

**EXHIBIT B**  
**(Public Version)**

**EXECUTION VERSION**

**ASSET PURCHASE AGREEMENT**

**By and Between**

**City of Beaver Falls, Beaver County,**

**As Seller**

**and**

**Aqua Pennsylvania Wastewater, Inc.,**

**As Buyer**

**Dated as of October 20, 2021**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b>ARTICLE I. DEFINITIONS.....</b>	<b>1</b>
<b>ARTICLE II. TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES.....</b>	<b>10</b>
Section 2.01.    Purchase and Sale of Acquired Assets.....	10
Section 2.02.    Excluded Assets.....	11
Section 2.03.    Sale Free of Liens .....	12
Section 2.04.    Assumption of Liabilities.....	12
Section 2.05.    Further Assurances.....	13
Section 2.06.    Certain Transfers; Assignment of Contracts.....	13
<b>ARTICLE III. PURCHASE PRICE .....</b>	<b>15</b>
Section 3.01.    Purchase Price.....	15
Section 3.02.    Fair Consideration.....	16
Section 3.03.    Allocation Schedule.....	16
Section 3.04.    Transfer Taxes .....	16
<b>ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF THE SELLER.....</b>	<b>16</b>
Section 4.01.    Organization.....	16
Section 4.02.    Power and Authority.....	16
Section 4.03.    Enforceability.....	17
Section 4.04.    No Conflict or Violation .....	17
Section 4.05.    Consents and Approvals .....	17
Section 4.06.    Undisclosed Liabilities.....	17
Section 4.07.    Absence of Certain Changes or Events.....	17
Section 4.08.    Tax Matters .....	17
Section 4.09.    Real Property and Easements.....	18
Section 4.10.    Equipment and Machinery.....	18
Section 4.11.    Employee Benefit Plans.....	18
Section 4.12.    Seller’s Personnel.....	19
Section 4.13.    Environmental Compliance .....	20
Section 4.14.    Authorizations and Permits.....	21
Section 4.15.    System Contracts .....	22
Section 4.16.    Compliance with Law; Litigation .....	22
Section 4.17.    Broker’s and Finder’s Fees .....	22
Section 4.18.    Title to the Acquired Assets; Sufficiency .....	23
Section 4.19.    Pending Development Plans .....	23
<b>ARTICLE V. REPRESENTATIONS AND WARRANTIES OF BUYER.....</b>	<b>24</b>
Section 5.01.    Organization.....	24
Section 5.02.    Authorization and Validity of Agreement .....	24

Section 5.03.	No Conflict or Violation .....	24
Section 5.04.	Consents and Approvals .....	24
Section 5.05.	Broker's and Finder's Fees .....	24
Section 5.06.	Financial Wherewithal .....	25
Section 5.07.	Sufficient Funds .....	25
Section 5.08.	Independent Decision.....	25
Section 5.09.	Scheduled Matters.....	25
Section 5.10.	Independent Investigation.....	25
Section 5.11.	Litigation.....	26
<b>ARTICLE VI. TITLE TO REAL ESTATE; EASEMENTS .....</b>		<b>26</b>
Section 6.01.	Evidence of Title.....	26
Section 6.02.	Objections to Title.....	26
Section 6.03.	Title Expenses .....	28
Section 6.04.	UCC Search; Releases .....	28
Section 6.05.	Easements. ....	28
<b>ARTICLE VII. OTHER AGREEMENTS .....</b>		<b>30</b>
Section 7.01.	Taxes .....	30
Section 7.02.	Cooperation on Tax Matters .....	30
Section 7.03.	Personnel Matters.....	30
Section 7.04.	Initial and Future Rates.....	33
Section 7.05.	Buyer Taxpayer.....	33
Section 7.06.	PaPUC Approval.....	33
Section 7.07.	Remedies for Breach of Article VII Agreements .....	34
Section 7.08.	Operation and Maintenance of MS4 and Stormwater Systems .....	34
Section 7.09.	Pending Development Plans .....	34
Section 7.10.	Act 537 Plan.....	35
Section 7.11.	Utility Valuation Experts and Engineer Assessment.....	36
Section 7.12.	Compliance and Operational Reports .....	36
Section 7.13.	Implementation and Enforcement of Municipal Code.....	36
Section 7.14.	Covenant Survival.....	36
<b>ARTICLE VIII. INDEMNIFICATION.....</b>		<b>36</b>
Section 8.01.	Survival .....	36
Section 8.02.	Indemnification by the Seller.....	37
Section 8.03.	Indemnification by Buyer .....	37
Section 8.04.	Indemnification Procedure.....	38
Section 8.05.	Limitations on Indemnification Obligations.....	40
Section 8.06.	Knowledge of Breach .....	41
<b>ARTICLE IX. PRE-CLOSING COVENANTS OF THE SELLER .....</b>		<b>41</b>
Section 9.01.	Operation of the System.....	41
Section 9.02.	Cooperation.....	42

Section 9.03.	Supplements and Updates .....	42
Section 9.04.	Governmental Approvals .....	42
<b>ARTICLE X. PRE-CLOSING COVENANTS OF BUYER.....</b>		<b>43</b>
Section 10.01.	Actions Before the Closing Date .....	43
Section 10.02.	Governmental Approvals .....	43
Section 10.03.	Cooperation.....	43
Section 10.04.	Supplements and Updates .....	43
<b>ARTICLE XI. CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER .....</b>		<b>44</b>
Section 11.01.	Consents and Approvals .....	44
Section 11.02.	Representations and Warranties of Buyer.....	44
Section 11.03.	PaPUC Approval.....	44
Section 11.04.	No Injunctions.....	44
Section 11.05.	Performance of the Obligations of Buyer .....	44
Section 11.06.	Deliveries by Buyer .....	45
Section 11.07.	No Material Adverse Effect.....	45
<b>ARTICLE XII. CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER.....</b>		<b>45</b>
Section 12.01.	Consents and Approvals .....	45
Section 12.02.	Representations and Warranties of Seller .....	45
Section 12.03.	PaPUC Approval.....	45
Section 12.04.	No Injunctions.....	46
Section 12.05.	No Material Adverse Effect.....	46
Section 12.06.	Consent Order. ....	46
Section 12.07.	Deliveries by Seller.....	46
Section 12.08.	Performance of the Obligations of Seller.....	46
<b>ARTICLE XIII. CLOSING .....</b>		<b>46</b>
Section 13.01.	Closing Date.....	46
Section 13.02.	Deliveries by the Seller.....	47
Section 13.03.	Deliveries by Buyer .....	48
<b>ARTICLE XIV. TERMINATION .....</b>		<b>48</b>
Section 14.01.	Events of Termination.....	48
Section 14.02.	Effect of Termination.....	49
<b>ARTICLE XV. MISCELLANEOUS .....</b>		<b>49</b>
Section 15.01.	Confidentiality .....	49
Section 15.02.	Public Announcements .....	50
Section 15.03.	Notices .....	50
Section 15.04.	Headings .....	51

Section 15.05.	Severability .....	51
Section 15.06.	Entire Agreement .....	51
Section 15.07.	Amendments; Waivers.....	51
Section 15.08.	Parties in Interest; Third Party Beneficiary .....	52
Section 15.09.	Successors and Assigns.....	52
Section 15.10.	Governing Law; Jurisdiction.....	52
Section 15.11.	Specific Performance .....	52
Section 15.12.	Counterparts; Electronic Mail; Facsimile Execution.....	53

Exhibits

Exhibit A	Bill of Sale
Exhibit B	Assignment and Assumption Agreement
Exhibit C	Escrow Agreement
Exhibit D	Form of Special Counsel Opinion

Schedules

Schedule 2.01(b)	Acquired Assets
Schedule 2.02(e)	Pre-Closing EDU Payments
Schedule 2.02(h)	Excluded Assets
Schedule 3.03	Allocation Schedule
Schedule 4.05	Consents and Approvals
Schedule 4.06	Seller Liabilities
Schedule 4.07	Events Having a Material Adverse Effect
Schedule 4.08	Unpaid Taxes and Tax Claims
Schedule 4.09	Real Property and Easements; Liens
Schedule 4.10	Equipment and Machinery; Associated Liens
Schedule 4.11(a)	Plans and Benefit Obligations
Schedule 4.11(b)	Multiemployer Plans
Schedule 4.11(c)	Benefit Obligations of Terminated and Retired Personnel
Schedule 4.11(e)	Severance Agreements
Schedule 4.12(a)	Collective Bargaining Agreements
Schedule 4.12(b)	Personnel Disputes
Schedule 4.12(c)	Labor Disruptions
Schedule 4.12(d)	Personnel Payments
Schedule 4.13	Environmental Compliance
Schedule 4.14	Authorizations and Permits
Schedule 4.15	Assigned Contracts
Schedule 4.16	Litigation Involving Seller
Schedule 4.18(a)	Title to Acquired Assets
Schedule 4.18(b)	Sufficiency

Schedule 4.19	Pending Development Plans
Schedule 5.04	Consents and Approvals
Schedule 5.11	Litigation Involving Buyer
Schedule 6.05(e)	Missing Easements
Schedule 7.03(a)	Personnel
Schedule 7.04	Rates

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of October 20, 2021 (the "Effective Date"), is made and entered into by and between the City of Beaver Falls, Beaver County, a municipality and a city of the Third Class of the Commonwealth of Pennsylvania duly organized and existing under the Constitution and laws of said Commonwealth, (the "Seller"), and Aqua Pennsylvania Wastewater, Inc., (the "Buyer"), a Pennsylvania corporation.

### WITNESSETH:

**WHEREAS**, the Seller owns that certain sanitary wastewater collection and treatment system (the "System") that provides sanitary wastewater service to various individual and wholesale customers in the City of Beaver Falls, Pennsylvania and portions of Patterson Township, North Sewickley Township, West Mayfield Borough, White Township, Big Beaver Borough, Patterson Heights Borough, and Eastvale Borough, each in Beaver County, Pennsylvania (the "Service Area"); and

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

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

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

### ARTICLE I.

#### DEFINITIONS

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

"**Acquired Assets**" has the meaning specified in Section 2.01.

"**Act 537**" has the meaning specified in Section 7.10.

"**Act 537 Plan**" has the meaning specified in Section 7.10.

**“Affiliate”** means, when used to indicate a relationship with a specified Person, a Person that, directly or indirectly, through one or more intermediaries has a 10% or more voting or economic interest in such specified Person or controls, is controlled by or is under common control with (which include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person is deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (and for purposes of this definition, a managed fund or trust is deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust is deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

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

**“Allocation Schedule”** has the meaning specified in Section 3.03.

**“Assigned Contracts”** has the meaning specified in Section 4.15.

**“Assignment and Assumption Agreement”** has the meaning specified in Section 13.02(c).

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

**“Authorizations and Permits”** mean all licenses, permits, franchises, authorizations, certificates, registrations, consents, orders, adjudications, variances, waivers and approvals currently in effect issued or granted by Governmental Authorities, including without limitation, environmental permits, operating permits and approvals that are held by the Seller that primarily relate directly or indirectly to the operation of the System, including those set forth on Schedule 4.14.

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

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

**“Buyer Fundamental Representations”** has the meaning specified in Section 8.01.

**“Buyer Indemnified Persons”** has the meaning specified in Section 8.02.

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

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

**“Closing Date”** has the meaning specified in Section 13.01.

**“Closing Effective Time”** has the meaning specified in Section 13.01.

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

**“Collective Bargaining Agreement”** means the existing collective bargaining agreements between the Seller and the Unions expiring December 31, 2021 and excludes any amendments or new collective bargaining agreements between the Seller and the Unions.

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

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

**“EDU”** means equivalent dwelling unit.

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

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

**“Environmental Claims”** means all notices of investigations, warnings, notice letters, notices of violations, Liens, orders, claims, demands, suits or administrative or judicial actions for any injunctive relief, fines, penalties, third party claims, or other claims asserting violations of Environmental Requirements or responsibility for Environmental Liabilities.

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

**“Environmental Liabilities”** means any legal obligation or liability arising under Environmental Requirements or related to or arising out of any Environmental Condition, including those consisting of or relating to any (a) duty imposed by, breach of or noncompliance with any Environmental Requirements; (b) environmental, health or safety matters or conditions

(including on-site or off-site contamination, occupational safety and health and regulation of Hazardous Materials); (c) Remedial Action undertaken by any Person; (d) bodily injury (including illness, disability and death, and regardless of when any such bodily injury occurred, was incurred or manifested itself), property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real or personal property), or other losses or damages incurred by any other Person (including any employee or former employee of such Person); (e) any injury to, destruction of, or loss of natural resources, or costs of any natural resource damage assessments; (f) exposure of any Person to any Hazardous Materials; and (g) the presence or Release of any Hazardous Materials.

**“Environmental Requirements”** mean all present Laws (including common law), regulations, legally binding or otherwise enforceable requirements and Authorizations and Permits relating to human health, pollution, or protection of the Environment (including ambient air, surface water, ground water, land surface or surface strata), including (i) those relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials, and (ii) those relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, release, recovery, transport or other handling of Hazardous Materials. Without limiting the foregoing, the term **“Environmental Requirements”** includes (1) CERCLA; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Sections 11001-11050; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901-6992k (**“RCRA”**); the Safe Drinking Water Act, 42 U.S.C. Sections 300f to 300j-26; the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 5101-5127; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1387; the Oil Pollution Act of 1990, 33 U.S.C. Sections 2701--2761; the Clean Air Act, 42 U.S.C. Sections 7401-7671q; the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011 et seq.; the Low Level Radioactive Waste Policy Act, as amended, 42 U.S.C. Section 2021b et seq.; the Occupational Safety and Health Act, 29 U.S.C. Sections 651-678, and the regulations promulgated pursuant to the above-listed federal statutes, and (2) counterpart Laws and regulations promulgated or issued by any state or local Governmental Authority, specifically including the Pennsylvania Storage Tank and Spill Prevention Act of 1989 (35 Pa. C.S.A. § 6021.101 *et. seq.*).

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

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

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

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

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

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

**“Governmental Approval”** means any consent, approval, authorization, notice, filing, registration, submission, reporting, order, adjudication or similar item of, to or with any Governmental Authority.

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

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

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

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

**“Knowledge”** when used to qualify or limit a Party’s representations or warranties means the knowledge of such Party’s Representatives who are engaged in a material way in performing the functions of such Party with respect to which the representations or warranties are made, after conducting reasonable investigation and inquiry with respect to the subject matter of the representation.

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

**“Liability Cap”** has the meaning specified in Section 8.05(c).

**“Lien”** means any lien in a fixed and ascertainable monetary sum, or any pledge, mortgage, deed of trust or security interest securing a fixed and ascertainable monetary sum, or any charge or claim in a fixed and ascertainable monetary sum. In addition, in connection with Real Property, any item otherwise falling within the definition of a “Lien” must be either (i) filed of record; or (ii) an item of which Seller has knowledge.

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

**“Material Adverse Effect,”** means a material adverse effect on the business, financial condition or results of operations of the System; except that no effect arising out of or in connection with or resulting from any of the following will be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the real estate, financial services, construction, water utility or sewer utility industries generally; (iv) any existing event, circumstance, condition or occurrence of which the Buyer has actual knowledge as of the Effective Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated by this Agreement; and (vi) negligence, intentional misconduct or bad faith of the Buyer or its Representatives.

**“Missing Easements”** means, as of any particular date, each Easement that is for or used in connection with the operation of the System or to provide continuous and unimpeded rights of

way for the Acquired Assets (including access thereto) that either (a) has not been obtained by the Seller and is for or used in connection with the operation of the System or (b) if such Easement has been obtained by the Seller, such Easement is unrecorded or such Easement is not sufficient to operate the System as currently conducted.

**“Municipal Council”** has the meaning set forth in the recitals to this Agreement.

**“Non-Union Personnel”** means Personnel who are not members of the Unions.

**“Outside Date”** means the date that is 365 days after the date the application to the PaPUC is accepted as complete by the PaPUC.

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

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

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

**“PCB Equipment”** means PCB equipment as defined in 40 C.F.R. Part 761.

**“Pending Development Plan”** means any project for the development of real property which is the subject of a subdivision or land development plan that has been submitted to the Seller for approval, or for which the Seller already has granted approval but which has yet to be constructed, pursuant to the Pennsylvania Municipal Planning Code as of the Effective Date (and as updated before the Closing Date), as provided in Schedule 4.19.

**“Permitted Liens”** means (a) Liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property and Easements as set forth on Schedule 4.09; (c) other than with respect to Real Property and Easements owned by Seller, Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; (d) other imperfections of title or Liens, if any, that have not had, and would not have, caused a Material Adverse Effect; and (e) any encumbrances, Liens, or other exceptions to title insurance coverage set forth in the Title Commitment not identified, but permitted to be identified, in the Objection Notice in accordance with the procedures and deadlines prescribed in Sections 6.02(a) and 6.05(b).

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

**“Personnel”** means the employees of the Seller who are primarily employed in connection with the System or are necessary to operate the System and includes Union Personnel and Non-Union Personnel.

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

**“Real Property”** has the meaning specified in Section 4.09.

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

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

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

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

**“Schedules”** means the disclosure schedules delivered by Seller and Buyer, respectively, concurrently with the execution and delivery of this Agreement, and as may be supplemented and updated pursuant to Sections 9.03 and 10.04. Any disclosure set forth on any particular Schedule are deemed disclosure in reference to all Schedules comprising the Schedules to which such disclosure is reasonably apparent.

