



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

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DATE: February 21, 2000  
 TO: Division of Records and Reporting  
 FROM: Division of Water and Wastewater (Lingo) *HL*  
 RE: Docket No. 970409-SU, Initiation of limited proceeding to restructure wastewater rates for Florida Water Service Corporation's Tropical Isles service area in St. Lucie County

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Please file the attached documents in the above-referenced docket file. Thank you.

\FJL  
 Atch: 01/26/98 letter from Shacket to WAW/Lingo -- response to request for information  
 cc w/ Atch: Division of Legal Services (Gervasi, Fudge)

c:\trop\0217rar7.mem

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
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- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE  
 02325 FEB 21 8  
 FPSC-RECORDS/REPORTING



281 TROPICAL ISLES CIRCLE • FORT PIERCE, FLORIDA 34982

(561) 468-4968

RECEIVED  
JAN 29, 1998

Florida Public Service Commission  
Division of Water and Wastewater

DATE: January 26, 1998

TO: Jennie Lingo

FROM: Roger Shacket

SUBJ: Additional info requested regarding Exhibit I

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Jennie, enclosed is the additional information requested from Roger Shacket pertaining to Exhibit I of the **Agreement For Purchase And Sale** between Neil Spizizen, Maurice Shacket and Southern States.

Please call (561) 468-4968 if you have any questions regarding this material.

Park Management  
RS/ah

Koger.

JAN. 22, 1978

TROPICAL ISLES

ADDITIONAL INFORMATION REQUESTED  
FROM ROGER SHACKET:

EXHIBIT 1 OF THE AGREEMENT FOR PURCHASE AND SALE BETWEEN  
NEIL SPIZIZEN, MAURICE SHACKET AND SOUTHERN STATES.

EXHIBIT "A"  
EXHIBIT "B"  
EXHIBIT "C"  
EXHIBIT "D"  
EXHIBIT "E"  
EXHIBIT "F"  
EXHIBIT "G"

PLEASE PROVIDE THESE DOCUMENTS THAT ARE  
CONTAINED UNDER EXHIBIT 1

Copy to Mrs. Simpson, utility

(letter to follow) with additional info  
requested per Jennie Lingo

PERMITTED EXCEPTIONS

1. Part of subject property is subject to road right-of-way held by the State of Florida, as is more particularly set forth in Deed Book 72, at Page 23 of the Public Records of St. Lucie County, Florida.
2. Captioned property lies within the confines of the north St. Lucie Drainage District and is subject to its rules and regulations, canal right-of-ways as is more particularly described in that certain map of North St. Lucie River Drainage Management District dated May of 1980, prepared by Musick-Fowler Land Surveying Company and subsequent amendments thereto.
3. Shelter and Facilities Agreement between R & B Holding Company, Inc., and Seller.
4. Easements, restrictions, and other encumbrances appearing in the plat of the subject property.
5. Taxes for the year 1988 and subsequent years.
6. Right-of-way easement granted to Southern Bell Telephone and Telegraph Company, dated March 19, 1986, appearing in O.R. Book 499, at Page 2939 and Page 2942, of the Public Records of St. Lucie County, Florida.
7. Agreement with the Ft. Pierce Utilities Authority dated April 14, 1986, appearing in O.R. Book 501, Page 1313, of the Public Records of St. Lucie County, Florida.
8. Resolution No. 85-46 and Resolution No. 86-30 of the Board of County Commissioners of St. Lucie County, Florida, appearing in O.R. Book 457, at Page 2024, and O.R. Book 492, at Page 2508, of the Public Records of St. Lucie County, Florida.

EXHIBIT "A"

## LEGAL DESCRIPTION

PARCEL I - Beginning at the Southeast corner of Lot 235 of White City, a subdivision recorded in Plat Book 1, at Page 23, of the Public Records of St. Lucie County, Florida; thence run N89°50'27"W, a distance of 637.50 feet; thence run N00°04'23"E, a distance of 564.97 feet; thence run S89°55'37"E, a distance of 516.62 feet to a Point on Curvature of a curve concave to the Southeast; thence run Northeasterly along the said curve having an interior angle of 25°22'37", a radius of 35.00 feet and an arc length of 15.50 feet; thence run N00°04'23"E, a distance of 256.53 feet; thence run S89°45'36"E, a distance of 1209.50 feet; thence run S72°28'29"E, a distance of 20.94 feet; thence run S89°43'13"E, a distance of 130.00 feet; thence run S00°16'47"W, a distance of 829.05 feet; thence run N89°50'27"W, a distance of 571.49 feet; thence run S00°12'38"W, a distance of 325.59 feet; thence run N89°52'53"W, a distance of 481.96 feet, to the Point of Curvature of a curve concave to the northwest; thence run Southwesterly along said curve having an interior angle of 51°03'19", a radius of 35.00 feet and an arc length of 31.19 feet, to a Point on Curvature; thence run N89°52'53"W, a distance of 157.93 feet; thence run N00°08'30"E, a distance of 339.06 feet, to the POINT OF BEGINNING; all lying and being in Section 10, Township 36 South, Range 40 East, St. Lucie County, Florida.

BEGINNING at the Southeast corner of Lot 239 of White City, a subdivision recorded in Plat Book 1, at Page 23 of the Public Records of St. Lucie County, Florida; thence run N89°52'53"W, a distance of 666.70 feet; thence run N00°08'30"E, a distance of 322.00 feet; thence run S89°52'53"E, a distance of 157.93 feet, to a Point on Curvature of a curve concave to the northwest; thence run Northeasterly along the said curve having an interior angle of 51°03'19", a radius of 35.00 feet and an arc length of 31.19 feet; thence run S89°52'53"E, a distance of 481.96 feet; thence run S00°12'38"W, a distance of 335.00 feet; to the POINT OF BEGINNING, all lying and being in Section 10, Township 36 South, Range 40 East, St. Lucie County, Florida.

