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ATTORNEYS AT LAW

ORIGINAL

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November 19, 2002

**FILED<sup>3</sup>**

NOV 19 2002

Missouri Public Service Commission  
Attn: Secretary of the Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

Missouri Public  
Service Commission

Re: CAT-PAC Waterworks, Inc./Public Water Supply District No. 3 of Franklin County,  
Missouri Asset Transfer

Dear Mr. Roberts:

Please find enclosed for filing an original and eight (8) copies of the Joint Application For Approval Of Transfer Of Assets filed on behalf of CAT-PAC Waterworks, Inc. and Public Water Supply District of Franklin County, Missouri.

Copies of the filing have on this date been mailed or hand-delivered to the General Counsel's Office and the Office of the Public Counsel.

Sincerely,

*Brent Stewart*  
Brent Stewart

CBS/bt

Enclosure

cc: General Counsel  
Office of the Public Counsel  
Mark Piontek

NOV 19 2002

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Missouri Public  
Service Commission

In the Matter of the Joint Application of )  
CAT-PAC Waterworks, Inc. and Public )  
Water Supply District No. 3 of Franklin ) Case No. \_\_\_\_\_  
County, Missouri for Approval of Transfer )  
Of Assets. )

JOINT APPLICATION FOR APPROVAL OF  
TRANSFER OF ASSETS

COME NOW CAT-PAC Waterworks, Inc. ("CAT-PAC") and Public Water Supply District No. 3 Franklin County, Missouri (the "District") (collectively, "Joint Applicants"), by and through counsel and pursuant to Section 393.190 RSMo 2000 and 4 CSR 240-2.060(1) and (7), and for their Joint Application for Approval of Transfer of Assets from CAT-PAC to the District respectfully state as follows:

1. Pursuant to 4 CSR 240-2.060(1)(I), all correspondence, communications, notices, orders and decisions relating to this proceeding should be sent to:

Charles Brent Stewart  
STEWART & KEEVIL, L.L.C.  
1001 Cherry Street, Suite 302  
Columbia, Missouri 65201  
(573) 499-0635  
(573) 499-0638 (fax)  
Stewart499@aol.com

Isidore I. Lamke  
ATTORNEY AT LAW  
415 Cedar Street  
P.O. Box 128  
Washington, Missouri 63090  
(636) 239-7800  
(636) 239-4002 (fax)

With a copy to:

Mark C. Piontek  
LEWIS, RICE & FINGERSH, L.C.  
1200 Jefferson  
P.O. Box 1040  
Washington, Missouri 63090

## **I. CAT-PAC Waterworks, Inc.**

2. Joint Applicant CAT-PAC is a privately-held domestic corporation incorporated and existing under the laws of the state of Missouri. Pursuant to 4 CSR 240-2.060(1)(A), CAT-PAC's principal office and place of business is located at 50 St. Mary's Road, Villa Ridge, Missouri 63089, telephone number (636) 451-3337, fax number (636) 257-3012. Pursuant to 4 CSR 240-2.060(1)(B), a copy of CAT-PAC's Certificate of Good Standing issued by the Missouri Secretary of State's office is attached hereto and incorporated herein as **Appendix A**.

3. Pursuant to 4 CSR 240-2.060(1) (H), CAT-PAC also is a "water corporation", a "sewer corporation", and a "public utility", as those terms are defined in Section 386.020, and therefore, it and its operations are regulated by the Commission. CAT-PAC's predecessor in interest received its certificate of public convenience and necessity from the Commission on January 16, 1969 in Case No. 16,506; its utility assets were transferred to CAT-PAC and approved by the Commission on September 20, 1985 in Case No. WM-86-37. Pursuant to 4 CSR 240-2.060(1)(G), CAT-PAC incorporates by reference the information previously provided to the Commission in its previous proceedings to the extent such information may be of assistance to the Commission and its Staff for purposes of this case. Pursuant to its Commission certificate, CAT-PAC currently provides regulated water and sewer services to approximately 154 customers located at the Lake Serene in Franklin County, Missouri. CAT-PAC does not serve any customers residing within the boundaries of any municipality, and therefore, has no municipal franchises.

4. Pursuant to 4 CSR 240-2.060(1) (K), CAT-PAC states that within the last three years it has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates.

5. Pursuant to 4 CSR 240-2.060(1) (L), CAT-PAC states that it has no overdue annual reports or assessments fees.

6. The notarized verification of Stephen J. Unnerstall, President of CAT-PAC, as required by 4 CSR 240-2.060(1) (M), was not available at the time of filing but will be submitted subsequently pursuant to 4 CSR-240-2.060(2).

## **II. Public Water Supply District No. 3 of Franklin County, Missouri**

7. Pursuant to 4 CSR 240-2.060(1) (A) and (H), Joint Applicant District is a public water supply district organized and existing under Chapter 247 RSMo 2000. The District provides water and sewer services at retail and at wholesale to approximately 2,557 water and 954 sewer service customers located within the District's service area in Franklin County, Missouri. The District is a political subdivision of the state of Missouri, is governed by an elected Board of Directors, and is not otherwise regulated by the Commission. The District's principal office and place of business is located at 150 Old Highway 100, Villa Ridge, Missouri 63089, telephone number (636) 742-5200, fax number (636) 742-0224. It has no email address.

8. Pursuant to 4 CSR 240-2.060(1) (M), the notarized verification of Thomas Seener, President of the District, is attached hereto.

9. As a public water supply district which is not currently regulated by the Commission, and which will not become regulated by the Commission should this Joint

Application be approved, the remaining provisions of 4 CSR 240-2.060 do not apply to Joint Applicant District, except for certain provisions of 4 CSR 240-2.060(7) which relate to the proposed asset transfer.

### **III. 4 CSR 240-2.060(7) Requirements**

10. Joint Applicants request Commission approval to transfer all the assets and customers of of CAT-PAC to the District pursuant to Section 393.190 RSMo 2000. Pursuant to 4 CSR 240-2.060(7) (A) and (B), these assets include all of CAT-PAC's existing water and sewer plant, customers, rights, and permits as more fully described in the Asset Purchase Agreement dated July 1, 2002 and attached hereto and incorporated herein as **Appendix B**.

11. Pursuant to 4 CSR 240-2.060(7)(C), evidence of corporate actions authorizing the transactions passed by Joint Applicants' respective boards of directors are attached hereto as **Appendix C**.

12. Pursuant to 4 CSR 240-2.060(7) (D), Joint Applicants state that the proposed asset transfer will not be detrimental to the public interest and should be approved by the Commission because:

a. CAT-PAC's existing system will be consolidated with a larger water and sewer system, thereby better ensuring safe and quality water and sewer service to customers;

b. the District is well qualified to provide water and sewer services and is staffed with full-time, professional and experienced system operators who have a history of providing high quality water and sewer service to the public;

c. CAT-PAC's customers will be permitted to vote for the governing Board of the District, thereby insuring accountability to customers as new members of the District; and

d. the District has the financial capacity and capabilities to insure that any necessary improvements and modifications to CAT-PAC's existing utility plant can be made to insure quality of service and compliance with applicable state and federal clean water regulations;

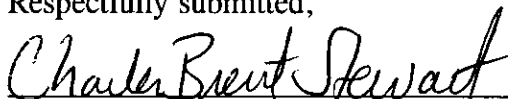
13. Joint Applicants anticipate that the Commission will require both that customer notice be sent to CAT-PAC's existing customers and that comparative rate information (based on an average usage of 6000 gallons per month) be provided to the Commission's Staff for purposes of its review of this Joint Application. Joint Applicants will work with the Staff in preparing and sending such customer notice at the appropriate time. The District's current rate for 6,000 gallons usage is \$31.25 per month; additional rate information can be provided to Staff upon request.

