

ASSET PURCHASE AGREEMENT

By and Among

York City Sewer Authority
As Seller

The City of York

and

Pennsylvania-American Water Company
As Buyer

Dated as of [DATE]

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”), dated as of [DATE] (the “**Effective Date**”), is made and entered into by and among The York City Sewer Authority, York County, a body corporate and politic, duly organized under the Pennsylvania Municipality Authorities Act, 53 Pa. C.S. §§ 5601 *et seq.* (the “**Seller**”), the City of York, Pennsylvania, a political subdivision of the Commonwealth of Pennsylvania organized under the Third Class City Code, Act of November 24, 2015, P.L. 67, 11 Pa. C.S. §10101 *et seq.* (the “**City**”) and Pennsylvania-American Water Company, (the “**Buyer**”), a Pennsylvania corporation.

WITNESSETH:

WHEREAS, Seller, acting by and through the Board (defined below), owns and the City operates a wastewater system (the “**System**”) that provides public wastewater collection and treatment service to various customers in the City and public wastewater treatment and conveyance services to the City, Manchester Township, West Manchester Township, York Township, North York Borough, West York Borough, Spring Garden Township, and Springettsbury Township; and

WHEREAS, Buyer is a regulated public utility that furnishes water and wastewater service to the public in various counties throughout Pennsylvania; and

WHEREAS, Buyer, in reliance upon the representations, warranties and covenants of Seller and City herein, desires to purchase and acquire from Seller, and Seller, in reliance upon the representations, warranties and covenants of Buyer herein, desires to sell, transfer and convey to Buyer all of the assets of the System (other than the Excluded Assets), and in connection therewith, Buyer has agreed to assume certain ongoing obligations and liabilities of Seller related to such acquired assets, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual representations, warranties, covenants, and agreements herein contained, the receipt and sufficiency of which hereby are acknowledged, intending to be legally bound, the Parties hereto agree as follows:

ARTICLE I.

DEFINITIONS

In addition to the capitalized terms defined elsewhere in this Agreement, the following terms, as used in this Agreement (unless otherwise specified therein), shall have the meanings set forth in this Article I:

“**Acquired Assets**” has the meaning specified in Section 2.01.

“**Act 537 Official Plan**” means the official plan required under the Pennsylvania Sewage Facilities Act, 35 P.S. §§ 75101—750.20a, and 25 Pa. Code Chapter 71, titled “York City Sewer Authority Regional Act 537 Plan,” dated March 1999 and prepared by Buchart Horn, Inc.

“**Affiliate**” means, when used to indicate a relationship with a specified Person, a Person that, directly or indirectly, through one or more intermediaries, has a 10% or more voting or economic

interest in such specified Person or controls, is controlled by, or is under common control with (which shall include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person shall be deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (and for purposes of this definition, a managed fund or trust shall be deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust shall be deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

“Agreement” has the meaning ascribed thereto in the recitals to this Agreement (and includes all Schedules and Exhibits referred to herein), as amended, modified and supplemented from time to time in accordance with the terms hereof.

“Agreement Proposal Security” means the \$5,000,000 bid bond made by Buyer for the account of Seller under and pursuant to that Cash Deposit Escrow Agreement, dated December 8, 2020, by and among Fulton Bank, N.A., Buyer and Seller.

“Assigned Contracts” has the meaning specified in Section 2.01(c).

“Assignment and Assumption Agreement” has the meaning specified in Section 12.02(c).

“Assumed Liabilities” has the meaning specified in Section 2.04(a).

“Authorizations and Permits” means all licenses, permits, franchises, authorizations, certificates, registrations, consents, orders, adjudications, variances, waivers and approvals currently in effect issued or granted by Governmental Authorities, including without limitation, permits and authorizations issued under any Laws governing protection of the Environment, operating permits, and approvals that are held by Seller that primarily relate directly or indirectly to the operation of the System, including those described in Schedule 4.14.

“Average Daily AR Payment” has the meaning specified in Section 6.12.

“Board” means the Board of the York City Sewer Authority.

“Business Day” means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by either the Commonwealth of Pennsylvania or the United States government.

“Buyer” has the meaning specified in the Preamble of this Agreement.

“Buyer Indemnified Persons” has the meaning specified in Section 7.02.

“CERCLA” means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, as amended.

“City” has the meaning specified in the Preamble of this Agreement.

“**City’s Benefit Obligations**” has the meaning specified in Section 4.11.

“**City Deposit**” has the meaning specified in Section 3.01.

“**City’s Plans**” has the meaning specified in Section 4.11.

“**Closing**” means the consummation of the sale and purchase of the Acquired Assets and assumption of the Assumed Liabilities, the release/waiver of liabilities and the other transactions contemplated hereby, all in accordance with the terms and conditions of this Agreement and as provided for in Article XII.

“**Closing Date**” has the meaning specified in Section 12.01.

“**Closing Effective Time**” has the meaning specified in Section 12.01.

“**COBRA**” means Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, Sections 2201 through 2208 of the Public Health Service Act and Part 6 of Subtitle B of the Employee Retirement Income Security Act of 1974, as amended.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Collective Bargaining Agreement**” means the existing collective bargaining agreement between Teamsters Local 776 and the City for the period of January 1, 2019 to December 31, 2022.

“**Confidential Information**” means any information about Buyer, Seller or the System related to the transactions contemplated by this Agreement; provided, however, that such term does not include information which the receiving Party can demonstrate is (a) generally available to or known by the public other than as a result of improper disclosure by the receiving Party, (b) obtained by the receiving Party from a source other than the disclosing Party, provided that such source was not bound by a duty of confidentiality to the disclosing Party with respect to such information, or (c) legally in the public domain.

“**Consent Order**” has the meaning specified in Section 6.13.

“**Deposit Note**” means the tax and revenue anticipation note substantially in the form as set forth in Exhibit A and to be issued by the City to the Buyer in connection with the Buyer’s agreement to make the City Deposit as set forth in Section 3.01.

“**Easements**” means all easements, rights of way, licenses, use agreements, occupancy agreements, leases and other agreements and appurtenances for the operation of the System located on and over the real property of third parties.

“**Effective Date**” has the meaning specified in the Preamble.

“**Environment**” means soil, surface waters, ground waters, land, stream sediments, flora, fauna, surface or subsurface strata and ambient air.

“**Environmental Claims**” means all notices of investigations, warnings, notice letters, notices of violations, liens, orders, claims, demands, suits or administrative or judicial actions for any

injunctive relief, fines, penalties, third-party claims, or other claims asserting violations of Environmental Requirements or responsibility for Environmental Liabilities.

“Environmental Conditions” means the Release of Regulated Materials or the presence of Regulated Materials on, in, under or within any property (including the presence in the Environment), other than the presence of Regulated Materials in locations and at concentrations that are naturally occurring.

“Environmental Liabilities” means any legal obligation or liability arising under Environmental Requirements or related to or arising out of any Environmental Condition, including those consisting of or relating to any (a) duty imposed by, breach of or noncompliance with any Environmental Requirements; (b) environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of Regulated Materials); (c) Remedial Action undertaken by any Person; (d) bodily injury (including illness, disability and death, and regardless of when any such bodily injury occurred, was incurred or manifested itself), property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real or personal property), or other losses or damages incurred by any other Person (including any employee or former employee of such Person); (e) any injury to, destruction of, or loss of natural resources, or costs of any natural resource damage assessments; (f) exposure of any Person to any Regulated Materials; and (g) the presence or Release of any Regulated Materials.

“Environmental Requirements” mean all present Laws (including common law), rules, regulations, legally binding or otherwise enforceable requirements and any Authorizations and Permits relating to human health, pollution, or protection of the Environment, including (i) those relating to emissions, discharges, Releases, or threatened Releases of Regulated Materials, and (ii) those relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, release, recovery, transport or other handling of Regulated Materials, (iii) the regulations promulgated pursuant to the above-listed federal statutes, and (iv) counterpart Laws and regulations promulgated or issued by any state or local Governmental Authority.

“EPA” means the United States Environmental Protection Agency, or a successor Governmental Authority with substantially similar power and authority thereto.

“Equipment and Machinery” means (i) all the equipment, tangible personal property, machinery, office furniture and equipment, fixtures, tooling, spare maintenance or replacement parts, environmental testing equipment, and vehicles owned or leased by Seller (including all leases of such property), which are primarily used in the operation of the System, (ii) any rights of Seller to warranties applicable to the foregoing (to the extent assignable), and licenses received from manufacturers and sellers of any such item (to the extent assignable), and (iii) any related claims, credits, and rights of recovery with respect thereto. Notwithstanding the foregoing, “Equipment and Machinery” shall not include any Excluded Assets.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Excluded Assets” has the meaning specified in Section 2.02.

“Excluded Liability” or **“Excluded Liabilities”** means all liabilities other than the Assumed Liabilities.

“Files and Records” means all files and records of Seller primarily relating to the System, whether in hard copy, digital or magnetic or other format including data, geographic system data, customer and supplier records, customer lists (both current and prospective), records of sales calls, manuals, books, files, records, engineering data, procedures, systems, instructions, drawings, blueprints, plans, designs, specifications, equipment lists, parts lists, equipment maintenance records, equipment warranty information, plant plans, specifications and drawings, sales and advertising material, computer software, and records relating-to Transferred Personnel, and whether stored on-site or off-site.

“Final Order” means a Governmental Approval by a Governmental Authority as to which (a) no request for stay of the action is pending, no such stay is in effect and if any time period is permitted by statute or regulation for filing any request for such stay, such time period has passed, (b) no petition for reconsideration or rehearing of the action is pending and the time for filing any such petition has passed, (c) such Governmental Authority does not have action under consideration on its own motion and (d) no appeal to a court or administrative tribunal or a request for stay by a court or administrative tribunal of the Government Authority’s action is pending or in effect and the deadline for filing any such appeal or request for stay has passed.

“Governmental Approval” means any consent, approval, authorization, notice, filing, registration, submission, reporting, order, adjudication or similar item of, to or with any Governmental Authority that is required for Closing or otherwise for compliance with the law.

“Governmental Authority” or **“Governmental Authorities”** means any court, department, commission, board, bureau, municipality, municipal authority (established pursuant to the Municipality Authorities Act of the Commonwealth of Pennsylvania), agency or instrumentality of the United States, any state, county, city or political subdivision thereof, or any foreign governmental body, including without limitation, the PaPUC, the EPA, PaDEP, the York County Conservation District, and the Board.

“Indemnified Party” means any Buyer Indemnified Persons or Seller Indemnified Persons, as applicable, entitled to indemnification pursuant to Article VII.

“Indemnifying Party” means a Party which is obligated to indemnify Buyer Indemnified Persons or Seller Indemnified Persons, as applicable, pursuant to Article VII.

“Knowledge” means, (i) with respect to Seller, the actual knowledge of Michael Helfrich, Mayor, Daniel Hevner, Assistant Business Administrator, Thomas Ray, Business Administrator, Chaz Green, Director of Public Works, and (ii) with respect to Buyer, the actual knowledge of the Bernard Grundusky Jr., Keith Gabage, Michael Doran.

“Law” means any applicable law, statute, regulation, ordinance, rule, order, judicial, administrative and regulatory decree, judgment, adjudication, consent decree, consent agreement, settlement agreement, or governmental requirement enacted, promulgated, entered into, agreed or imposed by any Governmental Authority, as may be in effect at the relevant time or times in the context in which the term is used.

“Liability Cap” has the meaning specified in Section 7.05(c).