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

**“Seller Fundamental Representations”** has the meaning specified in Section 8.01.

**“Seller Indemnified Persons”** has the meaning specified in Section 8.03.

**“Seller’s Benefit Obligations”** means all material obligations, arrangements, or practices, whether or not legally enforceable, to provide benefits, other than salary or wages to present or former directors, employees or agents, (other than obligations, arrangements and practices that are Seller’s Plans), that are owed, adopted or followed by the Seller. Seller’s Benefit Obligations also include consulting agreements under which the compensation paid does

not depend upon the amount of service rendered, sabbatical policies, severance payment policies and fringe benefits within the meaning of Code §132.

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

**“Seller DEP Permits”** means the National Pollutant Discharge Elimination System Permit No. PA0026883 and Water Quality Management Permit No. 0472402 (Part 2), each issued by PaDEP to Seller with respect to the System, including any revisions or amendments thereto.

**“Service Area”** has the meaning specified in the recitals to this Agreement.

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

**“System”** has the meaning specified in the recitals to this Agreement and includes the Acquired Assets and excludes the Excluded Assets.

**“System Improvements”** has the meaning specified in Section 7.10(a).

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

**“Threshold Amount”** has the meaning specified in Section 8.05(a).

**“Title Commitment”** has the meaning specified in Section 6.01.

**“Title Company”** has the meaning specified in Section 6.01.

**“Title Policy”** has the meaning specified in Section 2.03.

**“Transferred Personnel”** has the meaning specified in Section 7.03(a).

“UCC Search” has the meaning specified in Section 6.04.

“Unions” means, together, United Steelworkers 9305, Districts 8 and 10.

“Union Personnel” means Personnel who are members of the Unions.

“Unscheduled Real Property” has the meaning specified in Section 6.06.

“Utility Valuation Expert” means an expert that has applied and has been approved by the PaPUC and is currently, at the time of this Agreement, on the list of approved appraisers maintained by the PaPUC.

## ARTICLE II.

### TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES

#### Section 2.01. Purchase and Sale of Acquired Assets

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

(a) all real property and appurtenant interests necessary for the operation of the System, including without limitation (i) good and marketable fee simple title to the Real Property set forth on Schedule 4.09 hereof, and (ii) all Easements currently used or necessary to operate the System, including without limitation those set forth on Schedule 4.09;

(b) all sanitary wastewater related treatment and conveyance facilities, including but not limited to the Seller’s (i) assets set forth on Schedule 2.01(b), (ii) sewage treatment plant located in the Service Area, and (iii) all collection system mains (whether gravity or force mains), laterals (from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of an easement where the main is located within private property), generators, manholes, pump stations, and other related appurtenances and any billing and collections related assets necessary to own and operate the System;

(c) all contracts, licenses and leases set forth on Schedule 4.15 to which the Seller is a party, including without limitation, all construction contracts, surety bonds, operation and maintenance agreements, management agreements, reserved capacity agreements, architect agreements and consultant agreements, and agreements relating to vehicles and other items of personal property (the “Assigned Contracts”);

- (d) all Supplies;
- (e) all personal property and fixed assets, including all Equipment and Machinery, auxiliary equipment and plant equipment;
- (f) all prepaid expenses and security deposits;
- (g) all Files and Records;
- (h) all Authorizations and Permits of or held by the Seller (to the extent transferrable to Buyer under applicable Law), including all Authorizations and Permits which are environmental permits, the Seller DEP Permits, other operating permits and those items set forth on Schedule 4.14 hereto; and
- (i) all goodwill of the System.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY REGARDING THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING THAT MAY BE ALLOWED BY THE PAPUC FOR ANY OF THE ACQUIRED ASSETS. NOTWITHSTANDING THE FOREGOING, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE VALID UNTIL THE TIME OF CLOSING.

Section 2.02. **Excluded Assets**

Notwithstanding anything in the Agreement to the contrary, the Acquired Assets do not include the following (the "Excluded Assets"):

- (a) all contracts, licenses and leases that are not Assigned Contracts;
- (b) the seals, organizational documents, minute books, Tax returns, books of account or other records having to do with the organization of Seller and all employee-related or employee benefit-related files or records;
- (c) cash (including any cash resulting from the payment to the Seller for EDUs received on or before the Closing Date as listed in Schedule 2.02(e)) and cash equivalents, including accounts receivable on or before the Closing Date and existing financial security guaranteeing installation of public improvements (including wastewater facilities);
- (d) all insurance policies of Seller and all rights to applicable claims and proceeds thereunder;
- (e) all Seller's Plans and trusts or other assets attributable thereto;

(f) other than to the extent relating to any Assumed Liability, all rights to any action, suit or claim of any nature available to or being pursued by Seller, whether arising by way of counterclaim or otherwise;

(g) all assets, properties and rights used by Seller other than those which primarily relate to the operations of the System;

(h) the assets, properties and rights specifically set forth on Schedule 2.02(h);

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

(j) all municipal separate storm sewer system assets and stormwater assets of the Seller (and any related NPDES permits); and

(k) any and all connecting facilities originating from Seller's terminus point of the collection facilities at the main or edge of road to and throughout the customer's property, including grinder pumps, if any.

#### Section 2.03. Sale Free of Liens

After Buyer fulfills its obligations pursuant to Section 3.01(b), on the Closing Date, the Acquired Assets will be free and clear of all Liens other than Permitted Liens. The Seller shall convey such Acquired Assets by appropriate special warranty or other deed (subject to Section 6.02(c)), bills of sale, endorsements, assignments and other instruments of transfer or conveyance described in the Agreement, or by transfer documents satisfactory in form and substance reasonably acceptable to Buyer and Seller and their counsel in their reasonable discretion. Buyer shall use commercially reasonable efforts to cause the Title Company at or prior to Closing to insure the Real Property, at the Title Company's filed rates, as a good and marketable title, free and clear of all Liens and exceptions to title insurance coverage, except for the Permitted Liens, pursuant to an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006, subject to the terms of Section 6.02 below (the "Title Policy").

#### Section 2.04. Assumption of Liabilities

(a) On the terms and subject to the conditions set forth in this Agreement and excluding the Excluded Liabilities, Buyer shall assume and agrees to pay, perform and discharge when due any and all liabilities and obligations of the Seller to the extent (1) arising under the Seller DEP Permits (arising from, related to, or based on events or circumstances occurring on or after the Closing Date), (2) arising under the Collective Bargaining Agreement or an amended and restated collective bargaining agreement (to the extent arising from, related to or based on events or circumstances occurring on or after the Closing Date and subject to the exclusions provided for in Section 7.03(h) of this Agreement), and (3) arising out of or relating to the System or the Acquired Assets on or after the Closing, including, without limitation, the following:

(i) all liabilities and obligations under the Assigned Contracts, including any liabilities arising under any Corrective Action Plan, and Authorizations and Permits, in

each case to the extent resulting from events that occur or conditions that arise on or after the Closing;

(ii) any litigation initiated against Seller related to the System or the Acquired Assets to the extent resulting from events that occur, or conditions that arise, on or after the Closing;

(iii) all liabilities and obligations for Taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities attributable to the period beginning on the Closing Date; and

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

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

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

Section 2.06. **Certain Transfers; Assignment of Contracts**

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.06(a) and Section 2.06(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Assigned Contract or other Acquired Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization, approval or waiver has not been obtained before the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Acquired Asset, a "Nonassignable Asset"). Following the Closing, the Seller and the Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or

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

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

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

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

## ARTICLE III.

### PURCHASE PRICE

#### Section 3.01. Purchase Price

The purchase price for the Acquired Assets is Forty-One Million, Two Hundred and Fifty Thousand Dollars (\$41,250,000.00) (the "Purchase Price") which shall be paid as follows:

(a) Deposits

(i) Buyer shall pay One Million Dollars (\$1,000,000) to Seller as a deposit on account of the Purchase Price (the "First Deposit") upon the third business day following the execution by Buyer and Seller of this Agreement; and

(ii) Buyer shall pay One Million Dollars (\$1,000,000) to Seller as a deposit on account of the Purchase Price (the "Second Deposit" and, together with the First Deposit, the "Deposits") upon the third business day following the Buyer's receipt of notice from the PaPUC that the application to the PaPUC for the transaction contemplated by this Agreement has been conditionally accepted.

(iii) In the event that this Agreement is terminated for any reason, the Deposits shall be refundable to the Buyer within ninety days following the effective date of termination per Section 14.01, provided, however, if the Agreement is terminated by Seller pursuant to Section 14.01(c), then Seller shall be permitted to offset against Seller's obligation to refund the Deposits any damages recoverable by Seller per the terms of this Agreement.

(iv) Subject to subparagraph (iii) above, Seller shall be free to use the Deposits upon receipt as it determines in the Seller's sole discretion.

(v) The obligation to refund the Deposits hereunder shall be a general obligation of Seller and shall not be subject to the Threshold Amount or the Liability Cap set forth in Article VIII hereof.

(b) Subject to any adjustment in Purchase Price resulting from the proration procedures specified in Section 3.01(c) and the Missing Easement Escrow requirements in Section 6.05(e), Buyer shall pay to the Seller at Closing by wire transfer of immediately available funds the balance of the Purchase Price (taking into account the Deposits) to one or more accounts that Seller designates and provides to Buyer at least three (3) Business Days before the Closing Date.

(c) **Final Billing:** The Buyer is entitled to all customer billings with respect to sanitary wastewater services for the period on or after the Closing Effective Time, and the Seller is entitled to all such billings before the Closing Effective Time. The Parties shall cooperate to calculate an agreed upon proration of billing amounts and to credit the Purchase Price for the appropriate Party on the Closing Date, or through another agreed upon method to ensure billing amounts are provided to the appropriate Party.

Section 3.02. **Fair Consideration**

The Parties acknowledge and agree that the consideration provided for in this Article III represents fair consideration and reasonable equivalent value for the sale and transfer of the Acquired Assets and the transactions, covenants and agreements set forth in this Agreement, which consideration was agreed upon as the result of arm's-length good faith negotiations between the Parties and their respective Representatives.

Section 3.03. **Allocation Schedule**

The Purchase Price (which for purposes of this Section 3.03 shall include any liabilities required to be treated as part of the Purchase Price for federal income tax purposes), as may be adjusted pursuant to this Section 3.03, shall be allocated among the Acquired Assets in accordance with the allocation reflected in a schedule prepared by Buyer and attached hereto as Schedule 3.03.

Section 3.04. **Transfer Taxes**

Any and all deed stamps or transfer Taxes which may be due the Commonwealth of Pennsylvania or any political subdivision in connection with the sale, transfer, assignment, conveyance and delivery hereunder of the Acquired Assets to Buyer (collectively, "Transfer Taxes"), will be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller. The terms hereof shall survive Closing. For the purpose of calculating Transfer Taxes, Seller and Buyer agree that the amount specified in Schedule 3.03 as provided by the Buyer shall be allocated to real property assets.

**ARTICLE IV.**

**REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller makes only the specified representations and warranties which are set forth in this Article IV.

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

Section 4.01. **Organization**

The Seller is a municipality and a city of the Third Class of the Commonwealth of Pennsylvania duly organized and existing under the Pennsylvania Third Class City Code.

Section 4.02. **Power and Authority**

The Seller (i) duly adopted the authorizing ordinance or resolutions authorizing the transactions contemplated in this Agreement, which remains in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement and (iii) duly authorized and approved

the performance by the Seller of its obligations contained in this Agreement. The Seller has all requisite power and authority to own, lease and operate the Acquired Assets and the System and has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

Section 4.03. **Enforceability**

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

Section 4.04. **No Conflict or Violation**

The execution and delivery of this Agreement by the Seller, the consummation of the transactions contemplated by this Agreement and the performance by the Seller of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any obligations of the Seller under (i) any applicable Law or (ii) any agreement, instrument or document to which the Seller is a party or by which it is bound.

Section 4.05. **Consents and Approvals**

Schedule 4.05 sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by the Seller or the performance by the Seller of its obligations hereunder.

Section 4.06. **Undisclosed Liabilities**

Except as set forth on Schedule 4.06, there are no liabilities or obligations of Seller, either accrued, absolute, contingent or otherwise, relating to the Assets other than liabilities incurred in the ordinary course that could not reasonably be expected to have a Material Adverse Effect.

Section 4.07. **Absence of Certain Changes or Events**

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

Section 4.08. **Tax Matters**

Except as set forth on Schedule 4.08, that (i) the Seller has timely paid all Taxes that may have been or may be due and payable by the Seller on or before the Closing Date, arising from the ownership or operation of the Acquired Assets or the System on or before the Closing Date; (ii) no Taxing authority has asserted any claim against the Seller for the assessment of any additional

Tax liability or initiated any action or proceeding which could result in such an assertion; and (iii) the Seller has (x) made all withholding of Taxes required to be made under all applicable Laws and regulations, including without limitation, withholding with respect to compensation paid to employees, and the amounts withheld have been properly paid over to the appropriate Taxing authorities and (y) did not defer the withholding, deposit, and payment of any employee payroll taxes related to Personnel in 2020 pursuant to IRS Notice 2020-65, 2020-38 I.R.B. 567, or the Presidential Memorandum to the Secretary of the Treasury dated August 8, 2020; and (iv) Seller has at all times been exempt from U.S. federal income Tax and from income Taxes imposed by the Commonwealth of Pennsylvania (and its political subdivisions) and by other states (and their respective political subdivisions) and income and revenue produced by or with respect to the System and the Acquired Assets has at all times been excluded from gross income by virtue of the provisions of Section 115(1) of the Code.. This section does not apply to any Tax matter related to an employee benefit plan or compensation arrangement that is addressed separately in Section 4.11.

#### Section 4.09. **Real Property and Easements**

Schedule 4.09 sets forth all of Seller's fee interests in and to real property ("Real Property") Seller owns and uses in the operation of the System and separately sets forth the Easements. The Seller does not lease (as lessee) any real property that is used in the operation of the System. There are no pending condemnation proceedings relating to any of the Real Property or Easements nor has Seller actually received any written threats of any condemnation proceedings and, to the Knowledge of Seller, no such proceedings are threatened. The Seller has not received any written notices of any violations of any Law from any Governmental Authority with respect to the Real Property or the Easements which has not been cured in all material respects and, to Seller's Knowledge, no such violations of Law exist. With respect to the Real Property (i) there are no leases, options, rights of reversions or other rights of use or rights to acquire the Real Property held by third parties, (ii) Seller is in sole possession of the Real Property, and (iii) to Seller's Knowledge there are no encroachments either way across the boundary of the Real Property, nor any dispute with adjacent property owners over the location of boundaries or potential claims adverse to title.

#### Section 4.10. **Equipment and Machinery**

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

#### Section 4.11. **Employee Benefit Plans**

(a) Schedule 4.11(a) contains a true and complete list of all Seller's Plans and Seller's Benefit Obligations, including amounts owed to current or past employees for severance, unpaid and unused vacation pay or sick leave, or similar obligations. All such Seller's Plans and Seller's Benefit Obligations are in full force and effect and are in material compliance both as to form and operation, with applicable provisions of Employee Retirement Income Security Act of 1974, as amended or the Code, and any other applicable Laws, and with any applicable collective

bargaining agreement. To Seller's Knowledge, no event has occurred which has resulted in the imposition of any liability on the Seller under the Code or other applicable Law with respect to any Seller's Plans or Seller's Benefit Obligations and there is no unfunded pension liability owed or owing to any Person pursuant to Seller's Plans that is required to be assumed by Buyer;

(b) Except as set forth on Schedule 4.11(b), the Seller does not sponsor, maintain, contribute to, nor is it required to contribute to, any "multiemployer plan" within the meaning of Section 414(f) of the Code, and has no liability of any nature, whether known or unknown, fixed or contingent, with respect to any such multiemployer plan;

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

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

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

#### Section 4.12. Seller's Personnel

(a) Schedule 4.12(a) sets forth all collective bargaining agreements and contractual relationships with Personnel relating to the System to which the Seller is a party, including the identification of the parties thereto and the expiration dates. Other than the collective bargaining agreements and relationships set forth on Schedule 4.12(a), there are no commitments, contracts, agreements, arrangements or understandings (whether written or oral, formal or informal) of the Seller with respect to the Unions or the Union Personnel, and the collective bargaining agreements set forth on Schedule 4.12(a) constitute the entire agreement between the Seller and the other parties thereto, with respect to the subject matter thereof.

(b) Except as set forth on Schedule 4.12(b), there are no labor disputes, grievances, arbitration proceedings or litigation pending, or to Seller's Knowledge threatened, between Seller and the Personnel.

(c) Except as set forth in Schedule 4.12(c), there is no strike, slowdown, work stoppage, lockout, refusal to work over time or other labor disruption or dispute affecting Seller or the Personnel underway or, to Seller's Knowledge, threatened or anticipated with respect to Seller or the Personnel, and no such labor disruption has occurred in the past two (2) years.

(d) Except as set forth on Schedule 4.12(d), the Seller shall timely pay, or cause to be timely paid, the Personnel as required under its policies and/or by applicable Law for accrued but unused and unpaid vacation, sick leave and other accrued benefits as of the Closing Date.

