH WATER LINE OF MULLET CREEK 1903 FEET MORE OR LESS TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE RUN S88°31'12"E ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 26 A DISTANCE OF 2431 MORE OR LESS TO THE POINT OF BEGINNING.

Any objections to the Application must be made in writing and filed with the Commission Clerk, Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, no later than 30 days from the date of this Notice, with a copy to Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, LLP, 766 N. Sun Drive, Suite 4030, Lake Mary, Florida 32746. The objection must state the grounds for the objection with particularity.

AQUARINA UTILITIES, INC.

**EXHIBIT "F"**

**WILL BE LATE FILED**

**(Affidavit of Notice given to Customers)**

**AFFIDAVIT OF MAILING**

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared Reginald Burge, on behalf of the Buyer, who, after being duly sworn on oath, did depose on oath and say that he is the Secretary of the Buyer, and that on the \_\_\_\_ day of March, 2011, he did send by first class U.S. Mail a copy of the Notice attached hereto to each of the Utility's customers.

FURTHER AFFIANT SAYETH NAUGHT.

\_\_\_\_\_  
Printed Name: Reginald Burge

Sworn and subscribed to before me this \_\_\_\_ day of March 2011, by Reginald Burge on behalf of the Utility, who is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC - State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "F"**

**EXHIBIT "G"**

WILL BE LATE FILED

(Affidavit of Publication)