14. Pursuant to Section 393.190(1) and 4 CSR 240-2.060(7)(F), the proposed transfer of assets to the District will result in slight reduction of the tax revenues paid by CAT-PAC to Franklin County, Missouri. Based on information received from the Franklin County Collector, CAT-PAC paid \$22.50 in county property taxes for 2001, with prior years amounting to less than \$15.00 per year. As a tax-exempt, political subdivision the District will not be required to pay property taxes on CAT-PAC's system should the Commission approve the asset transfer.

15. Should the Commission approve the proposed asset transfer, CAT-PAC will no longer be engaged in the provision of water and sewer utility services within its Commission-designated service area. Therefore, in the interest of judicial economy Joint Applicant CAT-PAC requests that the Commission cancel CAT-PAC's certificate of public convenience and necessity and tariffs after it approves this Joint Application upon notice by the Joint Applicants to the Commission that the proposed asset transfer has occurred. The Commission recently used such a procedure in *In re: Eastern Missouri Utilities, Co., Inc. and City of Foristell*, Case No. SM-2002-1062 (final order issued on August 21, 2002).

WHEREFORE, Joint Applicants CAT-PAC Waterworks, Inc. and Public Water Supply District No. 3 of Franklin County, Missouri respectfully request that: 1) the Commission approve Joint Applicants proposed transfer of assets from CAT-PAC to the District; 2) the Commission authorize CAT-PAC to take all actions necessary and proper to effectuate the proposed transaction; 3) the Commission cancel CAT-PAC's certificate of public convenience and necessity and tariffs upon notice to the Commission that the proposed transaction has occurred; and 4) for any other orders deemed just and reasonable in the premises.

Respectfully submitted,



Charles Brent Stewart, MoBar #34885  
STEWART & KEEVIL, L.L.C.  
1001 Cherry Street, Suite 302  
Columbia, Missouri 65201  
(573) 499-0635  
(573) 499-0638 (fax)  
Stewart499@aol.com

SPECIAL REGULATORY COUNSEL  
FOR JOINT APPLICANTS  
AND SIGNED ON BEHALF OF:

Isidore I. Lamke, MoBar #28266  
ATTORNEY AT LAW  
P.O. Box 128  
Washington, Missouri 63090  
(636) 239-7800  
(636) 239-4002 (fax)

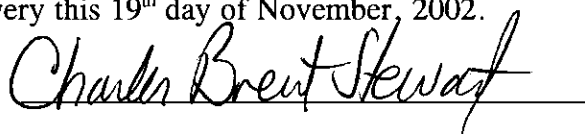
ATTORNEY FOR  
CAT-PAC WATERWORKS, INC.

Mark C. Piontek, MoBar#36211  
LEWIS, RICE & FINGERSH, L.C.  
1200 Jefferson, P.O. Box 397  
Washington, Missouri 63090  
(636) 239-7747  
636) 239-8450 (fax)  
mpiontek@lewisrice.com

ATTORNEY FOR PUBLIC WATER  
SUPPLY DISTRICT NO. 3 OF  
FRANKLIN COUNTY, MISSOURI

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Joint Application, with Appendices, was sent to the General Counsel's Office and to the Office of the Public Counsel by hand-delivery this 19<sup>th</sup> day of November, 2002.





VERIFICATION

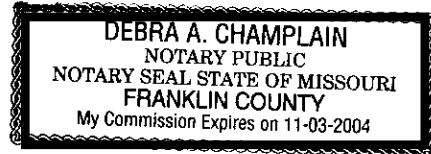
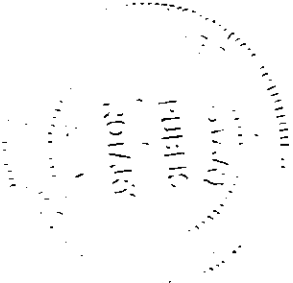
State of Missouri )  
 ) ss  
County of Franklin )

I, Thomas Seener, having been duly sworn upon my oath, state that I am the President of Public Water Supply District No. 3 of Franklin County, Missouri, that I am duly authorized to make this affidavit on behalf of Public Water Supply District No. 3 of Franklin County, Missouri, that the matters and things stated in the foregoing application and appendices thereto are true and correct to the best of my information, knowledge and belief.

*Thomas Seener*  
Thomas Seener

Subscribed and sworn before me this 17<sup>th</sup> day of October, 2002.

*Debra A. Champlain*  
Notary Public



CAT-PAC WATERWORKS, INC./  
PWSD #3 OF FRANKLIN COUNTY

**APPENDIX A**

**SECRETARY OF STATE CERTIFICATE**

No. 00186671

# STATE OF MISSOURI



Matt Blunt  
Secretary of State

CORPORATION DIVISION


## CERTIFICATE OF CORPORATE GOOD STANDING

I, MATT BLUNT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

CAT-PAC WATERWORKS, INC.

was incorporated under the laws of this State on the 11th day of OCTOBER, 1976, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 14th day of MAY, 2002.

  
Secretary of State



CAT-PAC WATERWORKS, INC./  
PWSD #3 OF FRANKLIN COUNTY

**APPENDIX B**  
**ASSET PURCHASE AGREEMENT**

WATER WORKS SYSTEM ASSET PURCHASE AGREEMENT

Among

CAT-PAC Waterworks, Inc. [Seller]

and

Public Water Supply District No. 3 of Franklin County [Buyer]

July 1st ~~2001~~ 2002

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made and entered into this 15<sup>th</sup> day of JULY, <sup>2002</sup>~~2001~~, by and among CAT-PAC Waterworks, Inc., a Missouri Corporation ("Seller") and Public Water Supply District No. 3 of Franklin County, a political subdivision of the State of Missouri organized pursuant to Section 247.010 et seq., ("Buyer").

WITNESSETH:

WHEREAS, Seller is engaged in the production and sale of water within a certain territory known as Public Water Supply District No. 2 of Franklin County; and

WHEREAS, Buyer desires to purchase all property of Seller related to the Lake Serene Subdivision in order to engage in such production and sale in that territory; and

WHEREAS, the territory within which the services provided is not within the boundaries of the Public Water Supply District No. 3 of Franklin County and the Seller agrees to cooperate with the annexation of said territory.

NOW, THEREFORE, in consideration of the premises and the mutual promises, agreement, warranties, and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

## ARTICLE I

### PURCHASE AND SALE OF ASSETS

1.1. Purchase and Sale of Assets. Upon the terms and subject to the conditions of this Agreement, at the "Closing" on the "Closing Date," as those terms are defined in Section 1.4 hereof, Seller shall grant, bargain and sell, convey and confirm, assign, transfer and deliver to Buyer, and Buyer shall purchase from Seller, free and clear of any and all encumbrances, subject to no mortgages, pledges, liens, claims, charges, leases, encumbrances or other adverse interests of any kind, other than as provided in Section 2.4(b) hereof, the following assets of Seller (hereinafter the assets listed in paragraphs (a) through (g) below are referred to, collectively, as the "Assets"):

1.2. Inventory. All of Seller's inventory, including but not limited to, all material and work in process, maintenance items, and all other materials and supplies on hand to be sold through the operation of Seller's business, as of the Closing (the "Inventory");