(e) The Seller has not, in the past five (5) years, effectuated:

(i) a “plant closing” (as defined in the Worker Adjustment and Retraining Notification Act (“WARN Act”)) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the System; or

(ii) a “mass layoff” (as defined in the WARN Act) affecting any site of employment or facility of the System; nor has the System been affected by any transaction or engaged in layoffs or employment terminations sufficient in number to trigger application of any similar state or local Law.

None of the Personnel has suffered an “employment loss” (as defined in the WARN Act) during the previous six months.

#### Section 4.13. Environmental Compliance

Except as set forth on Schedule 4.13 or that otherwise could not be expected to have a Material Adverse Effect:

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

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

(c) Except as has been disclosed to Buyer on Schedule 4.13, the Seller has not received notice of any Environmental Claims related to the System that have not been fully and finally resolved, and to the Knowledge of Seller no claims of Environmental Liabilities have been threatened allegedly arising from or relating to the System that have not been fully and finally resolved.

(d) To Seller’s Knowledge, Hazardous Materials are not present in, at or on the System or the Acquired Assets and there has been no Release of Hazardous Materials at, on or from any part of the System or the Acquired Assets, in each case in a manner that violates any Environmental Requirements or has resulted in, or could reasonably be anticipated to give rise to, Environmental Liabilities which has not been appropriately resolved pursuant to applicable Environmental Requirements.

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

(f) Except as has been disclosed to Buyer on Schedule 4.13, Seller is not aware of any underground storage tanks on or at any of the Acquired Assets. To the Seller's Knowledge, any underground storage tanks previously located at the Acquired Assets have been removed or otherwise closed, plugged and abandoned in compliance with applicable Environmental Requirements in effect at the time of such closure.

(g) Seller is not aware of any PCB Equipment on or at any of the Acquired Assets. To the Seller's knowledge, any PCB Equipment that previously existed at the Acquired Assets has been flushed of polychlorinated byphenyls or has been removed and properly disposed of in accordance with applicable Environmental Requirements in effect at the time of such disposal, and any remaining PCB Equipment is labeled to the extent required under applicable Environmental Requirements and being managed in compliance with applicable Environmental Requirements.

(h) Except as has been disclosed to Buyer on Schedule 4.13, Seller is not aware of any Regulated Asbestos Containing Material in or on the Acquired Assets in an aggregate amount that would reasonably be expected to result in an Environmental Liability; and to the Seller's knowledge, any Regulated Asbestos Containing Material is being managed in compliance with all applicable Environmental Requirements.

(i) The Seller has delivered to Buyer (1) all environmental site assessments pertaining to the System it is aware of within the previous five years, (2) all compliance audits or compliance assurance reviews prepared within the previous five (5) years relating to compliance with Environmental Requirements by the System, and (3) all documents pertaining to, any known and unresolved Environmental Liabilities incurred in relation to the System, to the extent possessed by or under the reasonable control of the Seller.

(j) Seller has disclosed the Phase 1 Environmental Site Assessment of the Beaver Falls Wastewater Treatment Plan, City of Beaver Falls, Pennsylvania, delivered in July 2021 (the "Phase 1 Report") to the Buyer. Information in the Phase 1 Report shall not be deemed to impute Knowledge to the Seller for purposes of the representations in Section 4.13 hereof, and Seller shall undertake no obligation to commission or provide to the Buyer a Phase II environmental site assessment.

#### Section 4.14. Authorizations and Permits

Schedule 4.14 sets forth the Authorizations and Permits of the Seller. The Seller has made true and complete copies of all Authorizations and Permits available to Buyer. Except as set forth on Schedule 4.14, the Seller is in compliance in all material respects with all terms, conditions and requirements of all Authorizations and Permits, except in each case where such violation or failure, individually or in the aggregate, would not have a Material Adverse Effect, and no proceeding is pending or, to the Knowledge of the Seller threatened relating to the revocation or

limitation of any of the Authorizations or Permits, other than those limitations which do not individually or in the aggregate have a Material Adverse Effect.

**Section 4.15. System Contracts**

(a) Schedule 4.15 sets forth a complete and accurate list of all the Assigned Contracts.

(b) The Seller has made available to Buyer true and complete copies of all the foregoing Assigned Contracts.

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

**Section 4.16. Compliance with Law; Litigation**

(a) The Seller has operated and is operating the System in compliance, in all material respects, with all applicable Laws, Authorizations and Permits and is not in breach of any applicable Law, Authorization or Permit that would have a Material Adverse Effect on the operations of the System or on the Buyer. There are no Authorizations or Permits from any Governmental Authority necessary for the operation of the System as currently being operated except for those Authorizations and Permits listed in Schedule 4.14.

(b) Except as set forth on Schedule 4.16 (as updated pursuant to Section 9.03 hereof), there are no facts, circumstances, conditions or occurrences regarding the System that could reasonably be expected to give rise to any environmental claims or governmental enforcement actions that could reasonably be expected to have a Material Adverse Effect, and there are no past, pending or threatened environmental claims or governmental enforcement actions against the Seller that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) Except as set forth on Schedule 4.16, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending or, to the Knowledge of the Seller, threatened against the Seller before or at the Closing Effective Time, which will have a Material Adverse Effect. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller which could materially affect the validity or enforceability of this Agreement.

**Section 4.17. Broker's and Finder's Fees**

No broker, finder, or Person is entitled to any commission or finder's fee by reason of any agreement or action of Seller in connection with this Agreement or the transactions contemplated by this Agreement. Seller has employed PFM Financial Advisors LLC, as municipal advisor to provide transaction structuring advice and to provide Seller with municipal advice relating to the

sale of the System. Seller is solely responsible to pay all fees owed to PFM Financial Advisors LLC in connection with the transactions contemplated by this Agreement.

**Section 4.18. Title to the Acquired Assets; Sufficiency**

(a) Except as set forth on Schedule 4.18(a), the Seller has good and marketable title to, valid leasehold interest in or valid licenses to use, all of the Acquired Assets, free and clear of all Liens, other than Permitted Liens and Liens which will be fully and unconditionally released at or before Closing. The use of the Acquired Assets is not subject to any Liens, other than Permitted Liens, and such use does not encroach on the property or the rights of any Person.

(b) Except as set forth on Schedule 4.18(b), the Acquired Assets are sufficient for, and constitute all the assets, properties, business, goodwill and rights of every kind and description, and services required for, the continued conduct and operation of the System by Buyer in substantially the same manner as currently conducted and operated by Seller. Except for the Excluded Assets and except as set forth on Schedule 4.18(b), (i) the Acquired Assets, taken as a whole, comprise all the assets, properties, business, goodwill and rights of every kind and description used or held for use in, or useful or necessary to the operation of the System as currently operated by Seller, and (ii) there are no assets, properties, business, goodwill, rights or services used in the conduct or operation of the System that are owned by any Person other than Seller that will not be licensed or leased to Buyer under valid, current license arrangements or leases. None of the Excluded Assets are material to the System.

**Section 4.19. Pending Development Plans**

Schedule 4.19 sets forth a full and complete list of all Pending Development Plans for which Seller has received notice as of the Effective Date. Each Pending Development Plan, if consummated, could result in additional customers and reduction of available treatment capacity. Schedule Error! Reference source not found. also identifies all agreements with third parties with respect to current or pending extensions of the System or any other sanitary sewer system that is connected to the System together with any financial security held by Seller with respect to such extensions. Seller provides no assurances whatsoever that any development or expansion of the Service Area associated with any Pending Development Plan will actually be undertaken or completed. The Parties expect that Schedule 4.19 will change from time to time between the Effective Date and Closing, and the Seller shall provide updates to Schedule 4.19 upon the occurrence of any significant change, decision or development and shall further deliver such updates pursuant to Section 9.03.

**Section 4.20. Customer Service Laterals and Grinder Pumps**

The Seller does not own, or have any responsibility for: any grinder pumps; connecting facilities located in the area originating from the Seller's terminus point of the collection facilities at the edge-of-road or curb-line or curb stop when the facilities are located with a public right-of-way or the edge of an easement where the collection facilities are located within private property to and throughout the customer's property; or any and all piping and fixtures internal to each individual customer structure (whether residential, commercial, industrial or other customer classes/types).

## ARTICLE V.

### **REPRESENTATIONS AND WARRANTIES OF BUYER**

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

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

#### **Section 5.01. Organization**

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

#### **Section 5.02. Authorization and Validity of Agreement**

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

#### **Section 5.03. No Conflict or Violation**

The execution and delivery of this Agreement by the Buyer, the consummation of the transactions contemplated by this Agreement and the performance by the Buyer of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Buyer under (i) any applicable Law, (ii) any material agreement, instrument or document to which the Buyer is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Buyer.

#### **Section 5.04. Consents and Approvals**

Schedule 5.04, sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

#### **Section 5.05. Broker's and Finder's Fees**

No broker, finder or third party is entitled to any commission or finder's fee in connection with this Agreement or the transactions contemplated by this Agreement.

Section 5.06. **Financial Wherewithal**

Upon Closing, and after giving effect to the consummation of the transactions contemplated by this Agreement and the incurrence of any indebtedness in connection therewith, Buyer shall have the financial ability and will have sufficient working capital for its needs and anticipated needs to operate the System as a certificated public utility system regulated by the PaPUC authorized, among things, to provide wastewater utility services to retail residential, commercial and industrial customers in the System.

Section 5.07. **Sufficient Funds**

Buyer shall have sufficient funds available at Closing to consummate the transactions contemplated by this Agreement, to pay the Purchase Price in accordance with Article III and expenses related to the transactions contemplated by this Agreement, and on and after Closing, to generally provide ownership, operation and capital for the operations and capital needs of the System following the Closing, and assuring that the customers of the System will receive safe, adequate and reliable wastewater service equal to or better than such customers would have received without the transactions contemplated by this Agreement and at all times consistent with the provisions of the Pennsylvania Public Utility Code, 66 Pa. C. S. § 101 *et seq.*, and applicable Law.

Section 5.08. **Independent Decision**

Except as expressly set forth in this Agreement, or any of the related agreements, Buyer acknowledges that (a) Seller has not made any representation or warranty, express or implied, as to the accuracy or completeness of the System or information provided to Buyer, and (b) the Seller does not have or is not subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer use of, any information regarding the System or Acquired Assets that has been furnished or made available to Buyer and its Representatives. Buyer acknowledges that other than as expressly set forth in this Agreement or any related agreement, Seller expressly disclaims any warranty of income potential, operating expenses or costs of operation of any Acquired Assets or the System.

Section 5.09. **Scheduled Matters**

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

Section 5.10. **Independent Investigation**

Buyer acknowledges that it has conducted an independent investigation of the financial condition, assets, liabilities, properties and projected capital needs and operations of the System in making its determination as to the propriety of the transaction contemplated by this Agreement and, in entering into this Agreement and related agreements, has relied solely on the results of its

investigation and on the representations and warranties of the Seller expressly contained in Article IV of this Agreement.

**Section 5.11. Litigation**

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

**ARTICLE VI.**

**TITLE TO REAL ESTATE; EASEMENTS**

**Section 6.01. Evidence of Title**

Subject to Section 6.06, with respect to all Real Property, Buyer shall obtain, at its sole cost and expense, a commitment for an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006 (the "Title Commitment"), issued by a title insurance company selected by Buyer and licensed to insure title to real property by the Commonwealth of Pennsylvania (the "Title Company"), having an effective date after the Effective Date. Following the Effective Date, Buyer shall order the Title Commitment from the Title Company and shall provide Seller evidence of the same. Notwithstanding anything to the contrary in Section 6.02(a) below, Buyer shall not be entitled to send an Objection Notice with respect to any parcel of Real Property and the Title Commitment for the same if, within thirty (30) Business Days after the Effective Date, Buyer has not ordered the Title Commitment from the Title Company for such parcel of Real Property and provided Seller with evidence of the same.

**Section 6.02. Objections to Title**

(a) Notice of Objections. Within forty-five (45) days of Buyer's receipt from the Title Company of a Title Commitment for any of the parcels of Real Property, Buyer shall deliver to Seller a true, correct and complete copy of the Title Commitment for each parcel of Real Property and true, correct, complete and legible copies of any and all exception documents listed in the same, along with Buyer's written notice to Seller of any of the exceptions to title set forth on Schedule B of such Title Commitment to which Buyer objects (such written notice of Buyer being referred to as the "Objection Notice"). Notwithstanding the foregoing, Buyer shall not be entitled to object to exceptions to title which: (a) are Permitted Liens, (b) pertain to the

Buyer or any reasonable and customary requirements, conditions or obligations of the Buyer, (c) are matters of record and set forth in the Title Commitment that do not, either individually or in the aggregate with other matters of record, in Buyer's reasonable opinion, materially and adversely restrict or prevent the use of the Real Property in the operation of the System, or (d) are standard Title Company exceptions (such as the "survey" exception) (such exceptions objected to in the Objection Notice, provided the same are not as described in (a) through and including (d) aforesaid, being referred to as the "Title Objection Items"). The Buyer shall include a true, correct and complete copy of the Title Commitment in the Objection Notice and true, correct, complete and legible copies of any and all exception documents listed in the same in the Objection Notice. If Buyer provides the Seller with an Objection Notice, the Seller shall use commercially reasonable efforts to have all of the Title Objection Items cured, satisfied or released of record, or insured over, by the Title Company (individually, "Cure" and collectively, "Cured") before or as of the Closing. At or before the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing that Seller has Cured all such Title Objection Items. In the event that Seller is unable to Cure any Title Objection Item per this Section 6.02(a), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.02(a) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05. For avoidance of doubt, Buyer acknowledges that no item listed in clauses (a) through and including (d) above, may be objected to by Buyer as a Title Objection Item.

(b) Liens. Without limiting the Seller's obligations pursuant to Section 6.02(a) above, before or as of the Closing, the Seller shall, at the Seller's cost and expense, Cure any Lien encumbering the Real Property which can be Cured by the payment of money (other than Permitted Liens).

(c) Title Endorsements/Survey. Buyer shall pay for any endorsements required by the Buyer or any mortgagee of the Buyer to Buyer's Title Policy. If any survey is required by Buyer or its mortgagee, either as a condition to any such endorsement or otherwise, the Buyer shall obtain it at its sole cost and expense. If Buyer obtains a survey of any or all of the Real Property and desires the deed to contain the legal description based on such survey, if the same is not identical to the legal description contained in Seller's deed of record, Seller is not obligated to include the same in the deed to Buyer unless the survey is certified to Seller and such description is included in the deed on a "quitclaim" basis only and without warranty of title.

(d) License at Closing. Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's rights to access such Real Property in order to allow Buyer to operate and maintain in the System until such time as Buyer is provided title to such Real Property as provided for in this Agreement. For the avoidance of doubt, Seller shall provide such title as soon as reasonably practicable in accordance with Section 6.01.

(e) Insurable Claims. To the extent any Claim for Losses under Article VIII constitutes an Insurable Claim (as defined below), Buyer shall assert the Insurable Claim and use its commercially reasonable efforts to obtain recovery for such Insurable Claim against the Title Company (which shall include commencing litigation and diligently prosecuting such Insurable Claim to judgment) before pursuing a Claim for Losses under Article VIII. If at any time following a non-favorable judgment that substantially denies the relief sought by Buyer from the

Title Company in connection with the Insurable Claim (each a “Non-Favorable Judgment”), Buyer may, following such Non-Favorable Judgment, to pursue the Seller with a Claim for Losses under Article VIII (any such Claim against the Seller following an attempted Insurable Claim against the Title Company being a “Residual Title Claim”). Notwithstanding anything to the contrary in Article VIII, Buyer may assert a Claim for Losses based upon a Residual Title Claim for a sixty (60) day period after the Non-Favorable Judgment. For purposes of this Section 6.02(d), an “Insurable Claim” means a Claim that: (i) arises out of Buyer’s discovery of a title defect or encumbrance with respect to any of the Real Property following the Closing that materially restricts or prevents the use of such Real Property in the operation of the System; and (ii) constitutes a claim against the Title Company under Buyer’s Title Policy. Buyer acknowledges that any and all Claims which Buyer could otherwise bring as a breach of a covenant of title under the special warranty deed to the Real Property shall be included within the Claim for Losses under Article VIII and is subject to the terms of this Section 6.02(e).

**Section 6.03. Title Expenses**

Irrespective of whether the transactions described by this Agreement are consummated and Closing occurs, Buyer shall pay all costs and expenses of obtaining the Title Commitment, Title Policy and any survey.

**Section 6.04. UCC Search; Releases**

Not later than ninety (90) days after the Effective Date, Buyer shall obtain at its sole cost and expense a Uniform Commercial Code search against Seller covering any of the personal property or fixtures included among the Acquired Assets from the Office of the Secretary of the Commonwealth of Pennsylvania and the Recorder of Deeds of Beaver County, Pennsylvania (the “UCC Search”). On or before the Closing Date, Seller shall at its sole cost and expense obtain releases of any and all security interests in any of the Acquired Assets which are not Permitted Liens. The Seller shall provide the form of the releases of such security interests to Buyer on or before the Closing Date.

