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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Application for Transfer of Water and Wastewater Facilities of HYDRATECH UTILITIES, INC. to TOWN OF JUPITER ISLAND and Request for Cancellation of Certificates 337-W and 292-S

RECORDS AND REPORTING

DOCKET NO. 980972-WS

APPLICATION FOR TRANSFER OF FACILITIES TO GOVERNMENTAL AUTHORITY AND REQUEST FOR CANCELLATION OF CERTIFICATES

Applicant, Hydratech Utilities, Inc., ("Hydratech"), a Florida Corporation, pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code, files this Application for Transfer of Water and Wastewater Facilities of Hydratech to the Town of Jupiter Island ("Jupiter Island") and Request for Cancellation of Certificates 337-W and 292-S, and says as follows:

1. Hydratech operates under Water Certificate No. 337-W and Wastewater Certificate No. 292-S, and is located in Martin County, Florida.

2. The name and address of Hydratech and its authorized representative, for purposes of this joint application, are:

Hydratech Utilities, Inc.
6570 S.E. Federal Highway
Stuart, Florida 34997-8383
Authorized Representative:
Daren L. Shippy, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555

3. The name and address of Jupiter Island and its authorized representative, for purposes of this joint application, are:

Town of Jupiter Island

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FPSC-RECORDS/REPORTING

103 Bunker Hill road
Hobe Sound, Florida 33475
Authorized Representative:
Mr. James R. Spurgeon
Town Manager
address same as above
(561)546-5011

4. On July 13, 1998, Jupiter Island conducted a public hearing in accordance with Section 180.301, Florida Statutes in which it considered (a) the most recent available income and expense statement for Hydratech (b) the most recent available balance sheet for Hydratech listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon, (c) a statement of the existing rate base of Hydratech for regulatory purposes, (d) the physical condition of Hydratech's facilities being purchased, (e) the reasonableness of the purchase price and terms; (f) the impact of the purchase on Hydratech's customers, both positive and negative; (g) any additional investment required and the ability and willingness of Jupiter Island to make that investment, (h) the alternatives to the purchase and the potential impact on Hydratech's customers if the purchase is not made; and (i) the ability of Jupiter Island to provide and maintain high-quality and cost effective utility service.

Jupiter Island found the transaction to be in the public interest, and as a result, issued its resolution approving the Agreement for Purchase and Sale of Water and Wastewater Assets ("Agreement"). A copy of that resolution is attached hereto as Exhibit "A."

5. The transaction is scheduled to close on or before September 15, 1998.

6. This application must be approved as a matter of right as a sale to a governmental authority pursuant to Section 367.071(4)(a), Florida Statutes.

7. A copy of the Agreement entered into between Jupiter Island and Hydratech is attached hereto as Exhibit "B."

8. Subsequent to the closing of this transaction, Hydratech will retain no assets that would constitute a system providing or proposing to provide water or wastewater service to the public for compensation.

9. Jupiter Island obtained from Hydratech or this Commission, Hydratech's most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction.


10. Pursuant to the Agreement, the liability for all customer deposits and the accumulated interest thereon, will be assigned to Jupiter Island at closing.

11. Hydratech will pay all outstanding regulatory assessment fees and file the final Regulatory Assessment Fee Return with the Division of Administration of the Florida Public Service Commission within the time period required by the rules of the Florida Public Service Commission.

12. Attached as Exhibits "C" and "D," respectively, are copies of Water Certificate No. 337-W and Wastewater Certificate No. 292-S for cancellation.

WHEREFORE, the Hydratech requests that this Commission approve the transfer of its water and wastewater facilities to Jupiter Island as a matter of right, declare Jupiter Island to be exempt from this Commission's jurisdiction, and cancel the water and wastewater certificates of Hydratech.

ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555



DAREN L. SHIPPY
Attorney for Hydratech Utilities,
Inc.

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TOWN OF JUPITER ISLAND FLORIDA

RESOLUTION NO. 378

A RESOLUTION OF THE TOWN OF JUPITER ISLAND, FLORIDA, APPROVING THE EXECUTION OF A TRANSFER AGREEMENT WITH THE HOBE SOUND WATER COMPANY; APPROVING THE EXECUTION OF A TRANSFER AGREEMENT WITH HYDRATECH UTILITIES, INC.; APPROVING THE EXECUTION OF A FACILITY PRIVATIZATION CONTRACT; DETERMINING THAT THE PURCHASE OF THE WATER ASSETS OF THE HOBE SOUND WATER COMPANY IS IN THE PUBLIC INTEREST; DETERMINING THAT THE PURCHASE OF THE WATER AND SEWER ASSETS OF HYDRATECH UTILITIES, INC., IS IN THE PUBLIC INTEREST; DETERMINING THAT THE PRIVITIZATION OF THE OPERATIONS AND MANAGEMENT FUNCTIONS OF THE COMBINED WATER AND SEWER ASSETS TO BE ACQUIRED BY THE TOWN IS IN THE PUBLIC INTEREST; AND SETTING FORTH A STATEMENT SHOWING SAME; AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE THE NECESSARY DOCUMENTS IN CONNECTION WITH THESE TRANSACTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Commission has reviewed and considered, at a minimum, the materials and information required under Section 180.301(1)-(9), Florida Statutes; in conjunction with its determination whether the proposed acquisition by the Town of Jupiter Island of the water assets of the Hobe Sound Water Company and the water and sewer assets of Hydratech Utilities, Inc., is in the public interest and that the privatization of the operations and management functions of the combined water and sewer assets to be acquired is in the public interest;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA:

Section 1. A. The Transfer Agreement between the Town of Jupiter Island and the Hobe Sound Water Company, the material form of which agreement is attached to this Resolution and incorporated in this Resolution, (the "HSW Agreement") is hereby approved.



B. The Transfer Agreement between the Town of Jupiter Island and Hydratech Utilities, Inc., the material form of which agreement is attached to this Resolution and incorporated in this Resolution (the "HTU Agreement") is hereby approved.

C. The Operations and Management Privatization Agreement between the Town of Jupiter Island and U.S. Filter Operating Services, Inc., the material form of which agreement is attached to this Resolution and incorporated in this Resolution (the "Privatization Agreement") is hereby approved.

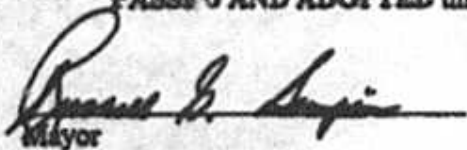
Section 2 The Town Commission makes the following statement required under Section 180.301, Florida Statutes, regarding the purchase of the water assets of the Hobe Sound Water Company, the purchase of the water and sewer assets of Hydratech Utilities, Inc., and the privatization of the operations and management of the water and sewer assets to be acquired:

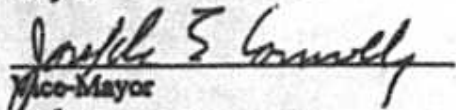
The Town Commission finds that the purchase of the water assets of the Hobe Sound Water Company, the purchase of the water and sewer assets of Hydratech Utilities, Inc., and the privatization of the operations and management of the water and sewer assets so acquired is in the public interest. The Privatization firm of U.S. Filter Operating Services, Inc. has the summary experience in operations and management of utility systems as set forth on the attached proposal, and has the financial ability to provide the service based upon the attached proposal and based upon a pro-forma analysis of the anticipated revenues and expenses of the utility systems to be acquired.

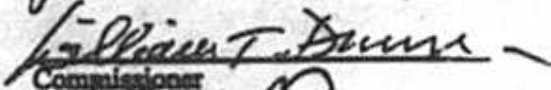
Section 3 The authorized representatives of the Town of Jupiter Island, including the Mayor, the Vice Mayor, the Town Clerk, and the Town Manager are hereby authorized and directed to execute and deliver all documents as necessary to effectuate the terms of the HSW Agreement, the HTU Agreement and the Privatization Agreement, upon the review of counsel for the Town as to completeness and consistency with the approval of the Town Commission.

