



Control Number: 48505



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January 21, 2018

Public Utilities Commission
Central Records
1701 N Congress P.O. Box 13326
Austin, TX 78711-3326

RE: Crest Water Company Docket # 48505
Attn: Ms. Justine Tan & Ms. Kathryn Eiland

Ms. Tan & Ms. Eiland:

In response to Order No. 6 dated and signed on January 10, 2019, we respectfully submit the following:

- 1) Copy of the contract for the purchase of a public drinking water system in Tarrant County, Texas between Shelcon Services (“Seller”) and Crest Water Company (“Buyer”).

We have included 10 copies per Central Records request.

I believe that is all that is required at this time,

Sincerely,

Charles P. Gillespie III
President

CPG/cg

2019 JAN 25 AM 9:45
PUBLIC UTILITIES COMMISSION
FILING CLERK

**CONTRACT FOR THE PURCHASE OF A PUBLIC
DRINKING WATER SYSTEM IN TARRANT COUNTY, TEXAS**

Shelcon Services ("Seller") and Crest Water Company, ("Buyer"), enter into the following agreement ("Contract") for the purchase of the Public Drinking Water System which seller has built and is operating in Tarrant County, Texas, as herein provided.

WITNESSETH::

WHEREAS, SELLER has a public drinking water system, CCN#13055 and PWS#2200353 (hereinafter referred to as the "Water System") in Tarrant County, Texas; and

WHEREAS, BUYER owns and operates a state-certified retail public water utility/public drinking water system and desires to purchase the Water System and to amend its' certificate of convenience and necessity ("CCN") to include the Water System's service area and such neighboring properties as BUYER may desire to serve in the future via the Water System; and

WHEREAS, SELLER is willing to sell the Water System to BUYER under the terms and conditions provided herein; and

WHEREAS, certification and sale of the Water System as provided herein will insure that a state-approved public drinking water system will be operated within the Service Area which is capable of providing continuous and adequate service to consumers under applicable codes and the regulations without unreasonable or unduly burdensome financial impact on SELLER, BUYER, or BUYER'S customers (current and future); and

WHEREAS, SELLER and BUYER acknowledge their intention to fully comply with the provisions of Chapter 13 of the Texas Water Code (said statute hereinafter referred to as the ("Code")) and corresponding administrative rules and Texas Commission on Environmental Quality ("TCEQ") and Public Utilities Commission ("PUC") regulations concerning the subject matter of this Contract; and

WHEREAS, the parties knowingly enter into Contract conditioned upon state approval as required by law;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, THE MUTUAL PROMISES AND COVENANTS HEREIN CONTAINED, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, SELLER AND BUYER COVENANT, STIPULATE AND DECLARE AS FOLLOWS:

ARTICLE 1
SELLER'S OBLIGATIONS

- (1) SELLER shall be obligated to sell, transfer, and convey the Water System to BUYER for the consideration provided herein upon approval of this transaction by the TCEQ and PUC.
- (2) SELLER shall obtain and convey to BUYER all existing permanent public utility easements by survey and assignment by suitable, lawfully recorded written instrument. Such easements shall be at least fifteen (15) feet in width.

Access to all well sites shall be via perpetual recorded rights-of-way easements suitable for the construction, use, and maintenance of an all-weather access road or driveway from each well site to the nearest paved public road. Such easements shall be at least (20) feet in width.

SELLER shall also convey existing sanitary-control and such other easements as may be required by law. All such easements shall conform to the requirements of 30 TAC 290.41 (c) (1).

- (3) SELLER shall convey in fee simple the water wells and plant site defined by survey attached hereto as Exhibit "A" and incorporated herein by reference for all purposes. SELLER shall convey by recordable Bill of Sale all personal property associated with the Water System.
- (4) SELLER shall prepare, subject to the review and approval of BUYER's counsel, all conveyance documents.
- (5) SELLER shall pay all property taxes to day of closing. SELLER shall provide BUYER with tax certificates prior to closing.

ARTICLE 2
PROPERTY TO BE CONVEYED

The property ("PROPERTY") to be conveyed by SELLER to BUYER under this Contract consists of:

- (1) The Water System "AS IS, WHERE IS" on the date of execution of this Contract. Included within the definition of the term "Water System" with limitation are:
 - (A) The water well sites and certain real property surrounding them shown on Exhibit "A".
 - (B) All personal property which is part of the Water System, including but not limited to, production equipment, chemical treatment equipment, pumps, tanks, distribution and transmission lines, services and meters, valves, controls, books and records of investments and expense, customer records, inspection reports, regulatory correspondence, engineering reports, plans and specifications and all governmental permits and licenses.
- (2) An access easement to the water well site as described above. The access easement shall be exclusive and shall run with the land associated with the well site.
- (3) One hundred fifty foot (150') sanitary control easements, in conformance with TCEQ/PUC regulations, around the water well.

