

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.**

3 **A.** My name is Bernard J. Grundusky, Jr. and my business address is 852 Wesley Drive,
4 Mechanicsburg, Pennsylvania 17011.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 **A.** I am employed by Pennsylvania-American Water Company (“PAWC”) as the Director of
7 Business Development.

8 **Q. WHAT ARE YOUR RESPONSIBILITIES AS PAWC’S DIRECTOR OF**
9 **BUSINESS DEVELOPMENT?**

10 **A.** I develop and maintain necessary contacts to stay abreast of new business opportunities.
11 In addition, I direct the business development team in the preparation of proposals,
12 policies and strategies for acquisitions, and other related business ventures. Finally, I
13 participate in developing PAWC’s short and long range plans. These responsibilities
14 necessitate that I maintain a working knowledge of regulatory and technical
15 developments, new technologies and current trends as they affect the water utility
16 industry, and that I be familiar with legislation, regulation and public policy affecting
17 business opportunities.

18 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL EDUCATION AND**
19 **EXPERIENCE.**

20 **A.** I received a Bachelor of Science (B.S.) degree in Accounting from Pennsylvania State
21 University in August of 1990 and a Master of Business Administration degree (MBA)

1 from Lebanon Valley College in 1995. My experience in the waterworks industry began
2 in March 1991 when I was employed as a Rate Analyst in the Rates and Revenue
3 Department of the American Water Works Service Company (“Service Company”). As a
4 Rate Analyst, I was responsible for preparing financial analysis and written testimony to
5 support PAWC rate increase requests. On January 1, 1993, I was transferred from the
6 Service Company to PAWC. On July 1, 1995, I was promoted to Senior Rate Analyst.
7 On October 16, 1996, I was promoted to Financial Analyst in PAWC’s Administration
8 Department. My principal duties in that capacity included the preparation and
9 administration of the revenue, operating and maintenance budgets and assistance in the
10 preparation of the capital budgets; the review of results of operations by budget
11 categories; and, annual review and refinement of budgeting techniques. On July 1, 1997,
12 I was promoted to Intermediate Financial Analyst, and, on July 1, 1998, I was promoted
13 to Senior Financial Analyst. On January 1, 1999, I transferred to PAWC’s Business
14 Development Department. On July 1, 2000, I was promoted to Manager of Business
15 Development. On April 1, 2009, I was promoted to the position of Senior Manager of
16 Business Development for PAWC. On September 30, 2013, I was promoted to the
17 position of Director of Business Development for PAWC. I have been in that position
18 since then and am currently the Director of Business Development.

19 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PENNSYLVANIA**
20 **PUBLIC UTILITY COMMISSION (“COMMISSION”)?**

21 **A.** Yes. I have previously testified before the Commission as a company witness for several
22 rate cases in the early to mid-1990’s, as a witness for the complaint of the Municipal
23 Authority of the Township of Robinson against PAWC at Docket No. C-20030092, and

1 as a company witness for PAWC’s 2013 base rate filing. I also recently testified before
2 the Commission as a company witness in the proposed transaction between PAWC and
3 The Sewer Authority of the City of Scranton (“SSA”), at Docket No. A-2016-2537209, in
4 which PAWC will acquire the wastewater collection and treatment system of SSA.

5 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS**
6 **PROCEEDING?**

7 **A.** My direct testimony describes the proposed transaction between PAWC and the Borough
8 of New Cumberland (“BNC”) in which PAWC will acquire the wastewater collection and
9 treatment system (“System”) currently owned and operated by the BNC (the
10 “Transaction”). I will explain why the Transaction is in the public interest and should be
11 promptly approved by the Commission. I will also discuss why PAWC is legally,
12 financially, and technically fit to acquire and operate the System.

13 **Q. PLEASE IDENTIFY THE OTHER PAWC WITNESSES WHO WILL BE**
14 **PROVIDING WRITTEN DIRECT TESTIMONY AND THEIR SUBJECT**
15 **MATTER AREAS.**

16 **A.** In addition to my direct testimony, PAWC will submit the written direct testimony of:
17 Mr. Michael J. Guntrum, PAWC Senior Project Manager – Engineering; Mr. Joseph F.
18 Woodward, PAWC Senior Manager – Operations; Mr. John R. Cox, American Water
19 Works Service Company Manager of Rates and Regulation for PAWC; and, Mr. James S.
20 Merante, American Water Works Service Company Director – Financial Strategy,
21 Planning and Decision Support for PAWC.

1 Mr. Guntrum will describe engineering and environmental issues associated with
2 the System, support PAWC's technical fitness to operate the System, and explain certain
3 commitments made by PAWC in the APA (defined below). Mr. Woodward will address
4 the anticipated day-to-day operation of the System once it is acquired by PAWC,
5 including staffing and the customer service enhancements that PAWC intends to
6 implement for the benefit of BNC's customers. Mr. Cox will address the initial rates,
7 rules, and regulations and rate gradualism for the BNC customers as well as the impact of
8 the Transaction on PAWC's existing customers. Mr. Merante will discuss the financing
9 of the Transaction and the overall financial fitness of PAWC.

10 **DESCRIPTION OF THE TRANSACTION**

11 **Q. PLEASE PROVIDE A DESCRIPTION OF THE TRANSACTION**
12 **NEGOTIATION PROCESS.**

13 **A.** On or around January 31, 2016, BNC issued a Request for Bids for the purchase of the
14 BNC Wastewater Treatment Facilities with bids due March 1, 2016. A meeting of
15 interested parties was held at the BNC offices on February 18, 2016, followed by a plant
16 tour. On March 1, 2016, PAWC submitted a bid to acquire the BNC System. Two other
17 entities, The York Water Company and the Capital Area Region Water Authority
18 (formerly the Harrisburg Authority), made submittals. On March 2, 2016, the BNC
19 Council discussed the bids at a public meeting and on March 9, 2016, at a special
20 meeting, the BNC Council voted unanimously to accept the PAWC bid to acquire the
21 wastewater facilities. On May 5, 2016, following extensive arms-length negotiations, the
22 BNC and PAWC entered into an Asset Purchase Agreement ("APA") for the sale of

1 substantially all of the assets, properties, and rights of the BNC's System at a negotiated
2 price of \$23,000,000 subject to certain adjustments.

3 **Q. PLEASE DESCRIBE THE APPLICATION PAWC FILED WITH THE**
4 **COMMISSION THAT IS THE SUBJECT OF THIS PROCEEDING.**

5 **A.** The day after executing the APA, on May 6, 2016, PAWC filed an application (the
6 "Application") with the Commission requesting, among other things: (i) approval of the
7 transfer, by sale, of substantially all of BNC's assets, properties and rights related to its
8 wastewater collection and treatment system to PAWC; (ii) approval of the right of
9 PAWC to begin to offer or furnish wastewater service to the public in the Borough of
10 New Cumberland, Cumberland County, Pennsylvania; and (iii) approval of the right of
11 PAWC to begin to offer or furnish wastewater service to three residential customers in
12 Lower Allen Township, Cumberland County, Pennsylvania; (iv) permission to allow the
13 rates and the rules and regulations of service as set forth in the *pro forma* tariff
14 supplement attached to the Application as Revised Exhibit J to become effective upon
15 one day's notice within ten (10) days following the closing of the Transaction; and, (v)
16 issue any other approval or certificate appropriate, customary, or necessary under the
17 Pennsylvania Public Utility Code ("Code") to carry out the Transaction in a lawful
18 manner.

19 PAWC's Application and related exhibits are attached to my direct testimony as
20 **PAWC Exhibit BJG-1**. Note, however, that Exhibits I and J of the Application were
21 revised and filed with the Commission on May 16, 2016. A copy of the filing containing

1 Revised Exhibits I and J submitted in this docket is attached to my direct testimony as
2 **PAWC Exhibit BJC-2.**

3 **Q. CAN YOU PLEASE PROVIDE AN OVERVIEW OF THE APA GOVERNING**
4 **THE TRANSACTION?**

5 **A.** Yes. The APA is attached as Exhibit D to the Application (**PAWC Ex. BJC-1**). The
6 APA sets forth the terms and conditions pursuant to which the BNC will sell, and PAWC
7 will purchase, the System, as well as substantially all assets, properties and rights that
8 BNC owns and uses in connection with the System. The APA sets forth the entire
9 understanding of the parties with respect to the Transaction. Under the APA, the closing
10 of the Transaction will occur after the receipt of all applicable governmental approvals,
11 including approvals from this Commission, and after all applicable conditions have been
12 met (or waived) by the parties. Upon closing of the Transaction, PAWC will take
13 ownership of the System and begin rendering wastewater services to BNC's current
14 customers and BNC will permanently discontinue providing or furnishing wastewater
15 service to the public within the BNC municipal limits.

16 **Q. CAN YOU PLEASE PROVIDE A SUMMARY OF THE APA'S PROVISIONS**
17 **GOVERNING THE TRANSFER OF ASSETS?**

18 **A.** The specific properties, assets and rights to be transferred to PAWC are defined and
19 described in the APA's Sections 1.1 and 1.2, while the excluded assets are defined in
20 Section 1.4 of the APA. Generally, the APA states that every asset, property and right
21 owned by the BNC and used in the provision of sanitary wastewater service, whether
22 real, personal, mixed, tangible or intangible, and including all the physical plant,
23 property, equipment and facilities comprising the System owned by the BNC shall be

1 conveyed to PAWC. The APA's Schedule 1.2(d) contains a non-exclusive list of
2 machinery, equipment and tools used in connection with the System to be conveyed to
3 PAWC. All interests in real estate, including leases, easements and access to public
4 rights-of-way, owned by BNC and relating to the System, as well as all assigned
5 contracts (as listed in the APA's Schedule 5.1(c))¹, also will be conveyed to PAWC.
6 Excluded assets are described in the APA's Section 1.4 and specifically exclude customer
7 sewer service laterals, any and all piping and fixtures internal to each individual
8 customer's structure, any and all storm water system facilities, BNC's cash on hand as of
9 the closing date of the Transaction, BNC's accounts receivable related to the System for
10 services rendered through the close of business on the closing date, all rights of BNC
11 under the APA, and the assets listed in the APA's Schedule 1.4.

12 **Q. HAS PAWC AGREED TO ASSUME ANY LIABILITIES OF THE BNC'S AS**
13 **PART OF THE TRANSACTION?**

14 A. No. In sum, PAWC is not assuming any liability of the BNC's in connection with the
15 Transaction. Per Section 1.1 of the APA, the assets to be conveyed to PAWC will be
16 sold free and clear of any and all encumbrances. Excluded liabilities are discussed in the
17 APA's Section 1.3 and specifically exclude any liabilities of the BNC including any
18 obligations owed by the BNC to others.

19 **Q. CAN YOU SUMMARIZE THE APA'S PROVISIONS GOVERNING THE**
20 **PURCHASE PRICE OF THE TRANSACTION?**

¹ To avoid confusion, APA Schedule 5.1(c) does not actually list the contracts, rather it refers to the first nine contracts listed on Schedule 4.1(k) of the APA. I will continue to refer to Schedule 5.1(c) in my testimony, but the contracts are actually listed on Schedule 4.1(k).

1 **A.** The consideration for the transfer of the System is set forth in Sections 2.1 and 2.2 of the
2 APA. As mentioned above, the purchase price for the transfer is \$23,000,000, less the
3 \$100,000 deposit that PAWC paid into escrow as bid security. The Escrow Agreement
4 between the BNC and PAWC governing the bid security is attached as Exhibit A to the
5 APA.

6 **Q. PLEASE EXPLAIN THE RATES THAT WILL APPLY TO THE BNC'S**
7 **CUSTOMERS FOLLOWING THE CLOSING OF THE TRANSACTION.**

8 **A.** As set forth in Section 6.7 of the APA, PAWC will adopt the BNC's rates existing at the
9 time of closing of the Transaction; however, the parties agreed that PAWC will bill
10 customers on a monthly basis in lieu of quarterly billing. BNC's current quarterly rates
11 and PAWC's proposed monthly rates are shown on the Revised Exhibit I to the
12 Application (**PAWC Ex. BJG-1**).

13 **Q. HAS PAWC AGREED TO SPECIFIC RATE LIMITATIONS IN THE APA?**

14 **A.** No, PAWC has not agreed to specific rate limitations in the APA. As explained in
15 Section 6.7 of the APA, PAWC has agreed to propose a rate increase no greater than two
16 and half percent (2.5%) for the years 2018 and 2019, subject to the Commission's
17 approval. The proposals were made with regard to reasonable rate gradualism for the
18 BNC's customers, but the language of the APA makes clear that the Commission
19 maintains ultimate ratemaking authority. My colleague, John R. Cox, discusses the rate
20 proposals associated with the Transaction in greater detail in PAWC Statement No. 4.

1 **Q. HAS PAWC MADE ANY COMMITMENTS IN THE APA THAT WILL BE**
2 **IMPLEMENTED AFTER THE CLOSING OF THE TRANSACTION?**

3 **A.** Yes. Following the closing of the Transaction, PAWC has committed to invest
4 \$2,000,000 in capital improvements in water and wastewater infrastructure owned by
5 PAWC and located within the BNC during the first five years of PAWC's ownership of
6 the System (*see* Section 6.8 of the APA), inclusive of PAWC's costs to construct the
7 Carlisle Road Project (as described in Section 6.11 of the APA). Per Section 6.8 of the
8 APA, BNC has agreed to cooperate with PAWC in connection with completing the
9 capital improvements, including providing necessary information as may be requested by
10 PAWC and identifying areas where such capital improvements can be made in
11 conjunction with street and sidewalk improvements. My colleague, Michael J. Guntrum,
12 will discuss these commitments in greater detail in his written direct testimony, PAWC
13 Statement No. 2.

14 In addition, PAWC has committed to offer employment to eligible BNC
15 employees following the closing of the Transaction (*see* Section 6.9 of the APA). My
16 colleague, Joseph F. Woodward, will discuss anticipated day-to-day operation of the
17 System once it is acquired by PAWC, including staffing, in his written direct testimony,
18 PAWC Statement No. 3.

19 **TRANSACTION IS IN THE PUBLIC INTEREST**

20 **Q. PLEASE PROVIDE AN OVERVIEW OF PAWC.**

21 **A.** PAWC, a subsidiary of American Water Works Company Inc., ("American Water"), is
22 the largest regulated public utility corporation duly organized and existing under the laws

1 of the Commonwealth of Pennsylvania, engaged in the business of collecting, treating,
2 storing, supplying, distributing, and selling water to the public, and collecting, treating,
3 transporting and disposing of wastewater for the public. Water and wastewater service is
4 furnished by PAWC to the public in a service territory encompassing more than 400
5 communities in 36 counties, including Cumberland County and neighboring counties of
6 Dauphin and York. Overall, PAWC serves a combined population of over 2,300,000
7 across the Commonwealth and is American Water's largest subsidiary with nearly 21
8 percent of American Water's regulated customer base.

9 PAWC currently employs approximately 1,000 professionals with expertise in all
10 areas of water and wastewater utility operations, including engineering, regulatory
11 compliance, water and wastewater treatment plant operation and maintenance,
12 distribution and collection system operation and maintenance, materials management,
13 risk management, human resources, legal, accounting and, most importantly, customer
14 service. PAWC has the expertise, the record of environmental compliance, the
15 commitment to invest in necessary capital improvements and resources, and experienced
16 managerial and operating personnel necessary to provide safe and reliable sewer services
17 to the residents of the BNC and surrounding areas.

18 **Q. PLEASE DESCRIBE PAWC'S HISTORICAL RELATIONSHIP WITH THE BNC.**

19 A. PAWC not only brings industry-leading expertise but also offers extensive local
20 knowledge due to our experience of providing water service to the public within the
21 Borough of New Cumberland and the Township of Lower Allen, Cumberland County,
22 for over a century. PAWC, and its predecessor, Riverton Consolidated Water Company
23 ("RCW"), have been providing local water service to these communities since 1904.

1 Locally, we own, operate, and maintain 2 water treatment plants, providing service to
2 more than 39,000 customers in 12 communities in Cumberland County, including
3 PAWC's water customers located within the BNC limits. A Letters Patent was issued to
4 RCW on February 17, 1904 for the purpose of supplying and furnishing water to the
5 public and such individuals, partnerships or corporations residing or being in the
6 certificated service territory that includes the Borough of New Cumberland and the
7 Township of Lower Allen, Cumberland County. On January 1, 1987, a Certificate of
8 Merger was issued at Docket No. A-211450F002 evidencing the merger of Riverton
9 Consolidated Water Company into Keystone Water Company, the surviving corporation,
10 and the name change of the surviving entity to Pennsylvania-American Water Company.

11 **Q. HOW MANY CUSTOMERS DOES THE BNC SYSTEM CURRENTLY SERVE**
12 **AND HOW MANY CUSTOMERS DOES PAWC CURRENTLY SERVE?**

13 **A.** As of March 31, 2016, BNC furnishes wastewater services to 3,158 customers, inclusive
14 of 2,890 residential customers, 258 commercial customers and ten municipal customers.

15 As of June 30, 2016, PAWC furnishes wastewater services to 21,302 customers in
16 Pennsylvania, inclusive of 20,144 residential customers, 1,085 commercial customers, 62
17 municipal customers, seven industrial customers and four bulk customers. PAWC
18 furnishes water services to 653,549 customers, inclusive of 601,147 residential
19 customers, 45,074 commercial customers, 520 industrial customers, 4,350 fire protection
20 customers and 2,458 municipal, resale and other customers.

21 **Q. CAN YOU PLEASE EXPLAIN WHY THE PROPOSED TRANSACTION IS IN**
22 **THE PUBLIC INTEREST?**

1 A. Yes. First, PAWC, as a large and long-established public utility, has the managerial,
2 technical, and financial fitness to operate the System in a safe and efficient manner in
3 compliance with the Code, the Pennsylvania Clean Streams Law, and all other applicable
4 statutory and regulatory requirements. PAWC has extensive experience in the operation
5 of wastewater collection and treatment systems. The acquisition fosters the
6 Commission's stated goal of regionalizing wastewater systems to provide greater
7 environmental and economic benefits to customers.

8 Second, BNC's current customers will benefit in several ways from becoming
9 PAWC customers. PAWC is a large, financially-sound company that has the capacity to
10 finance necessary capital additions and improvements that inure to the benefit of its
11 customers. In addition, given its size, its access to capital, and its recognized strengths in
12 system planning, capital budgeting, and construction management, PAWC is well-
13 positioned to ensure that high quality wastewater service meeting all applicable state and
14 federal regulatory requirements is provided to the BNC's customers.

15 Third, BNC's current customers will benefit from enhanced and proven customer
16 service that PAWC provides. My colleague, Joseph F. Woodward, will discuss these
17 customer service enhancements in more detail; however, I would like to note that they
18 include, but are not limited to, additional bill payment options, extended customer service
19 and call center hours, enhanced customer information and education programs, and
20 access to PAWC's customer assistance program.

21 Finally, the Transaction will benefit PAWC's existing customers and BNC's
22 current customers in the long-term by expanding PAWC's customer base. There will be

1 no immediate rate impact on PAWC's existing customers, and we expect that the
2 Transaction will help PAWC maintain reasonable rates for all its customers going
3 forward. PAWC has the capability of enhancing the efficiency of the System and
4 decreasing its operating costs by utilizing our expertise in wastewater management and
5 leveraging economies of scale. BNC's System is a stand-alone wastewater system within
6 PAWC's existing water system footprint and will be operated and managed in
7 conjunction with PAWC's existing Central PA operations. This geographic overlap
8 between the BNC's service area and PAWC's local operations creates opportunities for
9 functional and operational consolidation, efficiencies, and cost savings. Moreover, by
10 adding additional connections to the entire PAWC system, there are more customers to
11 share future infrastructure investment cost which promotes stable rates across the entire
12 PAWC system. Customers who benefit from near-term improvements will one day help
13 pay for improvements on behalf of other customers on other parts of the PAWC system.
14 Being able to spread the costs of investing in and maintaining public wastewater systems
15 over a growing customer base, particularly in a time of increased environmental
16 requirements, is essential to the continued success of wastewater systems and maintaining
17 reasonable rates for customers. Indeed, the Pennsylvania Legislature recognized, as a
18 matter of public policy, the importance of consolidation and cost sharing in the passage
19 of Act 11 of 2012.

20 **PAWC'S LEGAL, FINANCIAL AND TECHNICAL FITNESS**

21 **Q. CAN YOU PLEASE TELL US WHY PAWC IS LEGALLY FIT TO ACQUIRE**
22 **AND OPERATE THE SYSTEM?**

1 **A.** Yes. PAWC is a Commission-regulated public utility with a good compliance history.
2 There are no pending legal proceedings which would suggest that PAWC is not legally fit
3 to provide service to customers on BNC's System.

4 **Q. CAN YOU EXPLAIN WHY PAWC IS FINANCIALLY FIT TO ACQUIRE AND**
5 **OPERATE THE SYSTEM?**

6 **A.** Yes. PAWC is the largest water and wastewater provider in Pennsylvania. It has a long-
7 demonstrated history with the Commission of financial stability.

8 As part of the Application, PAWC provided the unaudited internal balance sheet,
9 as of December 31, 2015, for PAWC (**PAWC Ex. BJG-1, Exhibit B**), as well as the
10 unaudited income statement, as of December 31, 2015, for PAWC (**PAWC Ex. BJG-1,**
11 **Exhibit C**). Those documents show that PAWC had total assets of approximately \$3.9
12 billion as of December 31, 2015. Further, they show that PAWC had net income of
13 approximately \$143 million for the 12 months ending December 31, 2015. These figures
14 are further demonstration that PAWC has the financial stability and wherewithal to
15 acquire the System and operate it in the public interest. My colleague, James S. Merante,
16 will provide additional details on the financial health of PAWC and its ability to access
17 capital.

18 **Q. PLEASE EXPLAIN WHY PAWC IS TECHNICALLY FIT TO OPERATE THE**
19 **SYSTEM?**

20 **A.** As I discussed earlier, PAWC is engaged in the business of collecting, treating,
21 transporting and disposing of wastewater for the public. We are the largest investor-
22 owned water utility in the Commonwealth of Pennsylvania and we already have

1 significant wastewater operations. PAWC is experienced in undertaking and completing
2 water and wastewater system acquisitions with public and private sector owners and
3 successfully integrating those assets into our business operations. My colleagues,
4 Michael J. Guntrum and Joseph F. Woodward, will explain in greater detail specifically
5 how PAWC intends to operate the System once acquired.

6 SERVICE TERRITORY

7 **Q. PLEASE EXPLAIN THE SERVICE TERRITORY SOUGHT BY PAWC IN THE**
8 **APPLICATION.**

9 A. As part of its Application, PAWC is seeking the right to provide service to the customers
10 currently served by BNC in the service area served by BNC (*i.e.*, the municipal boundary
11 limits of the Borough of New Cumberland) as shown in the maps attached as **PAWC Ex.**
12 **BJG-1, Exhibit K** and as further described in **PAWC Ex. BJG-1, Exhibit L** (“BNC
13 Service Area”). No municipal authority, corporation, partnership or individual other than
14 BNC is now furnishing or has corporate or franchise rights to furnish service similar to
15 that to be rendered by PAWC in the BNC Service Area covered by the Application, and
16 no competitive condition will be created. As discussed above, upon closing of the
17 Transaction, BNC will permanently discontinue all wastewater service to the public.

18 In addition to the BNC Service Area described above, PAWC is seeking the right
19 to provide wastewater service to three residential customers located in the Township of
20 Lower Allen, Cumberland County. BNC currently provides wastewater services to three
21 residential customers located on Poplar Avenue, Lower Allen Township, Cumberland
22 County, pursuant to that certain Building Sewer Connection Agreement on Poplar

1 Avenue by and between the Borough, Lower Allen Township Authority and the three
2 residential customers (“Lower Allen Sewer Connection Agreement”), attached hereto as
3 **PAWC Ex. BJG-1, Exhibit M.** The service territory being sought in connection with
4 the customers located in Lower Allen Township is shown in the map and description
5 attached hereto as **PAWC Exhibit BJG-3.**

6 **Q. WHAT ISSUES DO YOU SEE WITH THE REQUESTED SERVICE**
7 **TERRITORY IN LOWER ALLEN TOWNSHIP?**

8 A. Per Schedule 5.1(c) of the APA, BNC and PAWC have agreed that PAWC will take
9 assignment of the Lower Allen Sewer Connection Agreement and continue providing
10 wastewater services to the three residents in Lower Allen Township under the
11 Agreement. Doing so will create an overlap of service territories with Lower Allen
12 Township Authority, which is currently providing wastewater services to the public
13 within Lower Allen Township. However, prior to filing the Application, Lower Allen
14 Township Authority provided PAWC with a written letter attached as **PAWC Ex. BJG-**
15 **1, Exhibit N.** In the letter, the Authority expressed its support for PAWC taking
16 assignment of the Lower Allen Sewer Connection Agreement and for PAWC continuing
17 to provide service to the three residential customers located on Poplar Avenue following
18 the closing of the Transaction. Moreover, Lower Allen Township was served with a copy
19 of the Application and did not file a protest in this proceeding. Therefore, no competitive
20 condition will be created by the Commission approving PAWC’s requested service
21 territory in Lower Allen Township to continue service to the three residential customers
22 located on Poplar Avenue.

1 APPROVAL OF ANCILLARY AGREEMENTS

2 **Q. HAS PAWC REQUESTED SECTION 507 APPROVAL AS PART OF ITS**
3 **APPLICATION?**

4 **A.** In addition to the approvals sought under Section 1102(a) of the Code, 66 Pa. C.S. §
5 1102(a), the APA and Escrow Agreement executed by BNC and PAWC (*see PAWC Ex.*
6 **BJG-1, Exhibit D**) must, according to PAWC’s counsel, be filed with the Commission
7 pursuant to Section 507 of the Code. In its Application, PAWC requested that the
8 Commission issue approvals or certificates as appropriate, customary or necessary,
9 including Section 507 of the Code, 66 Pa. C.S. § 507, to carry out the Transaction
10 contemplated in this Application in a lawful manner.

11 **Q. IN CONNECTION WITH PAWC’S EFFORTS TO SECURE COMMISSION**
12 **APPROVAL FOR THE TRANSACTION, WHAT ACTIONS ARE REQUIRED**
13 **RELATIVE TO MUNICIPAL CONTRACTS?**

14 **A.** As noted, PAWC is taking assignment of the contracts listed on Schedule 5.1(c) of the
15 APA and per the APA’s Section 3.2(a)(i) will enter into an Assignment of Contracts
16 Agreement with BNC to take assignment of such contracts. The list of contracts on the
17 APA’s Schedule 5.1(c) includes two contracts with municipal corporations, specifically
18 the Lower Allen Sewer Connection Agreement and the Capital Region Water Process
19 Waste Hauling contract (“Municipal Contracts”). According to PAWC’s counsel, the
20 Assignment of Contracts Agreements for the Municipal Contracts (“Assignment
21 Agreements”) must, pursuant to Section 507 of the Code, be filed with the Commission
22 30 days before the Assignment Agreements can become effective (*see PAWC Ex. BJG-*

PAWC Exhibit BJG-1

2. The name and address of the Applicant is:

Pennsylvania-American Water Company
800 West Hershey Park Drive
Hershey, PA 17033

3. The names and address of the Applicant's attorney are:

Susan Simms Marsh, Esquire (PA ID # 44689)
Melanie J. El Atieh, Esquire (PA ID # 209323)
Corporate Counsel
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033
Telephone: (717) 531-3208
(717) 531-3362
Facsimile: (717) 531-3399
E-mail: susan.marsh@amwater.com
melanie.elatieh@amwater.com

4. Pennsylvania-American is a regulated public utility corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and is engaged in the business of collecting, treating, storing, supplying, distributing and selling water to the public, and collecting, treating, transporting and disposing of wastewater and sewage for the public. Water and wastewater service is furnished by Pennsylvania-American to the public in a service territory encompassing more than 400 communities across the Commonwealth with a combined population of approximately 2,300,000. A description of Pennsylvania-American's existing certificated water and wastewater service territory is found in **Exhibit A**, along with a detailed corporate history, outlining all of the mergers, acquisitions and consolidations which have created Pennsylvania-American as it exists on the date of this Application.