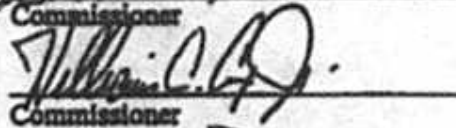
Section 4 This Resolution shall take effect immediately upon passage.

PASS'D AND ADOPTED this 13th day of July, 1998.


Mayor

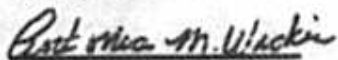

Vice-Mayor


Commissioner


Commissioner


Commissioner

Attest:


Town Clerk

**WATER AND WASTEWATER UTILITY SYSTEM ASSET
TRANSFER AGREEMENT**

THIS AGREEMENT, is made and entered into as of this 17th day of July, 1998, by and *Smk*
SPD
between the Town of Jupiter Island, a political subdivision of the State of Florida (the "Town"),
and Hydratech Utilities, Inc., a Florida corporation, ("HTU").

WITNESSETH:

WHEREAS, HTU owns and operates a water supply, treatment transmission and distribution system and a wastewater collection, pumping, treatment, and disposal system, which provides service within Martin County, Florida pursuant to certificate(s) of authorization granted by the Florida Public Service Commission ("PSC"); and

WHEREAS, the Town has the power and authority to provide potable water and wastewater infrastructure and service within Martin County; and

WHEREAS, the Town held a public hearing pursuant to Section 180.301, Florida Statutes, on the proposed acquisition of all or substantially all of the water and wastewater utility assets owned by HTU in Martin County, Florida, per this Agreement and has made a determination that such an acquisition is in the public interest; and

WHEREAS, the Town, in determining if such an acquisition is in the public interest considered, at a minimum, all of the factors referenced in Section 180.01, et seq., Florida Statutes; and

WHEREAS, the acquisition of the Utility System by the Town has been determined by the Town to be in the best interest of the Town, and the Town has threatened to acquire the Utility System from HTU by exercise of the Town's power of eminent domain. HTU is willing to sell the Utility System to the Town in lieu of the Town's instituting an eminent domain



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proceeding; and the Town has agreed to purchase the Utility System from HTU in lieu of eminent domain proceedings and in settlement of this matter upon the terms and conditions set forth in this Agreement. HTU would not sell its Utility System to the Town, but for the Town's position that it would institute a condemnation action against HTU if HTU did not accept this Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, and other good and valuable consideration exchanged between the parties, the parties to this Agreement do undertake, promise and agree for themselves, their successors and assigns as follows:

ARTICLE I DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Agreement, the following terms shall have the meanings as defined herein unless the context requires otherwise:

"Agreement" means this Water and Wastewater Utility System Asset Transfer Agreement, including any amendments and supplements hereto executed and delivered in accordance with the terms hereof.

"Commission" means the Town Commission of the Town of Jupiter Island, Florida.

"HTU" means Hydratech Utilities, Inc., a Florida corporation, and its successors.

"Town" means the Town of Jupiter Island, a municipal corporation organized under the laws of the State of Florida.

"Easements" mean all existing rights, privileges, easements, licenses, prescriptive rights, rights-of-ways, and rights to use public and private roads, highways, streets, railroads and other areas owned or used by HTU in connection with the construction, reconstruction, installation,


expansion, maintenance and operation of its water and wastewater system or the Purchased Assets.

In this regard, HTU shall identify, with reasonable particularity, Easements covering all distribution and collection facilities of the utility system, with true copies of the Easement Agreements, containing legal descriptions of the lands covered by the Easements. Easements located in recorded plats and rights to locate lines and dedicated public right-of-ways shall be identified.

"Connection" means an actual water meter set or wastewater tap-in by an actual customer of the Town within the utility service area of the Town, with the exception of all water meters set for all actual customers within the water utility service area of Hobe Sound Water Company within Martin County, Florida, pursuant to certificate(s) of authorization granted by the Florida Public Service Commission, as such water service area exists at the date of closing on the Hobe Sound Water Company transaction.

"Equivalent Residential Connection (ERC)" means for water, a single family residential customer with an average usage of 350 gallons per day (gpd), and for wastewater, a single family residential customer with an average usage of 250 gpd, in conformance with the Town's current service availability policy; and if the Town's service availability policy changes with reference to the above usage factors, then an ERC will be adjusted to be in accordance with the Town's then current service availability policy.

"Excluded Assets" mean those assets, business properties, rights, obligations or liabilities, both tangible and intangible, of HTU, including all bank accounts, income tax escrow accounts and such other assets described in Appendix A hereto which shall not be and are not to be sold, conveyed, transferred to or assumed by the Town pursuant to this Agreement.



"Gross Revenues" means the pro forma revenues to be generated from the base facility charges, commodity rates, late fees and customer service fees charged to customers of the HTU water ^{AND} wastewater systems, within the utility service area of HTU within Martin County, Florida, pursuant to the approved tariffs of HTU authorized by the Florida Public Service Commission, as of the date of closing; and if the Town acquires the utility system of the Hobe Sound Water Company, Gross Revenues shall also include the pro forma revenues to be generated from the base facility charges, commodity rates, late fees and customer service fees charged to wastewater customers of the Hobe Sound Water Company wastewater system within the wastewater utility service area of Hobe Sound Water Company within Martin County, Florida, pursuant to the approved tariffs of Hobe Sound Water Company authorized by the Florida Public Service Commission, as of the date of the closing on the Hobe Sound Water Company transaction. In no event shall Gross Revenues include connection charges, guaranteed revenues, standby fees or like fees or charges. The pro forma revenues shall be determined based upon the number of customers multiplied by the applicable base facility charge plus the gallonage usage by each customer multiplied by the applicable commodity charge.

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"Purchased Assets" mean all or substantially all of the water and wastewater utility assets owned by HTU as described and referenced in Section 3.02(A) hereof

"Permitted Exceptions" mean those title exceptions described in Appendix B hereto.

"Utility System" means the HTU water supply, treatment, transmission and distribution system and the wastewater collection, pumping, treatment, and disposal system, which provide services within Martin County, Florida pursuant to certificate(s) granted by the Florida Public Service Commission.

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SECTION 1.02. CONSTRUCTION AND INTERPRETATION.

(A) Words that indicate a singular number shall include the plural in each case and vice versa, and words that import a person shall include firms and corporations.

(B) The terms "herein," "hereunder," "hereby," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of execution of this Agreement; and the term "hereafter" shall mean on or after the initial date of execution of this Agreement.

(C) Words that reference only one gender shall include all genders.

(D) This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 1.03. INCORPORATION. The appendices hereto and each of the documents referred to therein are incorporated and made a part hereof in their entirety by reference.

SECTION 1.04. SECTION HEADINGS. Any headings preceding the texts of the several Articles, Sections or Appendices in this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for the convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

**ARTICLE II
REPRESENTATIONS**

SECTION 2.01. REPRESENTATIONS OF THE TOWN. The Town makes the following representations, which shall not survive any closing hereunder.

(A) The Town is duly organized and validly existing as an incorporated municipality under the laws of the State of Florida.

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(B) The Town has all power and authority to enter into the transactions contemplated by this Agreement.

(C) The Town has fulfilled and complied with the provisions of Section 180.01, et seq., Florida Statutes, relative to the acquisition of a water and sewer utility by a Town.

(D) To the best of its knowledge and belief after due inquiry, the Town is not in default under any provisions of the laws of the State of Florida material to the performance of its obligations under this Agreement. The Commission has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by other parties hereto, this Agreement constitutes a valid and legally binding obligation of the Town, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion of a court of competent jurisdiction in accordance with general principles of equity.

(E) To the best of the Town's knowledge and belief after due inquiry, the authorization, execution and delivery of this Agreement and the compliance by the Town with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order, or any provision of the Constitution, or the laws of the State of Florida relating to the Town or its affairs, or any ordinance, resolution, agreement, lease, or other instrument to which the Town is subject or by which it is bound.

SECTION 2.02. REPRESENTATIONS OF HTU.

HTU makes the following representations, which shall not survive the closing hereunder.

