



February 17, 2022

VIA ELECTRONIC MAIL

Hon. Aida Camacho-Welch, Secretary
Board of Public Utilities
44 South Clinton Ave., 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In the Matter of the Petition of New Jersey-American Water Company, Inc.
for Approval of a Municipal Consent Granted by the Borough of Bound
Brook, Somerset County**

Dear Secretary Camacho-Welch:

Enclosed please find a Petition filed on behalf of New Jersey-American Water Company, Inc. in connection with the above-referenced matter. Kindly file the Petition and advise of the docket number assigned to this case.

By copy of this letter, I am providing the Department of Law & Public Safety and the Division of Rate Counsel with a copy of the Petition via email as well. New Jersey-American Water understands that the New Jersey Board of Public Utilities has waived all regulations requiring the filing of paper copies pursuant to its March 19, 2020 Order in Docket No. EO20040254, *I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations*. We will provide paper copies to the BPU and all parties, as necessary, once the waiver is lifted.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Stephen R. Bishop
Deputy General Counsel

SRB:dlc

Enc.

cc: Brian O. Lipman, Director, Division of Rate Counsel
Pamela Owen, DAG, Division of Law, Department of Law & Public Safety

Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union and Warren.

2. By this Petition, NJAWC is seeking approval of the Municipal Consent – officially Ordinance No. 2021-032 adopted by the Borough on December 14, 2021. The Municipal Consent was introduced and adopted pursuant to N.J.S.A. 48:3-11 to 15, and N.J.S.A. 48:13-11 to permit Petitioner to construct, lay, maintain, and operate the necessary wastewater mains, pipes and appurtenances throughout the geographical area of the Borough (the “Proposed Franchise Area”) and to provide wastewater services to the Borough. A copy of the Municipal Consent is attached hereto as Exhibit A and incorporated into this Petition by reference.

3. The Municipal Consent adopted by the Borough was part of a sale process conducted in compliance with and pursuant to the procedures set forth in N.J.S.A. 40:62-3 through 40: 62-6, in which the Borough sought public bids for the sale of its wastewater system (the “System”). After review and analysis of the bid submitted by NJAWC, the Borough awarded the contract to NJAWC, subject to the approval of the voters and the approval of the Board.

4. Thus, the governing body of the Borough has decided that it is in the public interest for the System to be owned and operated by Petitioner. As a result of the acquisition, the governing body realizes that the System will be operated by a company that is part of the largest provider of regulated water and wastewater services in the United States. The System will be subject to industry practices followed by Petitioner and its parent organization; high quality and reliable service; and the financial wherewithal to maintain and improve the System.

5. In addition to the Municipal Consent, the Borough adopted Ordinance No. 2021-019 approving the agreement of sale between the Borough and NJAWC and authorizing the placement of the proposed sale of the System on the ballot for consideration by the voters in the next general

election. (Attached hereto as Exhibit B). In pertinent part, Ordinance No. 2021-019 provides as follows:

WHEREAS, the Borough has determined that is in the best interest of such Customers within the Borough to sell the System to an entity with experience and expertise in owning and operating such systems in order to meet all necessary demands associated with such System including all present and future requirements of various state and federal regulatory agencies and to make necessary capital improvements to the System; and

WHEREAS, the Borough prepared and distributed a Request for Bids for the Sale of the Wastewater System (the “RFB”) dated March 8, 2021 requesting bids for the purchase of the System pursuant to N.J.S.A. 40:62-1 et seq. (the “Public Utilities Law”); and

WHEREAS, on May 4, 2021 the Borough received one bid from a regulated water and wastewater company, New Jersey American Water Company, Inc., to purchase the Borough’s System; and

WHEREAS, based on the review of the above referenced bid, the Borough has determined that the bid submitted by New Jersey American Water Company, Inc. in the amount of \$5,000,000 (Five Million Dollars) was the highest responsible (and only) bid; and

WHEREAS, under the terms of the RFB, the Borough would sell all of the Borough’s rights and interests in the land and improvements comprising the System, provided that any purchaser of the System would continue to provide wastewater treatment services to the Customers in accordance with all applicable state and local standards, make all capital improvements necessary to lift the existing sewer ban, and meet other requirements set forth in the RFB; and

WHEREAS, the Borough and New Jersey American Water Company, Inc. have agreed to the terms of the sale of the System; and

WHEREAS, the Public Utilities Law requires that in addition to the approval of the Borough, the legal voters of the Borough must also approve the sale of the System; and

WHEREAS, the Public Utilities Law, specifically N.J.S.A. 40:62-5, authorizes the Borough to request that the clerk of the County of Somerset place the question of the sale of the System on the ballot used at the next general election in the Borough, which is scheduled

for November 2, 2021; and

WHEREAS, the Borough desires to enter into the Agreement of Sale, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5 and any other regulatory approvals set forth in the Public Utilities Law.

NOW, THEREFORE, BE IT ORDAINED by the Borough Committee of the Borough of Bound Brook, County of Somerset, State of New Jersey, as follows:

SECTION I

The recitals are hereby incorporated as if set forth in full herein.

SECTION II

The Borough hereby approves the sale of the System to New Jersey-American Water Company, Inc. for \$5,000,000 (Five Million Dollars) in accordance with its bid and in accordance with the terms and conditions of the RFB and the Agreement of Sale, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5.

6. Pursuant to N.J.S.A. 40:62-5, on November 2, 2021, the Borough held a referendum on whether or not to approve the acquisition of the System by Petitioner. The referendum resulted in an approval of said acquisition, by a vote of 1,052 YES to 634 NO, or 62% to 38%.

7. The Borough encompasses approximately 1.7 square miles and has a population of approximately 10,288 people.

8. The Borough currently owns and operates the System servicing the residents and property owners within the Proposed Franchise Area. The system serves approximately 2,900 connections, including approximately 400 connections in Bridgewater Township¹, most of whom already receive water service from NJAWC.

¹ The Borough accepts and bills wastewater flow from Bridgewater on a bulk basis; the Borough does not own assets in Bridgewater and the residents in Bridgewater who are served by the Borough are not Borough customers. NJAWC intends to continue this practice post-closing of the transaction.

9. By this Petition, NJAWC is only seeking approval by the Board of the Municipal Consent. Petitioner is not, at this time, seeking any ratemaking treatment relative to the System. Rather, in a separate docket, NJAWC will seek ratemaking recognition for the System, as part of its general base rate proceeding.

10. NJAWC and the Borough have executed an Asset Purchase Agreement (the “Agreement”) for the sale and purchase of the System. The Agreement provides for the purchase of the System, subject to various contingencies, including the approval by the Board of the Municipal Consent, but is not contingent on the rate treatment granted by the Board. A copy of the Agreement is attached hereto as Exhibit C. Upon approval by the Board of the Municipal Consent, the Borough and NJAWC will complete the transaction.

11. Approval of the Municipal Consent submitted to the Board with this Petition will serve the public interest by permitting NJAWC to begin providing wastewater utility service within the Borough, and to leverage its experience, expertise and economies of scale to benefit the customers of the Borough and of NJAWC. NJAWC’s significant resources will support more efficient service as well as provide additional system reliability to the Borough.

12. For the reasons stated above, including the approval of the acquisition of the System by the governing body of the Borough; and the approval by the residents of the Borough; the granting of approval of the Municipal Consent will serve the public convenience and properly conserve the public interests pursuant to N.J.S.A. 48:2-14. As a result, the Board should approve the Municipal Consent, and address any ratemaking issues in the base rate case to be filed by Petitioner.

13. The Petitioner has not yet commenced wastewater service within the service area of the Borough, covered by the Municipal Consent.

WHEREFORE, Petitioner respectfully requests that the Board approve Ordinance No. 2021-032 of the Borough of Bound Brook and grant such other and further relief as the Board may

deem reasonable and appropriate under the circumstances.

Respectfully submitted,

New Jersey-American Water Company, Inc.

By:



Stephen R. Bishop, Esquire

Deputy General Counsel

Dated: February 17, 2022

Communications addressed to the Petitioner in this case are to be sent to:

Stephen R. Bishop
Deputy General Counsel
New Jersey-American Water Company, Inc.
1 Water Street
Camden, NJ 08102
856.955.4877
stephen.bishop@amwater.com

VERIFICATION

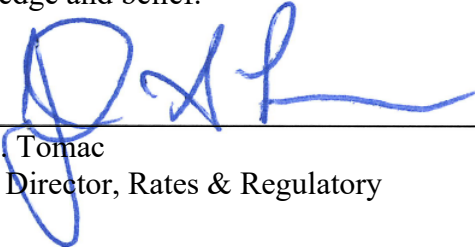
STATE OF NEW JERSEY

ss.

COUNTY OF CAMDEN

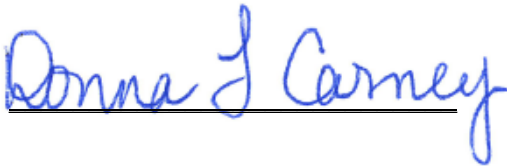
I, JOHN S. TOMAC, of full age, being duly sworn according to law, upon my oath depose and say:

1. I am the Senior Director of Rates and Regulatory of New Jersey-American Water Company, Inc., the Petitioner herein, and am authorized to make this verification on behalf of said Petitioner.
2. I have read the contents of the foregoing Petition as to New Jersey-American Water Company, Inc. and hereby verify that the statements therein contained are true and accurate to the best of my knowledge and belief.



John S. Tomac
Senior Director, Rates & Regulatory

Sworn to and subscribed before
me this 17th day of February, 2022.



Donna Carney
Notary Public
State of New Jersey
My Commission Expires May 24, 2023



Adopted Ordinance 2021-032

BOROUGH OF BOUND BROOK
County of Somerset

ORDINANCE NO. 2021-032

AN ORDINANCE GRANTING CONSENT AND PERMISSION TO NEW JERSEY-AMERICAN WATER COMPANY TO FURNISH WASTEWATER CONVEYANCE SERVICE IN THE BOROUGH OF BOUND BROOK, NEW JERSEY

WHEREAS, the Borough of Bound Brook, County of Somerset and State of New Jersey (the "Borough"), hereby grants consent and permission to New Jersey-American Water Company ("New Jersey-American"), a New Jersey Corporation to furnish wastewater conveyance service within the Borough; and

WHEREAS, New Jersey-American is in the process of acquiring the wastewater system (the "System") currently owned and operated by the Borough, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5 and other regulatory approvals; and

WHEREAS, The Borough is desirous of having New Jersey-American acquire the Systems; and

WHEREAS, New Jersey-American is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Borough to permit New Jersey-American to provide wastewater conveyance service through the System; and

WHEREAS, New Jersey-American has requested the consent of the Borough as required by N.J.S.A. 48:19-17 and 48:19-20, as amended, to lay its pipes beneath and restore such public roads, streets and places as it may deem necessary for its corporate purposes, free from all charges to be made for said privilege (except that fees for road opening permits shall be paid), provided that all said pipes installed after the date of this ordinance shall be laid at least three feet (3') below the surface and shall not in any way unnecessarily obstruct or interfere with the public travel or cause or permit other than temporary damage to public or private property; and

WHEREAS, it is deemed to be in the best interests of the citizens of the Borough to provide this consent;

WHEREAS, the Mayor and Council of the Borough have concluded that granting of said consent shall enhance the health, safety and welfare of the citizens of the Borough.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH AS FOLLOWS:

Section 1. That exclusive and perpetual consent and permission to furnish wastewater conveyance to the Borough and all residents, businesses and government buildings therein is hereby given and granted to New Jersey-American, its successors and assigns, subject

Adopted Ordinance 2021-032

to approval of such consent and permission by the Board of Public Utilities of the State of New Jersey.

Section 2. That exclusive consent and permission is given to New Jersey-American, its successors and assigns, under the provisions of N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20, as amended, without charge therefore, (except fees for road opening permits which shall be paid) as the same may be required in order to permit New Jersey American-Water to own and operate the System, add to, extend, replace, operate and maintain said System in the public property described herein in order to provide said wastewater conveyance service. This shall include permission to lay pipes beneath the public roads, streets, public property and public places.

Section 3. That a certified copy of this Ordinance, upon final passage, shall be sent to New Jersey-American, the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey.

Section 4. That the consent granted herein shall be subject to New Jersey-American complying with all applicable laws of the Borough and/or the State of New Jersey including, but not limited to, any and all applicable statutes and administrative agency rules and/or regulations and contingent upon the Borough and New Jersey American Water Company, Inc. executing the *Agreement of Sale Between the Borough of Bound Brook and New Jersey American Water Company, Inc.*

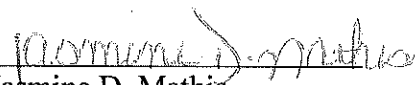
Section 5. The Mayor and the Clerk of the Borough are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

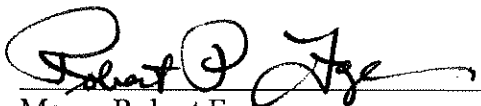
Section 6. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 7. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that if any portion of this Ordinance shall be declared invalid as a matter of law, such declaration shall not affect the remainder of said Ordinance; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication.

Attest: 
Jasmine D. Mathis
Borough Clerk

By: 
Mayor Robert Fazen

Date of Introduction: November 23, 2021

Date of Adoption: December 14, 2021

BOROUGH OF BOUND BROOK
County of Somerset

ORDINANCE NO. 2021- 019

ORDINANCE OF THE BOROUGH OF BOUND BROOK, IN THE COUNTY OF SOMERSET, NEW JERSEY, APPROVING AN AGREEMENT OF SALE BETWEEN THE BOROUGH AND NEW JERSEY AMERICAN WATER COMPANY, INC. FOR THE SALE OF THE BOROUGH'S WASTEWATER SYSTEM AND AUTHORIZING A PROPOSAL TO BE PRINTED ON THE BALLOT FOR CONSIDERATION BY THE VOTERS WITHIN THE BOROUGH AT THE GENERAL ELECTION ON NOVEMBER 2, 2021 PROVIDING FOR THE SALE OF THE BOROUGH'S WASTEWATER SYSTEM TO NEW JERSEY AMERICAN WATER COMPANY, INC.

WHEREAS, the Borough of Bound Brook, in the County of Somerset, New Jersey (the "Borough") currently owns and operates a sanitary sewer collection system (a "Wastewater System") comprised of approximately 25 miles of pipes ranging in size from 8" to 15" in diameter and one pump station, connecting to the trunk system maintained by the Middlesex County Utilities Authority, servicing the residents and property owners (the "Customers") within the geographic boundaries of the Borough as well as multiple residents and business located in Bridgewater Township (collectively referenced herein as the "System"); and

WHEREAS, the Borough has determined that is in the best interest of such Customers to sell the System to an entity with experience and expertise in owning and operating such systems in order to meet all necessary demands associated with such System including all present and future requirements of various state and federal regulatory agencies and to make necessary capital improvements to the System; and

WHEREAS, the Borough prepared and distributed a Request for Bids for the Sale of the Wastewater System (the "RFB") dated March 8, 2021 requesting bids for the purchase of the System pursuant to N.J.S.A. 40:62-1 et seq. (the "Public Utilities Law"); and

WHEREAS, on May 4, 2021 the Borough received one bid from a regulated water and wastewater company, New Jersey American Water Company, Inc., to purchase the Borough's System; and

WHEREAS, based on the review of the above referenced bid, the Borough has determined that the bid submitted by New Jersey American Water

Company, Inc. in the amount of \$5,000,000 was the highest responsible (and only) bid; and

WHEREAS, under the terms of the RFB, the Borough would sell all of the Borough's rights and interests in the land and improvements comprising the System, provided that any purchaser of the System would continue to provide wastewater treatment services to the Customers in accordance with all applicable state and local standards, make all capital improvements as required by the RFB, and meet other requirements set forth in the RFB; and

WHEREAS, the Borough and New Jersey American Water Company, Inc. have agreed to the terms of the sale of the System; and

WHEREAS, the Public Utilities Law requires that in addition to the approval of the Borough, the legal voters of the Borough must also approve the sale of the System; and

WHEREAS, the Public Utilities Law, specifically N.J.S.A. 40:62-5, authorizes the Borough to request that the clerk of the County of Somerset place the question of the sale of the System on the ballot used at the next general election in the Borough, which is scheduled for November 2, 2021; and

WHEREAS, the Borough desires to enter into the Agreement of Sale, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5 and any other regulatory approvals set forth in the Public Utilities Law; and

WHEREAS, New Jersey American Water has been providing potable water supply services to Customers and the Borough for decades.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Bound Brook, County of Somerset, State of New Jersey, as follows:

SECTION I

The recitals are hereby incorporated as if set forth in full herein.

SECTION II

The Borough hereby approves the sale of the System to New Jersey American Water Company, Inc. for \$5,000,000 in accordance with its bid and in accordance with the terms and conditions of the RFB and the Agreement of Sale, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5.

SECTION III

The Agreement of Sale between the Borough and New Jersey American Water Company, Inc. entitled "Agreement of Sale between the Borough of Bound Brook, New Jersey and New Jersey American Water Company, Inc." substantially in the form on file in the office of the Borough Clerk, is hereby approved with such further changes, insertions and amendments as deemed necessary by the governing body of the Borough, in consultation with the Borough staff and professionals. The approval of this Agreement of Sale is subject to compliance with the provisions of N.J.S.A. 40:62-5 of the Public Utilities Law.

SECTION IV

The Mayor and Council and all other appropriate officials of the Borough are hereby authorized and directed to execute the Agreement of Sale and any other documents deemed necessary to effectuate the terms of this Ordinance and to proceed with the regulatory process and approvals required under the provisions of the Agreement of Sale and the Public Utilities Law subject to approval of the sale by the voters of the Borough pursuant to N.J.S.A. 40:62-5.

SECTION V

The Mayor and Council hereby requests and directs the Clerk of the County of Somerset to place the following question and explanation on the ballot of the next general election, such to be substantially in the form provided in N.J.S.A. 40:62-5 as follows:

PROPOSAL

"Shall the Borough of Bound Brook, in the County of Somerset, New Jersey, be authorized to sell its wastewater system (commonly known as the "sanitary sewer system") to New Jersey American Water Company, Inc. for the sum of \$5,000,000?"


_____ Yes _____ No

Explanation

If a majority of the legal voters in the Borough vote "yes", the Borough of Bound Brook will sign an agreement of sale with New Jersey American Water Company, Inc. for the wastewater system (commonly known as the "sanitary sewer system") servicing the residents and property owners within the geographic boundaries of the Borough and multiple residences and business located in Bridgewater Township in the amount of \$5,000,000. Proceeds from the sale shall be used exclusively for the retirement of outstanding Borough debt. The agreement provides that New Jersey American Water Company, Inc. will provide and maintain all wastewater services to the existing customers of the Borough's wastewater system and will invest a minimum of \$11,000,000 within the first ten years of their ownership into needed capital improvements to the Borough's aging system in accordance with the terms of the Agreement of Sale approved by the Borough. The wastewater service rates to the customers of the Borough's System will be maintained at the current 2021 rates for a minimum of two years and may increase by no more than 3% each year for the next three years. Thereafter all future rate changes shall be subject to review and approval by the New Jersey Board of Public Utilities, the state agency with authority to oversee regulated utilities in order to ensure safe, adequate, and proper utility services at reasonable rates for customers in New Jersey.

SECTION VI

This Ordinance shall take effect as provided by law.



Jasmine D. Mathis
Borough Clerk

By: 

Mayor Robert Fazen

Date of Introduction: June 22, 2021

Date of Adoption: July 13, 2021

AGREEMENT OF SALE BETWEEN

THE BOROUGH OF BOUND BROOK, NEW JERSEY

AND

NEW JERSEY-AMERICAN WATER COMPANY, INC.

February 10, 2022

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- Exhibit A. Description of the Wastewater System
- Exhibit B. Form of Assignment and Assumption Agreement
- Exhibit C. Form of Bill of Sale
- Exhibit D. Tariff
- Exhibit E. List of Written Contracts to Which Borough is a Party which Relate to the Wastewater System
- Exhibit F. Form of Assignment and Grant of Easements, Rights of Way and other Property
- Exhibit G. Form of General Assignment
- Exhibit H. Disclosure Schedule to the Agreement of Sale
- Exhibit I. Escrow Agreement
- Exhibit J. Customer Service Standards and Customer Service Plan
- Exhibit K. Capital Improvements
- Exhibit L. Form of Borough Consent
- Exhibit M. Reserved
- Exhibit N. List of Borough Facilities

AGREEMENT OF SALE

THIS AGREEMENT OF SALE (this “Agreement”), dated February 10 2022 is made and entered into by and between the **BOROUGH OF BOUND BROOK**, a public body corporate and politic in Somerset County in the State of New Jersey, 230 Hamilton Street, Bound Brook, New Jersey 08805 (the “Borough”) and **NEW JERSEY-AMERICAN WATER COMPANY, INC.**, a corporation of the State of New Jersey with principal corporate offices at 1 Water Street, Camden, NJ 08102 (the “Buyer”). The Buyer and the Borough are referred to collectively herein as the “Parties.”