**Section 6.05. Easements.**

(a) Promptly after the Effective Date and before the Closing, the Seller will, at its sole cost and expense, cause an abstractor selected by the Seller and reasonably acceptable to Buyer and the Title Company (the “Abstractor”), to perform a search of the public land records of Beaver County, based on the Seller’s records and plans of the System (and such other sources of information as are reasonably related thereto), by searching the grantee index in the names of the Seller and such other searches as the Abstractor may reasonably make, to (i) identify and provide Buyer with title information on any and all recorded Easements (including information related to any Liens or encumbrances on Seller’s title thereto), and (ii) together with the Seller, identify all Missing Easements. During the process, as the Abstractor provides written search results to the Seller (including updated versions of the Abstractor Search Result Chart), the Seller will promptly provide the same to Buyer for its review, and, without limiting the foregoing, the Seller shall, or shall cause the Abstractor to, provide Buyer with periodic updates (which shall occur no less frequently than bi-weekly) on the status of the activities set forth in the previous sentence.

(b) Notice of Objections. Within forty-five (45) days of Buyer's receipt from the Seller (or the Abstractor) of each piece of information specified in subsection (a) above, which shall be delivered to Buyer on a rolling basis as prepared by the Abstractor, Buyer shall deliver to Seller written notice identifying the encumbrances on the Easements that, in Buyer's reasonable opinion, could either individually or in the aggregate with other matters of record, materially and adversely restrict or prevent the use of the Easements in the operation of the System, (an "Easement Objection Notice"). Buyer shall not be permitted to include in its Easement Objection Notice any encumbrances that: (a) are Permitted Liens, (b) pertain to the Buyer or any reasonable and customary requirements, conditions or obligations of the Buyer, or (c) are matters of record and set forth in the Abstractor's search results that either individually or in the aggregate with other matters of record, do not, in Buyer's reasonable opinion, materially and adversely restrict or prevent the use of the Easements in the operation of the System (specifically including mortgages or other instruments securing indebtedness incurred by the owner of the land burdened by the Easement) (such exceptions objected to in the Objection Notice, the "Easement Objection Items." If Buyer provides the Seller with an Easement Objection Notice, the Seller shall use commercially reasonable efforts to have the Easement Objection Items Cured, prior to or as of the Closing. At or prior to the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing that all objections identified in the Easement Objection Notice have been cured. In the event that Seller is unable to Cure any such objection Item per this Section 6.05(b), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.05(b) shall not be subject to the Threshold Amount. Seller acknowledges and agrees that (x) the forty-five (45) day period set forth in this Section 6.05(b) does not and shall not apply with respect to Buyer determining whether there are any Missing Easements, and (y) Buyer may notify Seller of any Missing Easement at any time up to and including the Closing Date.

(c) If during the process of Abstractor's review and investigation of the Beaver County land records, Seller determines, based on the Abstractor's investigation, that there is a Missing Easement, the Seller (at its cost and expense) shall take any and all actions (including the use of its power of condemnation) to obtain any such Missing Easements so that the same may be sold, assigned, transferred and conveyed to Buyer at the Closing pursuant to the terms and conditions of this Agreement. The Seller shall pay for all costs and expenses incurred in connection with obtaining each Missing Easement (including any consideration payable to the landowner in connection with condemnation, in lieu of condemnation or otherwise to obtain Missing Easements). If Seller has not obtained all Missing Easements by the date that is ninety (90) days after the date that Abstractor has completed his review of the County land records and delivered the last results of the same to Seller (the "Abstract Completion Date"), then the Seller (at its cost and expense) shall, as soon as reasonably practicable, commence and file in the Court of Common Pleas, Beaver County, a condemnation or eminent domain proceeding to obtain any and all such Missing Easements. For the purposes of clarity, upon obtaining each Missing Easement (including upon the final resolution of a condemnation proceeding), each Missing Easement that has been acquired or obtained by the Seller is considered an Easement. The Seller shall be responsible for the costs and expenses of all condemnation and eminent domain proceedings.

(d) License at Closing. Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's rights to access all Missing Easements in order to allow Buyer to operate and maintain the System until such time as Buyer is provided title to such Missing Easements as provided for in this Agreement.

(e) Escrow at Closing for Missing Easements. For all of the Missing Easements listed on attached Schedule 6.05(e) as of the Closing Date, Seller will have additional time following the Closing Date to secure and assign and transfer the Missing Easements to Buyer. Seller shall diligently pursue and deliver the Missing Easements on or before the third (3rd) anniversary of the Closing Date, subject to any extension as permitted by Escrow Agreement, in the form attached as Exhibit C, that will require, among other things, the funding of an escrow account in the amount of Two Thousand Dollars (\$2,000) for each Missing Easements set forth on Schedule 6.05(e) as of the Closing Date to secure the Seller's obligations under this Agreement and the Escrow Agreement.

(f) Unscheduled Property

The Parties acknowledge that the Seller may own interests in or have the legal right to use or occupy the Real Property and/or Easements that are necessary or essential to the operation of the System and that are not set forth in Schedule 4.09 (the "Unscheduled Real Property"). If the Parties discover before or after the Closing Date, one or more parcels of Unscheduled Real Property, the discovering Party shall give written notice of such discovery to the non-discovering Party. In addition to its obligations in Section 2.03, Seller shall convey, assign or otherwise transfer any rights to each parcel of Unscheduled Real Property, with no adjustment to the Purchase Price, in such a manner as to provide Buyer with reasonable assurances that Buyer will have the right to use or occupy the Unscheduled Real Property as it was used by Seller as of the Effective Date.

## ARTICLE VII.

### OTHER AGREEMENTS

#### Section 7.01. Taxes

Except as provided in this Agreement, the Seller shall pay any and all Taxes, if any, arising out of the ownership of the Acquired Assets and out of the operation of the System before the Closing Date.

#### Section 7.02. Cooperation on Tax Matters

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

#### Section 7.03. Personnel Matters

(a) Subject to the obligations of Seller under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Buyer shall, or shall cause an Affiliate of Buyer to, offer employment effective on the Closing Date, to the Personnel set forth on Schedule 7.03(a) who are employed by the Seller in operating the System as of the Closing Date, subject to Buyer's existing standard hiring policies and procedures applicable to new employees, including but not limited to a criminal background check and drug screening, except with respect to benefits as otherwise provided in Section 7.03(c). The Personnel who accept such employment and commence employment on the Closing Date, are referred to in this Agreement as the "Transferred Personnel." Schedule 7.03(a) shall not be amended after the date this Agreement is executed without the prior written consent of Buyer. For purposes of clarity, nothing contained in this Section 7.03 shall be deemed to limit, restrict or prohibit Buyer from interviewing the applicable Personnel for informational purposes only in connection with the transfer of employment of the Personnel to Buyer as provided in this Section 7.03. Buyer may make the required offer of employment at such a time to permit Buyer to require such offerees' decision to accept or reject such offers up to three (3) months prior to the Closing Date.

(b) Transferred Personnel who are Non-Union Personnel shall be employees-at-will of Buyer. Buyer shall provide each of the Transferred Personnel who are Non-Union Personnel compensation and benefits which are substantially comparable (i) in the aggregate to Seller's compensation and benefits as of the Effective Date and (ii) the compensation and benefits then provided to similarly situated employees of Buyer. Nothing in this Agreement requires Buyer to provide any particular form or type of employee benefit program, plan or policy to any Transferred Personnel who are Non-Union Personnel as a result of the transaction contemplated by this Agreement.

(c) Subject to the obligations of Seller under the Collective Bargaining Agreement and Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, with respect to any employee benefit plan maintained by Buyer or an Affiliate of Buyer for the benefit of any Transferred Personnel, effective as of the Closing Date, Buyer shall, or shall cause its Affiliate to, recognize all previous service of the Transferred Personnel with Seller, as if such service were with Buyer for the purposes of determining eligibility and vesting for benefits. Notwithstanding the foregoing, to the extent Buyer sponsors a defined benefit pension plan or post-retirement medical benefits, Transferred Personnel shall not receive vesting credit under such plan with respect to service performed for Seller to the extent that any such Transferred Personnel are fully vested in a defined benefit pension plan or post-retirement medical benefits to which Seller contributes.

(d) Subject to the obligations of Seller under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, effective as of the Closing, the Transferred Personnel's employment with Seller shall end and the Transferred Personnel shall cease active participation in the Seller's Plans. Seller shall remain liable for all eligible claims for benefits under the Seller's Plans that are incurred by the Transferred Personnel before the Closing Date. Subject to the obligations of Seller under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Seller shall remain liable to make any contributions to Seller's Plans related to, and/or to fund any retirement benefits

accrued by, the Transferred Personnel prior to Closing. Seller shall remain liable for all pay, expenses, wages, Taxes and all other obligations and Liabilities of any nature whatsoever relating to (i) the period prior to the Closing Date with respect to any Personnel that become Transferred Personnel and (ii) relating to all periods before or after the Closing Date with respect to any current or former Personnel who do not become Transferred Personnel.

(e) This Section 7.03 shall be binding and inure solely for the benefit of each of the Parties to this Agreement, and nothing in this Section 7.03, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or because of this Section 7.03. This Section 7.03 shall not create any right in any Transferred Personnel or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever, and shall not be deemed to restrict Buyer in the exercise of its independent business judgment in establishing or modifying any of the terms or conditions of the employment of the Transferred Personnel. Nothing contained in this Section 7.03 shall constitute an amendment of, or an undertaking to amend, any employee benefit plan, program or arrangement maintained by Buyer or its Affiliates or is intended to prevent Buyer or its Affiliates from amending or terminating any such employee benefit plan, program or arrangement in accordance with its terms.

(f) Notwithstanding anything in this Agreement to the contrary, it is expressly understood that Buyer will not acquire any asset, or assume any liability or obligation in connection with the transactions contemplated by this Agreement relating to any of the Seller's Benefit Plans or Seller's Benefit Obligations. Seller shall be solely responsible for any liability, funding obligation, claim or expense arising from the Seller's Plans and Seller's Benefit Obligations, both before, and after, the Closing Date, except as provided in Section 7.03(c).

(g) At a reasonable time prior to the Closing Date, Seller shall transfer copies of all records pertaining to the employment of the Transferred Personnel to Buyer including, but not limited to, all personnel and human resources Files and Records.

(h) Effective as of and conditioned upon Closing and to the greatest extent permissible by law:

(1) Buyer shall recognize the Union as the exclusive bargaining representative for Union Personnel in their current bargaining unit if the Buyer's employees performing the bargaining unit work previously performed by Union Personnel constitute at least a majority of Union Personnel in the applicable bargaining unit and the related bargaining unit contains more than one (1) employee;

(2) To the extent the Union is recognized pursuant to Section 7.03(h)(1) herein, Buyer shall collectively bargain in good faith with the Union to establish a new collective bargaining agreement(s). Except as outlined in Section 7.03(h)(3) herein, if initial terms and conditions of employment cannot be agreed to by the Buyer and the Union, Buyer will adopt Seller's Collective Bargaining Agreement(s)(as defined in Article I herein) for employees in the applicable bargaining unit as of and conditioned upon Closing.

(3) Buyer is not obligated, however, and will not provide medical insurance, paid time off or pension benefits as provided for in the Collective Bargaining Agreements, but instead will provide Union Personnel with the medical insurance, paid time off and retirement benefits it provides to similarly situated employees. The Buyer also shall not be bound by the employee Residency requirement provisions of the Collective Bargaining Agreements, specifically, Article XXII of the Local 9305-08 agreement, and Article XXI of the Local 9305-10 agreement and any provision of the Collective Bargaining Agreement(s) with which it legally cannot comply. Seller makes no representations, and Buyer is solely responsible for determining, that these terms meet Buyer's obligations under applicable labor law.

Effective upon the Closing Date, Municipal Council shall no longer participate in the grievance procedures, as provided for by the Collective Bargaining Agreements. Furthermore, upon the Closing Date, neither Municipal Council nor any other administrative body of Seller shall have any further involvement in the operations of the System, wherever such involvement may be provided for by the Collective Bargaining Agreements.

**Section 7.04. Initial and Future Rates**

(a) **Rates.** After Closing, Buyer shall implement the Seller's sanitary wastewater rates then in effect at Closing, as set forth on Schedule 7.04, and inclusive of any PaPUC permitted or required surcharges or pass-through costs ("Base Rates"), as Buyer's effective sanitary wastewater rates, provided that the rates reflected on Schedule 7.04 (at Closing) shall not be lower than those in effect on the date of the Effective Date. Buyer shall apply, at and after Closing, its then-existing miscellaneous fees and charges, rules and regulations for wastewater service as set forth in Buyer's tariff within Seller's Service Area, or, if Buyer does not have a tariff previously approved by the PaPUC, miscellaneous fee and charges, rules and regulations as proposed by Buyer and approved by the PaPUC.

(b) **PaPUC Approval.** The Buyer shall include the rate provisions of Sections 7.04(a) in its requested PaPUC Governmental Approval.

(c) **Billing.** The Buyer shall bill customers on a monthly basis.

**Section 7.05. Buyer Taxpayer**

From and after the Closing Date, Buyer acknowledges that, upon conveyance of the Acquired Assets to Buyer, the Buyer will be subject to, among other Taxes, real estate Taxes, which Buyer shall pay when due.

**Section 7.06. PaPUC Approval**

(a) Promptly after the Effective Date, Buyer shall timely initiate and faithfully prosecute the necessary proceedings to obtain from the PaPUC (i) the issuance of certificates of public convenience to Buyer to provide wastewater services in the Service Area, (ii) the approval of the acquisition of the System by Buyer under terms and conditions that are reasonably

acceptable to Seller and Buyer, and (iii) the approval of any inter-municipal agreements. Seller shall cooperate with and assist Buyer in proceedings before the PaPUC.

(b) The Parties agree that the procedures for determining fair market value of the System and Acquired Assets outlined in subsection (a) of Section 1329 of Title 66 of the Pennsylvania Consolidated Statutes (“Section 1329”) shall be utilized and filed with the PaPUC as contemplated by Section 1329.

(c) The fees and expenses related to engaging the licensed engineer for such Section 1329 determination shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by the Seller.

(d) To the extent requested by Buyer, Seller shall participate in any proceedings before the PaPUC as an intervenor and active party, provided that the Seller shall bear the fees and expenses directly related to such intervention, including legal expenses. Seller may be represented by the counsel of its choice in any such proceedings.

(e) Buyer, in Buyer’s first base rate proceeding with respect to the System following the Closing, shall propose the use of statutory and regulatory mechanisms available to benefit the Buyer’s acquired customers for ratemaking purposes.

**Section 7.07. Remedies for Breach of Article VII Agreements**

If Buyer breaches any of the covenants and agreements set forth in this Article VII, in addition to all other rights and remedies available at law or in equity, including specific performance and/or injunctive relief, Seller may commence proceedings before the PaPUC seeking enforcement of such covenants and agreements.

**Section 7.08. Operation and Maintenance of MS4 and Stormwater Systems**

The Seller, and/or its successor or designee-in-interest, shall remain at all times responsible for the operation and maintenance of its MS4 system and stormwater system assets. This provision shall not preclude Seller from transferring its MS4 system and stormwater system assets to another governmental entity, municipal authority or other qualified purchaser at a future time.

**Section 7.09. Pending Development Plans**

(a) Buyer and the Seller acknowledge that from the time of the Effective Date, the Seller shall continue to administer, and perform its duties and responsibilities with respect to the Pending Development Plans set forth on Schedule 4.19. For the avoidance of doubt, after the Closing Date, the Seller shall not seek to collect any EDU or tapping-related fees.

(b) Following the Effective Date, Seller shall not enter into any contract with a third party that contemplates the construction of new sanitary wastewater facilities, including, without limitation, pumping stations, force mains, manholes, or pipelines for service to future customers related to Pending Development Plans (collectively, “New System Assets”) without providing a draft of such contracts to Buyer for its review and approval as to the design and specifications before execution by the parties to such contracts. Buyer shall have thirty (30) Business Days to

review and approve such contracts, and Buyer's failure to object in writing to any terms of such contracts within such thirty (30) Business Day review period is deemed an approval of the same by Buyer.

**Section 7.10. Act 537 Plan**

(a) Buyer acknowledges that Seller has previously committed to an official plan, commonly known as an Act 537 Plan (the "Act 537 Plan") under the Pennsylvania Sewage Facilities Act ("Act 537"), which has been made available to Buyer. Buyer understands that the Act 537 Plan contains obligations and commitments, as more fully set forth in the Act 537 Plan to complete certain improvements and upgrades to the System (the "System Improvements"). Buyer shall accept and complete all of the System Improvements as Seller agreed to complete under the existing Act 537 Plan. Prior to agreeing to further obligations pursuant to future amendments to the Act 537 Plan that could reasonably be deemed to affect Buyer, Buyer and Seller shall negotiate in good faith to resolve any objections Buyer may raise in connection with such proposed amendment(s).

(b) Buyer acknowledges Seller has jurisdiction over sewage facilities planning and sewer service through the Act 537 Plan and its Act 537 planning program, zoning, subdivision and land development ordinances and comprehensive land use planning policies. Buyer and Seller shall cooperate with respect to current and future sewage facilities planning and sewer service consistent with the provisions of this Section 7.10.

(c) Subject to PaPUC approval of the Service Area as provided in Section 7.06, Buyer shall maintain and, if necessary, extend sewer lines and provide sewage collection and treatment services to properties within the Service Area in a manner consistent with the Plan and the Buyer's Tariff. Seller will confer with Buyer concerning any revision to the Plan that would affect the provision of sewage collection and treatment services within the Service Area. Seller shall not propose or adopt any revision to the Act 537 Plan that would reduce the Service Area or divert wastewater flows generated from properties located within the Service Area from being served by the System without the written approval of Buyer.