1.3. Assets. All of Seller's wells, main water lines, valves, other components of the water system, the water plant, tanks, and the real property upon which the water plant facility lies, and all other appurtenances to said water lines and facilities set forth on Schedule 1.3, except Buyer specifically excludes the service lines and any components of the customers' water lateral or service line and its components. All of Seller's machinery, spare parts, equipment, tools, tooling, handling equipment, furniture, furnishings, and accessories as of the Closing (the "Equipment"), as listed on Schedule 1.3 hereto; and any accessories, spare parts, tools, or items which accompany the listed items;

1.4. Documents. All copies, both in machine-readable and human-readable form, of all computer programs and software (whether stored on hard, floppy or soft disks, magnetic or paper

tape or otherwise), and all interests therein or rights thereto owned by Seller or to which it is entitled, together with the media on which such software and programs are stored, and all documents and information relating to any of the foregoing, as of the Closing;

1.5. Customer Lists. All of Seller's books, mailing lists, records, books of account, customer cards, sales and purchase records, lists of customers and prospects, lists of suppliers, government inspection reports, waste monitoring reports, maintenance records, engineering designs and all other documents, files, records and other data and information of Seller relating to Seller's business, including, without limitation, all data and information stored on magnetic tape or other computer related media owned by Seller, but excluding all tax return files and working papers relating thereto of Seller for all past and current reporting years, as of the Closing;

1.6. Accounts Receivable. All of Seller's accounts receivable as desired to be purchased by Buyer. Buyer shall not purchase Seller's cash on hand;

1.7. Contracts. All of Seller's leases, contracts, and agreements set forth in Schedule 1.7 collectively known as the "Contracts";

1.8. Customer Deposits. All customer deposits detailed and set forth on Schedule 1.8.

1.9. Real Estate.

a. Seller shall transfer at Closing by General Warranty Deed, with all improvements, the following described property situated in the County of Franklin, State of Missouri, known or described as (legal description of Seller's Title to Govern):

See Exhibit A for legal description.

b. The property shall be deemed to include all easements and rights of way appurtenant thereto, all improvements located thereon, all fixtures of a permanent nature currently on the property, in their present condition, ordinary wear and tear excepted, any and all rights associated with the property, and all present or future right of the Seller, if



any, in and to the land lying the bed of any street, road, avenue, or alley, open or proposed, contiguous to the property; and

c. Seller shall furnish General Warranty Deed, subject to deed restrictions, easements, right of way of record, special endorsements, and zoning regulations. General taxes, special taxes, subdivision fees, and utility fees shall be prorated and adjusted between Seller and Buyer, with Seller being responsible through the Closing date; and

Buyer shall pay the following Closing costs: title insurance premium, hazard insurance premium, flood insurance premium, appraisal fee and survey, title company charges customarily paid by Buyer, and inspection fees.

d. Seller shall pay for the following at Closing: existing loans on property, title company charges customarily by Seller, commissions to Broker.

e. Within twenty five (25) days after the date of this contract, Buyer, at its option and expense, has the right to obtain a boundary survey of the property from a surveyor, and may obtain title examination of the property. Within the 25-day period, Buyer shall furnish a copy of the boundary survey, and/or title examination to Seller stating in writing any defects that are unacceptable to Buyer in Buyer's sole discretion. Failure by Seller to receive such objections to title or survey within such time will constitute a waiver by Buyer of any objection to title, so long as Buyer receives at Closing an owner's title insurance policy and the ALTA form issued by a qualified insurance company containing special endorsements required by Buyer or Buyer's lender. If Buyer does timely object to title, Seller has five days from receipt of the objections to agree in writing to correct defects, at Seller's expense, prior to Closing. If Seller does not so agree, this Contract is terminated unless Buyer, within two additional days, agrees in writing to accept the title "as is." If the contract is terminated, Buyer's down payment shall be refunded in full, and Seller, notwithstanding anything to the contrary herein, shall be liable for survey and title examination charges. Seller shall be responsible for clearing any defects which arise between date of this contract and Closing; and

f. Within thirty (30) days after the date of this contract, Buyer, at his option and expense, has the right to obtain written inspection reports from qualified and reputable engineers, contractors, and inspectors of the property and improvements, which shall include, but not be limited to any structural or non-structural defects, environmental hazards, termite or other types of infestation, plumbing, wells, sewage systems and equipment, roof, heating and/or air conditioning systems and equipment, and electrical systems and equipment. Buyer shall furnish a copy to Seller in writing of any defects unacceptable to Buyer in Buyer's sole discretion. Failure of Seller to receive such report within said 25-day period shall waive this contingency. If the Buyer does object and/or cite any defect, then Buyer and Seller have 10 days after receipt of such report by Seller in which to reach an agreement in writing as to who will complete and pay for the correction

of the defects, or as to an agreed monetary adjustment at Closing in lieu of the correction of the defects. If no written agreement is reached within said ten days, this contract is terminated and the down payment shall be refunded to Buyer in full; and

g. Seller grants Buyer and any of its inspectors, contractors, etc., the right to enter and proceed with their inspections; and

h. Seller warrants that it has not received any written notification from any governmental agency regarding any problems, in reference to the property and/or improvements. Seller further warrants that it is not aware of any environmental problems regarding the property or its improvements.

1.10. Limitation of Liabilities Assumed. Buyer shall not assume, pay, or be responsible for any liability or obligation of Seller or any liability or obligation in any way attributable to the Assets or any aspect of Seller's businesses and operations, which accrued (or relates to any transaction or activity of Seller, including any product or property sold by Seller) prior to the Closing Date, including, but not limited to: (a) any liability or obligation for any tax which may be due, (b) any liability or obligation resulting from any product liability claim, (c) any liability or obligation resulting from any formal or informal, written or unwritten agreement with respect to severance pay, commission, bonus, pension, health, or medical benefit or any other employee benefit, whether or not deferred or accrued, funded, or unfunded, and (d) any liability or obligation for any unemployment compensation claim by employees of Seller who are terminated as a result of this sale by Seller.

1.11. Purchase Price, Adjustment, and Allocation.

a. Purchase Price. As consideration for the Assets, Buyer shall pay Seller Eighty Thousand Dollars (\$80,000.00) (the "Purchase Price") at Closing, by certified check or bank cashier's check payable to the order of Seller. The Buyer shall deposit the sum of

\$ \_\_\_\_\_ upon execution of this contract, to be applied to the purchase price. The earnest money deposit shall be refunded in the event the closing does not occur for any reason.

b. Allocation. The Purchase Price shall be allocated in accordance with Section 1060 of the Internal Revenue Code, as amended (the "Code"), and all regulations issued pursuant thereto. Each party shall provide to the others all information appropriate to permit any party to make, in a timely manner, any filing appropriate under Section 1060 of the Code. In addition, within ten (10) days of filing, each party shall provide to the other a copy of any filing made pursuant to Section 1060 of the Code. Further, the parties have agreed on an allocation of the purchase price as set out in Schedule 1.3.

c. The parties agree that the Closing of this contract is contingent upon the successful annexation of the territory commonly known as Lake Serene and all areas necessary to provide water service into Public Water Supply District No. 3 of Franklin County such that the Lake Serene subdivision is included in the boundaries of Public Water Supply District No. 3 of Franklin County. Buyer agrees to reimburse Seller up to \$5,000.00 for the costs of the process to successfully complete the annexation.

1.12. Closing Date. The actual conveyance, transfer, assignment, and delivery of the Assets to Buyer (the "Closing") shall take place at 10:00 a.m. on the "Closing Date," which shall be \_\_\_\_\_, 2001, or such other date as the parties mutually may designate. The Closing shall take place at \_\_\_\_\_.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer as follows:

2.1. Organization and Qualification. Seller is a Corporation duly organized, validly existing, and in good standing under the laws of the State of Missouri. Seller has all requisite corporate power and authority to own its property and to carry on its business as it is now being conducted, and is not required by law to be qualified as a foreign corporation to do business in any jurisdiction.