WHEREAS, the Borough currently owns and operates a wastewater collection system (the “Wastewater System”), more particularly described herein, located in the Borough of Bound Brook, New Jersey; and

WHEREAS, in connection with the proposed sale of its Wastewater System and pursuant N.J.S.A. 40:62-1, the Borough prepared, advertised, and made available to all prospective buyers a Request for Bids on March 8, 2021; and

WHEREAS, on May 4, 2021, the Borough received a bid from one private water and sewer utility in response to the RFB; and

WHEREAS, after review and clarifications of the Bid(s) received, the Borough determined that the Buyer had submitted the highest responsible Bid; and

WHEREAS, the Borough and the Buyer have agreed to the terms and conditions set forth in this Agreement, which sets forth the terms upon which sale of the Borough’s Wastewater System to the Buyer will take place, provided all conditions of the Closing are satisfied; and

WHEREAS, the Borough desires to sell and the Buyer desires to purchase the Wastewater System pursuant to the terms of the Agreement; and

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, the Parties agree as follows:

ARTICLE I

DEFINITIONS

“Agreement” shall mean this Agreement of Sale of the Wastewater System and all exhibits, attachments, and schedules hereto, dated February 10, 2022. It is anticipated that the Agreement will be executed by the parties following a successful referendum process.

“Assumed Liabilities” shall have the meaning set forth in Section 4.5 below.

“BPU” means the New Jersey Board of Public Utilities or any successor agency.

“Buyer” means New Jersey-American Water Company, Inc.

“Borough” means the Borough of Bound Brook, New Jersey.

“Borough Consent” shall mean the municipal consent ordinance that is to be enacted by the Borough as a condition of the Closing and which grants the authority to Buyer to provide wastewater services in the Borough and granting Buyer the right to utilize the roads, streets, alleys, byways and public places within the Borough and conveying the franchise rights to the Wastewater System, when approved by the BPU; the Borough Consent will be in the form attached hereto as Exhibit L.

“Closing” has the meaning set forth in Section 4.6 below.

“Closing Date” shall mean the date upon which Closing takes place as more particularly described in Section 4.6 below.

“Deposit” shall mean a payment of money equal to 10% of the Purchase Price, which is payable to the Borough upon execution of this Agreement, following a successful referendum process, and which shall be held by the Escrow Agent under the Escrow Agreement attached hereto and incorporated herein by reference as **Exhibit I**, and together with the earnings accrued thereon shall be the Deposit.

“Disclosure Schedule” has the meaning set forth in Section 2.1.

“Encumbrances” means any security interest, pledge, mortgage, lien (including, without limitation, environmental and tax liens), charge, encumbrance, adverse claim or restriction on use or transfer.

“Escrow Agent” shall mean Vested Land Services, LLC.

“Final Approval Order” shall mean an order of the BPU approving the Borough Consent on terms and conditions satisfactory to the Buyer in its sole discretion, which will allow the Buyer and the Borough to consummate the purchase of assets as contemplated by this Agreement; and as to which the time for filing an appeal as of right has expired, and as to which there are no appeals, petitions for reconsideration, petitions for re-argument, or similar petitions pending.

“Governmental Authority” means any federal, state, regional, or local legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any official thereof having jurisdiction.

“Monetary Liens” shall mean (a) judgment liens and tax liens entered against the Borough and encumbering any part of the Wastewater System, and (b) mortgages, security interests and other liens granted by the Borough and encumbering the Wastewater System.

“NJDEP” means the New Jersey Department of Environmental Protection or any successor agency.

“Party” shall mean either the Borough or the Buyer.

“Parties” shall mean the Borough and the Buyer.

“Permits” shall mean all permits, certificates, licenses, orders, registrations, franchises, authorizations and other rights and approvals from any governmental authority with respect to the Wastewater System held by the Borough.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).

“Permitted Encumbrances” shall have the meaning set forth in Article VI.

“Purchase Price” has the meaning set forth in Section 4.3 below.

“RFB” means the Request for Bids for the sale of the Wastewater System issued by the Borough on March 8, 2021 and responded to by the Buyer.

“Wastewater System” shall mean the Borough’s wastewater collection system, as described in detail in **Exhibit A**.

“Transaction Documents” means collectively this Agreement and all agreements, documents, and certificates required by this Agreement.

“Transaction Costs Payment” has the meaning set forth in Section 4.4 below.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE BOROUGH

Section 2.1. REPRESENTATIONS AND WARRANTIES OF THE BOROUGH. Except as set forth in the disclosure schedule accompanying this Agreement and initialed by the Parties (the “Disclosure Schedule”), which is attached as **Exhibit H**, the Borough represents and warrants to the Buyer that the statements contained in this Article II are correct and complete as of the date of this Agreement. The Disclosure Schedule will be arranged in paragraphs corresponding to the lettered paragraphs contained in this Article II.

- (A) Organization of the Borough. The Borough is a public body corporate and politic in Somerset County in the State of New Jersey.
- (B) Authorization of Transaction. The Borough has full right and authority to execute and deliver this Agreement and to perform its obligations hereunder.
- (C) Title to Real Property. The Borough is the sole owner and has good and marketable title to each fee parcel of real property included in the Wastewater System, and leasehold interest, license or easement in all other real property necessary for ownership and operation of the Wastewater System.
- (D) Assets. The Borough has clear, good and marketable title to all of the assets comprising the Wastewater System, free and clear of all encumbrances. None of the assets are leased or on loan by the Borough to a third party. The Wastewater System constitutes all of the assets and property that, together with the rights granted in the Transaction Documents, are necessary for the ownership and operation of the Wastewater System. Upon Closing, Buyer shall continue to be vested with good title in the Wastewater System
- (E) No Litigation. To the best of the Borough’s knowledge, there is no litigation, either at law or in equity, nor any proceedings before any commission or regulatory body pending, or threatened against the Borough, in any way that would adversely affect its ability to perform its obligations under the Agreement.
- (F) No Default. To the best of the Borough’s knowledge, the Borough is not in default of any provisions of law, charter, by-laws, contract, franchise, rules or regulations of any governmental agency or any instrument to which it is a party and which in any way affects the Wastewater System.
- (G) No Reimbursement Obligations. To the best of the Borough’s knowledge, the Borough is not party to any wastewater extension agreement or other contract which, if assigned to the Buyer, would obligate the Buyer by rebate, reimbursement, or other payment to return moneys to third parties by reason of installation of some portion of the Wastewater System.
- (H) System Compliance. The Wastewater System is in compliance with all State,

federal, and local laws and regulations.

- (I) Tariff. The tariff, attached as **Exhibit D**, represents the true rates of the Wastewater System and are in effect as of the Contract Date.

- (J) Permits. **Exhibit G** sets forth a complete and accurate list of all Permits held by the Borough, all of which are in full force and effect and no appeals or other proceedings are pending or threatened with respect to the issuance, terms or conditions of any such Permits. The Borough has provided to Buyer true and complete copies of all Permits set forth on **Exhibit G**. Except as set forth on **Exhibit G**, (i) the Borough holds all Permits which are necessary or required under applicable Law for the ownership, operation and maintenance of the Wastewater System and the assets to be conveyed to Buyer as currently or previously operated and maintained, (ii) the Borough is, and for the past five (5) years has been, in compliance in all material respects with all terms, conditions and requirements of all Permits held by it (whether or not set forth on **Exhibit G**) and all applicable Laws relating thereto, and (iii) the Borough has not received any written notice or other written communication from any Governmental Authority or other Person regarding (1) any actual or alleged violation or failure to comply with any such Permits, or (2) any revocation, withdrawal, non-renewal, suspension, cancellation or termination of any such Permits. With respect to any Permits held by the Borough that are scheduled to expire within six (6) months following the date of this Agreement, any applications for renewal of such Licenses and Permits have been or will be duly filed by the Borough with the applicable Governmental Authority within the time frame required under applicable law.

- (K) Environmental.
 - (i) To the best of the Borough's knowledge, the Borough is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable environmental law. The Borough has no basis to expect nor has it received any actual or threatened order, notice or other communication from any Governmental Authority or other Person of any actual or potential violation or failure to comply with any environmental law or of any actual or threatened obligation to undertake or bear the cost of any environmental, health and safety liabilities with respect to the Wastewater System.

 - (ii) To the best of the Borough's knowledge, there are no pending or threatened claims, encumbrances or other restrictions of any nature, resulting from any environmental, health and safety liabilities or arising under or pursuant to any environmental law with respect to or affecting the Wastewater System.

 - (iii) To the best of the Borough's knowledge, there are no hazardous materials, except those used in connection with the operation of the Wastewater System present on or in the Wastewater System, including any hazardous materials contained in barrels, above or underground storage tanks, landfills, land

deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent.

- (iv) To the best of the Borough's knowledge, none of the following exists at the Wastewater System: (1) underground storage tanks; (2) asbestos-containing material in any form; (3) materials or equipment containing polychlorinated biphenyl; (4) groundwater monitoring wells; or (5) landfills, surface impoundments, or disposal areas.
- (v) The Borough has delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed or initiated by the Borough pertaining to hazardous materials in, on or under the Wastewater System, or concerning compliance by the Borough with environmental laws.

Section 2.2. DISCLAIMER OF OTHER REPRESENTATIONS AND WARRANTIES. Except for representations and warranties as expressly set forth in this Article II, the Borough makes no other representation or warranty, express or implied, at law or in equity, with respect to the Wastewater System or operations, including with respect to merchantability or fitness for any particular purpose and any such other representations or warranties are hereby expressly disclaimed. The Buyer hereby acknowledges and agrees that, except for the representations and warranties specifically set forth in this Article II, the Buyer is purchasing the Wastewater System on an "as-is, where-is" basis. The Buyer has satisfied itself on all aspects, of the Wastewater System, including but not limited to all physical, economic, operational, regulatory, tax and title matters that the Buyer deems relevant, and is not relying on any representation of the Borough in connection therewith except for the representations and warranties set forth in this Agreement. The Borough shall not be liable for any latent or patent defects in the Wastewater System.

Section 2.3. SURVIVAL OF REPRESENTATIONS AND WARRANTIES. All of the representations and warranties made by the Borough are true and correct as of the date of this Agreement and shall be true and correct and deemed repeated as of Closing, subject to the Disclosure Statement as same may be modified by the terms of this Agreement. No claim for a misrepresentation or breach of warranty of the Borough shall be actionable or payable if the breach in question results from or is based on a condition, state of facts or other matter which was known to the Buyer prior to the Closing.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE BUYER

Section 3.1. REPRESENTATIONS AND WARRANTIES OF THE BUYER. Except as set forth in the Disclosure Schedule, the Buyer represents and warrants to the Borough that the statements contained in this Article III are correct and complete as of the date of this Agreement. The Disclosure Schedule will be arranged in paragraphs corresponding to the lettered paragraphs contained in this Article III.

- (A) Organization of Buyer. The Buyer is a corporation duly organized, validly existing and in good standing under the law of the State of New Jersey.
- (B) Authorization of Transaction. The Buyer has full right and authority to execute and deliver this Agreement and to perform its obligations hereunder.
- (C) No Litigation. To the best of the Buyer's knowledge, there is no litigation, either at law or in equity, nor any proceedings before any commission or regulatory body pending, or threatened against the Buyer, in any way that would affect its ability to perform its obligations under this Agreement.
- (D) No Warranties. Except for the representations and warranties set forth in this Agreement, the Buyer is purchasing the Wastewater System "as is", and that the Buyer will have no recourse against the Borough with respect to any condition of the Wastewater System that might be discovered after the Closing.
- (E) Right to Inspect. Prior to the Contract Date, the Buyer has been afforded the opportunity to inspect and has inspected the Wastewater System to the extent that the Buyer deemed necessary and has made such examination of the Wastewater System, the operation, income and expenses thereof and all other matters affecting or relating to this transaction as Buyer deemed necessary. In entering into this Contract, the Buyer has not been induced by and has not relied upon any representations, warranties or statements, whether express or implied, made by the Borough or any agent, employee or other representative of the Borough or by any broker or any other person representing or purporting to represent the Borough, which are not expressly set forth in this Contract, whether or not any such representations, warranties or statements were made in writing or verbally.
- (F) Other Limitations of Local, State, and Federal Laws and Regulations. The Buyer accepts the terms of this Agreement subject to the terms and limitations of all applicable local, State, and federal laws, statutes, rules and/or regulations.
- (G) Source of Funds. The funds comprising the Purchase Price to be delivered to the Borough in accordance with this Contract are not derived from any illegal activity.
- (H) Not a Blocked Person. The Buyer is not a, and is not acting directly or indirectly for or on behalf of any, person, group, entity or nation named by Executive Order of the United States Treasury Department as a terrorist, "Specifically Designated

National and Blocked Person,” or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control and the Buyer is not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity or nation.

Section 3.2. SURVIVAL OF REPRESENTATIONS AND WARRANTIES.

All of the representations and warranties made by the Buyer are true and correct as of the date of this Agreement and shall be true and correct and deemed repeated as of Closing, subject to the Disclosure Statement as same may be modified by the terms of this Agreement.

ARTICLE IV

BASIC TRANSACTION

Section 4.1. PURCHASE AND SALE OF ASSETS. Subject to the terms and conditions of this Agreement, at the Closing referred to in Section 4.6, the Borough will sell to the Buyer, and Buyer will buy from the Borough, all of the Borough's rights, title, and interest in the Wastewater System as further described in **Exhibit A** for the consideration specified below in Section 4.3.

Section 4.2. EXCLUDED ITEMS. Except as specifically described in **Exhibit A**, in no event shall the Wastewater System include personal property, office equipment, office supplies, vehicles, cash, securities, and the accounts receivable of the Borough relating to the Wastewater System up to and including the Closing Date.

Section 4.3. PURCHASE PRICE. The Buyer agrees, subject to the terms and conditions set forth in this Agreement, to pay to the Borough, at the Closing referred to in Section 4.6, the sum of \$5,000,000.00 (the "Purchase Price"). Upon the execution of this Agreement the Buyer shall pay the Deposit to be held by Escrow Agent pursuant to the terms of the Escrow Agreement, with any interest or earnings to follow the Deposit, and which Deposit shall be credited against the Purchase Price. Subject to the terms and conditions of this Agreement, the balance of the Purchase Price less the Deposit, increased or decreased by the items to be apportioned pursuant to Section 4.8 of this Agreement (such sum, before the apportionments referred to herein is referred to as the "Closing Balance" and after such apportionments is referred to as the "Adjusted Closing Balance") shall be paid on the Closing Date by wire transfer in federal funds to a bank account designated in writing by the Borough at least five (5) business days prior to the Closing Date.

Section 4.4. BOROUGH TRANSACTION EXPENSE. Notwithstanding any obligations of the Borough set forth in the Agreement to solely bear its expenses and costs in connection herewith, and in addition to the Purchase Price provided for in Section 4.3, the Buyer agrees to pay the Borough up to one-hundred and fifty thousand dollars (\$150,000) for costs and expenses incurred and reasonably anticipated to be incurred by the Borough in connection with the sale of the Wastewater System, including, but not limited to, outside attorney, engineering, inspection, and other consultant costs (collectively the "Transaction Costs Payment"). The Buyer agrees to pay the Borough one-third (\$50,000) of the Transaction Costs Payment upon the passing of the Borough's Ordinance approving the sale of the Wastewater System, which amount shall be non-refundable. The Buyer agrees to pay the Borough the remaining portion of the Transaction Costs Payment up to a total of \$100,000 upon Closing; provided however, prior to Closing the Borough shall provide to the Buyer reasonable documentation of all transaction expenses for review and approval prior to the Buyer's payment of the balance of the Transaction Cost Payment at Closing.

Section 4.5. ADDITIONAL OBLIGATIONS. In addition to the payment of the amounts set forth in Sections 4.3 and 4.4 hereof, the Buyer agrees to:

- (A) assume responsibility for all claims and liabilities arising out of the Buyer's operation of the Wastewater System subsequent to Closing;

- (B) assume and meet all contractual commitments of the Borough on and after the Closing Date in connection with the contracts set forth in **Exhibit E** (collectively, (A) and (B) constitute the “Assumed Liabilities”);
- (C) comply with the Rate Stabilization Covenant set forth in Section 8.3;
- (E) provide the customers of the Wastewater System with continuous, safe and reliable service in accordance with applicable laws and regulations, and the Buyer’s tariff as approved by the BPU;
- (F) maintain or expand the Wastewater System in conformance with existing Borough land use and zoning ordinances, master plan, and historic district standards, as applicable;
- (H) make the required capital improvements pursuant to Section 8.4; and
- (I) make application, with the assistance of the Borough, for the transfer, effective at the Closing, of all wastewater system permits and approvals issued to the Borough prior to Closing by the NJDEP or any other local, State or federal agency.

Section 4.6. THE CLOSING. The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of DeCotiis, FitzPatrick, Cole & Giblin, LLP, located at 61 South Paramus Road, Suite 250, Paramus, New Jersey 07652 forty- five (45) days after the satisfaction of the last condition to be satisfied pursuant to Article VII herein (the "Closing Date"). The Parties may mutually agree in writing to have the Closing at another time or place or to conduct the Closing via electronic document execution and transfer.

Section 4.7. DELIVERIES AT THE CLOSING. At the Closing:

- (A) The Borough will execute, acknowledge (if appropriate), and deliver to the Buyer:
 - (i) a bargain and sale deed associated with the Wastewater System without covenant against grantor's acts, in recordable form, duly executed by the Borough;
 - (ii) an assignment of easements in the form attached hereto as **Exhibit F**, to convey all easement rights associated with the Wastewater System, which to the extent possible shall be listed, subject to the Permitted Encumbrances;
 - (iii) a Bill of Sale in the form attached hereto as **Exhibit C**;
 - (iv) an Assignment and Assumption Agreement in the form attached hereto as **Exhibit B**;
 - (v) a General Assignment in the form attached hereto as **Exhibit G**;
 - (vi) a Settlement Statement;

- (vii) a certified copy of the appropriate Borough resolution(s) and/or ordinances authorizing the transactions contemplated hereunder;
 - (viii) a signed certification by the Borough that the warranties and representations in Article II are true and correct as of the Closing Date;
 - (ix) originals or copies of all governmental permits and licenses for the System, or any component thereof, in the Borough's possession, to the extent transferable;
 - (x) Any other tax information regarding the Borough that the Settlement Agent (as that term is used in Section 6045 of the Code) is required to report to the Internal Revenue Service pursuant to the Code;
 - (xi) Such other resolutions, instruments, affidavits and documents as may be reasonably necessary to effectuate the transaction.
- (B) Buyer will execute, acknowledge (if appropriate) and deliver to the Borough:
- (i) an assignment of easements in the form attached hereto as **Exhibit F**, to convey all easement rights associated with the Wastewater System, which to the extent possible shall be listed, subject to the Permitted Encumbrances;
 - (ii) an Assignment and Assumption Agreement in the form attached hereto as **Exhibit B**;
 - (iii) a General Assignment in the form attached hereto as **Exhibit G**;
 - (iv) a Settlement Statement;
 - (v) Certified copy of appropriate corporate resolution(s) authorizing the transactions contemplated hereunder;
 - (vi) a signed certification by Buyer that the warranties and representations in Article III are true and correct as of the Closing Date;
 - (vii) Any tax information regarding Buyer that the Settlement Agent (as that term is used in Section 6045 of the Code) is required to report to the Internal Revenue Service pursuant to the Code;
 - (viii) The Purchase Price;
 - (ix) The balance of the Transaction Costs Payment (an amount up to \$100,000); and
 - (x) Such other documents, resolutions, instruments, affidavits and documents as may be reasonably necessary to effectuate the transaction.

Section 4.8. APPORTIONMENTS. At the Closing, real estate taxes, if any, for the fee parcels constituting Wastewater System assets to be transferred to the Buyer and all other operating expenses for the Wastewater System allocable to periods before and after the Closing Date, including adjustments necessary pursuant to Section 5.1.I, shall be apportioned for the Wastewater System as of 11:59 p.m. on the day preceding the Closing Date.

Section 4.9. SETTLEMENT STATEMENT. At the Closing, the Parties shall jointly execute the Settlement Statement setting forth all adjustments to the Purchase Price and the basis for same. In the event that any adjustments or apportionment cannot be apportioned or adjusted at the Closing by reason of the fact that final amounts have not been ascertained, or are not available as of such date, the Parties hereto agree to apportion or adjust such items on the basis of their best estimates of the amounts known at the Closing and to re-prorate any and all of such amounts promptly when the final amounts are ascertained, which obligation shall survive the Closing.

ARTICLE V

PRE-CLOSING
COVENANTS AND
CONTINGENCIES

Section 5.1. PRE-CLOSING COVENANTS AND CONTINGENCIES.

The performance of this Agreement is contingent upon the satisfaction of all the conditions set forth below. In that regard, the Parties agree as follows with respect to the period between the execution of this Agreement and the Closing:

- (A) General. Each of the Parties will use its reasonable best efforts to take all actions and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement and the Transaction Documents.
- (B) Access to Books. Upon reasonable prior notice, the Borough will give the Buyer, its accountants, engineers, counsel and other representatives full access during normal business hours throughout the period from the date of this Agreement through the Closing Date to all of the Borough's records, books, and properties with respect to the Wastewater System, including, without limitation, all customer usage data and will furnish the Buyer copies, including in electronic format reasonably acceptable to the Buyer, at the Buyer's expense, of such documents or portions of documents related to the ownership, operation and maintenance of the Wastewater System as the Buyer may reasonably request, provided such documents and electronic media are in the Borough's possession or in the possession of third parties under contract with the Borough.
- (C) Permits. Prior to the Closing, the Parties shall cooperate to effect the transfer of all Permits related to the operation of the Wastewater System which were granted to the Borough by any Governmental Authority, which transfer shall be effective on or after but not before the Closing. The Borough shall provide reasonable assistance to the Buyer as reasonably requested by the Buyer with respect to such applications.
- (D) Operation of Wastewater System. The Borough will:
 - (i) continue to operate and maintain the Wastewater System;
 - (ii) maintain the Wastewater System in at least as good order and condition as existed on the date of this Agreement, casualty and normal wear and tear excepted;
 - (iii) timely comply with the provisions of all leases, agreements, and contracts relating to the Wastewater System; and
- (E) BPU Approvals.

