

RESOLUTION NO. 2008-02

A resolution of North Kootenai Water District, Kootenai County, Idaho, authorizing the transfer of water system assets of East Season Acres Homeowner Association to North Kootenai Water District; Authorizing the appropriate officials of the District to execute documents and providing for other matters properly relating thereto.

NORTH KOOTENAI WATER DISTRICT
KOOTENAI COUNTY, IDAHO

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF NORTH KOOTENAI WATER DISTRICT, KOOTENAI COUNTY, IDAHO as follows:

WHEREAS, North Kootenai Water District, Kootenai County Idaho, (the "District"), is a duly and properly formed water district under and by virtue of the laws of the State of Idaho and is governed by a Board of Directors (the "Board"), and as such is authorized and empowered to acquire water system assets; and

WHEREAS, the East Season Acres Home Owners Association ("Association") previously agreed to transfer the assets of their water system to the District; and

WHEREAS, the Board wishes to authorize its officers to execute the appropriate documents to accept the water system assets and ownership thereof;

NOW, THEREFORE, IT IS HEREBY FURTHER RESOLVED as follows:

Section 1: INCORPORATION OF RECITALS

The recitals set forth herein are incorporated by this reference.

Section 2: RATIFICATION OF ACTION

The Board hereby agrees to accept, on the terms set forth in the Agreement for Acquisition of Water Facilities ("Agreement"), the assets of the Association effective the date the Agreement was originally executed by the Association. The Board also ratifies its decision to authorize the appropriate officials of the District to execute all documents associated with this transfer, including, but not limited to, the Agreement (attached hereto as Exhibit "A").

Section 3: EFFECTIVE DATE OF RESOLUTION

This Resolution shall take effect and be in full force from and after its passage and approval.

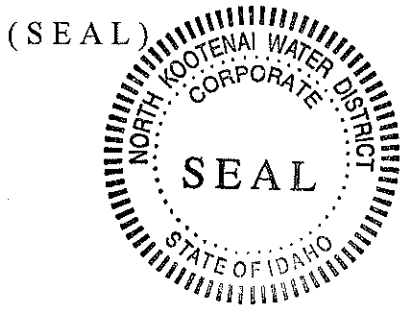
PASSED at a regular meeting of the Board of Directors, North Kootenai Water District, Kootenai County on the 17th day of January, 2008, upon which a roll call vote was duly taken and duly enacted.

NORTH KOOTENAI WATER DISTRICT

Jack Berger
Chairman

ATTEST:

Banhurst
Secretary



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I, the undersigned, Secretary of the Board of the North Kootenai Water District, Kootenai County, Idaho, hereby certify that the foregoing Resolution is a full, true, and correct copy of the Resolution duly adopted at a regular meeting of the Board, duly and regularly held at the regular meeting place thereof on January 17, 2008, of which meeting all members of the Board had due notice and at which a majority thereof were present; and that at said meeting said Resolution was adopted by the following vote:

AYES, and in favor thereof, Directors: *Five*

NAYS, Directors: *None*

ABSENT, Directors: *None*

ABSTAIN, Directors: *None*

I further certify that I have carefully compared the same with the original Resolution on file and of record in my office; that said Resolution is a full, true, and correct copy of the original Resolution adopted at said meeting; and that said Resolution has not been amended, modified, or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the North Kootenai Water District, Kootenai County, Idaho, on January 17, 2008.

Banhurst

Secretary

(SEAL)



EXHIBIT

“A”

11228
EAST
SEASONS

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AGREEMENT FOR ACQUISITION OF WATER FACILITIES

THIS AGREEMENT FOR ACQUISITION OF WATER FACILITIES ("Agreement") is entered into and effective as of March 23, 2005, by and between the NORTH KOOTENAI WATER DISTRICT, a municipal subdivision of the State of Idaho (the "District"), and East Seasons Acres Homeowners Association, Inc., ("Owner"), with reference to the following facts:

- A. Owner is presently the owner of a complete water system serving properties within the Seasons Acres Subdivision, including, without limitation, water rights, meters, pumps, well, reservoir, well lot, transmission lines and related facilities used in the delivery of water to its members and customers, hereinafter the ("Facilities"). As used in this Agreement, the term "Facilities" shall be deemed to include all right, title, and interest in and to all property, both real and personal, which are necessary for the ownership, operation, and maintenance of the Facilities for their intended purpose.
- B. District is the owner and operator of an extensive water system serving customers in the vicinity of Owner's facilities.
- C. District desires to acquire the Facilities so that they can become part of the water system operated by the District and Owner's members will receive water service from the District. Owner has agreed to convey the Facilities to the District, according to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

- 1. Conveyance of Facilities. Owner, being duly authorized by its members, hereby conveys and transfers to the District all of Owner's right, title, and interest in and to the Facilities as presently existing. The components of the Facilities are described more particularly in Exhibit A to this Agreement. Owner hereby warrants that title to all components of the Facilities is presently vested in the Owner and that the conveyance thereof is free of all encumbrances.
- 2. Consideration for Takeover. The consideration for the acquisition of the Facilities by the District is the assumption by the District of the obligation to operate and maintain the Facilities as part of the water system owned and operated by the District and make water for residential use available to the members of the Owner and

their successors in interest on the same basis as other residential customers of the District.

3. Inspection of System; Warranty of Condition. The parties hereby acknowledge that the District and the District's agents, representative, and engineers have had access to the Facilities prior to the execution of this Agreement in order to conduct reasonable studies, tests, and inspections, and that all observed defects have been corrected to the District's satisfaction excepting the construction of the water reservoir as described in the annexation agreement between the members and the District. However, notwithstanding the District's ability and opportunity to inspect the Facilities, Owner recognizes that portions of the Facilities are not accessible for inspection purposes. Therefor, as a material part of the consideration for the District's agreement to assume responsibility for the Facilities, the Owner hereby specifically warrants: (i) that all parts of the Facilities are in good operating condition, excepting only reasonable wear and tear, and are free from known defects in materials and workmanship; (ii) that Owner has observed a systematic program of inspection and maintenance of all components of the Facilities during its operation; (iii) that the actual location and construction of the Facilities is accurately reflected on the as-built plans on file with the Idaho Department of Health and Welfare; and (iv) there are no liens, encumbrances or contractual obligations of any kind affecting any of the Facilities.

4. Miscellaneous and Procedural.

4.1 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the District and the Owner, and their respective successors-in-interest with respect to the Facilities or this Agreement.

4.2 Attorney's Fees. If legal action is required or deemed necessary to interpret or enforce any of the provision of this Agreement, the prevailing party shall be entitle to recover its cost of suit, including a reasonable attorney's fee incurred in connection therewith.

4.3 Entire Agreement. This Agreement represents the entire understanding of the parties with respect to the acquisition of the Water Facilities, and any