PARCEL II - Lot 238 of the subdivision of Section 10, Township 36 South, Range 40 East, WHITE CITY, as per plat thereof recorded in Plat Book 1, Page 23, St. Lucie County, Florida, public records, less and excepting the East 103' for canal right-of-way.

PARCEL III - Lot 224 less canal right-of-way, and Lot 225 and Lot 226, less West 30 feet and Lot 235, less West 30 feet, WHITE CITY SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, Page 23, of the Public Records of St. Lucie County, Florida, less and excepting therefrom, Parcel I.

A 61 foot wide strip of land situated in the North 12 of Lot 234

EXHIBIT "B"

of White City, a subdivision recorded in Plat Book 1, at page 23 of the Public Records of St. Lucie County, Florida, being more particularly described as follows:

Beginning at the Point of Intersection of the South line of said North 1/2 of Lot 234 with the Easterly right-of-way line of U.S. Highway No. 1; thence run  $N00^{\circ}00'15''E$ , along said right-of-way line, a distance of 61.00 feet; thence run  $S89^{\circ}49'14''E$ , parallel with said South line of the North 1/2 of Lot 234, a distance of 280.67 feet to the Beginning of a Curve concave to the Northwest having a radius of 228.00 feet and a central angle of  $46^{\circ}48'11''$ ; thence run Southeasterly and Northeasterly along the arc of said curve, a distance of 186.25 feet, to the Point of Reverse Curve of a curve concave to the Southeast, having a radius of 272.00 feet and a central angle of  $28^{\circ}29'12''$ ; thence run Northeasterly along the arc of said curve, a distance of 135.23 feet to the Point of Intersection with the Westerly right-of-way line of a North St. Lucie River Water Conservation District New Canal; thence run  $S00^{\circ}04'23''W$ , along said right-of-way line, a distance of 65.26 feet, to the Point of Intersection with a non-tangent curve concave to the Southeast, having a radius of 211.00 feet and a central angle of  $22^{\circ}6'26''$ , from which point it's center bears  $S23^{\circ}40'59''E$ ; thence run Southwesterly along the arc of said curve, a distance of 84.48 feet to a point of reverse curve concave to the Northwest having a radius of 289.00 feet and a central angle of  $46^{\circ}48'11''$ ; thence run Southwesterly along the arc of said curve, a distance of 236.07 feet, to a tangent intersection with said South line of the North 1/2 of Lot 234; thence run  $N89^{\circ}49'14''W$ , along said South line, a distance of 280.49 feet, to the Point of Intersection with said Easterly right-of-way line of U.S. Highway No. 1 and the POINT OF BEGINNING.

An 18 foot wide strip of land Reserved for an Easement for Ingress and Egress, Utilities and Drainage over and across the North 1/2 of Lot 234 of White City, a subdivision recorded in Plat Book 1, at page 23 of the Public Records of St. Lucie County, Florida, being more particularly described as follows:

Commencing at the Point of Intersection of the South line of said North 1/2 of Lot 234 with the Easterly right-of-way line of U.S. Highway No. 1; thence run  $N00^{\circ}00'15''E$ , along said right-of-way line, a distance of 79.00 feet for the POINT OF BEGINNING; thence run  $S89^{\circ}49'14''E$ , parallel with said South line of the North 1/2 of Lot 234, a distance of 280.73 feet to the Beginning of a Curve concave to the Northwest having a radius of 210.00 feet and a central angle of  $46^{\circ}48'11''$ ; thence run Southeasterly and Northeasterly along the arc of said curve, a distance of 171.54 feet, to the Point of Reverse Curve of a curve concave to the Southeast, having a radius of 290.00 feet and a central angle of  $29^{\circ}39'10''$ ; thence run Northeasterly along the arc of said curve,

a distance of 150.09 feet to the Point of Intersection with the Westerly right-of-way line of a North St. Lucie River Water Conservation District New Canal; thence run  $S00^{\circ}04'23''W$ , along said right-of-way line, a distance of 18.89 feet, to the Point of Intersection with a non-tangent curve concave to the Southeast, having a radius of 272.00 feet and a central angle of  $28^{\circ}29'12''$ , From which point it's center bears  $S18^{\circ}08'13''E$ ; thence run Southwesterly along the arc of said curve, a distance of 135.23 feet to a point of reverse curve concave to the Northwest having a radius of 228.00 feet and a central angle of  $46^{\circ}48'11''$ ; thence run Southwesterly along the arc of said curve, a distance of 186.25 feet, to a tangent intersection parallel with said South line of the North 1/2 of Lot 234; thence run  $N89^{\circ}49'14''W$ , parallel with said South line, a distance of 280.67 feet, to the Point of Intersection with said Easterly right-of-way line of U.S. Highway No. 1; thence  $N00^{\circ}00'15''E$ , along said right-of-way line, a distance of 18.00 feet to the POINT OF BEGINNING.



PERSONAL PROPERTY

All furnishings and equipment in and about the clubhouse, pool, and other recreational area.

All grass cutting and maintenance equipment now in use.

All other personalty of Seller located on or used in connection with the property, that is inventoried and agreed to between Seller and Purchaser within 30 days of acceptance of the agreement.

EXHIBIT "D"

**BROKERAGE AGREEMENT**

Seller agrees to pay Hoyt C. Murphy, Inc., Realtors, the sum of 3% of Three Million Dollars (\$3,000,000.00) in the event that the contract closes and Seller is paid the sales price, otherwise, Seller shall have no liability or obligation to broker. In the event the Purchaser fails to perform, and as a result of that failure, the Seller is allowed to retain part or all of the deposit, Broker shall be paid 3% of the sum actually retained by Seller. Seller shall have no further obligation to Broker.

Dated this 14<sup>th</sup> day of July, 1988 A.D., 1988.