- (i) The Buyer shall as soon as reasonably practicable after (i) approval of a public referendum authorizing the sale of the Wastewater System, (ii) the execution of this Agreement by both Parties, and (iii) the adoption of the Borough Consent as set forth in Section 5.1(F) below, at its sole cost and expense, file or cause to be filed all necessary documentation with the BPU to obtain the Final Order of the BPU approving the Borough Consent.
- (F) Borough Consent. The Borough shall adopt pursuant to applicable law, the Borough Consent in substantially the same form as set forth in **Exhibit L**. The Buyer shall be responsible, at its sole cost and expense, with reasonable assistance from the Borough, for obtaining BPU approval of the Borough Consent pursuant to N.J.S.A. 48:2-14.
- (G) Borough Approval. The Borough shall adopt appropriate ordinances pursuant to applicable law to authorize the sale of the Wastewater System subject to public referendum and permit the placing of a question on the ballot for public referendum for voter approval of the sale of the Wastewater System.
- (H) Risk of Loss. The Parties agree that the Borough shall bear the risk of and be responsible for loss with respect to the assets and properties constituting the Wastewater System from the date of this Agreement through the Closing Date. In event that the condition of the Wastewater System is significantly adversely changed from the date of this Agreement to the Closing Date by virtue of fire, casualty, act of God or condemnation, the Borough and the Buyer may mutually agree, in writing, to a reduction in Purchase Price or other consideration as compensation for the significant adverse change in the System. If the Borough and the Buyer cannot reach agreement within sixty (60) days of the event despite good faith efforts, either Party has the option to terminate this Agreement upon written notice to the other Party. If the Buyer terminates the Agreement pursuant to this section, the Borough shall promptly, and in no event later than five (5) business days after such termination, repay to the Buyer, the Deposit, and upon such termination this Agreement shall be deemed canceled, null and void and neither Party shall have any further obligation or liability to the other hereunder.
- (I) Customer List and Information; Final Bills. The Borough shall provide or cause to be provided to the Buyer a full and complete customer list for the Wastewater System as of the date of the execution of the Agreement by both parties, together with an electronic data file, in a format reasonably satisfactory to the Buyer, containing such customer information; such list and electronic file are to be updated by the Borough and provided to the Buyer within sixty (60) days before the Closing or as otherwise agreed to between the Parties. The Parties shall agree no later than sixty (60) days before the Closing to a process and method for the final billing of the Wastewater System customers.

- (I) Publicity. The Parties agree to cooperate on any formal public announcement or statement regarding this Agreement or the transactions contemplated herein. Each Party shall make a good faith effort to provide the other with advance notice of the proposed content of any public announcement or statement.
- (J) Identification of Contracts to be Assigned. As set for in Section 4.5(C), the Buyer must assume the Borough's obligations on and following the Closing Date for those agreements set forth in **Exhibit E**.
- (K) Buyer Access. The Borough shall provide the Buyer, at the Buyer's sole cost, reasonable access to the Wastewater System from the Contract Date until the Closing Date for purposes including, but not limited to, examination of customer accounts, ordinances, deeds, contracts, maps, and plans; inspection and tests of equipment; and surveys of the real property comprising the Wastewater System and easements. The Buyer hereby agrees to indemnify and hold the Borough harmless from any and all claims, demands, suits, actions, damages, liabilities, or expenses with respect to or arising from the Buyer's access to the Wastewater System during this period. The Buyer's rights under this Section shall be exercised during normal business hours, with reasonable notice and shall not interfere with the Borough's continuing operation of the Wastewater System. The Borough shall cooperate with the Buyer with respect to such access to ensure a smooth transition in ownership of the Wastewater System.
- (L) Confidentiality. Any information provided by the Borough to the Buyer regarding the Borough's customers and the Wastewater System that is not generally available to the public shall remain confidential.
- (M) Cooperation During Transition. Generally, the parties shall cooperate to facilitate a smooth transition and the Buyer shall not do anything that will interfere with the Borough's operation and administration of the Wastewater System.
- (N) Referendum Education Campaign. The Buyer shall provide reasonable assistance to the Borough in connection with its public referendum education campaign.

ARTICLE VI

TITLE AND CONDITION OF SYSTEMS

Section 6.1. TITLE. Good and marketable title to the Wastewater System, including the real property comprising same, including valid licenses and/or easements necessary to own, operate and access all assets constituting the Wastewater System shall be conveyed by the Borough to the Buyer at the Closing free and clear of all Encumbrances, subject only to the Permitted Encumbrances. "Permitted Encumbrances" means any and all:

- (A) matters disclosed by the Property Information Materials (as defined in Section 6.2 hereof);
- (B) matters that become Permitted Encumbrances in accordance with the provisions of this Article VI;
- (C) matters that would be revealed by a physical inspection of or a complete and accurate survey, of the real property comprising the Wastewater System;
- (D) rights of way and easements that do not materially interfere with the existing use of the real property comprising the Wastewater System;
- (E) zoning and other governmental restrictions; and
- (F) Intentionally omitted.
- (G) taxes, assessments and other public charges on real property comprising the Wastewater System not due as of the Closing Date, provided, however, in no event shall Permitted Encumbrances include Monetary Liens. With respect to the real property comprising the Wastewater System, Buyer shall within ten (10) business days of execution of this Agreement apply for an owner's title insurance policy or policies from a reputable title insurance company licensed to do business in New Jersey (the "Commitment"). Within ten (10) business days after receipt of the Commitment, the Buyer shall notify the Borough of any objections, other than the Permitted Encumbrances. Any matters set forth on the Commitment and not objected to by the Buyer within said ten (10) day period shall become Permitted Encumbrances hereunder. The Borough may elect to cure any title defect by so notifying the Buyer. If the Borough does not so elect within twenty (20) days after notice of the objection, or if after so electing, the Borough fails to cure the defect(s) prior to the Closing, then the Buyer may at its choice, (i) continue to close with a corresponding reduction in the Purchase Price equivalent to Buyer's (a) costs for curing any title defects and (b) costs to obtain any easements necessary for the ownership and operation of the Wastewater System that are missing or that the Borough is unable to deliver; or (ii) terminate this Agreement upon notice to the Borough, said notice to be delivered within seven (7) days of the Borough's failure to so elect or, if the Borough elects to cure but does not, to be delivered at the Closing. If the Buyer terminates the Agreement pursuant to this

section, the Borough shall promptly, and in no event later than ten (10) business days after such termination, repay to the Buyer the Deposit, and upon such termination this Agreement shall be deemed canceled, null and void and neither Party shall have any further obligation or liability to the other hereunder.

Section 6.2. PROPERTY INFORMATION MATERIALS. The Buyer acknowledges that prior to the Buyer's execution of this Agreement, the Borough delivered to the Buyer and the Buyer reviewed the materials and information concerning the Wastewater System provided as part of the RFB (collectively, "Property Information Materials"). The Buyer acknowledges and understands that the Property Information Materials may have been prepared by parties other than the Borough and that the Borough makes no representation or warranty whatsoever, express or implied, as to the content, completeness, or accuracy of the Property Information Materials. The Buyer specifically releases the Borough from all claims, demands, causes of action, judgments, losses, damages, liabilities, costs and expenses (including attorney's fees whether suit is instituted or not) – whether known or unknown, liquidated or contingent (collectively, "Claims"), asserted against or incurred by the Buyer by reason of the information contained in, or that should have been contained in, the Property Information Materials or any inconsistency between such information and any representation or warranty of the Borough contained in this Contract. However, the foregoing release shall not apply to any Claims resulting from any intentional misstatements or willful misconduct on the part of the Borough. Provided however, nothing in this Section 6.2 shall affect nor relieve the Borough of its obligations pursuant to Section 6.1.

Section 6.3. CONDITION OF THE SYSTEMS. Subject to the terms and conditions of this Agreement, and the representations and warranties contained in the other Transaction Documents, the Buyer has agreed to purchase the Wastewater System in its "AS-IS" condition, including their environmental condition, operating condition, and condition of repair. The Buyer acknowledges that the Buyer has had and/or has been given pursuant to the RFB, an adequate opportunity to make such legal, factual, and other inquiries and investigation as the Buyer deems necessary, desirable, or appropriate with respect to the Wastewater System. The Buyer has satisfied itself on all aspects, without limitation, of the Wastewater System and is not relying on any representation of the Borough in connection therewith except for the representations and warranties contained in this Agreement and the other Transaction Documents.

ARTICLE VII

CONDITIONS TO OBLIGATION TO CLOSE

Section 7.1. CONDITIONS TO OBLIGATION OF THE BUYER. The obligation of the Buyer to perform its obligations in connection with the Closing is subject to the satisfaction or waiver by the Buyer of the following conditions:

- (A) the representations and warranties set forth in Article II of this Agreement and the other Transaction Documents shall be true and correct in all material respects as of the Closing Date;
- (B) the Borough shall have performed and complied with all of its covenants hereunder in all material respects through the Closing;
- (C) there shall not be any injunction, judgment, order, decree, ruling, or charge in effect preventing consummation of any of the transactions contemplated by this Agreement and the Transaction Documents;
- (D) the Buyer shall have secured from the Borough, the BPU, NJDEP, and all other applicable Governmental Authorities and quasi-governmental entities, all authorizations and approvals required for the transfer of the Wastewater System to the Buyer, including but not limited to the NJDEP Permits, if necessary (the "Approvals"), and all such Approvals (i) shall be in form and substance and subject to terms and conditions reasonably satisfactory to the Buyer, (ii) shall not be subject to the satisfaction of any condition that has not been satisfied or waived in order for such Approval to be effective, (iii) shall be in full force and effect, with any periods for appeal having expired, and (iv) all terminations or expirations of waiting periods imposed any Governmental Authority necessary for the consummation of the transaction shall have occurred. The Parties shall use all reasonable efforts to obtain the Approvals and to do so as expeditiously as reasonably possible. In connection with the Approvals, the Buyer shall deliver to the Borough or cause to be delivered to the Borough, through addition(s) to the applicable service list(s), copies of all correspondences to and from the bodies with whom the applications have been filed or will be filed. The Borough covenants to cooperate with the Buyer, at the Buyer's cost and expense, in the Buyer's efforts to obtain the Approvals and to promptly consent, when required by law, to all applications for the Approvals filed by the Buyer. The Buyer shall immediately notify the Borough in writing of any determinations made by any authority considering any application.

Section 7.2. CONDITIONS TO OBLIGATION OF THE BOROUGH. The obligation of the Borough to perform its obligations in connection with the Closing is subject to satisfaction or waiver by the Borough of the following conditions:

- (A) the representations and warranties set forth in Article III of this Agreement and in the other Transaction Documents shall be true and correct in all material respects as of the Closing Date;

- (B) the Buyer shall have performed and complied with all of its covenants hereunder in all material respects through the Closing;
- (C) there shall not be any injunction, judgment, order, decree, ruling, or charge in effect preventing consummation of any of the transactions contemplated by this Agreement or the Transaction Documents;
- (D) the Buyer shall have secured from the Borough, the BPU, NJDEP, and all other applicable governmental and quasi-governmental entities, all authorizations and approvals required for the transfer of the Wastewater System to the Buyer, including but not limited to the NJDEP Permits, if necessary (the "Approvals"). The Parties shall use all reasonable efforts to obtain the Approvals and to do so as expeditiously as reasonably possible. In connection with the Approvals, the Buyer shall deliver to the Borough or cause to be delivered to the Borough, through addition(s) to the applicable service list(s), copies of all correspondences to and from the bodies with whom the applications have been filed or will be filed. The Borough covenants to cooperate with the Buyer, at the Buyer's cost and expense, in the Buyer's efforts to obtain the Approvals and to promptly consent, when required by law, to all applications for the Approvals filed by the Buyer. The Buyer shall immediately notify the Borough in writing of any determinations made by any authority considering any application; and
- (E) the Borough shall have obtained any necessary consents and releases for the assignment and assumption of the assumed liabilities as defined in **Exhibit B**.
- (F) the Borough shall have approved: (A) defeasance and redemption of any outstanding bonds issued by the Borough on the Wastewater System; (B) discharge of any other outstanding debt issued to the Borough related to the Wastewater System and payable to any current lender; and (C) repayment of any grant issued to the Borough related to the Wastewater System that must be repaid due to the sale of the Wastewater System.

Section 7.3. SCHEDULE FOR CLOSING CONDITIONS. The Buyer shall promptly initiate and complete its conditions of Closing set forth in Section 7.1, provided, however, that all such conditions must be met no later than the date that is twelve (12) months following the date of this Agreement, or the adoption of the Township Consent, whichever is later. In the event that all such Closing conditions are not completed by such date notwithstanding the Company's good faith efforts, the Borough shall have the right to terminate this Agreement and retain the \$50,000 of the Transaction Costs Payment that had been paid to the Borough upon the passing of the Borough Ordinance approving the sale.

ARTICLE VIII

POST-CLOSING OBLIGATIONS OF BUYER

Subject to the approvals of the BPU, the Buyer shall be responsible for the following post-Closing obligations.

Section 8.1. CONTINUATION OF WASTEWATER SERVICES. The Buyer shall continue to provide services in accordance with the Customer Service Standards and the Customer Service Plan described in **Exhibit J** and shall guarantee the collection and conveyance of wastewater to the customers of the Wastewater System in a manner that meets all local, state, and federal laws and regulations relating to the collection and conveyance of wastewater and shall operate and maintain the Wastewater System to provide safe, reliable and adequate service.

Section 8.2. MAINTENANCE, REPAIRS, AND REPLACEMENT. The Buyer shall perform, at its own expense, all maintenance, repair, and replacement of the machinery, equipment, structures, improvements, and all other property and components constituting the Wastewater System. The Buyer shall provide or make provisions for all labor, materials, supplies, equipment, spare parts, and services which are necessary for the normal and ordinary maintenance of the Wastewater System and shall conduct predictive, preventive, and corrective maintenance of the Wastewater System as required by applicable law.

Section 8.3. RATE STABILIZATION COVENANT. Upon Closing, the Buyer shall adopt the Borough's sewer rates as defined in Chapter 28, Section 3, as amended by Ordinance 2020-33 and 2021-02, and as set forth in Exhibit D, which Exhibit details the specific sections of Chapter 28, Section 3, as amended by Ordinance 2020-33 and 2021-02 that will be adopted by the Buyer. The Buyer shall hold said rates for a minimum of two (2) years. Thereafter, the Borough's rates shall increase by an average of no more than three percent (3%) per year, compounded annually, for the next three (3) years. Thereafter, any future base rate increases shall be included in Buyer's base rate cases periodically filed with the BPU. The Buyer shall use good faith efforts to minimize rate increases to Borough customers by spreading costs of the Wastewater System across its statewide customer base and phasing rates into the Buyer's existing tariff rates over the course of several base rate cases, all to the extent permitted by law.

Section 8.4. REQUIRED CAPITAL IMPROVEMENTS. The Buyer agrees to invest at least \$11,000,000 in capital improvements to the system within ten (10) years of the Closing, \$6,000,000 of which the Buyer covenants to invest within the first five (5) years. Exhibit K contains a listing of potential capital improvements identified by the Buyer in its Bid submission in response to the RFB. This list may be subject to revision based upon further due diligence conducted by the Buyer post execution of this Agreement.

Section 8.5. SERVICE TO BOROUGH FACILITIES. The Buyer shall provide wastewater service to those Borough-owned facilities listed in **Exhibit N** to this Agreement at no cost to the Borough for a period of ten (10) years from the Closing Date at the same volume levels as existed as of the Closing Date.

Section 8.6. SERVICE LINE RESPONSIBILITY. The term “Service Line” shall mean the lateral service line that connects the Wastewater System to a customer’s premise. The Buyer shall be responsible for that portion of the Service Line within any public street right of way or sewer easement, or if there is no public street right of way or sewer easement, that portion of the Service Line that is five feet from the point of connection to the Wastewater System, or to the clean-out, whichever is closer. The customer shall be responsible for maintaining and repairing the remainder of the Service Line.

Section 8.7 POST-CLOSING COOPERATION OF THE BOROUGH. On or after the Closing Date, the Borough shall, on request, cooperate with the Buyer by furnishing any additional information, executing and delivering any additional documents and instruments, including contract assignments or easements, and doing any and all such other things as may be reasonably required by the Parties or their counsel to consummate or otherwise implement the transactions contemplated by this Agreement. Should the Buyer, in its reasonable discretion, determine after the Closing that books, records or other materials constituting acquired assets are still in the possession of the Borough, the Borough shall promptly deliver them to the Buyer at no cost to the Buyer. The Borough hereby agrees to cooperate with the Buyer to ensure a proper transition of all customers with respect to billing and customer service activities.

Section 8.8. RESERVED

Section 8.9. RESERVED.

Section 8.10. BOROUGH PUBLIC WORKS COMMITTEE. The Buyer shall agree to meet at the discretion of the Borough’s Public Works Committee which shall act as an advisory panel for customer service and other Wastewater System related issues.

Section 8.11. PAVING. The Buyer shall temporarily and permanently pave Borough roads in accordance with the Borough’s road opening ordinances and specifications and in coordination with other Borough road construction projects. The Company will provide curb-to-curb pavement restoration for all Company initiated work where the water and wastewater mains in a roadway are replaced in their entirety either between two connecting manholes or between two connecting roadway intersections. Buyer shall evaluate the condition of any wastewater main that falls within the limits of a road reconstruction project initiated by the Borough. Should the Buyer elect to replace or rehabilitate sewer assets, the work would be coordinated with the Borough ahead of the planned road reconstruction project.

ARTICLE IX

REMEDIES FOR BREACHES OF THIS AGREEMENT

Section 9.1. PRE-CLOSING DEFAULT BY THE BUYER. In the event that the Buyer materially breaches or defaults under this Agreement before the Closing hereunder, and such material breach or default continues for ten (10) business days after written notice from the Borough to the Buyer specifying such material breach or default, the Borough shall have the right as its sole remedy to terminate this Agreement and retain twenty-five percent (25%) of the Deposit and \$50,000 of the Transaction Costs Reimbursement paid to the Borough upon the passing of the Ordinance approving the sale as liquidated damages . The Borough's rights and remedies pursuant to this Section 9.1 shall survive any termination of this Agreement by the Borough as a result of the Buyer's default.

Section 9.2. PRE-CLOSING DEFAULT BY THE BOROUGH. In the event that the Borough materially breaches or defaults under this Agreement before Closing and such material breach or default continues for ten (10) business days after written notice from the Buyer to the Borough specifying such material breach or default the Buyer shall have the right as its sole remedy to either seek to enforce the Agreement by an action for specific performance (but not an action for damages) or to terminate this Agreement and have the Deposit returned. The Buyer's rights and remedies pursuant to this section shall survive any termination of this Agreement by the Buyer as a result of the Borough's default.

Section 9.3. POST-CLOSING DEFAULTS. In the event that either party materially breaches or defaults under this Agreement or the Transaction Documents after the Closing, and such material breach or default continues for ten (10) business days after written notice from the non-defaulting party to the defaulting party specifying such material breach or default, the non-defaulting party shall have the right to seek any available remedies at law or equity.

ARTICLE X ESCROW AGENT

Section 10.1. ESCROW The Deposit shall be held by the Escrow Agent, in trust, for the benefit of the Parties as their interests appear hereunder under the Escrow Agreement attached hereto and incorporated herein by reference as Exhibit I.

ARTICLE XI

NON-BINDING MEDIATION; FORUM FOR DISPUTE RESOLUTION

Section 11.1. RIGHTS TO REQUEST AND DECLINE NON-BINDING MEDIATION. Either Party may request non-binding mediation of any dispute arising under this Agreement. The non-requesting party may decline the request in its sole discretion. If there is concurrence that any particular matter shall be mediated, the provisions of this Article shall apply. The costs of such non-binding mediation shall be divided equally between the Borough and the Buyer.

Section 11.2. PROCEDURE. The mediator shall be a professional engineer, attorney or other professional mutually acceptable to the Parties who has no current or on-going relationship to either Party. The mediator shall have full discretion as to the conduct of the mediation. Each Party shall participate in the mediator's program to resolve the dispute until and unless the Parties reach agreement with respect to the disputed matter or one Party determines in its sole discretion that its interests are not being served by the mediation.

Section 11.3. NON-BINDING EFFECT. Mediation is intended to assist the Parties in resolving disputes over the correct interpretation of this Agreement. No mediator shall be empowered to render a binding decision.