(A) HTU is a corporation duly organized, validly existing and in good standing in the State of Florida, authorized to do business in the State, and has all requisite corporate power and

authority to enter into and fully perform this Agreement. The Purchased Assets represent all or substantially all of the assets of HTU.

(B) All necessary corporate action on the part of HTU relating to the direction and authorization of HTU's execution, delivery and performance of this Agreement has been duly taken, and this Agreement will be valid and enforceable against HTU, in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion of a court of competent jurisdiction in accordance with the general principles of equity.

(C) There is no action, suit, investigation, or proceeding pending or, to HTU's knowledge and belief, none threatened against or affecting HTU at law or in equity or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency or instrumentality, wherein any decision, ruling or finding would adversely affect the transactions contemplated hereby or which in any way would adversely affect the validity of this Agreement or any other agreement or instrument to which HTU is a party which is used or contemplated for use in the consummation of the transactions contemplated hereby.

(D) To the best of HTU's knowledge and belief and after due inquiry, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated, nor compliance with the terms and provisions of such instruments will violate the provisions of any applicable law or any applicable order or regulation of any governmental authority having jurisdiction over HTU and will not conflict with or result in a material breach of any terms, conditions or provisions of any agreement or instrument to which HTU is now a party, or constitute a default thereunder.

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(E) HTU has good and marketable title to the Purchased Assets and, at closing, shall have the power and authority to deliver sole and exclusive title and possession of the Purchased Assets to the Town free and clear of all encumbrances or security interests, subject only to the Permitted Exceptions.

(F) Appendix C, attached hereto, is a schedule of all plans, specifications, surveys and as-built drawings which substantially describe the Utility System's water and wastewater plants, water supply facilities, water transmission and distribution and wastewater collection and disposal systems, lift or pump stations and all other utility facilities.

(G) Appendix D, attached hereto, is a schedule of all current or active permits, applications or other documents, together with effective dates and any expiration dates which authorize the operation of the Utility System's water and wastewater facilities by all applicable governmental authorities. HTU warrants that all of the Utility System's facilities are legally permitted, and that all required renewals of permits have been timely and legally applied for.

(H) Appendix E, attached hereto, is a map or maps of the Utility System which is representative of HTU's water and wastewater plants, water supply facilities, water transmission and distribution system, wastewater collection and disposal system and the Utility System's current certificated water and wastewater service areas.

(I) Appendix F, attached hereto, is the inventory of the equipment, vehicles, tools, parts, laboratory equipment, computer equipment, software, and other personal property used by HTU in connection with the operation of Utility System, together with HTU's current depreciation schedule including purchase date, purchase cost, depreciable life and accumulated depreciation.

(J) Appendix G, attached hereto, is a schedule of all executory agreements, sometimes referred to as developer agreements, entered into by HTU or its predecessors, and owners or

developers of real property for the provision of water and wastewater utility services through the Utility System.

(K) Appendix H, attached hereto, is a schedule of all other agreements entered into between HTU, its predecessors, or third parties which would reasonably be considered to be an encumbrance upon the Purchased Assets, including without limitation, any leasehold agreements or oral agreements, if any. Any oral agreements have been so identified by HTU on said schedule with a narrative of the terms thereof included therein.

(L) Appendix I, attached hereto, are the Florida Public Service Commission Orders, containing HTU's water and sewer tariffs, which collectively represent and contain the most current schedule of rates, fees and charges that HTU is authorized to impose, together with HTU's last two (2) annual reports filed with the PSC.

(M) Appendix J, attached hereto, is a schedule of any and all insurance policies currently enforceable that cover HTU as they may relate to the Purchased Assets. Such appendix indicates the name and address of each carrier, the policy number, the date the policy expires, and the type of coverage provided.

(N) From and after the date of the execution of this Agreement, the Utility System and all of the Purchased Assets will be properly maintained within the custom and usage of the industry up until and through closing.

(O) HTU has not been cited nor notified, and is not, after due inquiry, aware of any violation of any governmental rule, regulation, permitting condition, or other governmental requirement of any type or nature applicable to the ownership, maintenance, construction or operation of the Utility System, nor is HTU aware of any conditions which by reason of the

passing of time or the giving of notice by the appropriate governmental agency would constitute such a violation.

(P) The subject water and wastewater plants, facilities and appurtenances are located on real property which has been zoned by appropriate authorities under zoning certifications, special exceptions or variances, or rights of use which will permit the respective use of such parcels for water and wastewater utility purposes.

(Q) To the best of HTU's knowledge and belief, the Real Property and Easements to be conveyed to the Town hereunder are in compliance with, and HTU has not violated, in connection with its ownership, use, maintenance, or operation of the Utility System, applicable environmental, federal, state, Town, or local laws relating to pollution or protection of the environment, including but not limited to, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Resource Conservation and Recovery Act. HTU has not authorized the placing or depositing of hazardous substances on the Real Property and Easements to be conveyed to the Town except, if at all, in accordance with applicable law, and HTU has no actual knowledge of any hazardous substance having been, or currently being, placed or deposited on said Real Property and Easements except in a lawful manner.

(R) There are no facts actually known to HTU materially affecting the physical condition of the Utility System or Purchased Assets which are not readily observable or which have not been disclosed or provided to the Town in connection with this transaction or otherwise.

(S) The information provided to the Town by HTU in conjunction with the Agreement, including the exhibits to this Agreement, are true and correct and do not omit any material fact

necessary to make the information provided by HTU not misleading to the Town to the best of HTU's knowledge.

HTU makes the following representations, which shall survive closing, for a period of one year from the date of closing.

(T) HTU has not dealt with any broker, salesman or finder in connection with the transactions contemplated herein and no sales commissions or finder's fees are due or payable as a result hereof. HTU and the Town each agrees to indemnify and hold the other harmless against any claim or demand made by any broker or agent claiming to have dealt or consulted with them in this transaction.

(U) The Real Property identified in Appendix K, attached hereto, represents all of the real property owned by HTU and used in the operation of the Utility System and the Purchased Assets.

(V) To the best of HTU's knowledge and belief, the Easements identified in Appendix L, attached hereto, represent all of the Easements necessary for use in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Utility System and the Purchased Assets, and all of the Purchased Assets are located completely and legally within the Easements and Real Property.

(W) To the best of HTU's knowledge and belief, HTU possesses an enforceable easement interest in the Easements shown on Appendix L hereto and none of the easement interests prohibit assignment or require the grantor's, or current fee owner's, consent thereto.

(X) No present possessory interest in any real or personal property owned, used or controlled by HTU has ever automatically terminated or reverted to the grantor thereof as a result

of any failure to continuously use such property for water or wastewater purposes; nor is HTU aware of any claim, whether actual or threatened, of any such reversion.

(Y) Appendix M, attached hereto, is a schedule of all operating and vendor contracts affecting the Utility System.

(Z) Appendix N, attached hereto, is a schedule with respect to all executory agreements under which HTU as the owner of the Utility System has any continuing or outstanding water or wastewater service obligations as of July 1, 1998, which shows the total number of (1) contractual connections; (2) contractual connections paid for and not yet connected; (3) contractual connections not yet paid for and not yet connected; and (4) any contractual connections for which HTU has or expects to begin collecting a periodic minimum or base facility charge prior to closing.

(AA) From and after the date of the execution of this Agreement, HTU will not, without the prior written consent of the Town, dispose of or encumber any of the Purchased Assets, with the exception of non-material transactions occurring in the ordinary course of HTU's business.

(BB) From and after the date of the execution of this Agreement, there will be no material depletion of the Purchased Assets and no adverse material change in the condition of the Purchased Assets.

(CC) No employment contract exists under which HTU is the employer that cannot be canceled within 30 days' notice or less and without payment of any consideration for such cancellation.

(DD) HTU is in sole and exclusive possession of the Purchased Assets, and HTU at closing shall deliver sole and exclusive possession of the Purchased Assets to the Town.

**ARTICLE III
PURCHASE AND SALE OF ASSETS**

SECTION 3.01. PURCHASE AND SALE COVENANT. At closing, the Town shall purchase and HTU shall sell and convey the Purchased Assets to the Town upon the terms and subject to the conditions set forth in this Agreement.