2.2. Authorization. Seller has the full corporate power to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery, and performance of this Agreement by Seller has been duly and effectively authorized and approved by all requisite corporate action of Seller, and no other corporate act or proceeding on the part of Seller is necessary to authorize this Agreement or the transactions contemplated hereby. This Agreement constitutes the valid and legally binding obligation of Seller. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby nor compliance by Seller with any of the provisions hereof will (a) violate, or conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under any of the terms, conditions, or provisions of the Articles of Incorporation or Bylaws of Seller or any note, bond, mortgage, indenture, deed of trust, lease, license, agreement, or other instrument or obligation to which Seller is bound, or by which Seller or any of their properties or assets may be bound or affected, (b) violate any order, writ, injunction, decree, statute, rule, or regulation applicable to Seller or any of their properties or assets, or (c) result in the creation of any

lien, security interest, charge, or encumbrance upon the Assets. Except as set forth on Schedule 2.2 hereto, no consent or approval by, notice to, or registration with any governmental authority or any person, partnership, corporation, firm, company, trust, estate, association, or other entity ("Person") is required on the part of Seller in connection with the execution and delivery of this Agreement or the consummation by Seller of the transactions contemplated hereby.

2.3. Permits and Third Party Consents. The lawful conduct of the business of Seller as presently conducted requires approval, license, franchise, consent, permit, and/or authorization from certain governmental bodies, perhaps including the Missouri Public Service Commission and any other state or local governmental entities which shall be obtained by Seller at Seller's cost.

2.4. Title to Assets.

a. Seller has good and marketable title to all of the Assets, except for those of the Assets reflected as leased on Schedule 2.4 and those exceptions set forth in Section 2.4(b). The leases identified on Schedule 2.4 are the only leases with respect to the Assets, and each such lease is in full force and effect and constitutes a legal, valid, and binding obligation of the lessor thereunder, enforceable in accordance with its terms.

b. With the exception of (i) liens for taxes accrued but not yet payable and (ii) liens arising as a matter of law in the ordinary course of business as to which there is no default, the Assets are not subject to any mortgage, pledge, lien, security interest, claim, charge, lease or other encumbrance of any kind.

c. None of the Assets is subject to any right of first refusal, option, or other restriction of a similar nature, or subject to any pending or threatened condemnation or similar proceeding.

2.5. Inventory. All items of Inventory have been acquired in the ordinary course of business. Each item of Inventory is merchantable in fact, not obsolete and fit for its intended purpose. No claim has been made against Seller by reason of any prior sale of products similar in kind, grade, and quality to the Inventory.

2.6. Contracts. Seller is not in default under any contract, agreement, or lease to which it is bound or any other contract, agreement, lease, or arrangement by which the Assets are bound. Each such contract, agreement, or lease is the legal and binding obligation of the other party thereto, enforceable in accordance with its terms. There is no default, and no event or omission has occurred which, but for the passing of time or the giving of notice or both, would be a default on the part of any other party to any such contract, agreement, or lease. Seller is not a party to any collective bargaining or similar agreement.

2.7. Taxes. Seller has timely filed all Federal, state, and local tax returns and tax information returns required to be filed, and has or shall have paid by their respective due dates, all taxes, interest, payments, and penalties due and payable. Seller shall, through the Closing Date, follow its past practice with respect to making provision for the payment of all taxes, interest payments, and penalties accruable for all periods to the Closing Date to any city, county, state, the United States, or any other taxing authority. Seller is not delinquent in the payment of any tax or government charge of any nature whatsoever, including (by way of illustration and not limitation) all income and sales taxes. No audit, examination, or investigation is presently being conducted or threatened by any taxing authority. No unpaid tax deficiency or additional liability of any sort has been proposed to Seller by any governmental representative. Seller has withheld (and timely paid to the appropriate governmental entity) proper and accurate amounts from its employees for all

periods in full and complete compliance with all tax withholding provisions (including, without limitation, income, social security, and unemployment tax and withholding for all forms of compensation) of applicable Federal, foreign, state, and local laws.

2.8. No Breach of Statute, Decree, or Order. No claim, action or proceeding is pending or threatened against Seller with respect to a default under, or a violation in respect of, any applicable statute, law, ordinance, decree, order, rule, or regulation of any governmental body, and the consummation of the transactions contemplated by this Agreement will not constitute or result in any such default, breach, or violation. Neither any of the Assets nor the operation or maintenance thereof, as now operated and maintained, contravenes any applicable zoning, building, or other law, ordinance, code, rule, or other administrative regulation. No notice from any governmental body has been served upon Seller claiming any violation of any such law, ordinance, code, or regulation, or requiring or calling attention to the need for any material work, repairs, construction, alterations or installation on or in connection with the Assets.

2.9. Litigation. There is no suit, claim, action, proceeding, hearing, or governmental investigation now pending or threatened against Seller ("Third Party Litigation"). There is no condition or set of facts which will give rise to any Third Party Litigation arising out of or relating to any aspect of Seller's business or properties or concerning the transactions contemplated by this Agreement. There is no basis known to Seller for any Third Party Litigation. There is no decree, injunction, or order of any court or governmental department or agency outstanding against Seller relating to any aspect of its business or properties.

2.10. Discrimination, Occupational Safety, and Other Statutes and Regulations. No claim, action, or proceeding is pending or threatened against Seller arising out of any statute, ordinance, or regulation relating to the payment of wages or benefits, discrimination in employment or employment practices, or occupational safety and health standards, including, without limitation, any applicable state statute, the Fair Labor Standards Act, National Labor Relations Act, Title VII of the Civil Rights Act of 1964, as amended, or the Age Discrimination in Employment Act of 1967, as amended.

2.11. Labor Disputes; Unfair Labor Practices. There is not pending or threatened any grievance, labor dispute, strike or work stoppage which adversely affect or which may adversely affect the business of Seller or which may interfere with the operations of Seller. There is not now pending or threatened any charge or complaint against Seller by or before the National Labor Relations Board or before any court or other tribunal involving any charge of unfair labor practice.

2.12. Product Warranties, Product Return Policies, and Service Warranties. Except as set forth on Schedule 2.12, Seller does not utilize any product warranty, guarantee, product return policy, service warranty, or service policy.

2.13. Compliance With Laws. Seller has complied in all respects, and currently is in compliance in all respects, with all applicable statutes, regulations, orders, ordinances, and other laws of the United States, all state and local governments, and all agencies of any of the foregoing, to which any aspect of its business or any of its properties are subject. There is not pending any proceeding, hearing, or investigation with respect to the adoption by any state, county, or municipality of any amendment or modification to existing local or municipal laws, ordinances, regulations, or restrictions with respect to such matters which, if adopted, would adversely affect



the present business and operations of Seller.