HOYT C. MURPHY, INC.,  
a Florida corporation

SCOTLAND DEVELOPMENT COMPANY  
OF FT. PIERCE, a Florida  
corporation

By:

John V. Cahill

By:

Dennis Ham

EXCLUSIVE RIGHT TO SELL AGREEMENT

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ A.D.,  
19\_\_\_\_, by and between \_\_\_\_\_, having  
its principal place of business at \_\_\_\_\_  
(the "Company"), and \_\_\_\_\_, having  
its principal place of business at \_\_\_\_\_  
(the "Representative").

WHEREAS, the Company is the owner of Tropical Isles Mobile Home Park, situate lying and being in St. Lucie County, Florida, more particularly described on the attached Exhibit "A", and

WHEREAS, the Representative sold to the Company the mobile home park and as part of the consideration in establishing the sale price of the mobile home park, the Representative has agreed to accept and the company has granted to the Representative an exclusive right to sell all mobile home coaches to be located in the mobile home park over a three (3) year period or until the park is ~~ninety percent (90%)~~ <sup>fully (100%)</sup> sold, whichever shall sooner occur, and

NOW THEREFORE, the parties agree as follows:

1. Appointment as Exclusive Agent. (a) The Company appoints the Representative as its exclusive sales representative to sell mobile home coaches to third parties who shall occupy the Company's mobile home park known as Tropical Isles Mobile Home Park located in Fort Pierce, Florida.

(b) The Representative hereby accepts such appointment and agrees to sell mobile home coaches and set them up in the park, subject to the provisions and conditions of this Agreement.

EXHIBIT "F"

2. Exclusive. (a) The Representative's exclusive sales rights shall consist of:

(1) To sell mobile home coaches and applicable attachments to customers who shall locate the mobile homes in the Company's mobile home park known as Tropical Isles Mobile Home Park, located in Fort Pierce, Florida.

(2) To provide the labor and materials to set up the mobile homes in place on lots located in the mobile home park of the Company.

(3) To provide the Company's Prospectus A or B to customers, and to use authorized sales literature to promote sales.

(4) To use authorized advertisements to promote the sale of mobile home coaches and tenancy in the mobile home park.

(5) To have access at all times to the mobile home park and its' facilities for the purpose of effecting the sale of the mobile home coaches and the tenancy of the third parties in the mobile home park, and to place mobile homes on lots of the park or its contiguous property for sale at no charge to the representative.

(6) To sell all mobile home coaches to be located in the park over a three (3) year period commencing with the date of this Agreement, or until the park is ~~ninety percent (90%)~~ <sup>fully (100%)</sup> sold out, whichever shall sooner occur, to the exclusion of all others, except permitted direct sales by the Company as defined herein, and to be paid the gross sales price for each mobile home

sold, less the sum agreed to be paid Company as set forth herein, whether or not Representative makes the sale.

(7) To use the fenced utility area of the mobile home park for storage purposes.

3. Company's Duties; Pricing. (a) The Company shall forward to the Representative all customer inquiries received during the term of this Agreement.

(b) The Company shall keep the mobile home park in good order and repair and in a suitable condition for the residence of new mobile homes.

(c) The Company shall comply with all laws, regulations, and ordinances state, federal, or local, concerning the operation of the mobile home park.

(d) The Company shall provide to the Representative sufficient copies of Prospectus A and B of the mobile home park and shall provide a price list for lot rental amounts, user fees, and other fees associated with occupancy in the mobile home park on at least a monthly basis. The Company shall not raise its lot rental amount except as is allowed by law and shall advise the Representative in a timely fashion of such changes or amendments to the Prospectus.

(e) The company shall provide a subordination of its landlord's lien to any lender of the representative as to any model or speculative mobile home placed in the park or its contiguous property for sale.

4. Representative's Duties. The Representative shall:

(a) Sell seven (7) mobile homes per month commencing three (3) months from the date of this Agreement and seven (7) per month thereafter during the term of this Agreement.

(b) Use its best efforts to sell by the Company's policies as they are communicated to it.

(c) Devote such time as may be reasonably necessary for the purpose of selling.

(d) Conduct its business in its own name, maintain a sales office and pay its expenses, but the Representative may use the mobile home park's name in all authorized literature and advertisements.

5. Direct Sales. Commencing three (3) months after the date of this Agreement, the Company may independently of this exclusive agreement, sell any of the seven (7) mobile home coaches not sold by the Representative in any previous month. The right of the Company to sell the shortfall in any month

following the month in which the Representative fails to sell the required seven (7), shall ~~not~~ be cumulative, <sup>to allow the Company to main</sup> ~~but shall be~~ <sup>tain a running</sup> ~~exercised by the Company in the month immediately following the~~ <sup>average of not less</sup> ~~shortfall in sales.~~ <sup>than</sup> ~~seven (7).~~ <sup>sales per</sup> ~~month.~~ <sup>month</sup>

6. Sales by Representative. The proceeds from the sales of the mobile home coaches shall be paid to the Representative. The Representative shall pay over to the Company, the sum of \$1,000.00 per coach sold to any tenant who elects to live in the mobile home park <sup>(either ~~under~~ or Prospectus B)</sup> ~~under Prospectus A. As to any other coach sold by the Representative, the Representative shall be entitled to~~

~~all proceeds from the sale and set up of the mobile home in the mobile home park of the Company.~~

7. Warranties. ~~Neither the Company nor~~ The Representative shall grant warranties to the purchaser of a mobile home. <sup>against defects of or malfunctions in the mobile home that are reasonably</sup> The acceptable customer shall <sup>also</sup> receive ~~only~~ the manufacturer's warranty. <sup>The acceptable to the Company. The Representative shall indemnify the Company against all such claims</sup>

8. Accounting. The Representative shall, by the 10th of the following month, account in writing to the Company on a monthly basis as to all sales. The books and records of the Representative as to the sales of mobile home coaches may be inspected on an annual basis by a representative of the Company, at the Company's expense. The Representative shall provide the Company on an annual basis, an accounting of all sales by the 30th day of January.