(d) Buyer will not request, pursue, or implement expansions of the System beyond the current Service Area (that would trigger an Act 537 Plan revision) without the prior written approval of Seller and the PaDEP. Seller shall promptly notify and confer with Buyer, and consider Buyer's comments, concerning any proposed Act 537 Plan revision (including any sewage facilities planning module) that would involve the provision of sewage collection and treatment services by the System to area or properties outside of the Service Area. With respect to any such potential Plan revision, Seller and Buyer shall cooperate in evaluating alternatives for provision of sewage services to such areas consistent with the requirements of 25 Pa Code Ch. 71, including consideration of the technical feasibility, economic feasibility and cost effectiveness, consistency with the objectives and policies of plans and requirements of 25 Pa. Code Ch. 71.21(a)(5), consistency with municipal land use plans and ordinances, subdivision ordinances and other ordinances and plans for controlling land use and development, technically and administratively able to be implemented, and other factors required under Act 537 or under Buyer's Tariff.

(e) If Seller and Buyer each determine that the provision of sewage collection and treatment services by the System to certain areas or properties outside of the Service Area is technically feasible, economically feasible and cost effective, and meets all of the requirements set forth in Act 537 and 25 Pa. Code Ch. 71, the Seller shall revise the Act 537 Plan to include such identified areas and properties in the Service Area. If Seller revises the Act 537 Plan pursuant to this subsection and such amendment is approved by PaDEP, (i) Buyer shall request that the modified Service Area be approved by PaPUC; and (ii) subject to PaPUC approval of the inclusion of such modified Service Area, Buyer shall extend sewer lines and provide sewage collection services to properties within such expanded Service Area in a manner consistent with the Act 537 Plan and Buyer's Tariff.

**Section 7.11. Utility Valuation Experts and Engineering Assessment**

Buyer and Seller shall each be responsible for the costs associated with their respective Utility Valuation Expert for the preparation and completion of their respective Utility Valuation Expert's appraisal report and any additional work by their respective Utility Valuation Expert necessary to assist in the processing and prosecution of the application to the PaPUC in regard to this transaction under Section 1329.

**Section 7.12. Compliance and Operational Reports**

After the Effective Date and through the Closing Date, Seller shall provide Buyer with a monthly report to the person designated by Buyer, disclosing any and all material compliance or operational deficiencies that occurred during the previous month. During the same period, Seller shall also provide Buyer with copies of all reports filed with PaDEP regarding the System, including any discharge monitoring reports, associated supplemental reports, and WETT reports, when available.

**Section 7.13. Implementation and Enforcement of Municipal Code**

Following the Closing Date, Seller shall continue to implement and enforce the relevant provisions of the Municipal Code of the City of Beaver Falls, as amended.

**Section 7.14. Covenant Survival**

The covenants set forth in this Article survive Closing.

**ARTICLE VIII.**

**INDEMNIFICATION**

**Section 8.01. Survival**

All representations and warranties contained in this Agreement shall survive until twelve (12) months following the Closing Date, except that (a) the representations and warranties of the Seller specified in Section 4.01 (Organization), Section 4.02 (Power and Authority), Section 4.03 (Enforceability), Section 4.10 (Equipment and Machinery), Section 4.17 (Brokers' and Finders' Fees), and Section 4.18(a) (Title to Acquired Assets) (collectively, the "Seller Fundamental

Representations”) shall survive the Closing indefinitely or until the applicable statute of limitations expires (giving effect to any waiver, mitigation, or extension thereof), (b) the representations and warranties of Seller specified in Section 4.13 (Environmental Compliance) shall survive the Closing until the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof), and (c) the representations and warranties of Buyer specified in Section 5.01 (Organization), Section 5.02 (Authorization and Validity of Agreement), and Section 5.05 (Brokers’ and Finders’ Fees) (collectively, the “Buyer Fundamental Representations”) shall survive the Closing indefinitely or until the applicable statute of limitations expires (giving effect to any waiver, mitigation, or extension thereof). The covenants and agreements of the Parties contained herein shall survive the Closing indefinitely or for the shorter period explicitly specified therein, except that for such covenants and agreements that survive for such shorter period, breaches thereof shall survive indefinitely or until the applicable statute of limitations expires (giving effect to any waiver, mitigation, or extension thereof). Notwithstanding the preceding sentences, (x) any breach of representation, warranty, covenant or agreement in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentences, if notice of the inaccuracy or breach thereof giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought before such time, and (y) nothing contained in this Section 8.01 shall limit in any way any rights a Party may have to bring claims grounded in fraud, intentional misrepresentation or willful misconduct, which rights shall survive the Closing indefinitely.

#### Section 8.02. Indemnification by the Seller

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, the Seller shall indemnify, defend and hold harmless, Buyer and its successors and Affiliates and their respective employees, officers, directors, trustees and agents (the “Buyer Indemnified Persons”), from and against any and all claims for Losses arising from or relating to: (a) any breach of, material misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of the Seller contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller before the Closing pursuant to this Agreement (without regard to any materiality, Material Adverse Effect or related qualifications in the relevant representation or warranty (except where such provision requires disclosure of lists of items of a material nature or above a certain threshold)); (b) any breach or material nonfulfillment of any of the covenants or agreements of the Seller contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller before the Closing pursuant to this Agreement; (c) any Excluded Liability or Excluded Asset or (d) the ownership, use, operation or control of the Acquired Assets or the System prior to the Closing or any incident, occurrence, condition or claim arising prior to Closing and relating to the ownership, use, operation or control of the Acquired Assets or the System prior to Closing.

#### Section 8.03. Indemnification by Buyer

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, Buyer shall defend, indemnify and hold harmless the Seller and its successors and Affiliates and each of their respective employees, officers, directors and agents (the “Seller

Indemnified Persons”) from and against any and all claims for Losses arising from or relating to: (a) any breach of, misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Buyer contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (b) any material breach of any of the covenants or agreements of Buyer contained in this Agreement or in any exhibit, schedule certificate or other instrument or document furnished or to be furnished by the Buyer pursuant to this Agreement; (c) any Assumed Liability as and when payment and performance is due, including without limitation any liability related to any claims by any Governmental Authority; (d) for the avoidance of doubt, Buyer’s actions involving Environmental Requirements, Hazardous Materials or environmental claims from and after the Closing Date; or (e) the ownership, operation or control of the Acquired Assets or the System from and after the Closing Date.

Section 8.04. **Indemnification Procedure**

(a) **Third Party Claims.** If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a representative of the foregoing (a “Third Party Claim”) against such Indemnified Party with respect to which the Indemnifying Party may be obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party may participate in, or by giving written notice to the Indemnified Party (and subject to the other requirements herein) to assume the defense of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel (which counsel is reasonably acceptable to the Indemnified Party), so long as (i) the Indemnifying Party notifies the Indemnified Party, within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response) that the Indemnifying Party is assuming the defense of such Third Party Claim, provided, that if the Indemnifying Party assumes control of such defense it must first agree and acknowledge in such notice that the Indemnifying Party is fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such Third Party Claim, (ii) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently and at its own cost and expense, and (iii) the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Buyer or its Affiliates, (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is

failing to vigorously prosecute or defend. The Indemnified Party shall reasonably cooperate in good faith in such defense. If the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.04(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party may, at its own cost and expense, to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.04(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. The Seller and Buyer shall reasonably and in good faith cooperate with one another in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.04(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give prompt written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.04(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party with respect to any Loss which does not arise or result from a Third Party Claim (a "Direct Claim") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During the thirty (30) day period, the

Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity and amount of such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, by delivery of written notice disputing the basis or amount of the Direct Claim, the Indemnifying Party is deemed to have rejected such claim, in which case the Indemnified Party is free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party has timely disputed its indemnity obligation for any Losses with respect to such Direct Claim, the Parties shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute may be resolved by litigation in an appropriate court of jurisdiction determined pursuant to this Agreement.

**Section 8.05. Limitations on Indemnification Obligations**

(a) Subject to the other limitations contained in this Section 8.05, neither Buyer nor the other Buyer Indemnified Persons is entitled to indemnification pursuant to Section 8.02(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Buyer and the other Buyer Indemnified Persons under this Agreement exceeds One Percent (1.0%) of the Purchase Price (the “Threshold Amount”), in which case Seller shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification (i) based on fraud, intentional misrepresentation or willful misconduct, (ii) based on any inaccuracy in, misrepresentation as to or breach of any of the Seller Fundamental Representations or any of the representations and warranties set forth in Section 4.13, or (iii) pursuant to Sections 8.02 (c) or (d).

(b) Subject to the other limitations contained in this Section 8.05 neither Seller nor the other Seller Indemnified Persons is entitled to indemnification pursuant to Section 8.03(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Seller and the other Seller Indemnified Persons under this Agreement exceeds the Threshold Amount, in which case Buyer shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct or pursuant to Sections 8.03(c)(d) and (e).

(c) Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to Buyer and the other Buyer Indemnified Persons subject to a cap of the Purchase Price), Buyer and the other Buyer Indemnified Persons shall only be entitled to assert claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, which shall not be subject to the Liability Cap (as such term is hereinafter defined), but shall be capped at the Purchase Price)) up to the aggregate amount of 7.5% of Purchase Price (the “Liability Cap”), which shall represent the sole and exclusive remedy of Buyer and the other Buyer Indemnified Parties for any such claims under Section 8.02(a).

(d) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss is limited to the amount of any liability or damage that remains after

deducting therefrom any insurance proceeds actually received and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses before seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss will be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

(g) Subject to the provisions of Sections 3.01, 7.07, 15.11 and any other provisions for equitable relief and/or specific performance, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII. In furtherance of the foregoing, each Party waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Party hereto and their Affiliates and each of their respective representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.05(g) limits any Parties' right to seek and obtain any equitable relief and/or specific performance to which any Party is entitled pursuant to this Agreement.

#### Section 8.06. **Knowledge of Breach**

The Seller will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement if Buyer had actual knowledge of such inaccuracy or breach before the Closing Date. Buyer will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement if Seller had actual knowledge of such inaccuracy or breach before the Closing Date.

### ARTICLE IX.

#### **PRE-CLOSING COVENANTS OF THE SELLER**

##### Section 9.01. **Operation of the System**

Except as otherwise expressly permitted by this Agreement, as required by applicable Law or with the prior written consent of Buyer (which consent shall not be unreasonably withheld, delayed or conditioned), from the Effective Date until the Closing, the Seller shall (i) operate and manage the System only in the ordinary course of business in accordance with past practices and

procedures, (ii) comply in all material respects with all applicable Laws and Authorizations and Permits, and (iii) use commercially reasonable efforts to maintain and preserve intact the business and assets of the System and preserve the rights, franchises, goodwill and relationships of the Seller and the System and their customers, lenders, suppliers, regulators and others having business relationships with the Seller and the System including, but not limited to, the land development agreements in existence as of the Effective Date which such agreements shall not be materially amended without notice to and the consent of Buyer, which consent shall not be unreasonably withheld or delayed.

#### Section 9.02. **Cooperation**

The Seller shall reasonably cooperate with Buyer and its employees, attorneys, accountants and other agents and, generally, act in reasonably good faith to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated by this Agreement.

#### Section 9.03. **Supplements and Updates**

The Seller shall promptly deliver to Buyer any supplemental information updating the information in the representations and warranties set forth in Article IV of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. Within at least ten (10) Business Days of having Knowledge of the same, but in no event later than (3) Business Days before the Closing Date, the Seller shall advise Buyer of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained in this Agreement. Subject to Section 8.06, no supplemental information or facts provided by Seller pursuant to this Section 9.03 shall be deemed to have cured any breach of any representation or warranty contained in this Agreement, including for purpose of the indemnification rights contained in this Agreement. For the avoidance of doubt, no such supplemental information or facts provided pursuant to this Section 9.03 shall be deemed to alter any Schedules without the prior written consent of Buyer (such consent not to be unreasonably withheld, conditioned or delayed).

#### Section 9.04. **Governmental Approvals**

Promptly after the execution of this Agreement, or as required by Law, except as provided in Section 7.06 or otherwise expressly provided herein, the Seller shall file all applications, reports, and requests for consent that are required to be filed by Seller with any Governmental Authority, as provided on Schedule 4.05. The Seller shall also promptly provide all information that any Governmental Authority may require in connection with any such application or report. The Seller shall use commercially reasonable efforts to obtain all required material consents, waivers, authorizations or approvals of any Governmental Authority, including all those listed on Schedule 4.05, or of any other Person in connection with the transactions contemplated by this Agreement. All such consents, waivers, authorizations, or approvals of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement shall be in form and content reasonably satisfactory to Buyer and the Seller before Closing and must be final and non-appealable. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and the Seller may agree to proceed to consummate the transaction.

## ARTICLE X.

### PRE-CLOSING COVENANTS OF BUYER

#### Section 10.01. Actions Before the Closing Date

Buyer shall not take any action that will cause it to be in breach of any representation, warranty, covenant or agreement contained in this Agreement or cause it to be unable to perform in any material respect its obligations hereunder, and Buyer shall use commercially reasonable efforts (subject to any conditions set forth in this Agreement) to perform and satisfy all conditions to Closing to be performed or satisfied by Buyer under this Agreement, including action necessary to obtain all consents and approvals of third parties required to be obtained by Buyer to effect the transactions contemplated by this Agreement.

#### Section 10.02. Governmental Approvals

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

#### Section 10.03. Cooperation

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

#### Section 10.04. Supplements and Updates

Buyer shall promptly deliver to the Seller any supplemental information updating the information in the representations and warranties set forth in Article V of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. Within ten (10) Business Days of having Knowledge of the same, and at least three (3) Business Days before the Closing Date, Buyer shall advise the Seller of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

## ARTICLE XI.

### **CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER**

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

#### **Section 11.01. Consents and Approvals**

Receipt of all required consent, waiver, authorization or approval of any Governmental Authority, or of any other Person and any other approvals necessary to consummate the transactions contemplated by this Agreement set forth on Schedule 5.04, including without limitation all required EPA and PaDEP approvals, and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired). Seller shall obtain the consent of any Governmental Authority as required by the PaPUC.

#### **Section 11.02. Representations and Warranties of Buyer**

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

#### **Section 11.03. PaPUC Approval**

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and the Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and the Seller may agree to proceed to consummate the transaction.

#### **Section 11.04. No Injunctions**

Neither the Seller nor the Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

#### **Section 11.05. Performance of the Obligations of Buyer**

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

**Section 11.06. Deliveries by Buyer**

Buyer shall have made delivery to the Seller of the documents and items specified in Section 13.03 herein.

**Section 11.07. No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

**ARTICLE XII.**

**CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER**

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

**Section 12.01. Consents and Approvals**

(a) Receipt of all required material, non-governmental third party consents and any other approvals necessary or advisable to consummate the transactions contemplated by this Agreement set forth on Schedule 4.05 and all consents, waivers, authorizations and approvals of any Governmental Authority required pursuant to Section 5.04, including without limitation all required EPA and PaDEP approvals/renewals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired);

(b) The discharge of any outstanding debt of Seller which has resulted in any lien or other encumbrance on the System; and

(c) Seller shall have taken all actions to acquire title to the System and the Acquired Assets required to permit Seller to convey the System and the Acquired Assets to Buyer as required under this Agreement.

**Section 12.02. Representations and Warranties of Seller**

The representations and warranties made by the Seller in Article IV of this Agreement (disregarding all “materiality” and “Material Adverse Effect” or similar qualifications contained therein) shall be true and correct on and as of the Closing Date (except for representations and warranties expressly stated to relate to a specific date, in which case each such representation and warranty shall be true and correct as of such earlier date), with only such exceptions as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and the Buyer shall have received a certificate to that effect from the Seller dated as of the Closing Date.

**Section 12.03. PaPUC Approval**

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and the Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and the Seller may agree to proceed to consummate the transaction.

**Section 12.04. No Injunctions**

Neither the Seller nor the Buyer are subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

**Section 12.05. No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

**Section 12.06. Consent Order.**

If Buyer determines that a Consent Order and Agreement (“CO&A”) with the PaDEP or any other regulatory agency is necessary in order to address compliance issues with respect to the System, Buyer may engage in the negotiation and entry into a CO&A between the Buyer and PaDEP in a form and substance and on terms and conditions reasonably satisfactory to Buyer. Buyer shall be responsible for all costs, expenses and efforts related to securing the CO&A with the PaDEP.

**Section 12.07. Deliveries by Seller**

Seller shall have made delivery to Buyer of the documents and items specified in Section 13.02 herein.

**Section 12.08. Performance of the Obligations of Seller**

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

**ARTICLE XIII.**

**CLOSING**

**Section 13.01. Closing Date**

The Closing shall take place at a place in Pennsylvania that is mutually agreed upon by the Parties, at 10:00 a.m. eastern standard time on the earliest agreed upon date or within twenty (20) Business Days after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived and Buyer and the Seller receive the last of the required

consents, waivers, authorizations and approvals from the Governmental Authorities, in each case, for the transactions contemplated by this Agreement, or at such other place and time, by such other method, or on such other date, as may be mutually agreed to by the Parties (the “Closing Date”). For purposes of prorating revenues and expenses, the Closing will be deemed to be effective at 12:01 a.m., City of Beaver Falls, Beaver County, Pennsylvania time, on the Closing Date (the “Closing Effective Time”). For all other purposes, specifically including the Parties’ indemnity obligations set forth in Article VIII, the Closing will be effective upon the receipt by the Seller of the Purchase Price.