“Lien” means any lien in a fixed and ascertainable monetary sum, or any pledge, mortgage, deed of trust or security interest securing a fixed and ascertainable monetary sum, or any charge or claim in a fixed and ascertainable monetary sum. In addition, in connection with Real Property, any item otherwise falling within the definition of a “Lien” must be filed of record by the responsible Party in accordance with the terms of this Agreement.

“Loss” means any and all losses, liabilities, obligations, damages, penalties, interest, Taxes, claims, actions, demands, causes of action, judgments, reasonable attorneys’, consultants’ and other professional fees, and all other reasonable costs and expenses sustained or incurred in investigating, preparing or defending or otherwise incident to any such claim, action, demand, cause of action or judgment or the enforcement of a Party’s rights under Article VII; *provided, however*, that “Losses” shall not include punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except in the case of fraud or to the extent actually awarded to a Governmental Authority or other third party in respect of a Third-Party Claim.

“Material Adverse Effect” means any event, occurrence, change, circumstance, fact, or condition that has either individually or in the aggregate with all other events, changes, circumstances, effects or other matters, with or without notice, lapse of time or both, a material adverse impact on (a) the System, Acquired Assets, Assumed Liabilities, or properties or condition (financial or otherwise) of the System, or (b) the ability of Seller to perform its obligations under this Agreement or to consummate the transactions contemplated by this Agreement. *provided, however*, that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the real estate, financial services, construction, water utility or sewer utility industries generally; (iv) any existing event, circumstance, condition or occurrence of which Buyer has actual knowledge as of the Effective Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated hereby; and (vi) negligence, intentional misconduct or bad faith of Seller or Buyer or their Representatives.

“Municipal Industrial Pretreatment Program” means the program administered by Seller under Part 9 Title 3, Article 931 of the City’s Codified Ordinances.

“Outside Date” means 365 days after the date of the application to the PaPUC is accepted as complete by the PaPUC and the statutory six-month period for PaPUC final action is initiated under 66 Pa. C.S. § 1329(d)(2).

“Outstanding Indebtedness” means the outstanding indebtedness of Seller as set forth on Schedule 4.06.

“Nonassignable Asset” has the meaning specified in Section 2.07(a).

“Nonassignable Authorization or Permit” has the meaning specified in Section 2.06(a).

“Operational Arrangement” has the meaning specified in Section 2.06(b).

“PaDEP” means the Pennsylvania Department of Environmental Protection, or any successor Governmental Authority with substantially similar powers thereto.

“PaPUC” means the Pennsylvania Public Utility Commission, or any successor Governmental Authority with substantially similar powers thereto.

“Party” means Buyer, City or Seller and the term **“Parties”** means collectively Buyer, City and Seller.

“Permitted Liens” means (a) Liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property; (c) other than with respect to Real Property owned by Seller, Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; (d) any right reserved to or vested in any Governmental Authority by any statutory provision or under common law; and (e) other imperfections of title or Liens, if any, that have not had, and would not have, a Material Adverse Effect.

“Person” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“Personnel” means the employees of the City as provided in Schedule 6.03(a).

“Purchase Price” has the meaning specified in Section 3.01.

“City Deposit” has the meaning specified in Section 3.01.

“Real Property” means all real property that Seller owns in fee and uses or holds for use in the operation of the System.

“Regulated Materials” means any material regulated under any Environmental Requirement, including solid, liquid, gas, odor, heat, sound, vibration, radiation or other substance or emission that is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, residual waste, solid waste, hazardous material or hazardous substance which is defined and regulated by applicable Environmental Requirements or which is classified as hazardous or toxic under applicable Environmental Requirements (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos, and urea formaldehyde foam insulation).

“Regulated Asbestos Containing Material” means regulated asbestos containing material as defined by 40 C.F.R. § 61.141.

“Release” means any actual spilling, leaking, pumping, pouring, injecting, emptying, discharging, emitting, escaping, leaching, dumping, disposal, or release or migration of Regulated Materials into the Environment, including the abandonment or discarding of barrels, containers and other receptacles containing any Regulated Materials.

“Remedial Action” means any and all actions to (a) investigate, characterize, clean up, remediate, remove, treat, contain or in any other way address any Regulated Materials in the Environment, (b) prevent the Release or threat of Release or minimize the further Release of any Regulated Materials so it does not migrate or endanger public health or welfare or the indoor or outdoor Environment, (c) perform pre-remedial studies and investigations and post-remedial monitoring, maintenance and care, and (d) mitigate impacts to wetlands, surface water bodies, and/or environmentally sensitive areas. The term “Remedial Action” includes any action which constitutes (i) a “removal”, “remedial action” or “response” as defined by Section 101 of CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25); (ii) a “corrective action” as defined in RCRA, 42 U.S.C. § 6901 *et seq.*; or (iii) a “response” or “interim response” as defined in the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §6020.103.

“Representative” means, with respect to any Person, any director, officer, employee, official, lender mortgagee, financier, provider of any financial instrument (or any agent or trustee acting on their behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

“Schedules” means the disclosure schedules delivered by Seller and Buyer, respectively, concurrently with the execution and delivery of this Agreement, and as may be supplemented and updated pursuant to Sections 8.03 and 9.04. Any disclosure set forth on any particular Schedule shall be deemed disclosure in reference to all Schedules comprising the Schedules to which such disclosure is reasonably apparent.

“Seller” has the meaning specified in the Preamble of this Agreement.

“Seller Indemnified Persons” has the meaning specified in Section 7.03.

“Supplies” means all lubricants, fuel, chemicals, raw materials, and other supplies, and all rights to warranties received from suppliers with respect to the foregoing, and related claims, credits, and rights of recovery with respect thereto.

“System” has the meaning specified in the recitals to this Agreement and shall include the Acquired Assets and exclude the Excluded Assets.

“Taxes” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, permit transfer and/or assignment fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, parking, sales, use, transfer, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

“Tax Return” means any return, report, statement, schedule, notice, form, declaration, claim for refund or other document or information filed with or submitted to any Governmental Authority in connection with the determination, assessment, collection or payment of Taxes.

“**Threshold Amount**” has the meaning specified in Section 7.05(a).

“**Third-Party Claim**” has the meaning specified in Section 7.04(a).

“**Transfer Taxes**” has the meaning specified in Section 3.02.

“**Transferred Personnel**” has the meaning specified in Section 6.03(d).

“**Union**” means the International Brotherhood of Teamsters, Local 776.

“**Unscheduled Real Property**” has the meaning specified in Section 6.11.

ARTICLE II.

TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES

Section 2.01 Purchase and Sale of Acquired Assets. Subject to the terms and conditions set forth in this Agreement, at Closing, Buyer shall purchase from Seller and Seller shall sell, transfer, assign and deliver to Buyer, free and clear of all Liens except for Permitted Liens, all of Seller’s right, title and interest in and to all assets, facilities, business, goodwill, properties and rights of Seller of every kind and description, whether tangible or intangible, real, personal or mixed, wherever situated, in each case used in, held for use in, or acquired or developed for use in, the System, or otherwise related to, or arising out of the operation or conduct of the System (whether or not any such assets have any value for accounting purposes or are carried or reflected on the books or financial records of Seller), but in all cases other than the Excluded Assets (the foregoing collectively referred to as the “**Acquired Assets**”), including:

(a) all real property and appurtenant interests, Easements, property rights and privileges owned, held, licensed or leased by Seller and used in the operation of the System, including the Real Property, leases, licenses and other arrangements by or between Seller and third Persons with respect to the Real Property or other Acquired Assets and fixtures;

(b) all sanitary sewer related treatment, collection, mains (including laterals from main to curb-line and edge of road or edge of easement, where collection facilities are located within private property) interceptors, metering locations and meters as well as conveyance facilities, including but not limited to: (i) Seller’s sewer treatment plant, including cogeneration facilities, located at 1701 Black Bridge in York, PA; and (ii) Seller’s pumping stations, manholes, pipelines, and billing and collections related assets necessary to run the System;

(c) all contracts, licenses, agreements, orders and leases identified on Schedule 4.15 as contracts to be assigned (the “**Assigned Contracts**”);

(d) all Supplies;

(e) all personal property and fixed assets, including all Equipment and Machinery, auxiliary equipment and plant equipment;

(f) all prepaid expenses and security deposits;

- (g) all Files and Records;
- (h) all Authorizations and Permits of or held by Seller (to the extent transferrable to Buyer under applicable Law), listed or described on Schedule 4.14 hereto;
- (i) any accounts receivable to the extent attributable to services or products to be sold, delivered or provided from and after the Closing; and
- (j) all goodwill of the System.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, (A) THE ACQUIRED ASSETS SHALL BE SOLD, TRANSFERRED, ASSIGNED AND DELIVERED TO BUYER “AS IS”, “WHERE IS”, AND “WITH ALL FAULTS”, AND (B) SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, INCLUDING ANY REPRESENTATION AS TO THE PHYSICAL CONDITION OR VALUE OF ANY OF THE ACQUIRED ASSETS OR THE SYSTEM, OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING THAT MAY BE ALLOWED BY THE PAPUC FOR ANY OF THE ACQUIRED ASSETS. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED.

Section 2.02 Excluded Assets. Notwithstanding anything herein to the contrary, the Acquired Assets shall not include the following (the “**Excluded Assets**”):

- (a) all contracts, licenses and leases that are not Assigned Contracts;
- (b) the seals, organizational documents, minute books, Tax Returns, books of account or other records having to do with the organization of Seller and all employee-related or employee benefit-related files or records;
- (c) cash and cash equivalents, including accounts receivable and existing financial security guaranteeing installation of public improvements (including sewer facilities);
- (d) all insurance policies of Seller and all rights to applicable claims and proceeds thereunder;
- (e) subject to Section 4.11, all City’s Plans or other assets attributable thereto;
- (f) all rights to any action, suit or claim of any nature available to or being pursued by Seller, whether arising by way of counterclaim or otherwise;
- (g) all assets, properties and rights used by Seller other than those which primarily relate to the operations of the System;
- (h) the assets, properties and rights specifically set forth on Schedule 2.02(h);
- (i) all right, title and interest in and to any facilities, rights of way or real property interests granted or conveyed to Seller in any of the documents identified on Schedule 4.09 that do not relate to the System, including, without limitation, any and all water utility and storm sewer assets; and

(j) the rights which accrue or will accrue to Seller under this Agreement and any related agreement, exhibit or schedule.

Section 2.03 Sale Free of Liens. After Buyer fulfills its obligations pursuant to Section 3.01(a) and Article X, the Acquired Assets to be sold, conveyed, transferred, assigned and delivered by Seller to Buyer, as herein provided, shall be on the Closing Date, free and clear of all Liens other than Permitted Liens. Such Acquired Assets shall be conveyed by appropriate special warranty or other deed, bills of sale, endorsements, assignments and other instruments of transfer or conveyance described herein, and if not expressly described herein, then by transfer documents satisfactory in form and substance reasonably acceptable to Buyer, City and Seller and their counsel in their reasonable, good faith discretion.

Section 2.04 Assumption of Liabilities.