SECTION 3.02. PURCHASED ASSETS.

(A) The Purchased Assets, exclusive of the Excluded Assets, shall include those assets, business properties, and rights both tangible and intangible, that HTU owns or uses in conjunction with the operation of the Utility System located in Martin County, Florida, or any interest in which HTU has or hereafter acquires, relating thereto, including the following:

(1) All Real Property and interests, whether recorded in the public records or not, in Real Property owned, used or controlled by HTU as described in Appendix K hereof, including the 9.6 acre vacant parcel of property located to the west of the HTU water treatment facilities. With respect to said 9.6 acre parcel, HTU shall either (a) acquire fee simple title prior to closing and then convey same to the Town free and clear of all encumbrances; or (b) cause the owner of such parcel to so convey same to the Town at closing.

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(2) All water and wastewater treatment plants, wells, collection, transmission, distribution, pumping, effluent and disposal facilities of every kind and description whatsoever including without limitation, all trade fixtures; leasehold improvements, lift stations, pumps, generators, controls, tanks, distribution, collection or transmission pipes or facilities, valves, meters, service connections, and all other physical facilities and property installations used in the operation of the Utility System, together with an

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assignment of all existing and assignable third party warranties that relate to completed or in progress construction.

(3) All equipment, owned vehicles, tools, parts, laboratory equipment, and other personal property owned or used by HTU in connection with the operation of the Utility System more particularly described in ^{the inventory part of} Appendix F of this Agreement.

(4) All Easements in favor of HTU or its predecessors in interest to the Utility System, including but not limited to, the Easements more particularly described in Appendix L of this Agreement.

(5) All current customer records and supplier lists, as-built surveys, record information and water and wastewater plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, and operating manuals, calculations, and studies, accounting, and all other information controlled by or in the possession of HTU that relates to the description and operation of the Utility System, inclusive of all pertinent computers, computer records and the lawful use of all computer software which is or was used in the operation of the Utility System for billing or customer record keeping purposes, all agencies for the supply of water; all water rights, flowage rights and riparian rights, and all consents, grants, licenses, privileges and uses necessary to construct, maintain and operate plants and systems for the procuring, treatment, distribution, transmissions of water to the customers of the Utility System and for the collection, treatment and disposal of sewage from the customers of the Utility System; all telephone numbers, post office boxes, FCC licenses, and all water storage tanks, ~~which shall be full~~ . The lawful use of any licensed software or proprietary software developed for HTU shall be limited to the recovery and transfer of data to Town computers. In any

event, HTU shall provide the Town with computer software and data used in the operation of the utility system and will exert its best efforts to provide, or cause to be provided, all computer records within its possession and control, in a format which enables the Town to successfully transfer to and utilize such data on the Town's computer systems.

(6) All necessary transferable regulatory approvals subject to all conditions, limitations or restrictions contained therein; all existing permits and other governmental authorizations and transferable approvals of any kind necessary to operate and maintain the Utility System according to all governmental requirements, as more specifically described in Appendix D to this Agreement. The parties acknowledge that the Public Service Commission certificates held by HTU are not transferable to the Town and will terminate upon the conveyance contemplated hereby.

(7) All rights and obligations of HTU under any existing or proposed agreements and contracts which the Town shall assume at closing.

(B) The Purchased Assets shall be conveyed by HTU to the Town subject to the Permitted Exceptions, but otherwise free and clear of all liens and encumbrances.

(C) The Purchased Assets do not and shall not include the Excluded Assets. The Excluded Assets are more particularly described in Appendix A hereto.

(D) At the time of closing, HTU will assign all of its outstanding developer agreements to the Town, and the Town shall honor the obligation to provide service under these developer agreements.

SECTION 3.03. PURCHASE PRICE AND CONSIDERATION FOR SALE.

(A) The base purchase price shall be TWENTY ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$21,500,000.00) for all of the Purchased Assets of HTU, with the exception of the 9.6 acre parcel referenced in Section 3.02 (A) (1) herein, for which 9.6 acre parcel the Town shall also pay ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) to the Ridgeway Mobile Home Subdivision, Inc., all of which are subject to the terms, adjustments and proration as provided herein, and the funds shall be payable at closing. The Town shall wire transfer these funds, after any applicable credits, proration and any other adjustments as referenced herein, to the Trust Account of the law firm of Rose, Sundstrom & Bentley, LLP, HTU's Closing Agent, at the following location: Capital Bank; 217 North Monroe Street; Tallahassee, Florida 32301; ABA No. 063100688; Telephone: 850-671-0459; Account No. 0293782901; RSB, LLP, as Escrow Agent for Hydratech Utilities, Inc.; Attention: Lynda Breen, Office Manager, Rose, Sundstrom & Bentley.

(B) (1) From and after the closing, and for a period of seventeen (17) years following the date of closing, the Town shall make future payments ("Future Payments") for existing excess capacity in HTU's water and wastewater plants, and said amount of capacity has been found to be adequate by the Town and not subject to further reduction. Within ninety (90) days after the end of each fiscal year, the Town shall provide to HTU an accounting of all connection charges received by the Town for connections made by the Town to its Utility System anywhere, except for water connections in the present, PSC certificated water service area of the Hobe Sound Water Company, since the date of the last accounting. The connection charge tariff of the Town during the period of the

Future Payments will provide for water connection charges of at least \$1600 per Equivalent Residential Connection (ERC) and for wastewater connection charges of at least \$1400 per ERC, or a combined water and sewer connection charge of at least \$3000 per ERC.

The Town shall pay to HTU, within ninety (90) days of the end of such fiscal year, an amount equal to one-half (1/2) of the amount of the connection charges identified in the annual accounting, offset by: (i) any Connection Charge Offset set forth in Section 3.03(B)(2) below; plus (ii) any Shortfall set forth in Section 3.03(C)(1) below. The contingent Future Payments to HTU by the Town shall be made to the Trust Account of the law firm of Rose, Sundstrom & Bentley, LLP, as provided in Section 3.03 (A) herein. The total amount of Future Payments by the Town to HTU (before the offset of any Shortfall or Connection Charge Offset) shall be up to, but shall not exceed, the sum of THREE MILLION DOLLARS (\$3,000,000) (the Future Payments Cap). In the event that the Town's combined water and sewer connection charge is less than \$3000, then for purposes of HTU's Future Payments, the amount of such combined connection charge will be calculated at \$3000 in the annual accounting.

HTU acknowledges that certain developers have paid some monies to HTU toward connection charges pursuant to developer agreements, and that the Town will credit those monies ("pre-paid credits") against the amount of connection charges assessed by the Town for these developers within the time and capacity parameters of this Agreement. HTU acknowledges that the Town's obligations to HTU regarding these connections shall be limited to the net amount received by the Town after deduction of any pre-paid credits, such that HTU will be entitled to one-half (1/2) of the connection

charges received by the Town, not to exceed the total Future Payments Cap provided for in this Agreement. The Town agrees to fulfill HTU's prior service commitments to render service within HTU's PSC certificated service area, if, as and when such service is needed and in accordance with the terms and conditions herein. HTU consents to the Town's temporary borrowing of water from the Utility System in order to construct a reverse osmosis plant as long as such temporary use of water is not to the detriment of HTU or its former or future customers, and if the Town permanently diverts water to serve customers of the Hobe Sound Water Company, then HTU shall get paid for such permanent diversion of water by imputing into the Future Payments the amount of water so transferred. Additionally, if the reverse osmosis plant is not constructed by 4 years following the closing date and the Town continues to divert water to serve customers of the Hobe Sound Water Company, then HTU shall get paid for this diversion of water by imputing into the Future Payments the amount of water so transferred. In the event that the Town imposes a utility moratorium due to lack of plant capacity in the Utility System, (with the exception of water plant capacity for the former Hobe Sound Water Company certificated water service area), then the Town shall pay HTU the balance of the Future Payments Cap less all offsets for any Shortfall and Connection Charge Offset, which balance shall be payable within 120 days of the imposition of such utility moratorium.