**Section 13.02. Deliveries by the Seller**

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

(a) A Bill of Sale transferring all of the Acquired Assets comprising personal property, in the form attached hereto as Exhibit A;

(b) Possession of the Acquired Assets, including without limitation, the Real Property, the Easements and an interest in the Missing Easements, including a license from Seller to Buyer;

(c) A duly executed counterpart to an Assignment and Assumption Agreement with respect to the Assumed Liabilities (the “Assignment and Assumption Agreement”), in the form attached hereto as Exhibit B;

(d) The consents to transfer all of the Assigned Contracts and Authorizations and Permits (including environmental Authorizations and Permits), to the extent required hereunder;

(e) One or more special warranty or other deeds in recordable form reasonably acceptable to Buyer transferring fee simple title of Real Property, and one or more assignments in recordable form reasonably acceptable to Buyer with respect to the Easements (exclusive of any Missing Easements);

(f) Copies or originals of all Files and Records, materials, documents and records in possession of the Seller relating to the Real Property or the Assigned Contracts;

(g) Certificate of the Seller pursuant to Section 12.02 of this Agreement;

(h) Certificate of the Seller pursuant to Section 12.07 of this Agreement;

(i) Any documents duly executed by Seller required by the Title Company to issue final owner’s title policies in accordance with the procedures set forth in Article VI;

(j) An opinion of special counsel to the Seller in the form attached hereto as Exhibit D;

(k) A duly executed counterpart to the Escrow Agreement;

(l) All such other instruments of conveyance or other documents as shall, in the reasonable opinion of Buyer and its counsel, be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement or to carry out the terms of this Agreement, duly executed and acknowledged by Seller, if necessary, and in a recordable form;

(m) A certification of Seller's non-foreign status in accordance with U.S. Treasury Regulation § 1.1445-2(b)(2); and

(n) A form W-9 properly completed by the Seller.

### **Section 13.03. Deliveries by Buyer**

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

- (a) Payment in full of the Purchase Price;
- (b) A duly executed counterpart to the Assignment and Assumption Agreement;
- (c) Certificate of Buyer pursuant to Section 11.02 of this Agreement;
- (d) Certificate of Buyer pursuant to Section 11.05 of this Agreement;
- (e) Evidence of PaPUC approval as provided in Section 12.03;
- (f) A duly executed counterpart to the Escrow Agreement; and

(g) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement.

## **ARTICLE XIV.**

### **TERMINATION**

#### **Section 14.01. Events of Termination**

This Agreement may, by notice given in the manner provided in this Agreement, be terminated and abandoned at any time before completion of the Closing:

- (a) By the consent of both of the Seller and the Buyer;
- (b) By either of the Seller or the Buyer if:

(i) the Closing shall not have occurred on or before the Outside Date; except that the Buyer shall have the one-time right to extend the Outside Date for

up to ninety (90) days if, in the Buyer's sole discretion, any such amount of time up to ninety (90) days is necessary to obtain a required Governmental Approval; or

(ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the material transactions contemplated by this Agreement and such order, decree, ruling or other action will have become final and non-appealable; provided, however, that the Party seeking termination pursuant to this clause (b) of this Section 14.01 is not in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement;

(c) By the Seller (if Seller is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Buyer pursuant to the terms of this Agreement or of any representation or warranty of the Buyer contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Seller to the Buyer or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XI of this Agreement not being satisfied (which condition has not been waived by the Seller in writing); or

(d) By the Buyer (if Buyer is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Seller pursuant to the terms of this Agreement or of any representation or warranty of the Seller contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Buyer to the Seller or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XII of this Agreement not being satisfied (which condition has not been waived by the Buyer in writing).

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

#### Section 14.02. **Effect of Termination**

If this Agreement is terminated by the Seller or the Buyer pursuant to Section 14.01, written notice thereof will forthwith be given to the other and all further obligations of the Parties under this Agreement will terminate without further action by any Party and without liability or other obligation of any Party to any other Party hereunder; except that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned because of any willful breach of this Agreement.

### ARTICLE XV.

#### **MISCELLANEOUS**

##### Section 15.01. **Confidentiality**

Except as and to the extent required by applicable Law (including but not limited to the Pennsylvania Right-To-Know Act at 65 Pa § 67.101) or pursuant to an order of a court of

competent jurisdiction and as required hereunder to obtain any and all required Governmental Approvals, no Party hereto shall, directly or indirectly, disclose or use (and no Party shall permit its representatives to disclose or use) any Confidential Information with respect to any other Party furnished, or to be furnished, by such other Party hereto or its shareholders, directors, officers, agents, or representatives to the other Party hereto or its employees, directors, officers, agents or representatives in connection herewith at any time or in any manner other than in connection with the completion of the transactions contemplated by this Agreement and related transactions.

Section 15.02. **Public Announcements** Subject to applicable Law or listing rules of an exchange on which Buyer's parent corporation's stock is listed, and except as otherwise set forth in this Agreement, the initial public announcement relating to the transactions contemplated herein will be mutually agreed upon and jointly made by the Parties. Subsequent public announcements by one Party are subject to review and approval by the other Parties before issuance, such approval not to be unreasonably withheld, conditioned or delayed.

Section 15.03. **Notices**

The Parties shall make all notices, other communications and approvals required or permitted by this Agreement in writing, stating specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

in the case of the Seller:

Attention:

City of Beaver Falls  
715 15<sup>th</sup> Street  
Beaver Falls, PA 15010  
Attention: City Manager

with a copy to:

Solicitor of Beaver Falls  
Santicola, Steele & Fedeles, P.C.  
722 Turnpike St.  
Beaver, PA 15009  
Attn: Shannon Steele

in the case of the Buyer:

Aqua Pennsylvania Wastewater, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010  
Attention: Marc A. Lucca, President  
malucca@aquaamerica.com

With a copy to:

Aqua Pennsylvania Wastewater, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010  
Attention: Frances P. Orth, Vice President and Senior Managing Counsel  
fpoth@aquaamerica.com

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

**Section 15.04. Headings**

The article, section and paragraph headings in this Agreement are for reference purposes only and have no affect the meaning or interpretation of this Agreement.

**Section 15.05. Severability**

If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement remain in full force and effect and in no way be affected, impaired or invalidated.

**Section 15.06. Entire Agreement**

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

**Section 15.07. Amendments; Waivers**

This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will

operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

**Section 15.08. Parties in Interest; Third Party Beneficiary**

Except as provided in this Agreement, this Agreement is not intended to and shall not be construed to create upon any Person other than the Parties any rights or remedies hereunder.

**Section 15.09. Successors and Assigns**

Neither Party to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Party, and any purported assignment or purported delegation without prior written consent is void. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective permitted successors and assigns.

**Section 15.10. Governing Law; Jurisdiction**

The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this Agreement, including torts. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Western District of Pennsylvania and the Court of Common Pleas of Beaver County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Western District of Pennsylvania and the Court of Common Pleas of Beaver County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in this Agreement shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**Section 15.11. Specific Performance**

The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties is entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

**Section 15.12. Counterparts; Electronic Mail; Facsimile Execution**

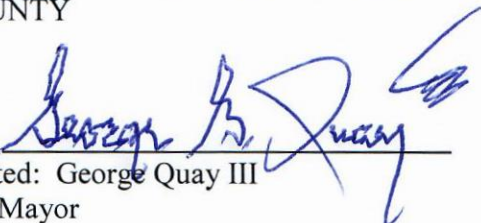
This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to both Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by electronic mail or facsimile transmission. Such Party is deemed to have executed and delivered this Agreement on the date it sent such electronic mail or facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

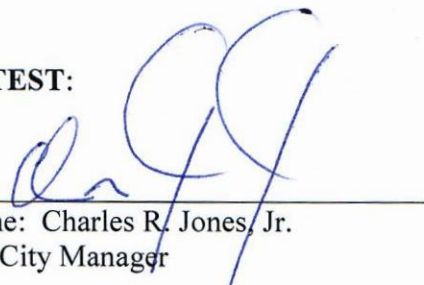
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SIGNATURES NEXT PAGE]

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

CITY OF BEAVER FALLS, BEAVER COUNTY

By:   
Printed: George Quay III  
Its: Mayor

**ATTEST:**  
  
By: \_\_\_\_\_  
Name: Charles R. Jones, Jr.  
Its: City Manager

AQUA PENNSYLVANIA WASTEWATER, INC.

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Its: \_\_\_\_\_

**ATTEST:**  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

CITY OF BEAVER FALLS, BEAVER COUNTY

AQUA PENNSYLVANIA WASTEWATER, INC.

By: \_\_\_\_\_  
Printed: George Quay III  
Its: Mayor

By: Marc A. Lucca  
Printed: MARC A. LUCCA  
Its: PRESIDENT

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Name: Charles R. Jones, Jr.  
Its: City Manager

By: Lana Moran  
Name: LANA MORAN  
Its: EXECUTIVE ASSISTANT

**ASSET PURCHASE AGREEMENT**

**By and Between**

**City of Beaver Falls, Beaver County**

**As Seller**

**and**

**Aqua Pennsylvania Wastewater, Inc.,**

**As Buyer**

**SCHEDULES AND EXHIBITS**

Capitalized terms used in the Schedules which are not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement. The Schedules are to be read in their entirety. Nothing in the Schedules is intended to broaden the scope of any representation or warranty in the Agreement. The disclosure of any item, explanation, exception or qualification in any Schedule is disclosure of that item for all purposes for which disclosure is required under the Agreement when it is reasonably apparent from the context that such item, explanation, exception or qualification also relates to another Schedule irrespective of whether any cross reference is made or no Schedule is provided with respect to a representation. Other than as expressly set forth herein or when the Schedules reference agreements or other matters not documented in a separate writing, all descriptions of agreements, written materials or other matters appearing herein, are summary in nature and are qualified by reference to the complete documents, which have been supplied to the Buyer or its counsel.

## **Schedule 2.01(b)**

### Acquired Assets

All sanitary wastewater related treatment and conveyance facilities, including but not limited to the Seller's sewage treatment plant located in the Service Area, and all collection system mains (whether gravity or force mains), laterals (from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of an easement where the main is located within private property), generators, manholes, pump stations, and other related appurtenances and any billing and collections related assets necessary to own and operate the System.

**Schedule 2.02(e)**  
**Pre-Closing EDU Payments**

[None as of December 31, 2022]

**Schedule 2.02(h)**

Excluded Assets

1. 2011 Vactor combination truck  
International 7500 cab  
1HTWKAZR9CJ564923
  
2. (2) 2008 EnviroSight Rover 125's  
6 wheel drive crawlers  
Multiple sets of wheels  
Both crawlers are set up to go from 6' – 48"  
(1) reel with 1000' of Kevlar coated cable  
Portable recording station

**Schedule 3.03**

Allocation Schedule

To be prepared by Buyer at Closing.

## Schedule 4.05

### Governmental Consents

Pennsylvania Department of Environmental Protection  
Pennsylvania Public Utility Commission  
City of Beaver Falls  
Patterson Township\*  
Patterson Heights Borough\*  
White Township\*  
West Mayfield Borough\*  
North Sewickley Municipal Authority\*  
Big Beaver Municipal Authority\*  
Eastvale Borough\*

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\* If required.

**Schedule 4.06**

**Seller Liabilities**

None.

**Schedule 4.07**

**Events Having a Material Adverse Effect**

None.

**Schedule 4.08**

Tax Matters

None.

**Schedule 4.09**

Real Property and Easements; Liens

- Water Filtration Plant, Seventh Avenue, Beaver Falls, Beaver County, Pennsylvania, consisting of 4.76 acres of land in eight parcels and seven buildings as follows:

<b>Tax Parcel Identification</b>	<b>Owner of Record</b>	<b>Deed BookVol./Pg.</b>	<b>Deed Date</b>
01-001-0111-000	City of Beaver Falls	1005/137	02/01/1973
01-001-0100-003		NA	01/01/1930
01-001-0100-002		NA	01/02/1930
01-001-0100-004		865/279	10/01/1964
01-001-0100-001		1005/137	02/01/1973
01-002-0101-000		1005/137	02/01/1973
01-001-0100-007		1005/137	02/01/1973
01-002-0100-001		1005/137	02/01/1973

- [Abstractor to determine real property interest of the City for Eastvale Pumping Station, SR 588 Bridge Street & Second Avenue, Beaver Falls, Beaver County, Pennsylvania.]

**Preliminary Required Easement List [to be updated]:**

<b>MAP ID#</b>	<b>PIN</b>	<b>Owner_Name</b>	<b>#</b>	<b>LOCATION</b>	
				<b>STREET</b>	<b>MAP SHEET</b>
1	010010100006	BVV REALTY,LLC	0	7TH AVENUE	6
2	010010101000	COMMONWEALTH OF PA-DOT	108	7TH AVE	6
3	010020200000	BVV REALTY LLC	220	7TH AVE	6
4	010030203000	2M METALS,LLC	526	2ND AVE	6
5	010030303000	BEAVER FALLS (CITY OF)	111	8TH ST	6
6	020020102000	SCHERDER,PHILIP J & BRIDGET	301	7TH AVE	6
7	020020105000	GESCO SALES AND CONSULTING LLC	711	4TH ST	6
8	020020713000	MCDANEL ADVANCED CERAMIC TECHNOLOGIES LLC	510	9TH AVE	6

9	020020800000	MCDANEL ADVANCED CERAMIC TECHNOLOGIES LLC	726	6TH ST	6
10	020030101000	TUMAS,JOHN PAUL	0	OAK AVENUE	6
11	020030200000	AVERY,BRITTANY JOLYNN & KIRKLAND,CHRISTOPHER M	0	HILLSIDE AVENUE	6
12	020030313000	TUMAS,GREGORY & BARBARA	305	PARK AVE	6
13	020030314000	MCCONAHY,DONALD G & MARGARET A	307	PARK AVE	6
14	020030315000	BERGLUND,JOSEPHINE A	311	PARK AVE	6
15	020030317000	WATSON,ERIC J	313	PARK AVE	6
16	020030318000	ROSE,TIMOTHY	317	PARK AVE	6
17	020030416000	KESTER,DONALD L & CYNTHIA L	1306	W 4TH ST	6
18	020030417000	KESTER,DONALD L & CYNTHIA L	0	4TH STREET EXTENSION	6
19	020030419000	SACER,DAVID A	405	PARK AVE	6
20	020030431000	JAVENS,THOMAS	0	OAK AVENUE	6
21	020050107000	HAMILTON,FREDERICK P SR & PATRICIA G	1017	10TH ST	5
22	020060200000	HOLLEN,DANI	0	WEST 9TH STREET	5
23	020060300000	TOSH BROS ENTERPRISES C/O JOSEPH N TOSH II	0	WEST 10TH STREET	5
24	020060301000	KIRKPATRICK,THOMAS W & ARATHERINE	0	WEST 10TH STREET	5
25	020060302000	KIRKPATRICK,THOMAS W & ARATHERINE	0	WEST 10TH STREET	5
26	020060303000	KIRKPATRICK,THOMAS W & ARATHERINE	0	WEST 10TH STREET	5
27	020060305000	MILLIGAN,EDITH M & RICHARD C JR	1213	W 10TH ST	5

28	020060600000	POLICARO,FRANK JR	0	W 10TH&UPPER 11TH STS	5
29	020060700000	MCGREAL,AUSTIN J & KELLY JO	0	WEST 11TH STREET	5
30	020060702000	BYERS,SHERRY L & JONES,BONNIE S,CO- TRUSTEES	1105	W 11TH ST	5
31	020060902000	MILLER,ERIC J & DENISE E	700	14TH AVE	5
32	020060923000	MAIN,DARWIN R & PHYLLIS A	800	15TH AVE	5
33	040020600000	KUBECK & KUBECK,LP	1018	11TH ST	5
34	040030104000	AGUDATH ACHIM CONGREGATION % NATHAN ORTINBERG	0	12TH AVENUE	5
35	040030109000	BARNETT,DONALD & DOROTHY	0	12TH AVENUE	5
36	040040103000	HOUSING AUTHORITY OF BVR COUNTY IN LIEU OF TAXES	1300	16TH AVE	5
37	050010100001	BEAVER FALLS (CITY OF) CITY BUILDING CSX	0	2ND AVENUE	4
38	05001010000E	TRANSPORTATION,INC C/O TAX DEPARTMENT	0	15TH STREET	4
39	050040200000	LOKEY,CYNTHIA L & JAMES R	0	3RD AVENUE	4
40	050040308000	BEAVER FALLS (CITY OF)	0	3RD AVENUE	4
41	050040400000	BEAVER FALLS (CITY OF)	0	4TH AVENUE	4
42	050040604000	BEAVER FALLS (CITY OF)	0	4TH AVENUE	4
43	050050100002	BEAVER FALLS (CITY OF) CITY BUILDING	0	6TH AVENUE (REAR)	4
44	050050200000	BEAVER FALLS (CITY OF)	0	5TH AVENUE	4
45	050050314000	RAMER,JOHN C	0	21ST ST & THOMAS ALLY	4