- (4) Existing public utility easements for all water lines and mains and piping in the Water System.

ARTICLE 3
BUYER'S CONSIDERATION TO SELLER

- (1) BUYER will pay SELLER fifty thousand dollars (\$50,000.00) at closing of sale which shall occur within sixty (60) days of TCEQ/PUC approval of the transfer of the Mustang Creek Estates Water System to Crest Water.

BUYER will operate the SYSTEM according to TCEQ/PUC rules until TCEQ/PUC approves the transfer of the System to Crest Water and the ensuing closing occurs or until the expiration of one year, whichever occurs first.

- (2) BUYER will pay all costs involved in permitting, constructing, testing, and placing into public service any additional, future TCEQ/PUC approved water wells and associated production, storage, and treatment facilities necessary to provide continuous and adequate water utility service to the Service Area.
- (3) BUYER shall prepare and prosecute, at its expense, the application for TCEQ/PUC approval of this sale. Each party shall bear the cost of their own attorneys, engineers, accountants, consultants, or other agents in obtaining such state approval.
- (4) BUYER shall pay all surveying costs associated with this transaction.
- (5) BUYER shall pay all property taxes from the day of closing.

ARTICLE 4
TITLE INSURANCE/CLOSING/FORT WORTH AGREEMENT

- (1) SELLER will not be required to furnish BUYER with an Owner's Policy of Title Insurance. However, the property to be conveyed in fee shall be conveyed by General Warranty Deed without liens or encumbrances of any kind on any portion of the Water System. If SELLER cannot furnish BUYER with an Owner's Policy of Title Insurance or cannot convey this property by General Warranty Deed without liens or encumbrances of any kind on any portion of the Water System then BUYER and SELLER may negotiate a settlement to transfer the Water System to BUYER which may include agreements with those parties who do hold titles or interests in the Water System, reduction or elimination of \$50,000.00 purchase price, or other stipulations to facilitate the transfer.

Sellers warrants that it has good, clear and marketable title to all assets (real and personal) to be conveyed hereunder. This warranty shall survive closing and shall not be subject to any limitations otherwise provided by law.

- (2) BUYER shall be responsible for obtaining any title insurance desired by BUYER; however, SELLER shall be obligated for clearing up any title deficiencies or limitations not acceptable to BUYER under SELLER'S warranties arising hereunder.
- (3) In the Agreement Regarding Water and Sewer Service (Exhibit B attached) between the City of Fort Worth, Shelcon Water Co., Inc., and Lonesome Dove Development, L'FLD, certain items in the agreement are not acceptable to BUYER. BUYER at his expense will employ lawyers and engineers to try to re-negotiate a new agreement with the City of Fort Worth. If these efforts on the part of BUYER are not successful, then BUYER may offer to reduce or eliminate the \$50,000.00 purchase price to SELLER to close the transfer. If these efforts are not successful then this contract shall become null and void.
- (4) The closing ("CLOSER") hereof shall occur on a mutually acceptable date following receipt of authorization to close the sale contemplated herein from the TCEQ/PUC or its designated representative. Closing shall be timed as near as possible to occur on the last day of the normal billing cycle during which such authorization is received; but in no event Closing shall occur sooner than ten (10) days nor later than thirty (30) days after receipt of such authorization. The Closing may be scheduled by either party upon seven (7) days prior notice to the other party of the date of Closing.
- (5) SELLER and BUYER each agree to exercise diligent, good-faith efforts to obtain TCEQ/PUC approval of the sale contemplated herein. Each part will bear their respective expenses in regard to such proceedings.
- (6) If the TCEQ/PUC denies the parties' approval application then this Contract shall become null and void.

ARTICLE 5
REMEDIES

The parties acknowledge that full and faithful performance of this Contract is material to each respective party and their willingness to be bound by the same. The parties further acknowledge that full and faithful compliance with all TCEQ/PUC or applicable governmental orders issued during the regulator review and approval proceeding(s) arising there from is critical to the successful closing of this Contract. Accordingly the parties agree that the principal, but not exclusive, remedies for any breach hereunder shall be:

IF BUYER fails to comply herewith, BUYER shall be in default, and SELLER may;

- (A) enforce the Contract through judicially ordered specific performance; or
- (B) seek such other relief in equity or as may be provided by law

IF SELLER fails to comply herewith, SELLER shall be in default, and

BUYER may

- (A) enforce the Contract through judicially ordered specific performance; or
- (B) Seek such other relief in equity or as may be provided by law.

**ARTICLE 6
ABSTRACTS AND HOLD HARMLESS AGREEMENTS**

- (1) BUYER is hereby advised that he should have the abstract covering the herein described real estate examined by an attorney of his selection, or be furnished with or obtain a policy of title insurance.
- (2) There are no brokers in this transaction for either party. SELLER and BUYER each agree to save and hold each other harmless from any liability or claim for any commission to any third party claiming by, through or under SELLER or BUYER, respectively.