(a) On the terms and conditions set forth in this Agreement and excluding the Excluded Liabilities, Buyer shall assume and agrees to pay, perform and discharge when due any and all liabilities and obligations of Seller or the City arising out of or relating to the System or the Acquired Assets on or after the Closing, including, without limitation, the following:

(i) all liabilities and obligations arising on or after the Closing under Seller's Authorizations and Permits;

(ii) all liabilities and obligations under the Assigned Contracts arising on or after the Closing;

(iii) all liabilities and obligations under the Collective Bargaining Agreement arising on or after the Closing;

(iv) all liabilities and obligations relating to employee benefits, compensation or other arrangements with respect to any Transferred Personnel arising on or after the Closing;

(v) any litigation initiated against Seller or the City related to the System or the Acquired Assets resulting from events that occur or conditions that exist on or after the Closing;

(vi) all liabilities and obligations for Taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities for any tax liabilities attributable to the period after the Closing Date;

(vii) all liabilities and obligations under the Consent Order arising on or after the Closing; and

(viii) all other liabilities and obligations arising out of or relating to Buyer's ownership or operation of the System and the Acquired Assets on or after the Closing, (all of the aforementioned liabilities in this Section 2.04(a) are referred to as the "**Assumed Liabilities**").

(b) At the Closing, to the extent Seller is not released therefrom, Seller and the City shall be indemnified against its obligations under the Assumed Liabilities in accordance with Section 7.03.

(c) Buyer shall not assume or be liable to pay any liabilities or obligations relating to the Excluded Liabilities or any other liabilities or obligations that are not Assumed Liabilities.

Section 2.05 Further Assurances. At any time and from time to time after the Closing Date, Seller shall, upon the request of Buyer, and Buyer shall, upon the request of Seller, at the cost of requesting Party, promptly execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate, (a) the sale, conveyance, transfer, assignment and delivery hereunder of the Acquired Assets to Buyer, (b) the assumption by Buyer of any of the Assumed Liabilities, (c) performance by the Parties of any of their other respective obligations under this Agreement, (d) the vesting in Buyer of all right, title and interest in the Acquired Assets and the System as provided herein, and (e) any other matters reasonably requested by a Party to carry out the provisions, purposes and intent of this Agreement.

Section 2.06 Certain Transfers; Assignment of Authorizations and Permits.

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.06(a) and Section 2.06(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Authorization or Permit would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Authorization or Permit, a “**Nonassignable Authorization or Permit**”). Following the Closing, Seller and Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution, novation or amendment required to sell, transfer, assign, convey and deliver any such Nonassignable Authorization or Permit to Buyer and in no event will Buyer be required to pay any additional consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, Seller shall sell, transfer, assign, convey and deliver to Buyer the relevant Authorization or Permit to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Any applicable sales, transfer and other similar Taxes in connection with such sale, transfer, assignment, conveyance and delivery shall be paid one-half by Buyer and one-half by Seller.

(b) Until such time as a Nonassignable Authorization or Permit is transferred to Buyer pursuant to this Article II, Buyer and Seller shall cooperate in any commercially reasonable and economically feasible arrangements (such as co-permitting, subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under applicable Law, operational equivalent of the transfer of such Nonassignable Authorization or Permit at the Closing and the performance by Buyer of its obligations with respect thereto (“**Operational Arrangement**” or “**Operational Arrangements**”), and so long as Seller transfers and turns over all economic and beneficial rights with respect to each such Nonassignable Authorization or Permit, Buyer shall, to the extent permitted under applicable Law and the terms of any applicable Authorization or Permit that constitutes a Nonassignable Authorization or Permit, as co-permittee, designee, agent,

contractor, subcontractor, or operator for Seller, pay, perform and discharge the Liabilities and obligations of Seller thereunder from and after the Closing Date, but only to the extent that such liabilities and obligations would constitute Assumed Liabilities if the applicable consent or approval had been obtained on or prior to the Closing Date and such Nonassignable Authorization or Permit had been assigned to Buyer at Closing. To the extent permitted under applicable Law, Seller shall, at Seller's expense, hold in trust for and pay to Buyer promptly upon receipt thereof, such Nonassignable Authorization or Permit and all income, proceeds and other monies received by Seller with respect to such Nonassignable Asset, Authorization or Permit in connection with any Operational Arrangement under this Article II. For purposes of Article X and Article XI herein, the establishment of an Operational Arrangement on or prior to the Closing Date between the Parties under this Section 2.06(b) regarding any Authorization or Permit shall, to the extent applicable, satisfy the conditions set forth in Sections 10.01(b) and 11.01(c) with respect to such Authorization or Permit.

(c) If, following the Effective Date and prior to the Closing, Buyer identifies any authorization or permit to which Seller is a party which is not identified on Schedule 4.14 as an Authorization or Permit as of the date hereof, and Buyer reasonably determines such authorization or permit is necessary to the operation of the System, Buyer shall give notice of such determination to Seller and Seller shall, promptly following receipt of such notice, deliver to Buyer an updated Schedule 4.14 identifying such authorization or permit, and such authorization or permit shall thereafter constitute and be deemed an Authorization or Permit for all purposes hereunder.

(d) In the event that, during the twelve (12) month period following the Closing, Buyer identifies any authorization or permit to which Seller was a party as of the Closing and which (i) was not set forth on or properly identified on Schedule 4.14 (as may be updated pursuant to (c)) and (ii) Buyer reasonably believes is necessary to the operation of the System, Seller shall, promptly following Buyer's written request therefor, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate the assignment of such authorization or permit to Buyer for no additional consideration, and upon such assignment, such authorization or permit shall be deemed an Authorization or Permit for all purposes hereunder.

Section 2.07 Certain Transfers; Assignment of Contracts.

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.07(a) and Section 2.07(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Assigned Contract or other Acquired Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Acquired Asset, a "**Nonassignable Asset**"). Following the Closing, Seller and Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution, novation or amendment required to sell, transfer, assign, convey and deliver any such Nonassignable Asset to Buyer. Once such consent, authorization,

approval, waiver, release, substitution or amendment is obtained, Seller shall sell, transfer, assign, convey and deliver to Buyer the relevant Acquired Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Any applicable sales, transfer and other similar Taxes in connection with such sale, transfer, assignment, conveyance and delivery shall be paid one-half by Buyer and one-half by Seller.

(b) Until such time as a Nonassignable Asset is transferred to Buyer pursuant to this Article II, Buyer and Seller shall cooperate in any commercially reasonable and economically feasible arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under applicable Law, operational equivalent of the transfer of such Nonassignable Asset to Buyer at the Closing and the performance by Buyer of its obligations with respect thereto, and so long as Seller transfers and turns over all economic and beneficial rights with respect to each such Nonassignable Asset, Buyer shall, to the extent permitted under applicable Law and the terms of any applicable contract that constitutes a Nonassignable Asset, as agent or subcontractor for Seller, pay, perform and discharge the Liabilities and obligations of Seller thereunder from and after the Closing Date, but only to the extent that such liabilities and obligations would constitute Assumed Liabilities if the applicable consent or approval had been obtained on or prior to the Closing Date and such Nonassignable Asset had been assigned to Buyer at Closing. To the extent permitted under applicable Law, Seller shall, at Seller's expense, hold in trust for and pay to Buyer promptly upon receipt thereof, such Nonassignable Asset and all income, proceeds and other monies received by Seller with respect to such Nonassignable Asset in connection with the arrangements under this Article II.

(c) If, following the Effective Date and prior to the Closing, Buyer identifies any contract to which Seller is a party which is not identified on Schedule 4.15 as an Assigned Contract as of the Effective Date, and Buyer reasonably determines such contract is necessary to the operation of the System, Buyer shall give notice of such determination to Seller and Seller shall, promptly following receipt of such notice, deliver to Buyer an updated Schedule 4.15 identifying such contract, and such contract shall thereafter constitute and be deemed an Assigned Contract for all purposes hereunder.

(d) In the event that, during the twelve (12) month period following the Closing, Buyer identifies any contract to which Seller was a party as of the Closing and which (i) was not set forth on or properly identified on Schedule 4.15 (as may be updated pursuant to (c)) and (ii) Buyer reasonably believes is necessary to the operation of the System, Seller shall, promptly following Buyer's written request therefor, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate the assignment of such contract to Buyer for no additional consideration, and upon such assignment, such contract shall be deemed an Assigned Contract for all purposes hereunder.

ARTICLE III.
PURCHASE PRICE

Section 3.01 Purchase Price; Agreement Proposal Security.

(a) **Purchase Price for the Assets; Adjustment for City Deposit.** Subject to the terms and conditions of this Agreement, the purchase price (“**Purchase Price**”) for the Acquired Assets shall be (i) \$235,000,000, *plus* (ii) the Average Daily AR Payment. The Purchase Price shall be delivered as follows:

(i) Within 60 days of the Effective Date, Buyer shall deposit Twenty Million Dollars (\$20,000,000) of the Purchase Price, payable to the City in immediately available funds (“**City Deposit**”), subject to Sections 4.03, 6.06, 9.05 and 13.02 and secured by the City with a tax and revenue anticipation note (the “**Deposit Note**”) substantially in the form attached hereto as Exhibit A; and

(ii) the Buyer, upon cancellation of the Deposit Note and return of the same to the City, shall be entitled to deduct from the Purchase Price the City Deposit when paying the Purchase Price to the Seller, which shall be payable directly to Seller on the Closing Date by wire transfer.

(b) **Agreement Proposal Security.** Within 180 days of the date the Agreement Proposal Security was delivered by Buyer, Buyer shall have the option to renew the Agreement Proposal Security for an additional term of 180 days. If the Closing has not yet occurred prior to the expiration of the first renewal term of 180 days, Buyer shall have the option to renew the Agreement Proposal Security for a second additional term of 180 days.

(c) **Use of Fair Market Valuation Process.** Following the execution of this Agreement, Buyer and Seller shall use commercially reasonable efforts to invoke, commence and complete the fair market valuation process set forth in Section 1329 of the Public Utility Code, 66 Pa. C.S. §1329. Without limiting the generality of the foregoing, Buyer and Seller shall each engage a utility valuation expert from the list of such experts maintained by the PaPUC and shall jointly utilize a licensed engineer selected by City for the purposes set forth in Section 1329(a)(4) of the Public Utility Code, 66 Pa. C.S. §1329(a)(4). All costs and expenses associated with the licensed engineer jointly utilized by the parties shall be shared equally between Buyer and Seller. Buyer agrees to prosecute an application for approval of the transaction contemplated by this Agreement in accordance with Section 6.06 and Section 10.03.

(d) **Fair Consideration.** The Parties acknowledge and agree that the Purchase Price provided for in this Article III represents fair consideration and reasonable equivalent value for the sale and transfer of the Acquired Assets and the transactions, covenants and agreements set forth in this Agreement, which was agreed upon as the result of an arm’s-length good faith competitive bidding process involving the Parties and their respective Representatives and other bidders and their respective Representatives.

Section 3.02 Transfer Taxes. Any and all deed stamps or transfer Taxes which may be due the Commonwealth of Pennsylvania or any political subdivision in connection with the sale, transfer,

assignment, conveyance and delivery hereunder of the Acquired Assets to Buyer (collectively, “**Transfer Taxes**”), shall be split equally by Buyer and Seller. The terms hereof shall survive Closing.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF SELLER AND THE CITY

Seller makes only the representations and warranties that are set forth in this Article IV related to the Seller. The City makes only the representations and warranties that are set forth in Sections 4.01, 4.02, 4.03, 4.11 and 4.12.

As a material inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated by this Agreement, Seller and City, as applicable represents and warrants, as of the Effective Date and as of the Closing Date (except to the extent any of the following representations and warranties specifically apply to or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 4.01 Organization. Seller is a body corporate and politic, duly organized and existing under the Pennsylvania Municipality Authorities Act, 53 Pa. C.S. §§ 5601 *et seq.* The City is a third-class city and political subdivision of the Commonwealth of Pennsylvania.