46	05006010000E	CSX TRANSPORTATION,INC C/O TAX DEPARTMENT	0	25TH STREET OFF	4
47	060020301000	BIG BEAVER FALLS AREA SCHOOL DISTRICT	1601	REAR 8TH AVE	4
48	060030702000	BARNETT,DONALD R & DOROTHY M	0	16TH ST & RIDGE AVE	4
49	060050100000	BIG BEAVER FALLS AREA SCHOOL DISTRICT	1701	8TH AVE	4
50	06005040000E	NORFOLK SOUTHERN CORP C/O CONRAIL	0	10TH AVENUE	4
51	060060901000	HUMPHREY,ALEX D & STRICKLAND,BARBARA A	1701	11TH AVE	
52	060061402000	NESMITH,KEVIN & GENEVA	1704	12TH AVE	
53	060061901000	MCCANN,JACK D & JO ANN E REVOCABLE LIVING TRUST	1703	12TH AVE	
54	060070601000	SWARMER,DENNIS B & KATHY A	1700	RIDGE AVE	4
55	060070602000	BREIT,MARTIN E & MARTHA J	0	14TH AVENUE	4
56	070010202000	GENEVA COLLEGE	0	COLLEGE AVENUE	3
57	070010300000	GENEVA COLLEGE	3200	COLLEGE AVE	3
58	070021510001	LATSKO BEAVER FALLS REALTY LLC	3000	24TH STREET EXT	3
59	070021510002	TURNEY,ROY W & PATRICIA A	0	6TH AVE	3
60	070021600000	FILUARI,ROBERT	0	6TH AVENUE	3
61	070021610000	FILAURI,ROBERT P & MARILYN M	0	6TH AVENUE REAR	3
62	070022000000	LIFE MANAGEMENT CONSULTANTS,INC	3301	8TH AVE	3
63	070022002000	DASHIO,HARRISON & TAMMIE	3305	8TH AVE	3
64	070022100001	MEYER,PAUL M & STEPHEN P	3120	24TH STREET EXT	3
65	070022101000	MEYER,PAUL M & STEPHEN P	0	24TH STREET EXT	3

66	070022102000	COX'S BOXES ADT,LLC	0	24TH STREET EXT	3
67	070022102001	REBICH,E TODD	0	24TH STREET EXT	3
68	070022102002	COX,RICHARD	0	24TH STREET EXT	3
69	070022102003	D&D WAREHOUSING,LLC	3100	24TH STREET EXT	3
70	07002220000E	NORFOLK SOUTHERN CORP C/O CONRAIL	0	24TH STREET EXT REAR	3
71	070030101000	SHULER,SCOTT M & YVONNE L	0	41ST & 4TH AVENUES	2
72	070030101001	SHULER,SCOTT M & YVONNE L	4012	4TH STREET	2
73	070030103000	SHULER,SCOTT M & YVONNE L	4012	REAR 4TH AVE	2
74	070030105000	SHULER,DONALD A & BARBARA A	0	40TH ST COLLEGE HILL	2
75	070030108000	LINDSAY,MELINDA A	3910	COLLEGE AVE	2
76	070030112000	MATOTEK,MICHAEL T & JAUNITA C	204	39TH ST	2
77	070030115000	BEAVER FALLS (CITY OF)	0	2ND AVENUE	2
78	070030123000	GOEHRING,JAMES W & NANCY J	0	2ND AVENUE	2
79	070030124000	GOEHRING,JAMES W & NANCY J	3810	2ND AVE	2
80	070030125000	WALLER,SANTA SCOTT & URSIDA,JOSEPH M	3808	2ND AVE	2
81	070030126000	GREIG,H KEVIN C/O RICHARD GREIG	3806	2ND AVE	2
82	070030137000	MULLEN,DONALD R & PATRICIA A	3706	2ND AVE	2
83	070030138000	BEAVER FALLS (CITY OF)	3704	2ND AVE	2
84	070030250000	SMITH,DEAN R & NANCY I	3600	36TH STREET PL	2
85	070030251000	SEEGER,TYLER	3526	COLLEGE AVE	2

86	070030252000	PEZZI,ROBERT NICHOLAS & ANITA O	3524	COLLEGE AVE	2
87	070030253000	HARPER,RONALD & JO ELLEN	3518	COLLEGE AVE	2
88	070030254000	DINSMORE,CRAIG & ERICA	3514	COLLEGE AVE	2
89	070030255000	SPINNENWEBER,CAROLYN	3510	COLLEGE AVE	2
90	070030256000	CAPLINGER,REBECCA	3506	COLLEGE AVE	2
91	070030257000	BOXEN,GEORGE A JR & EDITH F	3502	COLLEGE AVE	2
92	070030258000	DECHICKO,EUGENE & JANE	3426	COLLEGE AVE	2
93	070030259000	DELIVUK IRREVOCABLE TRUST	3422	COLLEGE AVE	2
94	070030260000	MILLER,MICHAEL	3416	COLLEGE AVE	2
95	070030261000	MACIOCE,DENISE M	3414	COLLEGE AVE	2
96	070030262000	PAGANI,PAUL D & HEATHER	3410	COLLEGE AVE	2
97	070041400000	SCHOOL DISTRICT OF BEAVER FALLS	0	37TH-38TH W OF 4TH AV	2
98	070041900000	MARTIN,EDWARD R & BRIAN	803	34TH ST	2
99	070042000000	RAMAR LAND CORPORATION	1009	24TH STREET EXT	2
100	070042009000	KING,DAVID P & SHANNON L	0	8TH AVENUE	2
101	07004230000E	NORFOLK SOUTHERN CORP C/O CONRAIL	0	37TH STREET	2
102	070050200000	SNEDEKER,KIM J	4100	4TH AVE	2
103	070050201000	LEKSELL,AMBER N	4104	4TH AVE	2
104	070050203000	CAMPBELL,GLENN L JR & JANICE A	4106	4TH AVE	2
105	070050208000	UC REALTY LLC	4460	4TH AVENUE	2
106	070050209001	SNOW,DEAN R	4460	4TH AVE	1

107	070050209002	SNOW,DEAN R	4460	4TH AVE	1
108	070050209003	VARNER-WAITE RENEE ADMINISTRATRIX	0	4TH AVE	1
109	070050500000	HOUSING AUTHORITY OF BVR COUNTY IN LIEU OF TAXES	0	45TH STREET	1

**Schedule 4.10**

Equipment and Machinery

<b>Description</b>	<b>Year</b>
<b>Office Equipment</b>	
Office Furniture and fixtures - workstations	2020
Computers, laptops, printers, etc.	2020
Miscellaneous EDP Equipment, computers, printers	2020
<b>Transportation Equipment</b>	
Ford F250 4x4 Truck, 1,466 miles.	2020
Ford F150 4x4 Truck, VIN NO. 1FTMF1EM4EKG07810, 36,779 Miles	2014
Ford F350 1-ton Dump Truck YEAR 1992, VIN No. 1FDKF37GXNNA08298, 90,687Miles, Manual Transmission	1992
Case Backhoe/Loader Model 580 SUPER L EXTEND-A-HOE, #JYG0195825, 5,828 Hrs, 4 X 4	1998
Bobcat Skid Steer Loader, Model 553 C Series, #513012370, 864 Hrs.	1999
Car Mate Trailer VIN NO. 5A3Y510S12L003959, 5 X 10, 13" Sidewalls	2002
Mansfield Flatbed Trailer, VIN NO. 1M9BU142X6M620139, 6 X 10 Diamond Plate Deck, Tandem Axle	2006
<b>Stores Equipment</b>	
Misc	1996
Chlorine Scales	1996
Lockers	1996
Shelving	1996
Storage bins	1996
<b>Tools and Shop Equipment</b>	
Gorman-Rupp Trailer Mounted Pump	2020
Cub Cadet Zero Turn Mower	2020
Lawn Tractor, Toro Wheel Horse Model 73542, #000000111, Hydrostatic, 1071 HRS	2020
Capital Equipment TP300 Industrial Trash Pump, 3", Gas 208 CC Engine	2020
Industrial Plus Industrial Trash Pump, 3", 8HP, Gas Fired	2020
Drill Press DELTA Model L 17-900, #8810	2020
Miller MIG Welder, Multimatic 220	2020
Lincoln Welder, Gas Fired	2020
Capital Equipment PW3000 Industrial Pressure Washer	2020
Stihl TS800 Cutoff Saw with 16-inch wheel	2020

Toro CCR3650 Snow blower 6Hp	2020
I-R Air Compressor, Gas Fired T10 Series	2020
Capital Equipment 7500D Portable Generator, Diesel Fired, 10 Hrs	2020
I-R Portable Air Compressor, Gas Fired, T10 SERIES	2020
Porter Cable Portable Air Compressor, Jet Stream Series, Model CPL55GH810, 55HP Gas Engine, 8 Gallon Tank	2020
BOSCH Brute Electric Demolition Jackhammer with hand truck and tooling	2020
HONDA Portable Generator, 8HP, 4000 Watt	2020
Ridgid KOLLMANN K1500 Sectional Sewer Cleaning Machine	2020
WEN Construction Zone Series Plate Compactor, 212 CC Gas Engine	2020
I-R Air Compressor, Model TS5, #NAR10524662, 5HP, Vertical Tank With Wiring, Control and Hose Reel	2020
Shop Crane	2020
VENTUR Electric Truck Bed	2020
Rotary Automotive Lift, Model DP10AN100BBL, #NEP11E0057, 10,000# Capacity with Wiring and Controls	2020
Western Snowplow Model ProPlow\$60390, 8' with mount	2020
Minor Equipment - shelves, fire ext., time clock, vacuum, floor machine, valet, spare motors, lockers, fans, etc.	2020
Minor Equipment	2020
Fairbanks Morse, No. 27 Platform Scale, Twin Beams, 4 x 5 Platform with Mettler Toledo Digital Readout	2020
Minor Equipment consisting of fire extinguisher and shelving	2020
Minor Equipment - Fire extinguisher , ladder, etc.	2020
Minor Equipment - Trucks, chairs, Fire extinguisher , etc.	2020
Minor Equipment	2020
Minor Equipment yard tools, cabinets, vacuum, shelf/Cabinet, respirators	2020
Confined Space Set complete with tripod and lift	2020
Kellogg-America Air Compressor, single stage, 5HP with vertical 60 gallong capacity Tank, complete with piping, connectins, wiring and controls	2020
Continental Shop Press Model HV100, #10776, 30 ton capacity, hydraulic	2020
Minor equipment consisting of hand tools, power tools, jack, racks, fire extinguisher, etc.	2020
Rigid 535 Pipe Threader with tooling	2020
Steel shop table, 8 x 5 with Jib Crane, Vise and Pipe Vise	2020
Proto tool chest, 4x2x5 1/2 with hand tools	2020
Lincoln Idealarc 250 Welder	2020
Jet Drill Press Model JDP-20MF, #14046692	2020
Jet Horizontal Band Saw, Model HBS-916W, #414468	2020
Minor Equipment - Fire extinguisher , fan, pump, etc.	2020
Minor Equipment - Desk, Chair, File, Bookcase, Vaccum, Fire extinguisher , air conditioner, etc.	2020

Minor equipment consisting of ladder, yard tools and fire extinguisher, etc.	2020
Minor equipment consisting of life ring, floatation Device for Primary Settling Tanks	2020
Minor equipment consisting of life ring, floatation Device for Final Settling Tanks 1 & 2	2020
Minor equipment consisting of life ring, floatation Device for Final Settling Tanks 3, 4 and 5	2020
Minor equipment consisting of life ring, floatation Device for chlorine tanks	2020
Minor equipment consisting of battery chargers. Drum pumps, airless painter, counters, sprayers, ladders, pressure washer, space heaters, air compressor, hand and power tools, hand trucks, fire extinguishers, shop lights, jacks, refrigerators, chain saw, leaf blowers, string trimmers, utility cart, sandblaster, yard tools, files credenza, chairs, vacuum, safety cabinets	2020
<b>Laboratory Equipment</b>	
Orio Ph/ RDO/DO meter	1996
Glassware	1996
Refrigerator	1996
Manning effluent composite sampler	2021
Process Control Equipment	1996
Lab Equip & Furniture	1996
<b>Communications Equipment</b>	
iPhone XR's	2021
iPads (4G)	2021
NEC Master Telephone System With PA, Amplifier and phones	2020
<b>Miscellaneous Equipment</b>	
Surveillance System - 4-cameras, 2-monitor, 1-controller	2020
DVR Recorder	2018

## Schedule 4.11(a)

### Plans and Benefit Obligations

2022 Beaver Falls Sewage Treatment Plant Personnel Info						
Name	Position	Hourly Wages	Hire Date	Longevity Pay	Vacation Days	Personal Days
[Redacted Personnel Data]						

Note: Wages of Transferred Personnel as of 2023; Vacation, personal and sick days are as of 1/1/2022.

## UPMC HEALTH PLAN

Current Plan Design Renewal Rate Quotation: COG

City of Beaver Falls  
Group Number: 800054

Policy Period: January 01, 2021 - December 31, 2021

CURRENT MEDICAL PLAN									
				Single	EE & Spouse	EE & 1 Child	EE & Children	Family	Estimated Annual Premium
# of Employees Enrolled in Medical:				10	13	1	0	21	
Current Rates	NS EPO EPFJK	EPFJK	\$10/\$20/\$40/\$40	\$612.94	\$1,640.23	\$1,233.24	\$1,233.24	\$1,710.11	\$775,175.28

## UPMC HEALTH PLAN

## Schedule of Benefits

**UPMC Business Advantage**  
**EPO - Premium Network**  
**Deductible:** \$0 / \$0  
**Coinsurance:** 0%  
**Total Annual Out-of-Pocket:** \$6,350 / \$12,700

**Primary Care Provider:** \$10 Copayment per visit  
**Specialist:** \$20 Copayment per visit  
**Emergency Department:** \$50 Copayment per visit  
**Urgent Care Facility:** \$20 Copayment per visit  
**Rx:** \$10/\$20/\$40/\$40

## CITY OF BEAVER FALLS PENSION PLAN: SUMMARY OF PLAN BENEFITS

### **Effective Dates**

*Plan Established - January 1, 1960*

*Most Recent Plan Amendment - October 22, 1996*

### **Participation**

Any person employed on a full-time basis by the City of Beaver Falls, excluding any member of the Police or Fire Departments. Participants enter the plan on the last day of the month following date of employment.

### **Employee Contributions**

5.0% of Compensation.

### **Normal Retirement**

*Eligibility - Age 60 and the completion of 20 years of service.*

*Benefit - 50% of Monthly Average Compensation.*

### **Disability Retirement**

*Eligibility - Total and permanent disablement that occurs following the completion of 10 years of service.*

*Benefit - Normal Retirement Benefit based on Monthly Average Compensation at date of disablement.*

### **Death Benefits**

*Before Retirement - Refund of Employee Contributions.*

*After Retirement, Disability or if Killed in Service - 50% of the pension the participant was receiving is payable to the participant's spouse until death or remarriage.*

### **Vesting**

*Schedule - 100% after the completion of 12 years of service.*

*Benefit - Normal Retirement Benefit based on Monthly Average Compensation at date of termination, multiplied by service to termination and divided by service to Normal Retirement Date; payable at Normal Retirement.*

**Early Termination Benefit**

*Eligibility* - Termination of employment after the completion of 20 years of service, but prior to attainment of age 60 and continuation of monthly participant contributions in an amount equal to the last amount paid as an Employee.

*Benefit* - Normal Retirement Benefit based on Monthly Average Compensation at date of termination, payable at Normal Retirement.

**Principal Definitions**

*Compensation*: Regular base pay plus overtime. For employees hired after August 30, 1992, lump sum payments for vacation and sick pay will not be included.

*Monthly Average Compensation*: Compensation averaged over the highest 12 consecutive months of the last 60 months prior to retirement or other severance.

*Refund of Employee Contributions*: Accumulated contributions without interest.

**Vision and Dental Plans**

**Life Insurance, Accidental Death/Dismemberment, and Short Term Disability Insurances through UNUM:**

<b>Title</b>	<b>Life Insurance</b>	<b>Accidental Death/Dismemberment</b>	<b>Short Term Disability</b>	
	<b>Amount</b>	<b>Amount</b>	<b>Amount</b>	<b>Total Premium (Monthly)</b>
<b>Superintendent</b>				
<b>Laborer</b>				
<b>Laborer</b>				
<b>Laborer</b>				
<b>Laborer</b>				
<b>Secretary</b>				

**Schedule 4.11(b)**

Multiemployer Plans

None.

**Schedule 4.11(c)**

**Benefit Obligations of Terminated and Retired Personnel**

Post-retirement life insurance premiums paid for retired personnel as follows:

<b>Name</b>	<b>Title</b>	<b>Life Insurance</b>	
		<b>Amount</b>	<b>Monthly Premium</b>

**Schedule 4.11(e)**

Severance Agreements

[None.]

**Schedule 4.12(a)**

Collective Bargaining Agreements

Agreement between the City of Beaver Falls and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC, on behalf of Local Union 9305-08, expiring December 31, 2025

Agreement between the City of Beaver Falls and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC, on behalf of Local Union 9305-10, expiring December 31, 2023

**Schedule 4.12(b)**

Personnel Disputes

None.