Section 11.4. RELATION TO JUDICIAL LEGAL PROCEEDINGS. Nothing in this Article shall operate to limit, interfere with, or delay the right of either Party under this Article to commence judicial legal proceedings upon a breach of this Agreement by the other Party, whether in lieu of, concurrently with, or at the conclusion of any non-binding mediation.

Section 11.5. FORUM FOR DISPUTE RESOLUTION. It is the express intention of the Parties that all legal proceedings related to this Agreement or to the Wastewater System or to any rights or any relationship between the Parties arising therefrom shall be solely and exclusively initiated and maintained in the applicable State courts located in Somerset County, New Jersey.

ARTICLE XII

INDEMNIFICATION

Section 12.1. INDEMNIFICATION BY THE BUYER. The Buyer shall indemnify, defend and hold harmless, including paying all attorneys' fees, the Borough, and its elected officials (each, a "Borough Indemnitee"), from and against any and all third-party claims, demands, suits, actions, damages, liabilities or expenses arising from or alleged to arise from or in connection with: (1) the operation of the Wastewater System subsequent to the Closing Date; (2) any failure by the Buyer to perform its obligations under this Agreement; and (3) the negligent acts, errors or omissions or willful misconduct of the Buyer or any of its officers, directors, employees, agents, representatives or subcontractors in connection with this Agreement.

Section 12.2. INDEMNIFICATION BY THE BOROUGH. To the extent permitted by law, the Borough shall indemnify, defend and hold harmless the Buyer from and against any and all third-party claims, demands, suits, actions, damages, liabilities or expenses arising from (or alleged to arise from or in connection with: (1) any inaccuracy in or breach of or any claim by any third party alleging or constituting an inaccuracy or breach of any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by the Borough; (2) all liabilities and/or duties of the Borough, whether accruing prior to or after the Closing Date; (3) the ownership and/or operation of the Wastewater System prior to the Closing Date; and (4) the willful misconduct of the Borough in connection with this Agreement.

Section 12.3. THIRD PARTY CLAIMS. An Indemnitee shall give the Indemnitor notice of any matter which an Indemnitee has determined has given or could give rise to a right of indemnification under this Agreement (an "Indemnified Claim") within sixty (60) days of such determination, stating the amount of the Losses, if known, the method of computation thereof, and containing a reference to the provisions of this Agreement from which such right of indemnification is claimed or arises. If the Indemnitor acknowledges in writing that its obligation to indemnify the Indemnitee hereunder against any Losses that may result from such Indemnified Claim, then the Indemnitor shall be entitled to assume and control the defense of such Indemnified Claim at its expense and through counsel of its choice if it gives notice of its intention to do so to the Indemnitee within five (5) days of the receipt of such notice from the Indemnitee. In the event the Indemnitor exercises the right to undertake any such defense against any such Indemnified Claim as provided above, the Indemnitee shall cooperate with the Indemnitor in such defense and make available to the Indemnitor, at the Indemnitor's expense, all witnesses, pertinent records, materials and information in the Indemnitee's possession or under the Indemnitee's control relating thereto as is reasonably required by the Indemnitor. Similarly, in the event the Indemnitee is, directly or indirectly, conducting the defense against any such Indemnified Claim, the Indemnitor shall cooperate with the Indemnitee in such defense and make available to the Indemnitee, at the Indemnitor's expense, all such witnesses, records, materials and information in the Indemnitor's possession or under the Indemnitor's control relating thereto as is reasonably required by the Indemnitee. No such Indemnified Claim may be settled by the Indemnitor without the prior written consent of the Indemnitee which shall not be unreasonably withheld. If the Indemnitor fails to acknowledge its indemnity obligation within the time period provided above then the Indemnitee may undertake its own defense without waiving its right to seek indemnity

hereunder, including reimbursement of any defense costs incurred.

Section 12.4. NO OTHER DAMAGES. Other than in connection with third party claims, in no event shall either Party be liable to the other for any reason under this Agreement or any other Transaction Document for any form of special, incidental, indirect, consequential, or punitive damages of any kind (whether or not foreseeable), even if informed in advance of the possibility of such damages, and whether arising in contract, tort (including negligence), or otherwise.

ARTICLE XIII MISCELLANEOUS

Section 13.1. THIRD PARTY BENEFICIARIES. Neither this Agreement nor any Transaction Document shall confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

Section 13.2. ENTIRE AGREEMENT. This Agreement (including the other Transaction Documents), constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they related in any way to the subject matter of any such agreement or document.

Section 13.3. SUCCESSION AND ASSIGNMENT. This Agreement and each Transaction Documents shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Neither Party shall assign this Agreement to any Person without the other party's prior written consent.

Section 13.4. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

Section 13.5. HEADINGS. The article and section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 13.6. NOTICES. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given if it is sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to the intended recipient as set forth below:

If to Borough:

Business Administrator
Borough of Bound Brook
230 Hamilton Street
Bound Brook, New Jersey 08805
Fax: (732) 356-8990

Copy to:

Ryan J. Scerbo, Esq.
DeCotiis, FitzPatrick, Cole & Giblin
61 South Paramus Road
Suite 250
Paramus, New Jersey 07652
Fax: (201) 928-0588

If to Buyer:

New Jersey-American Water Company, Inc.
1 Water Street
Camden, NJ 08102
Attn: Vice President - Operations

Copy to:

New Jersey-American Water Company, Inc.
120 Raider Blvd
Hillsborough, NJ, 08844
Attn: Sr. Director, Central Operations

New Jersey-American Water Company, Inc.
1 Water Street
Camden, NJ 08102
Attn: General Counsel

Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it is actually received by the intended recipient. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

Section 13.7. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of New Jersey without giving effect to any choice or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Jersey.

Section 13.8. AMENDMENTS AND WAIVERS. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Buyer and the Borough. No waiver by any Party of any default, misrepresentation, breach of warranty, or breach of covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, breach of warranty, or breach of covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

Section 13.9. SEVERABILITY. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

Section 13.10. EXPENSES. Subject to the Borough's retention of the \$50,000 portion of the Transaction Costs Payment paid to the Borough upon the passing of the Ordinance approving the sale (except as provided in Section 6.1), in the event the Closing does not occur, other than by reason of a material default by one of the Parties, each Party shall bear its

own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

Section 13.11. CONSTRUCTION. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

Section 13.12. VARIATIONS IN PRONOUNS. All pronouns and any variations thereof refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

Section 13.13. INCORPORATION OF EXHIBITS AND SCHEDULES. The Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

Section 13.14. TRANSFER TAXES. The Buyer shall be responsible for all transfer taxes or other taxes applicable to the transaction, if any.

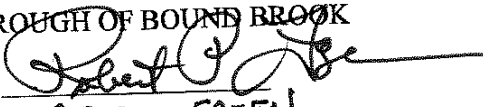
Section 13.15. TIME IS OF THE ESSENCE. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

Section 13.16. REVIEW OR AUDIT BY OFFICE OF THE STATE COMPTROLLER. In accordance with N.J.S.A. 52:15C-14(d), Buyer shall maintain all documentation related to products, transactions or services under this Agreement for a period of five years from the Closing Date. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

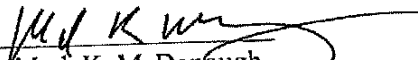
BOROUGH OF BOUND BROOK

By: 

Name: ROBERT FAZEN

Title: MAYOR

NEW JERSEY-AMERICAN WATER COMPANY, INC.

By: 

Name: Mark K. McDonough

Title: SVP and President NJAW

EXHIBIT A

DESCRIPTION OF THE WASTEWATER SYSTEM

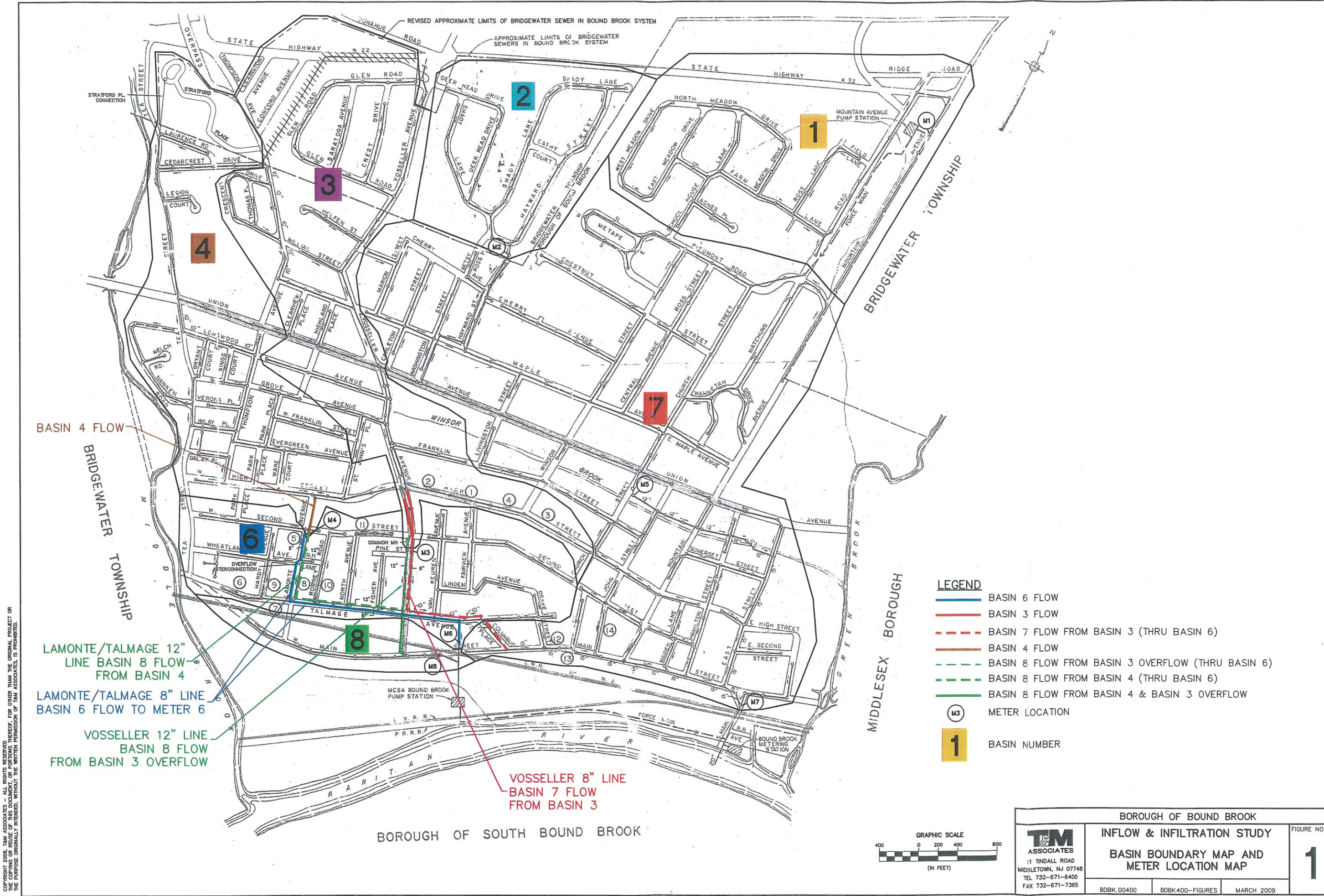
The Borough owned system provides wastewater collection services to approximately 3,000 customer connections, approximately 2,500 of which are physically located in the Borough with the remainder being physically located in Bridgewater Township. The Borough owns the assets of the system physically located in the Borough limits and not the sewer mains and appurtenances located in Bridgewater Township.

The Borough owned system is comprised of approximately twenty-five (25) miles of mostly vitrified clay pipe ranging in size from 8” to 15”, and appurtenant facilities (i.e. manholes).

Pipe Diameter (in)	Length (lf)
8	113,130
10	5,850
12	7,920
15	3,650
Total	130,550

The Borough owned system contains one (1) wastewater pump station located on Mountain Avenue. A second wastewater pump station owned and operated by the Middlesex County Utilities Authority (“MCUA”) is located south of West Main Street and conveys wastewater flows from the western portion of the Borough to the MCUA’s Bound Brook Metering Station located in the southeast corner of the Borough, near the Raritan River. All wastewater flow from the Borough, including the Bridgewater Township flow, is metered at the MCUA Bound Brook Metering station before being transmitted to the Middlesex County Utilities Authority’s (“MCUA”) regional wastewater treatment plant for ultimate treatment and disposal.

See attached map of the collection system and diagram of the wastewater basins schematic.



BASIN 4 FLOW

LAMONTE/TALMAGE 12" LINE
BASIN 8 FLOW FROM BASIN 4

LAMONTE/TALMAGE 8" LINE
BASIN 6 FLOW TO METER 6

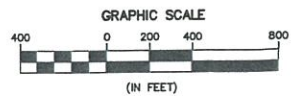
VOSELLER 12" LINE
BASIN 8 FLOW FROM BASIN 3 OVERFLOW

VOSELLER 8" LINE
BASIN 7 FLOW FROM BASIN 3

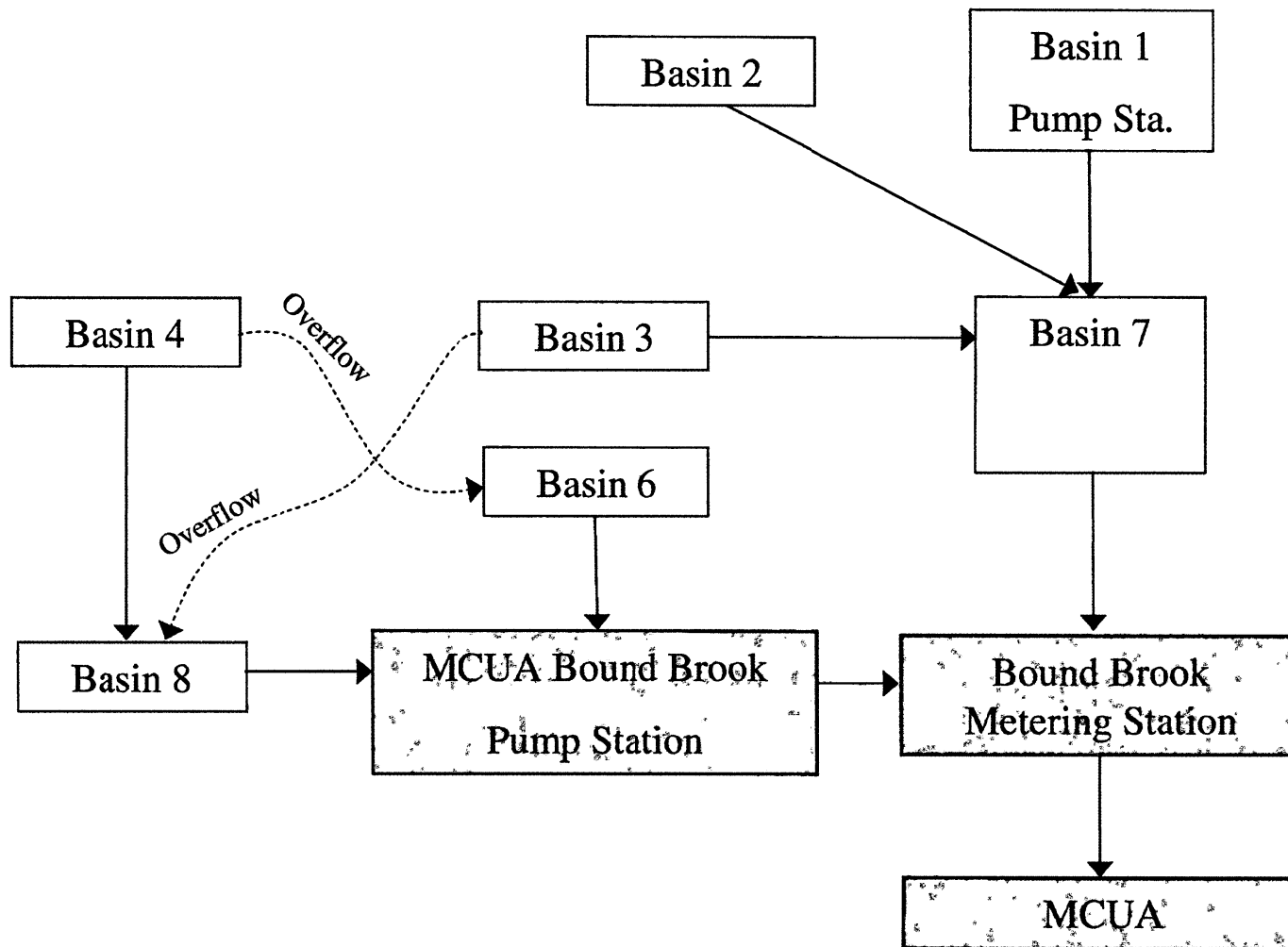
LEGEND

- BASIN 6 FLOW
- BASIN 3 FLOW
- - - BASIN 7 FLOW FROM BASIN 3 (THRU BASIN 6)
- BASIN 4 FLOW
- - - BASIN 8 FLOW FROM BASIN 3 OVERFLOW (THRU BASIN 6)
- - - BASIN 8 FLOW FROM BASIN 4 (THRU BASIN 6)
- BASIN 8 FLOW FROM BASIN 4 & BASIN 3 OVERFLOW
- M3 METER LOCATION
- 1 BASIN NUMBER

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BOROUGH OF BOUND BROOK		1
INFLOW & INFILTRATION STUDY		
BASIN BOUNDARY MAP AND METER LOCATION MAP		FIGURE NO.
 T&M ASSOCIATES 11 TINDALL ROAD MIDDLETOWN, NJ 07748 TEL 732-671-6400 FAX 732-671-7365		BDBK.00400 BDBK400-FIGURES MARCH 2009



BASIN FLOW SCHEMATIC

Figure 2

EXHIBIT B

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “Assignment and Assumption Agreement”) is made and entered into on [] by and between the Borough of Bound Brook, a public body corporate and politic in Somerset County in the State of New Jersey (the “Assignor”) and New Jersey American Water Company, Inc., a New Jersey Corporation with principal corporate offices at 1 Water Street, Camden NJ 08102 (the “Assignee”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement of Sale (as defined below).

WHEREAS, Assignor and Assignee are parties to a certain Agreement of Sale, dated February 10, 2022 (the “Agreement”), providing for the sale by the Assignor of the assets constituting the Wastewater System to the Assignee; and

WHEREAS, the Assignor and the Assignee have agreed that on or prior to the Closing, the Assignor shall assign, and Assignee shall assume, the Assumed Liabilities, as more fully described herein.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

Section 1. **ASSIGNMENT AND ASSUMPTION**. Subject to the terms and conditions of the Agreement of Sale, the Assignor hereby assigns, sells, transfers, and sets over (collectively, the “Assignment”) to the Assignee all of Assignor's rights, obligations, and liabilities relating to the Assumed Liabilities as more particularly set forth on Schedule I attached hereto and made a part hereof. Subject to the terms and conditions of the Agreement, the Assignee hereby accepts the Assignment and will assume, observe, and perform all of the duties, obligations, terms, provisions, and covenants contained therein. The Assignee shall also pay and discharge all of the obligations and liabilities of the Assignor to be observed, performed, paid, or discharged in connection with the Assumed Liabilities. To the extent that the Assignment contemplated by this Section 1 constitutes or would be deemed to constitute a grant, sale, assignment, transfer, conveyance, or delivery, or an attempted grant, sale, assignment, transfer, conveyance, or delivery to the Assignee of any Assumed Liabilities, and such transaction would be prohibited by any applicable law or would require any governmental or third party authorizations, approvals, consents, or waivers, and such authorizations, approvals, consents, or waivers have not been obtained prior to the date hereof, this Assignment and Assumption Agreement shall not constitute a grant, sale, assignment, transfer, conveyance, or delivery, or an attempted grant, sale, assignment, transfer, conveyance, or delivery thereof. Following the date hereof, the parties shall cooperate and use commercially reasonable best efforts to obtain promptly such authorizations, approvals, consents, or waivers, and to obtain novations or other agreements if appropriate and, after obtaining such, to complete the transactions contemplated hereby. Pending such authorization, approval, novation, consent, or waiver, the parties shall cooperate with each other in any reasonable and lawful arrangement designed to provide the economic costs and benefits of the Assumed Liabilities to the Assignee. To the extent possible,

performance obligations of Assignor with respect to any such Assumed Liabilities shall be deemed to be subcontracted to the Assignee.

Section 2. FURTHER ASSURANCES. The Assignor and the Assignee each covenants and agrees to execute and deliver, at the request and expense of the other party hereto, such further instruments of transfer and assignment and to take such other action as such the other party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Assignment and Assumption Agreement.

Section 3. MISCELLANEOUS. This Assignment and Assumption Agreement constitutes an agreement solely among the Parties hereto and is not intended to and shall not confer any rights, remedies, obligations, or liabilities, legal or equitable, on any person other than the Parties hereto and their respective successors, assigns, and legal representatives, nor shall person other such person otherwise constitute a third party beneficiary under or by reason hereof. This Assignment and Assumption Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument. This Assignment and Assumption Agreement shall be governed by and construed in accordance with the internal laws of the State of New Jersey without reference to choice of law principles thereof. This Assignment and Assumption Agreement may only be amended or modified in writing, signed by the party against whom enforcement of such amendment or modification is sought. In the event that the Closing does not occur, this Assignment and Assumption Agreement shall become null and void and the Assumed Liabilities shall remain the sole obligation of Assignor.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

BOROUGH OF BOUND BROOK

By: _____
Name:
Title:

NEW JERSEY AMERICAN WATER COMPANY, INC

By: _____
Name:
Title:

SCHEDULE I TO ASSIGNMENT AND ASSUMPTION AGREEMENT

All obligations relating to the Wastewater System accruing and arising on or after the Closing Date, including, but not limited to all obligations accruing or arising out of the Borough Consent.