9. Default. Each party to this Agreement may proceed in law by any action for damages resulting from the other's breach or in equity to enforce its rights under this Agreement including the right of specific performance. The failure of Seller to sell seven (7) mobile homes in any month of the term of this Agreement shall not constitute a default of this Agreement.

10. No Employment Contract. Nothing contained in the Agreement shall be construed to constitute the Representative as a partner, employee, or agent of the Company, nor shall either party have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor responsible for his own actions.

~~all proceeds from the sale and set up of the mobile home in the mobile home park of the Company.~~ *W. K. T.*

7. Warranties. ~~Neither the Company nor the Representative~~ shall grant warranties to the purchaser of a mobile home. <sup>against defects of or malfunctions in the mobile home that are reasonably</sup> The acceptable customer shall <sup>also</sup> receive ~~only~~ the manufacturer's warranty. <sup>The Company, shall indemnify the Representative against all such claims</sup>

8. Accounting. The Representative shall, by the 10th of the following month, account in writing to the Company on a monthly basis as to all sales. The books and records of the Representative as to the sales of mobile home coaches may be inspected on an annual basis by a representative of the Company, at the Company's expense. The Representative shall provide the Company on an annual basis, an accounting of all sales by the 30th day of January.

9. Default. Each party to this Agreement may proceed in law by any action for damages resulting from the other's breach or in equity to enforce its rights under this Agreement including the right of specific performance. The failure of Seller to sell seven (7) mobile homes in any month of the term of this Agreement shall not constitute a default of this Agreement.

10. No Employment Contract. Nothing contained in the Agreement shall be construed to constitute the Representative as a partner, employee, or agent of the Company, nor shall either party have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor responsible for his own actions.

11. Entire Contract. This Agreement contains the entire understanding of the parties and supersedes all previous verbal and written agreements. There are no other agreements, representations, or warranties not set forth herein.

12. Notices. All notices or other documents under this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, addressed to the Company or the Representative at their last known addresses.

13. Non-waiver. No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

14. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

15. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

16. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

17. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of each of the parties and their respective successors and assigns.

18. Situs. The situs of any litigation involving this Agreement shall be in St. Lucie County, Florida.

19. Attorney Fees. In any litigation arising out of this Agreement, the prevailing party shall be entitled to receive attorney fees and court costs with the civil and appellate levels.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year above stated.

Signed, sealed and delivered in the presence of:

COMPANY:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Maurice Shacket

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by MAURICE SHACKET this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 1988.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

My Commission Expires:

REPRESENTATIVE:

Scotland Development Company  
of Ft. Pierce, a Florida  
corporation

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_, President

(Corporate Seal)

STATE OF FLORIDA

COUNTY OF ST. LUCIE

The foregoing instrument was acknowledged before me by

\_\_\_\_\_ as President of \_\_\_\_\_

for and on behalf of said corporation, this \_\_\_\_\_ day of

\_\_\_\_\_ A.D., 1988.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

My Commission Expires:

CONSTRUCTION ESCROW AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 1988, between \_\_\_\_\_ hereinafter called the Purchaser, and \_\_\_\_\_ hereinafter called the Seller,

W I T N E S S E T H:

WHEREAS, the Purchaser is the owner and holder of the fee simple title to the lands, situate, lying and being in St. Lucie County, Florida, to wit: TROPICAL ISLES MOBILE HOME PARK.

WHEREAS, the Purchaser and Seller desire to complete the construction of the mobile home park, pursuant to plans and specifications provided by Culpepper and Terpening, Civil Engineers, and to provide for the funding of the construction and the rights and duties of the Purchaser and Seller thereto,

NOW THEREFORE, in consideration of the premises and mutual promises set forth herein, the parties agree as follows:

1. Upon the closing of the sale of Tropical Isles Mobile Home Park, the sum of Five Hundred Thousand Dollars (\$500,000.00) shall be deposited to the Construction Fund by the Escrow Agent under the Agreement for Purchase and Sale entered into between the Purchaser and Seller concerning the sale of Tropical Isles Mobile Home Park. The Construction Fund shall be used to pay for the construction of the remaining phases of the mobile home park in strict accordance with the plans and specifications on file

EXHIBIT "G"

with the Purchaser and Seller as prepared by civil engineers, Culpepper and Terpening, of Fort Pierce, Florida. The Construction Fund shall be deposited into an interest bearing account at the Sun Bank/Treasure Coast, N.A., Fort Pierce, Florida. Purchaser's and Seller's signature, or their designated representative, shall be required on all disbursements. The engineers shall authorize disbursements for payment of all construction costs in strict accordance with the plans and specifications on file.

All applications for disbursement from the Construction Fund shall be approved by Purchaser.

Upon the sale of Tropical Isles Mobile Home Park to Purchaser, Seller shall deposit to an interest bearing account at Sun Bank/Treasure Coast, N.A., the sum of Two Hundred, Fifty Thousand Dollars (\$250,000.00), as security, to be used and disbursed as herein set forth in the event that the Construction Fund of \$500,000.00 is not sufficient to complete the construction. Purchaser's and Seller's signatures, or their designated representatives, shall be required on all disbursements from this security account. The engineer shall authorize disbursements for all construction costs in excess of the Construction Fund of \$500,000.00 in strict accordance with the plans and specifications on file.

If the construction costs do not exceed the Construction Fund of \$500,000.00, the surplus funds shall be returned to the Seller upon completion of the job together with accrued and

unpaid interest remaining in the account. Any surplus in the security account of \$250,000.00 shall be returned to the Seller, together with accrued and unpaid interest in the account upon the completion of the job.

2. The Purchaser and Seller covenant and agree that construction of the remaining phases of the mobile home park, pursuant to the plans and specifications on file, shall commence within 60 days of the date of this agreement.

3. The Purchaser and Seller covenant that the construction shall proceed diligent and continuously and that such construction will be completed within one year and in the manner set forth in the plans and specifications on file.