5. Pennsylvania-American currently offers, renders, furnishes and supplies water service to the public within the Borough of New Cumberland and the Township of Lower Allen, Cumberland County by Letters Patent issued to Riverton Consolidated Water Company on February

17, 1904 for the purpose of supplying and furnishing water to the public and such individuals, partnerships or corporations residing or being in the certificated service territory of the Borough of New Cumberland and the Township of Lower Allen, Cumberland County. On January 1, 1987 a Certificate of Merger was issued at Docket No. A-211450F002 evidencing the merger of Riverton Consolidated Water Company into Keystone Water Company, the surviving corporation, and the name change of the surviving entity to Pennsylvania-American Water Company.

6. The Borough is a public body corporate organized and existing under the laws of the Commonwealth of Pennsylvania. The Borough owns and operates a public sanitary wastewater treatment system providing wastewater collection, treatment and disposal services to the public (“System”) in a service territory encompassing the Borough of New Cumberland, Cumberland County, Pennsylvania (“Service Area”). In addition to the Service Area, the Borough’s System provides wastewater services to three residential customers in Lower Allen Township, Cumberland County, Pennsylvania.

7. As of March 31, 2016, the Borough furnishes wastewater services to 3,158 customers, as follows:

Residential	2,890
Commercial	258
Industrial	0
Municipal	10
Bulk	0

8. As of March 31, 2016, Pennsylvania-American furnishes wastewater services to 21,284 residential, commercial, industrial, municipal and bulk customers in Pennsylvania. The total number of customers by class are as follows:

Residential	20,111
Commercial	1,099
Industrial	7
Municipal	63
Bulk	4

A. TRANSFER, BY SALE, OF SUBSTANTIALLY ALL OF THE BOROUGH OF NEW CUMBERLAND’S ASSETS, PROPERTIES AND RIGHTS RELATED TO ITS WASTEWATER SYSTEM TO PENNSYLVANIA-AMERICAN WATER COMPANY

Summary of the Transaction

9. On May 5, 2016, the Borough and Pennsylvania-American entered into an Asset Purchase Agreement (collectively, the “APA” or “Agreement”), to sell all of the assets, properties and rights of the Borough’s System (other than the Excluded Assets, as defined in Section 1.4 of the APA) to Pennsylvania-American (the “Transaction”).

Background Financial Information

10. The Borough does not keep and is therefore not able to produce for purposes of this Application an unaudited internal balance sheet as of December 31, 2015 relating exclusively to the Borough’s ownership and operation of the wastewater system to be transferred to Pennsylvania-American. Attached hereto is Pennsylvania-American’s unaudited balance sheet as of December 31, 2015 (**Exhibit B**). By its next base rate case, Pennsylvania-American will undertake an original cost study to determine the original cost and accumulated depreciation of the Borough’s wastewater utility plant in service.

11. The Borough does not keep and is therefore not able to produce for purposes of this Application an unaudited income statement for the 12-months ended December 31, 2015 relating exclusively to the Borough’s ownership and operation of the wastewater system to be transferred to

Pennsylvania-American. Attached hereto is Pennsylvania-American's unaudited income statement for the 12-months ended December 31, 2015 (Exhibit C).

12. All the annual reports, tariffs, certificates of public convenience, applications, securities certificates and similar documents filed with this Commission by Pennsylvania-American and its predecessors are made a part hereof by reference.

Terms And Impact of the Transaction

13. As noted above, this Application seeks, among other things, approval of the transfer to Pennsylvania-American of substantially all of the wastewater assets, property and rights of the Borough's System. The terms and conditions of the transaction are contained in the executed Agreement between Pennsylvania-American and the Borough (Exhibit D). The specific properties, assets and rights to be transferred to Pennsylvania-American are defined and described in Sections 1.1 and 1.2 of the Agreement.

14. The consideration for the transfer of the wastewater system is set forth in the Agreement's Sections 2.1 and 2.2. The purchase price for the transfer is \$23,000,000, less the \$100,000 deposit that Pennsylvania-American paid into escrow as bid security. The Escrow Agreement between the Borough and Pennsylvania-American is attached as the Agreement's Exhibit A.

15. The Transaction is, and was negotiated, at arm's length.

16. No investment securities will be transferred in the proposed transaction.

17. Attached hereto is an unaudited *pro forma* balance sheet of Pennsylvania-American as of December 31, 2015, giving effect to the transfer (Exhibit E). However, as noted in Paragraph 10 above, Pennsylvania-American will undertake by its next base rate case an original cost study to determine the original cost and accumulated depreciation of the Borough's wastewater utility plant in

service. Once the original cost study is updated and the property's depreciated original cost and book value are finalized, Pennsylvania-American will amend the *pro forma* balance sheet giving effect to the transfer, accordingly.

18. Attached hereto is an unaudited *pro forma* consolidated income statement of Pennsylvania-American and the Borough for the 12-months ended December 31, 2015 (**Exhibit F**).

19. Tentative journal entries to record the transfer in Pennsylvania-American's accounts are set forth below. However, as stated above, Pennsylvania-American will undertake an original cost study and will establish the depreciated original costs for the Borough's utility plant based on the results of the study.

Utility Plant (Net)	\$23,000,000
Short Term Debt	\$23,000,000

20. Attached hereto is a certified copy of the resolutions adopted by the Board of Directors of Pennsylvania-American authorizing the execution of the Agreement and the consummation of the proposed Transaction (**Exhibit G**). A copy of the resolutions adopted by the Borough's Council authorizing the execution of the Agreement is attached as **Exhibit H**.

Transaction's Effect on Service and Rates

21. The proposed transfer will have no detrimental effect on the service provided to Pennsylvania-American's existing customers or the customers transferred to Pennsylvania-American by the Borough.

22. The Transaction will have a beneficial effect on the wastewater customers of the Borough in that they will receive the benefit of Pennsylvania-American's experience in managing and operating water and wastewater systems which will result in efficiencies impacting rates in a beneficial way, and improvements in the service to the customers to be transferred.

23. The Transaction will have a beneficial effect on Pennsylvania-American's existing water and wastewater customers because the Transaction will expand the customer base over which existing costs are recovered, thereby, stabilizing or reducing per-customer costs over the long-term.

24. The Transaction is in the public interest and satisfies the applicable standard of Section 1103, 66 Pa. C.S. § 1103, for, among other, the following reasons:

a. Pennsylvania-American has the managerial, technical and financial fitness and capabilities to safely and adequately operate the Borough's System in compliance with the Public Utility Code, the Pennsylvania Clean Streams Law (35 P.S. §§ 691.1-691.801) and other requisite regulatory requirements, and to make improvements as needed, on a short and long term basis.

b. The acquisition will further the Commission's goal of regionalization. The Borough's System will become a part of a larger organization that is viable from a costs and rates standpoint and is committed to providing improved service in the future. Any necessary system improvements can be completed within a reasonable period of time, without adversely affecting service to Pennsylvania-American existing customers.

c. The transferred wastewater customers will be served by a large, financially sound company that has the capability to finance necessary capital additions. Given its size, access to capital and its recognized strengths in system planning, capital budgeting and construction management, Pennsylvania-American is well-positioned to ensure that high quality wastewater service meeting federal and state requirements is provided to the Borough's customers and maintained for Pennsylvania-American's existing customers.

d. The transferred wastewater customers will benefit from enhanced customer service in a number of areas, such as, but not limited to, additional bill payment options, extended customer service and call center hours, customer information and education programs, and

Pennsylvania-American's customer assistance program.

e. The geographic overlap between the Borough's service area and Pennsylvania-American's certificated service territory and existing operations creates opportunities for functional and operational consolidation, and associated efficiencies and cost savings. The Borough is a stand-alone wastewater system within Pennsylvania-American's existing water system footprint and will be operated and managed from Pennsylvania-American's Mechanicsburg operations.

25. The Transaction will have no immediate effect on the rates for service to be charged to Pennsylvania-American's existing customers.

26. With regard to the customers to be transferred to Pennsylvania-American by the Borough, Pennsylvania-American will adopt the Borough's rates existing at the time of closing of the Transaction; however, Pennsylvania-American intends to bill on a monthly basis in lieu of quarterly billing. The Borough's current quarterly rates and Pennsylvania-American's proposed monthly rates are shown on Exhibit I. Additionally, immediately following closing of the Transaction, the customers being transferred by the Borough to Pennsylvania-American will be subject to Pennsylvania-American's prevailing wastewater tariff on file with, and approved by, the Commission with respect to all rates other than customer charge and consumption charge, including but not limited to capacity reservation fees, tapping fees and the like, as well as non-rate related terms and conditions of service, including but not limited to, billing frequency, termination procedures and the like. Pennsylvania-American respectfully requests approval from the Commission to make effective upon one day's notice within ten days following the date of closing of the Transaction the rates shown on the *pro forma* tariff supplement attached hereto as Exhibit J.

27. Pennsylvania-American will initially finance the transfer by short term bank debt which, at the appropriate time will be replaced with permanent capital.

28. Pennsylvania-American and the Borough are not affiliated with each other.

29. Pennsylvania-American is not subject to any special or general assessments outstanding against it pursuant to Section 510 of the Public Utility Code.

B. THE RIGHT OF PENNSYLVANIA-AMERICAN WATER COMPANY TO OFFER OR FURNISH WASTEWATER SERVICE TO THE PUBLIC IN THE BOROUGH OF NEW CUMBERLAND, CUMBERLAND COUNTY, PENNSYLVANIA AND TO THREE RESIDENTIAL CUSTOMERS IN THE TOWNSHIP OF LOWER ALLEN, CUMBERLAND COUNTY.

30. Pennsylvania-American is currently furnishing water services in the service territory outlined in Paragraph 5 of this Application.

31. The Borough currently provides wastewater services to approximately 3,158 customers in the Borough of New Cumberland, Cumberland County, Pennsylvania. The Service Area served by the Borough is shown on the map in Exhibit K and further described in Exhibit L.

32. No corporation, partnership or individual other than the Borough is now furnishing or has corporate or franchise rights to furnish service similar to that to be rendered by Pennsylvania-American in the Service Area covered by this Application, and no competitive condition will be created. As part of this Application, Pennsylvania-American has requested approval to acquire, by purchase, all of the wastewater assets, properties and rights of the Borough's System (other than the Excluded Assets, as set forth in the APA). Upon closing of the Transaction, the Borough will permanently discontinue all wastewater service to the public.

33. In addition to providing wastewater services to the Service Area described in Paragraph 31 above, the Borough currently provides wastewater services to three residential customers located on Poplar Avenue, Lower Allen Township, Cumberland County, pursuant to that certain Building Sewer Connection Agreement on Poplar Avenue by and between the Borough,

Lower Allen Township Authority and the three residential customers (“Lower Allen Sewer Connection Agreement”), attached hereto as **Exhibit M**.

34. Lower Allen Township Authority desires that Pennsylvania-American take assignment of the Lower Allen Sewer Connection Agreement and supports Pennsylvania-American’s continued service to the three residential customers located on Poplar Avenue. Attached hereto as **Exhibit N** is a letter from Lower Allen Township Authority supporting Pennsylvania-American’s service to the three residential customers on Poplar Avenue, Lower Allen Township.

35. The estimated annual revenues and expenses of Pennsylvania-American in the application territory are set forth in **Exhibit O**.

C. CONCLUSION

36. Approval of this Application is necessary and proper in order for the public now served by the Borough to benefit by receiving wastewater service from a public wastewater supply company with the resources and personnel to provide safe and reliable treatment of wastewater at reasonable rates.

WHEREFORE, Pennsylvania-American respectfully requests the Pennsylvania Public Utility Commission approved this Application and issue such Orders, Certificates of Public Convenience, and such other relief under the Public Utility Code, as amended, 66 Pa. C.S. §1102(a), 507, as may be necessary approving and authorizing:

- (a) the transfer, by sale, of substantially all the assets, properties and rights of the Borough related to or used in connection with its wastewater system to Pennsylvania-American in accordance with the Agreement;
- (b) the commencement by Pennsylvania-American of wastewater service to the public in the Borough of New Cumberland, Cumberland County, Pennsylvania;

- (c) the commencement by Pennsylvania-American Water Company of wastewater service to three residential customers located at 90 Poplar Avenue, 92 Poplar Avenue and 94 Poplar Avenue, Lower Allen Township, Cumberland County, Pennsylvania;
- (d) the adoption of the customer charge and volumetric rates as shown on the *pro forma* tariff supplement attached hereto as Exhibit J, to be made effective upon one day's notice, and the implementation of all other rates, and the rules and regulations regarding conditions of Pennsylvania-American's wastewater service, as reflected in Pennsylvania-American's prevailing wastewater tariff, to become effective upon the closing of the Transaction;
- (e) the issuance of any other approvals or certificates appropriate, customary, or necessary under the Code, including Section 507, 66 Pa. C.S. § 507, to carry out the Transaction contemplated in this Application in a lawful manner.

Respectfully submitted,



Susan Simms Marsh, Esquire (PA ID # 44689)

Melanie J. El Atieh, Esquire (PA ID # 209323)

Corporate Counsel

Pennsylvania-American Water Company

800 West Hersheypark Drive

Hershey, PA 17033

Telephone: (717) 531-3208

(717) 531-3362

Facsimile: (717) 531-3399

E-mail: susan.marsh@amwater.com

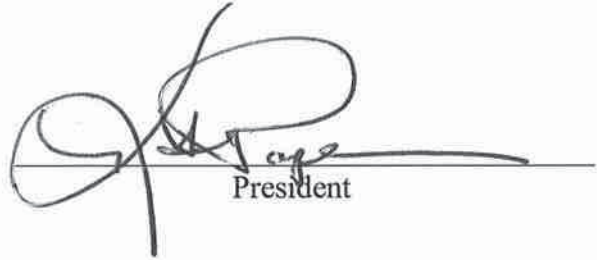
melanie.elatieh@amwater.com

Date: May 6, 2016

VERIFICATION

I, **Kathy L. Pape**, President of Pennsylvania-American Water Company, hereby state that the facts set forth in the foregoing Application are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter.

I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


President

Date: May 6th, 2016

PENNSYLVANIA-AMERICAN WATER COMPANY

Pennsylvania-American Water Company, an investor-owned water company, with corporate offices at 800 West Hershey Park Drive, Hershey, is a subsidiary of American Water Works Company, Inc. On February 1, 1989, the then-existing Pennsylvania-American Water Company (the result of the January 1, 1987 merger of Riverton Consolidated Water Company with and into Keystone Water Company) was merged with and into Western Pennsylvania Water Company, and the name of the surviving corporation was changed to Pennsylvania-American Water Company. A brief summary of each of the three predecessor companies follows.

Riverton Consolidated Water Company was formed by the merger and consolidation of six operating water companies in 1904. It subsequently acquired seven additional systems, and at the time of its merger with Keystone, supplied water to 12 municipalities on the Harrisburg west shore, Cumberland County, and Fairview Township in York County.

Keystone Water Company resulted from the 1973 merger of 14 companies with and into White Deer Mountain Water Company. The Company later acquired four systems. It provided water service in 14 eastern Pennsylvania counties through the following distribution systems: Abington, Bangor, Berwick, Frackville, Hallstead, Hershey/Palmyra, Montrose, Moshannon Valley, Norristown, Northumberland, Susquehanna, Thompson, White Deer (Milton), and Yardley.

Western Pennsylvania Water Company was the product of the merger of 16 water companies with and into South Pittsburgh Water Company at various times from 1970 to 1973. WPW added seven water distribution systems, extending its service territory into portions of 12 western Pennsylvania counties. The company operated through the following district offices: Butler, Clarion, Connellsville, Ellwood, Indiana, Kane, Kittanning, McDonald, Mon Valley, New Castle, Pittsburgh, Punxsutawney, Uniontown, Warren, and Washington.

After the merger of Riverton and Keystone in 1987, the former Pennsylvania-American Water Company purchased five systems: Red Land Water Company in York County, Campbelltown Water Company in Lebanon County, and three systems in the Moshannon Valley area, Clearfield County - Woodland-Bigler Area Authority, Allport Water Authority, and Graham Water Association.

Since the merger of the former Pennsylvania-American Water Company (Riverton and Keystone) into Western Pennsylvania Water Company on February 1, 1989, the Company has acquired the following water and wastewater systems: Smith Township Municipal Authority system (Washington County, February 27, 1989); Abington Township system (Lackawanna County, August 5, 1989); Summit Township Municipal Authority system (Butler County, August 31, 1993); Skyline Water Company (Dauphin County, December 2, 1993); Gregg Township Municipal Authority system (Union County, April 25, 1994); P-F Area Water Association system (Washington County, October 1, 1994); Country Place Water Company, Inc. and Country Place Waste Treatment Company, Inc. (Monroe County, June 30, 1995); Hickory Water Company, Pocono Farms East Water Company, Inc., and Silver Water Company (Monroe and Pike Counties, December 21, 1995); the water utility assets of Pennsylvania Gas and Water Company (Lackawanna, Luzerne, Susquehanna and Wayne Counties, February 16, 1996); the Municipal Authority of the Township of Morris system (Clearfield County, April 24, 1996); Westford Water Company (Dauphin County, August 2, 1996); Lackawanna County Water System at Montage (Lackawanna County, April 11, 1997); Clarion Township General Authority (Clarion County, January 28, 1998); Fairview Water Company, National Utilities, Inc.-Pocono Division, and Pocono Mountains Industrial Park Authority (Monroe County, May 7, 1998); Coolbaugh Township-Fire System (Monroe County, July 28, 1998); Greene Valley Water Company (Lackawanna County,

August 28, 1998); Franklin Manor Utilities, Ltd. (Washington County, September 22, 1998); Taylor Township (Lawrence County, December 21, 1998); Evansburg Water Company (Montgomery County, December 30, 1998); Applewold Borough (Armstrong County, March 26, 1999); Cedar Grove Water Association (Washington County, July 8, 1999); Independence Township Municipal Authority (Washington County, July 8, 1999); Koppel Borough (Beaver County, November 5, 1999); Center Township (Butler County, December 30, 1999); Strattanville Borough (Clarion County, April 6, 2000); Franklin Township Municipal Authority (Beaver County, August 30, 2000); Elk Forest Estates (Wayne County, November 18, 2000); T.O.W. Associates (Butler County, February 13, 2001); City of Coatesville Authority (Chester and Lancaster Counties, March 22, 2001); Fox Knoll Water Company (Chester County, April 26, 2001); Butler Township Area Water and Sewer Authority (Butler County, April 27, 2001); Citizens Utilities Water Company of Pennsylvania (Adams, Berks, Chester, Monroe, Montgomery and Northampton Counties, January 15, 2002); LP Water & Sewer Company (Monroe and Pike Counties, April 3, 2002); Mid-Monroe Water Company (Monroe County, August 23, 2002); West Decatur Authority (Clearfield County, March 31, 2003); Rustic Acres Water Association (Pike County, September 30, 2003); Sandy Ridge Water Authority (Center County, October 14, 2003); Connoquenessing Borough Authority (Butler County, October 23, 2003); Skytop Water Company (Luzerne County, December 3, 2003); Sligo Borough Authority (Clarion County, August 31, 2004); Snowshoe at Mt. Pocono Condominiums, Inc. (Monroe County, February 24, 2005); Shippenville Municipal Authority (Clarion County, March 31, 2005); Blue Mountain Lake Associates, L.P. (Monroe County, October 31, 2005); East Fallowfield Township (Chester County, December 22, 2005); Stillwater Lakes Water Corporation (Monroe County, January 17, 2006); Winona Lakes Utilities, Inc. (Monroe and Pike Counties, January 26, 2006); Saville Rustin Water Company, Inc./Pine Ridge Community Association, Inc. (Pike County, March 29, 2006); Lexington Woods Corporation (Monroe County, July 24, 2006); Community Association of Pocono Farms, Incorporated (Monroe County, July 31, 2006); Redstone Water Company (Fayette and Washington Counties, March 20, 2007); Mountain Top Estates Property Owners Association (Monroe County, May 30, 2008); Claysville-Donegal Joint Municipal Authority (Washington County, July 31, 2008); Three Lane Utilities, Inc. (Pike County, September 10, 2008); Clarion Area Authority (Clarion County, October 30, 2008); Boggs Township (Centre County, September 10, 2009); Amwell Township Water Authority (Washington County, September 23, 2009); Wallacetown Municipal Authority (Clearfield County, October 1, 2009); Saxonburg Area Authority (Butler County, October 28, 2009); Nittany Water Company (Centre and Clinton Counties, February 3, 2010); Sutton Hills Homeowners Association (Luzerne County, May 5, 2010); Birch Acres Water Works, Inc. (Monroe County, December 7, 2010); Helen Norella and Louis & Isabelle Norella (Lackawanna County, October 5, 2011); Wildcat Park Corporation (Schuylkill County, November 17, 2011); Estate of George Spangenberg d/b/a Lake Spangenberg Water Company (Lackawanna County, May 3, 2012); North Fayette County Municipal Authority-Balsinger Public Water System and Springfield Pike Public Water System (Fayette County, October 4, 2012); All Seasons Water Company (Pike County, December 20, 2012); Ha Ra Corporation-Fernwood Community Water System (Monroe County, December 31, 2012); Olwen Heights Water Service Company, Inc. (Lackawanna County, February 4, 2013); Indian Rocks Water Association (Wayne County, March 13, 2013); Koppel Borough (Beaver County, May 31, 2013); Pocono Mountain Lake Forest Community Association (Pike County, July 22, 2013); Clean Treatment Sewage Company (Pike County, August 21, 2013); Franklin Township Municipal Authority (Adams County, August 29, 2013); Berry Hollow Water Company (Northampton County, April 3, 2014); Scott Township (Lackawanna County, May 22, 2014); Paint-Elk Joint Sewer Authority (Clarion County, July 31, 2014); Hamiltonban Township Municipal Authority (Adams County, November 3, 2014); Abbey Woods Homeowners Association (Butler County, July 14, 2015); Shippenville Borough (Clarion County, August 4, 2015); Paint Township Municipal Water Authority (Clarion County, October 1, 2015); McEwensville Municipal Authority (Northumberland County, October 21, 2015) and Fairview Township (York County, December 22, 2015). On July 2, 1990, Brownsville Water Company (Fayette County) and California Water Company (Washington County) were acquired and merged into the Company. On June 16, 1992, the former Forge Road Acres water

system (Cumberland County) was sold to South Middleton Township. On March 24, 2003, Salisbury Water Supply Company (State of Massachusetts) was acquired and merged into the Company.

As a result of the various mergers and acquisitions, the Company furnishes water service to about 651,188 customers in the following municipalities:

All, or portions of, the Townships of Mount Joy, Mount Pleasant and Straban in Adams County;

All, or portions of, the Cities of Clairton and Pittsburgh (16th, 18th, 19th, 20th, 23rd, 29th, 30th, 31st and 32nd Wards), the Boroughs of Baldwin, Bethel Park, Brentwood, Bridgeville, Carnegie, Castle Shannon, Crafton, Dormont, Dravosburg, Elizabeth, Glassport, Greentree, Heidelberg, Homestead, Ingram, Jefferson, Liberty, Lincoln, Mt. Oliver, Munhall, Pleasant Hills, Rosslyn Farms, Thornburg, West Elizabeth, West Homestead, West Mifflin, Whitaker and Whitehall and the Townships of Baldwin, Collier, Elizabeth, Forward, Mt. Lebanon, North Fayette, Robinson, Scott, South Fayette, South Park and Upper St. Clair in Allegheny County;

All, or portions of, the Boroughs of Applegold and Kittanning and the Townships of Manor and Rayburn in Armstrong County;

All, or portions of, the Boroughs of Big Beaver, Ellwood City, Frankfort Springs and Koppel and the Townships of Franklin, Hanover and North Sewickly in Beaver County;

All, or portions of, the Boroughs of Sinking Spring, St. Lawrence, West Lawn³ and Wyomissing² and the Townships of Amity, Cumru, Earl, Exeter, Lower Heidelberg, Ruscombmanor, South Heidelberg and Spring in Berks County;

All, or portions of, the Borough of Yardley and the Townships of Falls and Lower Makefield in Bucks County;

All, or portions of, the City of Butler, the Boroughs of Connoquenessing, East Butler and Saxonburg and the Townships of Butler, Center, Clinton, Connoquenessing, Donegal, Forward, Franklin, Jackson, Jefferson, Lancaster, Oakland, Penn and Summit in Butler County;

All, or portions of, the Boroughs of Philipsburg and South Philipsburg and the Townships of Boggs, Rush and Walker in Centre County;

All, or portions of, the City of Coatesville, the Boroughs of Atglen, Parkesburg, South Coatesville and Spring City and the Townships of Caln, East Coventry, East Fallowfield, East Pikeland, East Vincent, Highland, Sadsbury, Schuylkill, Valley, West Caln, West Sadsbury and West Vincent in Chester County;

All, or portions of, the Boroughs of Clarion, Shippenville, Sligo and Strattanville and the Townships of Clarion, Elk, Farmington, Highland, Knox, Limestone, Monroe, Paint and Piney in Clarion County;

All, or portions of, the Boroughs of Chester Hill, Osceola Mills and Wallaceton and the Townships of Boggs, Bradford, Decatur, Graham and Morris in Clearfield County;

All, or portions of, the Township of Porter in Clinton County;

All, or portions of, the Boroughs of Berwick and Briar Creek and the Township of Briar Creek in Columbia County;

All, or portions of, the Boroughs of Camp Hill, Lemoyne, New Cumberland, Shiremanstown, West Fairview¹ and Wormleysburg and the Townships of East Pennsboro, Hampden, Lower Allen, Silver Spring and Upper Allen in Cumberland County;

All, or portions of, the Townships of Conewago, Derry, Londonderry, South Hanover and West Hanover in Dauphin County;

All, or portions of, the Cities of Connellsville and Uniontown, the Boroughs of Brownsville and South Connellsville and the Townships of Brownsville, Bullsken, Connellsville, Dunbar, German, Jefferson, Luzerne, Menallen, North Union, Redstone and South Union in Fayette County;

All, or portions of, the Borough of Indiana and the Township of White in Indiana County;

All, or portions of, the Boroughs of Big Run and Punxsutawney and the Townships of Bell, Gaskill, Henderson, McCalmont and Young in Jefferson County;

All, or portions of, the Cities of Carbondale and Scranton, the Boroughs of Archbald, Blakely, Clarks Green, Clarks Summit, Dalton, Dickson City, Dunmore, Jermyn, Jessup, Mayfield, Moosic, Old Forge, Olyphant, Taylor, Throop and Vandling and the Townships of Abington, Carbondale, Fell, Glenburn, Jefferson, North Abington, Roaring Brook, Scott and South Abington in Lackawanna County;

All, or portions of, the Borough of Quarryville and the Townships of Bart, Colerain, Eden and Sadsbury in Lancaster County;

All, or portions of, the City of New Castle; the Boroughs of Ellport, Ellwood City, New Beaver and South New Castle and the Townships of Hickory, Mahoning, Neshannock, North Beaver, Perry, Shenango, Taylor, Union and Wayne in Lawrence County;

All, or portions of, the Borough of Palmyra and the Townships of Annville, North Annville, North Londonderry, South Annville and South Londonderry in Lebanon County;

All, or portions of, the Cities of Nanticoke, Pittston and Wilkes-Barre, the Boroughs of Ashley, Avoca, Courtdale, Dallas, Dupont, Duryea, Edwardsville, Exeter, Forty Fort, Hughestown, Kingston, Laflin, Larksville, Laurel Run, Luzerne, Nescopeck, Plymouth, Pringle, Shickshinny, Sugar Notch, Swoyersville, Warrior Run, West Pittston, West Wyoming, Wyoming and Yatesville and the Townships of Conyngham, Fairview, Hanover, Hunlock, Jackson, Jenkins, Kingston, Newport, Pittston, Plains, Plymouth, Rice, Salem, Union, Wilkes-Barre and Wright in Luzerne County;

All, or portions of, the Borough of Kane and the Township of Wetmore in McKean County;

All, or portions of, the Borough of Mount Pocono and the Townships of Coolbaugh, Hamilton, Middle Smithfield, Ross, Smithfield and Stroud in Monroe County;

Exhibit A

All, or portions of, the Boroughs of Bridgeport, Norristown and Royersford and the Townships of East Norriton, Limerick, Lower Pottsgrove, Lower Providence, Perkiomen, Plymouth, Skippack, Upper Merion, Upper Providence, West Norriton, Whitmarsh, Whitpain and Worcester in Montgomery County;

All, or portions of, the Boroughs of Bangor, Belfast, Nazareth, Pen Argyl, Roseto, Stockertown, Tatamy and Wind Gap and the Townships of Bushkill, Forks, Lower Mount Bethel, Lower Nazareth, Palmer, Plainfield, Upper Mount Bethel, Upper Nazareth and Washington in Northampton County;

All, or portions of, the Boroughs of McEwensville, Milton, Northumberland and Watsontown and the Townships of Delaware, East Chillisquaque, Point, Turbot, Upper Augusta and West Chillisquaque in Northumberland County;

Portions of the Townships of Delaware, Lehman and Westfall in Pike County;

All, or portions of, the Borough of Frackville and the Townships of Butler, Mahanoy, New Castle, Walker and West Mahanoy in Schuylkill County;

All, or portions of, the Boroughs of Forest City, Great Bend, Hallstead, Lanesboro, Montrose, Susquehanna and Thompson and the Townships of Bridgewater, Great Bend, Harmony and Oakland in Susquehanna County;

All, or portions of, the Borough of Lewisburg and the Townships of Buffalo, East Buffalo, Gregg, Kelly and White Deer in Union County;

All, or portions of, the City of Warren and the Townships of Conewango, Glade, Meade, and Pleasant in Warren County;

All, or portions of, the Cities of Monongahela and Washington and the Boroughs of Burgettstown, California, Canonsburg, Claysville, Coal Center, East Washington, Finleyville, Houston, McDonald, Midway, New Eagle, West Brownsville and West Middletown and the Townships of Amwell, Buffalo, Canton, Carroll, Cecil, Chartiers, Cross Creek, Donegal, East Finley, Fallowfield, Hanover, Hopewell, Independence, Jefferson, Morris, Mount Pleasant, North Franklin, North Strabane, Nottingham, Peters, Robinson, Smith, Somerset, South Franklin, South Strabane, Union and West Pike Run in Washington County;

Portions of the Townships of Clinton and Salem in Wayne County; and

All, or portions of, the Townships of Fairview and Newberry in York County.

As a result of acquisitions, the Company furnishes wastewater service to about 21,216 customers in the following municipalities:

All, or portions of, the Townships of Franklin, Hamiltonban and Highland, Adams County;

All of the Borough of Koppel in Beaver County;

All, or portions of, the City of Coatesville, the Boroughs of Parkesburg and South Coatesville and the

Exhibit A

Page 5 of 6

Townships of Caln, East Fallowfield, Highland, Sadsbury, Valley, West Caln and West Sadsbury in Chester County;

All, or portions of, the Borough of Clarion and the Townships of Clarion, Elk, Monroe and Paint in Clarion County;

Portions of the Townships of Coolbaugh, Middle Smithfield, Smithfield and Stroud in Monroe County;

All of the Borough of McEwensville in Northumberland County;

Portions of the Townships of Delaware and Lehman in Pike County; and

All, or portions of, the Borough of Claysville and the Township of Donegal in Washington County.

¹ West Fairview Borough was merged into East Pennsboro Township in 1998.

² Wyomissing Hills was merged into Wyomissing Borough in 2002.

³ West Lawn was merged into Spring Township in 2006.

[405 municipalities in 36 counties.]

12/31/2015

**PA American Water
Balance Sheet (unaudited)
December 31, 2015
(Dollars in thousands)**

	December 31, 2015 (Unaudited)
Assets	
Cash and cash equivalents	\$ (6,117)
Other current assets	\$ 89,427
Total property plant and equipment	\$ 3,568,250
Regulatory assets & other L/T Assets	\$ 242,477
Total Assets	\$ 3,894,037
Capitalization and liabilities	
Short Term Debt	\$ 66,393
Current Portion of Long-term Debt	\$ 18,669
Other current liabilities	\$ 136,015
Total Long-term Debt	\$ 1,148,567
Regulatory & other Long Term Liabilities	\$ 973,584
Stockholder's equity	\$ 1,392,787
Contributions in aid of construction	\$ 158,022
Total Capitalization and liabilities	\$ 3,894,037

PA American Water
Income Statement for the 12 Months Ended December 31, 2015 (unaudited)
(Dollars in thousands)

	PA American Water 12 Months Ended December 31, 2015	
Operating revenues	\$	613,698
Operating expenses		
Operation and maintenance	\$	199,425
Depreciation and amortization	\$	95,589
General taxes and other	\$	11,447
Total Operating Expenses	\$	306,461
Operating income	\$	307,237
Other income/(expenses)		
Other income, net	\$	(197)
Interest expense, net	\$	(65,379)
Total Other Expenses	\$	(65,576)
Income before income taxes	\$	241,661
Provision for income taxes	\$	98,801
Net income	\$	142,860

ASSET PURCHASE AGREEMENT
BETWEEN
THE BOROUGH OF NEW CUMBERLAND
AND
PENNSYLVANIA-AMERICAN WATER COMPANY

MAY 5, 2016

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE Agreement (“**Agreement**”), dated as of the 5th day of May, 2016 by and between The Borough of New Cumberland, a public body corporate organized and existing under the laws of the Commonwealth of Pennsylvania, having a business address of 1120 Market Street, New Cumberland Pennsylvania 17070 (“**Borough**”), and Pennsylvania-American Water Company, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with a business address of 800 W. Hersheypark Drive, Hershey, Pennsylvania 17033 (“**PAWC**”).

RECITALS

A. Borough owns, maintains and operates a wastewater system primarily in the Borough of New Cumberland, Cumberland County, Pennsylvania, identified with the Pennsylvania Department of Environmental Protection National Pollutant Discharge Elimination System (NPDES) identification number(s) PA0026654 (the “**System**”);

B. PAWC is a regulated public utility that furnishes water and wastewater services to the public in various counties throughout Pennsylvania, as reflected in PAWC’s duly-filed and effective tariff, as may be amended from time to time upon application by the Company and/or as ordered by the Pennsylvania Public Utility Commission (“**Tariff**”); and

C. Borough desires to sell, and PAWC desires to purchase the System, as well as substantially all assets, properties and rights of Borough owned and used in connection with the System, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the recitals and the covenants, representations, warranties and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE 1

THE TRANSACTION

1.1 Sale and Purchase of Assets. Subject to the terms, representations and conditions set forth in this Agreement, PAWC shall purchase from Borough, and Borough shall sell, assign, transfer, grant, convey and deliver to PAWC at Closing (hereinafter defined), the Assets, as further defined herein. The term “**Assets**” means all of the assets, properties and rights of Borough (whether tangible, intangible, real, personal or mixed) that are held or used in connection with the System. The Assets shall be sold free and clear of all mortgages, liens, pledges, security interests, charges, claims, restrictions and encumbrances of any and all nature (collectively, the “**Encumbrances**”).

1.2 Assets Further Defined. The Assets shall, without limitation to the definition stated above, include the following:

- (a) the Assigned Contracts (as defined in **Section 5.1(c)**);
- (b) the Subdivision Parcel (as defined in **Section 6.1(j)**);

(c) all interests in real estate (excepting streets), mains, pipes, pipelines, manholes, facilities, meters, tanks, storage facilities, valves, wastewater treatment plant, pumping stations, wastewater system network and related appurtenances, structures, improvements, fixtures, private rights-of-way, rights, uses, franchises, licenses and easements owned by Borough and relating to the System, or in which Borough has an interest, and all hereditaments, tenements and appurtenances belonging, appertaining or relating thereto;

(d) all machinery, equipment, tools, keys and locks, leasehold improvements, goods, and other tangible personal property relating to the System owned by Borough, or in which Borough has an interest, including that specific property listed on **Schedule 1.2(d)**;

(e) all rights of Borough under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit, certificate, or other authorization or approval of any nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating to the System;

(f) all rights and choses in action of Borough arising out of occurrences before or after the Closing relating to the Assets, including any rights of Borough under any warranties or insurance claims related to the Assets;

(g) all information, files, records, data, plans, contracts and recorded knowledge relating to the Assets, including customer and supplier lists and property records, related to the foregoing; and

(h) access to all Borough owned or controlled public rights-of-way necessary for the operation of the System.

1.3 Retained Liabilities.

(a) Except as explicitly provided in **Section 1.3(b)** below, PAWC shall not assume and shall not be liable for any liabilities or obligations of Borough of any nature whatsoever (including any obligations related to the Assets or operation of the System), whether express or implied, fixed or contingent, known or unknown at the time of Closing. Except as explicitly provided in **Section 1.3(b)** below, all of Borough's liabilities and obligations, whether incurred in connection with the operation of the System, ownership of the Assets or otherwise, shall remain the sole responsibility of, and shall be retained, paid, performed and discharged solely by Borough. Without limiting the foregoing, Borough shall be and shall remain liable for all obligations and liabilities relating to (i) employees of Borough (including those who worked on the System) and any employee benefits related to Borough's employees (including any pension benefits), (ii) all taxes on the business of Borough, (iii) accounts payable of the Borough, and (iv) failure to comply with any Environmental Laws or any Permits for the Assets or operation of the System on or before the Closing Date.

(b) Following the Closing, PAWC shall assume only those contractual liabilities arising after the Closing Date under the Assigned Contracts (specifically excluding any liability under the Assigned Contracts arising out of or relating to a breach or other circumstances that occurred on or prior to the Closing Date).

1.4 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, the Assets shall not include any of the following:

(a) Any and all connecting facilities (customer's sewer laterals) from the Borough's wastewater supply lines or mains at the curb-line or edge-of-road that are within the customer's property (the "**Customer Sewer Laterals**");

(b) Any and all piping and fixtures internal to each individual customer's structure (whether residential, commercial, industrial or other types);

(c) Any and all storm water system facilities located on, in, within, or under the real property, including easements, that is a part of the Assets and any and all storm water system facilities that are connected to the System and located within the public right-of-way;

(d) Borough's cash on hand on the date of Closing and Borough's accounts receivable related to the System for services rendered through the close of business on the Closing Date;

(e) All rights of Borough under this Agreement and related Bill of Sale and Assignment of Contracts Agreement as it pertains to the transfer and sale herein contemplated; and

(f) the specific assets, properties and rights of Borough set forth on **Schedule 1.4**.

1.5 Accounts Receivable. Accounts receivable for wastewater services related to the System rendered through the close of business on the Closing Date shall be excluded assets as per Section 1.4, and accounts receivable for wastewater services related to the System rendered thereafter shall belong to PAWC.

ARTICLE 2

PURCHASE PRICE

2.1 Purchase Price for the Assets. Subject to the terms and conditions of this Agreement, the purchase price (the "**Purchase Price**") for the Assets shall consist of a cash payment of Twenty-Three Million Dollars (\$23,000,000) ("**Cash Payment**") net of the deposit PAWC paid to Borough in the amount of One Hundred Thousand Dollars (\$100,000) (the "**Deposit**") pursuant to the terms and conditions of that certain Escrow Agreement attached hereto as Exhibit A. The Cash Payment shall be payable directly to Borough on the Closing Date by wire transfer or by corporate check, at the Borough's discretion.

2.2 Purchase Price Adjustments. If, after the date that this Agreement is executed and prior to Closing, Borough deems it necessary to make capital expenditures necessary to keep the System running, the Purchase Price shall be increased on a dollar for dollar basis by the amount of the Borough's verifiable costs provided that: (i) Borough shall have provided PAWC with copies of all relevant invoices and cancelled checks related to the capital expenditures and the improvements or modifications to be made; (ii) any such individual capital improvements and costs will have totaled more than Fifty Thousand Dollars (\$50,000), net of any applicable insurance proceeds, grants, contributions or advances; and (iii) the adjustment shall not exceed Two Hundred Thousand Dollars (\$200,000), net of any applicable insurance proceeds. Prior to incurring any capital expenditures greater than Fifty Thousand Dollars (\$50,000), including design and planning costs, for which Borough would be seeking a Purchase Price adjustment under this Section 2.2, Borough shall obtain the written approval of PAWC prior to incurring any such costs.

ARTICLE 3

THE CLOSING

3.1 Closing. Subject to the terms and conditions of this Agreement, the closing of the sale and purchase of the Assets ("**Closing**") shall take place at the offices of PAWC located at 800 W. Hersheypark Drive, Hershey, Pennsylvania, or such other mutually agreed upon location, commencing within thirty (30)

days following the date on which all of the conditions set forth in Articles 6 and 7 of this Agreement have been met (or waived), subject to the provisions of **Section 10.1(b)** below. The date of the Closing is referred to herein as the “**Closing Date**”.

3.2 Deliveries and Proceedings at Closing.

(a) Subject to the terms and conditions of this Agreement, at the Closing, Borough shall deliver or cause to be delivered to PAWC:

- (i) Bills of Sale and instruments of assignment duly executed by Borough as necessary to transfer all of the Assets to PAWC, including an assignment of contracts agreement covering the assignment and assumption of the Assigned Contracts in substantially the form of **Exhibit B** (“**Assignment of Contracts Agreement**”);
- (ii) A copy of each Permit, license, easement, land-right and other necessary authority for the operation of the System and the Assets, in each case validly issued in the name of the Borough, and showing in full force and effect;
- (iii) The consents to transfer all Assigned Contracts, leases, intellectual property, Permits and other Assets requiring such consents to be transferred to PAWC;
- (iv) All written consents (of third parties or otherwise) and governmental approvals necessary to ensure that the PAWC will continue to have the same full rights with respect to the Assets that Borough had immediately prior to the Closing;
- (v) Evidence satisfactory to PAWC of the transfer of all utilities with respect to the System from Borough to PAWC in accordance with **Section 6.1(b)** below;
- (vi) One or more Special Warranty Deeds of conveyance of the real estate and assignment of private easements to PAWC, duly executed and acknowledged by Borough and in recordable form, each sufficient to convey the title and rights of access to the Assets;
- (vii) A deed of conveyance of the Subdivision Parcel along with easements to PAWC for the rights of egress and ingress on, over and across any retained lands of the Borough, if necessary, duly executed and acknowledged by Borough and in recordable form, each sufficient to convey the title and rights of access to the Subdivision Parcel;
- (viii) Such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by PAWC, each in form and substance reasonably satisfactory to PAWC and Borough;
- (ix) Certified copies of all resolutions (“**Resolutions**”) duly adopted by the Borough authorizing the execution, delivery and performance of this Agreement and all related agreements and the transactions contemplated hereby and thereby;
- (x) As applicable, a payoff letter from each lender (whether institutional or otherwise) from which Borough has incurred indebtedness or borrowed money that is outstanding, and encumbers the Assets (along with Form UCC3 Financing Statements effectuating a termination of all outstanding financing statements covering

the Assets, if any) executed, filed and/or recorded by the holder of or parties to each such Encumbrance, if any, in each case in substance and form reasonably satisfactory to PAWC and its counsel;

- (xi) The certificates and other documents required to be delivered by Borough under this Agreement as set forth in **Section 8.1** hereof;
- (xii) The Opinion of Borough's counsel as set forth in **Section 8.1(f)** hereof; and
- (xiii) All such other agreements, documents and instruments of conveyance required by this Agreement or as shall, in the reasonable opinion of PAWC and its counsel, be necessary to transfer the Assets to PAWC in accordance with this Agreement, and where necessary, in recordable form.

(b) Subject to the terms and conditions of this Agreement, at the Closing, PAWC shall deliver or cause to be delivered to Borough:

- (i) The Purchase Price;
- (ii) Certified copies of the resolutions duly adopted by the PAWC's Board of Directors authorizing the execution, delivery and performance of this Agreement; and
- (iii) The certificates and other documents required to be delivered by PAWC under this Agreement as set forth in **Section 8.2** hereof.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BOROUGH

4.1 **Borough's Representations.** Borough hereby represents and warrants to PAWC as follows:

(a) **Organization; Legal Authority.** The Borough is a duly organized public body corporate of the Commonwealth of Pennsylvania, validly existing, solvent, and in good standing under the laws of the Commonwealth of Pennsylvania, and Borough has the full power and lawful authority to transfer to PAWC the rights, title and interest in and to the Assets.

(b) **Assets Ownership.** Borough has clear, good, and marketable right and title to, or a valid leasehold interest in, all of the assets, property and facilities comprising the Assets, free and clear of all Encumbrances. **Schedule 4.1(b)** denotes all Assets that are subject to a leasehold interest (i.e., not owned by Borough). None of the Assets are leased or on loan by Borough to any third party. The Assets constitute all of the assets, property and facilities that, together with the rights granted or conveyed under the transaction documents, are necessary for the operation of the System, the business thereof, and the Assets as conducted as of the date hereof. Upon the Closing, PAWC shall continue to be vested with good title or a valid leasehold interest, subject to the terms of any such lease, in the System and all of the Assets.

(c) **Financial Statements.** The Borough's Financial Statements have been prepared by the Borough's auditors in accordance with the modified cash basis of accounting principles (subject in the case of the Unaudited Financial Statements to normal year-end adjustments and the absence of footnotes). The Financial Statements were prepared from the books and records of Borough, are true, correct and complete and present fairly in all material respects the financial condition, operating results and cash flows of

Borough as of the dates and during the periods indicated therein (subject in the case of the Unaudited Financial Statements to normal year-end adjustments and the absence of footnotes).

(d) Due Authorization; Valid and Binding; No Encumbrances. Borough has the full power and lawful authority to enter into this Agreement and all related agreements and to consummate and perform the transactions contemplated hereby and thereby. Borough has duly and validly authorized the execution and delivery of this Agreement (which has been duly executed and delivered) and all related documents and agreements to which Borough is a party by all necessary proceedings, and this Agreement and all related documents and agreements constitute the valid and binding obligations of Borough enforceable against it in accordance with its terms. Except for the regulatory consents required to be obtained by Borough or PAWC pursuant to this Agreement, no filings or registrations with, notifications to, or authorizations, consents or approvals of, a governmental authority or third party are required to be obtained or made by Borough in connection with the execution, delivery or performance by Borough of this Agreement, all related agreements, or the consummation by Borough of the transactions contemplated herein or therein. Neither the contemplated transactions, nor this Agreement will result in the creation of any Encumbrance against any of the Assets.

(e) Current Operations. Borough has all requisite power and authority and all agreements, contracts, commitments, leases, certificates, licenses, Permits, regulatory authorizations and other instruments required to conduct the operations of the System as it has been and is now being conducted and to own and operate the Assets.

(f) No Approvals or Violations. This Agreement does not require any further approvals of any other party, does not violate any law, ordinance or regulation, does not conflict with any order or decree, and does not conflict with or result in a breach of any contract, lease or Permit to which Borough is a party or is otherwise bound or affected, or by which the Assets may be bound or affected. The execution and delivery of this Agreement and all related documents and agreements, and the consummation of the transactions contemplated hereby and thereby do not violate, conflict with or result in the breach of any term, condition or provision of Borough's governing documents, the Borough Code, or any instrument, contract, lease, agreement, Permit, certificate or other document to which Borough is a party or is otherwise bound or affected, or by which the Assets may be bound or affected.

(g) Accounts Receivable. All accounts receivable being retained by Borough under **Section 1.5** (whether billed or unbilled) (collectively, the "**Retained Accounts Receivable**"), are valid, genuine and existing and arose (or will have arisen on or prior to Closing) from bona fide sales of products or services actually made in the ordinary course of business on or prior to the Closing Date. All products and services with regard to the Retained Accounts Receivable have been provided by Borough (and no further obligations exist), and no offset, agreement for deduction, free goods, discount or deferred price or quantity adjustment has been made with respect to any Retained Accounts Receivable (or with respect to PAWC's accounts receivable for the period after Closing).

(h) Free Service; Customer List; Prepayments. Except as otherwise disclosed on **Schedule 4.1(h)**, Borough has not entered into any agreements or other understandings for the provision of free or otherwise subsidized or discounted services to any parties. To the extent any such agreements or understandings exist, they will be terminated by the Borough as of the date of Closing. The data contained in the customer records provided to PAWC under Section 6.1(i) is true and accurate in all material respects. Borough has not received payments made in advance by any third party (including Borough's wastewater customers) for future service (including service after the Closing) with regard to the System or the Assets.

(i) Undisclosed Liabilities. Except as set forth in **Schedule 4.1(i)**, to the best of the Borough's knowledge, there are no material liabilities or obligations of Borough, either accrued, absolute, liquidated or unliquidated, contingent or otherwise, relating to the Assets that would be required to be set forth on a balance sheet prepared in accordance with the modified cash basis of accounting principles (subject in the case of the Unaudited Financial Statements to normal year-end adjustments and the absence of footnotes), other than liabilities incurred in the ordinary course. To the best of Borough's knowledge, there is no basis for any claim against Borough, the System or any of the Assets for any such liability or obligation, and there is no basis for any such liability or obligation to become the liability or obligation of PAWC from and after the Closing.

(j) Condition of Assets. All the tangible property included within the Assets is in good operating condition and repair, is usable in the regular course of business and conforms to all applicable laws, ordinances, codes, Permits, rules and regulations relating to their construction, use and operation, and is free from any defects except such defects as do not materially interfere with the continued use thereof in the conduct of the System's operations.

(k) Contracts. To the best of Borough's knowledge, **Schedule 4.1(k)** contains a true, complete and accurate list of all agreements (including all verbal agreements and intermunicipal agreements), contracts, leases (including any leasehold interests constituting part of the Assets as described in **Section 4.1(b)**), licenses, commitments, arrangements and instruments related to the Assets to which Borough is a party or the Assets are otherwise subject or bound, along with all amendments and addenda related thereto (collectively, the "Contracts"). **Schedule 4.1(k)** also identifies with an asterisk any Contract which requires consent to, or prohibits, assignment of the Contract. All Contracts are in full force and effect and are valid and enforceable in accordance with their terms, and the parties thereto are in material compliance with the provisions thereof, and there exists no event or condition which with the giving of notice or lapse of time, or both, would constitute a default thereunder. Borough has received, or will receive prior to the Closing, or will make its best efforts to obtain, the written consent of each party to the Assigned Contracts designated on **Schedule 4.1(k)** as requiring consent to the assignment, or otherwise complied with Borough's obligations under **Section 6.1(b)** hereof. Borough has delivered to PAWC correct and complete copies of the Contracts as well as copies of the requisite assignments for each of the Assigned Contracts which effectuates the transfer of the Assigned Contracts to PAWC as of the Closing Date. Except as disclosed on **Schedule 4.1(k)(i)**, to the best of Borough's knowledge, the Borough is not a party to any contract or subject to any arrangement for future payment of refunds under any extension agreement, customer deposit agreement or similar arrangement (including any prepaid tap fee) with respect to the Assets or the System.

(l) Adequacy of Property Rights: Real Property and Easements.

- (i) Borough possesses all property rights necessary to operate the Assets, and Borough owns and has good and marketable title to the real property, free and clear of all options, leases, covenants, conditions, easements, agreements, claims, and other encumbrances of every kind, and there exists no restriction on the use or transfer of such property. As it relates to the Assets, **Schedule 4.1(l)(i)** contains a complete and accurate list of the real property owned by Borough and a complete and accurate list of each lease of real property to which Borough is a party (as the lessor, lessee or otherwise). Borough's current use and occupancy of the real property and its operation of the System thereon does not violate any easement, covenant, condition, restriction or similar provision in any instrument of record or other unrecorded agreement affecting such real property. All leases, licenses, rights of way, and

easements related in any manner to the assets and properties comprising the Assets and all other instruments, documents and agreements pursuant to which Borough has obtained the right to use any real property in connection with the Assets are in good standing, valid and effective in accordance with their respective terms, and with respect thereto, there is no existing material default or event that could constitute a material default. The real property is properly classified under applicable zoning laws, ordinances, and regulations for the current and continued operation of the System on the real property. No proceeding that could adversely affect the zoning classification of the real property is pending or threatened. At and after the Closing, PAWC shall have the right to maintain and use the real property, including the space, facilities and appurtenances outside of building lines, whether on, over or under the ground, and to conduct such activities thereon as maintained, used or conducted by Borough on the date hereof, and such right is not subject to revocation. Borough has made available to PAWC copies of all title reports, surveys, title policies and appraisals relating to the real property.

- (ii) Set forth on **Schedule 4.1(l)(ii)** contains a true, correct and complete list of all easements and rights of way relating to the real property and the Assets. Borough and PAWC shall update **Schedule 4.1(l)(ii)** between the date of this Agreement and the Closing Date to include easements and rights-of-way discovered or obtained in accordance with **Sections 6.1(j) and 6.2**. All of such easements and rights of way are valid and will be transferred to PAWC and remain in full force as of the Closing and thereafter. Borough has not received any notice of violation of any easements, covenants, restrictions or similar instruments and there is no basis for the issuance of any such notice or the taking of any action for such violation. At and after the Closing, PAWC shall have all rights, easements and agreements necessary for the use and maintenance of water, sewer or other utility pipelines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the real property.
- (iii) All improvements located on, and the use presently being made of, the real property comply with all applicable zoning and building codes, ordinances and regulations and all applicable fire, environmental, occupational safety and health standards and similar standards established by applicable law, and the same use thereof by PAWC following Closing will not result in any violation of any such code, ordinance, regulation or standard. No improvements encroach on any land that is not included in the real property or on any easements affecting such real property, or violate any building lines or set-back lines, and there are no encroachments onto the real property, or any portion thereof, that would interfere with the use or occupancy of such real property or the continued operation of the System as currently conducted.
- (iv) There are no outstanding options, rights of first refusal or rights of first offer to purchase any of the real property or any portion thereof or interest therein, except as otherwise set forth on **Schedule 4.1(l)(iv)**.
- (v) There is no unpaid tax, levy or assessment against the real property (except for encumbrances relating to assessments not yet due and payable), nor is there pending or threatened any condemnation proceeding against the real property or any portion

thereof. **Schedule 4.1(l)(v)** contains a list of all impending taxes, levies and assessments that are due and owing after the Closing Date.

- (vi) Except as set forth in **Schedule 4.1(l)(vi)**, to the best of Borough's knowledge, there is no material condition affecting the real property or the improvements located thereon that requires repair or correction to restore the same to reasonable operating condition.

(m) **Litigation.** Except as disclosed on **Schedule 4.1(m)**, there is no action, suit, claim or litigation, arbitration, proceeding, judgment, injunction, audit or legal, administrative or governmental investigation pending (including any citations, notices, summons or orders), and to the best of Borough's knowledge, none are threatened against, pertaining to or affecting the System or any of the Assets (including any such actions, litigation and other claims against Borough) before any court, arbitrator or governmental authority (including any governmental agency board or instrumentality), nor is there any order, writ, injunction or decree of any court, arbitrator or governmental authority, in existence against, pertaining to or affecting the Borough (including its commissioners, directors or officers), the System or any of the Assets. Except as noted in **Schedule 4.1(m)**, all matters disclosed in **Schedule 4.1(m)** are fully covered by Borough's insurance. There are no known laws, ordinances, regulations or official orders now in effect or pending that could reasonably be expected to have a material adverse effect on the System or the ownership, condition or operation of the System or the Assets. There are no actions, suits, claims, proceedings or investigations pending or, to the best of Borough's knowledge, threatened against the Borough, and the Borough is not subject to any outstanding judgment, order or decree of any court or governmental body, which would in either case, reasonably be expected to prevent or materially interfere with or delay the Borough's ability to perform its obligations under this Agreement.

(n) **Tax Matters.**

- (i) Borough has timely and properly filed all tax returns that it was required to file. All such tax returns were complete and correct in all material respects and were prepared in compliance with all applicable laws. All taxes owed by Borough have been paid. Borough is not the beneficiary of any extensions of time within which to file any tax return. There are no Encumbrances on any of the Assets that arose in connection with any failure (or alleged failure) to pay any tax.
- (ii) Borough has withheld and paid all taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, supplier, vendor, creditor, or other third party. Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.
- (iii) There are no audits or examinations of any tax returns pending or threatened that relate to Borough's operation of the System or the Assets. Borough is not a party to any action or proceeding by any governmental authority for the assessment or collection of taxes relating to the operation of the System, nor has such event been asserted or threatened. There is no waiver or tolling of any statute of limitations in effect with respect to any tax returns relating to Borough's operation of the System or the Assets.
- (iv) Seller represents and warrants that all payroll taxes and any other taxes assessed against an employer for wages and benefits have been paid current and will remain

paid current for all amounts that become due and owing for employees of the Seller up to the Closing.

(o) No Material Adverse Conditions: Insurance. To the best of Borough's knowledge, there are no facts, circumstances or conditions existing or threatened that would have, or would be reasonably be expected to have, a material adverse effect on the condition, properties, assets, indebtedness, liabilities, commitments, operations or prospects of the System or the Assets. Borough maintains and has maintained appropriate insurance necessary for the full protection of all of the Assets, the System, and all related operations, products and services. All such policies are in full force and effect and Borough will use commercially reasonable efforts to cause such policies to be outstanding and in full force and effect as of Closing and immediately following the execution of this Agreement and the consummation of the contemplated transactions. There are no pending claims or proceedings arising out of, based upon or with respect to any of such policies of insurance and, to Borough's knowledge, no basis for any such claims or proceedings exists. Borough is not in default with respect to any provisions contained in any such insurance policies, and no insurance provider is in default with respect to such insurance policies.

(p) Compliance with Law. Except as disclosed on **Schedule 4.1(p)**, to the best of Borough's knowledge, Borough is and has been in material compliance with all laws, ordinances, and governmental rules and regulations, whether civil or criminal, of any federal, state, local or foreign governmental authority applicable to the operation of the System and the Assets, including Environmental Laws (defined below) and employee labor, pension and benefits laws, to which Borough, the System or the Assets are subject, and has not failed to obtain, or to adhere to the requirements of, any certificate, license, Permit or other governmental authorization necessary for the operation of the System and the Assets, nor has Borough committed any violation of law or any provision of its governing documents applicable to the System or the Assets. Except as disclosed on **Schedule 4.1(p)**, Borough has not received, and has no reason to believe that it will receive, notice of any violation of law.

(q) Adequacy of Permits. Set forth in **Schedule 4.1(q)**, to the best of Borough's knowledge, is a complete and correct list of all permits, licenses, registrations, approvals and other authorizations (collectively, the "**Permits**") used by Borough in the continuing operation of the System and for the Assets. Such Permits constitute all those necessary for the continuing operation of the System and for the Assets, and are all valid and subsisting and in full force and effect. To the best of Borough's knowledge, no fact or circumstance that is reasonably likely to cause any such Permit to be revoked or materially altered subsequent to the execution of this Agreement and the Closing Date, and neither the execution of this Agreement, nor the Closing do or will constitute or result in a default under or violation of any such Permit. Borough, to the best of its knowledge, has obtained and continues to possess all Permits required under, by or pursuant to applicable Environmental Laws (defined below), and has filed such timely and complete renewal applications as may be required prior to the Closing Date, and also has complied with all reporting and record keeping requirements under Environmental Laws (defined below).

(r) Environmental Matters.

(i) To the best of Borough's knowledge, there are no past or present events, conditions, circumstances, activities, practices, incidents, actions or plans pertaining or relating to the Assets or the System that may materially impede or prevent compliance with Environmental Laws, and Borough is, and at all times has been, in full compliance with and has not been, and is not in violation of or liable under any applicable Environmental Law. Borough has no basis to expect, nor has it received any actual or threatened order, notice or other communication from any governmental

authority or other person of any actual or potential violation or failure to comply with any Environmental Law or of any actual or threatened obligation to undertake or bear the cost of any environmental, health and safety liabilities with respect to real property or any other properties or assets (whether real, personal or mixed) in which Borough has or has had an interest or with respect to the real property or any other real property at or to which hazardous materials were generated, manufactured, refined, transferred, imported, used or processed by Borough or any other person for whose conduct it is or may be held responsible, or from which hazardous materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

- (ii) To the best of Borough's knowledge, there are no pending or threatened claims, encumbrances or other restrictions of any nature, resulting from any environmental, health and safety liabilities or arising under or pursuant to any Environmental Law with respect to or affecting the Borough's real property or any other properties and assets (whether real, personal or mixed) in which Borough has or had an interest. Neither Borough nor any other Person for whose conduct it is or may be held to be responsible has any knowledge of any material environmental, health and safety liabilities with respect to the Borough's real property or with respect to any other properties and assets (whether real, personal or mixed) in which Borough (or any predecessor) has or has had an interest or at any property geologically or hydrologically adjoining the real property or any such other property or assets.
- (iii) To the best of Borough's knowledge, there are no hazardous materials, except those used in connection with the ordinary course operation of the System in accordance with all Environmental Laws, present on or in the environment at the real property or at any geologically or hydrologically adjoining property, including any hazardous materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent and deposited or located in land, water, sumps or any other part of the real property or such adjoining property or incorporated into any structure therein or thereon. Neither Borough, nor any other person for whose conduct it is or may be held to be responsible to the best of its knowledge has permitted or conducted, or is aware of, any hazardous activity conducted with respect to the real property or any other properties or assets (whether real, personal or mixed) in which Borough has or has had an interest except in material compliance with all applicable Environmental Laws. To the best of Borough's knowledge, there has been no release or threat of release, of any hazardous materials at or from the real property or from or by any other properties and assets (whether real, personal or mixed) in which Borough has or has had an interest (e.g., other properties that may impact or affect the Assets or the System), or any geologically or hydrologically adjoining property, whether by Borough or any other person.
- (iv) Except as set forth in **Schedule 4.1(r)(iv)**, to the best of Borough's knowledge, none of the following exists at the System or on the real property that is part of the Assets: (1) underground storage tanks; (2) asbestos-containing material in any form; (3) materials or equipment containing polychlorinated biphenyl; (4) groundwater monitoring wells; or (5) landfills, surface impoundments, or disposal areas.

- (v) Borough has delivered to PAWC true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed by the Borough pertaining to hazardous materials or hazardous activities in, on or under the real property, or concerning compliance by Borough, its predecessors, or any other person for whose conduct Borough is or may be held to be responsible, with Environmental Laws, said reports, studies, analyses, tests and monitoring to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Borough.
- (vi) Compliance with Decrees. To the best of Borough's knowledge, Borough has been and is in compliance with all orders, decrees, judgments and notices issued against the Borough under or in connection with all Environmental Laws.
- (vii) As used in this Agreement, the term "**Environmental Laws**" shall include all federal, state, and local environmental laws and regulations, including but not limited to the Clean Water Act ("**CWA**"), also known as the Federal Water Pollution Control Act ("**FWPCA**"), 33 U.S.C. § 1251 et seq., the Safe Drinking Water Act ("**SDWA**"), 42 U.S.C. §§ 300 (f) et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), 42 U.S.C. § 9601 et seq., the Superfund Amendment and Reauthorization Act of 1986 ("**SARA**"). Any reference to a legislative act or regulation shall be deemed to include all amendments thereto and all regulations, orders, decrees, judgments, opinions directives or notices issued thereunder.

(s) Brokers. Borough has not employed any investment banker, broker or finder or incurred any liability for any investment banking fees, brokerage fees, commissions or finders' fees or any similar other fees or commissions in connection with the transactions contemplated by this Agreement for which the PAWC has or could have any liability.

(t) Customer Advances. Set forth in **Schedule 4.1(t)** is a complete and accurate list of all unexpired customer advances for construction held by Borough as of the date of this Agreement and extension deposit agreements (or similar agreements) to which Borough is a party (each an "**Extension Deposit Agreement**"), and which contain unexpired obligations of Borough to provide for the payment of periodic refunds to parties making advances for the construction of facilities for wastewater service. All records of Borough relating to each Extension Deposit Agreement are complete and accurate in all material respects and, together with the relevant Extension Deposit Agreement, represents all the information reasonably required to determine Borough's obligations to each party to the Extension Deposit Agreements; and there are no disputes or disagreements with any party to an Extension Deposit Agreement relating to the amount due under that agreement or the method of calculating that amount. **Schedule 4.1(t)** may be updated at Closing only with the mutual consent of the parties.

For purposes of this Section 4.1, "knowledge" or "to the best of Borough's knowledge" with regard to Borough means the actual knowledge, after due inquiry, of the Borough Council President, the Borough Manager and the Chief Operator of the Sewer Treatment Plant.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF PAWC

5.1 PAWC's Representations. PAWC hereby represents and warrants to Borough as follows:

(a) Organization. (i) PAWC is a corporation duly organized, validly existing, subsisting and in good standing under the laws of the Commonwealth of Pennsylvania; and, (ii) subject to the satisfaction of Sections 7.1 and 8.1(e) hereunder, PAWC has all requisite corporate power and authority to own and operate the System in the Borough.

(b) Due Authorization; Valid and Binding. PAWC has the full corporate power and lawful authority to execute this Agreement and, following approval by its Board of Directors, to consummate and perform the transactions contemplated hereby, and PAWC has duly and validly authorized the execution of this Agreement by all necessary corporate proceedings. This Agreement constitutes a legal, valid and binding obligation of PAWC, enforceable against PAWC in accordance with its terms. As of the Closing Date, each of the transaction documents to which PAWC is a party will be duly executed and delivered by PAWC and will constitute the legal, valid and binding obligation of PAWC, enforceable against PAWC in accordance with its respective terms.

(c) Assigned Contracts. PAWC has disclosed on **Schedule 5.1(c)** those Contracts (including Extension Deposit Agreements) which PAWC has agreed to assume ("**Assigned Contracts**"), subject to receiving all necessary consents to assignment in accordance with the terms of **Section 8.1(g)**. PAWC may update **Schedule 5.1(c)** between the date hereof and up to twenty (20) days before Closing to include any of the Contracts.

(d) Financial Wherewithal. PAWC has sufficient funds on hand to pay the amounts due pursuant to this Agreement.

(e) Absence of Litigation. There are no actions, suits, proceedings or investigations pending or, to the knowledge of the PAWC, threatened against the PAWC, and the PAWC is not subject to any outstanding judgment, order or decree of any court or governmental body, which would in either case, reasonably be expected to prevent or materially interfere with or delay the PAWC's ability to perform its obligations under this Agreement.

(f) No Violation of Laws or Agreements. The execution, delivery and performance of this Agreement by PAWC does not, and the consummation of the transactions contemplated by this Agreement as of Closing will not, violate any provisions of law or conflict with, result in a breach of, or constitute a default under, the terms, conditions or provisions of any agreement, contract or other instrument to which PAWC is a party.

(g) Brokers. The PAWC has not employed any investment banker, broker or finder or incurred any liability for any investment banking fees, brokerage fees, commissions or finders' fees or any similar other fees or commissions in connection with the transactions contemplated by this Agreement for which the Borough has or could have any liability.

For purposes of this Section 5.1, “knowledge” or “to the knowledge of” with regard to PAWC means the actual knowledge, after due inquiry, of the President and Chief Executive Officer of PAWC.

ARTICLE 6

COVENANTS

6.1 Covenants of Borough. From and after the date of this Agreement, Borough covenants and agrees that:

(a) Conduct of Business. Between the date of this Agreement and the Closing Date, Borough shall carry on the operation of the System, the business and the Assets in the ordinary course of business and in compliance with law, not introduce any materially new method of management or operation, use reasonable best efforts to preserve the System, the business and the Assets, conserve the goodwill and relationships of its customers, suppliers, governmental authorities and others having business relations with it, maintain in full force and effect all policies of insurance now in effect for the benefit of Borough, maintain supplies at a level that is sufficient to operate the System in accordance with past practice and maintain the Assets in substantially the condition currently existing, normal wear and tear excepted. Without limiting the foregoing, until the Closing Date, Borough shall not sell, lease, dispose, retire, distribute or encumber any of the Assets, or construct, purchase or acquire any new assets, properties or rights relating to the System or Assets, or enter into a commitment or contract to do any of the foregoing (other than the purchase and use of supplies and maintenance of the System and the Assets in the ordinary course of business), without the prior written consent of PAWC.

(b) Contracts and Commitments. Except normal and usual commitments for the purchase of materials and supplies consistent with past practice, no contract or commitment shall be entered into by or on behalf of Borough relating to the System or the Assets that would place an Encumbrance thereon or materially affect the operation of the System, the business or the Assets after Closing, except for those commitments approved or ratified in writing by PAWC. Borough shall obtain, prior to Closing, the written consent of each party to the Assigned Contracts designated on **Schedule 4.1(k)** as requiring consent to the assignment. Notwithstanding any other provision of this Agreement, to the extent that any consent necessary for the assignment from Borough to PAWC of the Assigned Contracts is not obtained, or cannot be obtained, prior to the Closing Date, Borough shall secure an arrangement reasonably satisfactory to PAWC intended to provide for PAWC following the Closing all of the material benefits of Borough under such Assigned Contracts; provided, that nothing in this **Section 6.1(b)** shall constitute a waiver of the condition set forth in **Section 8.1(g)**; and provided, further, that PAWC shall not be obligated to assume, and shall not be liable under, any Assigned Contract for which Borough has not obtained all necessary consents, or otherwise secured an alternative arrangement satisfactory to PAWC (in its sole discretion) as provided above. Borough shall transfer all of the utilities used or necessary for the System from Borough to PAWC effective as of the Closing Date, and Borough shall be responsible to pay all bills and fees for these utilities for the period prior to and including the Closing Date. PAWC shall provide any necessary information reasonably required by Borough to effectuate this transfer.

(c) Release of Encumbrances. Borough shall take all action necessary to cause the release, cancellation and discharge of any and all Encumbrances, so that as of the Closing Date, the Assets will be free and clear of any and all such Encumbrances. Borough also agrees not to create any new Encumbrances on the System or Assets from and after the date of this Agreement without the prior written consent of PAWC.

(d) Material Events and Circumstance. Borough shall promptly inform PAWC in writing of any specific event or circumstance of which Borough is aware, or of which Borough receives notice, that has or is reasonably likely to have, individually or in the aggregate, taken together with the other events or circumstances, a material adverse effect on the System or the Assets.

(e) Supplemental Information.

(i) Borough shall provide PAWC, within fifteen (15) days of execution or the date of receipt thereof, a copy of (a) each of the Contracts entered into by Borough after the date hereof and prior to Closing relating to the System or the Assets; (b) a copy of any written notice of assessments for public improvements against any of the Assets received after the date hereof and prior to Closing; (c) any writs of summons or complaints filed against Borough or its representatives for any and all claims relating to the System or the Assets; and (d) a copy of the filing of any condemnation, eminent domain or similar proceeding affecting all or any portion of the System or the Assets received after the date hereof, but prior to the Closing.

(ii) Borough shall notify PAWC within fifteen (15) days of the receipt of any notice of violation.

(f) Regulatory Consents. Except as expressly provided in Section 6.6 and Article 7 hereunder with respect to PAWC's obligation to obtain all necessary PUC approvals at its expense, Borough shall at all times, use its best efforts to and diligently pursue, at its expense, all approvals, authorizations, consents and Permits required to be obtained to consummate the transaction contemplated by this Agreement, including, but not limited to, approval of any necessary revision to the Act 537 Plan and obtaining Permits required in connection with the installment of the Carlisle Road Facilities Improvement Project under **Section 6.11**. Borough shall (i) as promptly as practicable, make or cause to be made such filing and submissions under the laws, rules and regulations applicable to it as may be required for Borough to sell the Assets pursuant to the terms of this Agreement; and (ii) keep PAWC apprised of the status of any filing or submission to any such governmental or regulatory agency. Any Act 537 Plan(s) that DEP requires to be updated as a result of PAWC's purchase set forth herein shall be done at the expense of Borough using its engineers and other appropriate agents.

(g) Municipal Ordinances. To the extent that Borough has ordinances or laws that require properties to connect to and remain connected to the System, Borough shall maintain such ordinances or laws so long as the Assets, or modifications, renewals, replacements thereto, exist within the municipal boundaries of Borough.

(h) Access. Borough shall provide PAWC and its representatives free and full access to and right to inspect, during normal business hours and upon prior oral notice, all of the premises, properties, assets, records, Permits, contracts and other documents relating to the Assets and shall permit PAWC to consult with its officers, employees and other representatives for purposes of making such investigation of

the Assets as PAWC shall desire to make, provided that no investigation shall unreasonably interfere with the Borough's operation of the System.

(i) Customer List. Within fifteen (15) days of the execution of this Agreement, Borough shall provide PAWC an accurate and complete listing of all customers of the System, providing customer names, service addresses, billing addresses, and applicable equivalent dwelling units ("EDUs") for billing purposes and denoting those customers from which Borough has received notice to cancel or intend to cancel their account with Borough (or PAWC after Closing) (the "**Customer List**"). Borough shall promptly provide any additional detailed information pertaining to the Customer List as requested by PAWC between the date of this Agreement and the Closing Date. The Customer List (and any subsequent information provided upon request) shall be true and correct as of the date such information is provided to PAWC and shall be updated and provided to PAWC at Closing so as to be true and correct as of the Closing Date.

(j) Parcel for the Wastewater Treatment Plant. Prior to the PUC issuing a final order granting the approvals required under **Section 7.1** and at least 45 days prior to Closing, Borough, at its sole cost and expense, will subdivide a tract of real property owned by the Borough consisting of approximately 14.93 acres (the "**Parcel**") to create a subdivision of the Parcel inclusive of approximately 5.5 acres upon which Borough's wastewater treatment plant being transferred to PAWC under this Agreement as part of the Assets is situated (the 5.5 acres shall be referred to as the "**Subdivision Parcel**" and shall be further defined by a legal description to be agreed upon by the parties prior to approval of the subdivision). Borough will obtain all necessary easements or rights-of-way to grant and convey to PAWC reasonable access to the Subdivision Parcel, including, but not limited to, the rights of egress and ingress on, over and across any retained lands of the Borough, as approved by PAWC. At Closing, Borough will convey to PAWC the Subdivision Parcel and access rights as part of the Assets defined in Section 1.2.

(k) Customer Advances. Within fifteen (15) days of the execution of this Agreement (to be updated at Closing), Borough will provide to PAWC accurate and complete copies of all customer advances and Extension Deposit Agreements reflected on **Schedule 4.1(t)**. Prior to the Closing Date, Borough shall complete the construction of all mains and facilities for which Borough has received customer advances and return all unexpended customer advances to the appropriate depositor. Provided, however, that for projects acceptable to and approved in writing by PAWC, Borough may pay over to PAWC the unexpended, non-refundable customer advances, and PAWC shall assume all of the responsibility of Borough as to those unexpired customer advances and shall be bound by the terms and conditions contained in the Extension Deposit Agreements. PAWC shall not assume any responsibility for any unexpired customer advances received by Borough, or for any Extension Deposit Agreements to which Borough is or becomes a party, except as specifically agreed to in writing.

(l) Updating of Information. Between the date of this Agreement and the Closing Date, Borough will deliver revised or supplementary Schedules to this Agreement as well as revised or supplementary lists of information, documents or data required to be provided under this Agreement, containing information that is accurate, true and correct as of the Closing Date, in order to enable PAWC to confirm the accuracy of Borough's representations and warranties and otherwise effectuate the provisions of this Agreement. The receipt by PAWC of any revised or supplementary Schedules, lists, documents or data shall in no way prejudice PAWC's right to (i) terminate this Agreement based upon the failure of any condition to be satisfied under Section 8.1 hereof, or (ii) seek indemnification under Section 9.1 to the extent permitted by applicable law. Borough will promptly inform PAWC, in writing, of the occurrence or failure of any action or event that would violate Borough's representations and warranties under this Agreement or render them inaccurate as of the date hereof or the Closing Date or that would constitute a

breach of any covenant of Borough under this Agreement or a failure of any condition to the obligations of either Borough or PAWC under this Agreement.

(m) Retention of Records. Borough shall preserve any books and records relating to the System and the business that are not delivered to PAWC hereunder for a period no less than seven (7) years after the Closing Date (or such longer period as shall be required by applicable law), and Borough shall make available such books and records for review and copying to PAWC and its authorized representatives following the Closing at PAWC's expense upon reasonable notice during normal business hours. During such period, Borough shall permit, to the extent permitted by applicable Law and upon request of PAWC, PAWC and any of its agents, representatives, advisors or consultants reasonable access to all properties, books, contracts and records of Borough related to the System and employees of or servicing the business for information related to periods up to and including the Closing.

6.2 Title Information. Within thirty (30) days of the execution of this Agreement, Borough shall deliver to PAWC true, correct and complete copies of all existing title policies, surveys, leases, deeds, instruments and agreements in Borough's possession relating to title to the real estate and easements constituting part of the Assets, as well as any amendments thereto through to Closing. Thereafter, PAWC shall conduct, and the Borough shall cooperate with PAWC in conducting, an abstract of such title information to determine whether Borough has sufficient real estate rights and continuous rights-of-way to permit PAWC, upon Closing, to operate a continuous wastewater system, including lines, facilities fittings and appurtenances necessary to operate such wastewater system, including but not limited to rights of egress and ingress over and to the Subdivision Parcel, and that such rights are represented by legal instruments in appropriate form, duly recorded. Upon notification by PAWC that such legal rights for the System are not sufficient for the operation of the System, Borough shall, at its sole expense, secure such additional legal rights as PAWC may request.

6.3 Storm Water Facilities. Borough will retain ordinances that prohibit storm water system facilities from being connected to or from causing storm water infiltration into the System. Such ordinances shall be no less restrictive with regard to storm water discharges into or infiltrating the System after Closing than they were prior to Closing, to the extent permitted by law. If, at any time after Closing, PAWC identifies municipal storm water facilities interconnected with the System, PAWC may at its sole cost and discretion, disconnect such storm water facilities from the System and tie them into the municipal storm water system.

6.4 Dual Meter Readings. On or about the Closing Date, PAWC and Borough shall take a dual meter reading for each of the customers of the System, which shall be used for (i) Borough to issue a final invoice to customers covering the period on and before the Closing Date, and (ii) PAWC to obtain its initial meter reading for future invoices covering the period after the Closing Date. The parties shall coordinate in good faith and agree upon these meter readings at such time, which shall be used for such invoices and all accounts receivable being retained by Borough (per **Section 1.5**).

6.5 Further Assurances. Each party to this Agreement shall cooperate and deliver such instruments and take such action as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby. After the Closing, each party shall take such other actions and execute such other documents, instruments certifications, and further assurances as Borough or PAWC, as the case may be, may reasonably require in order to make effective the transactions contemplated hereby (including to transfer to PAWC or to put PAWC more fully in possession of any of the Assets).

6.6 Cooperation. Subject to the terms and conditions of this Agreement, the parties shall cooperate fully with each other and their respective counsel and accountants in connection with, and take or cause to be taken and do or cause to be done, any actions required to be taken under applicable law to make effective the contemplated transactions as promptly as practicable. Prior to the Closing, the parties shall proceed expeditiously and in good faith to make such filings and take such other actions as may be reasonably necessary to satisfy the conditions to Closing set forth herein. Any and all filing fees, Permit fees or transfer fees, in respect of such filings, including those fees implemented by the PUC (as defined below in **Section 7.1**) or by any regulatory agency or Recorder of Deeds, shall be paid by the PAWC. PAWC shall, at its expense, fully cooperate with and assist Borough in preparing all necessary Permit transfer applications as required to be obtained by Borough under **Section 6.1(f)**. On or after the Closing Date, the parties shall, on request, cooperate with one another by furnishing any additional information, executing and delivering any additional documents and instruments, including contract assignments not obtained prior to Closing, and doing any and all such other things as may be reasonably required by the parties or their counsel to consummate or otherwise implement the transactions contemplated by this Agreement. Borough hereby agrees to cooperate with PAWC to ensure a proper transition of all customers with respect to billing and customer service activities, including assisting PAWC to place all customer information in a format reasonably requested by PAWC.

6.7 Rates, Rules and Regulations of Service At and After Closing. Except as otherwise may be provided in this Section 6.7 regarding rates, PAWC shall apply, at and after Closing, its then-existing rates, rules and regulations for wastewater service as set forth in its Tariff. PAWC shall implement Borough's wastewater rates then in effect at Closing as PAWC's effective wastewater base rates for the service area presently being served by Borough; provided that, PAWC 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 parties. Borough's wastewater rates to be implemented by PAWC at Closing are shown in **Schedule 6.7** and these rates shall be maintained until December 31, 2017, subject to the PUC's approval. Thereafter, to the extent PAWC seeks a rate increase for the service area presently being served by Borough, PAWC agrees to propose a rate increase no greater than two and a half percent (2.5%) in the year 2018 and a subsequent maximum rate increase of two and a half percent (2.5%) in the year 2019, which rate increase limitation shall be subject to the PUC's approval. PAWC intends to bill on a monthly basis in lieu of quarterly billing. For all miscellaneous fees and charges, PAWC will implement its existing rates, rules and regulations including PAWC's capacity reservation fee for new EDUs. For clarification purposes, PAWC will charge a capacity reservation fee of \$4,000 per new EDU for the allocation of treatment, pumping, and transmission, truck and interceptor main capacity, commencing with the date of Closing. No capacity reservation fee will be charged for any applicant for wastewater service that meets the criteria of a Bona Fide Service Applicant, as defined in 52 Pa. Code Section 65.1 (excluding clause (iii) of that definition) if "wastewater" were substituted for "water".

6.8 Borough Capital Improvements. PAWC will spend Two Million Dollars (\$2,000,000) in capital improvements to the water and wastewater infrastructure located within the Borough over the five-year period immediately following the Closing Date (the "**Borough Capital Improvements**"), subject to the provisions of **Section 10.3** below. Except as provided herein with respect to the Carlisle Road Facilities Improvement Project, PAWC will handle all necessary engineering, design and construction work for the Borough Capital Improvements, and make application for all necessary Permits, each at its own expense. Borough shall fully cooperate with PAWC in connection with completing the Borough Capital Improvements, including providing necessary information as may be requested by PAWC and identifying areas where Borough Capital Improvements can be made in conjunction with street and sidewalk improvements.

6.9 Borough Employees. PAWC will offer employment, effective as of the completion of Closing, to each of the current five (5) employees of the Borough's wastewater department at comparable wages and benefits, subject to possession of a valid Pennsylvania driver's license, successful completion of a functional capacity physical examination, any security clearances and other standard hiring procedures of PAWC. The list of Borough's full-time employees by job position/title to which PAWC's obligation of offer employment per this Section 6.9 is set forth in **Schedule 6.9**.

6.10 Right of First Refusal. If, at any time after the Closing Date, PAWC desires to sell all or a portion of the Subdivision Parcel because it is no longer used and useful in connection with the provision of wastewater utility service, or a third party offers to purchase all or part of the Subdivision Parcel for a purpose other than wastewater utility service, which PAWC desires to accept, PAWC shall first offer Borough the right to purchase the Subdivision Parcel as provided herein. (a) In the event PAWC elects to offer all or a portion of the Subdivision Parcel for sale because it is no longer used and useful in connection with the provision of wastewater public utility, PAWC shall notify Borough, in writing, of its intent to offer for sale. From the date of receipt of notice of PAWC's intent to sell, PAWC shall negotiate exclusively and in good faith with Borough for a period of ninety (90) days for the sale and purchase of the Subdivision Parcel; provided that, PAWC shall not be obligated to sell the Subdivision Parcel to Borough for an amount that is less than fair market value as determined by an independent, third-party appraiser mutually selected by PAWC and Borough. During such ninety (90) day period, PAWC shall not publicly bid nor otherwise solicit offers from third parties for such assets, nor enter into discussions or negotiations with any third party (including any third party that makes an unsolicited offer during such ninety (90) day period). (b) In the event PAWC receives a bona fide offer from a third party for a purpose other than wastewater utility service, which PAWC desires to accept, Borough shall have the right to purchase the Subdivision Parcel on terms and conditions that are at least as good as those offered. Borough shall have sixty (60) days from the day it receives written notice from PAWC (which notice shall include all information, terms and documents relating to the offer) of the third party offer (or sixty (60) days after the end of the exclusivity period if the third party offer is received during the exclusivity period) in which to exercise its right of first refusal and notify PAWC of same. If Borough elects not to move forward with the purchase, then PAWC may move forward with the sale to the offering party. (c) The sale by PAWC of the Subdivision Parcel pursuant to this **Section 6.10** is subject to the approval of the PUC.

6.11 Carlisle Road Facilities Improvement Project. Borough and PAWC agree that following the execution of this Agreement and prior to Closing, the Borough will continue with the design and permitting of a facilities improvement project consisting of the installation of (i) two parallel 6-inch ductile iron force mains in State Route 2018 that run approximately 1,850 feet east from the Northwest Pump Station and tie into an existing manhole; and (ii) at the Northwest Pump Station, pump discharge piping modifications, lining of the wet well and replacement of the 10-inch wet well influent slide gate (the "Carlisle Road Sewer Improvement Project" or "Project"). Prior to Closing, Borough shall have completed all necessary engineering and design work related to the Project and shall have obtained all Permits and shall have secured all easements, rights-of-way and property necessary for the Project. Borough shall fully cooperate with and assist PAWC in preparing all necessary Permit transfer applications as required for PAWC to complete the construction and installation of the Project after the Closing Date. PAWC will pay for all Permit transfer fees. After Closing, PAWC will construct and install, at its sole cost and expense, the necessary facilities to complete the Carlisle Road Facilities Improvement Project. PAWC's expenditures on the Carlisle Road Facilities Improvement Project, including any Purchase Price adjustment under **Section 2.2** hereunder, will count toward the satisfaction of the Borough Capital Improvements required under **Section 6.8**.

ARTICLE 7

PENNSYLVANIA PUBLIC UTILITY COMMISSION APPROVAL

The parties recognize and expressly agree that:

7.1 Pennsylvania PUC Approval. The obligation of PAWC to consummate the transactions contemplated by this Agreement is conditioned upon PAWC receiving, at its cost, the approvals of this transaction by the Pennsylvania Public Utility Commission (“PUC”) on terms and conditions reasonably satisfactory to PAWC. PAWC covenants and agrees to initiate, and use commercially reasonable efforts to prosecute the necessary proceedings to obtain the approval of the PUC for: (a) this Agreement and the transactions contemplated hereby which require approval by the PUC, including the transfer by sale of the Assets to PAWC and the Assignment of Contracts Agreement; (b) the right of PAWC to provide wastewater service to the public primarily in the service area presently being served by Borough’s System; (c) the right of PAWC to apply after Closing PAWC’s existing rules and regulations for service as set forth in PAWC’s Tariff for the service area presently being served by Borough’s System (d) the right of PAWC to adopt Borough’s rates as PAWC’s rates in the area to be served at the time of Closing; and (e) any other approval as may be appropriate to consummate the transactions contemplated by this Agreement. Borough, by this Agreement, covenants and agrees to provide such information, documents and assistance as may be reasonably requested by PAWC in connection with any such proceedings and to otherwise cooperate in the initiation and prosecution of any such proceeding.

7.2 PUC Approval Conditions. The obligation of the Borough to consummate the transactions contemplated by this Agreement is conditioned upon the PUC approving this Agreement pursuant to an order (or orders) which does not prohibit the Parties’ agreement for limited rate increases as set forth in **Section 6.7** above, or which does not otherwise contain a condition that is in direct conflict with an express term or condition of this Agreement that is for the benefit of Borough and which would result in a material adverse effect to Borough.

ARTICLE 8

CONDITIONS PRECEDENT

8.1 Conditions Precedent to PAWC’s Obligations. The obligation of PAWC to consummate the transactions contemplated hereby are subject to the satisfaction, on or prior to the Closing, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by PAWC in its sole discretion):

(a) Representations and Warranties. Borough’s representations and warranties set forth in this Agreement or in any Schedule, list, certificate or document delivered pursuant to this Agreement shall be true, correct and accurate as of the date made and at and as of the time of the Closing with the same force and effect as though such representations and warranties were made at and as of the Closing Date (without giving effect to any supplement to the Schedules), and PAWC shall have received from a proper representative of Borough a certificate to such effect, in form and substance reasonably satisfactory to PAWC.

(b) Performance of Covenants and Agreements. Borough shall have performed and complied with in all material respects all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing, and PAWC shall have received from a

proper representative of Borough a certificate to such effect, in form and substance reasonably satisfactory to PAWC.

(c) Adverse Change. There shall not have been a material adverse change, occurrence or casualty, financial or otherwise, to the System or the Assets (including a material loss of customers or Contracts), whether covered by insurance or not.

(d) Release of Liens. All necessary action shall have been taken to cause the release, cancellation and discharge of any and all Encumbrances so that as of the Closing, the Assets shall be free and clear of any and all Encumbrances, and Borough shall have provided PAWC with such opinions, instruments or documents as PAWC may reasonably request, and in form and substance satisfactory to PAWC, evidencing the release, cancellation and discharge of any and all Encumbrances and that the Assets are not subject to any liens or Encumbrances.

(e) Other Regulatory Consents. Borough shall have obtained the written, final and unappealable approvals, authorizations and consents (including consents for Permit transfers) that are required to consummate the transactions contemplated by this Agreement and for PAWC to operate the System and the Assets after the Closing, including the approval of or appropriate Permit from the Pennsylvania Department of Environmental Protection (the “DEP”) and every regulatory agency of federal, state or local government that may be required in PAWC’s opinion, each in form and substance (including with respect to the terms and conditions contained in any such approval) acceptable to PAWC in its sole and absolute discretion, and all waiting periods under existing laws, and all extensions thereof, the passing of which is necessary to consummate the contemplated transactions and finalize a Closing, shall have expired. Without limiting the foregoing, all necessary Permit transfers for the Carlisle Road Facilities Improvement Project provided for in **Section 6.11** shall have been received.

(f) Opinion of Counsel and Resolutions. Borough shall have delivered to PAWC a written Opinion of Borough’s counsel, dated as of the Closing Date and addressed to PAWC, in a form acceptable to Borough’s counsel and in substantially the form as set forth in **Schedule 8.1(f)**, along with a copy of the Resolutions, certified by their proper representatives, approving the execution, delivery and performance of this Agreement by Borough, together with the certificate of its proper representatives that said Resolutions are in full force and effect and were duly adopted.

(g) Contractual Consent. Borough shall have obtained written approvals, authorizations and consents of transfer to all Assigned Contracts and Permits, to the extent specifically required or permitted by the terms of such Assigned Contracts and Permits.

(h) Certification of Financial Information. Borough shall have delivered to PAWC a certificate, in substantially the form set forth in **Schedule 8.1(h)**, executed by its authorized representative in the form and substance satisfactory to PAWC, listing (i) the amount of its net outstanding long-term debt or notes, if any, related to the System (ii) all unexpired customer advances for construction and unexpired contributions in aid of construction as of the Closing Date, and (iii) any and all additions or retirements to the System during the period from the date of execution of this Agreement to the Closing Date, together with the cost thereof.

(i) Closing Deliveries. Borough shall have delivered all documents required to be delivered by it pursuant to **Section 3.2(a)**.

(j) Act 537 Plans. To the extent applicable, any and all Act 537 Plans that DEP requires to be updated as a result of PAWC's purchase shall be revised and approved prior to Closing unless otherwise agreed to in writing by the parties to this Agreement.

(k) Proceedings. No provision of any law or order shall be in effect, and no proceeding by any person shall be threatened or pending before any governmental authority, or before any arbitrator, that would: (i) prevent consummation of the contemplated transactions; (ii) have a likelihood of causing the contemplated transactions to be rescinded following consummation; (iii) adversely affect the right of PAWC to own any of the Assets or operate the System; or (iv) adversely affect the System prospects or the value or condition of any of the Assets or the System.

(l) Due Diligence. PAWC shall have completed and be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the System, the Assets and Borough, including with the results of any environmental assessment performed with respect to any real property or the Assets or chain of title search, all material contracts and operating Permits and licenses of the System, and the Borough's operations, contracts, employment practices, compliance, accounting and other items as PAWC deems necessary, as each of the foregoing items relate to the System or the Assets.

(m) Authorization of Contemplated Transactions. PAWC shall have obtained all necessary corporate approvals to consummate the contemplated transactions, including the approval of its Board of Directors.

(n) Subdivision of Parcel. Borough shall have completed the subdivision of the Parcel, as provided for in **Section 6.1(j)** and that no land use appeal to such subdivision is pending.

(o) PUC Approval. The PUC shall have entered an order (or orders) providing the approvals set forth in **Section 7.1** and **Section 7.2**, and such order(s) shall not be subject to appeal, challenge, supersedeas or injunction.

8.2 Conditions Precedent to Borough's Obligations. The obligation of Borough to consummate the transactions contemplated hereby are subject to the satisfaction, on or prior to the Closing, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Borough in its sole discretion):

(a) Representations and Warranties. PAWC's representations and warranties contained in this Agreement or in any Schedule, list, certificate or document delivered pursuant this Agreement shall be true, correct and accurate as of the date made and at and as of the time of the Closing, with the same force and effect as though such representations and warranties were made at and as of the Closing Date (without giving effect to any supplement to the Schedules), and Borough shall have received from an officer of PAWC a certificate to such effect, in form and substance reasonably satisfactory to Borough.

(b) Performance of Agreements. PAWC shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing, and PAWC shall deliver to Borough a certificate executed by its proper representatives and dated the Closing Date to such effect, in form and substance reasonably satisfactory to Borough.

(c) Closing Deliveries. PAWC shall have delivered the Purchase Price and all documents required to be delivered by it pursuant to **Section 3.2(b)**.

(d) PUC Approval. The PUC shall have entered an order (or orders) consistent with the provisions of **Section 7.2** above.

ARTICLE 9

INDEMNIFICATION

9.1 Indemnification By Borough. To the extent permitted by applicable law, Borough agrees to indemnify, defend and hold harmless PAWC and its affiliates and their respective officers, directors and agents ("PAWC Indemnified Parties") at all times after the date of this Agreement from, against and in respect of any and all Damages arising out of, resulting from, relating to or caused by (i) any misrepresentation, inaccuracy in or breach of (or any claim by any third party asserted against PAWC alleging or constituting a misrepresentation, inaccuracy in, or breach of) any representation or warranty, or any failure to perform or nonfulfillment of any provision or covenant made by Borough in this Agreement or in any schedule, statement, certificate or other document furnished or to be furnished by Borough to PAWC in connection with the transactions contemplated hereby, and (ii) any and all liabilities of Borough of any nature (including the retained liabilities in **Section 1.3(a)**), whether due or to become due, whether accrued, absolute, contingent or otherwise, whether accruing prior to or after the Closing date, or arising out of any transaction entered into, any state of facts existing or any event occurring on or prior to such date and any Encumbrance affecting the Assets or the System; (iii) assessments, charges and other similar claims due or owing, directly or indirectly, by Borough or otherwise as a result of or on account of the Assets or the System at any time on or prior to the Closing Date; (iv) the ownership and/or operation of any of the Assets or the System on or prior to the Closing Date; (v) any proceeding now existing or hereafter arising and relating to the Assets or the System and arising from events or matters occurring on or prior to the Closing Date, regardless of when realized; (vi) all assets, properties and rights of Borough excluded from the Assets; (vii) any and all liabilities relating to the employees, agents and independent contractors of Borough who performed services for Borough or related to the System or the Assets, regardless of whether such liabilities arose from events occurring prior to or after the Closing; and (viii) transaction costs and expenses incurred by or on behalf of Borough in connection with this Agreement or the contemplated transactions.

As used in this Agreement, the term "**Damages**" means all losses, damages, assessments, judgments, awards, fines, penalties, taxes, interest, costs and expenses (including actual, reasonable out-of-pocket third party costs, fees and expenses of legal counsel and reasonable out-of-pocket third party costs, fees and expenses of investigation).

9.2 Indemnification By PAWC. PAWC agrees to indemnify, defend and hold harmless Borough and its affiliates and their respective officers, directors and agents at all times after the date of this Agreement, from, against and in respect of any and all Damages resulting from (i) any misrepresentation, an inaccuracy in or breach of (or any claim by any third party asserted against Borough alleging or constituting a misrepresentation, an inaccuracy in, or breach of) any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant made by PAWC contained in this Agreement or any other transaction document, furnished or to be furnished by PAWC, in connection with the transactions contemplated hereby and (ii) any and all liabilities of PAWC of any nature, related to the PAWC's operation of the System and the Assets and whether due or to become due, whether accrued, absolute, contingent or otherwise existing after the Closing date or arising out of any transaction entered into, any state of facts existing or any event occurring after the date of Closing.

9.3 Survival of Representations and Warranties. All representations, warranties, covenants and agreements made by the parties in this Agreement or in any agreement, document, statement or certificate

furnished hereunder or in connection with the negotiation, execution and performance of this Agreement shall survive the Closing. Notwithstanding any investigation or audit conducted before or after the Closing Date, or the decision of any party to complete the Closing, each party shall be entitled to rely upon the representations, warranties, covenants and agreements set forth herein and therein. Notwithstanding anything contained herein or elsewhere to the contrary, all “material” and “material adverse effect” or similar materiality type qualifications contained in the representations and warranties set forth in this Agreement shall be ignored and not given any effect for purposes of the indemnification provisions hereof, including for purposes of determining the amount of any Damages.

9.4 Notice of Claim. If either party seeks indemnification on behalf of an indemnified person, such party seeking indemnification (the “**Indemnified Party**”) shall give reasonably prompt written notice to the indemnifying party (the “**Indemnifying Party**”) specifying the facts constituting the basis for such claim and the amount, to the extent known, of the claim asserted; provided, however, that the right of a person or entity to be indemnified hereunder shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Subject to the terms hereof, the Indemnifying Party shall pay the amount of any valid claim not more than ten (10) days after the Indemnified Party provides notice to the Indemnifying Party of such amount.

ARTICLE 10

TERMINATION

10.1 Termination. This Agreement may be terminated at any time prior to the Closing only (a) by mutual written consent of Borough and PAWC; (b) by Borough or PAWC upon written notice to the other, if the Closing shall not have occurred on or prior to the one year anniversary date of the signing of this Agreement; provided, however, that the right to terminate this Agreement under this **Section 10.1** shall not be available to any party whose breach under this Agreement has caused or resulted in the failure of the Closing to occur on or before such date; (c) by PAWC, if PAWC is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of a representation, warranty, covenant or agreement contained in this Agreement on the part of Borough and Borough has not cured such breach within ten (10) business days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured); (d) by PAWC, if, at any time before Closing, PAWC is not satisfied (in its sole and absolute discretion) with the results of its due diligence review of the System and the Assets or the prospects of obtaining all regulatory consents and approvals; (e) by Borough, if Borough is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of PAWC and PAWC has not cured such breach within ten (10) business days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured); or (f) by Borough or PAWC upon written notice to the other, if any court of competent jurisdiction or other competent governmental entity shall have issued a statute, rule, regulation, order, decree or injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting the contemplated transactions, and such statute, rule, regulation, order, decree or injunction or other action shall have become final and non-appealable.

10.2 Effect of Termination. Within five (5) business days following a termination of this Agreement by the parties under **Section 10.1(a)**, or by the Borough under **Sections 10.1(b)** or **(f)**, or by PAWC under **Sections 10.1(b)**, **(c)** or **(f)**, Borough shall return the Deposit to PAWC. Should the PAWC terminate this Agreement under **Section 10.1(d)** or the Borough terminate this Agreement under **Section**

10.1(e), the deposit is forfeited by PAWC and shall be paid by the Escrow Agent to the Borough. The right of each party to terminate this Agreement under **Section 10.1** is in addition to any other rights such party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to **Section 10.1**, all further obligations of the parties under this Agreement will terminate, except that the obligations set forth in this **Section 10.2** (“**Effect of Termination**”) and **Article 11** (“**Miscellaneous**”) will survive; provided, however, that if this Agreement is terminated by a party because of the breach of the Agreement by another party or because one or more of the conditions to the terminating party’s obligations under this Agreement is not satisfied as a result of the other party’s failure to comply with its obligations under this Agreement, the terminating party’s right to pursue all legal remedies will survive such termination unimpaired.

10.3 **Force Majeure.** In the event of fires, natural disturbances, extreme weather conditions, accidents, labor disturbances, war conditions, governmental actions, inactions, laws or regulations, or other causes beyond the control of the PAWC rendering the PAWC unable to perform any of its obligations under **Section 6.8** of this Agreement, then the PAWC (a) shall be excused from performing such obligation for the period during which such obligation cannot be so performed (“**FM Period**”), and (b) shall not incur any liability in connection therewith, provided that PAWC shall continue to use reasonable commercial efforts to perform such obligations. PAWC shall promptly give notice to Borough whenever any event delays or threatens to delay PAWC’s performance under **Section 6.8** of this Agreement.

ARTICLE 11

MISCELLANEOUS

11.1 **Contents of Agreement.** This Agreement sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended or modified except by written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between or among any or all of the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.

11.2 **Binding Effect.** All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the legal representatives, successors and assigns of Borough or PAWC.

11.3 **Waiver.** Any term or provision of this Agreement may be waived at any time by the party or parties entitled to the benefit thereof by a written instrument executed by such party or parties.

11.4 **Transfer Taxes.** Any transfer taxes imposed on the conveyance or transfer of any real property pursuant to this Agreement shall be the sole responsibility of PAWC to pay. .

11.5 **Notices.** Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally, by facsimile (if followed by overnight courier on the same date) or sent by nationally recognized overnight courier, as follows:

If to PAWC:

Pennsylvania-American Water Company
800 W. Hersheypark Drive
Hershey, Pennsylvania 17033
Attention: Andrew L. Swope, General Counsel
Fax: 717-531-3399

If to Borough:

The Borough of New Cumberland
P.O. Box 220
New Cumberland, PA 17070
Attention: John P. Murray, Borough Council President
Fax: _____

With a required copy to:

The Borough of New Cumberland
1120 Market Street, New Cumberland, PA 17070
Attention: Stephen C. Sultzaberger, Borough Manager
Fax: _____

or to such other address as the addressee may have specified in a written notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered.

11.6 Law to Govern. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to any conflicts of law's provisions.

11.7 No Third Party Beneficiaries. The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto, and their legal representatives, successors and assigns, and they shall not be construed as conferring any rights or remedies on any other persons.

11.8 Interpretation. All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires. Unless otherwise indicated, the words "including", "includes", "included" and "include", when used, are deemed to be followed by the words "without limitation."

11.9 Schedules. All Schedules referred to herein are intended to be and hereby are specifically made a part of this Agreement.

11.10 Severability. Any provision of this Agreement that is invalid or unenforceable in any jurisdiction or under any circumstance shall be ineffective to the extent of such invalidity or unenforceability

without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction or under any circumstance shall not invalidate or render unenforceable such provision in any other jurisdiction or under any other circumstance, unless, in either event, the involved or unenforceable provision causes this Agreement to fail of its essential purpose.

11.11 Counterparts. This Agreement may be executed by facsimile, electronically or by exchange of documents in PDF format, and in several counterparts, each of which shall be deemed an original instrument and all of which together shall constitute a single agreement. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

11.12 Risk of Loss. Borough assumes risk of loss in connection with the Assets prior to Closing, including risk of loss from fire and other casualty. In the event of any loss or damage to any of the Assets, PAWC at its option, prior to or at Closing shall have the right to (i) request that the damaged asset be replaced or restored to substantially the same condition of the asset as of the date of this Agreement; (ii) request an adjustment to the Purchase Price as can be agreed upon by the parties, or (iii) request the insurance proceeds of the Borough and/or other moneys to enable PAWC to make a proper restoration of the damaged asset.

11.13 Environmental Assessment. Without limiting the parties rights and obligations under this Agreement (including **Sections 6.1(h), 8.1(k) and 10.1(d)**), after the date of this Agreement and until the Closing Date, PAWC shall have the reasonable right to enter upon the property and facilities constituting the System, after making reasonable prior arrangement with Borough, for the purposes of conducting an environmental assessment of the System. PAWC shall notify Borough in writing if the environmental assessment reveals the presence of oil or petroleum products or any hazardous or toxic wastes or materials or storage of fuel tanks or any other environmental hazard or contamination. Within fifteen (15) days of the date of such notice, Borough shall advise PAWC in writing as to whether Borough can cure the environmental hazard or contamination and, if so, what remediation actions Borough will take to cure. In connection with such environmental assessment, PAWC shall have the right, in PAWC's sole discretion, to terminate this Agreement upon written notice to Borough.


11.14 Specific Performance and Injunctive Relief; Remedies. The parties hereto recognize that if either of them fails to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at law may not provide adequate relief to the other party. Therefore, in addition to any other remedy provided for in this Agreement or under applicable law, a party hereto may demand specific performance of this Agreement, and such party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time if the other party fails to comply with any of the provisions of this Agreement applicable to such party. To the extent permitted by applicable law, the parties hereby irrevocably waive any defense based on the adequacy of a remedy at law that might be asserted as a bar to such party's remedy of specific performance or injunctive relief. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies under law. Nothing contained herein shall be construed as limiting the parties' rights to redress for fraud.


[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have duly executed this Agreement on the date first written.

Attest:

THE BOROUGH OF NEW CUMBERLAND

By: 
Name: Stephen C. Sultzaberger
Its: Secretary

By: 
Name: John R. Murray
Its: Borough Council President

Attest:

PENNSYLVANIA-AMERICAN WATER COMPANY

By: _____
Name: Andrew L. Swope
Its: Secretary

By: _____
Name: Kathy L. Pape
Its: President

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have duly executed this Agreement on the date first written.

Attest:


THE BOROUGH OF NEW CUMBERLAND


By: _____
Name: Stephen C. Sultzaberger
Its: Secretary

By: _____
Name: John R. Murray
Its: Borough Council President

Attest:

PENNSYLVANIA-AMERICAN WATER COMPANY

By:  _____
Name: Andrew L. Swope
Its: Secretary

By:  _____
Name: Kathy L. Pape
Its: President

List of Exhibits

Exhibit A – Escrow Agreement

Exhibit B – Assignment of Contracts Agreement

List of Schedules

Schedule 1.2(d) – List of Machinery, Equipment and Tools that are a part of the Assets

Schedule 1.4 – List of Excluded Assets

Schedule 4.1(b) – Assets Subject to Leasehold Interest

Schedule 4.1(h) – Free Service

Schedule 4.1(i) – Undisclosed Liabilities

Schedule 4.1(k) – List of Contracts

Schedule 4.1(k)(i) – Refund Arrangements

Schedule 4.1(l)(i) – Rights in Real Property and Leases

Schedule 4.1(l)(ii) – Easements and Rights of Way

Schedule 4.1(l)(iv) – Options and Rights of First Refusal

Schedule 4.1(l)(v) – Taxes and Assessments

Schedule 4.1(l)(vi) – Necessary Repairs to Real Property

Schedule 4.1(m) – Litigation

Schedule 4.1(p) – Violations of Law

Schedule 4.1(q) – Permits

Schedule 4.1(r)(iv) – Environmental Conditions

Schedule 4.1(t) – Extension Deposit Agreements

Schedule 5.1(c) – Assigned Contracts

Schedule 6.7 – Borough's Rates

Schedule 6.9 – List of Employees

Schedule 8.1(f) – Opinion of Borough's Counsel

Schedule 8.1(h) – Certification of Financial Information

Exhibit A

Escrow Agreement

(See Attached)

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is made and entered into this 13 day of April, 2016, by and among the **BOROUGH OF NEW CUMBERLAND**, a Pennsylvania municipality ("Seller") and **PENNSYLVANIA-AMERICAN WATER COMPANY**, a Pennsylvania for profit corporation ("Purchaser") and **JOHNSON, DUFFIE, STEWART & WEIDNER, P.C.**, a Pennsylvania professional corporation ("Escrow Agent").

BACKGROUND

A. On March 1, 2016, Purchaser submitted a bid proposal to Seller pursuant to Seller's Request for Bids ("RFB") for the purchase of Seller's wastewater treatment facilities ("Facilities").

B. On March 1, 2016, Purchaser submitted bid security in the form of a certified check to Seller in the amount of One Hundred Thousand (\$100,000.00) Dollars pursuant to terms and conditions set forth in the RFB regarding Bid Security.

C. On March 9, 2016, at an official meeting, the Seller's Board unanimously voted to accept the Purchaser's bid subject to the execution of a mutually-acceptable asset purchase agreement.

C. Seller and Purchaser now wish to enter into this Agreement for the purpose of setting forth in writing their mutual understanding with respect to the Bid Security pursuant to the RFB.

NOW, THEREFORE, Purchaser, Seller and Escrow Agent, each intending to be legally bound, do hereby agree as follows:

1. **Background.** The Background set forth above is incorporated herein and made part of this Agreement.

2. **Bid Security.** Seller and Purchaser acknowledge that Purchaser has provided a certified check payable to the Seller in the sum of One Hundred Thousand (\$100,000.00) Dollars representing the Bid Security under the RFB (hereinafter "Escrowed Funds").

3. **Escrow.** The Escrowed Funds shall be held by Escrow Agent, in a non-interest bearing account maintained by Escrow Agent. The Escrow Agent shall hold and disburse said Escrowed Funds in accordance with the RFB and any subsequent agreements to be entered between Seller and Purchaser regarding the sale of the Facilities, and a copy of any such agreements shall be provided to Escrow Agent. The Escrow Agent shall deliver the Escrowed Funds to the party entitled to receive same pursuant to the terms of the RFB, any subsequent agreements between the parties, and in accordance with the provisions of this Agreement. Purchaser and Seller shall provide the Escrow Agent with a copy of any amendments or modifications to any agreement, which affect the subject matter of this Agreement, promptly upon the execution thereof.

4. **Payment of Bid Security by Escrow Agent.** Escrow Agent shall hold the Escrowed Funds until such time as either: (a) Closing on Purchaser's purchase of the Facilities, at which time the Escrowed Funds will be disbursed in accordance with the agreements; or (b) Purchaser and Seller agree in writing to instructions for Escrow Agent's release of the Escrowed Funds; or (c) a court of competent jurisdiction orders Escrow Agent to release the Escrowed Funds in a manner directed by such court; or (d) Escrow Agent, in its sole and total discretion, elects to pay the Escrowed Funds into court, which shall be a complete release of Escrow Agent from all parties hereto.

5. **Reliance.** The Escrow Agent may act upon any instrument or other writing believed by it in good faith to be genuine and to be signed and presented by the proper person and shall not be liable in connection with the performance of any duties imposed upon the Escrow Agent by the provisions of this Agreement, except for the Escrow Agent's own willful misconduct or gross negligence. The Escrow Agent shall have no duties or responsibilities except those set forth in this Agreement.

6. **Hold Harmless.** Purchaser and Seller agree to hold Escrow Agent harmless and, provided that Escrow Agent is not in breach of this Agreement, not to institute or commence any action or suit whatsoever against Escrow Agent for the payment of Escrowed

Funds, or any part of the Escrowed Funds, and that all legal action with respect to the Escrowed Funds shall be directly between Purchaser and Seller.

7. Governing Law. This Agreement of Sale shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The sole jurisdiction for all claims and any actions related hereto shall be in Court of Common Pleas of Cumberland County, Pennsylvania.

8. Counterparts. This Agreement may be executed in multiple counterparts, with each fully executed counterpart deemed to be an original and all such counterparts, taken together, constituting one and the same Agreement. Signatures to this Agreement transmitted by telecopy, facsimile, or electronic mail will be valid and effective to bind the parties that are signing. Each party agrees to promptly deliver any execution original to this Agreement with its actual signature to the Escrow Agent, but failure to do so will not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement will be bound by its own signature sent by telecopy, facsimile, or electronic mail and will accept the signature of the other party so transmitted.


9. Entire Agreement. This Agreement contains the entire Agreement by and between Purchaser and Seller with respect to the subject matter set forth herein and supersedes any prior oral or written understanding.

[THIS SPACE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Purchaser and Seller, each intending to be legally bound hereby, have caused this Escrow Agreement to be signed and delivered as of the day and year first above written.



Witness

SELLER:
BOROUGH OF NEW CUMBERLAND,
A Pennsylvania municipality

By: 
Print Name: John R. Murray
Title: Borough Council President


Witness

PURCHASER:
PENNSYLVANIA-AMERICAN WATER
COMPANY,
A Pennsylvania for profit corporation

By: 
Print Name: Bernard J. Grandusky
Title: Director of Business Development


Witness

ESCROW AGENT:
JOHNSON, DUFFIE, STEWART &
WEIDNER, P.C.

By: 
John A. Statler, Treasurer

Exhibit B

Form of Assignment of Contracts Agreement

(See Attached)

ASSIGNMENT OF CONTRACTS AGREEMENT

THIS ASSIGNMENT OF CONTRACTS AGREEMENT, made and entered into the ____ day of _____, 2016, by and between **THE BOROUGH OF NEW CUMBERLAND**, a public body corporate organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter referred to as "Borough"), and **PENNSYLVANIA-AMERICAN WATER COMPANY**, a Pennsylvania corporation (hereinafter referred to as "PAWC").

WHEREAS, PAWC and Borough are parties to that Asset Purchase Agreement dated as of _____, 2016, whereby PAWC agreed to purchase from Borough the wastewater system owned, maintained and operated by Borough (the "Acquisition Agreement").

WHEREAS, pursuant to the Acquisition Agreement, Borough agreed to sell, assign and transfer to PAWC the contractual rights of Borough related to the contracts, agreements and arrangements identified on Exhibit A attached hereto and made a part hereof (the "Assigned Contracts").

WHEREAS, pursuant to the Acquisition Agreement, Borough is to assign and transfer to PAWC all of Borough's rights, title and interest in and to the Assigned Contracts, and PAWC is to assume Borough's duties and obligations arising after the date hereof under the Assigned Contracts.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Borough hereby assigns and transfers to PAWC all of its rights, title and interest in and to the Assigned Contracts, free and clear of all liens and encumbrances of every kind. In furtherance of the assignment contemplated by this Section 1, Borough warrants that, as of the date hereof, Borough has obtained the consent of the other contracting party (or other contracting parties) to each Assigned Contract, if prior consent is required to assign such Assigned Contract or if such Assigned Contract is, by its terms, not assignable.

2. PAWC hereby assumes all liabilities expressly contained in the Assigned Contracts that are to become due after the date hereof (excluding liabilities for non-performance, breach, default or other circumstances that occurred on or prior to the date hereof).

3. Borough assigns no liabilities of any kind or nature whatsoever to PAWC, and PAWC assumes no such liabilities, hereunder, except for those contained in the express terms of the Assigned Contracts (excluding liabilities for non-performance, breach, default or other circumstances that occurred on or prior to the date hereof).

4. This Assignment and Assumption Agreement shall be binding upon the parties and their respective heirs, successors and assigns.

5. Borough hereby covenants and agrees that it will, upon the request of PAWC, perform, execute and deliver (and cause to be performed, executed and delivered), such and all other instruments, documents, acts, transfers, assignments and assurances as PAWC may reasonably require in order to better assure, confirm and accomplish the purposes and benefits of this Assignment of Contracts Agreement.

6. This instrument shall be construed and governed in accordance with the internal laws of the Commonwealth of Pennsylvania, without giving effect to principles of conflicts of law.

7. This instrument may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

[Remainder of page intentionally left blank and signature page follows]

IN WITNESS WHEREOF, this Assignment of Contracts Agreement has been executed as of the date and year first above written.

WITNESS:

THE BOROUGH OF NEW CUMBERLAND

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

WITNESS:

PENNSYLVANIA-AMERICAN WATER COMPANY

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

Exhibit "A"

Schedule 1.2(d)

List of Machinery, Equipment and Tools that are a part of the Assets

(See Attached)

NEW CUMBERLAND WWTP EQUIPMENT LIST

OFFICE

1. Seven Office Desks
2. One Brother Intelli Fax 4100e
3. Computer – Connected to Plant's Chart Recorder
Tower – Dell Optiplex 380
Monitor – Dell
Printer – HP Office Jet 6100
4. Computer
Tower – Dell Optiplex 7010
Monitor – Dell
5. Computer
Tower – Dell Optiplex 3010
Monitor – Dell
Printer – HP Office Jet Pro 8620
6. SCADA
Tower – Dell Inspiron
Monitor – Dell
Printer – Dell V525W

*Schedule
102 (d)*

LAB

1. Precision Scientific Coliform Incubator
2. Auto-Clave – Heinicke Company
3. Revco BOD Incubator
4. YSI Dissolved Oxygen Meter
5. Hach – PH Meter
6. Lab Line Oven
7. Thermolyne Furnace
8. Mettler H31 Scale
9. Small Whirlpool Fridge
10. Corning MP-3A Distiller

TOOLS

1. Flat Shovels, Snow Shovels, and Spade Shovels
2. Rakes
3. Picks
4. Ratchet Sets
5. Pipe Wrenches
6. Miscellaneous Hand Tools
7. Craftsman Tool Box
8. Drill Press
9. Chop Saw
10. Valve Keys
11. Dewalt Battery Operated Drills

4/5/16

NEW CUMBERLAND WWTP EQUIPMENT LIST

VEHICLES

1. 2000 Ford Sedan
2. 2011 Chevrolet 2500 Silverado Utility Truck with Meyer 8 foot Plow
3. 2012 Chevrolet 3500 Pick-Up Truck with Meyer 8 foot Plow
4. 2012 International Vac-Con Truck

COLLECTION INSPECTION SYSTEM

1. 2006 Pace American Tandem Axel Trailer – 7 Feet X 14 Feet
2. Aries TV Pipe Line Inspection System with Camera Crawler
3. Aries TV Lateral Launcher with Camera, Reel and Controller
4. Hand Push Camera with 200 feet Cable Reel
5. Three Flow-Dar Manhole Meters and Loggers

PORTABLE PUMPS

1. 6" Gorman Rupp Pump
2. Two 4" Gorman Rupp Pumps
3. Two 3" Gorman Rupp Pumps
4. Two 2" Gorman Rupp Pumps

SAFETY EQUIPMENT

1. Five MAS Air Packs – MDL 54471 with 9 Cylinders
2. One NMAS Air Pack – MDL 74471
3. Three Safety Harnesses

YALE FORKLIFT – 4,650 Pounds Maximum Lift

MISCELLANEOUS EQUIPMENT

1. MSA Gas Meter
2. Tri-Pod with Winch
3. Metal and Wood Ramps
4. Wheel Barrows
5. Ladders
6. Scaffolding
7. Large Portable Fan
8. Power Smoker for Smoke Testing Collection System
9. Wright Way Electric Hoist
10. Portable I Beam – 2,000 Pounds Capacity
11. Hydraulic Lifting Table – 2,000 Pounds Capacity
12. Craftsman 33 Gallon Air Compressor
13. Acetylene Gas Torches
14. Airco Welder
15. Gas Power Valve Operator
16. Small Sump Pumps
17. Weed Trimmers

NEW CUMBERLAND WWTP EQUIPMENT LIST

18. Bush Trimmer
19. Gas Blower
20. Husqvarna Chain Saw
21. Hand Dolly
22. 10 Ton Hydraulic Body Repair Kit
23. Manhole Samplers
24. Pump Hoses
25. Miscellaneous Plastic Pipe
26. Shop Vacs
27. Electric Battery Charger
28. Portable Battery Charger
29. Portable Tri-Stand / Pipe Threader and Pipe Oiler
30. Creepers
31. Hobart Welder
32. Two Small Toro Snow Blowers
33. Honda Track Snow Blower
34. Two Push Mowers
35. John Deere Riding Mower 727
36. Two Pressure Washers
37. Two Electric Hoists
38. One Two Ton Manual Hoist
39. One Portable Hoist
40. Ridgid Electric Drain Opener
41. No Parking Signs
42. Miscellaneous Fernco Pipe Couplers
43. Miscellaneous Plastic Sewer Main Pipe Couplers
44. Spare GR Pump Parts
45. Spare EQ Sump Pump
46. Spare Scum Pit Pump
47. Spare Rotating Assemblies
48. Spare Ditch Mixer
49. Spare Anaerobic Mixer
50. Spare Anoxic Mixer
51. Miscellaneous Pipe Plug Sizes -- 10 inch, 8 inch, 6 inch and 4 inch
52. Different Size Pump Hoses
53. 10 Ton Bearing Press
54. ELECTRIC CABLE REEL
55. SHORING & PUMP V-f-46

Schedule 1.4

List of Excluded Assets

- Motorola Radio Base MaxTrac
- Three two-way Motorola radios mounted in three vehicles

Schedule 4.1(b)

Assets Subject to Leasehold Interest

NONE

Schedule 4.1(h)

Free Sewer Service

- Borough of New Cumberland Office Building
- Borough of New Cumberland Fire Company
- Borough of New Cumberland Library
- Borough of New Cumberland River Rescue
- Restroom in The Borough of New Cumberland Park
- Borough of New Cumberland Highway Garage
- Will Cole Baseball Park
- Memorial Field, West Shore School District

Schedule 4.1(i)

Undisclosed Liabilities

NONE

Schedule 4.1(k)

List of Contracts

1. Capital Region Water Process Waste Hauling*
 - Discharge processes waste to Capital Region Water's Advanced Wastewater Treatment Facility
2. Penn Waste, Inc.*
 - Disposal of Centrifuge Solids
3. Modern Landfill (to be maintained by Borough on an as-needed basis through and until the Closing Date)
 - Disposal of Centrifuge Solids
4. Suburban Testing Labs
 - NPDES Analysis
5. Kruger, Inc.
 - PLC Disclosure Agreement for SCADA computer system program
6. WIN-911 Software Annual Renewal
 - Annual renewal of software maintenance and support
7. DynaTech Industries*
 - Generator maintenance agreement
8. Three Firestone Red Shield Roofing System Limited Warranties*
 - Warranty No. RO062619 (Wastewater Treatment Plant)*
 - Warranty No. RD130843 (Walnut Alley Sewer Pump Station)*
 - Warranty No. RD124210 (Carlisle Road Pump Station)*
9. Sewer Agreement with Lower Allen Township and #90, #92, and #94 residents of Poplar Avenue
10. Comcast Cable Service to Wastewater Treatment Plant
11. Verizon Phone Service to Wastewater Treatment Plant

Schedule 4.1(k)(i)

Refund Arrangements

NONE

Schedule 4.1(l)(i)

Rights in Real Property and Leases

New Cumberland Borough Wastewater Treatment Plant Site

- Parcel B ID# 26-23-0541-225EX (to be subdivided and separated from Borough's larger parcel); Deed Book 0029F, page 845, Tract No. 3
- Parcel C ID# 26-23-0541-225EX; Deed Book 00228-00221 (1.23 acres added)

Walnut Alley Sewer Pumping Station

- Parcel ID# 25-25-006-338EX; Deed Book 0029F-00845, Tract No. 2 (reference Deed Book 0014P-00165)

Carlisle Road Sewer Pumping Station

- Parcel ID# 13-23-0545-344EX; Deed Book 0029F-00849

Drexel Hills Park Sewer Pumping Station

- Parcel ID# 26-24-0809-227EX; Deed Book 0029F-00845, Tract No. 1

Schedule 4.1(I)(ii)

Easements and Rights of Way

1. Agreement with The Northern Central Railway Company and The Pennsylvania Railroad Company
 - Occupancy and maintenance of combined sewer outfall and stormwater
2. Sewer Easement, Right of Way and Maintenance Agreement; Security Systems Savings, Inc.
 - Sewer line easement

All other remaining easements and rights of ways are to be provided by THE BOROUGH OF NEW CUMBERLAND – Listed by Parties, dates of Agreement, Deed Book/Page #

Schedule 4.1(l)(iv)

Options and Rights of First Refusal

NONE

Schedule 4.1(l)(v)

Taxes and Assessments

NONE

Schedule 4.1(l)(vi)

Necessary Repairs to Real Property

NONE

Schedule 4.1(m)

Litigation

NONE

Schedule 4.1(p)

Violations of Law

NONE

Schedule 4.1(q)

Permits

List of Permits and Compliance with Laws Generally

- NPDES – PA0026654

Schedule 4.1(r)(iv)

Environmental Conditions

NONE

Schedule 4.1(t)

Extension Deposit Agreements

NONE

Schedule 5.1(c)

Assigned Contracts

The contracts listed as Item No.'s 1 through 9 on Schedule 4.1(k)

Schedule 6.7

Borough of New Cumberland's Rates

to be adopted by PAWC as its base rates effective at Closing

All Customers:

	<u>Borough of New Cumberland</u>	<u>Under PAWC</u>
Customer Charge	\$76.64 Quarterly	\$25.54 Monthly

(Minimum Charge includes first 6,200 gallons per quarter or 2,067 gallons per Month)

Consumption Charge

<u>Borough of New Cumberland - Quarterly</u>		<u>Under PAWC - Monthly</u>	
First 6,200	\$0	First 2,067	\$0
Next 2,800	\$12.01 (per 1,000 gallons)	Next 933	\$1.201 (per 100 gallons)
Next 9,000	\$10.22 (per 1,000 gallons)	Next 3,000	\$1.022 (per 100 gallons)
Next 49,000	\$ 8.18 (per 1,000 gallons)	Next 16,333	\$0.818 (per 100 gallons)
Next 157,000	\$ 6.15 (per 1,000 gallons)	Next 52,333	\$0.615 (per 100 gallons)
All Over 224,000	\$ 5.14 (per 1,000 gallons)	All over 74,667	\$0.514 (per 100 gallons)

PAWC intends to bill on a monthly basis in lieu of quarterly billing.

Schedule 6.9

List of Employees

Job Position/Title

Superintendent

Assistant Superintendent

Operations Supervisor

Operator Class II

Operator Trainee

Schedule 8.1(f)

Form of Opinion of Borough's Counsel

(See Attached)

[COUNSEL LETTERHEAD]

[DATE]

Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Ladies and Gentlemen:

I have acted as counsel for The Borough of New Cumberland ("Seller"), a public body corporate organized and existing under the laws of the Commonwealth of Pennsylvania, in connection with the execution and delivery by Seller of the Asset Purchase Agreement dated _____, __, 2016 between Seller and Pennsylvania-American Water Company ("Buyer"), a Pennsylvania corporation (the "Purchase Agreement"). This opinion is delivered to you pursuant to Paragraph 8.1(f) of the Purchase Agreement. All capitalized terms used herein without definition shall have the respective meanings ascribed to them in the Purchase Agreement unless otherwise noted.

In connection with the opinions expressed below, I have made such examination of law and have examined originals, or copies certified or otherwise identified to my satisfaction, of the Purchase Agreement and all other agreements and instruments related to the Purchase Agreement to which Seller is a party (the "Transaction Documents"), and such documents and records of the Seller, certificates of public officials and of officers of the Seller, and such other documents as I have deemed necessary or appropriate.

Based upon and subject to the foregoing, it is my opinion that as of the date hereof:

1. The Seller is a duly organized political subdivision and municipality of the Commonwealth of Pennsylvania, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania, and Seller has the full power and lawful authority to operate the System and the Assets as now operated and to transfer to Buyer the rights, title and interest in and to the Assets.

2. Seller has the full power and lawful authority to enter into the Purchase Agreement and the Transaction Documents and to consummate and perform the transactions contemplated by the Purchase Agreement and the Transaction Documents. Seller has duly and validly authorized the execution, delivery and performance of the Purchase Agreement and the Transaction Documents by all necessary proceedings, and the Purchase Agreement and each of the Transaction Documents constitute the valid and binding obligations of Seller enforceable against it in accordance with their respective terms. The Purchase Agreement and each of the Transaction Documents have been duly and validly executed and delivered.

3. Based upon my review of [list documents and materials reviewed to issue this opinion], no filings or registrations with, notifications to, or authorizations, consents, orders or approvals of, a governmental authority or third party are required to be obtained or made by Seller in connection with the execution, delivery or performance by Seller of the Purchase Agreement or any of the Transaction Documents, or the consummation by Seller of the transactions contemplated thereby, except those which have been obtained on or prior to the date hereto. Based upon the opinion of the Borough's bond counsel dated _____, neither the contemplated transactions, nor the Purchase

Agreement or any of the Transaction Documents will result in the creation of any Encumbrance against the System or any of the Assets.

4. Seller's execution, delivery and performance of, and compliance with, the Purchase Agreement and the Transaction Documents will not violate any law, ordinance or regulation, will not conflict with, to my knowledge, any judgment, order or decree, and will not conflict with or result in a breach of or default under any contract, lease or Permit to which Seller is a party or is otherwise bound or affected, or by which the Assets may be bound or affected. Seller's execution and delivery of the Purchase Agreement and the Transaction Documents, and the consummation of the transactions contemplated thereby, do not violate, conflict with or result in the breach of, or constitute a default under, any term, condition or provision of Seller's articles of incorporation, bylaws or other governing documents, or any instrument, contract, lease, agreement, Permit, certificate or other document to which Seller is a party or is otherwise bound or affected, or by which the Assets may be bound or affected.

5. To my knowledge, Seller is not party to, or subject to the provision of, any material judgment, order, writ, injunction, notice or decree of any court or of any governmental official, agency or instrumentality relating to the System or the Assets.

6. Except as disclosed in the Purchase Agreement, there is no action, suit, claim or litigation, arbitration, proceeding, judgment, injunction, audit or legal, administrative or governmental investigation pending (including any citations, notices, summons or orders), and to my knowledge none are threatened against, pertaining to or affecting the System or any of the Assets (including any such actions, litigation and other claims against Seller) before any court, arbitrator or governmental authority (including any governmental agency board or instrumentality), nor is there any order, writ, injunction or decree of any court, arbitrator or governmental authority, in existence against, pertaining to or affecting the Seller (including its council members and employees), the System or any of the Assets, or which would reasonably be expected to prevent or materially interfere with or delay the Seller's ability to perform its obligations under the Purchase Agreement or any of the Transaction Documents.

Sincerely,

Schedule 8.1(h)

Certification of Financial Information

(See Attached)

Schedule 8.1(h)

Certification of Financial Information

CERTIFICATE AS TO DEBT, CONTRIBUTIONS
AND ADDITIONS AND RETIREMENTS

The undersigned office of the Borough of New Cumberland ("Borough"), with regard to the Asset Purchase Agreement dated _____ 2016 (the "Agreement") between Borough, as Seller, and Pennsylvania-American Water Company ("PAWC"), as Buyer, for the sale of Borough to PAWC of the public wastewater treatment, collection and disposal system now owned by Borough (the "System"), hereby certifies that:

1. The amount of Borough's net outstanding long-term debt or notes related to the System is \$_____.
2. The amount of all unexpired customers' advances for construction and unexpected contributions in aid of construction is \$_____.
3. The additions or retirements to the System during the period [date of Agreement] through the date of this Certificate, together with the cost thereof, are: \$_____.

All of the foregoing statements are true and correct as of the __ day of _____, 20__.

ATTEST:

BOROUGH OF NEW CUMBERLAND

(SEAL)

**PA American Water & Borough of New Cumberland Wastewater
Pro-Forma Balance Sheet
December 31, 2015
(Dollars in thousands)**

	Pro-forma December 31, 2015
Assets	
Cash and cash equivalents	\$ (6,117)
Other current assets	\$ (89,427)
Total property plant and equipment	\$ 3,591,250
Regulatory assets & other L/T Assets	\$ 242,477
Total Assets	\$ 3,917,037
Capitalization and liabilities	
Short Term Debt	\$ 89,393
Current Portion of Long-term Debt	\$ 18,669
Other current liabilities	\$ 136,015
Total Long-term Debt	\$ 1,148,567
Regulatory & other Long Term Liabilities	\$ 973,584
Stockholder's equity	\$ 1,392,787
Contributions in aid of construction	\$ 158,022
Total Capitalization and liabilities	\$ 3,917,037

**PA American Water & Borough of New Cumberland Wastewater
Pro-forma Income Statement for the 12 Months Ended December 31, 2015
(Dollars in thousands)**

	Pro-forma 12 Months Ended December 31, 2015 Proforma	
Operating revenues	\$	615,353
Operating expenses		
Operation and maintenance	\$	200,030
Depreciation and amortization	\$	96,166
General taxes and other	\$	11,497
Total Operating Expenses	\$	307,693
Operating income	\$	307,660
Other income/(expenses)		
Other income, net	\$	(197)
Interest expense, net	\$	(65,810)
Total Other Expenses	\$	(66,007)
Income before income taxes	\$	241,653
Provision for income taxes	\$	98,798
Net income	\$	142,855

PENNSYLVANIA-AMERICAN WATER COMPANY

I, A. L. SWOPE, Secretary of Pennsylvania-American Water Company, a Pennsylvania corporation, (the "Company") DO HEREBY CERTIFY that below are true and correct copies of resolutions duly adopted by the Board of Directors of the Company by Unanimous Consent on May 5, 2016, and that such resolutions have not been amended or rescinded and are still in full force and effect:

RESOLVED, that the proper officers of the Company be, and hereby are, authorized and directed to execute and deliver to the Borough of New Cumberland an agreement to purchase assets of the Borough of New Cumberland's wastewater system; and

RESOLVED, that the proper officers including but not limited to the President or a Vice President of the Company be, and hereby are, authorized and directed to execute and deliver any and all documents, make all filings and do any other thing which they may deem necessary, proper or desirable to effectuate the purposes of the foregoing resolution, and to carry out the closing of the purchase of the Borough of New Cumberland's wastewater system.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of this Company this 6th day of May, 2016.



Secretary

**BOROUGH OF NEW CUMBERLAND
CUMBERLAND COUNTY, PENNSYLVANIA
RESOLUTION 5-2016**

A RESOLUTION of the Borough Council of the Borough of New Cumberland, Cumberland County, Pennsylvania, regarding the sale of the Wastewater Treatment Facilities of the Borough of New Cumberland, including the treatment plant, substations, collection system, certain real estate, and personal property including vehicles and ancillary equipment necessary to the overall plant operations.

WHEREAS, the Pennsylvania Borough Code, Act of February 1, 1965, P. L. 1656, reenacted and amended May 17, 2012, P. L. 262, Act 43 of 2012, Section 1201.1 Real Property, requires no real estate owned by the Borough may be sold except upon approval of Borough Council, by Resolution, to the highest bidder; and

WHEREAS, the Pennsylvania Borough Code, Act of February 1, 1965, P. L. 1656, reenacted and amended May 17, 2012, P. L. 262, Act 43 of 2012, Section 1201.2 Personal Property, requires no personal property owned by the Borough shall be disposed of, by sale or otherwise, except upon approval of Borough Council, by Resolution, to the best responsible bidder; and

WHEREAS, the New Cumberland Borough Council issued Resolution 3-2015 on October 7, 2015 authorizing the exploration of the sale of the Wastewater Treatment Facilities and to obtain a fair market appraisal of the Wastewater Treatment Facilities; and

WHEREAS, the New Cumberland Borough Council, issued a Request for Bids on or about February 1, 2016 seeking proposals for the purchase of the Wastewater Treatment Facilities; and

WHEREAS, the New Cumberland Borough Council, at a public meeting on March 9, 2016, awarded the bid to Pennsylvania-American Water Company based on the bid submission dated March 1, 2016 subject to the parties entering into an Asset Purchase Agreement acceptable to Borough Council; and

WHEREAS, the Borough of New Cumberland and Pennsylvania-American Water Company have negotiated a proposed Asset Purchase Agreement and related transaction documents for the sale of the Wastewater Treatment Facilities consistent with the bid submitted by Pennsylvania-American Water Company on March 1, 2016; and

WHEREAS, the New Cumberland Borough Council, after reviewing the aforesaid Asset Purchase Agreement, desires to proceed with the sale of the Borough of New Cumberland's Wastewater Treatment Facilities.

NOW THEREFORE, BE IT RESOLVED, in consideration of the aforesaid statements and representations, it is hereby resolved by the Borough Council of the Borough of New Cumberland as follows:

Borough Council hereby approves the Asset Purchase Agreement between the Borough of New Cumberland and Pennsylvania-American Water Company, and authorizes and directs the President, Borough Council, and other appropriate Borough officials to execute the Asset

Purchase Agreement and other related transaction documents as recommended by the Solicitor and Borough Engineer required to comply with and complete the transaction contemplated by the Asset Purchase Agreement.

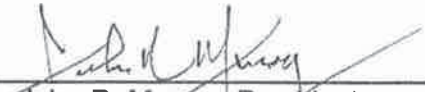
DULY ADOPTED AND RESOLVED by the Borough Council of the Borough of New Cumberland on this 4th day of May, 2016.

ATTEST:

BOROUGH OF NEW CUMBERLAND



Stephen C. Sultzaberger, Secretary

By: 

John R. Murray, President
Borough Council

APPROVED this 4TH day of May, 2016.

By: 

D.J. Landis, Mayor

:778496

Schedule 6.7

Borough of New Cumberland's Rates

to be adopted by PAWC as its base rates effective at Closing

All Customers:

	<u>Borough of New Cumberland</u>	<u>Under PAWC</u>
Customer Charge	\$76.64 Quarterly	\$25.54 Monthly

(Minimum Charge includes first 6,200 gallons per quarter or 2,067 gallons per Month)

Consumption Charge

<u>Borough of New Cumberland - Quarterly</u>		<u>Under PAWC - Monthly</u>	
First 6,200	\$0	First 2,067	\$0
Next 2,800	\$12.01 (per 1,000 gallons)	Next 933	\$1.201 (per 100 gallons)
Next 9,000	\$10.22 (per 1,000 gallons)	Next 3,000	\$1.022 (per 100 gallons)
Next 49,000	\$ 8.18 (per 1,000 gallons)	Next 16,333	\$0.818 (per 100 gallons)
Next 157,000	\$ 6.15 (per 1,000 gallons)	Next 52,333	\$0.615 (per 100 gallons)
All Over 224,000	\$ 5.14 (per 1,000 gallons)	All over 74,667	\$0.514 (per 100 gallons)

PAWC intends to bill on a monthly basis in lieu of quarterly billing.

RATES FOR RATE ZONE 12 - The rates as set forth below will be in effect for all Borough of New Cumberland wastewater customers. (C)

Service Charges:

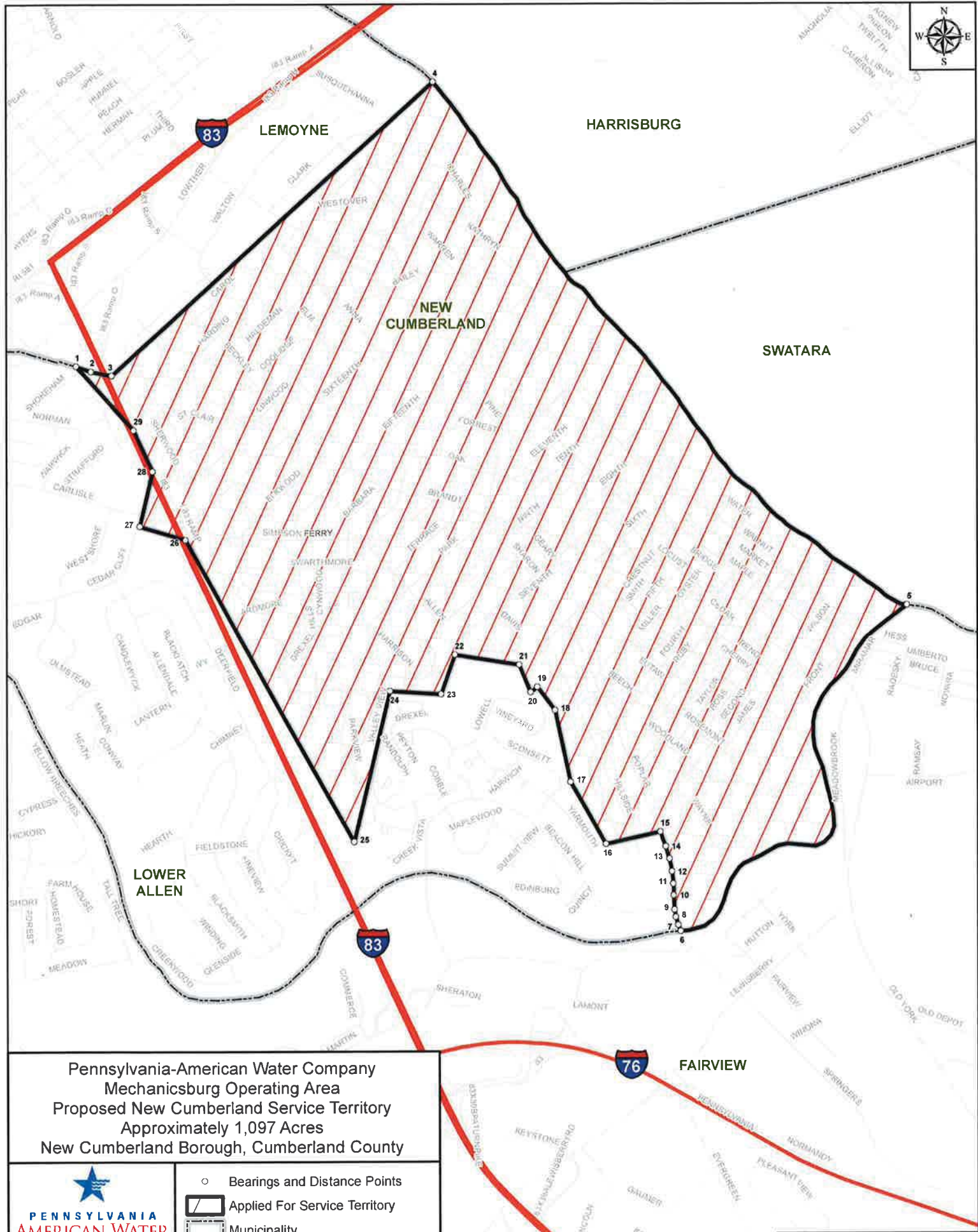
All metered customers shall be subject to a monthly service charge of \$25.54.

Usage Charge For All Bill Classes:

First	2,067 gallons per month	Service Charge
Next	933 gallons per month	\$1.201 per hundred
Next	3,000 gallons per month	\$1.022 per hundred
Next	16,333 gallons per month	\$0.818 per hundred
Next	52,333 gallons per month	\$0.615 per hundred
All over	74,667 gallons per month	\$0.514 per hundred

Issued:

Effective:



Pennsylvania-American Water Company
Mechanicsburg Operating Area
Proposed New Cumberland Service Territory
Approximately 1,097 Acres
New Cumberland Borough, Cumberland County

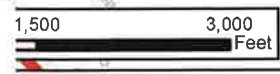


Pennsylvania American Water
 852 Wesley Drive
 Mechanicsburg, PA 17055
 Date: 5/5/2018

- Bearings and Distance Points
- ▭ Applied For Service Territory
- ▭ Municipality

TO BE USED FOR REFERENCE ONLY
 Although every effort has been made to ensure the accuracy of the information, errors from physical sources to develop the Confidential Service Territory may be reflected in

Exhibit K



Disclaimer: Bearings and distances were not developed as a result of a physical survey completed by a Professional Licensed Surveyor, but instead completed through employment of ESRI's ArcGIS COGO tool
*** Bearings and Distances attached separately**

Starting Point: The point at which Lower Allen Township, Lemoyne Borough, and New Cumberland Borough all intersect.

<u>Sequence</u>	<u>From</u>	<u>To</u>	<u>Bearing</u>	<u>Distance(ft)</u>
1	1	2	S70°56'48"E	193.56
2	2	3	S77°47'47"E	256.31
3	3	4	N47°43'56"E	5,314.91
4	4	5		

From Point 4, follow the western shore of the Susquehanna River in a Southeasterly direction approximately 8,609 feet to point 5.

5 5 6

From Point 5 (the confluence of the Susquehanna River and Yellow Breeches Creek),follow the Yellow Breeches Creek upstream in a general Southwesterly direction approximately 4,837 feet to point 6.

6	6	7	N22°50'09"W	82.23
7	7	8	N15°36'39"W	95.32
8	8	9	N10°00'06"W	93.09
9	9	10	N3°07'30"W	176.56
10	10	11	N1°50'22"W	136.99
11	11	12	N7°18'19"W	150.48
12	12	13	N10°47'28"W	157.59
13	13	14	N16°02'07"W	158.60
14	14	15	N20°19'42"W	189.32
15	15	16	S77°26'49"W	682.07
16	16	17	N29°24'16"W	867.35
17	17	18	N12°10'35"W	895.08
18	18	19	N36°55'56"W	354.59
19	19	20	S52°57'22"W	102.10
20	20	21	N22°32'53"W	358.51
21	21	22	N80°55'27"W	802.73
22	22	23	S19°15'27"W	510.44
23	23	24	N85°58'58"W	624.55
24	24	25	S13°33'04"W	1,889.28
25	25	26	N29°07'56"W	4,213.33
26	26	27	N73°37'33"W	578.58
27	27	28	N13°11'59"E	691.67
28	28	29	N24°56'04"W	551.35
29	29	1	N41°58'27"W	1,047.40

Description of Borough's Service Area

The Borough of New Cumberland Wastewater System is a municipal system owned and operated by The Borough of New Cumberland providing wastewater services to approximately 3,100 customers located entirely within New Cumberland Borough, Cumberland County. The Borough of New Cumberland Wastewater Assets include one (1) wastewater treatment plant, three (3) pump stations and a sewer collection system. The exact service area is reflected on a map contained in Exhibit K. The service area is identified by planar coordinates based on Pennsylvania State Plane System.

AGREEMENT

THIS AGREEMENT, made as of this 29TH day of MARCH, 1995, by and among LOWER ALLEN TOWNSHIP AUTHORITY, a Pennsylvania municipal authority having its principal office at 120 Limekiln Road, New Cumberland, Pennsylvania (herein "AUTHORITY"), MELVIN K. JOHNSON and HELEN S. JOHNSON, his wife, of Lower Allen Township, Cumberland County, Pennsylvania (herein "JOHNSONS"), GRACE MARGARET SWIFT, of Lower Allen Township, Cumberland County, Pennsylvania (herein "SWIFT") and RICHARD M. SPOHN, JR. and RENEE SPOHN, his wife, of New Cumberland, Cumberland County, Pennsylvania, and BOROUGH OF NEW CUMBERLAND, a Pennsylvania municipal corporation, having its principal office at 1120 Market Street, New Cumberland, Cumberland County, Pennsylvania (herein "BOROUGH").

WITNESSETH:

WHEREAS, RICHARD M. SPOHN, JR. and RENEE SPOHN, his wife, (herein "SPOHNS") are the owners of the house and lot situate at 94 Poplar Avenue, Lower Allen Township, Cumberland County, Pennsylvania, more particularly bounded and described as set forth in Cumberland County Deed Book Y-27-387, tax parcel number 13-25-0008-068 (herein "SPOHN PROPERTY"); and

WHEREAS, GRACE MARGARET SWIFT, (herein "SWIFT") is the owner of the house and lot situate at 92 Poplar Avenue, Lower Allen Township, Cumberland County, Pennsylvania, more particularly bounded and described as set forth in Cumberland County Deed Book C-21-76, tax parcel number 13-25-0008-067 (herein "SWIFT

PROPERTY"), and has entered into an Agreement made as of May 5, 1994, with AUTHORITY dealing with the PROJECT; and

WHEREAS, MELVIN K. JOHNSON and HELEN S. JOHNSON, his wife, (herein "JOHNSONS") are the owners of the house and lot situate at 90 Poplar Avenue, Lower Allen Township, Cumberland County, Pennsylvania, more particularly bounded and described as set forth in Cumberland County Deed Book F-22-8, tax parcel number 13-25-0008-066 (herein "JOHNSON PROPERTY"), and have entered into an Agreement made as of May 5, 1994, with AUTHORITY dealing with the PROJECT; and

WHEREAS, SPOHNS, SWIFT and JOHNSONS have made application to AUTHORITY for permission to construct or cause to be constructed, at the sole cost and expense of SPOHNS, SWIFT and JOHNSONS, a force main in the right-of-way of Poplar Avenue (herein "PROJECT") and then to connect same to the existing sanitary sewer collection, transportation and treatment system of BOROUGH, such application having been made after SPOHNS, SWIFT and JOHNSONS have received information from officials of AUTHORITY as to the optional methods by which such construction and connection may be accomplished and the relative costs and expenses thereof under the uniform rules and regulations of the AUTHORITY and Ordinances of Lower Allen Township and of BOROUGH; and

WHEREAS, AUTHORITY and BOROUGH acknowledge that SPOHNS, SWIFT and JOHNSONS desire sanitary sewer service from BOROUGH due to the location of the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY

which are within approximately 300 feet of the sanitary sewer system of BOROUGH and are approximately 2,800 feet from the sanitary sewer system of AUTHORITY; and

WHEREAS, AUTHORITY and BOROUGH acknowledge that SPOHNS, SWIFT and JOHNSONS propose to construct or cause to be constructed the PROJECT; and

WHEREAS, BOROUGH is willing to permit the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY to connect to the sanitary sewer collection system of BOROUGH if AUTHORITY agrees to own and repair, operate and maintain and replace the force main and all parts and appurtenances thereof; and

WHEREAS, AUTHORITY and BOROUGH agree that SPOHNS, SWIFT and JOHNSONS will construct or cause to be constructed and be responsible for repair, operation and maintenance or replacement of the force main up to the point of connection with the sanitary sewer collection system of BOROUGH as set forth in the plans and specifications attached hereto.

NOW, THEREFORE, AUTHORITY, BOROUGH, SPOHNS, SWIFT and JOHNSONS, intending to be legally bound according to law, mutually agree as follows:

1. AUTHORITY shall require SPOHNS, SWIFT and JOHNSONS, at their sole cost and expense, to prepare, by qualified professional engineering personnel, detailed plans and specifications for the proposed connection in accordance with all applicable rules and

regulations of AUTHORITY and Ordinances of Lower Allen Township and BOROUGH, as follows:

(a) Said plans and specifications shall be drawn or imprinted upon sheets of the same size and dimensions, shall be drawn to the same scale and shall incorporate the same data as the plans and specifications, as amended and supplemented, of the existing sewer system of BOROUGH.

(b) The plans and specifications of SPOHNS, SWIFT and JOHNSONS, shall be furnished to the Manager of AUTHORITY and Manager of BOROUGH in at least three (3) copies.

(c) Upon receipt of such plans and specifications, AUTHORITY shall cause same to be submitted to the Consulting Engineer of AUTHORITY and to Consulting Engineer of BOROUGH. Said plans and specifications shall be revised or amended, if necessary, until they are [unequivocally approved by the Consulting Engineer of AUTHORITY and Consulting Engineer of BOROUGH as providing for a connection of a type and nature and so planned and to be constructed as to readily become an integral part of the sanitary sewer system of BOROUGH.]

(d) Promptly upon receipt of the approval of the Consulting Engineer of AUTHORITY and Consulting Engineer of BOROUGH, the approved plans and specifications shall be submitted by the AUTHORITY to DER together with a permit application with respect thereto. Upon receipt of such permit and upon compliance by SPOHNS, SWIFT and JOHNSONS with all

rules and regulations of AUTHORITY and ordinances of Lower Allen Township and the BOROUGH, AUTHORITY will notify SPOHNS, SWIFT and JOHNSONS that work may be started on the PROJECT.

2. SPOHNS, SWIFT and JOHNSONS shall construct or cause to be constructed the force main and grinder pump according to the approved plans and specifications, and AUTHORITY and BOROUGH shall have no responsibility or liability for payment for any part of the cost or expenses arising out of or relating to construction or labor, materials and equipment used therein or thereon, or for injury or damage to any person or property occurring upon or associated with the construction of the PROJECT.

3. To the extent permitted by law, AUTHORITY will apply for a Highway Occupancy Permit from the Pennsylvania Department of Transportation (herein "PennDOT") in the name of AUTHORITY and post such bond as may be required. SPOHNS, SWIFT and JOHNSONS shall pay all charges and fees, including but not limited to any premium by a bonding company with respect to the issuance of any necessary bond and inspection fees of PennDOT, AUTHORITY, and BOROUGH. In addition, SPOHNS, SWIFT and JOHNSONS shall comply with the following conditions and terms:

(a) SPOHNS, SWIFT and JOHNSONS, regardless of whether the work is performed by SPOHNS, SWIFT or JOHNSONS or by a contractor for SPOHNS, SWIFT or JOHNSONS, shall fully indemnify and save harmless and defend PennDOT, the AUTHORITY and BOROUGH, its agents, employees, members, solicitors,

consulting engineer, of and from any liability for damage or injury occurring to any person or property through or in consequence of any act or omission of SPOHNS, SWIFT or JOHNSONS, any contractor, agent, servant, employee, or person engaged or engaged in, about, or upon, the work by, at the instance, with the approval of, or consent of SPOHNS, SWIFT or JOHNSONS, or their contractor or subcontractor, for any failure to comply with the permit or terms and provisions of 67 Pa. Code Ch. 459. SPOHNS, SWIFT and JOHNSONS shall have PennDOT, AUTHORITY, and BOROUGH added as additional insureds to their or their contractor's insurance policy to secure the SPOHNS, SWIFT and JOHNSONS' indemnification of PennDOT, AUTHORITY and BOROUGH for property damage or personal injury under this paragraph. The coverage of PennDOT, AUTHORITY and BOROUGH as an additional insured shall be limited to the acts or omissions of SPOHNS, SWIFT and JOHNSONS or their contractor, as hereinbefore described. The amount of insurance shall be at least Two Hundred Fifty Thousand (\$250,000.00) Dollars per person and at least One Million \$1,000,000.00) Dollars per occurrence, or other statutory limitation on damages as the General Assembly may establish. The policy shall be of a duration satisfactory to PennDOT, AUTHORITY, and BOROUGH. Upon request, SPOHNS, SWIFT and JOHNSON shall deliver to the District Office of PennDOT,

AUTHORITY, and BOROUGH certificates of insurance evidencing that the coverage required hereunder has been obtained.

(b) Work authorized by the permit is subject to:

(1) Applicable laws, rules and regulations, including but not limited to:

(A) The act of October 26, 1972 (P.L. 1017, No. 247) (53 P.S. §1611), concerning environmental control measures related to pollution and the preservation of public natural resources.

(B) The act of December 10, 1974 (P.L. 852, No. 287) (73 P.S. §§176-182), concerning protection of the public health and safety by preventing excavation or demolition work from damaging underground utility facilities.

(C) The Clean Streams Law (35 P.S. §§691.1-691.1001).

(D) O.S.H.A. construction safety and health regulations at 29 CFR 1926.1-1926.1051.

(E) Title VI, Civil Rights Act of 1964 (23 U.S.C. §§140 and 315) and implementing regulations.

(F) The Federal Highway Program Manual-- Volume 6, Chapter 6, section 3.

(G) Title 66 of the *Pennsylvania Consolidated Statutes* §§ 2701-2706 (relating to railroads), in instances where the Pennsylvania Public Utility

Commission has taken jurisdiction of a public rail-highway crossing.

(2) The rights of any person.

(3) The conditions, restrictions and provisions of the permit.

(c) Work shall conform to PennDOT standards, including the following:

(1) The work shall be done at a time and in a manner consistent with the safety of the public and conform to requirements and standards of PennDOT, including, but not limited to, Publication 408.

(2) Highway materials shall be obtained from PennDOT approved sources which are identified in current PennDOT Publication Numbers 34, 35, 41 and 42. Upon request, SPOHNS, SWIFT and JOHNSONS shall make available for review certifications for backfill and restoration materials placed within the approved area.

(3) If it is found by PennDOT that the work is not being done or has not been properly performed, SPOHNS, SWIFT and JOHNSONS shall promptly take the necessary steps, at their own expense, to place the work in condition to conform to the requirements or standards.

(4) If a dispute arises between SPOHNS, SWIFT or JOHNSONS and PennDOT's inspector, PennDOT's inspector has

the authority to suspend work until the question at issue may be referred to and decided by the district office.

(c) SPOHNS, SWIFT and JOHNSONS' responsibilities include the following:

(1) SPOHNS, SWIFT and JOHNSONS shall pay the costs and expenses incident to or arising from the PROJECT, including the prescribed fees for the PROJECT, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration. SPOHNS, SWIFT and JOHNSONS shall reimburse PennDOT for inspection costs which PennDOT deems necessary to incur within 30 days after receipt of PennDOT's invoice.

(2) At the end of a workday, an opening in the right-of-way shall be covered, backfilled or protected under 67 Pa. Code §459.8(d)(2) (relating to special conditions--subsurface operations). If work is stopped on the PROJECT, other than at the end of a normal workday, SPOHNS, SWIFT and JOHNSONS shall promptly backfill the opening and restore the surface, and work may not be resumed until SPOHNS, SWIFT or JOHNSONS are prepared to proceed with the work to its completion. If SPOHNS, SWIFT and JOHNSONS fail to backfill the opening or proceed until completion of the work, PennDOT reserves the right to do the work upon notice to SPOHNS, SWIFT and JOHNSONS, where practicable, and shall be reimbursed for

the costs by SPOHNS, SWIFT and JOHNSONS within 30 days after receipt of PennDOT's invoice.

(3) If SPOHNS, SWIFT and JOHNSONS, after making an opening in the surface to replace or repair a facility or for another purpose, fail to restore a portion of the right-of-way to conform with §459.7 and §459.8 and §459.9 (relating to special conditions, above-ground facilities), PennDOT reserves the right to do the work upon notice to SPOHNS, SWIFT and JOHNSONS, if practicable, and SPOHNS, SWIFT and JOHNSONS shall reimburse PennDOT for the costs within 30 days after receipt of PennDOT's invoice.

(4) If backfill or restoration work will be performed for SPOHNS, SWIFT and JOHNSONS by a contractor, SPOHNS, SWIFT and JOHNSONS shall identify to PennDOT both its contractor and its inspector-in-charge who shall be assigned to monitor backfill and restoration work performed within the improved area. SPOHNS, SWIFT and JOHNSONS' inspector-in-charge, as well as SPOHNS, SWIFT and JOHNSONS, are responsible for ensuring work is performed in compliance with the permit, 67 Pa. Code Ch. 459, and Publication 408 and Design Manual, Parts 2 and 5.

(5) SPOHNS, SWIFT and JOHNSONS shall verify that no person debarred under 67 Pa. Code §459.3(1) (relating to

permit application procedure) is allowed to perform permitted work or direct permitted work within State highway right-of-way.

(6) SPOHNS, SWIFT and JOHNSONS shall notify the district office at least 3 full workdays prior to the start of work when the permit identifies that the permitted work will be inspected on a more than spot inspection basis.

(d) Altering drainage shall be prohibited by the following conditions:

(1) Unless specifically authorized by the permit, SPOHNS, SWIFT and JOHNSONS may not:

(A) Alter the existing drainage pattern or the existing flow of drainage water.

(B) Direct additional drainage of surface water toward, onto, or into or in any way affect the highway right-of-way or highway facilities.

(2) The permit does not authorize SPOHNS, SWIFT and JOHNSONS to direct, divert or otherwise drain surface waters over the property of another property owner.

(A) The permit does not relieve SPOHNS, SWIFT and JOHNSONS from acquiring the consent, permission or other authorization from a property owner who may be adversely affected by drainage alterations.

(B) SPOHNS, SWIFT and JOHNSONS are responsible for damage caused to property owners as a result of work done under the permit.

(e) Poplar Avenue shall be protected in accordance with the following:

(1) To protect the pavement and shoulders, equipment shall have rubber wheels or runners and have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.

(2) If other than rubber equipped machinery or equipment is used, the pavement and shoulders shall be protected from equipment damage by the use of matting or other suitable protective material, unless SPOHNS, SWIFT and JOHNSONS request, in writing, a waiver from the use of protective material, thereby acknowledging their obligation and commitment to repair or reconstruct the pavement and shoulder, if damaged, to its former condition.

(3) If the equipment damages the pavement or shoulders, SPOHNS, SWIFT and JOHNSONS shall restore the damaged pavement or shoulder, or both, to its former condition, in a manner authorized by the district office.

(4) The district office may authorize SPOHNS, SWIFT and JOHNSONS to restore the pavement or shoulder from

superficial surface damage with a seal coat or surface treatment.

(f) Maintenance and protection of traffic shall be carried out by SPOHNS, SWIFT and JOHNSONS under 75 Pa.C.S. §6123 (relating to erection of traffic-control devices while working), the approved traffic control plan and the applicable provisions of Chapter 203 (relating to work zone traffic control).

(g) No permit application will be approved for occupancy of a section of right-of-way within which a highway construction or reconstruction project is underway, or if a contract for such a project has been let, until the PROJECT is completed and accepted by PennDOT, unless the application is accompanied by an attested certificate signed by the contractor or other authority constructing the PROJECT, consenting to the proposed work of the applicant within the right-of-way, together with a waiver, release and quitclaim to PennDOT of damages and defenses for delays by reason of that work and occupation of the right-of-way by SPOHNS, SWIFT and JOHNSONS, or from a cause resulting by reason of that work and occupation. This paragraph does not apply:

(1) To an emergency. In an emergency, SPOHNS, SWIFT and JOHNSONS shall procure the consent of PennDOT to do the work as deemed necessary to correct the

existing emergency condition under §459.6 (relating to emergency work).

(2) If SPOHNS, SWIFT and JOHNSONS have been authorized by PennDOT to relocate or adjust their facilities simultaneously with highway construction, under applicable provisions of Design Manual, Part 5.

(h) SPOHNS, SWIFT and JOHNSONS shall obtain, prior to the start of work, a policy of insurance, issued by an insurer having a certificate of authority and a licensed agent authorized to transact the business of insurance in this Commonwealth, in accordance with the following conditions:

(1) SPOHNS, SWIFT and JOHNSONS or their contractor shall obtain insurance for public liability and property damage, in form, amount and duration satisfactory to PennDOT to cover a loss that may be incurred for construction, reconstruction, repair, relocation or installation of the permitted structure or facilities.

(2) If blasting is authorized by the permit under paragraph (i), the insurance coverage shall include property damage and personal injury occasioned by blasting. In addition, the insurance policy shall provide coverage for damage to the highways, highway structures and appurtenances or other PennDOT property and shall be in an amount satisfactory to PennDOT, AUTHORITY and BOROUGH.

(3) Upon request, SPOHNS, SWIFT and JOHNSONS shall deliver to the district office certificates of insurance evidencing that the insurance coverage required under subparagraphs (1) and (2) has been obtained. PennDOT, AUTHORITY and BOROUGH may accept a formalized plan of self-insurance as a substitute for the insurance described in this subparagraph.

(4) SPOHNS, SWIFT and JOHNSONS' obligations to indemnify PennDOT, AUTHORITY and BOROUGH and obtain insurance to secure indemnification under paragraph (g) and its obligations to restore the highway and obtain a bond relating to restoration under paragraph (l) are separate obligations from obtaining insurance for the purposes required under this paragraph. Obtaining insurance under this paragraph does not relieve SPOHNS, SWIFT and JOHNSONS of their obligations under paragraphs (g) and (l).

(i) Blasting requirements include the following:

(1) No predrilling or blasting may be performed within the right-of-way unless authorized by the permit and until SPOHNS, SWIFT and JOHNSONS provide insurance for property damage and public liability under paragraph (h).

(2) The blaster's license number shall be furnished upon request.

(3) No blasting will be permitted within 50 feet of the nearest part of a bridge, box or culvert.

(4) SPOHNS, SWIFT and JOHNSONS' obligation for restoration of the highway under paragraph (1) shall include failure of the highway occasioned by blasting.

(j) As long as SPOHNS, SWIFT and JOHNSONS operate and leave in place structures or facilities, in, upon or along the right-of-way, SPOHNS, SWIFT and JOHNSONS shall maintain and keep them in good order and repair.

(k) If a structure or facility becomes damaged, SPOHNS, SWIFT and JOHNSONS shall promptly have it removed, repaired or otherwise made safe. SPOHNS, SWIFT and JOHNSONS are responsible for repair or restoration of the portion of the highway damaged by a structure or facility. SPOHNS, SWIFT and JOHNSONS' obligation to repair or restore the highway necessitated by a damaged structure or facility under this paragraph is separate from the obligations to restore the highway and obtain a bond relating to restoration and maintenance of the highway under §459.5(b) (relating to issuance of permits). Compliance with paragraph (1) does not relieve the SPOHNS, SWIFT and JOHNSONS of its obligations under this paragraph.

(l) Responsibility of SPOHNS, SWIFT and JOHNSONS for restoration of the highway includes the following:

(1) If there is a failure of the highway, including a slope or other appurtenance thereto, in the area of the permitted work within 2 years after the acknowledged completion of the permitted work and there is no similar failure of the highway beyond the area of the permitted work, SPOHNS, SWIFT and JOHNSONS have absolute responsibility to make temporary and permanent restoration of this area unless SPOHNS, SWIFT and JOHNSONS deliver clear and convincing evidence to the district office demonstrating that the highway failure was caused by another person.

(2) In situations where SPOHNS, SWIFT and JOHNSONS have the responsibility to restore the highway, including slope or another appurtenance thereto, under subparagraph (1), SPOHNS, SWIFT and JOHNSONS have the duty to restore the improved area in accordance with the permit. If SPOHNS, SWIFT and JOHNSONS fail to restore the improved area properly, PennDOT, AUTHORITY or BOROUGH will have the authority to do the work at the expense of SPOHNS, SWIFT and JOHNSONS. SPOHNS, SWIFT and JOHNSONS shall reimburse PennDOT, AUTHORITY or BOROUGH for the costs within 30 days after receipt of PennDOT, AUTHORITY or BOROUGH's invoice.

(3) The obtaining of a bond, other security or an agreement described in §459.5(b) to secure restoration

costs does not relieve SPOHNS, SWIFT and JOHNSONS of the restoration obligations imposed by subparagraph (1) and (2), nor does it relieve SPOHNS, SWIFT and JOHNSONS of their obligations under paragraphs (g) and (h). The obtaining of a bond, other security or an agreement will not act as a release of SPOHNS, SWIFT and JOHNSONS from liability under principles of tort law with respect to a failure of the highway in the permitted area occurring after the expiration of the bond, other security or agreement.

(m) If in the future the highway is altered for public convenience or necessity, SPOHNS, SWIFT and JOHNSONS shall at their own cost and expense, change or relocate all or a part of the structures or facilities authorized by the permit which interfere with the highway alterations or which is inconsistent with the purpose of the highway alterations.

(n) Acknowledgement, by the inspector of PennDOT, AUTHORITY or BOROUGH that all or part of the permitted work has been completed, does not constitute approval or acceptance of the work or agreement that the work was performed in accordance with the permit. Acknowledgement of completion by the inspector will not act as a release of SPOHNS, SWIFT and JOHNSONS or waiver by PennDOT of its right to seek performance or restitution from SPOHNS, SWIFT and JOHNSONS.

4. During the course of construction, all materials and workmanship shall comply with the approved plans and specifications and shall be subject to the inspection and approval of the designated representative of AUTHORITY or BOROUGH, including the Consulting Engineer of AUTHORITY or BOROUGH. Final inspection shall include air testing, flushing and internal television, if deemed necessary by AUTHORITY or BOROUGH. Upon completion of the construction and prior to connection of the PROJECT to the sanitary sewer collection system of BOROUGH, the professional engineer for SPOHNS, SWIFT and JOHNSONS shall certify, in writing, the satisfactory completion of the PROJECT to AUTHORITY and BOROUGH.

5. To the extent applicable, SPOHNS, SWIFT and JOHNSONS shall comply with or cause their contractor to comply with the provisions of 67 Pa. Code Section 459.8 (dealing with special conditions - subsurface operations).

6. SPOHNS, SWIFT and JOHNSONS agree that the aforesaid construction and installation will be completed within one (1) year from the date hereof.

7. SPOHNS, SWIFT and JOHNSONS shall deposit with the Authority financial security in an amount sufficient to cover the cost of all required improvements. The financial security shall guarantee performance of this Agreement in completion of the improvements by SWIFT and JOHNSONS in strict accordance with the approved Plan, specifications, schedules, plat, rules and regulations of the Authority and DER permit. The financial

security shall be (corporate surety bond) (irrevocable letter of credit) (escrow agreement) in the amount equal to one hundred ten (110%) percent of the costs of the required improvements and estimated cost of eminent domain proceedings for which the financial security is to be posted, if eminent domain proceedings are necessary.

8. The cost of improvements shall be established in the following manner:

(a) By submission to the Authority of a bona fide bid or bids from the contractor or contractors chosen by SPOHNS, SWIFT and JOHNSONS to complete the improvements, or

(b) In the absence of such bona fide bid or bids, the costs shall be established by estimates prepared by the Consulting Engineer.

9. If SPOHNS, SWIFT and JOHNSONS require more than one (1) year from the date of posting of such financial security to complete the required improvements, the amount of such financial security shall be increased by an additional (10%) percent for each one (1) year period beyond the first anniversary date from posting of financial security or to an amount not exceeding one hundred ten (110%) percent of the cost of completing the required improvements as re-established on or about the expiration of the preceding one (1) year period by using the above bidding procedure or, in the absence of such bidding procedure, as established by estimates prepared by the Consulting Engineer. Any such increase in

financial security shall be delivered to the Authority, not later than the applicable anniversary date, subject to the provisions of this Agreement.

10. If the aforesaid improvements are not completed within said period of time and SPOHNS, SWIFT and JOHNSONS fail to increase the security as provided in paragraph 8 hereof or if the said improvements are not constructed and installed in strict compliance with the provisions of this Agreement or instructions of the Consulting Engineer or applicable laws and regulations of the Commonwealth of Pennsylvania, the corporate surety or financial institution shall immediately turn over to the Authority so much of the financial security as is requested by the Authority in writing so that the Authority may make or complete the aforesaid improvements.

11. The Authority shall be the sole judge as to whether the improvements are constructed and installed in strict accordance with the provisions of this Agreement or instructions of the Authority Engineer.

12. Subject to retention of ten (10%) percent of the estimated cost of the aforesaid improvements, as the work of installing the required improvements proceeds, SPOHNS, SWIFT and JOHNSONS may request the Authority to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such request shall be in writing

addressed to the Authority. The Authority shall have forty-five (45) days from receipt of such request within which to allow the Consulting Engineer to certify, in writing, to the Authority that such portion of the work upon the improvements has been completed in accordance with the standards and specifications of the Ordinance or the instructions of the Consulting Engineer. Upon such certification, the Authority shall authorize the release by Escrow Agent of an amount estimated by the Consulting Engineer fairly representing the value of the improvements completed, subject to the aforesaid retention of ten (10%) percent of the estimated cost of the aforesaid improvements. If the Authority fails to act within said forty-five (45) day period, the Authority shall be deemed to have approved the release of funds as requested, subject to retention of ten (10%) percent of the estimated cost of the aforesaid improvements.

13. When SPOHNS, SWIFT and JOHNSONS have completed all of the required improvements, SPOHNS, SWIFT and JOHNSONS shall notify the Authority in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Consulting Engineer.

(a) The Consulting Engineer shall, within ten days after receipt of such notice, perform a final inspection of the required improvements.

(b) The Consulting Engineer shall thereupon file a report, in writing, with the Board and shall promptly mail a copy of the same to SPOHNS, SWIFT and JOHNSONS by certified or

registered mail. The report shall be made and mailed within thirty days after receipt of such notice by the Consulting Engineer.

(c) The report shall be detailed and shall indicate approval or rejection of such improvements, or any portion thereof, are not approved or are rejected by the Consulting Engineer, the report shall contain a statement of the reasons for non-approval or rejection.

(d) The Authority shall notify SPOHNS, SWIFT and JOHNSONS in writing by certified or registered mail, of the action of the governing body with relation thereto within fifteen (15) days after receipt of the Consulting Engineer's report.

(e) If the Authority or the Consulting Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and SPOHNS, SWIFT and JOHNSONS shall be released of all liability, except as set forth in paragraphs 12 and 14 hereof.

(f) If any portion of the improvements are not approved or are rejected by the Authority, SPOHNS, SWIFT and JOHNSONS shall proceed to complete the same, and upon completion the same procedure of notification as listed above shall be followed.

14. Prior to the acceptance by the Authority of all or some of the required improvements, SPOHNS, SWIFT and JOHNSONS shall post financial security to secure structural integrity of said improvements as well as the functioning of said improvements in

accordance with the design, specifications, and schedules for a term of eighteen (18) months from the date of acceptance thereof by the Authority.

(a) Said financial security shall be of the same type as required by subsection 4b of the Subdivision and Land Development Resolution of the Authority.

(b) The amount of such financial security shall be fifteen (15%) percent of the actual costs of installation of said improvements.

15. Upon completion of such improvements and as a condition of acceptance by Authority, SPOHNS, SWIFT and JOHNSONS shall submit to Authority an affidavit, waiver of mechanics liens and such other satisfactory evidence as Authority may require, that all labor, material, rental, contractors and subcontractors used, supplied, furnished or employed in the construction of such improvements have been paid.

16. SPOHNS, SWIFT and JOHNSONS shall comply with the following conditions upon completion of the PROJECT:

(a) Cause to be prepared and furnished to AUTHORITY and BOROUGH, at the expense of SPOHNS, SWIFT and JOHNSONS, "as-built" drawings of the completed facilities.

(b) Cause to be prepared, executed, acknowledged and delivered to AUTHORITY, at the sole expense of SPOHNS, SWIFT and JOHNSONS, an appropriate instrument or instruments for the conveyance of the force main and all parts and appurtenances

thereof, as well as all rights, liberties and privileges, including easements and rights-of-way, if any, necessary, to the existence, operation and maintenance thereof, said conveyance to be free and clear of all liens and encumbrances.

17. This Agreement is not intended to and shall not obligate the AUTHORITY or BOROUGH to take by eminent domain proceedings any necessary easement or right-of-way.

18. Upon receipt of said instrument or instruments of transfer, AUTHORITY agrees that the force main and all parts and appurtenances thereof shall be, become and remain the sole, absolute property of AUTHORITY, its successors and assigns, free and clear of all liens, obligations or liabilities in favor of SPOHNS, SWIFT and JOHNSONS, their heirs and assigns, or contractors and their laborers and materialmen, and any of their creditors or in favor of any person or corporation, to the same end and effect as if AUTHORITY constructed the same with its own labor and at its own expense.

19. SPOHNS, SWIFT and JOHNSONS shall perform at any time any required maintenance, repair, or replacement of the force main and all parts and appurtenances thereof, and SPOHNS, SWIFT and JOHNSONS shall be liable and responsible for all damage to any person or property occurring upon, caused by or associated therewith. SPOHNS, SWIFT and JOHNSONS shall pay and be responsible for the cost of maintenance, repair, and operation of said force main and

all parts and appurtenances thereof. In the event that SPOHNS, SWIFT and JOHNSONS fail to comply with the terms and provisions of this paragraph 19, and AUTHORITY pays for the unpaid cost of maintenance, repair, and operation of said force main and all parts and appurtenances thereof, AUTHORITY may institute appropriate legal proceedings against SPOHNS, SWIFT and/or JOHNSONS seeking reimbursement therefor.

20. In the event that gravity sanitary sewer service from AUTHORITY becomes available to the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY, SPOHNS, SWIFT and JOHNSONS shall connect to such service upon written notice thereof from AUTHORITY. In the event the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY connect to any sanitary sewer service other than the sanitary sewer service operated by BOROUGH, this agreement shall become immediately null and void. AUTHORITY, SPOHNS, SWIFT and JOHNSONS agree to assume all responsibility and costs associated with termination and cessation of all sewage flow from the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY to the BOROUGH sanitary sewer collection system at no expense to BOROUGH.

21. AUTHORITY shall require that SPOHNS, SWIFT and JOHNSONS pay BOROUGH for sanitary sewer services as rendered and established in accordance with the rules, regulations, resolutions and Ordinances of BOROUGH which impose charges or fees for sanitary sewer services which will be provided to the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY. In the event either SPOHNS, SWIFT

or JOHNSONS fail to pay BOROUGH for said charges or fees for sanitary sewer services, BOROUGH shall be without prejudice to pursue any action at law or equity against AUTHORITY for recovery of the said charges or fees for sanitary sewer services provided to the SPOHN PROPERTY, SWIFT PROPERTY and JOHNSON PROPERTY. AUTHORITY shall assume full responsibility for failure of SPOHNS, SWIFT and JOHNSONS, their heirs, personal representatives, successors and assigns to pay charges or fees for sanitary sewer service to BOROUGH.

22. AUTHORITY and BOROUGH agree that no other person, corporation, business entity or property within Lower Allen Township shall connect to the PROJECT without specific approval and written agreement executed by SPOHNS, SWIFT, JOHNSONS, AUTHORITY and BOROUGH. In the event AUTHORITY, SPOHNS, SWIFT or JOHNSONS authorize or permit any additional connections to the PROJECT without the specific approval of BOROUGH, any attorney's fees, costs and expenses incurred by BOROUGH through any resulting action in law or equity, including the initiation of injunctive relief by BOROUGH, shall be the responsibility of AUTHORITY, SPOHNS, SWIFT and JOHNSONS.

23. AUTHORITY, SPOHNS, SWIFT and JOHNSONS shall indemnify, save harmless and defend and BOROUGH, their agents; employees, members, solicitors and Consulting Engineers, of and from any and all liability for damage or injury occurring to any person or persons or property through or in consequence of the AUTHORITY'S

ownership of said force main and all parts and appurtenances thereof for any defect or for failure, neglect or refusal of AUTHORITY, SPOHNS, SWIFT and JOHNSONS to maintain, repair, operate, or, if necessary, replace said force main and all parts and appurtenances thereof, including reasonable attorney's fees and costs incurred by BOROUGH with respect thereto. In the event that SPOHNS, SWIFT and JOHNSONS fail to comply with the terms and provisions of this Paragraph 23, and AUTHORITY pays for the items herein set forth, AUTHORITY may institute appropriate legal proceedings against SPOHNS, SWIFT and/or JOHNSONS seeking reimbursement therefor.

24. AUTHORITY shall be responsible for obtaining all PennDOT, DER or other approvals and permits. BOROUGH shall cooperate to the extent necessary to obtain such approvals and permits.

25. In the event of failure of SPOHNS, SWIFT or JOHNSON to complete the PROJECT, AUTHORITY shall not be obligated to complete the PROJECT. If AUTHORITY elects not to complete the PROJECT, restoration of Poplar Avenue shall comply with the terms and provisions of 67 Pa. Code Ch. 459.

26. SPOHNS, SWIFT and JOHNSONS shall pay reasonable charges of the Consulting Engineer of the AUTHORITY and the Consulting Engineer of the BOROUGH for examination and approval of the plans and specifications as referred to in Paragraph 1 hereof, the fees and charges of DER for the Permit referred to in Paragraph 1 hereof, fees and charges of the Pennsylvania Department of

Transportation for permits, licenses, or posting of bond, and premiums for bonding, or additional insurance coverage, the expenses and charges for inspection, testing and flushing as referred to in Paragraph 4 hereof, and the legal expenses of BOROUGH with respect to the preparation and/or review of this Agreement, the aforesaid instrument or instruments of transfer, and any required easements, title searches, or other costs relating to the matters covered herein.

27. AUTHORITY and BOROUGH shall enforce this agreement and that it shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns, as the case may be.

28. The Agreement made as of May 5, 1994, by and between Grace Margaret Swift and Lower Allen Township Authority be and is hereby terminated and declared null and void.

29. The Agreement made as of May 5, 1994, by and between Melvin K. Johnson and Helen S. Johnson, his wife, and Lower Allen Township Authority be and is hereby terminated and declared null and void.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year set forth above.

ATTEST:

(Corporate Seal)

William S. Brown
(Assistant) Secretary

LOWER ALLEN TOWNSHIP AUTHORITY

By: Robert J. Rooney
(Vice) Chairman

ATTEST:

Stephen C. Sultzberger
Stephen C. Sultzberger,
Secretary

COUNCIL OF THE BOROUGH OF NEW CUMBERLAND

By: John R. Murray
John R. Murray, President

WITNESSES:

William S. Brown

William S. Brown

William S. Brown

William S. Brown

William S. Brown

Grace Margaret Swift (SEAL)
Grace Margaret Swift

Melvin K. Johnson (SEAL)
Melvin K. Johnson

Helen S. Johnson (SEAL)
Helen S. Johnson

Richard M. Spohn Jr. (SEAL)
Richard M. Spohn Jr.

Renee Spohn (SEAL)
Renee Spohn

LOWER ALLEN TOWNSHIP AUTHORITY

120 Limekiln Road, New Cumberland, PA 17070-2428
Office: (717) 774-0610 • Fax: (717) 774-2291

May 5, 2016

Kathy L. Pape, President
Pennsylvania American Water Company
800 West Hershey Park Drive
Hershey, PA 17033-2400

Re: Assignment of Sewer Connection Agreement
On Poplar Avenue, Lower Allen Township To
Pennsylvania American Water Company

Dear Ms. Pape:

Pennsylvania American Water Company (PAWC) has advised Lower Allen Township Authority (LATA) of the proposed PAWC acquisition of the Borough of New Cumberland (Borough) wastewater collection, treatment, and disposal system (the Transaction). PAWC has advised LATA that as part of the Transaction, PAWC is seeking an assignment of the Borough's rights and obligations under certain contracts after the date of closing including but not limited to the Sewer Connection Agreement (Agreement) dated March 29, 1995 for Poplar Avenue sanitary sewer service as described below.

Summary of Sewer Connection Agreement Assigned to PAWC

The Property Owners (Lower Allen Township Residents) of 90, 92, and 94 Poplar Avenue in Lower Allen Township, LATA, and the Borough are parties to the March 29, 1995 Agreement providing sanitary sewer service to the Residents by the Borough sewer system. The parties agreed that the Owners are responsible for the individual force main and grinder pump system construction, operation, maintenance, and repair. The individual systems connected to Borough Manhole 342 are shown on the enclosed Sketch Plan. The Owners agreed to pay the Borough for sanitary sewer service rendered in accordance with the rules, regulations, resolutions, and ordinances of the Borough. The Agreement is binding on the heirs, successors, and assigns.

Summary of Effect of Assignment of Sewer Connection Agreement

LATA understands that PAWC will take assignment from the Borough as part of the Transaction and that, after closing, PAWC will provide sanitary sewer service to and impose charges or fees for such service upon the Lower Allen Township Residents consistent with the Public Utility Commission's (PUC) order approving the Transaction and PAWC's effective tariff on file with the PUC.

Exhibit N

Ms. Pape
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May 5, 2016

LATA also understands that PAWC must seek a certificate of public convenience from the PUC granting PAWC the authority to render, furnish, and provide sanitary sewer service to the Lower Allen Township Residents. As a result of PAWC taking assignment from the Borough, and upon the PUC approving PAWC's application for authority, PAWC and LATA will have similar or overlapping rights to provide sanitary sewer service to the Lower Allen Township Residents.


Notwithstanding its authority to provide sanitary sewer service to the public within Lower Allen Township, LATA recognizes that the Borough's sanitary sewer system to be transferred to PAWC is closer to the Lower Allen Township Residents than LATA's system and that continuing the existing arrangement with PAWC as the sanitary sewer service provider rather than the Borough, is the more economical alternative for providing sanitary sewer service to the Lower Allen Township Residents.

For these reasons, LATA does not object to PAWC's taking assignment from the Borough and for continuing to provide sanitary sewer service to and impose charges or fees for such service upon the Lower Allen Township Residents consistent with the PUC's order approving the Transaction and PAWC's effective tariff on file with the PUC.

Furthermore, LATA does not object to PAWC providing a copy of this letter as part of its public application to the PUC whereby PAWC will seek to obtain the PUC's approval via the issuance of a certificate of public convenience granting PAWC the right to offer, render, furnish, and supply sanitary sewer service to three residential properties located at 90, 92, and 94 Poplar Avenue, Lower Allen Township, Cumberland County, Pennsylvania.

If you have any questions, please contact me.

Very truly yours,


John J. Brossman, III, PE
Manager/Engineer

JJB/jmh

Enclosure

Estimated Annual Revenues and Expenses of PAWC
in the Application Territory

Revenues- \$1,655,000

Operating Expenses- \$1,232,000

Exhibit O

PAWC Exhibit BJG-2

Schedule 6.7

Borough of New Cumberland's Rates

to be adopted by PAWC as its base rates effective at Closing

All Customers:

	<u>Borough of New Cumberland</u>	<u>Under PAWC</u>
Customer Charge	\$76.64 Quarterly	\$25.54 Monthly

(Minimum Charge includes first 6,200 gallons per quarter or 2,067 gallons per Month)

Consumption Charge

<u>Borough of New Cumberland - Quarterly</u>		<u>Under PAWC - Monthly</u>	
First 6,200	\$0	First 2,100	\$0
Next 2,800	\$12.01 (per 1,000 gallons)	Next 900	\$1.201 (per 100 gallons)
Next 9,000	\$10.22 (per 1,000 gallons)	Next 3,000	\$1.022 (per 100 gallons)
Next 49,000	\$ 8.18 (per 1,000 gallons)	Next 16,300	\$0.818 (per 100 gallons)
Next 157,000	\$ 6.15 (per 1,000 gallons)	Next 52,300	\$0.615 (per 100 gallons)
All Over 224,000	\$ 5.14 (per 1,000 gallons)	All over 74,600	\$0.514 (per 100 gallons)

PAWC intends to bill on a monthly basis in lieu of quarterly billing.

RATES FOR RATE ZONE 12 - The rates as set forth below will be in effect for all Borough of New Cumberland wastewater customers. (C)

Service Charges:

All metered customers shall be subject to a monthly service charge of \$25.54.

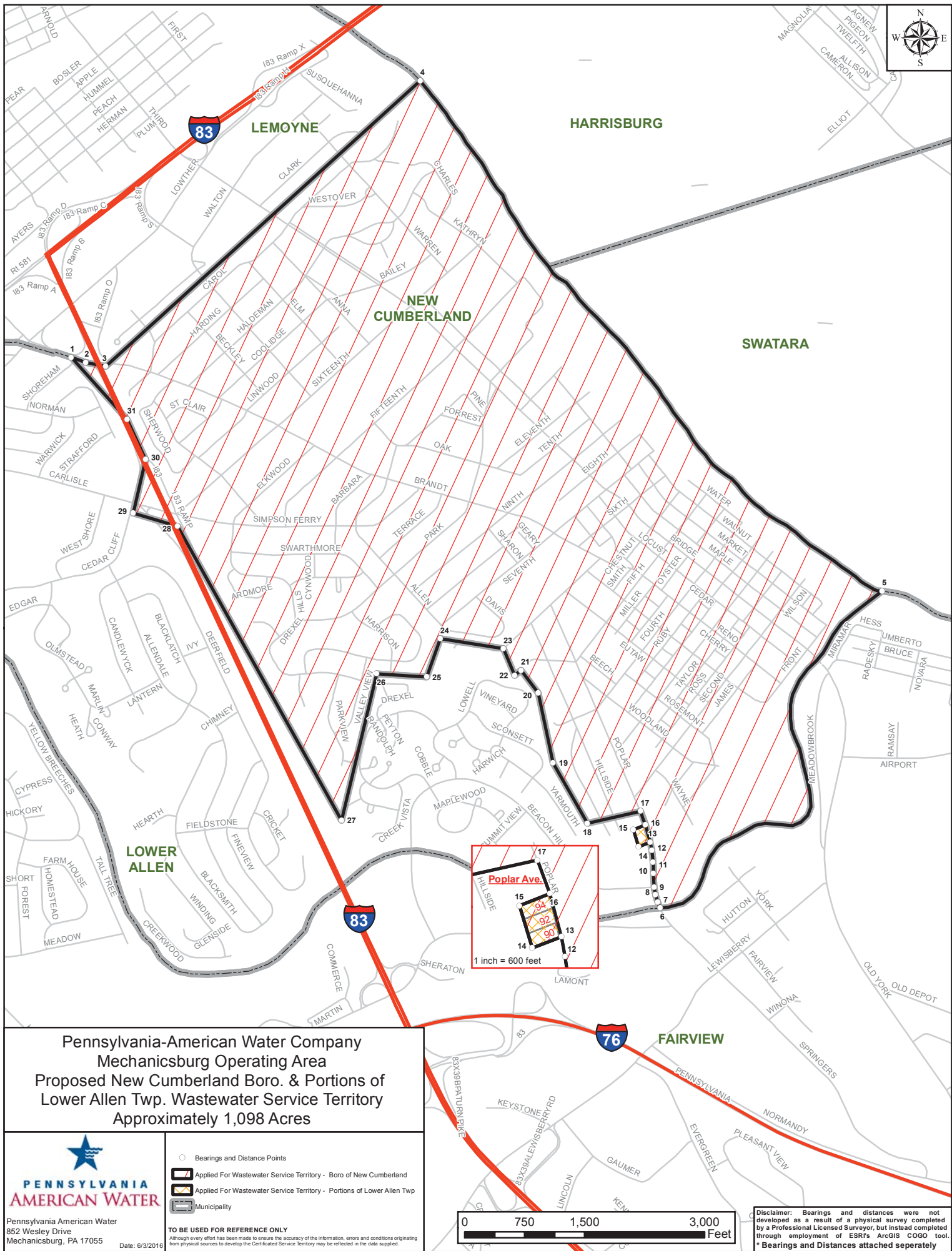
Usage Charge For All Bill Classes:

First	2,100 gallons per month	Service Charge
Next	900 gallons per month	\$1.201 per hundred
Next	3,000 gallons per month	\$1.022 per hundred
Next	16,300 gallons per month	\$0.818 per hundred
Next	52,300 gallons per month	\$0.615 per hundred
All over	74,600 gallons per month	\$0.514 per hundred

Issued:

Effective:

PAWC Exhibit BJG-3



**Pennsylvania-American Water Company
Mechanicsburg Operating Area
Proposed New Cumberland Boro. & Portions
of Lower Allen Twp. Wastewater Service Territory
Approximately 1,098 Acres**



Pennsylvania American Water
852 Wesley Drive
Mechanicsburg, PA 17055

Date: 6/3/2016

- Bearings and Distance Points
- Applied For Wastewater Service Territory - Boro of New Cumberland
- Applied For Wastewater Service Territory - Portions of Lower Allen Twp
- Municipality

TO BE USED FOR REFERENCE ONLY
Although every effort has been made to ensure the accuracy of the information, errors and conditions originating from physical sources to develop the Certificated Service Territory may be reflected in the data supplied.

Disclaimer: Bearings and distances were not developed as a result of a physical survey completed by a Professional Licensed Surveyor, but instead completed through employment of ESRI's ArcGIS COGO tool.
* Bearings and Distances attached separately

Starting Point: The point at which Lower Allen Township, Lemoyne Borough, and New Cumberland Borough all intersect.

<u>Sequence</u>	<u>From</u>	<u>To</u>	<u>Bearing</u>	<u>Distance(ft)</u>
1	1	2	S70°56'09"E	193.52
2	2	3	S77°47'08"E	256.25
3	3	4	N47°44'35"E	5,313.85
4	4	5		

From Point 4, follow the western shore of the Susquehanna River in a Southeasterly direction approximately 8,608 feet to point 5.

5 5 6

From Point 5 (the confluence of the Susquehanna River and Yellow Breeches Creek),follow the Yellow Breeches Creek upstream in a general Southwesterly direction approximately 4,836 feet to point 6.

6	6	7	N22°49'29"W	82.22
7	7	8	N15°35'59"W	95.30
8	8	9	N9°59'25"W	93.07
9	9	10	N3°06'49"W	176.52
10	10	11	N1°49'42"W	136.96
11	11	12	N7°17'38"W	150.45
12	12	13	N10°38'21"W	102.07
13	13	14	S68°54'40"W	155.87
14	14	15	N16°38'36"W	221.81
15	15	16	N68°10'58"E	162.51
16	16	17	N20°19'01"W	178.66
17	17	18	S77°27'30"W	681.92
18	18	19	N29°23'36"W	867.18
19	19	20	N12°09'55"W	894.90
20	20	21	N36°55'16"W	354.52
21	21	22	S52°58'02"W	102.08
22	22	23	N22°32'12"W	358.43
23	23	24	N80°54'47"W	802.57
24	24	25	S19°16'07"W	510.34
25	25	26	N85°58'18"W	624.42
26	26	27	S13°33'44"W	1,888.89
27	27	28	N29°07'16"W	4,212.47
28	28	29	N73°36'54"W	578.47
29	29	30	N13°12'38"E	691.53
30	30	31	N24°55'24"W	551.24
31	31	1	N41°57'47"W	1,047.19