**Schedule 4.12(c)**

Labor Disruptions

None.

**Schedule 4.12(d)**

Personnel Payments

None.

## Schedule 4.13

### Environmental Compliance

- Storm-based overflows on Rock Avenue underpass in West Mayfield Township as reported in Chapter 94 Reports
- Failed to comply with effluent limitations under NPDES permit on multiple occasions from December 2016-2019; Civil Penalty of \$8,500 by Consent Assessment assessed and agreed to on September 26, 2019
  - Effluent limitation violations from 2016-2019 as noted on Discharge Monitoring Reports
- Excessive wastewater flows during precipitation events as noted by the Pennsylvania Department of Environmental Protection in June 2020
  - Big Beaver Borough Corrective Action Plan submitted on September 24, 2020
  - Beaver Falls 2020 Corrective Action Plan
  - Patterson Township Corrective Action Plan dated September 22, 2020
  - North Sewickley Township Sewer Authority Corrective Action Plan 2020
  - White Township Corrective Action Plan 2020
  - Corrective Action Plans have not been supplied by Patterson Heights, West Mayfield, or Eastvale Borough
- Secondary bypass of 1,035,000 gallons on September 9-10, 2018 as a result of several inches of rain
- All items identified in Phase I Environmental Site Assessment prepared by Gannett Fleming and provided to the Bidders in July 2021.
- Reference is made to the Technical Memorandum dated June 11, 2021 of Gannett Fleming re: Beaver Falls Wastewater Treatment Plant-Main Equipment Building Hazardous Materials Assessment – Asbestos, noting the presence of asbestos on the ground and lower floors of the Main Equipment Building in several collected samples. Seller removed this asbestos in 2021.

## Schedule 4.14

### Authorizations, Licenses and Permits

1. Commonwealth of Pennsylvania Department of Environmental Protection National Pollutant Discharge Elimination System Permit No. PA0026883, expiring October 31, 2023
2. Commonwealth of Pennsylvania Department of Environmental Protection Water Quality Management Permit No. 0472402, originally issued November 3, 1972 and amended on November 5, 1991, July 30, 1992, March 16, 1997, and March 10, 2010.
3. Commonwealth of Pennsylvania Department of Environmental Protection Water Quality Management Permit No. 0405405, issued in connection with the Eastvale Pumping Station

**Schedule 4.15**

Assigned Contracts

<b>Agreements</b>			
<b>Term of Agreement</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Silent	City of Beaver Falls and Patterson Township	April 28, 1977	Intermunicipal Service Agreement*
Renews annually on December 31	City of Beaver Falls and Big Beaver Municipal Authority	November, 1998	Intermunicipal Service Agreement <sup>†*</sup>
Renews annually on December 31	City of Beaver Falls and North Sewickley Township Sewer Authority	January 9, 2003	Intermunicipal Service Agreement <sup>†*</sup>
Until December 31, 2024	City of Beaver Falls and Joint Sewer Users	April 8, 2014	Capital lease of main trunk line <sup>**‡</sup>
Silent	City of Beaver Falls and Borough of Eastvale	May 1, 1983	Eastvale collection system*

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\* It is anticipated Buyer will enter into a new service agreement with this municipality, upon which date the listed agreement will be terminated.

<sup>†</sup> Consent required for assignment as noted in Schedule 4.05.

<sup>‡</sup> Seller includes this agreement for the sake of disclosure but has been unable to identify the counterparty entity and makes no representations as to the validity of such agreement.

**Schedule 4.16**

Seller Litigation

Patterson Township, Patterson Heights Borough, West Mayfield Township, and White Township  
v. City of Beaver Falls and Aqua Pennsylvania Wastewater, Inc., Case No. 2022-11219.

**Schedule 4.18(a)**

Exception to Title to Acquired Assets

[None other than disclosed potential claim to possible leasehold interest on main trunk line that City intends to vigorously dispute.]

**Schedule 4.18(b)**

Sufficiency

None.

**Schedule 4.19**

Pending Development Plans

None.

**Schedule 5.04**

**Buyer Consents and Approvals**

Pennsylvania Department of Environmental Protection  
Pennsylvania Public Utility Commission

**Schedule 5.11**

Buyer Litigation

Patterson Township, Patterson Heights Borough, West Mayfield Township, and White Township  
v. City of Beaver Falls and Aqua Pennsylvania Wastewater, Inc., Case No. 2022-11219.

## **Schedule 7.03(a)**

### Transferred Personnel

- Joseph Durish Jr., Plant Manager (Non-Union)
- Kathryn Borghi, Secretary (Union)
- Joseph Durish Sr., Chief Mechanic (Union)
- Costas Apostolis, Mechanic Trainee (Union)
- Nicholas Perza, Mechanic Laborer (Union)
- Brian Petronchak, Chief Operator (Union)
- Vacant (to be filled prior to closing), Operator Trainee (Union)

## Schedule 7.04

### Rates

Seller's rates as of the Closing Date are anticipated to be as follows (evidencing anticipated 3% increase on 1/1/2023):

#### City Customers:

**Minimum water usage rate:** \$42.37 per quarter for 3,000 gallons of water or less used per quarter (the "Base")

**Additional usage:** \$8.46/1,000 gallons over the Base

#### Wholesale Customers:

**Water usage:** \$4.54/1,000 gallons

**Exhibit A**  
Bill of Sale

## BILL OF SALE

This BILL OF SALE (this “**Bill of Sale**”) is dated as of \_\_\_\_\_, 20\_\_ by and between **THE CITY OF BEAVER FALLS, BEAVER COUNTY**, a body corporate and politic, duly organized under the laws of the Commonwealth of Pennsylvania (“**Seller**”) and [\_\_\_\_\_] (“**Buyer**”).

### RECITALS:

WHEREAS, pursuant to that certain Asset Purchase Agreement by and between Seller and Buyer dated \_\_\_\_\_, 20\_\_ (the “**APA**”), Seller has agreed to sell and Buyer has agreed to purchase, certain assets of Seller as more particularly described in Section 2.01 of the APA (the “**Acquired Assets**”) owned and used in connection with that certain sanitary wastewater collection and treatment system (the “**System**”) that provides sanitary wastewater service to various individual and wholesale customers in the City of Beaver Falls, Pennsylvania and portions of Patterson Township, North Sewickley Township, West Mayfield Borough, White Township, Big Beaver Borough, Patterson Heights Borough, and Eastvale Borough, each in Beaver County, Pennsylvania as described in the Recitals to the APA (the “**Service Area**”); and

WHEREAS, the use, maintenance and right of access to the Acquired Assets constituting interests in real property are being transferred on the date hereof by Seller to Buyer by deeds, assignments and/or a license; and

WHEREAS, Seller intends to convey the Acquired Assets not constituting interests in real property as more particularly described in **Exhibit “A”** attached hereto as of the date hereof.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Buyer agree as follows:

1. **Recitals; Capitalized Terms.** The Recitals of this Bill of Sale are incorporated herein as if set forth in full. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the APA.
2. **Transfer of Acquired Assets.** Seller hereby sells, assigns, conveys, transfers, and grants to Buyer all of Seller’s right, title and interest in and to the Acquired Assets.
3. **Further Assurances.** Promptly upon request of the other party, Buyer and Seller shall each execute and deliver to the others such further assurances and take such further actions as may be reasonably required or appropriate to perfect the transfer of the Acquired Assets and otherwise carry out the intent and purpose of this Bill of Sale.
4. **As Is.** **THIS BILL OF SALE IS MADE ON AN “AS-IS, WHERE-IS, WITH ALL FAULTS” BASIS, WITHOUT RECOURSE AND WITHOUT ANY REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED) WHATSOEVER EXCEPT AS MAY EXPRESSLY BE SET FORTH IN THE APA.**

5. **Binding Effect.** All of the terms and provisions of this Bill of Sale shall be binding upon, inure to the benefit of and be enforceable by the legal representatives, successors and assigns of Seller and Buyer.

6. **Law to Govern.** This Bill of Sale 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.

7. **Headings, Gender, etc.** All section headings contained in this Bill of Sale are for convenience of reference only, do not form a part of this Bill of Sale and shall not affect in any way the meaning or interpretation of this Bill of Sale. 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.

8. **Schedules and Exhibits.** All Schedules and Exhibits referred to herein are intended to be and hereby are specifically made a part of this Bill of Sale.

9. **Counterparts.** This Bill of Sale 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.

*(Signatures appear on following page)*

**IN WITNESS WHEREOF**, the parties have executed this Bill of Sale under seal as of the date first above written.

**SELLER:**

**ATTEST:**

**CITY OF BEAVER FALLS**

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**ATTEST:**

**BUYER:**

[ \_\_\_\_\_ ]

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**EXHIBIT "A"**

**ACQUIRED ASSETS**

*[Signature Page to the Bill of Sale]*

## Exhibit B

### Assignment and Assumption Agreement

#### ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (the “Agreement”) is made and entered into to be effective as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **THE CITY OF BEAVER FALLS, BEAVER COUNTY**, a body corporate and politic, duly organized under the laws of the Commonwealth of Pennsylvania (“Assignor”), and [\_\_\_\_\_] (“Assignee”).

#### BACKGROUND

This Agreement is made pursuant to the Asset Purchase Agreement (the “Asset Purchase Agreement”) of even date herewith by and between Assignor and Assignee, in which Assignor is concurrently herewith selling, transferring, conveying, assigning and delivering to Assignee the Acquired Assets, as defined in the Asset Purchase Agreement. Capitalized terms used and not defined herein shall have the meanings given to them in the Asset Purchase Agreement.

Pursuant to the Asset Purchase Agreement, as part of the consideration for the Acquired Assets, Assignee is required to assume and agree to perform, pay or discharge, when due, certain Assumed Liabilities, as defined in the Asset Purchase Agreement.

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

1. Assignor hereby assigns, and Assignee hereby assumes and agrees to pay, perform and discharge, in accordance with their terms, the Assumed Liabilities.
2. Notwithstanding the foregoing or any other provision of this Agreement, Assignee will not assume or be bound by and shall be deemed not to have assumed, agreed to pay, perform, fulfill or discharge any of the Excluded Liabilities.
3. Assignor hereby assigns, transfers, sets over and grants to Assignee all of its rights and obligations under the Assigned Contracts. Assignee hereby accepts such assignment and transfer and hereby assumes and agrees to perform all obligations and duties of and to make all payments and perform all required actions under the Assigned Contracts. Assignor is hereby released and discharged from all obligations and duties arising from this day forward under, or in respect of, the Assigned Contracts.
4. The assumption by Assignee of the Assumed Liabilities shall not be construed to defeat, impair or limit in any way the rights, claims or remedies of Assignee under the Asset Purchase Agreement.

5. Nothing contained herein shall change, amend, extend or alter (nor shall it be deemed or construed as changing, amending, extending or altering) the terms or conditions of the Asset Purchase Agreement in any manner whatsoever. This Agreement does not create or establish liabilities or obligations not otherwise created or existing under or pursuant to the Asset Purchase Agreement. In the event of any conflict or other difference between the Asset Purchase Agreement and this Agreement, the provisions of the Asset Purchase Agreement shall control.

6. Nothing contained herein shall confer any rights on any third party or in any way enhance or expand the rights of any third party with respect to any of the Assumed Liabilities, and Assignee reserves any and all defenses, rights of offset, claims and counterclaims that either the Assignor or Assignee may have with respect to any of the Assumed Liabilities.

7. The law of the Commonwealth of Pennsylvania shall govern all questions concerning the construction, validity, interpretation and enforceability of this Agreement, without giving effect to any choice of law or conflict of law rules or provisions (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Commonwealth of Pennsylvania.

8. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns; provided, however, that no party may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party hereto.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption Agreement as of the day and year first above written.

**ASSIGNOR:**

CITY OF BEAVER FALLS

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

Name:

Title:

**ASSIGNEE:**

[ \_\_\_\_\_ ]

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

Name:

Title:

**Exhibit C**

Escrow Agreement

**Exhibit D**

Form of Opinion of Special Counsel

(215) 575-7000

\_\_\_\_\_, 202\_

[Buyer]  
Attention: \_\_\_\_\_  
[Address]

Re: City of Beaver Falls Asset Purchase Agreement, dated as of \_\_\_\_\_, 202\_

Dear \_\_\_\_\_:

This firm has acted as special counsel for the City of Beaver Falls, Beaver County, a municipality and a city of the Third Class of the Commonwealth of Pennsylvania duly organized and existing under the Constitution and laws of said Commonwealth (the “**City**”), in connection with the Asset Purchase Agreement, dated as of \_\_\_\_\_, 202\_ (the “**Agreement**”), between the City and \_\_\_\_\_ (the “**Buyer**”), providing for the sale of the System (as defined in the Agreement) to the Buyer.

We are delivering this opinion letter to you at the request of the City. Unless otherwise defined herein, capitalized terms shall have the respective meanings set forth in the Agreement.

As special counsel for the City we have examined originals or copies, certified to our satisfaction, of the following documents:

- (i) the Agreement, executed and delivered by the City and the Buyer, and the exhibits and schedules thereto, as supplemented on or before the date hereof, and all documents being executed by the City in connection with the Closing occurring on the date hereof;
- (ii) that certain Escrow Agreement dated as of the date hereof by and among the City, the Buyer, and an entity acting as escrow agent (the “**Escrow Agreement**” and together with the Agreement, the “**Agreements**”), executed and delivered by the City and the Buyer, and the exhibits and schedules thereto;
- (iii) the Pennsylvania Third Class City Code (the “**Code**”);
- (iv) Ordinance No. \_\_\_\_\_ of the City Council enacted on \_\_\_\_\_, 202\_ (the “**Ordinance**”), relating to the Agreements and as attested by the Secretary of the City;

(v) such other documents, records and certificates as we have deemed necessary or appropriate as a basis for the opinions expressed below.

In rendering this opinion, we have assumed the following:

1. the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with the original documents of all documents submitted to us as copies;
2. that all natural persons, including each representative of the City, who signed the Agreements had sufficient legal capacity to do so;
3. that all parties other than the City have the authority to execute and deliver the documents, certificates and agreements to which they are a party or that they have signed;
4. that the Pennsylvania Public Utility Commission has issued a Final Order approving the sale of the System;
5. that there has not been any mutual mistake of fact, fraud, duress or undue influence in connection with this transaction that could affect the validity or enforceability of any of the Agreements;
6. that each of the Agreements has been duly authorized, executed and delivered by each party thereto (other than the City) and that each of the Agreements are binding and enforceable against each such party in accordance with its terms; and
7. that the terms and conditions of the Agreements have not been amended, modified or supplemented, directly or indirectly, by any other agreement or understanding of the parties or the waiver of any of the material provisions of the Agreements.

As to questions of fact material to the opinions expressed herein, we have relied solely and without independent investigation upon the certificate executed by authorized official[s] of the City with respect to the accuracy of the factual matters contained therein, the opinion of Santicola, Steele, and Fedeles, P.C., Solicitor of the City given in connection with the Agreement, and such other documents as we have deemed appropriate, as well as on the representations of the City contained in the Agreements (including the exhibits thereto) and the documents delivered pursuant thereto.

On the basis of and subject to the assumptions, qualifications, exceptions and limitations set forth herein, we are of the opinion that:

1. The City is a city of the third class duly organized and existing under the Constitution and laws of the Commonwealth of Pennsylvania and the Code.
2. The City has taken all action necessary to adopt the Ordinance and to authorize the execution, delivery and performance of the Agreements by the City, and the City has duly executed and delivered the Agreements.

3. The Agreements constitute valid and binding obligations of the City, enforceable against the City in accordance with their respective terms.

4. The execution and delivery by the City of the Agreements does not, and the performance by the City of its obligations thereunder will not, (a) result in a violation of the Code, or (b) result in a violation of any order or decree by the City of which we have knowledge.

The foregoing opinions are subject to the following qualifications, exceptions and limitations:

(a) Our opinions are subject to limitations imposed by general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law), including without limitation concepts of materiality, reasonableness, good faith and fair dealing.

(b) We have made no examination of, and express no opinion with respect to, the title to or ownership of any City property.

(c) The opinions in this letter are limited to the matters set forth herein, and no opinion may be inferred or implied beyond the matters expressly stated in this letter. The opinions expressed herein must be read in conjunction with the assumptions, limitations, exceptions and qualifications set forth in this letter. We assume no obligation to update this opinion or to advise you of any changes in facts or laws subsequent to the date hereof.

(d) Our opinion is limited in all respects to the laws of the United States of America and the laws of the Commonwealth of Pennsylvania in effect as of the date hereof that, in our experience, are normally applicable to transactions such as set forth in the Agreements, and we express no opinion as to the laws of any other jurisdiction. Our opinion is limited to a consideration of judicial decisions that are published in recognized legal authorities or readily available in electronic databases.

This opinion letter may be relied upon only by you in connection with the execution and delivery of the Agreement and the transactions contemplated thereby. You may not rely upon this opinion letter for any other purpose, and no other person or entity may rely upon this opinion letter for any purpose without our prior written consent. This opinion letter may not be referred to, or described, furnished or quoted to, any other person, firm or entity, without in each instance our prior written consent.

Very truly yours,