4. No extra work shall be ordered by the Purchaser or furnished by any third party without the approval in writing of the Seller. The engineer shall also be advised of any such change. Any such change in the plans and specifications that increase the cost of construction above the initial plans and specifications in the sole opinion of the engineer shall be paid for by the Purchaser by an additional deposit to the Construction Fund to cover said cost. Likewise, no material shall be purchased, or work or labor performed in connection with extra work, changes, alterations, or additions, until the full cost thereof has been determined by the engineer and a deposit has

been made to the Construction Fund by the Purchaser to cover said extra work.

5. The Seller agrees to pay for and provide the plans and specifications to complete the mobile home park. Seller shall have the responsibility for and exercise all authority on behalf of Purchaser to complete the mobile home park pursuant to the plans and specifications on file.

6. The plans and specifications on file are incorporated by reference into this agreement together with the complete and properly executed breakdown of the construction costs or contract price provided by the engineer and the contractor.

7. During the course of construction of the park, the Purchaser shall place insurance in reasonable amounts to cover all risks. Cost of such insurance shall be paid by the

*However, Seller shall repair, and hold Purchaser harmless from any loss resulting from, any damage to any property of any person occurring as a result of the construction undertaken by Seller, and Seller shall furnish Purchaser with proof of insurance against such risks.*

8. It is specifically agreed that time is of the essence of this agreement and that no waiver of any obligation hereunder shall at any time thereafter be held to be a waiver of the terms hereof.

9. It is further agreed by all parties that no monies will be disbursed under this agreement from the Construction Fund or the security deposit placed up by the Seller for cost of construction unless referenced to documents authorizing the draw supplied by the engineer.

10. Purchaser may, at its own expense and not paid from the Construction Fund, provide inspections, services, or other agents to review the construction on behalf of the Purchaser.

11. Each party to this Agreement may proceed in law by any action for damages resulting from the other's breach or in equity to enforce its rights under this Agreement including the right of specific performance.

12. This agreement contains the entire understanding the parties and supersedes all previous verbal and written agreements. There are no other agreements, representations, or warranties not set forth herein.

13. No delay or failure by either party to exercise any right under this agreement, and no partial or single exercise of that right shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

14. This agreement shall be construed in accordance with and governed by the laws of the State of Florida.

15. This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. The situs of any litigation involving this agreement shall be St. Lucie County, Florida.

17. In any litigation arising out of this agreement, the prevailing party shall be entitled to receive attorneys' fees and court costs on both the civil and appellate levels.

Executed by Seller on the \_\_\_\_\_ day of \_\_\_\_\_

A.D., 1988.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

Scotland Development Company  
of Ft. Pierce, a Florida  
corporation

By: \_\_\_\_\_  
President

Executed by Purchaser on the \_\_\_\_\_ day of \_\_\_\_\_  
A.D., 1988.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Maurice Shacket

915249

SHELTER AND FACILITIES AGREEMENT

THIS SHELTER AND FACILITIES AGREEMENT (the "Agreement") is made as of the 8<sup>th</sup> day of July, 1988 by and between R & B HOLDING COMPANY, INC., a Florida corporation ("R&B"), and SCOTLAND DEVELOPMENT COMPANY OF FT. PIERCE, a Florida corporation ("SDC").

## W I T N E S S E T H:

WHEREAS, R&B is the owner of the land described in attached Exhibit "A" (the "R&B Property") and SDC is the owner of the land described in attached Exhibit "B" (the "SDC Property"), said lands lying and being in St. Lucie County, Florida; and

WHEREAS, in connection with SDC's development of the SDC Property as a mobile home park, SDC desires to use as an emergency shelter certain paint and body shop facilities located or to be located on the R&B Property (the "Shelter"); and

WHEREAS, in connection with R&B's construction of the Shelter on the R&B Property and its use as a paint and body shop for an automobile dealership, R&B desires to obtain water and sewer services through the city water line and private sewage treatment facilities located on the SDC Property (collectively, the "Facilities"); and

WHEREAS, SDC and R&B desire to exchange the right to use the Shelter as an emergency shelter for the right to obtain water and sewer services from the Facilities and to set forth the terms and conditions of that exchange:

NOW, THEREFORE, in consideration of the foregoing recitals and the sum of Ten Dollars in hand paid and other good and valuable considerations, SDC and R&B covenant and agree as follows:

1. The Shelter. R&B hereby grants SDC the non-exclusive right to use the Shelter as an emergency shelter for the occupants of the SDC Property subject to the terms and conditions of this Agreement.

1.1. Emergency Occupancy. SDC shall have the right to use the Shelter as an emergency shelter only during the existence of an emergency condition requiring any or all of the occupants of the SDC Property to evacuate the their mobile homes or other structures located on the SDC Property, including without limitation any hurricane, tornado, flood, windstorm, riot, insurrection, invasion, or radioactive or chemical or other toxic contamination. During such emergency occupancy of the Shelter, R&B shall refrain from using the Shelter for business purposes and shall not interfere with SDC's use thereof. Except during such emergency occupancy and except as provided in the next subsection, SDC shall have no right to use the Shelter and shall not interfere with the use of the Shelter by R&B or any person claiming by or through R&B.

1.2. Equipment and Supplies. Upon reasonable prior notice to R&B, SDC shall have access to the Shelter, without interfering with the business use of the Shelter, for the purpose of preparing and equipping and supplying the Shelter for use as an emergency shelter in accordance with applicable governmental requirements. SDC rather than R&B shall be solely responsible for so preparing and equipping and supplying the Shelter, and SDC shall pay all costs thereof. All such emergency equipment and supplies furnished by SDC shall remain the property of SDC, shall be insured by SDC and

This Instrument prepared by Burt Bruton, Esq., of

shall be at the sole risk of SDC. SDC shall remove all such emergency equipment and supplies from the Shelter upon termination of this Agreement and shall pay for the repair of any damage to the Shelter resulting from such removal. Except during the emergency occupancy of the Shelter, all such emergency equipment and supplies shall be stored so as not to create a safety hazard or interfere with the business use of the Shelter.