It is the intention of the parties hereto that HTU shall be entitled to the opportunity to receive its entire \$3 million in Future Payments, and that the Town assures HTU that it will make such payments to HTU, provided, however, that sufficient additional connections are added to the Utility System over the subject 17 year period.

(2) From and after the date of closing, in the event that Terry Keathley or an entity of which he is a majority shareholder or partner becomes liable for any connection charges to the Town, then the Town shall allow such obligation to be paid as an offset ("Connection Charge Offset") against any Future Payments that may be due and owing to HTU from the Town for the same fiscal year. Should the Future Payments due for such fiscal year, less any Shortfall, not be sufficient to cover the Connection Charge Offset, then the Town shall be entitled to offset such Connection Charge Offset against Future Payments subsequently coming due to HTU. In the event that any Connection Charge Offset remains unpaid at the time when HTU is no longer entitled to Future Payments, then HTU shall pay the remaining Connection Charge Offset to the Town within 90 days of the Town's written demand therefor. As part of the consideration of this Agreement, Mr. Terry Keathley and the Town will enter into the Developer Agreement, attached hereto as Appendix O.

(3) In addition to any other remedy afforded to HTU herein, HTU shall have the right to send in its own auditors to examine the books and records of the Town and to perform any reasonable accounting functions required by HTU in HTU's sole discretion. The Town will cooperate in every reasonable way with HTU in this regard.

(C) (1) HTU guarantees to Town that the Gross Revenues of the water and sewer system received from on-line customers from the date of closing through September 30, 2001, will equal or exceed on an annual basis the amounts set forth on Appendix P (the "Target Gross Revenues"). Within 45 days after the end of each fiscal year ending September 30, from the date of closing through and including September 30, 2001, the Town will perform an accounting of the Gross Revenues of the water and sewer



system based upon the PSC tariff rates of HTU upon which the Target Gross Revenues were based. In the event that such accounting of Gross Revenues for a given fiscal year does not equal or exceed the Target Gross Revenues for that fiscal year, then the difference between the actual Gross Revenues and the Target Gross Revenues (the "Shortfall") shall be payable to the Town by HTU in accordance with the following provisions. Any Shortfall for a given fiscal year shall be payable to the Town as an offset against any Future Payments that may be due and owing to HTU from the Town for the same fiscal year. Should the Future Payments due for such fiscal year, less any Connection Charge Offset, not be sufficient to cover the Shortfall, then the Town shall be entitled to offset such Shortfall against Future Payments subsequently coming due to HTU. If the Shortfall for fiscal year ended September 30, 1999 exceeds ^{\$118,000} \$145,000, HTU's Shortfall obligation to the Town for that fiscal year will be ^{\$118,000} \$145,000. If the Shortfall for fiscal year ended September 30, 2000 exceeds ^{\$146,000} \$210,000, HTU's Shortfall obligation to the Town for that fiscal year will be ^{\$146,000} \$210,000. If the Shortfall for fiscal year ended September 30, 2001 exceeds ^{\$179,000} \$285,000, HTU's Shortfall obligation to the Town for that fiscal year will be ^{\$179,000} \$285,000. In the event that any Shortfall remains unpaid at fiscal year ended September 30, 2001, then HTU shall pay the remaining Shortfall to the Town within 90 days of the Town's written demand therefor; and in the event HTU does not timely pay this remaining Shortfall, the Town, in addition to all other remedies available to it and without waiving any rights or remedies, shall be entitled to offset such Shortfall against Future Payments subsequently coming due to HTU, until there is no remaining Shortfall. In the event that for any given fiscal year up to and including fiscal year ended September 30, 2001, the Gross Revenues exceed the Target Gross Revenues

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(the "Excess"), then any such Excess shall offset dollar for dollar any prior Shortfall payments due to the Town.

(2) During the time period from the date of closing through September 30, 2001, the Town shall deposit any Future Payments determined pursuant to Section 3.03(B)(1) above into an interest bearing escrow account chosen by the Town in its sole discretion. The Town shall have the right to withdraw any payments due the Town from HTU as a result of a Shortfall pursuant to Section 3.03(C)(1) and as a result of a Connection Charge Offset pursuant to Section 3.03(B)(2) herein, and shall have the obligation to make payment to the escrow account of any amount as required as a result of an applicable Excess pursuant to Section 3.03(C)(1). On an annual basis up to and including fiscal year ended September 30, 2001, any funds remaining in the escrow account including interest, after all payments are made to the Town with respect to a Shortfall and a Connection Charge Offset for any fiscal year up to and including September 30, 2001, will be paid by the Town to HTU.

(3) The Town agrees that its books and records pertaining to the operation of the Utility System shall be open and available at all reasonable times to HTU's representatives for purposes of inspection in order to verify whether the Target Gross Revenues are being met by HTU and whether the amount of connection charges collected by the Town for connection to the Utility System during the annual accounting period have been properly accounted for, and for purposes of HTU satisfying itself that it is being accorded proper treatment as to the Town's obligations to HTU hereunder. Upon the Town's receipt of its contract operator's financial reports, the Town will provide a copy to HTU. In the event that the Town's rate structure changes, then each quarter

thereafter, the Town will provide HTU with a preliminary accounting of Gross Revenues of the water and sewer system based upon the PSC tariff rates of HTU.

(4) For the thirty (30) day period from the date HTU receives the pro forma Gross Revenue calculation from the Town, HTU shall have the right to review or have its designated financial professional review the pro forma Gross Revenues. In the event during that thirty (30) day period, HTU believes that there is an error in the proforma Gross Revenues, then HTU shall provide a written notice to the Town before the end of the thirty (30) day period, specifying in detail the error. Failure to provide such written notice shall be deemed a waiver of any objection by HTU to such pro forma Gross Revenue calculation. Upon receipt of a written objection, the Town shall have thirty (30) days to review the alleged error and either accept or reject the written objection. If the Town rejects the written objection, HTU shall have the option to either accept the pro forma Gross Revenues or bring an appropriate accounting action against the Town. If the Town accepts the written objection or HTU brings an appropriate accounting action in which a court determines that the Town did not properly account to HTU for the Gross Revenues collected by the Town, and the discrepancy in either event exceeds \$40,000, then the Town will be responsible for and will pay all of HTU's costs and expenses in that regard, including all professional fees relating to judicial enforcement or otherwise, but in no event will the Town be responsible for or pay such costs and expenses of HTU in excess of \$10,000.

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**ARTICLE IV
CONDITIONS PRECEDENT TO CLOSING**

SECTION 4.01. REVENUE VERIFICATION.

HTU has prepared and delivered to the Town a written billing analysis of all revenues of the Utility System for the twelve (12) month period ending May 31, 1998. HTU represented that said billing analysis has been prepared in accordance with generally accepted utility accounting practices as if prepared for a Florida PSC, rate application. The Town shall have until 5 p.m., July 31, 1998, to terminate this Agreement at its sole discretion in the event it is not satisfied with the information in the billing analysis by delivering written notice of termination to HTU, at which time the Town and HTU shall be released by one another of all further obligations under this Agreement. Failure to timely notify shall be deemed a waiver of this condition.

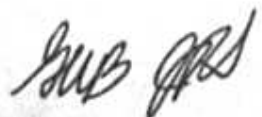
SECTION 4.02. ENGINEERING DUE DILIGENCE. The Town shall have the opportunity to cause at its expense a due diligence investigation of the Utility System and the Purchased Assets and HTU shall reasonably and timely cooperate in such an endeavor. The Town shall have until 5 p.m. on July 31, 1998, to terminate this Agreement at its sole discretion in the event it is not satisfied with information in the engineering due diligence by delivering written notice of termination to HTU, at which time the Town and HTU shall be released by one another of all further obligations under this Agreement. Failure to timely notify shall be deemed a waiver of this condition.