Section 4.02 Power and Authority. Each of Seller and the City has (i) duly adopted the Authorizing Ordinance authorizing the transactions contemplated herein, which remains in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement and (iii) duly authorized and approved the performance by Seller and the City of its respective obligations contained in this Agreement. Seller and the City have all requisite power and authority to own, lease and operate the Acquired Assets and the System and has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

Section 4.03 Enforceability. This Agreement has been duly authorized, executed and delivered by Seller and the City and constitutes a valid and legally binding obligation of Seller and the City, enforceable against Seller and the City in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

The Deposit Note has been duly authorized and when executed and delivered by the City shall constitute a valid and legally binding obligation of the City, enforceable in accordance with the terms thereof, subject only to applicable bankruptcy, insolvency and similar laws affecting enforceability of the rights of creditors generally and to the general principles of equity.

Section 4.04 No Conflict or Violation. The execution and delivery of this Agreement by Seller, the consummation of the transactions contemplated hereby and the performance by Seller of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Seller under (i) any applicable Law or (ii) any agreement, instrument or document to which Seller is a party or by which it is bound.

Section 4.05 Consents and Approvals. Except as set forth in Schedule 4.05 or as would not have a Material Adverse Effect, there are no consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Seller or the performance by Seller of its obligations hereunder.

Section 4.06 Undisclosed Liabilities. Except as set forth in Schedule 4.06, there are no material liabilities or obligations of Seller, either accrued, absolute, contingent or otherwise, relating to the Acquired Assets that would be required to be set forth on a balance sheet prepared under accounting principles applicable to municipalities and the Authority, other than liabilities incurred in the ordinary course. All of the Outstanding Indebtedness is set forth on Schedule 4.06 and can be repaid or defeased by Seller and any security interests granted by Seller to secure its obligations pursuant thereto can be extinguished or terminated at or prior to the Closing pursuant to the contractual terms applicable to such Outstanding Indebtedness.

Section 4.07 Absence of Certain Changes or Events. Except as set forth on Schedule 4.07, since December 31, 2019, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect and Seller has operated and maintained the System since the date of this Agreement in the ordinary course.

Section 4.08 Tax Matters. Except as set forth in Schedule 4.08 (i) Seller has filed all Tax Returns that were required to be filed on or before the Closing Date and timely paid all Taxes that may have been or may be due and payable by Seller on or before the Closing Date, arising from the ownership or operation of the Acquired Assets or the System on or before the Closing Date; (ii) no Governmental Authority has asserted any claim against Seller for the assessment of any additional liability for Taxes or initiated any action or proceeding which could result in such an assertion; and (iii) Seller has made all withholding of Taxes required to be made under all applicable Laws and regulations, including without limitation, withholding with respect to compensation paid to employees, and the amounts withheld have been properly paid over to the appropriate Governmental Authority. This section does not apply to any Tax matter related to an employee benefit plan or compensation arrangement that is addressed separately in Section 4.11.

Section 4.09 Real Property and Easements. Seller represents that, to its Knowledge, all of the Real Property and Easements held by Seller and used in the operation of the System are set forth on Schedule 4.09 which are to Seller's Knowledge all the Real Property and Easements that are necessary to operate the System. There are no pending condemnation proceedings relating to any of the Real Property and Easements, and, to the Knowledge of Seller, Seller has not received any written threats of any condemnation proceedings. To Seller's Knowledge, Seller has not received any written notices of any violations of any Law from any Governmental Authority with respect to the Real Property and Easements that have not been cured in all material respects. Buyer acknowledges and agrees that, notwithstanding anything to the contrary in this Agreement (i) this Section 4.09 contains all of the representations and warranties of Seller to Buyer with respect to the Real Property and Easements, and no other representation or warranty set forth in this Agreement with respect to the Acquired Assets is intended to apply to the Real Property and Easements, and (ii) to the extent that any of the documents identified on Schedule 4.09 contain rights or interests not relating or applicable to the System, such rights or interests shall not be construed or deemed to be part of the Real Property or Easements.

Section 4.10 Equipment and Machinery. All material Equipment and Machinery included in the Acquired Assets is set forth and otherwise described on Schedule 4.10. Except as set forth in Schedule 4.10, Seller has good title, free and clear of all Liens (other than the Permitted Liens and Liens which are released on or prior to Closing) to the Equipment and Machinery owned by Seller.

Section 4.11 Employee Benefit Plans.

(a) As used in this Section 4.11, the following terms have the meanings set forth below:

“**City’s Benefit Obligations**” means all material obligations, arrangements, or practices, whether or not legally enforceable, to provide benefits, other than salary or wages to present or former directors, employees or agents, (other than obligations, arrangements and practices that are City’s Plans), that are owed, adopted or followed by the City. City’s Benefit Obligations also include consulting agreements under which the compensation paid does not depend upon the amount of service rendered, sabbatical policies, severance payment policies and fringe benefits within the meaning of Code §132.

“**City’s Plans**” means each voluntary employees’ beneficiary association under Section 501(c)(9) of the Code whose members include any Personnel and any employee benefit plans or any other retirement, profit sharing, stock option, stock bonus, deferred compensation (including any “nonqualified deferred compensation plan” within the meaning of Section 409A of the Code), severance, sick leave or other material plan or arrangement providing benefits to current or former Personnel, in each case, if either currently in effect or terminated within the last six (6) years, to which the City is a plan sponsor or to which the City otherwise contributes or has contributed within the last six (6) years, or in which the City otherwise participates or has participated within the last six (6) years.

(b) Schedule 4.11(b) contains a true and complete list of all City’s Plans and City’s Benefit Obligations with respect to Personnel, including amounts owed to current or past employees for severance, unpaid and unused vacation pay or sick leave, or similar obligations. All such City’s Plans and City’s Benefit Obligations are in full force and effect and are in material compliance both as to form and operation, with applicable provisions of the Code, and any other applicable Laws, and with any applicable collective bargaining agreement. To Seller’s Knowledge, no event has occurred which has resulted or is likely to result in the imposition of any liability on the City under the Code or other applicable Law with respect to any City’s Plans or City’s Benefit Obligations;

(c) Except as set forth in Schedule 4.11(c), with respect to the System, the City does not sponsor, maintain, contribute to, nor is it required to contribute to, any “multiemployer plan” within the meaning of Section 14(f) of the Code, and has no liability of any nature, whether known or unknown, fixed or contingent, with respect to any such multiemployer plan;

(d) Except as set forth on Schedule 4.11(d), City does not sponsor, maintain, contribute to, nor is it required to contribute to, any medical, health, life or other welfare plan or benefits for present or future terminated or retired Personnel or their spouses or dependents, other than as required by COBRA, or any comparable state law, and has no liability of any nature, whether known or unknown, fixed or contingent, with respect to any such post-termination welfare benefits;

(e) The City is and has been in material compliance with the requirements of COBRA and is not subject to any excise tax under Code Section 4980B for the current or any prior taxable year; and

(f) Except as set forth in Schedule 4.11(f), the City has not entered into any severance or similar arrangement with respect to any present or former Personnel that will result in any obligation (absolute or contingent) of Buyer to make any payment to any present or former Personnel following termination of employment, including the termination of employment effected by the transactions contemplated by this Agreement. The consummation of the transactions contemplated by this Agreement will not trigger any severance or other obligation of the City for which Buyer shall have any liability.

Section 4.12 Personnel; Labor Matters.

(a) Schedule 4.12(a) sets forth all collective bargaining agreements and commitments, contracts, agreements, arrangements or understandings (whether written, oral, formal or informal) with Personnel relating to the System to which the City, is a party, including the identification of the parties thereto and the expiration dates.

(b) Except as set forth on Schedule 4.12(b), it shall be solely the City's obligation to pay, or cause to be paid, the Personnel for accrued but unused and unpaid vacation and sick leave awarded or earned during the Personnel's period of City employment at a time either appropriately negotiated or on terms set forth in any contract or agreement and/or as required under by applicable Law.

Section 4.13 Environmental Compliance. Except as set forth in Schedule 4.13 or that otherwise could not be expected to have a Material Adverse Effect, Seller represents:

(a) The System as currently operated by Seller and all operations and activities conducted by Seller with respect to the System are in compliance in all material respects with all applicable Environmental Requirements.

(b) Seller has generated, used, handled, treated, stored and disposed of all Regulated Materials in (i) compliance in all material respects with all applicable Environmental Requirements and (ii) a manner that has not given, and could not reasonably be anticipated to give, rise to Environmental Liabilities.

(c) Seller has not received notice of any Environmental Claims related to the System that have not been fully and finally resolved, and to the Knowledge of Seller no claims of Environmental Liabilities have been threatened allegedly arising from or relating to the System that have not been fully and finally resolved.

(d) Regulated Materials are not present at, in, or on the System or Acquired Assets, there has been no Release of Regulated Materials at, on or from any part of the System or the Acquired Assets, in each case in a manner that violates any Environmental Requirements or has resulted in, or could reasonably be anticipated to give rise to, Environmental Liabilities.

(e) No Lien or activity use limitation or institutional control has been recorded affecting any Acquired Assets by any Governmental Authority due to either the presence of any Regulated Material on or off the Acquired Assets or a violation of any Environmental Requirement.

(f) There are no operational underground storage tanks on or at any of the Acquired Assets. Any underground storage tanks previously located at the Acquired Assets have been removed or otherwise closed, removed, filled, and/or abandoned in compliance with applicable Environmental Requirements in effect at the time of such closure.

(g) Seller has delivered to Buyer (i) all material environmental site assessments or reasonable and accurate summaries thereof pertaining to the System, (ii) the written reports of all material compliance audits or compliance assurance reviews prepared within the previous five (5) years or reasonable and accurate summaries thereof relating to compliance with Environmental Requirements by the System, and (iii) reasonable and accurate summaries of, or all material documents pertaining to, any known and unresolved Environmental Liabilities incurred in relation to the System, to the extent possessed by or under the reasonable control of Seller.

Section 4.14 Authorizations and Permits. Seller represents that (i) Schedule 4.14 lists or describes the Authorizations and Permits of Seller that are currently in full force and effect; (ii) except as set forth on Schedule 4.14, Seller has made true and complete copies of all Authorizations and Permits available to Buyer; and (iii) except as set forth on Schedule 4.14, Seller is in compliance in all material respects with all terms, conditions and requirements of all Authorizations and Permits, except in each case where such violation or failure, individually or in the aggregate, would not have a Material Adverse Effect and no proceeding is pending or, to the Knowledge of Seller threatened relating to the revocation or limitation of any of the Authorizations or Permits, other than those revocations or limitations which do not individually or in the aggregate have a Material Adverse Effect.

Section 4.15 System Contracts.

(a) Schedule 4.15 contains a complete and accurate list of all the contracts related to the System.

(b) Seller has made available to Buyer true and complete copies of the Assigned Contracts set forth on Schedule 4.15.

(c) Seller further represents that, to its Knowledge, all of the Assigned Contracts specified in Schedule 4.15 are in full force and effect. Seller has not, nor to the Knowledge of Seller has any other party thereto, materially breached any material provision of or materially defaulted under the material terms of, nor does any condition exist which, with notice or lapse of time, or both, would cause Seller, or to the Knowledge of Seller, any other party, to be in material default under the terms of any Assigned Contract.

Section 4.16 Compliance with Law; Litigation.