**1.3. Emergency Utilities.** SDC acknowledges that electricity and water and other utilities might not be available at the Shelter from conventional sources during the existence of an emergency, and SDC rather than R&B shall be solely responsible for providing electricity and water and other utilities to the extent required by applicable governmental requirements during the emergency occupancy of the Shelter.

**1.4. Alterations.** SDC shall make no alterations to the Shelter without the prior written consent of R&B, and any such alterations shall be completed promptly at SDC's sole expense by competent workers in accordance with the plans and specifications approved in advance by R&B. SDC shall have no right to subject the Shelter or the R&B Property to any mortgage, security interest, attachment, lien, claim of lien or other voluntary or involuntary encumbrance of any nature whatsoever, and SDC shall promptly remove of record any of the foregoing that may be filed on account of SDC's activities with respect to the Shelter. R&B may alter or repair or demolish or replace or relocate the Shelter from time to time as R&B may deem appropriate, except that R&B shall provide reasonable substitute premises on or near the R&B Property for SDC's use as an emergency shelter during any time that the foregoing actions by R&B render the Shelter unavailable for an emergency shelter.

**1.5. Condition of Shelter.** SDC recognizes that the Shelter is a paint and body shop used in connection with an automobile dealership business conducted on the R&B Property, and SDC agrees that R&B has made no representation or warranty whatsoever that the Shelter is safe or habitable or suitable for use as an emergency shelter or for any other purpose. SDC shall accept the condition of the Shelter "as is" at the beginning of any emergency occupancy thereof by SDC and shall surrender the Shelter to R&B at the end of the emergency in the same condition as at the beginning, reasonable wear and tear excepted.

**1.6. Indemnity.** SDC rather than R&B shall be solely responsible for any injury or damage to the Shelter or any persons or property therein resulting from any such emergency occupancy of the Shelter, and SDC shall defend and indemnify and hold R&B harmless against any and all liabilities, losses, claims, counterclaims, judgments, costs and expenses (including court costs and reasonable attorney's fees) incurred by or asserted against R&B with respect to any such injury or damage in connection with the use of the Shelter as an emergency shelter.

**1.7. Insurance.** While this Agreement remains in effect, SDC shall maintain comprehensive general liability insurance and umbrella liability insurance with respect to the use of the Shelter as an emergency shelter, in amounts and on terms and by insurer(s) satisfactory to R&B. The liability insurance policies shall include R&B and any tenant of the R&B Property as additional named insureds and shall require the insurer(s) to notify R&B in writing at least thirty (30) days before any cancellation or material modification of any such policy. At least thirty (30) days before the expiration date of any such policy, SDC shall renew or replace the same and shall deliver to R&B a receipt for the paid premium or other evidence satisfactory to R&B that the policy has been renewed.

or replaced. If SDC shall fail to maintain the required liability insurance, then R&B may obtain such insurance at SDC's expense and SDC shall promptly reimburse R&B for the cost thereof. If R&B's property insurance premium for the Shelter shall be increased by reason of any actual or proposed use of the Shelter as an emergency shelter, then SDC shall promptly reimburse R&B for the amount of the increase.

1.8. Consideration. SDC's right to use the Shelter as provided herein is granted in exchange for and consideration of R&B's right to obtain water and sewer services from the Facilities, and SDC's right to use the Shelter shall continue for so long as this Agreement shall remain in effect.

2. The Facilities. SDC agrees to make water and sewer services through the Facilities available to the R&B Property in accordance with the terms and conditions of this Agreement.

2.1. Water Service. SDC agrees to lease to R&B up to 60,000 gallons per month of city water service capacity through the Facilities, in exchange for SDC's right to use the Shelter under this Agreement and without other charge to R&B. R&B acknowledges that SDC is not a public or private utility company and that the water service available through the Facilities shall actually be provided by the City of Fort Pierce. All water service provided to the R&B Property through the Facilities shall be metered, and all water usage by the R&B Property in any month in excess of said amount shall be leased to R&B at the same prevailing rate per gallon then charged SDC by the City of Fort Pierce, payable by R&B by the 10th day of the following month. Water usage by the R&B Property from the Facilities shall be limited to drinking, sanitation and other uses of water commonly employed by an automobile dealership, including a small kitchen facility maintained for the employees of the dealership, but excluding irrigation purposes.

2.2. Sewage Treatment Service. SDC agrees to lease to R&B sufficient sewage treatment capacity through the Facilities to service the automobile dealership business conducted on the R&B Property, in exchange for SDC's right to use the Shelter under this Agreement and without other charge to R&B. All sewage disposal from the R&B Property into the sewage treatment Facilities shall be limited to waste generated in the normal course of operating an automobile dealership, including a small kitchen facility maintained for the employees of the dealership. SDC shall not be required to accept for sewage treatment at the Facilities any industrial waste or any waste not generated on the R&B Property or not related to the automobile dealership conducted on the R&B Property.

2.3. Connecting Lines. The construction and maintenance of all water and sewer lines necessary to connect the R&B Property to the water main and the sewage lift station on the SDC Property shall be the sole expense of R&B rather than SDC, including the connecting lines installed across the SDC Property. R&B shall have no right to subject the SDC Property to any mortgage, security interest, attachment, lien, claim of lien or other voluntary or involuntary encumbrance of any nature whatsoever, and R&B shall promptly remove of record any of the foregoing that may be filed on account of R&B's construction or maintenance of the connecting lines. The connecting lines shall remain the property of R&B (unless R&B is required to transfer them to a governmental authority) and shall comply with all applicable governmental requirements and with the plans and specifications approved in advance by SDC. The connecting lines over the SDC Property shall initially be located at the shortest possible route that is consistent with SDC's plan of development for the SDC Property, or at any other mutually agreeable location. Initially, SDC plans to

locate the Facilities in the Southwest portion of Lot 238, WHITE CITY SUBDIVISION, as described in Exhibit "B".