SECTION 4.03. ISSUANCE OF BONDS. The Town intends to finance the Purchase Price by the issuance of Triple A rated and credit enhanced insured revenue bonds payable solely from the net revenues of the Town's consolidated water system, in a principal amount sufficient with other available funds to fund the purchase price set forth in Section 3.03(A) hereof, after

adjustments and prorations as provided herein, and make payment of the transaction costs at closing. The Town's obligation to close the transactions contemplated in this Agreement shall be and is expressly conditioned upon its ability to issue such bonds at an average interest rate to maturity of five and one-tenth percent (5.1%) or less. In the event the Town, in its sole discretion, determines after diligent efforts that such bonds cannot be sold on or prior to the date of closing, the Town or HTU shall have the option of either (1) extending the closing for a period not exceeding fifteen (15) days, or (2) canceling this Agreement by written notice to the other party, and thereupon the Town and HTU shall be released by one another of all further obligations hereunder.

SECTION 4.04. OPERATIONS AND MANAGEMENT CONTRACT.

The Town intends to enter into an operations and management contract with a qualified utility operations and management entity to operate and manage the utility assets acquired pursuant to the terms of this Agreement. The Town's obligation to close the transactions contemplated in this Agreement shall be and is expressly conditioned upon its ability to secure a written operations and management contract on terms acceptable to the Town in its sole discretion on or before the date of closing. In the event the Town has not entered into an acceptable operations and management contract on or prior to the date of closing, the Town shall have the right to cancel this Agreement by providing written notice, and thereupon the Town and HTU shall be released by one another of all further obligations hereunder. The operations and management contract entered into by the Town shall provide that the contract operator shall employ Phillip Keathley at Phillip Keathley's option for a period of three (3) years after closing, for a total compensation package of \$72,000 per year, plus the contract operator's standard employee benefits.

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SECTION 4.05. ENVIRONMENTAL ASSESSMENT.

(A) The Town shall have the right to cause an environmental assessment of the Real Property to be conveyed hereunder. The environmental assessment shall be in general accordance with the scope and limitations of the American Society for Testing and Materials Designation: E 1527-94 (Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process). Any such environmental assessment, together with a written declaration from an environmental consultant shall verify that the Real Property, Easements and other facilities to be conveyed hereunder are in compliance with all applicable state and federal environmental laws, and that the facilities, and property within one hundred (100) feet, surrounding the facilities are free of unlawful contamination and, if necessary, provide an itemized estimate of all costs associated with bringing the subject Real Property, Easements and facilities into compliance and the response cost for clean-up, removal and remediation.

(B) The environmental assessment is expected to be completed by the date of closing. The receipt of an environmental assessment shall be a condition precedent to closing, unless waived in writing by the Town.

(C) If the environmental consultant's aggregate estimate of the costs associated with bringing the subject Real Property and facilities into compliance and the response costs for clean-up, removal, and remediation is in excess of \$25,000, then the Town shall have the option of (1) accepting the property as it then is, or (2) canceling this Agreement by written notice to HTU, and thereupon the Town and HTU shall be released by one another of all further obligations hereunder.

(D) Whether the Town chooses to close on this Agreement or not, a copy of the environmental assessment referenced herein shall be provided to HTU within ten (10) days of its receipt by the Town.

SECTION 4.06. SURVEY. The Town intends to order a survey of some or all property being insured by the title insurance policies hereunder. Any such survey shall, (A) be received prior to closing and updated thereafter as required by the title insurer; (B) be satisfactory and sufficient for the title insurer to delete the standard exceptions of title insurance coverage concerning encroachments, overlays, boundary line disputes or any other adverse matter which would be disclosed by an accurate survey; (C) be certified as of the current date to the Town, the title insurer or any other parties requested by the Town; and (D) show the location of all improvements and easements. If any adverse matters are disclosed by such a survey, the Town shall have the option of either (1) accepting the property without regard to such adverse matters, or (2) canceling this Agreement by written notice to HTU, and thereupon the Town and HTU shall be released by one another of all further obligations hereunder.

SECTION 4.07. TITLE VERIFICATION.

(A) Prior to Closing, the Town shall obtain a commitment for an ALTA form owner's title insurance policy. The commitment shall provide that the subsequent title insurance policy shall be issued free and clear of encumbrances, title defects, materialman's liens or other adverse matters, created or potentially created by HTU with the exception of (1) taxes for the current year which are not yet due and payable, (2) the Permitted Exceptions reflected in the schedule attached hereto as Appendix B, and (3) any encumbrance of or created by the Town, including any instruments evidencing debt executed by the Town at closing.

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(B) The estate or interests to be insured by any title insurance policy shall consist of all Real Property and Easements identified in Appendices K and L hereof, respectively. The additional costs, if any, incurred as a result of insuring title to the Easements, shall be paid by the Town.

(C) At closing, the owner's title insurance policy shall show marketable title to the insured estate or interests vested in the Town. All charges for the issuance of the owner's title insurance commitment shall be paid by the Town.

(D) The Town shall select a title insurer willing to issue the owner's title insurance policy in an amount determined by the Town, for a premium which shall not exceed the minimum rate promulgated by the Florida Insurance Commissioner. This premium shall be part of the Town's costs. Nothing herein shall preclude the Town from selecting its own counsel to act as an agent for the title insurer in conjunction with the issuance of the title insurance policy.

(E) Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. The Town shall have five (5) days from receiving the title commitment to examine it. If title is found defective or the title commitment reflects title exceptions other than those shown on the schedule attached hereto as Appendix B, the Town shall thereafter within eight (8) days from receiving the title commitment, notify HTU in writing specifying the defects. If the defects render the title unmarketable, the Town shall have the option of either (1) accepting the property without regard to such adverse matters, or (2) canceling this Agreement by written notice to HTU, and thereupon the Town and HTU shall be released by one another of all further obligations hereunder.

(F) Within five (5) days after entering into this Agreement, the Town shall order a search of the Official Records of Martin County, Florida and the records of the Secretary of State for

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uniform commercial code financing statements evidencing a secured interest in the Purchased Assets. The results of such a search shall be delivered to the Town, with a copy to HTU not less than fifteen (15) days prior to closing. Any secured interests in the Purchased Assets must be paid off, released or terminated at HTU's expense. In the event all secured interests in the Purchased Assets are not paid off, released or terminated at or prior to closing, the Town shall have the option of either (1) accepting the property subject to such secured interests or (2) canceling this Agreement, whereupon the Town and HTU shall be released by one another of all further obligations hereunder.

SECTION 4.08. TRANSFER OF PERMITS. Within fifteen (15) days after the execution of this Agreement, HTU shall commence all requisite action to apply for and cause the transfer of the permits and governmental approvals as of the date of closing, including cancellation of the Florida Public Service Commission Certificates, and as described in Appendix D hereof, including, operation of the Utility System but not limited to the procedures referenced in Rule 62-4.120, Florida Administrative Code, 40 C.F.R. § 122.63(d) (1980) and 47 C.F.R. § 73 (1980) and shall use all reasonable efforts to obtain the transfer of such permits and approvals. The Town shall timely cooperate and provide all reasonably necessary assistance in this endeavor. Upon transfer, the Town shall assume all obligations under the permits and governmental approvals necessary for the continued operation of Utility System.

ARTICLE V CLOSING PROCEDURES

SECTION 5.01. CLOSING DATE AND PLACE.

It is anticipated that the transactions contemplated by this Agreement will be closed on at a mutually agreed upon place and date on or before September 15, 1998. If, for any reason, this

transaction is not closed by September 15, 1998, then either party may cancel this Agreement, and in such event, neither party shall have any further obligation to the other party.

SECTION 5.02. DOCUMENTS FOR THE CLOSING.

(A) HTU shall furnish at closing a certificate reaffirming HTU's representations and warranties hereunder, and HTU shall furnish a non-foreign affidavit, a no-lien affidavit, a "gap" affidavit, a corporate incumbency certificate, a corporate good standing certificate from the State of Florida, a corporate resolution authorizing the execution of the Agreement, the warranty deed, and the bill of sale, all in substantially the form attached hereto as Appendix Q. HTU shall also furnish at closing any necessary assignments, estoppel letters, releases, satisfactions, terminations and any corrective instruments as well as enter into a transfer, assignment and assumption agreement in substantially the form attached hereto as Appendix R, as well as provide the certificates of titles to all owned vehicles transferred to the Town.