(a) Except as disclosed to Buyer in writing or as could not reasonably be expected to result in a Material Adverse Effect to the Knowledge of Seller, Seller has operated and is operating the System in compliance, in all material respects, with all applicable Laws, Authorizations and Permits and is not in breach of any applicable Law, Authorization or Permit. Except as could not reasonably

be expected to result in a Material Adverse Effect, when considered singularly or collectively, there are no Authorizations or Permits from any Governmental Authority necessary for the operation of the System as currently being operated except for those Authorizations and Permits listed in Schedule 4.14.

(b) Except as set forth in Schedule 4.13 or disclosed to Buyer prior to the Effective Date, there are no facts, circumstances, conditions or occurrences regarding the System that could reasonably be expected to give rise to any Environmental Claims or enforcement actions by any Governmental Authority that could reasonably be expected to have a Material Adverse Effect, and there are no past, pending or threatened Environmental Claims or enforcement actions by any Governmental Authority against Seller that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of Seller, threatened against Seller prior to or at the Closing Effective Time that could reasonably be expected to have a Material Adverse Effect. As of the date of this Agreement, there is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of Seller, threatened against Seller which could reasonably be expected to materially and adversely affect the validity or enforceability of this Agreement.

Section 4.17 Broker's and Finder's Fees. Seller represents that no broker, finder, or Person is entitled to any commission or finder's fee by reason of any agreement or action of Seller in connection with this Agreement or the transactions contemplated by this Agreement. Seller agrees to pay when due the fees and expenses of their financial, legal, and technical advisors.

Section 4.18 Title to the Acquired Assets; Sufficiency.

(a) Except as set forth on Schedule 4.18, Seller has good and marketable title to, valid leasehold interest in or valid licenses to use, all of the Acquired Assets, free and clear of all Liens, other than Permitted Liens and Liens which will be fully and unconditionally released at or prior to Closing. Except for the Excluded Assets (as disclosed in Section 2.02), the Permitted Liens and any Liens that will be fully and unconditionally released at or prior to Closing, the Acquired Assets are sufficient for, and constitute all the assets, properties, business, goodwill and rights of every kind and description, and services required for, the continued conduct and operation of the System by Buyer in substantially the same manner as currently conducted and operated by Seller. Except for the Excluded Assets (as disclosed in Section 2.02), the Permitted Liens and any Liens that will be fully and unconditionally released at or prior to Closing, the Acquired Assets, taken as a whole, comprise all the assets, properties, business, goodwill and rights of every kind and description used or held for use in, or useful or necessary to the operation of the System as currently operated by Seller.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes only the representations and warranties which are set forth in this Article V.

As a material inducement to Seller and the City to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer hereby represents and warrants to Seller and the City, as of the Effective Date and as of the Closing Date (except to the extent any of the following representations and warranties specifically apply or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 5.01 Organization. Buyer is duly organized, validly existing and in good standing under the laws of the state of its organization.

Section 5.02 Authorization and Validity of Agreement. Buyer has the power and authority to enter into this Agreement and, subject to Governmental Approvals, to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. This Agreement has been duly authorized, executed and delivered by Buyer and constitutes a valid and legally binding obligation of Buyer, enforceable against it in accordance with the terms hereof, subject only to Governmental Approvals, applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally, and general principles of equity.

Section 5.03 No Conflict or Violation. The execution and delivery of this Agreement by Buyer, the consummation of the transactions contemplated hereby and the performance by Buyer of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Buyer under (i) any applicable Law, (ii) any material agreement, instrument or document to which Buyer is a party or by which it is bound or (iii) the articles, bylaws or governing documents of Buyer.

Section 5.04 Consents and Approvals. Except as set forth on Schedule 5.04, there are no consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

Section 5.05 Broker's and Finder's Fees. Buyer represents that no broker, finder or other Person is entitled to any commission or finder's fee in connection with this Agreement or the transactions contemplated by this Agreement.

Section 5.06 Financial Wherewithal. Buyer represents that upon Closing, and after giving effect to the consummation of the transactions contemplated hereby and the incurrence of any indebtedness in connection therewith, Buyer will have the financial ability and will have sufficient working capital for its needs and reasonably anticipated needs to operate the System as a certificated public utility system regulated by the PaPUC authorized, among things, to provide wastewater utility services to residential, commercial, industrial, and municipal customers of the System.

Section 5.07 Sufficient Funds. Buyer represents that Buyer will have sufficient funds available at Closing to consummate the transactions contemplated by this Agreement, to pay the Purchase Price in accordance with Article III and expenses related to the transactions contemplated by this Agreement, and on and after Closing, to generally provide ownership, operation and capital for the operations and capital needs of the System following the Closing, and assuring that the customers

of the System will receive safe, adequate and reliable wastewater service equal to or better than such customers would have received without the transactions contemplated by this Agreement and at all times consistent with the provisions of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 101 *et seq.*, and applicable Law.

Section 5.08 Independent Decision. Except as expressly set forth in this Agreement, or any of the related agreements, Buyer acknowledges that (a) neither Seller, City nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of the System or information provided to Buyer, and (b) neither Seller, City nor any other Person shall have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer use of, any information regarding the System or Acquired Assets that has been furnished or made available to Buyer and its Representatives. Buyer acknowledges that other than as expressly set forth in this Agreement or any related agreement, Seller expressly disclaims any warranty of income potential, operating expenses, costs of operation, or uses or fitness for a particular purpose of any Acquired Assets or the System.

Section 5.09 Scheduled Matters. Buyer acknowledges that: (a) the inclusion of any matter on any Schedule shall not necessarily be deemed an admission by Seller or City that such listed matter is material or that such listed matter has or could have a material adverse effect or constitutes a material liability with respect to the Acquired Assets; (b) matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in such Schedules; and (c) such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

Section 5.10 Independent Investigation. Buyer acknowledges that it has conducted an independent investigation of the financial condition, assets, liabilities, properties and projected capital needs and operations of the System in making its determination as to the propriety of the transaction contemplated by this Agreement and, in entering into this Agreement and related agreements, has relied solely on the results of its investigation and on the representations and warranties of Seller and City expressly contained in Article IV of this Agreement.

Section 5.11 Litigation. Buyer is not in breach of any applicable Law that could have a Material Adverse Effect on the operations of the System, Buyer or Buyer's ability, after the Closing, to provide wastewater utility services to residential, commercial, industrial, and municipal customers of the System. Neither Buyer nor any Affiliate of Buyer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors, or on any other list of Persons with which Seller may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. Except as set forth on Schedule 5.11, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of Buyer, threatened against Buyer prior to or at the Closing Effective Time, which will have a material adverse effect on (i) the transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement.

ARTICLE VI.
OTHER AGREEMENTS

Section 6.01 Taxes. Except as provided herein (including Section 3.03), Seller shall pay any and all Taxes, if any, arising out of the ownership of the Acquired Assets and out of the operation of the System before the Closing. Notwithstanding the prior sentence, any special assessments on the Real Property incurred on or after the Closing Date, whether or not currently due and payable, shall be paid by Buyer in accordance with their terms.

Section 6.02 Cooperation on Tax Matters. Seller shall furnish or cause to be furnished to Buyer, as promptly as practicable, whether before or after the Closing Date, such information and assistance relating to the System as is reasonably necessary for the preparation and filing by Buyer of any filings relating to any Tax matters.

Section 6.03 Personnel Matters.

(a) Subject to applicable Law, Buyer shall, or shall cause an Affiliate of Buyer to, offer employment effective on the Closing Date, to the Personnel set forth in Schedule 6.03(a), subject to Buyer's existing standard hiring policies and procedures applicable to new employees, including but not limited to, a criminal background check and drug screening. Prior to employment, Buyer will provide appropriate notification explaining that the wages and benefits offered by Buyer to all Personnel. For Union employees, such notice will be in accordance with the Collective Bargaining Agreement as required by Section 6.03(b)(ii). Schedule 6.03(a) shall not be amended after the date this Agreement is executed without the prior written consent of Buyer, provided, however, that Seller has absolute discretion without the consent of Buyer to fill existing positions as set forth on Schedule 6.03(a) to meet operational requirements. Upon Closing, Buyer shall follow Section 6.03(b)(i) and all applicable federal labor laws regarding the recognition of the Union and negotiate in good faith with the Union as required by federal labor laws.

(b) Effective as of and conditioned upon Closing, Buyer shall (i) recognize the Union as the exclusive bargaining representative for all Union employees; and (ii) adopt the Collective Bargaining Agreement for the Union Employees. Such offers of employment shall consist of the same terms and conditions of employment as set forth in the Collective Bargaining Agreement unless otherwise agreed to by the Union and the Buyer. Buyer shall not give any notice that it is setting initial terms of employment for Union employees that are contrary to the terms of the Collective Bargaining Agreement.

(c) The Personnel who accept such employment and commence employment on the Closing Date, shall be referred to in this Agreement as the "**Transferred Personnel.**" Transferred Personnel, who are non-union Personnel, if any, shall be employees-at-will of Buyer.

(d) This Section 6.03 shall be binding upon and inure solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 6.03, express or implied, shall confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Section. The Parties acknowledge and agree that the terms set forth in this Section 6.03 shall not create any right in any Transferred Personnel or any other person to bring a third-party cause of action against Buyer or

the City. Nothing in this Section 6.03(d) is intended to limit the right of any Transferred Personnel to file unfair labor practice charges with the National Labor Relations Board.

Section 6.04 Rates.

(a) Buyer shall implement Seller's wastewater base rates then in effect at Closing, as reflected on Schedule 6.04(a) (the "**Base Rate**") as Buyer's effective wastewater base rates within the City, provided such rates shall not be lower than those in effect on the date this Agreement is executed. Buyer shall additionally implement monthly billing for all customers within the City at and after Closing. Buyer shall apply, at and after Closing, its then-existing miscellaneous fees and charges, rules and regulations for wastewater service as set forth in its Tariff; provided that Buyer shall be able to implement an industrial pretreatment program and associated fees comparable to Buyer's similar systems as permitted by applicable law. Buyer agrees that Distribution System Improvement Charges, as defined in 66 Pa. C.S. § 1351, shall not be charged to customers on the System at any point prior to the effective date of Buyer's next PaPUC-approved base rate increase.

(b) Buyer shall have no obligation to fulfill or maintain any agreements or other understandings for the provision of free or otherwise subsidized or discounted services to any party.

(c) Buyer shall, subject to PaPUC approval in a future base rate proceeding, maintain base rates for System customers for a minimum period of three (3) years from the Closing Date.

(d) The rate provisions of this Section 6.04 shall be part of and subject to the requested PaPUC Governmental Approval.

Section 6.05 Buyer Taxpayer. From and after the Closing Date, Buyer acknowledges that, upon conveyance of the Acquired Assets to Buyer, Buyer will be subject to Taxes arising out of ownership of the Acquired Assets, which shall be paid by Buyer.

Section 6.06 PaPUC Governmental Approval. Promptly after the Effective Date, Buyer covenants and agrees to timely initiate and faithfully prosecute the necessary proceedings to obtain from the PaPUC (i) the issuance of certificates of public convenience to Buyer to provide wastewater services as necessary to operate the System; (ii) the approval of the acquisition of the System by Buyer under terms and conditions that are reasonably acceptable to Seller, City and Buyer; and (iii) the issuance of certificates of filing or other evidence of approval for contracts between Buyer and municipal corporations related to the acquisition of the System. Nothing contained herein shall be construed to limit or prevent Buyer from making arguments to the Commission for separate approval of the Deposit Note, regardless of the status of approval of this Agreement. Seller shall cooperate with and assist Buyer in proceedings before the PaPUC. Buyer, Seller and City hereby agree that the procedures for determining fair market value of the System and Acquired Assets outlined in 66 Pa. C.S. § 1329(a) shall be utilized and filed with the PaPUC as contemplated by 66 Pa. C.S. § 1329(c).

Section 6.07 Remedies for Breach of Article VI Agreements. In the event of a breach by Buyer of any of the covenants and agreements set forth in this Article VI, in addition to all other rights and remedies available at law or in equity, including specific performance and/or injunctive relief, Seller or City shall also be entitled to commence proceedings before the PaPUC seeking enforcement of such covenants and agreements but only to the extent that such covenants and agreements were a condition of the PaPUC Governmental Approval or otherwise within the jurisdiction of the PaPUC.

Section 6.08 Customer Service. Buyer agrees to establish, continue operating or cause the continued operation on Business Days of a customer service center within the City. The customer service center must be staffed by in-person customer service representatives and remain open for walk-in service and telephone service during normal business hours. Normal business hours shall be understood to mean, at minimum, 9:00 a.m. – 5:00 p.m.

Section 6.09 Unscheduled Real Property or Easements. The Parties acknowledge that Seller may own interests in or have the legal right to use or occupy the Real Property or Easements that are necessary or essential to the operation of the System and that are not specifically identified in Schedule 4.09 or Section 2.02 (the “**Unscheduled Real Property or Easements**”). If the Parties discover prior to or after the Closing Date, one or more parcels of **Unscheduled Real Property or Easements**, the discovering Party shall give written notice of such discovery to the non-discovering Party. In addition to its obligations in Section 2.03, Seller shall convey, assign or otherwise transfer any rights to each parcel of **Unscheduled Real Property or Easements** in such a manner as to provide Buyer with reasonable assurances that Buyer shall have the right to use or occupy the **Unscheduled Real Property or Easements** as it was used by Seller as of the Effective Date.

Section 6.10 Act 537 Official Plan Revision. Promptly after the Effective Date, each of Buyer and Seller, in accordance with applicable Laws and Environmental Requirements, including the Pennsylvania Sewage Facilities Act, 35 P.S. § 750.1—750.20a, the regulations codified at 25 Pa. Code Chapter 71, and available guidance from PaDEP, shall use commercially reasonable efforts and cooperate in preparing, submitting, and receiving necessary Governmental Approval from applicable Governmental Authorities, including PaDEP, of a revision or amendment to the Act 537 Official Plan, the cost of which shall be paid by Buyer. Using commercially reasonable efforts, each of Buyer and Seller shall cooperate to obtain the necessary Governmental Approvals of the revision or amendment to the Act 537 Official Plan, but in no event shall one or more Governmental Approvals of, or a Final Order regarding, the revision or amendment to the Act 537 Official Plan be construed or interpreted as a condition precedent to Closing under either Article X or Article XI herein.

Section 6.11 Municipal Industrial Pretreatment Program. The parties acknowledge that, upon Closing, Seller’s obligations to implement the Municipal Industrial Pretreatment Program will cease, and Buyer may implement its own version as may be necessary to ensure continued compliance with applicable Laws, Environmental Requirements, and the Authorizations and Permits. The parties also acknowledge that there may be a transition period, including after Closing, with respect to the Municipal Industrial Pretreatment Program. Accordingly, before and after Closing, each of Buyer and Seller shall use commercially reasonable efforts to cooperate and facilitate the transition, including, as necessary, obtaining applicable Governmental Approvals to address Environmental Requirements under the Laws and Authorizations and Permits. In no event shall one or more Governmental Approvals of, or a Final Order regarding, the Municipal Industrial Pretreatment Program be construed or interpreted as a condition precedent to Closing under either Article X or Article XI herein or as an obligation of Seller to continue implementing, or participate in implementing, the Municipal Industrial Pretreatment Program.

Section 6.12 Accounts Receivable. The Buyer is entitled to all customer billings with respect to sanitary wastewater services for the period on or after the Closing Effective Time and the Seller is entitled to all such billings for the period before the Closing Effective Time except that Buyer agrees to pay the Seller at Closing an amount equal to the average daily System revenue based on the City’s most recent audited financial statement (calculated by taking the total metered

revenue collected for the applicable year, divided by 365 and multiplied by the number of days between the final meter reading and Closing) for the period from Seller's final meter read through the Closing Date ("**Average Daily AR Payment**"). Excluding any period for which an Average Daily AR Payment is paid by Buyer, Buyer and Seller agree that payments received for bills rendered by the other will be remitted to the party which billed for sewer service for the period of time for which the payment was received within 30 days after receiving notice from the customer or the billing party.

Section 6.13 Consent Order. Unless EPA indicates in writing that it does not intend to pursue an order or action pursuant to the provisions of Section 309(a) or (b) of the Federal Clean Water Act, 33 U.S.C. § 1319(a)-(b), promptly after the Effective Date, the Seller, Buyer and the City shall use reasonable best efforts to negotiate and enter into a consent order with the EPA, to be effective upon Closing, pursuant to such provisions (the "**Consent Order**"), in a form reasonably satisfactory to Seller, Buyer and the City, which addresses the alleged violations relating to the System as described in the EPA Notice of Potential Violations and Opportunity to Confer dated December 10, 2020 or related alleged violations subsequently identified in writing by EPA ("Alleged Noncompliance"), and contains the following elements: (1) descriptions of and reasonable implementation schedules for the corrective actions to be taken to address the Alleged Noncompliance; (2) agreement by the Buyer to be responsible for all obligations arising under and compliance with the Consent Order on and after Closing of the transaction; (3) substitution of the Buyer for the Seller and City as respondents under the Consent Order effective upon Closing of the transaction; and (4) a release of the Seller and City from all obligations and liabilities under Consent Order for obligations to be performed or violations occurring on or after Closing of the transaction.

ARTICLE VII. INDEMNIFICATION

Section 7.01 Survival. All representations and warranties of Seller or City contained in this Agreement or any certificate or other Agreement delivered by Seller or City hereunder or relating to the subject matter of this Agreement shall survive until twelve (12) months following the Closing Date. All representations and warranties of Buyer contained in this Agreement or any certificate or other agreement delivered by Buyer hereunder or relating to the subject matter of this Agreement shall survive until twelve (12) months following the Closing Date. The covenants, agreements and other obligations of Seller and City contained in this Agreement or any certificate or other agreement delivered by Seller or City hereunder or relating to the subject matter of this Agreement shall survive the Closing until twelve (12) months following the Closing Date or for the shorter period explicitly specified therein, (a) except for such other agreements by Seller or City that explicitly state that they survive for a longer period and (b) except that Buyer may seek specific performance, as its sole and exclusive remedy, for any Acquired Assets not properly conveyed on the Closing Date for a period of five (5) years following the Closing Date. The covenants, agreements and other obligations of Buyer contained in this Agreement or any certificate or other agreement delivered by Buyer hereunder or relating to the subject matter of this Agreement shall survive the Closing indefinitely or for the shorter period explicitly specified therein, except that for such covenants and agreements that survive for such shorter period, breaches thereof within such shorter period shall survive indefinitely or until the latest date permitted by applicable Law. Additionally, notwithstanding anything to the contrary (i) once the

survival period or periods described above have ended, the applicable representation, warranty, covenant or agreement shall terminate and be of no further force or effect and (ii) any claim, demand, or cause of action with respect to any breach of such representation, warranty, covenant or agreement must be made or brought, if at all, within the period or periods described above. No Party shall permit its respective Affiliates or Representatives, and shall additionally cause its respective Affiliates and Representatives not to, make or bring any such claim, demand, or cause of action with respect to any such breach of a representation, warranty, covenant or agreement that may not otherwise be made directly by such Party hereunder.

Section 7.02 Indemnification by Seller and City. Subject to the terms and conditions of this Article VII and applicable Law, Seller and City agree to indemnify, defend and hold harmless, Buyer and its successors and Affiliates and their respective employees, officers, directors, trustees and agents (the “**Buyer Indemnified Persons**”), from and against any and all Losses arising from or relating to: (a) any material misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Seller or City contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Seller or City prior to the Closing pursuant to this Agreement; (b) any material breach or material nonfulfillment of any of the covenants or agreements of Seller or City contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Seller or City prior to the Closing pursuant to this Agreement; or (c) any Excluded Liability or Excluded Asset.

Section 7.03 Indemnification by Buyer. Subject to the terms and conditions of this Article VII and applicable Law, Buyer agrees to defend, indemnify and hold harmless Seller, City and their respective successors and Affiliates and each of their respective employees, officers, directors and agents (the “**Seller Indemnified Persons**”) from and against any and all Losses arising from or relating to: (a) any material misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Buyer contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (b) any material breach of any of the covenants or agreements of Buyer contained in this Agreement or in any exhibit, schedule certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (c) any Assumed Liability, including without limitation any liability related to any claims by any Governmental Authority; (d) Buyer’s actions involving Environmental Laws, Regulated Materials or environmental claims on and after the Closing Date; or (e) the ownership, operation or control of the Acquired Assets or the System on and after the Closing Date.

Section 7.04 Indemnification Procedure.

(a) Third-Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a “**Third-Party Claim**”) against such Indemnified Party with respect to which the Indemnifying Party may be obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have

the right to participate in, or by giving written notice to the Indemnified Party (and subject to the other requirements herein) to assume the defense of any Third-Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel (which counsel shall be reasonably acceptable to the indemnified Party), so long as (i) the indemnifying Party notifies the Indemnified Party, within ten (10) Business Days after the Indemnified Party has given notice of the Third-Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response) that the Indemnifying Party is assuming the defense of such Third-Party Claim, *provided*, that if the Indemnifying Party assumes control of such defense it must first agree and acknowledge in such notice that the Indemnifying Party is fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such Third-Party Claim, (ii) the Indemnifying Party conducts the defense of the Third-Party Claim actively and diligently and at its own cost and expense, and (iii) the Third-Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Buyer or its Affiliates, (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend. The Indemnified Party shall reasonably cooperate in good faith in such defense. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to Section 7.04(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right, at its own cost and expense, to participate in the defense of any Third-Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third-Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 7.04(b), pay, compromise, defend such Third-Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third-Party Claim. Seller, City and Buyer shall reasonably and in good faith cooperate with each other in all reasonable respects in connection with the defense of any Third-Party Claim, including making available records relating to such Third-Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third-Party Claim.

(b) Settlement of Third-Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 7.04(b). If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give prompt written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third-Party Claim and, in such event, the maximum liability of the

Indemnifying Party as to such Third-Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third-Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 7.04(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party with respect to any Loss which does not arise or result from a Third-Party Claim (a “**Direct Claim**”) shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During such thirty (30) day period, the Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity and amount of such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, by delivery of written notice disputing the basis or amount of the Direct Claim, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party has timely disputed its indemnity obligation for any Losses with respect to such Direct Claim, the Parties shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute shall be resolved by litigation in an appropriate court of jurisdiction determined pursuant to this Agreement.

Section 7.05 Limitations on Indemnification Obligations.

(a) Subject to the other limitations contained in this Section 7.05, neither Buyer nor Buyer Indemnified Persons shall be entitled to indemnification pursuant to Section 7.02 unless the aggregate amount of Losses incurred by Buyer and Buyer Indemnified Persons under this Agreement exceeds 1% of the Purchase Price in the aggregate (the “**Threshold Amount**”), in which case Seller or City shall then be liable for Losses in excess of the Threshold Amount; *provided, however*, that the foregoing limitations contained in this Section 7.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct.

(b) Subject to the other limitations contained in this Section 7.05 neither Seller, City nor Seller Indemnified Persons shall be entitled to indemnification pursuant to Section 7.03(a) unless the aggregate amount of Losses incurred by Seller, City and Seller Indemnified Persons under this Agreement exceeds the Threshold Amount, in which case Buyer shall then be liable for Losses in excess of the Threshold Amount; *provided, however*, that the foregoing limitations contained in this Section 7.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct.

(c) Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to Buyer), Buyer Indemnified Parties shall only be entitled to assert claims under Section 7.02 up to the aggregate amount of 5% of

the Purchase Price (the “**Liability Cap**”), which shall represent the sole and exclusive remedy of Buyer and the other Buyer Indemnified Parties for any such claims under Section 7.02.

(d) Payments by an Indemnifying Party pursuant to Section 7.02 or Section 7.03 in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds actually received from a third party insurer and any indemnity, contribution or other similar payment received from a third party insurer by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses prior to seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 7.02 or Section 7.03 in respect of any Loss shall be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss in accordance with applicable law.

(g) Subject to the provisions of Sections 3.01 and 14.11 and any other provisions for specific performance, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, unless such claims are based on fraud, intentional misrepresentation or willful misconduct, shall be pursuant to the indemnification provisions set forth in this Article VII. In furtherance of the foregoing, each Party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, it may have against the other Party hereto and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VII or unless such claims or causes of action allege fraud, intentional misrepresentation or willful misconduct. Nothing in this Section 7.05(g) shall limit any Person’s right to seek and obtain specific performance to which such Person shall be entitled pursuant to this Agreement.

Section 7.06 Knowledge of Breach. Except to the extent any facts, circumstances or events are inconsistent with any Seller representation in this Agreement, Seller and City shall not be liable to Buyer, including under this Article VII, for any Losses based upon or arising out of any facts, circumstances or events if such fact, circumstance or event was made available to Buyer prior to Closing in a document provided in the dataroom hosted by McNeese Wallace & Nurick, LLC pursuant to the Request for Proposals dated July 10, 2020 or if Buyer had Knowledge of such fact, circumstance or event, in each case prior to the Closing.

ARTICLE VIII.

PRE-CLOSING COVENANTS OF SELLER

Section 8.01 Operation of the System. Except as otherwise expressly permitted by this Agreement, as required by applicable Law or with the prior written consent of Buyer (which consent shall not be unreasonably withheld, delayed or conditioned), from the Effective Date until the Closing,

Seller or City shall (i) operate and manage the System only in the ordinary course of business in accordance with past practices and procedures, (ii) comply in all material respects with all applicable Laws and Authorizations and Permits, and (iii) use commercially reasonable efforts to maintain and preserve intact the business and assets of the System and preserve the rights, franchises, goodwill and relationships of Seller and the System and their customers, lenders, suppliers, regulators and others having business relationships with Seller and the System.

Section 8.02 Negative Covenants of Seller. Except as otherwise contemplated by this Agreement, beginning on the date of this Agreement and prior to the Closing, Seller shall not without the prior written approval of Buyer, do or agree to do any of the following in connection with Seller's operation of the Acquired Assets:

(a) Dispositions. Sell, assign, lease or otherwise transfer or dispose of any Acquired Assets outside of the ordinary course of business;

(b) Contracts. Enter into any material Contracts relating to the Acquired Assets or the System or incur any material obligation or liability (contingent or absolute) relating exclusively to the System outside of the ordinary course of business;

(c) Actions Affecting Licenses, Other Authorizations. Take any action outside of the ordinary course of business that invalidates or makes unenforceable any material Authorizations and Permits; and

(d) Encumbrances. Allow any Lien (other than a Permitted Lien) to be placed on any of the Acquired Assets.

Section 8.03 Cooperation. Seller and City shall reasonably cooperate with Buyer and its employees, attorneys, accountants and other agents and, generally, act in reasonably good faith to timely effectuate the purposes of this Agreement and the consummation of the transactions contemplated by this Agreement.

Section 8.04 Supplements and Updates. Seller or City shall promptly deliver to Buyer any supplemental information updating the Schedules or the information set forth in the representations and warranties set forth in Article IV of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least three (3) Business Days prior to the Closing Date, Seller and City shall advise Buyer of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein. In such 3-Business Day period, the only remedy available to Buyer based on such supplemental or updated information shall be to terminate the Agreement pursuant to the terms of Section 13.01 and the other terms and provisions of this Agreement, and if not so terminated and the Closing occurs, Seller and City shall have no liability whatsoever to Buyer based on such supplemental or updated information or the breach or default that had been caused until such supplemental or updated information was provided.

Section 8.05 Governmental Approvals. Promptly after the execution of this Agreement, or as required by Law, except as provided in Section 6.06 or otherwise expressly provided herein, Seller or City shall file all applications and reports that are required to be filed by Seller or City with any

Governmental Authority as provided on Schedule 4.05. Seller and City shall also promptly provide all information that any Governmental Authority may require in connection with any such application or report. Seller and City shall use its commercially reasonable efforts to obtain each consent, waiver, authorization or approval of any kind from any Person in connection with the transactions contemplated by this Agreement. All authorizations of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement shall have been obtained in form and content reasonably satisfactory to Seller and City prior to Closing. In the event a party to the PaPUC proceeding appeals PaPUC approval of the transaction, Buyer, Seller and City will work in good faith to determine whether to consummate the transaction before the appeal process has concluded. If the parties cannot agree in good faith, the transaction will not consummate until after the appeal process has concluded.

Section 8.06 Bond Defeasance. No later than thirty (30) days prior to the Closing Date, the Board shall have approved, subject to and conditioned upon a successful Closing: (i)(A) the defeasance and redemption of any outstanding bonds issued by Seller on the System included in Outstanding Indebtedness and (B) the discharge of any other outstanding debt issued to Seller and payable to any current lender and (ii) the transfer to Buyer or for its benefit of related funds held in any construction fund or account under any indenture(s) being held by Seller or any lender to Seller on any outstanding debt (it being understood that any debt service funds or debt service reserve funds will be applied to the defeasance, redemption and discharge of outstanding debt).

ARTICLE IX.

PRE-CLOSING COVENANTS OF BUYER

Buyer covenants and agrees to comply with the following provisions:

Section 9.01 Actions Before the Closing Date. Buyer shall not take any action which shall cause it to be in breach of any representation, warranty, covenant or agreement contained in this Agreement or cause it to be unable to perform in any material respect its obligations hereunder, and Buyer shall use its best efforts to perform and satisfy all conditions to Closing to be performed or satisfied by Buyer under this Agreement, including action necessary to obtain all consents and approvals of third parties required to be obtained by Buyer to effect the transactions contemplated by this Agreement.

Section 9.02 Governmental Approvals. Promptly after the execution of this Agreement, or as required by Law, except as otherwise expressly provided herein, Buyer shall file all applications and reports which are required to be filed by Buyer with any Governmental Authority as provided on Schedule 5.04. Buyer shall also promptly provide all information that any Governmental Authority may reasonably require in connection with any such application or report. Buyer shall use all commercially reasonable efforts to obtain all required consents and approvals of any kind from any person in connection with the transactions contemplated hereby.

Section 9.03 Cooperation. Buyer shall reasonably cooperate with Seller and their employees, attorneys, accountants and other agents and, generally, do such other acts and things in good faith as may be reasonable to timely effectuate the purposes of this Agreement and the consummation of the transactions contemplated in accordance with the provisions of this Agreement.

Section 9.04 Supplements and Updates. Buyer shall promptly deliver to Seller any supplemental information updating the information set forth in the representations and warranties set forth in Article V of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least three (3) Business Days prior to the Closing Date, Buyer shall advise Seller of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

Section 9.05 City Deposit. Buyer shall deliver to City the City Deposit, and the City shall deliver to the Buyer the executed Deposit Note and evidence of the filing with the Pennsylvania Department and Community and Economic Development pursuant to Section 8128 of the Local Government Unit Debt Act, 53 Pa. C.S. § 8001 *et seq.*, as amended, no later than 60 days after the execution of this Agreement.

ARTICLE X.

CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER

The obligation of Seller to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by Seller in its sole discretion:

Section 10.01 Consents and Approvals.

(a) Receipt of all required material, non-governmental third-party consents and any other approvals necessary to consummate the transactions contemplated by this Agreement set forth in Schedule 10.01(a); and

(b) Except as provided in Sections 2.06 and 6.11 herein, receipt of any required environmental and other Governmental Approvals required for transfer and operation of the System by Buyer, with terms and conditions reasonably acceptable to Buyer, including without limitation all required EPA and PaDEP approvals and all such Authorizations and Permits and Governmental Approvals shall be final (and not subject to any appeal and any applicable appeal period having expired).

Section 10.02 Representations and Warranties of Buyer. The representations and warranties made by Buyer in Article V that are (a) not qualified by materiality or Material Adverse Effect shall be true and correct in all material respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all material respects as of such specified date) and (b) qualified by materiality or Material Adverse Effect shall be true and correct in all respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all respects as of such specified date), and Seller shall have received a certificate to the effect of the foregoing from a duly authorized officer of Buyer dated as of the Closing Date.

Section 10.03 PaPUC Governmental Approval. Consistent with Section 6.06 herein, PaPUC shall have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to Seller, City and Buyer. In the event a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, Buyer, Seller and City will work in good faith to determine whether to consummate the transaction before the appeal process has concluded. If the parties cannot agree in good faith, the transaction will not consummate until after the appeal process has concluded.

Section 10.04 No Injunctions. Neither Seller nor Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 10.05 Performance of the Obligations of Buyer. Buyer shall have performed in all material respects all obligations required under this Agreement to be performed by Buyer on or before the Closing Date, and Seller shall have received a certificate to that effect from Buyer dated the Closing Date.

Section 10.06 Deliveries by Buyer. Buyer shall have made delivery to Seller of the documents and items specified in Section 12.03 herein.

Section 10.07 No Material Adverse Effect. There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

ARTICLE XI.

CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligation of Buyer to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by Buyer in its sole discretion:

Section 11.01 Consents and Approvals.

(a) Receipt of all required material, non-governmental third-party consents and any other approvals necessary or advisable to consummate the transactions contemplated by this Agreement set forth in Schedule 11.01(a); and

(b) Approval, subject to and conditioned upon a successful Closing, by the Board for: (i)(A) defeasance and redemption of any outstanding bonds issued by on the System included in the Outstanding Indebtedness and (B) discharge of any other outstanding debt issued to Seller and payable to any current lender and (ii) applying any funds held in any construction fund or account under any indenture(s) being held by Seller or any lender to Seller on any outstanding debt (it being understood that any debt service funds or debt service reserve funds will be applied to the defeasance, redemption and discharge of outstanding debt); and

(c) Except as provided in Sections 2.06 and 6.11 herein, receipt of any required environmental and other Governmental Approvals required for transfer and operation of the System by Buyer, with terms and conditions reasonably acceptable to Buyer, including without limitation all required PaPUC, EPA and PaDEP approvals and all such Authorizations and Permits and Governmental Approvals shall be final (and not subject to any appeal and any applicable appeal period having expired), provided however, that the inability under Law and/or any Environmental Requirements to transfer one or more Authorizations or Permits and/or any requirement under any Environmental Requirement or Law that Buyer apply for and obtain additional authorizations or permits to continue operation of the System by Buyer shall not constitute conditions precedent to Buyer's obligation to consummate the transactions provided for in this Agreement.

Section 11.02 Representations and Warranties of Seller. The representations and warranties made by Seller or City in Article IV that are (a) not qualified by materiality or Material Adverse Effect shall be true and correct in all material respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all material respects as of such specified date) and (b) qualified by materiality or Material Adverse Effect shall be true and correct in all respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all respects as of such specified date), and Buyer shall have received a certificate to the effect of the foregoing from a duly authorized officer of Seller dated as of the Closing Date.

Section 11.03 PaPUC Governmental Approval. Consistent with Section 6.06 herein, PaPUC shall have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to Seller, City and Buyer. In the event a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, Buyer, Seller and City will work in good faith to determine whether to consummate the transaction before the appeal process has concluded. If the parties cannot agree in good faith, the transaction will not consummate until after the appeal process has concluded.

Section 11.04 No Injunctions. Neither Seller nor Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 11.05 No Material Adverse Effect. From the date this Agreement is executed, there shall not have occurred any event or condition which gives rise or is reasonably expected to give rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

Section 11.06 Deliveries by Seller. Seller shall have made delivery to Buyer of the documents and items specified in Section 12.02 herein.

Section 11.07 Performance of the Obligations of Seller. Seller shall have performed in all material respects all obligations required under this Agreement to be performed by Seller on or before the Closing Date, and Buyer shall have received a certificate to that effect from Seller dated the Closing Date.

Section 11.08 No Liens. Seller shall have good and marketable title to the Acquired Assets, free and clear of all Liens, except Permitted Liens.

Section 11.09 Lease. Seller shall have caused the Lease Agreement that leases the System Assets to the City, dated September 15, 1978, as amended, by and between Seller and the City to be terminated.

ARTICLE XII.

CLOSING

Section 12.01 Closing Date. The Closing shall take place at the offices of McNeese Wallace & Nurick LLC, 316 N. George Street York, PA or as otherwise determined by Seller, at 10:00 a.m. eastern standard time on the earliest agreed upon date or within five (5) Business Days after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived or at such other place and time, by such other method, or on such other date, as may be mutually agreed to by the Parties (the “**Closing Date**”). The Closing shall be effective at 12:01 a.m., Eastern Standard Time, on the Closing Date (the “**Closing Effective Time**”).

Section 12.02 Deliveries by Seller. At the Closing, Seller shall have delivered or cause to be delivered to Buyer executed copies of the following agreements, documents and other items:

- (a) A Bill of Sale transferring all of the Acquired Assets comprising personal property, in the form attached hereto as Exhibit B;
- (b) Possession of the Acquired Assets, including without limitation, the Real Property and the Easements;
- (c) A duly executed counterpart to an Assignment and Assumption Agreement with respect to the Assumed Liabilities (the “**Assignment and Assumption Agreement**”), in the form attached hereto as Exhibit C;
- (d) The consents to transfer all of the Assigned Contracts and Authorizations and Permits (including Authorizations and Permits issued under any Environmental Requirement), to the extent required hereunder and as set forth in Schedule 4.15;
- (e) One or more special warranty or other deeds in recordable form reasonably acceptable to Buyer transferring fee simple title of Real Property;
- (f) Certificate of Seller pursuant to Section 11.02 of this Agreement;
- (g) Certificate of Seller pursuant to Section 11.06 of this Agreement; and
- (h) All such other instruments of conveyance or other documents as shall, in the reasonable opinion of Buyer and its counsel, be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement or to carry out the terms of this Agreement, duly executed and acknowledged by Seller, if necessary, and in a recordable form.

Section 12.03 Deliveries by Buyer. At the Closing, Buyer shall have delivered or caused to be delivered to Seller the following agreements, documents and other items:

- (a) Payment in full of the Purchase Price;
- (b) A duly executed counterpart to the Assignment and Assumption Agreement;
- (c) Certificate of Buyer pursuant to Section 10.02 of this Agreement;
- (d) Certificate of Buyer pursuant to Section 10.05 of this Agreement;
- (e) Evidence of PaPUC approval as provided in Section 10.03; and
- (f) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement, including any necessary actions or assignments to transfer or assign the Consent Order to Buyer.

ARTICLE XIII.

TERMINATION

Section 13.01 Events of Termination. This Agreement may, by notice given in the manner hereinafter provided, be terminated and abandoned at any time prior to completion of the Closing:

- (a) By the mutual consent of Seller and Buyer;
- (b) By either Seller or Buyer if:
 - (i) the Closing shall not have occurred on or prior to the Outside Date; provided, however, either Seller or Buyer shall have the one-time right to extend the Outside Date for up to ninety (90) days if any such amount of time up to ninety (90) days is necessary to obtain a required Governmental Approval; or
 - (ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the material transactions contemplated by this Agreement and such order, decree, ruling or other action will have become final and non-appealable; provided, however, that the Party seeking termination pursuant to this clause (b) of this Section 13.01 is not in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement;
- (c) By Seller (if Seller is not then in material breach of any provision of this Agreement) in the event of a material breach (A) of any covenant or agreement to be performed or complied with by Buyer pursuant to the terms of this Agreement or (B) of any representation or warranty of Buyer contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by Seller to Buyer or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article X of this Agreement not being satisfied (which condition has not been waived by Seller in writing); or
- (d) By Buyer (if Buyer is not then in material breach of any provision of this Agreement) in the event of a material breach (A) of any covenant or agreement to be performed or complied with

by Seller pursuant to the terms of this Agreement or (B) of any representation or warranty of Seller contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by Buyer to Seller or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XI of this Agreement not being satisfied (which condition has not been waived by Buyer in writing).

This Agreement may not be terminated after completion of the Closing.

Section 13.02 Effect of Termination. If this Agreement is terminated by Seller or Buyer pursuant to Section 13.01, written notice thereof will forthwith be given to the other and all further obligations of the parties hereto under this Agreement will terminate without further action by either Party and without liability or other obligation of either Party to the other Party hereunder; provided, however, (i) that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned by reason of any willful breach of this Agreement and (ii) that if this Agreement is terminated and the transactions abandoned for any reason, the City shall remain obligated on the Deposit Note, provided, however, the Parties shall not be deemed to have waived any rights or claims pursuant to this Agreement. With regard to any termination of this Agreement, the Seller and the City hereby affirmatively waive any defense to the validity and enforcement of the Deposit Note on the grounds that the Deposit Note is invalid as a result of not receiving any Governmental Approval. The Seller and the City further agree, at the request of the Seller, to cooperate at their own expense with any filing by the Buyer, even in connection with a termination, for any required Governmental Approval of the Deposit Note.

ARTICLE XIV.

MISCELLANEOUS

Section 14.01 Confidentiality. Except as and to the extent required by applicable Law (including but not limited to the Pennsylvania Right-To-Know Law, 65 P.S. §§ 67.101-67.3104, and the Pennsylvania Sunshine Act, 65 Pa. C.S. §§ 701-716) or pursuant to an order of a court of competent jurisdiction and as required hereunder to obtain any and all required Governmental Approvals, neither Party hereto shall, directly or indirectly, disclose or use (and no Party shall permit its Representatives to disclose or use) any Confidential Information of the other Party furnished, or to be furnished, by such other Party or its Representatives in connection herewith at any time or in any manner other than in connection with the completion of the transactions contemplated by this Agreement and related transactions.

Section 14.02 Public Announcements. Subject to applicable Law or listing rules of an exchange on which Buyer's direct or indirect parent corporation's stock is listed, and except as otherwise set forth herein, the initial public announcement relating to the transactions contemplated herein will be mutually agreed upon and jointly made by the Parties. Subsequent public announcements by one Party shall be subject to review and approval by the other Party prior to issuance, such approval not to be unreasonably withheld, conditioned or delayed.

Section 14.03 Notices. All notices, other communications and approvals required or permitted by this Agreement shall be in writing, shall state specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

in the case of Seller:

Barley Snyder LLC
100 East Market Street
York, PA 17401
Attn: Stacey R. MacNeal

in the case of the City:

City of York
101 South George Street
York, PA 17401
Attn: Solicitor

with a copy to:

McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
Attn: Adeolu Bakare

in the case of Buyer:

Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Attn: President

With a copy to:

Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Attn: General Counsel

or such other persons or addresses as a Party may from time to time designate by notice to the other Party. A notice, other communication or approval shall be deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

Section 14.04 Bulk Sales Laws. The Parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer.

Section 14.05 Costs. Except as otherwise specifically provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with its entrance into and performing and observing its obligations and covenants under this Agreement.

Section 14.06 Headings. The article, section and paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

Section 14.07 Severability. If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction or PaPUC to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated unless the term, provision or restriction is a material term, the absence of which would significantly change the transaction to the detriment of Seller, Buyer or both.

Section 14.08 Entire Agreement. This Agreement and the other agreements required to be delivered pursuant to this Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other Party.

Section 14.09 Construction. As used in this Agreement, (a) the gender of any word includes the masculine, feminine and neuter, (b) the number of any word includes the singular and plural, (c) the word “including” is exemplary, and not exclusive or limiting, and means “including, without limitation”, (d) the word “or” is not exclusive, (e) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement, and (f) all references to Articles and Sections refer to articles and sections of this Agreement, and all references to Schedules or Exhibits are to schedules or exhibits attached hereto, each of which is made a part hereof for all purposes.

Section 14.10 Amendments; Waivers. This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

Section 14.11 Parties in Interest; Third Party Beneficiary. Except as hereinafter provided, this Agreement is not intended to and shall not be construed to create upon any Person other than the Parties any rights or remedies hereunder.

Section 14.12 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Neither Party hereto shall assign or delegate this Agreement or any rights or obligations hereunder without the prior written consent of the other Parties hereto and required Governmental Approvals, and any attempted assignment or delegation without prior written consent and required Governmental Approvals shall be void and of no force or effect.

Section 14.13 Non-Liability of Public Officials. Buyer may not charge any official, officer, employee, advisor or consultant of Seller or City personally with any liability or expenses of defense or hold any official, officer, employee, advisor or consultant of Seller personally liable to them under any term or provision of this Agreement or because of the execution, attempted execution or any breach of this Agreement by Seller or City.

Section 14.14 No Partnership. Nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture, principal and agent relationship or employer and employee relationship between the Parties or their Representatives.

Section 14.15 Governing Law; Jurisdiction. This Agreement and any disputes arising in connection herewith shall be governed by and construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Pennsylvania, without giving effect to any conflict or choice of law rule or principle that would result in the imposition of the laws of a jurisdiction other than the Commonwealth of Pennsylvania. The Parties hereto irrevocably agree and consent to the jurisdiction of Pa PUC, the United States District Court for the Middle District of Pennsylvania and the Court of Common Pleas of York County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Middle District of Pennsylvania and the Court of Common Pleas of York County, Pennsylvania, and each Party irrevocably, except where the PaPUC has exclusive or primary jurisdiction, submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 14.16 Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that

the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy, subject to the limitations in Section 7.05, to which they are entitled at law or in equity.

Section 14.17 Counterparts; Facsimile Execution. This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. A signature to this Agreement delivered by facsimile or email of a PDF document shall be deemed an original signature hereto and such delivery shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK;

SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

YORK CITY SEWER AUTHORITY

PENNSYLVANIA-AMERICAN WATER COMPANY

By: _____
Printed: _____
Its: _____

By: _____
Printed: _____
Its: _____

CITY OF YORK

By: _____
Printed: _____
Its: _____