2.14. Assets in Good Repair. Each item of the Equipment is in good repair and condition and is fit for its intended use.

2.15. No Hazardous Activities. Seller states that the operation of the business and Assets (and all other property to be sold hereunder) by Seller has never violated or caused a violation of any state or Federal Hazardous Waste law or laws regulating petroleum products and storage tanks, regulation, ordinance, or statute, including any regulations of the U. S. Environmental Protection Agency or the Missouri Department of Natural Resources. No claim, action, or proceeding is pending or threatened against Seller, nor has any such claim, action, or proceeding ever been threatened against Seller arising out of any statute, ordinance, regulation, or law relating to hazardous waste regulation or petroleum product regulation. Seller further represents and warrants that it has no knowledge of any fact or facts which would form a basis for any state or Federal hazardous waste or petroleum waste enforcement or audit action against Seller and/or Buyer. Seller further states that the operation of the business and Assets (and all other property to be sold hereunder) by Seller has never caused a contamination of any person or property with any hazardous waste substance, any hazardous chemical substance, or any petroleum product. Any petroleum storage tanks on the premises have always been utilized in compliance with all state and federal laws and regulations. No claim, action, or proceeding is pending or threatened against Seller arising out of any alleged contamination of person or property concerning a hazardous waste substance or petroleum product. Seller further represents and warrants that it has no knowledge of any fact or facts which would form a basis for any claim by any person or entity concerning an alleged contamination by Seller of person or property by any hazardous waste substance, chemical,

or petroleum product.

2.16. Survival. The representations and warranties made by Seller in this Agreement shall be true and correct in all respects, and shall not have been violated in any respect, as of the Closing Date, except for changes permitted or contemplated by the terms of this Agreement, with the same effect as though such representations and warranties had been made or given on and as of the Closing Date. All representations and warranties made by Seller in this Agreement shall survive the Closing Date and shall not be deemed waived by the Closing.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

3.1. Organization and Qualification. Buyer is a political subdivision of the State of Missouri organized pursuant to Section 247.010 et seq. Buyer has all requisite power and authority to own its property and to carry on its business as it is now being conducted.

3.2. Authorization. Buyer has the full power pursuant to statute to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery, and performance of this Agreement by Buyer has been duly and effectively authorized and approved by its Board. This Agreement constitutes a valid and legally binding obligation of Buyer. No consent or approval by, notice to, or registration with any governmental authority or Person is required on the part of Buyer in connection with the execution and delivery of this Agreement or the consummation by Buyer of the transactions contemplated hereby.

3.3. Survival. The representations and warranties made by Buyer in this Agreement shall be true and correct in all respects, and shall not have been violated in any respect as of the Closing Date, except for changes permitted or contemplated by the terms of this Agreement, with the same effect as though such representations and warranties had been made or given on and as of the Closing Date. All representations and warranties made by Buyer in this Agreement shall survive the Closing Date and shall not be deemed waived by the Closing.

#### ARTICLE IV

##### OBLIGATIONS BEFORE CLOSING

4.1. Buyer's Right to Inspect Assets. During the period from the execution of this Agreement to the Closing Date, Buyer and its employees, consultants, accountants, attorneys, and other designated agents, from time to time, shall have the right to inspect all of the Assets and all books, records, and other documents and information pertaining to the Assets.

4.2. Conduct of Seller. From the date of execution of this Agreement to the Closing Date, Seller shall conduct its business in the same manner as previously conducted, use its best efforts to preserve the possession and control of the Assets, keep in faithful service its officers and key employees, and preserve and protect the good will of and its relationships with its suppliers, customers, and others having business relations with it. Seller shall promptly provide Buyer with written notice of any material change in the condition (financial or otherwise) or business of Seller. Except as otherwise contemplated by this Agreement, Seller shall not, without Buyer's prior written consent:

- a. dispose of or acquire any of the Assets, except in the ordinary course of business;
- b. make any expenditure, incur any indebtedness, or borrow any sums of money,

except in the ordinary course of business;

c. mortgage, pledge, or otherwise subject any of the Assets to any lien or encumbrance;

d. incur any liability or any extraordinary expense or enter into or become a party to any transaction of any kind whatsoever, except in the ordinary course of business;

e. enter into, renew, extend, modify, terminate, or waive any right under any contract, except in the ordinary course of business;

f. remove, or change the location of, any of the Assets sold hereunder, except in the ordinary course of business;

g. permit the expiration or cancellation of the presently effective insurance on the Assets; or

h. enter into any transaction material in nature or amount.

4.3. Bulk Sales Compliance. Buyer hereby waives compliance by Seller with the provisions of Article 6 of the Uniform Commercial Code as in effect in Missouri. However, Seller agrees to indemnify and hold harmless Buyer from any damage or loss sustained by Buyer as a result of the Parties' noncompliance with Article 6 of the Uniform Commercial Code.

## ARTICLE V

### BUYER'S CONDITIONS TO CLOSING

The obligations of Buyer to consummate this Agreement and to effect the purchase hereunder shall be subject to each of the following conditions precedent:

5.1. Continued Truth of Warranties. The representations and warranties of Seller herein contained shall be true in all respects on and as of the Closing Date with the same force and effect

as though made as of such date, except for any variations permitted by this Agreement.

5.2. Performance of Covenants. Seller shall have performed, in all respects, all covenants and obligations and complied with all conditions required by this Agreement to be performed or complied with by them on or prior to the Closing Date.

5.3. Damages by Casualty or Otherwise. The Assets and the business, properties, financial condition, and operations of Seller shall not have been adversely affected on or prior to the Closing Date in any material way as a result of any accident or other casualty (whether or not covered by insurance), any labor disturbance of or affecting Seller, or any Act of God or the public enemy occurring after \_\_\_\_\_.

5.4. No Adverse Change. There shall have been no material adverse change in the businesses, properties, operations, or financial conditions of Seller since August 1, 2001.

5.5. Permits. Any and all permits, consents, franchises, orders, approvals, licenses, and clearances from any Person or any governmental authority or regulatory agency appropriate to the lawful consummation of the transactions contemplated hereby and the use by Buyer of the Assets in substantially the same manner as currently used by Seller shall have been obtained in form and substance satisfactory to Buyer.

5.6. Litigation. No suit, action, investigation, inquiry, or proceeding shall be pending or threatened affecting the Assets or the business or operations of Seller which (a) might result in any adverse change therein, or (b) questions the validity of any action taken or to be taken by Seller in connection with the provisions of this Agreement.

5.7. Full Investigation. Buyer shall not have discovered any material condition or set of facts which varies adversely from one or more of the covenants, representations, and warranties set forth herein and shall not have waived such variance in writing. Anything to the contrary in this Agreement notwithstanding, if on or prior to the Closing Date Buyer shall have actual knowledge of any then existing circumstance which is an adverse misrepresentation or breach by Company under this Agreement, it may elect not to consummate this Agreement and thereafter shall have no further liability hereunder.

## ARTICLE VI

### SELLER'S CONDITIONS TO CLOSING

The obligation of Seller to consummate this Agreement and to effect the purchase hereunder shall be subject to the following conditions precedent:

6.1. Continued Truth of Warranties. The representations and warranties of Buyer herein contained shall be true on and as of the Closing Date with the same force and effect as though made as of such date, except for any variations permitted by this Agreement.

6.2. Performance of Covenants. Buyer shall have performed all covenants and obligations and complied with all conditions required by this Agreement to be performed or complied with by it prior to the Closing Date.

## ARTICLE VII

### ACTIONS TO BE TAKEN AT CLOSING

7.1. Actions to be taken at Closing by Seller.

a. At Closing, Seller shall:

i. Deliver to Buyer a Warranty Deed transferring the real estate and

improvements free of lien or encumbrance.