(B) The Town shall furnish at closing the closing statement, a certificate reaffirming the Town's representations and warranties hereunder and enter into a transfer, assignment and assumption agreement in substantially the form attached hereto as Appendix S.

(C) From time to time after closing, each party hereto shall, upon request of the other, execute, acknowledge and deliver, or shall cause to be executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers or other documentation for (1) confirming or correcting title in the name of the Town or perfecting undisputed possession by the Town of any or all of the Purchased Assets, including the establishment of record of utility easements for all water and wastewater utility facilities which are a part of the Utility System, or (2) otherwise fulfilling the obligations of the parties hereunder.

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SECTION 5.03. RECORDING FEES AND DOCUMENTARY TAXES.

(A) Recording fees to record the deed and any other instruments necessary to deliver marketable title to the Town shall be paid by the Town.

(B) The Purchased Assets are being purchased by the Town for public purposes in lieu of eminent domain and therefore this transaction should be immune from documentary stamp tax, in accordance with the ruling in Florida Department of Revenue v. Orange County, 620 So.2d 991 (Fla. 1993). The purchase price and consideration being given by the Town hereunder constitutes the total consideration to be paid or given by the Town in connection with the acquisition of the Purchased Assets and any consequences or impacts incurred by HTU in connection therewith, including, without limitation, any severance damages, loss of business damages or impacts or costs or taxes to HTU or any person or entity affiliated with HTU

SECTION 5.04. PROPERTY TAXES. All real and personal property taxes on the Purchased Assets shall be prorated as of the day of closing and, if necessary, HTU shall be required to escrow with the Martin County Tax Collector prorated taxes on the Real Property in accordance with section 196.295, Florida Statutes.

SECTION 5.05. ACCOUNTS RECEIVABLE AND CUSTOMER DEPOSITS.

HTU shall furnish to the Town, at least ten (10) days prior to closing, a listing of its accounts receivable and customer deposits, by customer and individual amount and estimated unbilled revenue through the date of closing. HTU shall assign to the Town at closing the accounts receivable and unbilled revenues, and all rights of collection therefor, together with the liabilities of customer deposits, in accordance with the following terms. At the closing, the Town shall reimburse HTU for the excess of the sum of outstanding accounts receivable over customer deposits at the time of closing that are not more than sixty (60) days in arrears plus 98% of all

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unbilled revenue for water and sewer services through the date of closing over the total amount of customer deposits including interest thereon. Should the total customer deposits including interest exceed the sum of outstanding accounts receivable and unbilled revenue, then HTU shall reimburse the Town at closing for any excess amount. Unbilled revenues shall be based upon the actual billings for the month immediately preceding the month of the closing and shall be prorated through the date of closing based on the number of days that have elapsed since the last billing period. All amounts received by HTU through the date of closing for outstanding accounts receivable which were collected by HTU subsequent to the date HTU provided the Town with the list of outstanding accounts receivable, shall be credited to the Town at the closing. After the closing, HTU shall endorse checks received for outstanding accounts receivable and post-closing billings which are payable to HTU in favor of the Town and promptly deliver such checks to the Town. After closing, HTU authorizes the Town to endorse or deposit checks received and payable to HTU with respect to water and sewer service rendered to the utility's customers.

SECTION 5.06. CONNECTION CHARGES.

(A) Prior to ^{July 13, 1998,} ~~the day of execution of this Agreement~~, sums collected by HTU for connection charges under HTU's then current PSC tariff, pursuant to developer agreements or written applications for service executed in the ordinary course of business shall remain HTU's sole and separate property with no claim of the Town, ^{as represented by Appendix N.} ~~as represented by Appendix N.~~

(B) From and after ^{July 13, 1998} ~~the day of execution of this Agreement~~ and prior to the closing date, sums collected by HTU for connection charges under HTU's current PSC tariff (which tariff predates June 1, 1998), pursuant to developer agreements or written applications for service executed in the ordinary course of business shall remain HTU's sole and separate property with

no claim of the Town, up to but not to exceed 250 ^{each} water and wastewater ERCs, but in no event shall the cumulative of Keathley and Keathley family projects account for more than 30 ^{each} water and wastewater ERCs of the 250 ^{each} water and wastewater ERCs.

(C) All sums collected from and after the date of closing relative to the use of, or connection to, the Utility System shall be paid to the Town, with no claim of HTU therefor, except for Future Payments to HTU as provided for elsewhere in this Agreement.

SECTION 5.07. PROFESSIONAL FEES; COSTS.

(A) Each party shall be responsible for securing its own counsel for representation relative to the negotiation of this Agreement, and all other matters associated with performance, cancellation or closing hereunder; unless otherwise specified herein, and each party shall be responsible for the payment of the fees of its own attorneys, bankers, engineers, accountants, and other professional advisors or consultants in connection therewith.

(B) In any litigation arising out of this Agreement, each side in such litigation shall bear its own attorney's fees and costs.

SECTION 5.08. RISK OF LOSS. At all times prior to and through the day of closing, HTU shall maintain adequate fire and extended insurance coverage for the cost of any repairs to the Purchased Assets that may be required by casualty damage. The risk of loss during the said period of time shall fall upon HTU. The risk of loss shall pass to the Town at closing.

SECTION 5.09. PROCEEDS OF SALE; CLOSING PROCEDURE.

(A) In order to secure title insurance coverage against the existence of adverse matters recorded during the period of time between the effective date of the title insurance commitment and the date of recording of the documents creating the estate to be insured, HTU and the Town agree that the escrow agent for the closing may also be the title insurer, or the title insurer's

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agent, selected by the Town to issue the owner's title insurance policy insuring the Real Property and insurable easements identified in Appendices K and L hereof respectively.

(B) HTU shall effect the transfer of the Purchased Assets to the Town at the escrow closing; these documents shall be in final form, together with any exhibits or appendices thereto:

(1) Statutory Warranty deed, with warranties of title for the conveyance of all Real Property to be conveyed hereunder, including, but not limited to, the Statutory Warranty deed from Ridgeway Mobile Home Subdivision, Inc. to the Town for the 9.6 acre parcel referenced in Section 3.02(A)(1) herein;

(2) Conveyance instruments for all Easements;

(3) A transfer, assignment and assumption agreement covering all other interests in the Purchased Assets, together with a general assignment of all contracts, agreements, permits and approvals as provided for herein;

(4) Bill of Sale or other documents of assignment and transfer, including vehicle certificates of title, if any, with warranties of title, to all Purchased Assets;

(5) A Florida Department of Revenue Form DR-219 for each property owner, completed in a manner satisfactory to the Town;

(6) Any affidavits, certificates, estoppel certificates, corrective instruments, releases, satisfactions or terminations necessary to close; and

(7) The original or a certified copy of all permits, governmental authorizations and approvals.

(C) Subject to the provisions of Section 3.03 (A), the disbursement of proceeds shall be at the direction of the title insurer or its agent pursuant to the disbursement instructions mutually agreed upon and signed by the Town and HTU at closing, in order to secure coverage against

adverse matters or defects in title which are recorded during the period of time between the effective date of the title insurance commitment and the date of recording of the document creating the estate or interest to be insured.

(D) Within ninety (90) days after closing, upon written request by the Town, HTU shall reimburse the Town or pay a prorated portion of any charge, fee or rate for services furnished to the Utility System through the date of closing for water, sewer, power, telephone, solid waste collection, pest control, sludge hauling or general maintenance and reconcile any accounts receivables, customer deposits or unexpended application fees or other charges not otherwise considered or accounted for at the time of escrow prior to closing. Within 90 days after closing, upon written request by HTU the Town shall reimburse HTU or pay a prorate portion of any charge, fee or rate for services furnished to the Utility System subsequent to the date of closing for water, sewer, power, telephone, solid waste collection, pest control, sludge hauling or general maintenance and reconcile any connection charges, accounts receivables, customer deposits or unexpended application fees or other charges not otherwise considered or accounted for at the time of escrow prior to closing. Such post-closing reimbursement and reconciliation process may be extended by either party for 30 days upon written notice to the other party.