2.4. Easement. SDC hereby grants to R&B a non-exclusive easement five (5) feet on each side of the connecting lines and a right of ingress and egress over the SDC Property for the purpose of constructing and maintaining the connecting lines. SDC agrees not to construct any improvements within said ten-foot easement, although SDC may install landscaping or paving within the easement. If R&B shall be required to remove any such landscaping or paving in order to repair or maintain the connecting lines, then R&B shall restore the landscaping and paving to the same condition as existed before such repairs or maintenance. SDC shall have the right to move the connecting lines to a different location on the SDC Property, provided that SDC provides reasonable notice to R&B, repairs any damage to the connecting lines resulting from moving them, completes the work as expeditiously as possible, and pays all costs of the foregoing. The foregoing easement shall be automatically relocated to the new location of the lines. At the request of either party after the installation or relocation of the connecting lines, SDC and R&B shall execute an appropriate amendment to this Agreement specifying the current location of the installed lines and the ten-foot easement.

2.5. Consideration. R&B's right to obtain water and sewer services from the Facilities as provided herein is granted in exchange for and consideration of SDC's right to use the Shelter, and R&B's right to obtain water and sewer services from the Facilities shall continue for so long as this Agreement shall remain in effect.

3. Covenant Running with Land. This Agreement is a covenant running with the land, and the benefits and burdens hereof shall inure to and bind SDC and R&B and their respective successors in fee simple title with respect to the SDC Property and the R&B Property. Neither party shall assign its rights hereunder except to any such successor in title. Except for SDC and R&B and their respective successors in fee simple title, no other person whomsoever shall be deemed a beneficiary of this Agreement or be entitled to enforce any provision hereof.

4. Remedies. This Agreement may be enforced at law or in equity in the event that either party shall fail to comply with the provisions hereof. If either party shall fail to perform its obligations hereunder, then the other party at its option may perform the same and recover the cost thereof from the first party with interest at the legal rate. No delay in exercising or failure to exercise any rights or remedies shall constitute a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of that or any other right or remedy.

5. Term of Agreement. This Agreement shall remain in effect for an initial term of ten (10) years from the date hereof and may be extended for an additional ten (10) year period at the option of either party by written notice to the other at least sixty (60) days before the end of the initial term. During the last sixty (60) days of the additional ten (10) year period, the parties may further extend the term of this Agreement by mutual written agreement signed by SDC and R&B and recorded in the Public Records of St. Lucia County, Florida; otherwise, this Agreement shall terminate and be without further force or effect. This Agreement may be amended or terminated at any time by mutual written agreement of SDC and R&B, or either party may terminate this Agreement upon thirty (30) days' written notice (without thereby waiving any other available remedy) if the other party fails to comply with the provisions of this Agreement for any reason.

6. Notices. Any notices with respect to this Agreement shall be in writing and shall be deemed sufficiently made if

delivered personally or if transmitted by postage prepaid first class mail to the respective addresses set forth below. Either party may change its address for notices by giving notice to the other party in accordance with this Section.

Notices to R&B:

R & B Holding Company, Inc.  
 c/o Isuzu of Ft. Pierce  
 5714 South U.S. Highway No. 1  
 Fort Pierce, Florida 34982

Attention: Mr. Irving Grant

with a copy to:

Mr. Gerald F. Bean  
 R & B Holding Company, Inc.  
 10943 South Dixie Highway  
 Miami, Florida 33156

Notices to SDC:

Scotland Development Company  
 of Ft. Pierce  
 5550 South U.S. Highway #1  
 Fort Pierce, Florida 34982

Attention: Mr. Pete Thames

with a copy to:

Richard D. Sneed, Jr., Esq.  
 Richard D. Sneed, Jr., P.A.  
 700 Virginia Avenue, Suite 104  
 Fort Pierce, Florida 34982

7. Miscellaneous. SDC and R&B agree as follows:

7.1. Except for this Agreement, there are no other agreements or understandings, whether oral or written, between R&B and SDC with respect to the Shelter or the Facilities.

7.2. Time is of the essence of this Agreement.

7.3. SDC and R&B are not partners or joint venturers or agents of each other and no such relationship between them shall be deemed to exist by virtue of this Agreement.

7.4. No waiver of any right or remedy hereunder shall be effective unless made in writing, nor shall any waiver on one occasion apply to any future occasion, but shall be effective only with respect to the specific occasion addressed in that writing.

7.5. In the event of any litigation between the parties arising from or concerning this Agreement, the parties waive trial by jury and agree that the prevailing party shall be entitled to recover its court costs and reasonable attorney's fees.

7.6. Wherever used in this Agreement and unless the context otherwise requires, words in the singular include the plural, words in the plural include the singular, and pronouns of any gender include the other genders.

7.7. Captions and paragraph headings contained in this Agreement are for convenience only and shall not affect its interpretation.

7.8. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

7.9. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, which shall remain in full force and effect unless the ineffectiveness of the prohibited or unenforceable provision prevents SDC from using the Shelter as an emergency shelter or prevents R&B from obtaining water and sewer services from the Facilities as contemplated herein, in which case the prevented party shall have the right to terminate this Agreement upon thirty (30) days notice.

7.10. This Agreement consists of six (6) pages plus

two exhibits (Exhibits "A" and "B") which are attached hereto and incorporated herein by this reference.

WITNESS the due execution hereof as of the day and year first written above.

Signed, sealed and delivered in the presence of:

R & B HOLDING COMPANY, INC., a Florida corporation

[Signature]  
[Signature]

By: [Signature]  
President  
[CORPORATE SEAL]

SCOTLAND DEVELOPMENT COMPANY OF FT. PIERCE, a Florida corporation

[Signature]  
[Signature]

By: [Signature]  
President  
[CORPORATE SEAL]

STATE OF FLORIDA )  
COUNTY OF DADE ) SS:

The foregoing instrument was acknowledged before me this 7th day of September, 1988 by GERALD F. BEAN as President of R & B HOLDING COMPANY, INC., a Florida corporation, on behalf of the corporation.

My commission expires:

[Signature]  
Notary Public, State of Florida  
[NOTARIAL SEAL]

STATE OF FLORIDA )  
COUNTY OF St. Johns ) SS:

The foregoing instrument was acknowledged before me this 8th day of September, 1988 by Mary Keller as President of SCOTLAND DEVELOPMENT COMPANY OF FT. PIERCE, a Florida corporation, on behalf of the corporation.

My commission expires:

Notary Public, State of Florida  
My Commission Expires March 30, 1992

[Signature]  
Notary Public, State of Florida  
[NOTARIAL SEAL]

EXHIBIT "A"LEGAL DESCRIPTION OF THE R&B PROPERTYPARCEL 2A (St. Lucie County):

The south one-half (1/2) of Lot 234, in Section 10, Township 36 South, Range 40 East, according to the Plat of WHITE CITY SUBDIVISION, recorded in Plat Book 1, Page 23, of the Public Records of St. Lucie County, Florida, LESS AND EXCEPTING therefrom the East 30 feet deeded to the State of Florida and ALSO LESS AND EXCEPTING the existing right-of-way for U.S. Highway No. 1 (now 120 feet wide, 78 feet of which lies East of the original West line of said Lot 234, which West line is also the quarter section line).

V30-002/1

EXHIBIT "B"LEGAL DESCRIPTION OF THE SDC PROPERTYTROPICAL ISLES MOBILE HOME PARK:

Being Lots 224, 225, 226, 235, 236, 237, 238, and 239 of White City, a subdivision recorded in Plat Book 1, at page 23 of the Public Records of St. Lucie County, Florida, less rights-of-way for canals and roads.

AND

A 61 foot wide strip of land situated in the North 1/2 of Lot 234 of White City, a subdivision recorded in Plat Book 1, at page 23 of the Public Records of St. Lucie County, Florida, being more particularly described as follows:

Beginning at the Point of Intersection of the South line of said North 1/2 of Lot 234 with the Easterly right-of-way line of U. S. Highway No. 1; thence run N00°00'15"E, along said right-of-way line, a distance of 61.00 feet; thence run S89°49'14"E, parallel with said South line of the North 1/2 of Lot 234, a distance of 275.10 feet to the Beginning of a Curve concave to the Northwest having a radius of 228.00 feet and a central angle of 47°44'30"; thence run Northeasterly along the arc of said curve, a distance of 189.98 feet, to the Point of Reverse Curve of a curve concave to the Southeast, having a radius of 272.00 feet and a central angle of 29°25'31"; thence run Northeasterly along the arc of said curve, a distance of 139.69 feet to the Point of Intersection with the Westerly right-of-way line of the North St. Lucie River Water Control District New Canal; thence run S00°04'23"W, along said right-of-way line, a distance of 65.26 feet, to the Point of Intersection with a non-tangent curve concave to the Southeast, having a radius of 211.00 feet and a central angle of 23°52'45", from which point its center bears S23°40'59"E; thence run Southwesterly along the arc of said curve, a distance of 87.94 feet to a point of reverse curve concave to the Northwest having a radius of 289.00 feet and a central angle of 47°44'30"; thence run Southwesterly along the arc of said curve, a distance of 240.81 feet, to a tangent intersection with said South line of the North 1/2 of Lot 234; thence run N89°49'14"W, along said South line, a distance of 274.92 feet, to the Point of Intersection with said Easterly right-of-way line of U. S. Highway No. 1 and the POINT OF BEGINNING.

Containing 0.8462 Acres, more or less.

TOGETHER WITH:

An 18 foot wide strip of land Reserved for an Easement for Ingress and Egress, Utilities and Drainage over and across the North 1/2 of Lot 234 of White City, a subdivision recorded in Plat Book 1, at page 23, of the Public Records of St. Lucie County, Florida, being more particularly described as follows:

Commencing at the Point of Intersection of the South line of said North 1/2 of Lot 234 with the Easterly right-of-way line of U. S. Highway No. 1; thence run N00°00'15"E, along said right-of-way line, a distance of 79.00 feet to the POINT OF BEGINNING; thence run S89°49'14"E, parallel with said South line of the North 1/2 of Lot 234, a distance of 275.16 feet to the Beginning of a Curve concave to the Northwest having a radius of 210.00 feet and a central angle of 47°44'30"; thence run Northeasterly along the arc of said curve, a distance of 174.98 feet, to the Point of

V30-002/2

EXHIBIT "B", Continued

LEGAL DESCRIPTION OF THE SDC PROPERTY

Reverse Curve of a curve concave to the Southeast, having a radius of 290.00 feet and a central angle of 30°35'29"; thence run Northeasterly along the arc of said curve, a distance of 154.84 feet to the Point of Intersection with the Westerly right-of-way line of the North St. Lucia River Water Control District New Canal; thence run S00°04'23"W, along said right-of-way line, a distance of 18.89 feet, to the Point of Intersection with a non-tangent curve concave to the Southeast, having a radius of 272.00 feet and a central angle of 29°25'31", from which point it's center bears S18°08'13"E; thence run Southwesterly along the arc of said curve, a distance of 139.69 feet to a point of reverse curve concave to the Northwest having a radius of 328.00 feet and a central angle of 47°44'30"; thence run Southwesterly along the arc of said curve, a distance of 189.98 feet, to a tangent intersection parallel with said South line of the North 1/2 of Lot 234; thence run N89°49'14"W, parallel with said South line, a distance of 275.10 feet, to the Point of Intersection with said Easterly right-of-way line of U. S. Highway No. 1; thence N00°00'15"E, along said right-of-way line, a distance of 18.00 feet to the POINT OF BEGINNING.

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FILED AND RECORDED  
DOUGLAS B. JAMES, CLERK  
ST. LUCIA COUNTY, ST.