**ARTICLE 7
SPECIAL PROVISIONS**

- (1) Addresses for Notice. The addresses of the parties for purposes of notice, correspondence or other matters arising here from shall be the following until written notice to the other parties any change:

SELLER:
Shelcon Services
4101 W. Green Oaks Boulevard
Suite 305
PMB 143
Arlington, TX 76016

With copy to:

BUYER: Crest Water Company -- James Dyche (Owner)
POB 460/840 N. Old Betsy Road
Keene, TX 76059
817-645-5493

Mr. Charlie Gillespie
Consulting Environmental Engineers
150 N. Harbin Dr. Suite 408
Stephenville, TX 76401

- (2) This Contract supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Contract which is not contained herein shall be valid or binding.
- (3) This Contract shall be binding on the heirs, executors, administrators, legal representatives, successors and permitted assigns of the respective parties. This Contract may not be assigned by either party without written consent of the other party, which consent shall not be unreasonable withheld.

- (4) This Contract may be amended by the mutual agreement of the parties herein in a written instrument specifically referencing this Contract.
- (5) The headings used in this Contract are for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Contract.
- (6) Wherever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.
- (7) Any and all notices or other communications required or permitted by this Contract or by law to be delivered to, served on, or given to either party to this Contract, by the other party to this Contract or by the Title Company, shall be in writing and shall be deemed properly delivered, given or served when personally delivered to either party, BUYER or SELLER, to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, certified mail, return receipt requested, at the address for notices set forth in this Contract. BUYER or SELLER may change this address for the purposes of this Paragraph by giving written notice of the change to the other party in the manner provided in this Section.
- (8) If SELLER is not a "foreign person" as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act, as amended ("the federal tax law"), then at the Closing, SELLER will deliver to BUYER a certificate so stating, in a form complying with the federal tax law. IF SELLER is a "foreign person" or if the SELLER fails to deliver the required certificate at the CLOSING, then in either such event SELLER shall comply with the withholding provisions of the federal tax law.
- (9) This Contract is performable in Tarrant County, Texas. All parties agree that if any party should default on any of the conditions and covenants hereunder or threaten to do so, or should it be necessary for any reason for either to hire or retain an attorney to represent them in connection with this Contract, the party found to be responsible agrees to pay the prevailing party a reasonable amount for costs and attorney's fees. The parties agree that this agreement may be enforceable by specific performance as well as any other remedy available at law or in equity. Venue over any civil cause of action arising from this agreement shall lie in the court of Tarrant County, Texas unless such action may be jointed with a cause of action arising under the parties contract for the operation of the Water System in which case, the parties agree that venue shall lie in Tarrant County, Texas and shall be subject to and interpreted by the laws of the State of Texas.
- (10) The parties acknowledge herein that the performance of various covenants and obligations arising hereunder shall not occur until after closing. Therefore, all covenants and obligations created by and terms of conditions of this Contract shall survive closing and shall be binding on all parties, their heirs, successors, and assigns. After closing of the sale of the Water System, BUYER shall have exclusive control over the management and operation of the Water System, subject only to governmental health, safety, and service regulations. After closing, SELLER's only interest in the Water System shall be that of User.

(11) There are no third party beneficiaries of this Contract not expressly named herein and none are intended.

EXECUTED IN Tarrant COUNTY, TEXAS ON December 12 2016.

SELLER

By: [Signature]

Name Michelle Blackford

Title Owner

State of Texas
County of Tarrant

Before me, a notary public, on this day personally appeared
Michelle Blackford
known to me to be the person whose names is subscribed to the
foregoing document and, being by me first duly sworn, declared
that the statements therein contained are true and correct

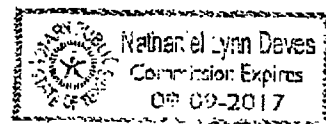
12-09-2016
[Signature]

BUYER:

By: James A. Dyche

Name James A. Dyche

Title Owner - Crest Water Co.



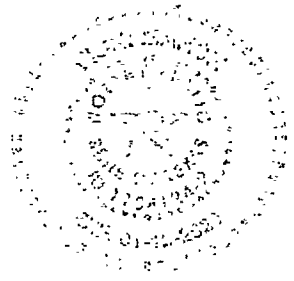
ATTESTATION FORM

I, James A. Dyche, being first duly sworn, hereby declare that I sign and execute Contract for the Purchase of a Public Drinking Water System in Tarrant County, Texas willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

James A Dyche

STATE OF TEXAS)
COUNTY OF JOHNSON) SS.

Subscribed, sworn to and acknowledged before me by this 9th day Dec. of 2016.



Vicki Marsh
Notary Public