- ii. Deliver to Buyer a good standing certificate from the Missouri Secretary of State with respect to Seller, dated as of the business day immediately preceding the Closing Date.
- iii. Deliver to Buyer a copy of the resolutions of Seller's Board of Directors and Shareholders authorizing the execution and delivery of this Agreement and the consummation of the transactions contemplated herein, certified as to accuracy and completeness as of the Closing Date by Seller's Secretary.
- iv. Deliver to Buyer a Bill of Sale and Assignment in the form of Exhibit B attached hereto and such other documents and instruments of sale, assignment, conveyance, and transfer as Buyer may deem appropriate to sell, assign, convey, and transfer to, and to vest, perfect, and confirm in Buyer all right, title, and interest of Seller in and to the Assets.
- v. Deliver to Buyer all permits, licenses, and administrative orders necessary for Buyer to provide water service to the territory.

7.2. Actions to be Taken at Closing by Buyer. At the Closing, Buyer shall:

- a. Cause the Cash Purchase Price to be paid to Seller pursuant to the provisions of Section 1.3.

7.3. Post-Closing Cooperation. The parties shall, on request, on or after the Closing Date, cooperate with one another by furnishing any additional information and executing and delivering any additional documents as may be reasonably requested by any party hereto (or their respective counsel) to further perfect or evidence the consummation of, or otherwise implement,

any transaction contemplated by this Agreement, or to aid in the preparation of any tax return.

## ARTICLE VIII

### INDEMNIFICATION

#### 8.1. Indemnification.

a. Subject to the provisions of this Article VIII, Seller shall indemnify Buyer and hold it harmless from and against (i) any and all losses, liabilities, fees, costs, expenses, or damages, including but not limited to reasonable attorney's fees, resulting from (A) any misrepresentation, breach, nonperformance or inaccuracy of any representation, warranty, or covenant by Seller made or contained in this Agreement or in any Exhibit, Schedule, certificate, or document executed and delivered to Buyer by or on behalf of Seller under or in connection with this Agreement or the transactions contemplated herein, (B) any liability or obligation of Seller which, by operation of any doctrine of successor liability or otherwise, Buyer satisfies or discharges or becomes obligated to satisfy or discharge and (C) the assertion of a claim against the Assets of Buyer by any creditor of Seller pursuant to Article 6 of the Uniform Commercial Code as in effect in Missouri or any other applicable law relating to bulk sales, (D) the assertion of a claim against Buyer or the Assets of Buyer concerning any allegation that Seller allowed a hazardous waste, chemical waste, petroleum product or other substance to injure any person or property; or any allegation that Seller violated any state or Federal hazardous waste, chemical waste, or petroleum product ordinance, law, regulation, or statute; or any allegation that because of the activities of Seller that Buyer is subject to and responsible for a cleanup or audit action concerning hazardous waste, chemical waste, or petroleum product, and (ii) any and all fees, costs, and



expenses, including but not limited to reasonable attorney's fees, incurred in defending claims which, if successfully prosecuted, would have been indemnifiable hereunder.

b. Subject to the provisions of this Article VIII, Buyer shall indemnify Seller and hold him harmless from and against (i) any and all losses, liabilities, costs, fees, expenses, or damages, including but not limited to reasonable attorney's fees, resulting from any misrepresentation, breach, nonperformance, or inaccuracy of any representation, warranty, or covenant by Buyer made or contained in this Agreement or in any Exhibit, Schedule, certificate, or document executed and delivered to Seller by or on behalf of Buyer under or in connection with this Agreement or the transactions contemplated herein, and (ii) any and all fees, costs, and expenses, including but not limited to reasonable attorney's fees, incurred in defending claims which, if successfully prosecuted, would have been indemnifiable hereunder.

c. Any and all of the items for which Buyer or Seller may be entitled to indemnity pursuant to subsections (a) or (b) of this Section 8.1 hereinafter are called "Damages."

8.2. Offsetting Benefits. In determining the amount of indemnification to which a party is entitled by reason of any Damages, there shall be taken into account a reduction for the amount of (a) any loss, liability, cost, fee, expense, or damage described above to the extent the same are or entitled to be reimbursed or reduced by insurance proceeds, and (b) any tax benefits to the extent such benefits are subject to utilization by the Indemnitee (as defined in Section 8.3) in reduction of income tax liabilities. The amount of such tax benefits shall be calculated by the Indemnitee's regular independent public accounts (a copy of which calculation shall be furnished in writing to the Indemnitor, as defined in Section 8.3, and in the absence of bad faith its calculations shall be

conclusive.

8.3. Notice of, and Procedures for, Collecting Indemnification.

a. Initial Claim Notice. When a party becomes aware of a situation which may result in Damages for which it would be entitled to be indemnified hereunder, such party (the "Indemnitee") shall submit a written notice (the "Initial Claim Notice") to the other party (the "Indemnitor") to such effect with reasonable promptness after it first becomes aware of such matter and shall furnish the Indemnitor with such information as it has available demonstrating its right or possible right to receive indemnity. If the potential claim is predicated on the filing by a third party of any action at law or in equity (a "Third Party Claim"), the Indemnitee shall provide the Indemnitor with an Initial Claim Notice not later than ten (10) days prior to the date on which a responsive pleading must be filed, and shall also furnish a copy of such claim (if made in writing) and of all documents received from the third party in support of such claim. Every Initial Claim Notice shall, if feasible, contain a reasonable estimate by the Indemnitee of the losses, costs, liabilities, and expenses (including, but not limited to, costs and expenses of litigation and attorneys' fees) which the Indemnitee may incur. In addition, each Initial Claim Notice shall name, when known, the Person or Persons making the assertions which are the basis for such claim. Failure by the Indemnitee to deliver an Initial Claim Notice or an update thereof in a timely manner shall not relieve the Indemnitor of any of its obligations under this Agreement, except to the extent that actual monetary prejudice to the Indemnitor can be demonstrated.

b. Rights of Indemnitor. If, prior to the expiration of thirty (30) days from the mailing of an Initial Claim Notice (the "Claim Answer Period"), the Indemnitor shall request in

writing that such claim not be paid, the same shall not be paid, and the Indemnitor shall settle, compromise, or litigate in good faith such claim, and employ attorneys of its choice to do so; provided, however, that Indemnitee shall not be required to refrain from paying any claim which has matured by court judgment or decree, unless appeal is taken therefrom and proper appeal bond posted by the Indemnitor, nor shall it be required to refrain from paying any claim where such action would result in the foreclosure of a lien upon any of its assets or a default in a lease or other contract except a lease or other contract which is the subject of the dispute. If the Indemnitor elects to settle, compromise, or litigate such claim, all reasonable expenses, including but not limited to, all amounts paid in settlement or to satisfy judgments or awards and reasonable attorney's fees and costs, incurred by the Indemnitor in settling, compromising, or litigating such claim shall be secured to the reasonable satisfaction of Indemnitee. Indemnitee shall cooperate fully to make available to the Indemnitor and its attorneys, representatives, and agents, all pertinent information under its control. Indemnitee shall have the right to elect to settle or compromise all other contested claims with respect to which the Indemnitor has not, within the Claim Answer Period, acknowledged in writing (i) liability therefor (should such claim ultimately be resolved against Indemnitee), and (ii) its election to assume full responsibility for the settlement, compromise, litigation, and payment of such claim.

c. Final Claims Statement. At such time as Damages for which the Indemnitor is liable hereunder are incurred by Indemnitee by actual payment thereof or by entry of a final judgment, Indemnitee shall forward a Final Claims Statement to the Indemnitor setting forth the amount of such Damages in reasonable detail on an itemized basis. Indemnitee shall

supplement the Final Claims Statement with such supporting proof of loss (e.g. vouchers, canceled checks, accounting summaries, judgments, settlement agreements, etc.) as the Indemnitor may reasonably request in writing within thirty (30) days after receipt of a Final Claims Statement. All amounts reflected on Final Claims Statements shall be paid promptly by Indemnitor to Indemnitee.

## ARTICLE IX

### MISCELLANEOUS

9.1. Broker for Seller. Seller represents and warrants to Buyer that no Person has acted in the capacity of broker or finder on behalf of Seller to bring about the negotiation or consummation of this Agreement and agrees to indemnify and hold Buyer harmless from and against any claim or liability, including reasonable attorneys' fees, asserted against Buyer by any Person acting or claiming to act as a broker or finder on behalf of Seller.

9.2. Broker for Buyer. Buyer represents and warrants to Seller that no Person has acted in the capacity of broker or finder on its behalf to bring about the negotiation or consummation of this Agreement, and agrees to indemnify and hold Seller harmless from and against any claim or liability, including but not limited to reasonable attorneys' fees, asserted against Seller by any Person acting or claiming to act as a broker or finder on behalf of Buyer.

9.3. Sales and Transfer Taxes. Seller covenants and agrees to pay, and to indemnify and hold Buyer harmless from and against, any and all sales and transfer taxes imposed by any jurisdiction in connection with the sale and transfer of the Assets.

9.4. Notices. Any notices or other communications required or permitted hereunder (including, by way of illustration and not limitation, any notice permitted or required under Article

VIII hereof) to Buyer or Seller shall be sufficiently given if delivered in person or sent by registered or certified mail, postage prepaid, addressed as follows:

In the case of Buyer:  
Public Water Supply District No. 3 of Franklin County  
150 Old Highway 100  
Villa Ridge, MO 63089  
Attention: Richard J. Tuttle

In the case of Seller:  
CAT-PAC Waterworks, Inc.  
PO Box 326  
Catawissa, MO 63015

or such substituted address as any party shall have given notice to the other in writing.

9.5. Amendment. This Agreement may be amended or modified, in whole or in part, only by an agreement in writing executed in the same manner as this Agreement and making specific reference thereto.

9.6. Counterparts. This Agreement may be executed in two or more counterparts, all of which taken together shall constitute one instrument.

9.7. Binding on Successors and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the parties hereto and their respective successors, assigns, and, where appropriate, administrators, executors, personal representatives, and heirs and shall be assignable only with the prior written consent of the other parties hereto.

9.8. Severability. In the event that any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of this Agreement and any other application thereof shall not in any way be affected or impaired thereby; provided, however, that to

the extent permitted by applicable law, any invalid, illegal, or unenforceable provision may be considered for the purpose of determining the intent of the parties in connection with the other provisions of this Agreement.

9.9. Waivers. The parties may, by written agreement, (a) extend the time for the performance of any of the obligations or other acts of the parties hereof, (b) waive any inaccuracies in the representations contained in this Agreement or in any document delivered pursuant to this Agreement, (c) waive compliance with or modify any of the covenants or conditions contained in this Agreement, and (d) waive or modify performance of any of the obligations of any of the parties hereto; provided, that neither such an extension or waiver nor any failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall operate as a waiver of, or an estoppel with respect to any subsequent insistence upon strict compliance.

9.10. Headings. The headings in the sections of this Agreement are inserted for convenience only and in no way alter, amend, modify, limit, or restrict the contractual obligations of the parties.

9.11. List of Exhibits and Schedules. As mentioned in this Agreement, there are attached hereto or delivered herewith, the following Exhibits and Schedules:

EXHIBITS

- A. Legal Description
- B. Bill of Sale.
- C. Financial Statements for years 1999, 2000.

## SCHEDULES

<u>Schedule No.</u>	<u>Schedule Caption</u>
Schedule 1.3	Assets
Schedule 1.7	Contracts
Schedule 1.8	Customer Deposits
Schedule 2.2	Consents
Schedule 2.4	Leased Assets
Schedule 2.12	Product Warranties

Each of the foregoing Exhibits and Schedules is incorporated herein by this reference and expressly made a part hereof.

9.12. Entire Agreement; Law Governing. All prior negotiations and agreements between the parties hereto with respect to the subject matter of this Agreement are superseded by this Agreement. This document contains the entire and complete agreement between the parties on the subject matters contained in this Agreement. This Agreement shall be governed, construed and interpreted according to the laws of the State of Missouri.

9.13. Handling of Employees. Seller agrees that Buyer shall have no obligation to hire or retain any employees of Seller. At Buyer's sole option, it may hire as employees any employee of Seller, based on mutually agreeable terms between employee and Buyer. Seller agrees that any employee of Seller not hired by Buyer after the closing of this matter shall be considered an employee terminated by Seller, and Seller shall be responsible for any and all unemployment benefits and liabilities attendant thereto for any such employees terminated by Seller.

9.14. Personal Property Tax. Seller shall be responsible for the personal property taxes for the year 2001 on any Assets sold pursuant to this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed by Buyer and

Seller as of the date first above written.

CAT-PAC Waterworks, Inc.

BY:

ATTEST:

Secretary

(SEAL)

Public Water Supply District No. 3 of Franklin County

BY:   
President of the Board

ATTEST:

Secretary or Clerk

(SEAL)



Exhibit A

Legal Description

Exhibit B

BILL OF SALE AND ASSIGNMENT

CAT-PAC Waterworks, Inc. ("Seller"), does hereby bargain, sell, and assign to Public Water Supply District No. 3 of Franklin County ("Buyer"), for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following property (the property described in paragraphs 1 through 8 below is hereinafter referred to, collectively, as the "Assets"):

1. All of Seller's inventory, including but not limited to, all material and work in process, maintenance items, and all other materials and supplies on hand to be sold through the operation of Seller's business, as of the Closing (the "Inventory");

2. All of Seller's wells, main water lines, valves, other components of the water system, the water plant, tanks, and the real property upon which the water plant facility lies, and all other appurtenances to said water lines and facilities set forth on Schedule 1.3, except Buyer specifically excludes the service lines and any components of the customers' water lateral or service line and its components. All of Seller's machinery, spare parts, equipment, tools, tooling, handling equipment, furniture, furnishings, and accessories as of the Closing (the "Equipment"), as listed on Schedule 1.3 hereto; and any accessories, spare parts, tools, or items which accompany the listed items;

3. All copies, both in machine-readable and human-readable form, of all computer programs and software (whether stored on hard, floppy or soft disks, magnetic or paper tape or otherwise), and all interests therein or rights thereto owned by Seller or to which it is entitled, together with the media on which such software and programs are stored, and all documents and information relating to any of the foregoing, as of the Closing;

4. All of Seller's books, mailing lists, records, books of account, customer cards, sales and purchase records, lists of customers and prospects, lists of suppliers, government inspection reports, waste monitoring reports, maintenance records, engineering designs and all other documents, files, records and other data and information of Seller relating to Seller's business, including, without limitation, all data and information stored on magnetic tape or other computer related media owned by Seller, but excluding all tax return files and working papers relating thereto of Seller for all past and current reporting years, as of the Closing;

5. All of Seller's accounts receivable as desired to be purchased by Buyer. Buyer shall not purchase Seller's cash on hand;

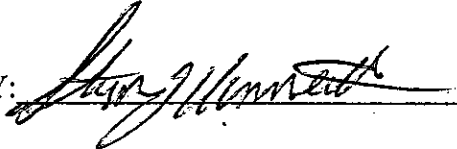
6. All of Seller's leases, contracts, and agreements set forth in Schedule 1.7 collectively known as the "Contracts";

7. All customer deposits detailed and set forth on Schedule 1.8.

8. Seller hereby warrants and represents that it is the owner of and has full right and title to all of the Assets, that it has the right and authority to bargain, sell, and assign the Assets, and that the Assets are free and clear of all liens and encumbrances of every kind.

IN WITNESS WHEREOF, the undersigned has executed this Bill of Sale and Assignment this 15<sup>th</sup> day of July, 2001.

CAT-PAC Waterworks, Inc.

BY: 

STATE OF MISSOURI )  
 ) SS.  
COUNTY OF )

On this 21st day of July, 2002, before me personally appeared Stephen J. Unnerstall, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Charmaine Cooper Kemplen  
Notary Public

My Commission Expires:

July 16, 2003

CHARMAINE COOPER KEMPLIN  
NOTARY PUBLIC, STATE OF MISSOURI  
MY COMMISSION EXPIRES JULY 16, 2003  
JEFFERSON COUNTY

STATE OF MISSOURI )  
 ) SS.  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2001, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

CAT-PAC WATERWORKS, INC./  
PWS# 3 OF FRANKLIN COUNTY

**APPENDIX C**  
**BOARD RESOLUTIONS**

**CLERK'S CERTIFICATE**

I, Debra Champlain, Clerk for Public Water Supply District No. 3 of Franklin County, Missouri (the "Water District"), do hereby certify that the Board of Directors of the Water District did, at the Board of Directors Regular Meeting held on July 22, 2002, authorize the execution of an Asset Purchase Agreement by and between the Water District and CAT-PAC Waterworks, Inc., as the same is on file in my office. The approval of the foregoing is reflected in the Minutes for the Board of Directors Regular Meeting of July 22, 2002, which are attached hereto and incorporated herein by reference.

In Witness Whereof, I have hereunto set my hand and affixed my seal this 17<sup>th</sup> day of October, 2002.

SEAL:



  
Debra Champlain, Clerk

**PUBLIC WATER SUPPLY DISTRICT #3 OF FRANKLIN COUNTY  
MINUTES OF THE JULY 22, 2002  
BOARD OF DIRECTORS REGULAR MEETING**

*Signed  
copy*

**PRESIDING:** Tom Seener

**PRESENT:** Don Parr                      Jeanette Brinkmann                      Don Nash                      Larry Schroeder  
                    Dick Tuttle                      Bob Hathcock                      Debra Champlain                      Mark Piontek

The regular meeting of the Board of Directors of Public Water Supply District No.3 of Franklin County Missouri was held on July 22, 2002 at 150 Old Highway 100, Villa Ridge, Missouri, at 7:00 p.m. President, Tom Seener called the meeting to order. The following directors were present: Don Parr, Don Nash, Jeanette Brinkmann and Larry Schroeder.

Tom Seener opened discussion regarding review of the minutes for the meeting held on June 24, 2002. Don Nash motioned to accept the minutes as presented and seconded by Don Parr; carried and so ordered.

Tom Seener motioned to accept the recommendations of the St. Albans Water and Sewer Authority Board. Don Parr seconded the motion; Don Nash abstained; carried and so ordered.

Matters of Old Business were opened. Regarding Victoria Gardens, Mr. Tuttle had replied to the letter from the "Friends of Fox Creek" stating the Board determined they had no obligation and had denied their request for any payment. Continuing with matters in regard to Victoria Gardens, Mr. Tuttle provided the Board with a letter Chris Boone had written Du-Con informing them, after inspection of Victoria Gardens on July 18<sup>th</sup>, there were items which remained to be completed or modified to be in compliance with the plans. Mr. Tuttle stated, as of yet, the items had not been completed.

Still under Old Business, Mr. Tuttle provided the Board with a Resolution, giving authorization to the Board President or Vice President to attend the closing and execute all documents related to an Asset Purchase Agreement with CAT-PAC Waterworks. Motion was made by Don Parr to accept the Resolution and seconded by Larry Schroeder; carried and so ordered.

Tom Seener opened discussion regarding the Financials and T-Report. Motion was made to accept the T-Report as submitted by Jeanette Brinkmann and seconded by Don Nash; carried and so ordered. Motion was made by Don Parr to pay the List of Bills as submitted. Motion was seconded by Jeanette Brinkmann; carried and so ordered.

Under Legal, Mark Piontek informed the Board he had received a request from Vic Parmentier to have property, using the existing agreement with the City of Union, released from the District so that it can be served by the City of Union. Mr. Piontek further stated a decision would need to be reached at the August Board Meeting.

Tom Seener then opened discussion regarding the Operation Report. Dick Tuttle stated approximately 540,000 gallons of water had been loss due to leaks, attributed greatly to the dry weather and ground conditions. At the present time, all known leaks had been repaired.

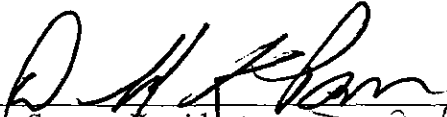
Tom Seener opened discussion under New Business. Dick Tuttle informed the Board a car had gone off into the Wastewater Treatment Plant at Charring Cross. Staff provided the Board with pictures taken at the site by District personnel. Mr. Tuttle also informed the Board the driver of the car had no insurance and the claim would be turned over to District insurance.

Mr. Seener then recognized a guest who had come in during the meeting. Mr. Robert Schwermann, of Ranson Financial Corp., had come before the Board to discuss the Bond Issues. Mr. Seener asked if there was further discussion under New Business before hearing Mr. Schwermann. Mr. Tuttle informed the Board of the Governors Conference on Clean Water would be August 26-27, 2002 and he would be attending. Mr. Tuttle further said if any of the Board Members would like to attend to let him know.

Mr. Seener then opened the floor to Robert Schwermann of Ranson Financial Corp. Mr. Schwermann explained to the Board different ways in which the Board could refinance present bond issues and how the different refunding method would benefit the District. Mr. Schwermann stated that his firm had consulted one of the most prestigious bond counselors in Missouri, Gilmore & Bell, to review the District's bond issues to determine if they could be refunded. Mark Piontek said he spoke with Gilmore & Bell and felt comfortable with their advice. After Mr. Schwermann was done speaking to the Board, Mr. Seener told Mr. Schwermann to set a time to get with Mark Piontek and Dick Tuttle and they would bring their recommendations before the Board. Mr. Schwermann thanked the Board and left the meeting.

Being no further business, the meeting adjourned at 7:45 p.m.

Minutes approved this 26<sup>th</sup> day of Aug 2002.

  
~~Tom Seener, President~~ *DOD PARR U.P.*

  
Debra Champlain, Clerk, Treasurer

**GUEST PRESENT:**

Jeff Huck - Cochran Engineering  
Robert Schwermann - Ranson Financial Corp



# CAT-PAC Waterworks, Inc.

P.O. Box 326

Catawissa, MO 63015

## CAT-PAC Waterworks, Inc. Corporate Resolution

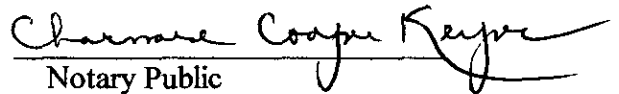
Authorizes the Sale of CAT-PAC Waterworks, Inc. to Public Water District No. 3 of Franklin County.

On March 1<sup>st</sup>, 2002, the stockholders met and voted in favor of selling CAT-PAC Waterworks, Inc. to Public Water District No. 3 of Franklin County,

  
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Notary Public

CHARMAINE COOPER KEMPEN  
NOTARY PUBLIC, STATE OF MISSOURI  
MY COMMISSION EXPIRES JULY 16, 2003  
JEFFERSON COUNTY