(E) To the best of HTU's knowledge and belief, ^{all} ~~there are no~~ pipelines ^{are} in easements, but ^{on rights} ~~if~~ ⁸⁰⁻ ~~the~~ ^{way} if the Town discovers that there are pipelines in the ground on lands owned by HTU or its principals, then HTU or its principals shall grant easements to the Town.

ARTICLE VI GENERAL PROVISIONS

SECTION 6.01. RIGHT TO ENTER. Prior to closing, the Town, and its consultants and invitees shall have the right, at any reasonable time with prior notice to HTU, to enter upon

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HTU's property to inspect the Utility System and the Purchased Assets, to familiarize itself with day-to-day operations, to review the operational practices of HTU, and to ensure compliance with any and all federal and state regulatory requirements.

SECTION 6.02. CONDUCT BETWEEN EXECUTION AND CLOSING.

(A) Upon the execution of this Agreement, HTU shall continue to provide water and wastewater treatment to its current customers in the ordinary and usual manner.

(B) HTU shall prudently maintain the Utility System to ensure its proper operation through closing.

(C) From and after the date of the execution of this Agreement, HTU shall not, without prior written consent of the Town, dispose of or encumber any of the Purchased Assets, except any non-material transactions that occur in the ordinary course of HTU's business.

SECTION 6.03. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement. Time periods specified in this Agreement shall expire at midnight on the date stated unless the parties agree in writing to a different date or time. Any time period provided for herein which ends on Saturday, Sunday or a legal holiday shall extend to 5:00 p.m. on the next business day.

SECTION 6.04. APPLICABLE LAW; JURISDICTION AND VENUE.

(A) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

(B) The parties to this Agreement expressly consent to the jurisdiction of and agree to suit in any court of general jurisdiction in the State of Florida, whether state, local or federal, and further agree that state, local and federal venue shall lie in Martin County, Florida.



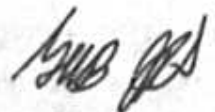
SECTION 6.05. FAILURE OF PERFORMANCE.

(A) A breach of this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. If any party breaches any obligation herein, then, upon receipt of written notice by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach and shall continue to do so until such breach is cured.

(B) Unless otherwise provide herein, the parties to this Agreement may proceed at law or in equity to enforce their rights under this Agreement.

SECTION 6.06. NOTICE.

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the parties at the following addresses:



To Town: TOWN OF JUPITER ISLAND
103 Dunker Hill Road
Post Office Box 7
Hobe Sound, Florida 33475
Attn: Russell G. Simpson, Mayor
Fax: 561-546-76228
Phone: 561-546-5011

with a copy to:

GREENBERG, TRAURIG
777 South Flagler Drive, Suite 300 E
West Palm Beach, Florida 33401
Attn: Phillip C. Gildan, Esquire
Fax: 561-655-6222
Phone: 561-650-7967

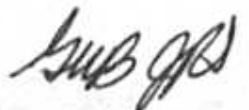
To HTU: HYDRATECH UTILITIES, INC.
6570 S.E. Federal Highway
Stuart, Florida 34997-8383
Attn: Mr. Phillip Keathley
Fax: 407-286-3204
Phone: 407-286-3300

with a copy to:

ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
Attn: William E. Sundstrom, P.A.
Fax: 850-656-4029
Phone: 850-877-6555

(B) Any written notice given to one person in subsection (A) of this section shall also be copied and provided to all other persons identified in subsection (A).

(C) The parties may, by notice in writing given to the others, designate any future or different addresses to which the subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or by facsimile transmission or five (5) days after the date mailed.



SECTION 6.07. ASSIGNMENT.

(A) Except as expressly provided for herein, neither HTU nor the Town shall have the power or authority to assign this Agreement or any of their rights, duties or obligations hereunder to a third party, and this Agreement shall be construed as solely for the benefit of the Town and HTU and their successors by law, and no claim or cause of action shall accrue to or for the benefit of any other third party by reason hereof

(B) Nothing herein shall preclude the lawful dissolution of HTU. The ^{futures} bonds may be transferred to the shareholder(s) of HTU or to the beneficial interest owners of such shareholder, or to a brokerage firm, for the benefit of such shareholder(s) or its beneficiaries. *pink*

SECTION 6.08. POTENTIAL STOCK TRANSACTION. In the event that the Town agrees to purchase the stock of Hobe Sound Water Company, then HTU may elect to change this Agreement to a purchase of stock transaction based on the equivalent terms and conditions of the Hobe Sound Water Company stock transaction.

SECTION 6.09. AMENDMENTS AND WAIVERS. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by both parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

SECTION 6.10. ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the agreements, understandings, negotiations and discussions of the parties, whether oral or written, pertaining to the subject matter hereof, and there are no warranties, representations or other agreements between the parties in connection with the

subject matter hereof, except as specifically set forth herein. Upon execution by both parties, the Town shall provide HTU three complete copies of this Agreement, together with copies of all appendices hereto.

IN WITNESS WHEREOF, the Town and HTU have caused this Agreement to be duly executed and entered into on the date first above written.

THE TOWN OF JUPITER ISLAND, FLORIDA

BY: James R. Spurgin, its Mayor/Town Manager

AUTHENTICATE:

Clerk of the Town of Jupiter Island, Florida

HYDRATECH UTILITIES, INC., a Florida Corporation.

BY: Gerald W. Bobo, its President

ATTEST:

Phillip m. Keatley
Phillip m. Keatley, its Secretary



FLORIDA
PUBLIC SERVICE COMMISSION

CERTIFICATE
NUMBER

337-88

Upon consideration of the record it is hereby ORDERED that authority be and is hereby granted to

KIDDATECH UTILITIES, INC.

Whose principal address is

6570 Southeast Federal Highway

Stuart, Florida 34997

to provide water service in accordance with the provisions of Chapter 367, Florida Statutes, the Rules, Regulations and Orders of this Commission in the territory described by the Orders of this Commission.

This Certificate shall remain in force and effect until suspended, cancelled or revoked by Orders of this Commission.

ORDER 9887 DATED 03/17/82 DOCKET 810054-NB

ORDER 14382 DATED 05/17/85 DOCKET 820274-NB

ORDER 21422 DATED 06/26/89 DOCKET 881161-NB

ORDER 22329 DATED 12/20/89 DOCKET 891251-NB

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION

Steve Jilka
Commission Clerk

Joe Cruse
Chairman



FLORIDA
PUBLIC SERVICE COMMISSION

CERTIFICATE
NUMBER

337-W

ORDER 2447A DATED 05/06/91 DOCKET 900905-W
PSC-93-1743-
ORDER POP-W DATED 12/03/93 DOCKET 930960-W
PSC-94-1474-
ORDER FOE-WU DATED 11/30/94 DOCKET 931063-WU
PSC-95-0983-
ORDER POP-W DATED 8/10/95 DOCKET 950338-W

ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

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ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



FLORIDA
PUBLIC SERVICE COMMISSION

CERTIFICATE
NUMBER

292-8

Upon consideration of the record it is hereby ORDERED that
authority be and is hereby granted to

HYDRATECH UTILITIES, INC.

Whose principal address is

6570 Southeast Federal Highway

Stuart, Florida 34987

to provide water service in accordance with the
provisions of Chapter 367, Florida Statutes, the Rules, Regula-
tions and Orders of this Commission in the territory described
by the Orders of this Commission.

This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this Commission.

ORDER 2887 DATED 03/17/81 DOCKET 810024-WS

ORDER 14382 DATED 05/17/85 DOCKET 830274-WS

ORDER 22329 DATED 12/20/89 DOCKET 891251-WS

ORDER 24474 DATED 03/08/91 DOCKET 900203-WS

ORDER 292-8 DATED 12/03/93 DOCKET 930060-WS

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION

Steve Jilke
Commission Clerk

Joe Cruise
Chairman



Public Service Commission

CERTIFICATE NUMBER

292 - 8

ORDER REC-95-0983-FCF-MS DOCKET 950338-MS

ORDER _____ DOCKET _____

ORDER _____ DOCKET _____

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BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION

