

# **Exhibit “K”**

## AGREEMENT OF SALE

THIS AGREEMENT is made this 8<sup>th</sup> day of October 2013 between SYC WWTP, L.P., a limited partnership of York County, Pennsylvania ("SYC") and The York Water Company, a public utility corporation organized under the laws of the Commonwealth of Pennsylvania, having its principal office in the City of York, York County, Pennsylvania ("York Water").

WHEREAS, SYC is a duly organized limited partnership that owns facilities used for and is engaged in the business of collecting, treating, and disposing wastewater from inhabitants in and around the Townships of Springfield and Shrewsbury (the "Business"); and

WHEREAS, SYC represents and hereby warrants that it has good title to its Wastewater Collection, Pumping and Treatment System as defined in Section 2 and depicted on **APPENDIX A** free and clear of all liens and encumbrances except existing easements, if any; and

WHEREAS, SYC states there are no hidden liens or encumbrances on the Wastewater Collection, Pumping and Treatment System, except as otherwise disclosed by SYC to York Water in writing; and

WHEREAS, SYC declares that it is the owner of the Wastewater Collection, Pumping and Treatment System and has all legal rights to sell the Wastewater Collection, Pumping and Treatment System to York Water; and

WHEREAS, York Water is a Pennsylvania public utility engaged in the business of collecting, treating, storing, supplying, distributing and selling water and collecting, treating, and disposing wastewater to the public in various portions of York and Adams Counties, Pennsylvania; and

WHEREAS, SYC is willing to sell, and York Water is willing to purchase substantially all of the Wastewater Collection, Pumping and Treatment System of SYC (as defined in Paragraph 2.1 of this Agreement); and

WHEREAS, York Water is willing to own and operate such Wastewater Collection, Pumping and Treatment System, subject to York Water's regular rules, regulations and tariffs applicable from time

to time to water and wastewater customers of York Water, including but not limited to the Pennsylvania Public Utility Commission ("Commission"), the Pennsylvania Department of Environmental Protection ("DEP"), as well as other governmental agencies.

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

1. **SALE AND PURCHASE OF ASSETS.** At Closing (as defined in Paragraph 5 of this Agreement), subject to the terms and conditions of this Agreement, SYC shall sell, assign, transfer and convey to York Water and York Water shall purchase the Assets (as defined in Paragraph 2 of this Agreement) for the Purchase Price (as defined in Paragraph 3 of this Agreement).

2. **DESCRIPTION OF ASSETS.** The term "Assets" means the Wastewater Collection, Pumping and Treatment System, as defined in Paragraph 2.1 of this Agreement.

2.1. **Description of Wastewater Collection, Pumping and Treatment System.** The term "Wastewater Collection, Pumping and Treatment System" means all of the physical plant, property, equipment and facilities comprising the existing Wastewater Collection, Pumping and Treatment System owned and operated by SYC, with attendant easements, rights-of-way, real estate and improvements, personal property, fixtures and equipment and goodwill, all as more fully described on **APPENDIX A** hereto attached and made a part hereof, excluding therefrom the Excluded Assets.

2.2. **Excluded Assets.** There is excluded from the sale and SYC reserves unto itself the following (the "Excluded Assets"):

- i. All funds designated as funds of SYC including, specifically, any checking accounts, savings accounts, accounts receivables ("Excluded Receivables"), insurance, prepaid expenses, if any, and other investments related to the Wastewater Collection, Pumping and Treatment System and the provision of wastewater services by SYC; and

- ii. (a) SYC's corporate records, original tax returns, financial statements and such other records as have to do exclusively with Seller's organization or capitalization;
- (b) any notes and accounts receivable or other rights to payment from any source which accrue from the operation of the Business prior to the Closing Date; and (c) the name "SYC WWTP" and all applications and derivations thereof.

### 3. **PURCHASE PRICE AND ALLOCATION.**

3.1. **Purchase Price.** SYC agrees to sell, assign, transfer and convey the Assets to York Water for the consideration of three hundred sixty-five thousand (\$365,000) Dollars.

3.2. **Allocation of the Purchase Price.** The Purchase Price shall be allocated in accordance with APPENDIX B, attached hereto and incorporated herein by reference. For all tax purposes, Buyer and Seller agree to report the transactions contemplated by this Agreement in a manner consistent with the terms of this Agreement, including the allocation of the Purchase Price as provided in EXHIBIT A, and that none of them will take any position inconsistent therewith in any tax return, in any refund claim, in any litigation or otherwise.

3.3. Subject to the provisions of paragraph 7.1. hereof, SYC will take all actions necessary to authorize the sale of the Wastewater Collection, Pumping and Treatment System to York Water, and will prosecute all such actions in good faith and with due diligence.

4. RETAINED LIABILITIES AND ASSUMED LIABILITIES. York Water does not hereby and shall not assume or in any way undertake to pay, perform, satisfy or discharge any liability of SYC existing before, on or after the Closing Date or arising out of any transactions entered into, or any states of facts existing, before, on or after the Closing Date, whether or not related to or arising out of the Business or other assets (the "Retained Liabilities"), except for those liabilities assumed by York Water following the Closing arising from the Commission, DEP, or any other governmental agency having jurisdiction from the operation of the Business (the "Assumed Liabilities"). SYC agrees to pay and

satisfy when due all such Retained Liabilities, and York Water agrees to pay, satisfy and perform when due all such Assumed Liabilities. To the extent York Water receives any Excluded Receivables, York Water shall act as trustee for SYC and collect and remit to SYC, within ten (10) days of York Water's receipt thereof, the Excluded Receivables received by York Water on behalf of SYC on a first invoice out/first payment received basis to the extent such accounts are uncontested and each of the parties shall, within five (5) days of a request by the other party, in writing, deliver to the requesting party an accounting of the Excluded Receivables received by either party.

## 5. REPRESENTATIONS, WARRANTIES AND COVENANTS.

### SYC:

5.1. **Title.** SYC represents and warrants to York Water that it has good title to its Wastewater Collection, Pumping and Treatment System as defined in Section 2 and depicted on **APPENDIX A** free and clear of all liens and encumbrances except existing easements, conditions and restrictions, if any, that do not materially impact the operation of the wastewater system.

5.2. **Capacity/Current Service.** SYC represents and warrants to York Water that as follows: (a) The capacity of the SYC wastewater system is approximately 228 EDUs; (b) SYC is presently serving approximately 11 industrial and 8 commercial wastewater customers on a regular basis which customers use, collectively, 117 EDUs, and (c) SYC is charging a reserved capacity charge to approximately 11 customers who have reserved capacity up to 45 EDUs but are not currently connected to the SYC wastewater system. For purposes of this paragraph 5.2., EDU means "equivalent dwelling unit" and 1 EDU equals 350 gallons.

5.3. **Compliance with Statutes and Regulations.** SYC represents and warrants to York Water that it complies with any and all applicable statutes and regulations relevant to the operation of the Wastewater Collection, Pumping and Treatment System, except as previously disclosed.

5.4. **Outstanding Obligations.** Any existing refunding arrangements, agreements or contracts have been disclosed to York Water and shall remain the obligation of SYC.

5.5. **Delinquency.** SYC represents and warrants that it is not delinquent or in default on any loan.

5.6. **Litigation.** SYC represents and warrants that there is no litigation of any nature, pending or threatened against or involving SYC seeking to restrain or enjoin, or restraining or enjoining, the sale of the Wastewater Collection, Pumping and Treatment System to York Water or the execution and delivery by SYC of this Agreement or the Closing Documents. SYC has received no notice and has no knowledge of any action, claim or proceeding pending or threatened against it.

5.7. **Continuance of Representations and Warranties.** SYC agrees that the foregoing representations and warranties shall be true as of the date of the Agreement and as of the Closing, subject, however, to any changes after the date of the Agreement because of any action expressly contemplated by this Agreement or otherwise approved in writing by York Water. SYC further agrees that its representations and warranties to York Water in this Agreement shall survive closing for a period of two (2) years.

5.8. **Current Ownership.** SYC represents and warrants that it has received legal title to the Wastewater Collection, Pumping and Treatment System, in part, by merger with Exit II WWTP, Inc., with SYC as the surviving entity, and SYC shall indemnify and save York Water harmless for any losses suffered by York Water from any claim by any third party claiming a title or ownership interest in the Wastewater Collection and Treatment System, subject, however, to the condition that York Water shall secure a title insurance policy in an amount equal to the allocated purchase price for Real Estate-Land as set forth in Appendix B hereof.

YORK WATER:

\_\_\_\_\_ 5.9. York Water represents and warrants it has inspected the Wastewater Collection, Pumping and Treatment System, or hereby waives the right to do so, and has agreed to purchase it as a result of such inspection and not because of or in reliance upon any representation not included herein, whether made by SYC or any other officer, partner, or employee of SYC, or by an agent, if any, of SYC or York Water or both. York Water has agreed to purchase the Wastewater Collection, Pumping and Treatment System in its present condition (“AS IS, WHERE IS”) unless otherwise specified herein.

6. **CLOSING.** The Closing shall take place within 30 days after all conditions set forth in Paragraph 7 have been met.

7. **CONDITIONS TO CLOSING.** The obligation of York Water to proceed to Closing is subject to fulfillment of the following further conditions:

7.1. **Regulatory Approvals.** This Agreement is subject to York Water receiving all requisite permits and approvals for the transaction contemplated by this Agreement from the Commission, the DEP, and any and all other applicable authorities having jurisdiction. York Water shall initiate and timely prosecute in good faith and with due diligence, at its sole expense, necessary proceedings to obtain such permits and approvals. SYC agrees to provide such information, documents and assistance as may be reasonably requested by York Water in order to obtain such approvals. York Water shall copy SYC with all filings or notices sent or received by York Water in furtherance of York Water obtaining such regulatory approvals.

8. **CLOSING DOCUMENTS.** At the Closing, SYC shall sell, transfer, assign and convey to York Water the real and personal property described on **APPENDIX A** and shall deliver or cause to be delivered the following documents.

8.1. **Bill of Sale** for the personal property, assignments of the easements and rights-of-way and a special warranty Deed for the real estate conveying title as hereafter set forth, duly executed by SYC in form for recording. Title to the real estate shall be good and marketable and such that a reputable

title company doing business in the Commonwealth of Pennsylvania will insure it at its regular rates. In the event of a title objection, defect, or encumbrance, York Water shall have the right in its sole discretion to demand its removal by SYC or to cancel this transaction, such cancellation to occur only after allowing reasonable time and means for the removal of the objection, defect, or encumbrance. SYC and York Water will split the cost of any realty transfer tax due on the conveyance.

8.2. **Certificates** duly signed by the Manager and Secretary of SYC to the effect that the representations and warranties set forth in Paragraph 4 hereof are true and correct as of the Closing

8.3. **Copies of operating records** relating to the Wastewater Collection and Treatment System as may be reasonably required by York Water including, but not limited to, a copy of the customer list stating the names and addresses of all wastewater users and those customers who have reserved capacity but are not currently connected to the SYC wastewater system.

8.4. **A favorable opinion of counsel** for SYC in the form attached hereto marked APPENDIX C.

8.5. **Covenants of Further Assurances** to the effect that SYC shall from time to time take such further actions and execute and deliver such other documents and instruments at the request and cost of York Water as may be necessary or desirable to give full force and effect to the provisions of the Agreement.

9. **COMMISSION.** No broker's, finder's or agent's fees or commission shall be due or payable by York Water for or in connection with this Agreement for either the sale of the purchase of the Wastewater Collection, Pumping and Treatment System of SYC. York Water represents that it has had no dealing with any broker, or agent in connection with this transaction.

#### 10. **ORDINARY COURSE OF BUSINESS.**

10.1. **Conduct of Business.** At all times between the dates of this Agreement and the Closing, SYC agrees to conduct its business of providing wastewater collection and treatment services

to its wastewater customers and the operation of its Wastewater Collection, Pumping and Treatment System and to keep the books relating thereto in the ordinary manner and regular and customary course of business and SYC further agrees not to dispose of any of the assets of said Wastewater Collection, Pumping and Treatment System without the prior written consent of York Water, and further agrees not to enter into any collection system extension agreements that call for SYC to make the extension at its cost, or changes to the system or any other material change or agreement without prior written approval of York Water, except further, as to all of the foregoing, as may be necessary or appropriate in order to comply with applicable law. SYC will not terminate or fail to renew any of its insurance coverage or any government-issued permits related to the collection and treatment of wastewater prior to Closing. At all times between the dates of this Agreement and the Closing, SYC shall continue as the certified operator in responsible charge of the Wastewater Collection, Pumping and Treatment System and wastewater operations.

10.2. **Final Bill.** On the date of Closing, SYC will bill its customers for all wastewater furnished by it prior to the Closing and shall retain all funds received for wastewater service furnished as of that date. Closing date shall be on or about the last working day of the calendar month following a "Notice of Completion of Facilities" by York Water unless both parties agree to an alternate closing date. York Water will bill its customers within the Service Area for all wastewater collected on and after the date of Closing and shall retain all funds received for wastewater service from that date forward.

10.3. **Debt Coverage.** It is understood and agreed that SYC shall retain responsibility for the payment of all debts associated with the Wastewater Collection, Pumping and Treatment System that were incurred by SYC prior to the date of Closing, including, but not limited to, short-term debt.

11. **RISK OF LOSS.** Except as otherwise provided in this Agreement, SYC assumes all risks of destruction, loss, or damage to the Wastewater Collection, Pumping and Treatment System due to fire or

other casualty up to the date of Closing. In the event any of the Wastewater Collection, Pumping and Treatment System shall be destroyed or damaged prior to the date of Closing, the part or parts so destroyed or damaged shall be replaced or repaired by SYC at its sole cost and expense, except as otherwise provided in this Agreement, and unless York Water agrees that the purchase price provided herein may be reduced by an amount equal to the estimated cost of replacement or repair of the part or parts so destroyed or damaged; provided, however, if any such destruction or damage shall, in the opinion of York Water, be so extensive as to materially and adversely affect the operating condition of the Wastewater Collection, Pumping and Treatment System, then, and in that event, York Water shall not be obligated to consummate the purchase and sale contemplated herein, and York Water shall not have any obligations whatever to SYC by reason hereof.

12. **ACCESS AND INFORMATION.** SYC will give to authorized representatives of York Water, upon reasonable notice, full access during normal business hours throughout the period prior to the Closing to the assets, inventory, books, contracts, extension agreements, and records of SYC relating to the Wastewater Collection, Pumping and Treatment System, and furnish York Water during such period with all such material and information relating thereto as York Water may reasonably request.

13. **RIGHTS OF THE COMMISSION, DEP AND OTHER REGULATORY AGENCIES.** York Water is regulated by the Commission, DEP, as well as other governmental agencies. Nothing in this Agreement is intended to supersede, expand, or limit any powers of these regulatory agencies. In all conflicts between this Agreement and another regulatory agency, the regulatory agency requirements will supersede this Agreement.

14. **CAPTIONS.** The paragraph captions contained in this Agreement shall not be construed as part of the Agreement, but are used merely for ready reference purposes.

15. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and, to the extent assignable, on the assigns of the

parties hereto, it being expressly understood, however, that York Water shall not transfer or assign this Agreement without the written consent of the SYC.

16. **CONSTRUCTION.** This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

17. **NOTICES.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, first class, postage prepaid, registered mail, return receipt requested:

If to SYC, to:

D. Scott Weir  
Manager  
SYC WWTP, L.P.  
93 Hillside Dr.  
Steamboat Springs, CO 80487

If to York Water, to:

Jeffrey R. Hines  
President and CEO  
The York Water Company  
130 East Market Street  
York, PA 17401

18. **DEFAULT.** Time shall be of the essence with respect to performance of any obligation arising under this Agreement. Should either party violate or fail to fulfill and perform any of the terms and conditions of this Agreement, the non-breaching party may elect to proceed against the breaching party for either actual damages incurred by the non-breaching party or to pursue specific performance of this Agreement.

19. **RECORDING.** This Agreement shall not be recorded in the Office for the Recording of Deeds or in any other office or place of public record.

20. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between SYC and York Water. There are no other terms, obligations, covenants, representations, statements or conditions, oral

or otherwise of any kind whatsoever concerning this sale. Further, this Agreement shall not be altered, amended, changed or modified except in writing executed by all parties.

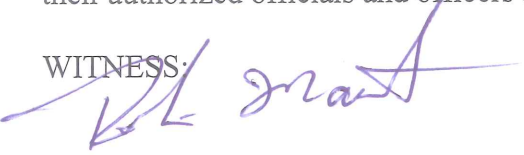
21. **EXECUTION.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart. The exchange of copies of this Agreement and of signature pages by facsimile transmission or electronically via e-mail shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronically via e-mail shall be deemed to be their original signatures for all purposes.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by

their authorized officials and officers as of the date first above written.

WITNESS:



\_\_\_\_\_  
Secretary

(SEAL)

ATTEST:




Asst. Secretary

(SEAL)

SYC WWTP, L.P.  
By: SYC WWTP, LLC

By:   
\_\_\_\_\_  
D. Scott Weir, Manager

THE YORK WATER COMPANY

By:   
\_\_\_\_\_  
President and CEO

## APPENDIX A – ASSETS

- A. All wastewater mains, service lines (from wastewater main to edge of right-of-way or street), curb boxes and appurtenant fixtures and equipment in place and used in the wastewater collection and treatment system.
- B. All wastewater valves and manholes presently in place in the wastewater collection system.
- C. The existing wastewater treatment system and parcel shall be conveyed to York Water in accordance with all required permits and title to the parcel. Parcel Identification Number 47000D10058H000000, located at Industrial Road, Springfield Township, York County, Pennsylvania shall be conveyed to York Water for the proper provision of wastewater service.
- D. All easements, rights-of-way or rights of access, if any, related to the use and operation of the wastewater collection system.

Note: Sanitary Sewer lines shown are only representative.



## APPENDIX B – ALLOCATION OF THE PURCHASE PRICE

Assets	Purchase Price
Real Estate - Land	110,000.00
Wastewater Collection, Pumping and Treatment System, excluding land	238,800.00
Equipment	11,200.00
Goodwill	5,000.00
<b>TOTAL PURCHASE PRICE</b>	<b>\$365,000.00</b>

**APPENDIX C – OPINION OF COUNSEL**

MORRIS & VEDDER, LLP

Dated: Date of Closing

The York Water Company  
130 East Market Street  
York, PA 17401

Re: Agreement of Sale dated Oct. 8, 2013 by and between SYC WWTP, LP and York Water Company (the "Agreement")

Ladies and Gentlemen:

We have acted as special counsel for SYC WWTP, LP ("SYC") in connection with the preparation, authorization, execution and delivery of the Agreement and in connection with the Closing pursuant to the Agreement. Capitalized terms not otherwise defined herein have the meanings ascribed thereto in the Agreement. This opinion is being furnished at the request of SYC pursuant to Section 8.4. of the Agreement.

While this firm represents SYC in connection with specific legal matters as to which we are consulted by SYC, we neither perform or provide legal services to them in connection with SYC's regulatory compliance to which it is subject.

In connection with the opinions and statements expressed herein, we have examined such certificates of public officials, corporate documents and records and other certificates, opinions and instruments and have made such other examinations as we have deemed necessary. In making such examinations, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity to original documents of all documents submitted to us as certified or photostatic copies.

As to certain legal issues of fact material to the opinions and statements expressed herein, and as to the materiality of certain facts, we have, with your consent, relied, to the extent we deemed appropriate, upon certificates of officers of the Companies, certificates of public officials, the representations and warranties of SYC contained in the Agreement. We have made no independent factual investigation with respect to such matters.

The law covered in our opinion is limited to the federal law of the United States of America and the laws of the Commonwealth of Pennsylvania. We express no opinion as to anti-trust laws or the laws of other jurisdictions.

Based upon and subject to the foregoing, it is our opinion that:

1. SYC is a duly formed, validly existing limited partnership in good standing under the laws of the Commonwealth of Pennsylvania; is qualified to transact business under the laws of the Commonwealth of Pennsylvania, and has the legal authority to consummate the terms of the Agreement and the Closing under the Agreement.

2. The Agreement has been duly executed and delivered by the duly authorized representative of SYC and constitutes the valid and binding obligation of SYC enforceable against it in accordance with its

terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and except that enforceability of the Agreement is subject to general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

3. To our knowledge, there is as of the date of this Opinion no litigation, regulatory proceeding or investigation pending or threatened against or relating to SYC by a federal or Pennsylvania governmental authority or to the assets or properties of SYC, or relating to the transaction contemplated by the Agreement which would materially and adversely affect the Assets of SYC or the transaction contemplated by the Agreement.

For purposes of the opinion and statements expressed herein, the phrase, "to our knowledge" or words of similar import, means the actual knowledge of the attorneys of this firm who have devoted substantial attention to the firm's representation of SYC in connection with the transaction contemplated by the Agreement.

This opinion is furnished to you by us as Special counsel for SYC and is solely for your benefit. It may not be relied upon by any other person for any other purpose without our prior written consent.

Very truly yours,

Morris & Vedder, LLP

BY: Christopher M. Vedder, partner