

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

EVERGREEN SEWAGE DISPOSAL, INC.,)
NOTICE OF SURRENDER AND ABANDONMENT)
OF UTILITY PROPERTY CONSISTING OF A FRANKLIN)
COUNTY WASTEWATER TREATMENT PLANT)

Case No. 2016-00290

**MOTION TO CONTINUE HEARING AND TO AMEND THIS CASE
TO A PETITION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO
TRANSFER OWNERSHIP**

Comes Evergreen Sewage Disposal, Inc., by counsel (“Petitioner”) and for its Motions herein and states as follows:

1. This case began with Petitioner’s Notice to Abandon it’s Wastewater Treatment Plant in Franklin County, Kentucky, pursuant to which a hearing is scheduled for January 11, 2017.
2. On January 4, 2017, the Petitioner and the Farmdale Sanitation District (“Farmdale”) entered into a written agreement to voluntarily transfer ownership of the utility to Farmdale; a copy of the Agreement is attached hereto and is incorporated by reference into this Motion.
3. Pursuant to KRS 220.030, Farmdale was established to, among other things, provide for the collection and disposal of sewage and to prevent and correct the pollution of streams.
4. The Petitioner moves the Commission to consider this Motion, an amendment to its initial filing in this case, and to consider further proceedings as a Petition for a Certificate of Convenience and Necessity pursuant to KRS 278.020, et seq.
5. In support of this amended petition, the Petitioner states Farmdale has the financial, technical and managerial ability to provide reasonable service to the Petitioner’s ratepayers as required by KRS 278.020(5).

WHEREFORE, the Petitioner moves the Commission to continue the hearing scheduled for January 11, 2017, and to consider this Motion a Petition for a Certificate of Convenience and Necessity to transfer ownership of the utility to Farmdale.

Respectfully Submitted,



John B. Baughman

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Counsel for Evergreen Sewage Disposal, Inc.

AGREEMENT

THIS AGREEMENT TO PURCHASE REAL ESTATE made this 4th day of January, 2017, by and between **Evergreen Sewage Disposal System, Inc.**; 4125 Lawrenceburg Road, Frankfort, Kentucky 40601, hereinafter referred to as (“Seller”), and **Farmdale Sanitation District**, 321 West Main Street, Frankfort, Kentucky 40601, hereinafter referred to as (“Buyer”).

WHEREAS, the Seller operates a Waste Water Treatment Plant (“WWTP”), on the property described below, which is regulated by the Kentucky Public Service Commission, (“PSC”); and,

WHEREAS, the Seller has filed Case No. 2016-00290 with the PSC giving notice of its intention of abandoning the property and the operation of the WWTP, and the parties anticipate the PSC will authorize the requested abandonment and the Franklin Circuit Court will appoint the Buyer as the Receiver for said WWTP; and,

WHEREAS, the Seller intends to convert the abandonment action before the PSC to a request for approval of a voluntary transfer pursuant to the terms of this Agreement;

NOW THEREFORE, WITNESSETH:

For **ONE DOLLAR (\$1.00)** and other good and value consideration, the Seller agrees to sell to Buyer, who agrees to buy from Seller, certain real property located on Lawrence Street in Franklin County, Kentucky, with all appurtenances thereto and improvements thereon (“the property”) which is more particularly described on Exhibit “A” attached hereto upon the following terms:

1. The Seller shall be responsible for all its debts and financial obligations until the day of the closing and will hold the Buyer harmless from any liability thereon.

2. In addition to the real property shown on Exhibit "A", the Seller shall also transfer to Buyer all of its bank accounts, business records and any personal property used in the operation of the WWTP; except the parties agree the Seller may use so much of its cash on hand as may be necessary to pay off and satisfy any of its debts.
3. The Buyer and Seller will each pay customary closing costs.
4. If title to the property is not good and marketable as herein provided, this Agreement shall be null and void; neither party shall be entitled to specific performance if the other party defaults on its obligations herein.
5. The parties agree the Buyer's obligations herein are contingent upon Buyer obtaining approval from the PSC for its acquisition of the property.
6. Upon the execution of this Agreement, the Buyer agrees to cooperate with the Seller in obtaining approval of the PSC.
7. The Seller shall continue to operate the WWTP until the PSC approves the transfer contemplated by this Agreement.
8. The Seller agrees to cooperate with the Buyer while the case before the PSC is pending and, upon reasonable notice make the WWTP facility, business records, and bank accounts available for Buyer to review.
9. The Seller shall pay all taxes due and payable in the calendar year 2016.
10. Upon execution of this Agreement, the same shall become binding upon and inure to the benefit of the Buyer and Seller, their respective assigns and successors.
11. Seller and Buyer acknowledge receipt of a full and complete copy of this instrument and declare that it embodies the entire Agreement between them with respect to said property and that no promises, terms, conditions, warranties or agreements other than those herein contained have been made or were relied upon.

IN TESTIMONY WHEREOF, witness the signatures of the Seller and Buyer hereunto affixed the day and year first hereinabove written, this Agreement being executed in duplicate.

SELLER:

Dawn Roman
Witness

By: Mike Dailey
Mike Dailey
Evergreen Sewage Disposal System, Inc.

BUYER:

Dawn Roman
Witness

By: Allan F. Atty
Farmdale Sanitation District

Prepared by:

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EXHIBIT "A"

Lying and being in the Evergreen Subdivision in Franklin County and more particularly described as follows:

Being a portion of Lot#23 of the Evergreen Subdivision of record in Deed Book 160, at page 360, Franklin County Court Clerk's Office and resub-divided as Lot#23F as shown and designated on said plat of record in Deed Book 223, page 279, in the office of the aforesaid.

Being Partial No. 6 conveyed to Roscoe Peach and Icie Peach, his wife, by Chat Chancellor, Special Master Commissioner, by deed dated November 26, 1975, and of record in Deed Book 263, page 440, Franklin County Court Clerk's Office.

Being Partial No. 6 conveyed to Evergreen Sewage Disposal, Inc., by Roscoe Peach and Icie Peach his wife, by deed dated April 15, 1977, and of record in Deed Book 299, page 575, Franklin County Court Clerk's Office.