All contractual commitments of the Borough contained in the assumed contracts listed in **Exhibit E** accruing and arising after the Closing Date.

EXHIBIT C

FORM OF BILL OF SALE

THIS BILL OF SALE dated as _____, 2022 from the Borough of Bound Brook, a public body corporate and politic in Somerset County in the State of New Jersey (the “Borough”) and New Jersey American Water Company, Inc., a New Jersey Corporation with principal corporate offices at One Water Street, Camden NJ 08102 (the “Buyer”).

WITNESSETH

WHEREAS, by an Agreement of Sale, dated February 10, 2022 (the “Agreement”), between the Borough and the Buyer, the Borough has agreed to convey to the Buyer certain assets, properties, and rights defined, described, and referred to in the Agreement (collectively, the “Wastewater System”) which include those assets listed on the document attached hereto as **Schedule I to Exhibit C**, with the exception of those items expressly set forth on the document attached hereto as **Schedule II to Exhibit C**; and

WHEREAS, pursuant to due authorization, the Borough is presently executing and delivering this Bill of Sale to the Buyer for the purpose of selling and assigning to and vesting in the Buyer all of the right, title, and interest currently held by the Borough in and to the Wastewater System;

NOW THEREFORE, in consideration of the purchase price provided in the Agreement and other good and valuable consideration, and intending to be legally bound, the Borough hereby grants, sells, conveys, assigns, transfers, sets over to, and vests in the Buyer, its successors and assigns, all of its right, title and interest, legal and equitable, in and to the Wastewater System.

TO HAVE AND TO HOLD the same, including the appurtenances thereof, unto the Buyer, its successors and assigns, forever, to its and their own proper use and behoof.

Section 1. **SALE OF SYSTEMS AS IS**. Except as specifically set forth in the Agreement, the Wastewater System is being transferred “**AS IS**”, “**WHERE IS**”, and “**WITH ALL FAULTS**” as of the date of this Bill of Sale, without any representation or warranty whatsoever as to its condition, fitness for any particular purpose merchantability or any other warranty, express or implied. Except as specifically set forth in the Agreement, the Borough specifically disclaims and Buyer waives any warranty, guaranty or representation, oral or written, past or present, express or implied, concerning the Wastewater System. The Buyer is hereby thus acquiring the Wastewater System based solely upon the Buyer’s own independent investigations and inspections of that property and not in reliance upon any information provided by the Borough or the Borough’s agents or contractors. The Borough has made no agreement to alter, repair, or improve any portion of the Wastewater System.

Section 2. **APPLICABLE LAW**. This instrument shall be governed by and enforced in accordance with the laws of the State of New Jersey.

IN WITNESS WHEREOF, the Borough has caused this Bill of Sale to be duly executed as of the date first above written.

Borough of Bound Brook, a public body corporate and politic in Somerset County in the State of New Jersey

By: _____

RECEIPT OF THE FOREGOING

BILL OF SALE

ACKNOWLEDGED AS OF

[____], 2022.

NEW JERSEY AMERICAN WATER COMPANY, INC

By: _____

SCHEDULE I TO EXHIBIT C

INCLUDED ASSETS

All assets that comprise the Wastewater System as described in Exhibit A. The Included Assets shall not include the Excluded Assets set forth in Schedule II to Exhibit C.

SCHEDULE II TO EXHIBIT C

EXCLUDED ASSETS

Personal property

Office equipment

Office supplies

Vehicles

Cash, securities, bank accounts and the accounts receivable of the B o r o u g h relating to the Wastewater System up to and including the Closing Date.

EXHIBIT D

TARIFF

*Borough of Bound Brook, NJ
Wednesday, June 2, 2021*

Chapter 28. Water and Sewer

28-3. SEWER USER CHARGES.

(Prior ordinance history includes portions of 1967 Code §§ 14-1B. — 114-1B.12 and Ordinance No. 2008-13.)

28-3.1. Users to pay annual charge.

[Ord. No. 2011-05]

An annual sewer user charge will be paid by certain users of the facilities provided by the Borough of Bound Brook and the Middlesex County Utilities Authority (hereinafter referred to as "MCUA") in accordance with the terms and provisions of this section.

28-3.2. Definitions.

[Ord. No. 2011-05; amended 12-22-2020 by Ord. No. 2020-33]

For purposes of this section, the following terms shall have the meanings provided.

COMMERCIAL USER CLASS 1

Any nonresidential property solely used for nonresidential purposes, including the retail of nonprocessed goods or for office or other business uses discharging domestic wastes.

COMMERCIAL USER CLASS 2

Any property used for nonresidential purposes, including any use not classified in "Commercial User Class 1," discharging domestic wastes. Class 2 users include but are not limited to: industrial park, any property utilized for preparing food for sale, hair and nail salons, barber shops, laundromats and dry cleaners, automotive and small engine repair and sales, fueling/service stations, and funeral homes.

DOMESTIC WASTE

Any liquid waste containing animal or vegetable matter in suspension or solution of the water-carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

INDUSTRIAL USER

Any person or property who discharges, causes, or permits the direct or indirect discharge of nondomestic wastewater into the treatment works. All nondomestic wastes discharged by an industrial user shall be considered industrial waste.

MULTIPLE-DWELLING USER

A building containing three or more dwelling units, discharging domestic wastes.

NONDOMESTIC WASTEWATER

Water which does not meet the definition of "domestic waste" (i.e., groundwater, leachate, process).

RESIDENTIAL USER

Any property solely used as a home or residence, including single family, multi two-family, rental, and single-dwelling condominium form of ownership, discharging domestic waste.

SIGNIFICANT INDUSTRIAL USER

A user defined as a significant industrial user pursuant to the rules and regulations of the Middlesex County Utilities Authority.

TAX-EXEMPT USER

Any property exempt from real property taxation, discharging domestic waste.

UNIT

A single water meter.

28-3.3. Method of payment.

[Ord. No. 2011-05]

Each user shall be invoiced directly for their use of the sewage treatment system.

28-3.4. Sewer usage charges.

[Ord. No. 2011-05; Ord. No. 2012-07; Ord. No. 2015-16; Ord. No. 2016-04; Ord. No. 2017-06]

- a. Users shall pay a set fee per 1,000 gallons of sewage discharged. User classes and the rate for each user class are established for 2021 as follows:

[Amended 3-13-2018 by Ord. No. 2018-05; 3-12-2019 by Ord. No. 2019-12; 2-11-2020 by Ord. No. 2020-07; 12-22-2020 by Ord. No. 2020-33]

From \$5.70 to:		
1.	Residential users	\$6.40 per 1,000 gallons.
2.	Tax exempt users	\$6.40 per 1,000 gallons.
3.	Commercial users Class 1	\$6.40 per 1,000 gallons.
4.	Commercial users Class 2	\$8 per 1,000 gallons.
5.	Industrial users	\$8 per 1,000 gallons.
6.	Significant industrial users	\$8 per 1,000 gallons.
7.	Integrated health services and its successors	\$8 per 1,000 gallons.
8.	Mixed residential/commercial users (Class 2)	\$8 per 1,000 gallons.
9.	Multiple-dwelling user	\$7.04 per 1,000 gallons.

- b. The Borough Council shall review the rates set by this section on at least an annual basis to determine their adequacy to meet the Borough's proportionate share of the costs of operating, maintaining, and replacing the Borough's sewer system, as well as the fees charged by the Middlesex County Utilities Authority.
- c. There shall be an annual sewer administrative fee for all improved properties of \$60 per unit in addition to the above per 1,000 gallon rate.
[Amended 3-13-2018 by Ord. No. 2018-05; 3-12-2019 by Ord. No. 2019-12]
- d. Where actual readings of a commercial, industrial, or significant industrial user reveal that the rate set forth in Subsection 28-3.4a is less than the actual fees charged by the MCUA to the Borough for that user's sewage, that user shall pay the actual fee charged by the MCUA to the Borough for that user's sewage, plus an administrative fee of \$0.49 per 1,000 gallons, which administrative fee shall be intended to include the costs of operating, maintaining, and replacing the Borough's sewer system.
- e. All live sanitary sewer laterals connected to the sanitary sewer mains shall be, at a minimum, charged the current administrative fee. A "live" sanitary sewer lateral is defined as any sanitary sewer lateral which has been cut/capped, regardless if it does not currently serve an active use. Any sanitary sewer lateral which has been cut/capped shall be deemed formally disconnected from the sanitary sewer system. Should the lateral connection be reestablished at a future time, the current sanitary sewer connection fee shall be paid prior to reestablishment.

[Added 3-12-2019 by Ord. No. 2019-12]

28-3.5. Flow measurement.

[Ord. No. 2011-05; Ord. No. 2015-16; Ord. No. 2015-24; Ord. No. 2016-04; Ord. No. 2017-06]

- a. Wherever actual readings of sewage flow are available, those readings shall be used in determining flow charges. Any user with an estimated sewer user charge of greater than \$200,000 per year may be required to install, at its own cost, a separate meter to measure sewage flow and strength of sewage.
- b. Where actual readings of sewage flows are unavailable, sewage flow will be estimated by taking 100% of the water flow and/or other meter reading for the previous year.
[Amended 3-13-2018 by Ord. No. 2018-05; 12-22-2020 by Ord. No. 2020-33]
- c. If a user obtains its water supply from a private well or an unmetered public water supply or utilizes a process that would yield waste water in amounts greater than the metered water use, then the owner may install a meter, the type and location of which is to be approved by the Borough prior to installation. The Borough shall provide a credit on a subsequent sewer user bill covering the cost of the installed approved meter. In the event that the user opts not to install such a meter within 30 days after receiving notice from the Borough of the option to have a meter installed, then the user shall pay a charge based upon the Borough's estimate of water consumption, which estimate shall be conclusive and binding upon the user.
- d. Credit for water not discharged into the sanitary sewer may be given to the user by the Borough if the user presents proof satisfactory to the Borough establishing the volume of water not discharged into the sanitary sewer.

28-3.6. Strength measurement.

[Ord. No. 2011-05]

The sewer usage charges established in Subsection **28-3.4** of this Code were based upon estimated levels of biochemical oxygen demand, suspended solids and chlorine demand in the sewage discharged by each class of user. Wherever actual readings of biochemical oxygen demand, suspended solids, and chlorine demand of a user are available, those readings shall be utilized to determine the sewer usage fees for that user in the manner provided in Subsection **28-3.4(d)**.

28-3.7. Extraneous flows and prohibition of inflow services.

[Ord. No. 2011-05]

- a. Any flows or strengths which are not chargeable to a particular user, whether by reason of the user being exempted from charges or by reason of the flow entering the system by infiltration or inflow shall be charged to all users, proportionately on the basis of flow.
- b. No roof drainage, cellar drainage, unpolluted industrial process water, surface water, waste from hydrants or groundwater from underground drainage fields, shall be permitted to drain into the sewage system. The sewer system is intended to convey only domestic wastewater and industrial waste.

28-3.8. Objections to estimates.

[Ord. No. 2011-05]

Any user objecting to any estimate of flow or strength hereunder shall have the option, at its own expense, of installing metering equipment on its discharge lines to record actual flow and strength readings. The metering equipment used, its installation and the location of installation and method of sampling, shall all be subject to review and approval by the Borough of Bound Brook or its designated representative. The Borough may order the installation of meters and sampling pits if it is determined that these are needed.

28-3.9. Toxic pollutants.

[Ord. No. 2011-05]

Any user who discharges into the system toxic pollutants, radioactive materials, or materials with high B.O.D. content, which cause an increase in the cost of managing the effluent or the sludge of the treatment works, shall be required to install, at its own expense, metering equipment to record actual flow and strength readings. That user shall be responsible for payment of the actual fees charged to the Borough by the MCUA plus the administrative fee, as provided in Subsection 28-3.4d.

28-3.10. Time of payment.

[Ord. No. 2011-05]

The user charges established and provided for herein shall be due and payable at a date to be determined within 60 days of billing. Any delinquent payments shall be subject to interest at the rate set by Borough in accordance with N.J.S.A. 54:4-67.

28-3.11. Bridgewater properties.

[Ord. No. 2011-05]

Notwithstanding any other provisions in this chapter, properties in Bridgewater Township connected to the Bound Brook Sewer System shall be charged in accordance with the provisions of the Sewer Operating Agreement between the Borough of Bound Brook and Bridgewater Township.

28-3.12. Exemptions.

[Ord. No. 2011-05]

Public buildings which are defined as those owned by the Borough and used solely for municipal purposes are excluded from the user charges called for in this section. The usage of the public buildings shall be treated as extraneous flow, as defined in Subsection **28-3.7** hereinabove. Buildings used for public education shall not be excluded from the user charges called for in this section.

28-3.13. BILL ADJUSTMENTS.

[Added 8-27-2019 by Ord. No. 2019-40]

- a. All adjustments must be submitted in writing to the Tax Collector between the time of receipt of the bill and the quarter that is due. Adjustments are approved by the Borough Administrator, in consultation with the Tax Collector, based upon circumstances and inspection of readings provided by New Jersey American Water.
- b. The written request must identify the circumstances of water loss which may include, but is not limited to, the location of a break or leak, how the break or leak was discovered, the length of time of the break or leak and the action taken by the resident to correct the issue. Copies of bills paid to plumbers and contractors must be submitted as supporting documentation. The written request must be received by the Tax Collector during the period in which the sewer bill consumption is calculated.
- c. All adjustments are subject to approval and shall not be based on the following criteria:
 1. Outdoor garden hoses left on.
 2. Crawl spaces and outdoor shower areas not properly winterized.
 3. Leaking hot heater heaters due to age.
 4. Leaking or running commodes, showers or sinks.
 5. Leaking or underground sprinkler systems not connected to the public water supply.

Adopted Ordinance 2020-33

BOROUGH OF BOUND BROOK

County of Somerset

ORDINANCE NO. 2020-33

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 28 "WATER AND SEWER" OF THE GENERAL REVISED ORDINANCES OF THE BOROUGH OF BOUND BROOK

WHEREAS, the Borough of Bound Brook is a member of the Middlesex County Sewerage Authority which annually charges the Borough of Bound Brook for the removal of sewerage to the Middlesex County Utilities Authority for treatment; and

WHEREAS, the Borough of Bound Brook has taken action to create the Borough of Bound Brook Sanitary Sewer Utility to administer the Borough's sewage facilities, including all contractual relationships relating to same; and

WHEREAS, the Mayor and Council of the Borough of Bound Brook have determined that the most equitable manner of funding the expense of wastewater collection and treatment, the infrastructure improvements necessary, and administrative expenses associated therewith is the imposition of a "user fee"; and

WHEREAS, the Mayor and Council of the Borough of Bound Brook have determined that such a usage system has significant benefits for those that conserve water, particularly senior citizens, and imposes the costs associated with wastewater treatment on its users not based on the value of their property but on the amount of wastewater generated;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Bound Brook, County of Somerset, and State of New Jersey that:

SECTION 1: That Subsection 2 "Definitions" of Chapter 28-3, Sewer User Charges, of the Revised General Ordinances of the Borough of Bound Brook, County of Somerset, be amended by deleting the text [stricken through and enclosed in brackets] and inserting the text underlined and marked in bold to read as follows:

§28-3.2 Definitions.

For purposes of this section, the following terms shall have the meanings provided.

COMMERCIAL USER CLASS 1

Any nonresidential property solely used for nonresidential purposes, including the retail of non-processed goods or for office, or other business uses discharging domestic wastes.

COMMERCIAL USER CLASS 2

Any property used for nonresidential purposes, including any use not classified in "Commercial User Class 1", discharging domestic wastes. Class 2 users include but are not limited to: industrial park, any property utilized for preparing food for sale, hair and nail salons, barber

Adopted Ordinance 2020-33

shops, laundromats and dry cleaners, automotive and small engine repair and sales, fueling/service stations, and funeral homes.

DOMESTIC WASTE

Any liquid waste containing animal or vegetable matter in suspension or solution of the water carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

INDUSTRIAL USER

Any person or property who discharges, causes, or permits the direct or indirect discharge of nondomestic wastewater into the treatment works. All non-domestic wastes discharged by an industrial user shall be considered industrial waste.

MULTIPLE DWELLING USER

A building containing three or more dwelling units, discharging domestic wastes.

NONDOMESTIC WASTEWATER

Water which does not meet the definition of domestic waste (i.e., groundwater, leachate, process).

RESIDENTIAL USER

Any property solely used as a home or residence, including single family, multi two-family, rental, and single-dwelling condominium form of ownership, discharging domestic waste.

SIGNIFICANT INDUSTRIAL USER

A user defined as a significant industrial user pursuant to the rules and regulations of the Middlesex County Utilities Authority.

STRENGTH OF SEWAGE

The levels of biochemical oxygen demand, suspended solids and chlorine demand in the sewage discharged.

TAX EXEMPT USER

Any property exempt from real property taxation, discharging domestic waste.

UNIT

Shall be defined as a single water meter.

Adopted Ordinance 2020-33

SECTION 2: That Subsection 4 "Sewer usage charges" of Chapter 28-3, Sewer User Charges, of the Revised General Ordinances of the Borough of Bound Brook, County of Somerset, be amended by deleting the text [stricken through and enclosed in brackets] and inserting the text underlined and marked in bold to read as follows:

§28-3.4 Sewer usage charges.

a. Users shall pay a set fee per 1,000 gallons of sewage discharged. User classes and the rate for each user class are established for 2021 [2020] as follows:

From \$5.70 to:

1. Residential users \$6.40 [~~\$6.30~~] per 1,000 gallons.
2. Tax exempt users \$6.40 [~~\$6.30~~] per 1,000 gallons.
3. Commercial users class 1 \$6.40 [~~\$6.30~~] per 1,000 gallons.
4. Commercial users class 2 \$8.00 [~~\$6.30~~] per 1,000 gallons.
5. Industrial users \$8.00 [~~\$6.30~~] per 1,000 gallons.
6. Significant industrial users \$8.00 [~~\$6.30~~] per 1,000 gallons.
7. Integrated health services and its successors \$8.00 [~~\$6.30~~] per 1,000 gallons.
8. Mixed residential / commercial users (class 2) \$8.00 per 1,000 gallons.
9. Multiple Dwelling User \$7.04 per 1,000 gallons.

b. The Borough Council shall review the rates set by this section on at least an annual basis to determine their adequacy to meet the Borough's proportionate share of the costs of operating, maintaining, and replacing the Borough's sewer system, as well as the fees charged by the Middlesex County Utilities Authority.

c. There shall be an annual sewer administrative fee for all improved properties of \$60 per unit in addition to the above per 1,000 gallon rate.

d. Where actual readings of a commercial, industrial, or significant industrial user reveal that the rate set forth in Subsection 28-3.4a is less than the actual fees charged by the MCUA to the Borough for that user's sewage, that user shall pay the actual fee charged by the MCUA to the Borough for that user's sewage, plus an administrative fee of \$0.49 per 1,000 gallons, which administrative fee shall be intended to include the costs of operating, maintaining, and replacing the Borough's sewer system.

e. All live sanitary sewer laterals connected to the sanitary sewer mains shall be, at a minimum, charged the current administrative fee. A "live" sanitary sewer lateral is defined as any sanitary sewer lateral which has been cut/capped, regardless if it does not currently serve an active use. Any sanitary sewer lateral which has been cut/capped shall be deemed formally

Adopted Ordinance 2020-33

disconnected from the sanitary sewer system. Should the lateral connection be reestablished at a future time, the current sanitary sewer connection fee shall be paid prior to reestablishment.

f. Well accounts are charged a flat rate of \$475 [~~\$360~~] per year.

SECTION 3. That Paragraph b. of Subsection 5 "Flow measurement" of Chapter 28-3, Sewer User Charges, of the Revised General Ordinances of the Borough of Bound Brook, County of Somerset, be amended by deleting the text [~~stricken through and enclosed in brackets~~] and inserting the text underlined and marked in bold to read as follows:

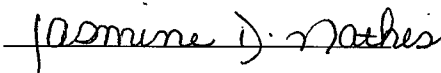
§28-3.5 Flow measurement.

b. Where actual readings of sewage flows are unavailable, sewage flow will be estimated by taking 100% of the water flow and/or other meter reading for the previous year. [In recognition of the higher water usage during the summer months, which does not enter the Borough's sanitary sewer system (i.e., watering of lawns), the annual flow of a user shall be estimated to be four times the total of that user's water flow bill from the first quarter (January, February, March) of the year prior to the billing year. For example: A user's 2017 usage shall be estimated to be four times that user's water usage in the first quarter of 2018.]

SECTION 4. If any article, section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 5. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Bound Brook, the provisions hereof shall be determined to govern. All other parts, portions, and provisions of the Revised General Ordinances of the Borough of Bound Brook are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 6. This Ordinance shall take effect immediately upon final passage and publication according to law.


Jasmine D. Mathis
Borough Clerk

By: 
Mayor Robert Fazan

Date of Introduction: December 8, 2020
Date of Adoption: December 22, 2020

Adopted Ordinance 2021-02

BOROUGH OF BOUND BROOK
County of Somerset

ORDINANCE NO. 2021-02

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXVIII, WATER AND SEWER, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BOUND BROOK TO SET A NON-BOUND-BROOK-RESIDENTIAL RATE FOR USERS OF THE BOUND BROOK SANITARY SEWER SYSTEM

BE IT ORDAINED, by the Mayor and Council of the Borough of Bound Brook, County of Somerset, State of New Jersey, being the governing body thereof, as follows:

SECTION 1. Section 28-3.4, "Sewer Usage Charges," of Chapter XXVIII, "Water and Sewer," of the Revised General Ordinances of the Borough of Bound Brook is hereby amended and supplemented by deleting the text **[marked in bold and enclosed in brackets]** and inserting the text **underlined and marked in bold**, to read as follows:

28-3.4 Sewer Usage Charges.

- a. Users shall pay a set fee per thousand (1,000) gallons of sewage discharged. User classes and the rate for each user class are established for 2021 as follows:

10. Non-Bound-Brook Residential users \$7.50 per 1,000 gallons

SECTION 2. Severability Clause.

If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.

SECTION 3. Repealer.

All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

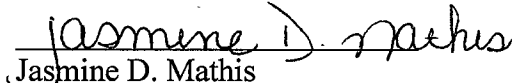
SECTION 4. Effective Date.

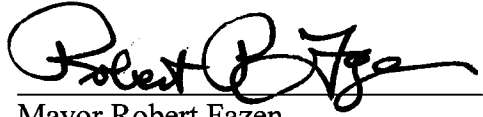
This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

Adopted Ordinance 2021-02

SECTION 5: Codification.

This ordinance shall be a part of the Code of Borough of Bound Brook as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code.


Jasmine D. Mathis
Borough Clerk

By: 
Mayor Robert Fazen

Date of Introduction: January 26, 2021

Date of Adoption: February 9, 2021

EXHIBIT E

**LIST OF WRITTEN CONTRACTS TO WHICH THE BOROUGH IS A
PARTY WHICH RELATE TO THE SYSTEM**

Agreement with the Middlesex County Sewerage Authority and Others dated February 5, 1954, as amended.

Interlocal Services Agreement Between The Township of Bridgewater And the Borough of Bound Brook dated August 25, 2009

BOUND BROOK

Agreement

WITH

THE MIDDLESEX COUNTY SEWERAGE AUTHORITY

AND

OTHERS

This Agreement

made and dated as of the 5th day of February, One Thousand Nine Hundred and F.fty-Four,

BETWEEN

THE MIDDLESEX COUNTY SEWERAGE AUTHORITY (hereinafter referred to as "Authority"), a public body politic and corporate of the State of New Jersey,

AND

THE BOROUGH OF MIDDLESEX, the BOROUGH OF DUNELLEN, the CITY OF NEW BRUNSWICK, THE TOWNSHIP OF NORTH BRUNSWICK, IN THE COUNTY OF MIDDLESEX, the BOROUGH OF HIGHLAND PARK, THE TOWNSHIP OF RARITAN, IN THE COUNTY OF MIDDLESEX, THE BOROUGH OF METUCHEN, THE BOROUGH OF SOUTH RIVER, THE BOROUGH OF SAYREVILLE, THE TOWNSHIP OF WOODBRIDGE, IN THE COUNTY OF MIDDLESEX, each a municipal corporation of the State of New Jersey situate in the County of Middlesex, the CITY OF PLAINFIELD, a municipal corporation of the State of New Jersey situate in the County of Union, the BOROUGH OF BOUND BROOK, THE BOROUGH OF SOUTH BOUND BROOK, and THE BOROUGH OF NORTH PLAINFIELD, each a municipal corporation of the State of New Jersey situate in the County of Somerset, or so many of said municipal corporations as shall execute this Agreement and become and remain parties thereto (each such party being hereinafter referred to as "Municipality"), and CITY OF PLAINFIELD, THE BOROUGH OF NORTH PLAINFIELD and BOROUGH OF DUNELLEN, acting in Joint Meeting,

AND

UNION CARBIDE AND CARBON CORPORATION, a corporation of the State of New York, ANHEUSER-BUSCH, INC., a corporation of the State of Missouri, PETER J. SCHWEITZER, INC., a corporation of the State of New York, BENZOL PRODUCTS COMPANY, a corporation of the State of New Jersey, HEYDEN CHEMICAL CORP., a corporation of the State of Delaware, NATIONAL LEAD COMPANY, a corporation of the State of New Jersey, and HERCULES POWDER COMPANY, a corporation of the State of Delaware, or so many of said corporations as shall execute this Agreement and become parties thereto (each such party being hereinafter referred to as "Company"):

WITNESSETH

WHEREAS pursuant to the Sewerage Authorities Law, constituting Chapter 138 of the Pamphlet Laws of 1946, of the State of New Jersey, approved April 23, 1946, the Authority was created by virtue of a resolution duly adopted by the Board of Chosen Freeholders of the County of Middlesex, New Jersey, and is a public body politic and corporate of the State of New Jersey organized and existing under said Law, established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, with all necessary or proper powers to acquire, construct, maintain, operate and use sanitation facilities for the relief of the Raritan River and other waters in, bordering or entering the District (hereinafter defined) from pollution or threatened pollution and for improvement of conditions affecting the public health; and

WHEREAS the Authority is ready to design, finance, construct and put in operation a trunk sewer system and sewage disposal plant but cannot do so unless substantially all the Municipalities and Companies become legally bound to accept and pay for sewage and waste treatment service from the time such system and plant go into operation; and

WHEREAS each Municipality and Company has been requested and is willing to have sewage and other wastes originating from it or on its properties treated and disposed of by the Authority pursuant to the terms of this Agreement and has duly authorized its proper officials to enter into and execute for it this Agreement;

Now THEREFORE, in consideration of the premises, of the mutual covenants and agreements herein set forth, and of the undertakings of each party to the others, the parties hereto, each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

ARTICLE I.

Definitions.

As used or referred to in this Agreement, unless a different meaning clearly appears from the context:

(1) "Act" means the Sewerage Authorities Law, constituting Chapter 138 of the Pamphlet Laws of 1946, of the State of New Jersey,

approved April 23, 1946, and the acts amendatory thereof and supplemental thereto;

(2) "Authority", "Municipality" and "Company" shall each have the meaning hereinabove given to such term;

(3) "Participant" means a Municipality or Company, except that the Municipalities known as City of Plainfield, The Borough of North Plainfield and Borough of Dunellen shall be deemed to be collectively one Participant so long as (a) such Municipalities act in a joint meeting as defined in Section 40:63-69 of the Revised Statutes of New Jersey, (b) the sewage collected in the Local Sewerage Systems of all such Municipalities is delivered into the Trunk System at common point or points of connection in accordance with Article III hereof, and (c) no municipal corporation not a party to this Agreement acts in said joint meeting;

(4) "District" means the area within the territorial boundaries of all the municipal corporations of the State of New Jersey, situate in the County of Middlesex, the Governing Bodies of which have not, prior to the date of this Agreement, adopted a resolution in accordance with subsection (g) of Section 4 of the Act, and of all the municipal corporations of the State of New Jersey, situate in the County of Middlesex, the Governing Bodies of which, prior or subsequent to the date of this Agreement, shall have adopted an ordinance in accordance with subsection (g) of Section 4 of the Act;

(5) "Project" means (a) a trunk sewer extending from a point near the boundary line between the Borough of Bound Brook and the Borough of Middlesex, New Jersey, in a general direction downstream along or near the Raritan River to a point in the Borough of Sayreville, New Jersey, southerly of the Raritan River and near the South River; and (b) an intercepting sewer extending from a point within a one-mile radius of East Spotswood in the Township of Madison, New Jersey, near New Jersey State Highway Route No. S-28 in a general direction downstream along or near the South River to or near said point in the Borough of Sayreville; and (c) a sewage pumping station at or near said point in the Borough of Sayreville together with a force main or pressure sewer extending therefrom in a generally northeasterly direction to a point in the said Borough of Sayreville

near the property of National Lead Company; and (d) a sewage treatment plant at or near said point in the Borough of Sayreville near the property of National Lead Company; and (e) an outfall conduit extending from said sewage treatment plant in a generally easterly direction to a point in Raritan Bay; and (f) all connections, manholes, valves, structures, equipment, apparatus and other real or tangible personal property necessary or desirable for the efficient construction and operation of the above-described sanitation facilities;

(6) "Trunk System" means the Project and all other sewers, conduits, pipe lines, mains, pumping and ventilating stations, sewage treatment and disposal systems, plants and works, connections and outfalls, and all other plants, structures, equipment, boats, conveyances and other real and tangible personal property acquired or constructed or to be acquired or constructed by the Authority for the purposes of the Authority under the Act, but does not include the public sewage collection system of any Municipality;

(7) "Local Sewerage System" means all sewer or drainage systems of a Municipality which are or may be connected, or are or may be required under the terms of Article III hereof to be connected, with the Trunk System, including all outfalls of such systems and any extensions or enlargements of such systems;

(8) "Plant" means all properties owned or controlled by a Company which are situate in the counties of Middlesex, Union or Somerset, New Jersey, within the watershed of the Raritan River or Raritan Bay;

(9) "Sewage" or "sewage" means industrial wastes and waterborne animal or vegetable wastes from septic tanks, water closets, buildings, residences, industrial establishments or other places, together with such ground water infiltration, surface water, admixtures or other wastes as may be present;

(10) "Pollution" shall have the meaning given to such term in the Act;

(11) "Service Charges" means rents, rates, fees or other charges for direct or indirect connection with, or the use or services of, the Trunk System which the Authority, under the provisions of Section 8 of the Act, is or may be authorized to charge and collect with regard to persons or real property;

(12) "Annual Charge" shall have the meaning given to such term in Article V hereof;

(13) "Deficiency" shall have the meaning given to such term in Article V hereof;

(14) "Extension" means any new sewer main which is not part of the Project and which extends the Trunk System into territory not theretofore drained into the trunk sewer, intercepting sewer or sewage pumping station described in subparagraph (5) of Article I hereof through facilities owned by the Authority;

(15) "Alteration" means any structure which is not completed in connection with original construction with respect to the Project or any enlargement or change of a structure which enlargement or change is not completed in connection with such original construction, but does not include an Extension, a renewal or replacement of a part of the Project, or an enlargement or change of the sewage treatment plant constructed as part of the Project;

(16) "Governing Body" shall have the meaning given to such term by the Act; and

(17) "Fiscal Year" means the period of twelve calendar months ending with December 31 of any year.

ARTICLE II.

Construction of the Project and Operation of the Trunk System.

(A) The Authority will with all practicable speed prepare and complete plans for the construction and financing of the Project, and, upon completion of such financing or the making of arrangements therefor satisfactory to the Authority, will with all practicable speed construct and complete the Project and place the same in operation. The Authority will thereafter operate and maintain and, to the extent permitted under the terms of Paragraph (B) of this Article, enlarge the Trunk System so as to treat and dispose of all sewage, without limitation as to flow, which may thereafter be delivered into the Trunk System by any Municipality or Company in accordance with

Article III hereof. Before undertaking construction of any substantial part of the Project, the plans and specifications for such construction will be submitted by the Authority to the State Department of Health of New Jersey for approval as to the sufficiency of design of the Authority's proposed sewage treatment plant and compliance with the standards for sewage and industrial waste treatment plants for areas under the joint jurisdiction of said Department and the Interstate Sanitation Commission, promulgated by said Department on May 2, 1952, and a permit will be obtained by the Authority from said Department to proceed with such construction.

(B) The Authority may at any time enlarge or alter the Trunk System or renew or replace any part thereof, but the Authority shall not construct, and nothing in this Agreement shall be deemed to require the Authority to construct, any Extension or Alteration unless (1) written consent to construction of such Extension or Alteration shall have been given in any Fiscal Year by or on behalf of (a) Municipalities from which the Authority in the next preceding Fiscal Year received not less than fifty-one per centum (51%) of all monies received by the Authority from Municipalities during such next preceding Fiscal Year and (b) Companies from which the Authority in such next preceding Fiscal Year received not less than fifty-one per centum (51%) of all monies received by the Authority from Companies during such next preceding Fiscal Year, and, in the case of an Extension, (2) the Authority shall by resolution have found that the estimated charges to be made or imposed by the Authority in accordance with Article IV hereof with respect to the sewage estimated by the Authority to be delivered and discharged into such Extension during the first full year of operation thereof computed at the rate or rates prescribed by the Authority in accordance with said Article IV and applicable with respect to sewage delivered into the Trunk System at the time of adoption of said resolution will equal or exceed the estimated cost of operating and maintaining such Extension during such first full year of operation plus five per centum (5%) of the estimated cost of construction of such Extension.

(C) The Authority will at all times maintain with responsible insurers all such insurance as is customarily maintained with respect

to sewerage systems of like character against loss or damage to the Trunk System and against public or other liability to the extent not less than that reasonably necessary to protect the interests of the Authority and the Participants, and will at all times maintain with responsible insurers all insurance reasonably required and obtainable within limits and at costs deemed reasonable by the Authority to indemnify and save harmless the Participants against all liabilities, judgments, costs, damages, expenses and attorney's fees for loss, damage or injury to person or property resulting directly or indirectly from the operation or a failure of operation of the Trunk System caused by the negligence or wilful act of the Authority, its employees or agents.

ARTICLE III.

Connections to Trunk System.

(A) Upon notice from the Authority, each of the Municipalities will permit its sewer or drainage systems or the outfalls therefrom to be connected, and each of the Companies will permit the sanitation or drainage systems of its Plant or the outfalls therefrom to be connected, with the Trunk System, at the point or points designated therefor in the List of Connection Points attached hereto, marked "Schedule A" and by this reference made a part hereof, or at such other point or points upon which such Municipality or Company and the Authority may mutually agree. Every such connection shall be made by the Authority at its own cost and expense. The Borough of Highland Park, however, will pay to the Authority the cost and expense of the making by the Authority of the connection of its sewer or drainage system which is located near the intersection of River Road and Harrison Avenue in said Borough. Every such connection shall constitute and be operated by the Authority as part of the Project and shall include all such pumping and other facilities as may be necessary to cause all sewage delivered at the said point or points of connection to be discharged into the Trunk System and, in the case of a Municipality, be so made and constructed as to discharge into the Trunk System all sewage collected in its Local Sewerage System and delivered at the said point or points of connection and, in the case of a Company, be so made and constructed as to discharge into

the Trunk System all sewage originating in its Plant and delivered at the said point or points of connection. Each Municipality and Company, at its own cost and expense, will construct, install and operate any and all extensions of its Local Sewerage System or the sanitation or drainage systems of its Plant, or the outfalls therefrom, necessary to cause the same to reach to and deliver sewage at the said point or points of connection, and, after the making of such connection or connections, will keep its Local Sewerage System and the sanitation or drainage systems of its Plant connected with the Trunk System, and will deliver and discharge into the Trunk System all sewage originating in and collected by it in the case of a Municipality or all sewage originating in its Plant in the case of a Company.

(B) Notwithstanding the provisions of Paragraph (A) of this Article, no Municipality or Company shall be obligated to deliver and discharge into the Trunk System sewage which the Authority may by its written consent exempt from delivery and discharge into the Trunk System, or to permit or cause its sewer, sanitation or drainage system collecting or disposing of such sewage to be connected with the Trunk System, and no Company shall be obligated to deliver and discharge into the Trunk System sewage, whether treated or untreated, which, if discharged into waters in or bordering the State of New Jersey, would not cause or constitute violation of subsection (a) of Section 28 of the Act or any laws of the State of New Jersey relating to said waters or any valid regulation or requirement relating to said waters made pursuant to said laws by the State Department of Health or other agency of said State having jurisdiction with respect to said waters, or sewage which it discharges into the Local Sewerage System of a Municipality, or to permit or cause its sanitation or drainage system collecting or disposing of such sewage to be connected with the Trunk System.

(C) Notwithstanding the provisions of Paragraph (A) of this Article or any other Article hereof, a Participant other than a Company shall not have the right under this Agreement to deliver and discharge into the Trunk System any sewage except sewage collected in (1) such Municipality or (2) sewers outside such Municipality which at the date of this Agreement are connected with its Local Sewerage System or joint system, unless the Authority shall have given its written consent

to such delivery and discharge. Notwithstanding the provisions of Paragraph (A) of this Article or any other Article hereof, no Company shall have the right under this Agreement to deliver and discharge into the Trunk System sewage originating elsewhere than in its Plant, unless the Authority shall have given its written consent to such delivery and discharge.

ARTICLE IV.

Charges and Establishment of Rates by Authority.

The Authority will make and impose charges with respect to all sewage delivered into the Trunk System by any Municipality, Company, or any other person, partnership, firm or corporation. Said charges may and shall at all times be such that the receipts of the Authority shall be sufficient to pay or provide for the expenses of operation and maintenance of the Trunk System, including (without limitation of the foregoing) insurance, renewals and replacements and, subject to the provisions of Paragraph (B) of Article II hereof, Alterations and Extensions, and the principal of and interest on any and all bonds or other obligations of the Authority as the same become due, and to provide for any deficits of the Authority resulting from failure to receive sums payable to the Authority by any Municipality, any Company or any other person, partnership, firm or corporation, or from any other cause, and to maintain such reserves or sinking funds for any of the foregoing purposes as may be required by the terms of any contract or other obligation of the Authority, and, if and to the extent deemed necessary by the Authority, to provide annually a sum (not exceeding ten per centum (10%) of the total of the amounts set opposite the names of Participants in the Estimate of Annual Service Charges attached hereto, marked "Schedule D" and by this reference made a part hereof) as a reserve for any such deficits and provide such further sums for reserves as may be approved by written consents given in any Fiscal Year by or on behalf of (a) Municipalities from which the Authority in the next preceding Fiscal Year received not less than fifty-one per centum (51%) of all moneys received by the Authority from Municipalities during such next preceding Fiscal Year and (b) Companies from which the Authority in such next preceding Fiscal Year received not less than fifty-one per centum (51%) of all moneys

received by the Authority from Companies during such next preceding Fiscal Year. Such charges made and imposed by the Authority shall be computed for the service rendered by the Trunk System in the treatment and disposal of sewage by the Authority at rates which shall at all times be uniform as to all Participants for the same type, class and amount of use or service of the Trunk System and give effect to quantity differentials in substantially the proportions reflected in the rates set forth in the Initial Schedule of Rates attached hereto, marked "Schedule B" and by this reference made a part hereof, and the rates applicable with respect to sewage delivered and discharged into the Trunk System by any Participant shall not be more favorable to such Participant than the rates applicable with respect to sewage so delivered and discharged by any other Participant. The Authority, prior to the discharge and delivery of sewage into the Trunk System, shall prescribe an initial schedule of such rates which shall be as set forth in said Initial Schedule of Rates and, from time to time whenever necessary after prescribing such initial schedule (but only after public hearing thereon held by the Authority at least twenty days after notice of the time and place of such hearing shall have been mailed to each Participant at its usual place of business), the Authority shall revise the schedule of such rates, which shall at all times comply with the terms of any contract or other obligation of the Authority and shall be based or computed on the quantity, quality and other characteristics of sewage so discharged and delivered. Any Participant aggrieved by any part of such revised schedule which fails to conform with the terms and provisions of this Agreement may institute appropriate judicial proceedings to have the same reviewed for the purpose of obtaining correction of said part of such revised schedule.

ARTICLE V.

Payments by Participants.

(A) Each Participant will pay to the Authority the charges (herein called "Annual Charge") made or imposed by the Authority with respect to the sewage delivered and discharged into the Trunk System by or on behalf of such Participant in any Fiscal Year, provided that, in consideration of the location in the Borough of Sayreville of the sewage treatment plant and other facilities of the Authority, the

Annual Charge becoming payable from said Borough with respect to sewage delivered and discharged in each Fiscal Year shall be reduced by the amount of the charges based on flow or volume computed with respect to the first twenty-five million gallons of sewage delivered and discharged into the Trunk System by or on behalf of said Borough in each quarter of such Fiscal Year. Such Annual Charge shall be computed and established by the Authority on the basis of the quantity, quality and other characteristics of the sewage so delivered as shown by the records of the Authority, at the rate or rates prescribed by the Authority in accordance with Article IV hereof applicable from time to time during such Fiscal Year with respect to the said sewage delivered during such Fiscal Year. Each such Annual Charge shall at all events be due and payable not later than January 15 next ensuing after the close of such Fiscal Year, but provision for and payment of every such Annual Charge will be made by each Participant in accordance with the following Paragraphs of this Article.

(B) So long as the Municipalities known as City of Plainfield, The Borough of North Plainfield and Borough of Dunellen shall under the provisions of subparagraph (3) of Article I hereof be deemed to be one Participant, the Annual Charge becoming payable from said Participant with respect to sewage delivered and discharged in each Fiscal Year shall be apportioned between such Municipalities in shares as follows:

Municipality	Share
City of Plainfield.....	68%
The Borough of North Plainfield.....	25%
Borough of Dunellen.....	7%

Each such Municipality as if it constituted a separate Participant will either pay or cause the Joint Meeting referred to in this Agreement to pay to the Authority its share of such Annual Charge, apportioned as aforesaid, and of any Deficiency or other amount payable by the said three Municipalities as one Participant, apportioned as aforesaid, as and when the same or any part thereof or interest thereon becomes due and payable, and with respect to each such Municipality, as used in the following Paragraphs of this Article the term "Annual Charge" shall mean the share of the Annual Charge payable by the said three Municipalities as one Participant apportioned to such Municipality as afore-

said and the term "Deficiency" shall mean the share of any Deficiency, as defined in Paragraph (C) of this Article, payable by the said three Municipalities as one Participant apportioned to such Municipality as aforesaid. Nothing herein contained shall, however, prevent the said three Municipalities from making or causing such Joint Meeting to make payments hereunder to the Authority in different or varying proportions.

(C) On or before January 25 of the Fiscal Year which the Authority may estimate as the year in which the Trunk System or any part thereof will be placed in operation and on or before January 25 of each Fiscal Year thereafter, and in any event on or before January 25 of each Fiscal Year after the Trunk System or any part thereof shall have been placed in operation, the Authority will make an estimate, based upon the estimated quantity, quality and other characteristics of sewage to be delivered by every Participant, of the amount of the Annual Charge which will become payable from each Participant with respect to sewage to be delivered and discharged in such Fiscal Year and, on or before February 1 next ensuing, will make and deliver to such Participant its certificate stating such estimated amount of the Annual Charge. In the event that any part of the Annual Charges computed and established in accordance with Paragraph (A) of this Article theretofore becoming due and payable to the Authority from such Participant shall not have been paid, the Authority will include in such certificate an additional provision separately stating the amount of such unpaid part (herein called "Deficiency").

(D) Each Municipality will in each Fiscal Year make all budgetary and other provisions or appropriations necessary to provide for and authorize the payment by the Municipality to the Authority during such Fiscal Year of the estimated amount of the Annual Charge and the amount of the Deficiency (if any) stated in the certificate delivered in such Fiscal Year to it by the Authority as aforesaid.

(E) On or before March 1 of each Fiscal Year, each Participant will pay to the Authority the amount of the Deficiency (if any) stated in the certificate delivered in such Fiscal Year to it by the Authority as aforesaid. Each Participant will pay to the Authority the estimated amount of the Annual Charge stated in the certificate delivered in such

Fiscal Year to it by the Authority as aforesaid in four equal installments on March 1, June 1, September 1 and December 1 of such Fiscal Year, provided that in the Fiscal Year which the Authority may estimate as the year in which the Trunk System or any part thereof will be placed in operation, said estimated amount shall be divided into as many installments as there are months in such Fiscal Year beginning after the day which the Authority shall estimate as the day on which the Trunk System or any part thereof will be placed in operation and one of such installments shall be due and payable to the Authority on the first day of each such month.

(F) In the event that the amount of the Annual Charge computed and established in accordance with Paragraph (A) of this Article becoming due from any Participant with respect to sewage delivered and discharged in a Fiscal Year shall be less than the estimated amount of such Annual Charge stated in the certificate delivered in such Fiscal Year to it by the Authority, the Authority will on or before March 1 next ensuing return to such Participant the difference between said amounts in cash or, at the option of the Participant, by credit against payments then or theretofore due to the Authority from such Participant under the provisions of Paragraph (A) or Paragraph (E) of this Article.

(G) The sums payable by a Municipality to the Authority under the provisions of this Article are and shall be in lieu of Service Charges with regard to real property in such Municipality directly or indirectly connected with the Trunk System and real property connected to the Local Sewerage System of such Municipality connected with the Trunk System in accordance with Article III hereof. So long as such Municipality shall not be in default in the making of any payments becoming due from it under the provisions of this Article, the Authority will suspend Service Charges with regard to such real property. For the purposes of this Paragraph, a Municipality shall be deemed to be in default if such Municipality, for a period of thirty days after its due date, shall fail to make in full to the Authority any payment required to be made by it under the provisions of this Agreement.

ARTICLE VI.

Meters and Records; Inspection; and Local Operations.

(A) The Authority will provide, install and use meters for determining the quantity, and make tests and use other means for determining the quality and other characteristics, of all sewage which shall be delivered and discharged into the Trunk System by each of the Participants and all other users of the Trunk System, and, in accordance with sound engineering practice, shall determine such quantity, quality and characteristics, including chlorine demand. A copy of each such determination made by the Authority with respect to each Fiscal Year shall be mailed to each Participant at its usual place of business and, for all purposes of this Agreement, shall be conclusively deemed to have been made in accordance with this Article and to be correct at the expiration of sixty days after such mailing unless within said period of sixty days a Participant shall have filed with the Authority an objection thereto stating that such determination is incorrect and stating the changes therein which should be made in order to correct such determination. Any controversy or claim involving a Participant which shall have so filed an objection to such determination and arising out of or relating to such determination shall, upon notice given by such Participant to every other Participant which may be affected by any change in such determination and reasonable opportunity for such other Participant or Participants to be heard, be settled by arbitration, in accordance with the rules then obtaining of the American Arbitration Association, and judgment upon the award rendered may be entered in any Court having jurisdiction thereof. From and after the placing of the Trunk System in operation, the Authority will make and keep permanent records of the quantity, quality and other characteristics of sewage delivered and discharged into the Trunk System by each of the Participants and all other users of the Trunk System. For the purpose of determining the quantity, quality and other characteristics of any sewage which shall or may be delivered and discharged into the Trunk System by a Municipality or Company, the Authority shall have the right at all reasonable times to enter upon and inspect the sewer, sanitation or drainage systems of such Municipality or Company, and to take normal samples under ordinary operating conditions and make tests, measurements

and analyses of sewage or other wastes in, entering or to be discharged into such sewer, sanitation or drainage system. The Authority will make and keep a record of tests, measurements and analyses of such sewage or other wastes entering such sanitation, sewer or drainage systems, and upon the written request of any Participant will make available to such Participant the results of such tests, measurements or analyses.

(B) No Municipality shall construct, enlarge or operate a plant for the treatment and disposal of sewage and no Company shall construct, enlarge or operate a plant for the treatment and disposal of sewage originating elsewhere than in its Plant unless (1) required so to do by the terms of Article VII hereof or (2) the Authority shall have given its written consent thereto.

(C) No Municipality or Company shall make or permit any new connection to or extension of its sewer, sanitation or drainage systems which is so designed as to permit entrance directly or indirectly into the Trunk System of storm water drainage from ground surface, roof leaders, catch basins or any other source, and each Municipality and Company, before making any new connection to or extension of its sewer, sanitation or drainage systems, will submit the plans therefor to the Authority and, in making the same, will permit the Authority to inspect the work and will comply with all requests of the Authority with respect thereto reasonably designed to assure exclusion from the Trunk System of any such storm water drainage.

(D) Whenever under the terms of this Agreement the Authority is authorized to give its written consent, the Authority, in its discretion, may give or refuse such written consent and, if given, may restrict, limit or condition such consent in such manner as it shall deem advisable. Acceptance by the Authority into the Trunk System from a Participant of sewage in a volume or at a rate or with characteristics exceeding or violating any limit or restriction provided for by or pursuant to this Agreement in one or more instances or under one or more circumstances shall not constitute a waiver of such limit or restriction or of any of the provisions of this Agreement and shall not in any way obligate the Authority thereafter to accept or make provision for sewage delivered and discharged into the Trunk System in a volume

or at a rate or with characteristics exceeding or violating any such limit or restriction in any other instance or under any other circumstance.

(E) Whenever under the terms of this Agreement a Municipality is authorized to give its written consent, such consent may be given and shall be conclusively evidenced by a copy, certified by its Clerk and under its seal, of a resolution purporting to have been adopted by its Governing Body and purporting to give such consent. Whenever under the terms of this Agreement a Company is authorized to give its written consent, such consent may be given and shall be conclusively evidenced by an instrument in writing purporting to give such consent and purporting to be signed in its name by its President or any Vice-President, Assistant Vice-President, Secretary, Assistant Secretary, General Manager, Assistant General Manager, Treasurer or Assistant Treasurer thereof. Whenever under the terms of this Agreement the Authority is authorized to give its written consent, such consent may be given and shall be conclusively evidenced by a copy, certified by its Secretary and under its seal, of a resolution purporting to have been adopted by the Authority or its members and purporting to give such consent.

(F) The Authority will keep proper books of record and account in which complete and correct entries shall be made of its transactions relating to the Trunk System or any part thereof, and which, together with all other books and papers of the Authority, shall at all reasonable times be subject to public inspection. The Authority will cause its books and accounts to be audited annually by a certified public or registered municipal accountant selected by the Authority, and annually within one-hundred days after the close of each Fiscal Year, copies of the reports of such audits so made shall be furnished to the Authority and to each Participant, including statements in reasonable detail, accompanied by a certificate of said accountant, of financial condition, of revenues and operating expenses, of all funds held by or for the Authority, and of the number, amount and classification of customers and services of the Trunk System and of the Annual Charges, or other revenues, if any, collected in each classification.

ARTICLE VII.

Requirements Regarding Deleterious Wastes.

(A) Sewage discharged into the Trunk System by or on behalf of each Participant shall, at the point of connection of the sewer, sanitation or drainage systems of such Participant with the Trunk System, comply with the requirements prescribed therefor in the Requirements as to Sewage Discharged attached hereto, marked "Schedule C" and by this reference made a part hereof. The Authority represents to each Participant that the domestic wastes discharged at the date of this Agreement into any Local Sewerage System owned and operated by any Municipality or Municipalities complies with such requirements. The sewage originating in the Plant of any Company at any time within sixty days before or after the date of this Agreement shall, for all purposes of this Agreement, be deemed to be in compliance with such requirements if, after analyses conducted at the expense of such Company by the Sanitation Department of Rutgers University or other laboratory approved by the Authority, said Sanitation Department or other laboratory within ninety days after the date of this Agreement makes and delivers to the Authority its certification that such sewage is so in compliance.

(B) The Authority may from time to time make any amendment or amendments of said requirements which may be reasonably necessary to prohibit or properly regulate the delivery or discharge into the Trunk System of oils, acids or any other substances which, alone or in combination with other substances delivered and discharged into the Trunk System from the same source, are or may be or may reasonably be expected to be substantially injurious or deleterious to the Trunk System or to its efficient operation, and which, having regard to the public health and safety and the purposes of the Authority, does not unreasonably restrict the operations of a Participant or the use of property of or located in a Participant. Every such amendment shall take effect as to a Participant sixty days after a copy of such amendment shall have been mailed to such Participant at its usual place of business and, for all purposes of this Agreement, shall be conclusively deemed to have been made in accordance with this Article and to be fully

authorized thereby at the expiration of said period of sixty days unless within said period of sixty days such Participant shall have filed with the Authority an objection thereto stating that such amendment would unreasonably restrict the operations of such Participant or the use of property of or located in such Participant and stating the manner in which such amendment would so restrict such operations or such use of property. Any controversy or claim involving a Participant which shall have so filed an objection to any such amendment and arising out of or relating to the making of such amendment, or the breach of any requirement provided by such amendment, shall be settled by arbitration, in accordance with the rules then obtaining of the American Arbitration Association, and judgment upon the award rendered may be entered in any Court having jurisdiction thereof.

(C) Each Municipality and Company will cause all sewage at any time discharged into the Trunk System by it or on its behalf to comply with said requirements and the amendments thereof, if any, then in effect. Each Municipality will permit no new connections and will discontinue existing public connections and will require the discontinuance of existing private connections to its Local Sewerage System, which allow entrance therein of such sewage as will cause the discharge at any time into the Trunk System from such Local Sewerage System of sewage which does not comply with said requirements and the amendments thereof, if any, then in effect. Each Company will operate its Plant in such manner and will provide and operate such pre-treatment or other facilities approved by the Authority as will prevent the discharge at any time into the Trunk System of any sewage originating in its Plant which does not comply with said requirements and the amendments thereof, if any, then in effect. The Authority may from time to time make determination of the respects in which sewage discharged into the Trunk System by any Participant is not in compliance with said requirements and the amendments thereof, if any, then in effect. A copy of said determination shall be mailed to such Participant at its usual place of business and, for all purposes of this Agreement, shall be conclusively deemed to have been made in accordance with this Article and to be correct at the expiration of thirty days after such mailing unless within said period of thirty days such Participant shall

have filed with the Authority an objection thereto stating that such determination is incorrect and stating the changes therein which should be made in order to correct such determination. Any controversy or claim involving a Participant which shall have so filed an objection to any such determination and arising out of or relating to such determination shall be settled by arbitration, in accordance with the rules then obtaining of the American Arbitration Association, and judgment upon the award rendered may be entered in any Court having jurisdiction thereof.

ARTICLE VIII.

Contracts with or Service to Others.

(A) The Authority will not enter into any agreement providing for or relating to the treatment and disposal of sewage originating in any Municipality or sewage originating outside such Municipality collected in sewers which at the date of this Agreement are connected with the Local Sewerage System of such Municipality, unless (1) the other contracting party be such Municipality or one of the seven corporations (other than municipal or public corporations) hereinabove named or (2) such Municipality shall have given its written consent thereto.

(B) Except as otherwise provided in Paragraph (A) of this Article or in Paragraph (B) of Article II hereof, nothing in this Agreement contained shall restrict in any way the right and power of the Authority, in its discretion, at any time and from time to time to accept delivery and discharge into the Trunk System of sewage or other wastes from sources other than a Participant, or to enter into agreements with any municipal corporation within or without the District or with any other public body, person, partnership, firm or corporation providing for or relating to the disposal of sewage or with respect to the delivery or discharge into the Trunk System of sewage or other wastes originating within or without the District, provided that the charges with respect to such sewage or other wastes delivered and discharged into the Trunk System made and imposed pursuant to Article IV hereof or charged and collected pursuant to the Act shall not be computed or established at

any rates less favorable to the Authority than the rates applicable with respect to sewage delivered and discharged into the Trunk System by the Participants, and the terms and conditions of any such agreement shall not be less favorable to the Authority than the terms and conditions of this Agreement.

ARTICLE IX.

Enforcement.

(A) If any payment or part thereof due to the Authority from any Municipality or Company shall remain unpaid for thirty days following its due date, such Municipality or Company shall be charged with and will pay to the Authority interest on the amount unpaid from its due date until paid at the rate of six per centum (6%) per annum, and in the case of a Municipality, the Authority, in its discretion, may charge and collect Service Charges with regard to persons and real property within such Municipality sufficient to meet any default or deficiency in any payments herein agreed to be made by such Municipality. If in any such case Service Charges are so collected, the amount so collected by the Authority will be credited against the amount of such default or deficiency or any payments then or theretofore due to the Authority from such Municipality under the provisions of Paragraph (A) or Paragraph (E) of Article V hereof, and the Authority will furnish to the Municipality a list of the names of the persons making payment to the Authority of such Service Charges and of the several amounts so paid by such persons respectively, and the Municipality will give fair and proper credit to such persons for the several amounts so paid by them.

(B) Every obligation assumed by or imposed upon any Municipality or Company by this Agreement shall be enforceable by the Authority by appropriate action, suit or proceeding at law or in equity, and the Authority may have and pursue any and all remedies provided by law for the enforcement of such obligation including the remedies and processes provided by the Act with respect to Service Charges or other obligations.

(C) This Agreement shall be binding upon and be deemed to be executed by all subsidiary corporations of each Company and all corporations controlled by it and any company in which it may be merged or with which it may be consolidated and any company resulting from any merger or consolidation to which it shall be a party. Before any Company shall transfer the ownership, occupancy or control of all or any part of its Plant to any other person, partnership, firm or corporation (hereinafter called "successor"), the Company will request such successor, by agreement with the Authority supplemental to this Agreement, to assume and undertake all of the obligations hereunder of the Company with respect to such Plant or part thereof and, if such successor be controlled or subject to control by the Company, the Company will cause such successor to assume, undertake and perform each and all of said obligations.

(D) Failure on the part of the Authority or of any Municipality or Company in any instance or under any circumstance to observe or fully perform any obligation assumed by or imposed upon it by this Agreement shall not make the Authority liable in damages to a Municipality or Company or relieve a Municipality or Company from making any payment to the Authority or fully performing any other obligation required of it under this Agreement, but such Municipality or Company may have and pursue any and all other remedies provided by law for compelling performance by the Authority or such other Municipality or Company of said obligation assumed by or imposed upon the Authority or such other Municipality or Company.

ARTICLE X.

Reimbursement for Abandoned Facilities.

If at the date of this Agreement a Municipality, either severally or jointly with any other Municipality or Municipalities, owns and operates a sewage treatment plant and upon the making of connection to the Trunk System of its Local Sewerage System pursuant to

Article III hereof operation of said sewage treatment plant is stopped and permanently discontinued, the Authority will within sixty days after such discontinuance pay to such Municipality or to such Municipalities jointly, as reimbursement for the remaining useful life of said sewage treatment plant, a sum of money computed in accordance with this Article. In computing said sum, the original cost of each unit of such plant shall be first determined in accordance with sound accounting practice, provided that land and rights in land, interest during construction, replacements and reconstruction shall not be items of such original cost, but the original cost of enlargements or extensions shall be such items and for the purpose of this Article each such enlargement or extension shall be regarded as a unit. From the original cost of each such unit so determined shall first be deducted all contributions, grants, assistance or other donations received by the Municipality or by such Municipalities jointly or applied in aid of acquiring, constructing and financing such unit and any and all other items of such original cost which were not borne by the Municipality, or by such Municipalities jointly, excluding, however, any such contributions, grants, assistance or other donations which are entitled to be repaid by such Municipality or Municipalities to any other person, partnership, firm or corporation having usage rights in such unit. From the balance of the original cost of such unit then remaining shall be deducted a sum equal to four per centum (4%) per annum on such balance for the period elapsed from the date when such unit was placed in operation until the date of the making of such connection. The aggregate of the remainders, if any, so computed as to all such units of such plant shall be the sum of money to be paid by the Authority to the Municipality or to such Municipalities jointly as aforesaid. Notwithstanding such payment, the said sewage treatment plant shall remain the property of the Municipality or of such Municipalities jointly as the case may be.

ARTICLE XI.

Term of Agreement.

This Agreement shall come into effect as provided in Article XIII hereof and shall thereafter be and remain in full force and effect, but at any time after five years from the date of this Agreement and after the payment in full of all obligations of the Authority,

including its bonds, original or refunding or both, issued to finance the construction, replacement, maintenance or operation of the Trunk System, any Participant may, upon two years' notice to the Authority and to each of the other Participants, withdraw from this Agreement and thereafter cease to be a Participant. Except as otherwise provided in Article XII hereof, this Agreement shall be null and void and have no further force and effect on or after December 31, 1955, unless the Authority shall have at that time commenced the construction of the Project.

ARTICLE XII.

Withdrawal from or Termination of Agreement for Rise of Estimated Costs.

(A) Before undertaking construction of any substantial part of the Project, the Authority will submit to each Participant its current estimate of total costs to be incurred in constructing the Project and placing the same in operation including reserves deemed necessary to be capitalized in connection therewith, together with certification of Metcalf & Eddy, as consulting engineers employed by it, stating (1) their opinion that firm and acceptable bids in fixed amounts have been received by the Authority for contracts for the construction of parts of the Project involving not less than eighty per centum (80%) of the total cost of construction of the Project as then estimated by them, and (2) their estimate of the proportion of the direct construction work on the Project represented by such contracts, and (3) their current estimate, giving effect to said bids and taking into consideration the said proportion of the direct construction work on the Project represented by such contracts, of the total direct costs to be incurred by the Authority for the construction and equipping of the Project and for engineering services in connection therewith.

(B) If said estimate of total direct costs stated in said certification exceeds \$23,186,200, then any Participant may within sixty days after submission of such estimate and certification give written notice to the Authority and each other Participant of its intention to withdraw from this Agreement and in such event at the expiration of ninety days after such submission such Participant shall no longer be a party to this Agreement and shall cease to be a Participant and, if

any Participant shall have given such notice within said period of sixty days, the Authority within ninety days after such submission may give written notice to each Participant of its intention to terminate this Agreement.

(C) If within said period of sixty days all Participants shall have given written notice as aforesaid or if within said period of ninety days the Authority shall have given written notice as aforesaid, then this Agreement shall at the expiration of said period of ninety days terminate and thereafter have no further force and effect, but, notwithstanding such termination, and notwithstanding Article XI and any failure of the Authority to commence construction of the Project on or before December 31, 1955, the Municipalities and Companies formerly constituting the Participants will pay to the Authority such sum, not exceeding \$1,000,000 in the aggregate, as the Authority shall certify as necessary, after first using any other funds of the Authority available therefor, to meet principal of all bonds theretofore issued by it and then outstanding. The amount so to be paid by each such Municipality or Company shall be the product derived by multiplying the aggregate sum so to be paid to the Authority by the fraction of which the amount set opposite its name in the Estimate of Annual Service Charges attached hereto, marked "Schedule D" and by this reference made a part hereof, shall be the numerator and the total of the amounts set opposite the names of all such Municipalities and Companies in said Estimate of Annual Service Charges shall be the denominator. Each such Municipality or Company will pay to the Authority the amount so to be paid by it, together with interest on the unpaid balance at such rate or average rate as the Authority may be obligated to pay upon its unpaid bonds, notes or other obligations, in ten equal annual installments, beginning on the thirtieth day after the expiration of said ninety-day period, provided that such Municipality or Company may at any time prepay to the Authority any such installment together with the interest to accrue thereon to the due date of said installment discounted at the date of such prepayment on such basis and at such rate per annum as the Authority may approve.

ARTICLE XIII.

Effective Date.

This Agreement shall be in full force and effect and be legally binding upon the Authority and upon all of the other corporations which shall then have executed the same, upon its execution and delivery by the Authority and by any such selection of the fourteen municipal corporations and seven corporations (other than municipal or public corporations) hereinabove named as, upon aggregating the sums set opposite their names as referred to in the Estimate of Annual Service Charges attached hereto, marked "Schedule D" and by this reference made a part hereof, represents ninety per centum (90%) of the total of the amounts set forth in said Estimate of Annual Service Charges, provided, however, that this Agreement shall be deemed not to have been executed and delivered by either the Borough of Dunellen or the City of Plainfield or The Borough of North Plainfield until it shall have been executed by the Borough of Dunellen, the City of Plainfield and The Borough of North Plainfield. If any of the fourteen municipal corporations and seven corporations (other than municipal or public corporations) hereinabove named shall not have executed and delivered this Agreement within ninety days after it shall have become effective as aforesaid, such corporation shall not thereafter become a party to this Agreement or be permitted to execute the same, and if either the Borough of Dunellen or the City of Plainfield or The Borough of North Plainfield shall not have executed and delivered this Agreement previous to expiration of said period of ninety days, then neither the Borough of Dunellen nor the City of Plainfield nor The Borough of North Plainfield shall any longer be a party to this Agreement or a Participant whether or not this Agreement shall have been previously executed by said municipal corporation.

ARTICLE XIV.

Miscellaneous.

(A) All bonds, notes or other obligations of the Authority referred to in this Agreement or to be issued by the Authority shall, for all purposes of this Agreement, be the sole obligation of the Authority and shall not in any way be deemed a debt or liability of any Municipality or Company.

(B) This Agreement may be executed in any number of counterparts each of which shall be executed by the Authority and any one or more of the Municipalities and Companies and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

IN WITNESS WHEREOF, the Authority and the Municipalities and the Companies have caused their respective corporate seals to be hereunto affixed and attested and these presents to be signed by their respective officers thereunto duly authorized and this Agreement to be dated as of the day and year first above written.

THE BOROUGH OF MIDDLESEX

by.....

Attest:

.....
Borough Clerk

BOROUGH OF DUNELLEN

by.....

Attest:

.....
Borough Clerk

CITY OF NEW BRUNSWICK

by.....

Attest:

.....
City Clerk

27

THE TOWNSHIP OF NORTH BRUNSWICK,
IN THE COUNTY OF MIDDLESEX

Attest: by.....

.....
Township Clerk

BOROUGH OF HIGHLAND PARK

Attest: by.....

.....
Borough Clerk

THE TOWNSHIP OF RARITAN, IN THE
COUNTY OF MIDDLESEX

Attest: by.....

.....
Township Clerk

THE BOROUGH OF METUCHEN

Attest: by.....

.....
Borough Clerk

28

THE BOROUGH OF SOUTH RIVER

Attest: by.....

.....
Borough Clerk

THE BOROUGH OF SAYREVILLE

Attest: by.....

.....
Borough Clerk

THE TOWNSHIP OF WOODBRIDGE, IN THE
COUNTY OF MIDDLESEX

Attest: by.....

.....
Township Clerk

CITY OF PLAINFIELD

Attest: by.....

.....
City Clerk

BOROUGH OF BOUND BROOK

by

Daniel Conway

Attest:

Ernest L. Belli

Borough Clerk

THE BOROUGH OF SOUTH BOUND BROOK

by.....

Attest:

.....

Borough Clerk

THE BOROUGH OF NORTH PLAINFIELD

by.....

Attest:

.....

Borough Clerk

CITY OF PLAINFIELD, THE BOROUGH OF
NORTH PLAINFIELD AND BOROUGH OF
DUNELLEN, ACTING IN JOINT MEET-
ING

by.....

Chairman

Attest:

.....

Secretary

30

UNION CARBIDE AND CARBON CORPORATION

by.....
Vice President

Attest:

.....
Secretary

ANHEUSER-BUSCH, INC.

by.....
Vice President

Attest:

.....
Secretary

PETER J. SCHWEITZER, INC.

by.....
Vice President

Attest:

.....
Secretary

BENZOL PRODUCTS COMPANY

by.....
Vice President

Attest:

.....
Secretary

31

HEYDEN CHEMICAL CORP.

by.....
Vice President

Attest:

.....
Secretary

NATIONAL LEAD COMPANY

by.....
Vice President

Attest:

.....
Secretary

HERCULES POWDER COMPANY

by.....
Vice President

Attest:

.....
Secretary

THE MIDDLESEX COUNTY SEWERAGE
AUTHORITY

by: *P. A. Rydbeck*
.....
Chairman

Attest:

[Signature]
.....
Secretary

Schedule A.

(Attached to and part of Agreement dated as of February 5,
1971, between The Middlesex County Sewerage Authority and various
municipal and private corporations.)

List of Connection Points

Municipality or Company	Connection Point
The Borough of Middlesex	North bank of Raritan River near present outfall of Borough's sewerage system
Borough of Dunellen (City of New Brunswick)	North bank of Raritan River near Green Brook South bank of Raritan River near Mile Run Brook and South bank of Raritan River near City's present sewage treatment plant and South bank of Raritan River near the Edgebrook area of the Township of East Brunswick (or any of them)
The Township of North Brunswick, in the County of Middlesex	South bank of Raritan River near Mile Run Brook
Borough of Highland Park	North bank of Raritan River near present outfall of Borough's sewerage system and North bank of Raritan River near intersection of River Road and Harrison Avenue (or either of them)
The Township of Raritan, in the County of Middlesex	North bank of Raritan River near Township's present "Clara Barton" sewage treatment plant, and North bank of Raritan River near Township's present "Silver Lake" sewage treatment plant and North bank of Raritan River near Johnson's Brook (or any of them)
The Borough of Metuchen (either through extension of its sewers or through pipes of others)	North bank of Raritan River near Green Brook, and the points hereinabove designated with respect to The Township of Raritan, in the County of Middlesex (or any of them)
The Borough of South River	West bank of South River near present outfall of Borough's sewerage system
The Borough of Sayreville	East bank of South River near present outfall of Borough's sewerage system

Municipality or Company	Connection Point
The Township of Woodbridge, in the County of Middlesex City of Plainfield	North bank of Raritan River near present out- fall of Township's sewerage system Point hereinabove designated with respect to the Borough of Dunellen
Borough of Bound Brook	North bank of Raritan River near present out- fall of Borough's sewerage system and North bank of Raritan River near Borough's present pumping station (or either of them)
The Borough of South Bound Brook	South bank of Raritan River near present out- fall of Borough's sewerage system
The Borough of North Plainfield	Point hereinabove designated with respect to the Borough of Dunellen
Union Carbide and Carbon Company Anheuser-Busch, Inc.	North bank of Raritan River near present out- fall from Company's Plant Beginning of Authority's trunk sewer in the Township of Madison, New Jersey, near New Jersey State Highway Route No. S-28
Peter J. Schweitzer, Inc.	Beginning of Authority's trunk sewer in the Township of Madison, New Jersey, near New Jersey State Highway Route No. S-28
Benzol Products Company	North bank of Raritan River near present out- fall from Company's Plant
Heyden Chemical Corp.	North bank of Raritan River near present out- fall from Company's Plant
National Lead Company	Southerly of Raritan River at Authority's sewage treatment plant
Hercules Powder Company	East bank of South River near present outfall from Company's Plant

Schedule B.

(Attached to and part of Agreement dated as of February 5,
....., between The Middlesex County Sewerage Authority and various
municipal and private corporations.)

Initial Schedule of Rates.

Charges by the Authority shall be payable to the Authority with respect to sewage delivered into its facilities by any person in any quarter, computed at the rates set forth below, which take into account flow, biochemical oxygen demand, suspended solids content, and chlorine demand with respect to such sewage. Until the Authority shall provide, install and use other methods in accordance with Article VI of the Agreement, biochemical oxygen demand and suspended solids content shall be determined by the Authority by representative sampling and standard methods of sewage analysis (Standard Methods for the Examination of Water and Sewage, Ninth Edition, 1946), and the average chlorine demand shall be determined from a number of representative samples; the chlorine demand is defined as the parts per million of chlorine required to produce a residual chlorine content of 0.1 part per million after fifteen minutes contact with the liquid portion of the wastes which had been settled for one hour before the addition of chlorine, and the chlorine demand shall be determined at the pH value at which the wastes are discharged.

The rates are as shown in the following schedules:

1. Flow

Million gallons per quarter		Charge per million gallons
First 5.....	at	\$187.00
next 5.....	at	123.00
next 30.....	at	90.50
next 60.....	at	43.25
next 100.....	at	22.60
next 200.....	at	18.70
over 400.....	at	16.50

2. Biochemical oxygen demand
(5 day at 20 deg. C.)

Tons per quarter		Charge per ton
First 30.....	at	\$ 9.52
next 70.....	at	8.92
next 100.....	at	8.04
next 200.....	at	7.10
next 400.....	at	5.70
over 800.....	at	4.74

3. Suspended solids

Tons per quarter		Charge per ton
First 10.....	at	\$ 13.20
next 70.....	at	12.76
next 170.....	at	10.78
next 450.....	at	6.10
over 700.....	at	5.80

4. Chlorine demand

Short hundredweights per quarter		Charge per short hundredweight*
First 30.....	at	\$ 5.69
next 60.....	at	5.20
next 180.....	at	5.00
next 540.....	at	4.75
over 810.....	at	4.45

* Limited to reimbursement to the Authority for actual cost of chlorine, such cost to be apportioned and charged in proportion to quarterly charges arrived at on this schedule.

Schedule C.

(Attached to and part of Agreement dated as of February 5, 1957, between The Middlesex County Sewerage Authority and various municipal and private corporations.)

Requirements as to Sewage Discharged

Sewage delivered into the facilities of the Authority shall not:

- (1) Be of such a nature and in such a quantity as to impair the hydraulic capacity of such facilities, normal and reasonable wear and usage excepted;
- (2) Be of such a nature as to, by either chemical or mechanical action, impair the strength or the durability of the sewer structures;
- (3) Be of such a nature as to create explosive conditions in such facilities;
- (4) Have a flash point lower than 187° F., as determined by the Tagliabue (Tag.) close cup method;
- (5) Have a pH value lower than 4.0;
- (6) Include any radioactive substance, unless the Authority shall have given written consent to its inclusion; or
- (7) Include any garbage other than that received directly into public sewers from residences, unless the Authority shall have given written consent to its inclusion.

Schedule D.

(Attached to and part of Agreement dated as of December 5,
....., between The Middlesex County Sewerage Authority and various
municipal and private corporations.)

Estimate of Annual Service Charges

Municipal or Other Corporation	Estimated Annual Service Charge
The Borough of Middlesex.....	\$ 27,600
Borough of Dunellen.....	6,888
City of New Brunswick.....	192,900
The Township of North Brunswick, in the County of Middlesex.....	22,500
Borough of Highland Park.....	31,800
The Township of Raritan, in the County of Middlesex	54,700
The Borough of Metuchen.....	28,200
The Borough of South River.....	38,600
The Borough of Sayreville.....	26,400
The Township of Woodbridge, in the County of Middlesex	30,400
City of Plainfield.....	66,912
Borough of Bound Brook.....	28,700
The Borough of North Plainfield.....	24,600
The Borough of South Bound Brook.....	11,000
Union Carbide and Carbon Corporation.....	15,500
Anheuser-Busch, Inc.	41,100
Peter J. Schweitzer, Inc.....	58,600
Benzol Products Company.....	5,700
Heyden Chemical Corp.....	20,500
National Lead Company.....	79,500
Hercules Powder Company.....	97,600

Note: Actual charges on date of commencement of operations will be calculated by application of rates (see Schedule B and Articles IV and V) to quantity, quality and other characteristics of sewage then existing; estimates are to aid in applying formula for apportioning contributors' share of temporary funds if the engineers' certificate on construction costs exceeds allowable limit of estimated construction costs pursuant to Article XII.

BOUND BROOK

BOUND BROOK

**Supplemental
Agreement**

THE MIDDLESEX COUNTY SEWERAGE AUTHORITY

AND

OTHERS

THIS SUPPLEMENTAL AGREEMENT made and dated as of the
day of _____, One Thousand Nine Hundred and Seventy-five.

BETWEEN

THE MIDDLESEX COUNTY SEWERAGE AUTHORITY (hereinafter referred to as
"Authority"), a public body politic and corporate of the State of New Jersey.

AND

THE BOROUGH OF MIDDLESEX, the BOROUGH OF DUNELLEN, the CITY OF NEW
BRUNSWICK, THE TOWNSHIP OF NORTH BRUNSWICK, in the County of Middlesex,
the BOROUGH OF HIGHLAND PARK, THE TOWNSHIP OF EDISON, THE BOROUGH OF
METUCHEN, THE BOROUGH OF SOUTH RIVER, THE BOROUGH OF SAYREVILLE, THE
TOWNSHIP OF EAST BRUNSWICK, THE TOWNSHIP OF MADISON, THE MONROE
TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, THE TOWNSHIP OF SOUTH
BRUNSWICK, THE CITY OF SOUTH AMBOY, THE BOROUGH OF SPOTSWOOD, THE
BOROUGH OF SOUTH PLAINFIELD, THE TOWNSHIP OF PISCATAWAY, and THE
TOWNSHIP OF WOODBRIDGE, each a municipal corporation of the State of New
Jersey, situate in the County of Middlesex, the CITY OF PLAINFIELD, a municipal
corporation of the State of New Jersey situate in the County of Union, the BOROUGH
OF BOUND BROOK, THE BOROUGH OF SOUTH BOUND BROOK, THE BOROUGH OF
NORTH PLAINFIELD, THE TOWNSHIP OF GREEN BROOK, and THE FRANKLIN
TOWNSHIP SEWERAGE AUTHORITY, each a Public Corporation of the State of New
Jersey, situate in the County of Somerset, (each such party being hereinafter
referred to as "Municipality"), and CITY OF PLAINFIELD, THE BOROUGH OF NORTH
PLAINFIELD and BOROUGH OF DUNELLEN, acting in Joint Meeting.

AND

UNION CARBIDE AND CARBON CORPORATION, a corporation of the State of New
York, ANHEUSER-BUSCH, INC., a corporation of the State of Missouri, KIMBERLY
CLARK CORPORATION, a corporation of the State of Delaware acting through its
Schweitzer Division, STAUFFER CHEMICAL COMPANY, through its Specialty Chemical
Division of Benzol Products, a corporation of the State of Delaware, HAYDEN
CHEMICAL CORPORATION, a corporation of the State of Delaware, N L INDUSTRIES
INC., acting through its Titanium Pigment Division, a corporation of the State of
New Jersey, HERCULES INC., a corporation of the State of Delaware, CATLIN
CORPORATION OF AMERICA, a corporation of the State of Delaware, W. R. GRACE &
Co., a corporation of the State of Connecticut, acting through its Hatco Chemical
Division, SUPERIOR AIR PRODUCTS INC., a corporation of the State of Delaware,
UNION CARBIDE CORPORATION, a corporation of the State of New York, acting
through its Chemicals and Plastics Division, TENNECO CHEMICALS INC., a corpora-
tion of the State of Delaware, acting through its Organics and Polymers Division,
ASHLAND CHEMICAL COMPANY, a corporation of the State of Kentucky, acting
through its Division of Ashland Oil Co. Division. (each such Company being
hereinafter referred to as "Company");

WITNESSETH

WHEREAS, the hereinabove named Companies and Municipalities on various dates and divers times entered into an agreement with the Authority providing for the treatment and disposal of the sewage originating in the hereinabove mentioned Municipalities and Companies, by and through the Trunk System of the Authority (the "Agreement"): and

WHEREAS, The Authority has heretofore determined that it is necessary to construct an Alteration to the Trunk System (such alteration being described in Exhibit A attached hereto and by this reference made a part hereof, hereinafter called the "Trunk System Improvement Project"); and

WHEREAS, in compliance with Article II, Paragraph B of the Agreement, not less than 51% of the Municipalities and 51% of the Companies have executed consents to the construction of the Trunk System Improvement Project and filed such consents with the Authority and the Authority has determined to proceed with the Trunk System improvement Project and to apply for substantial Federal and State grants in aid of the construction of the Trunk System Improvement Project; and

WHEREAS, the EPA has promulgated certain rules and regulations which must be complied with to obtain grants for the construction of wastewater facilities; and

WHEREAS, in order to qualify for whatever substantial Federal and State grants that may be available, it is necessary to amend the Agreement to comply with the aforesaid rules and regulations;

NOW THEREFORE, in consideration of the premises, of the mutual covenants and agreements herein set forth, and of the undertakings of each party to the others, the Agreement is hereby amended and supplemented as follows:

Section 1. The Authority and the Participants agree that the Authority is to undertake construction and place into operation the Trunk System Improvement Project, and in order to meet the requirements promulgated as conditions precedent to receiving Federal and State Aid, the Authority and the Participants agree that the Agreement shall be amended and supplemented as follows:

Section 2. Article I, *Definition*, in the Agreement is hereby supplemented as follows:

"(18) "DEP" means the New Jersey Department of Environmental Protection or its successor from time to time; and

"(19) "EPA" means the United States Environmental Protection Agency or its successor from time to time; and

"(20) "Excessive Infiltration/Inflow" means the quantity of Infiltration/Inflow which can be economically eliminated from sewer system by rehabilitation.

as determined by a cost-effectiveness analysis that compares the cost for correcting the Infiltration/Inflow conditions with the total costs for transportation and treatment of the Infiltration/Inflow.

“(21) “Sewer System Evaluation Survey” means and shall consist of a systematic examination of the sewer system to determine the specific location, estimated flow rate, method of rehabilitation, and cost of rehabilitation vs the cost of transportation and treatment for each defined source of Infiltration/Inflow.

Section 3. Article IV. *Charges and Establishment of Rates by Authority* of the Agreement is hereby amended to read as follows:

“The Authority will make and impose charges with respect to all sewage delivered into the Trunk System by any Municipality, Company, or any other person, partnership, firm or corporation. Said charges may and shall at all times be such that the receipts of the Authority shall be sufficient to pay or provide for the expenses of operation and maintenance of the Trunk System including (without limitation of the foregoing) insurance, renewals and replacements and, subject to the provisions of Paragraph (B) of Article II hereof, Alterations and Extensions, and the principal of and interest on any and all bonds or other obligations of the Authority as the same become due, and to provide for any deficits of the Authority resulting from failure to receive sums payable to the Authority by any Municipality, any Company, or any other person, partnership, firm or corporation, or from any other cause, and to maintain such reserves or sinking funds for any of the foregoing purposes as may be required by the terms of any contract or other obligation of the Authority, and, if and to the extent deemed necessary by the Authority, to provide annually a sum (not exceeding ten per centum (10%) of the total annual operations budget of the Authority) as a reserve for any such deficits and provide such further sums for reserves as may be approved by written consents given in any Fiscal Year by or on behalf of (a) Municipalities from which the Authority in the next preceding Fiscal Year received not less than fifty-one percentum (51%) of all moneys received by the Authority from Municipalities during such next preceding Fiscal Year and (b) Companies from which the Authority in such next preceding Fiscal Year received not less than fifty-one per centum (51%) of all moneys received by the Authority from Companies during such next preceding Fiscal Year. Such charges made and imposed by the Authority shall be computed for the service rendered by the Trunk System in the treatment and disposal of sewage by the Authority at rates which shall at all times be uniform as to all Participants for the same type, class and amount of sewage and shall give effect to quality differentials and other characteristics in the sewage which must be removed in order to maintain required standards of treatment. The rates applicable with respect to sewage delivered and discharged into the Trunk System by any Participant shall not be more favorable to such Participant than the rates applicable with respect to sewage delivered and discharged into the Trunk System by any other Participant. The Authority prior to the commencement of operations of either the Trunk System

Improvement Project or the expanded sewerage Treatment Plant shall prescribe a Schedule of Rates, which Schedule of Rates shall be in accordance with Rules and Regulations of the EPA and DEP and from time to time whenever it is necessary to revise such rates under this section (but only after public hearing thereon held by the Authority at least twenty days after notice of the time and place of such hearing shall have been mailed to each Participant at its usual place of business) the Authority shall revise the schedule of such rates, which shall at all times comply with the terms of any contract or other obligation of the Authority, and shall be based or computed on the quantity, quality and other characteristics of sewage so discharged and delivered. Any Participant aggrieved by any part of such revised schedule which fails to conform with the provisions of this Agreement may institute appropriate judicial proceedings to have the same reviewed for the purpose of obtaining correction of said part of such revised schedule."

Section 4. Article V, *Payments by Participants*, Paragraph (a) of the Agreement is hereby amended as follows:

"(A) Each Participant will pay to the Authority the charges (herein called "annual Charge") made or imposed by the Authority with respect to the sewage delivered and discharged into the Trunk System by or on behalf of such Participant in any Fiscal Year, provided that, in consideration of the location in the Borough of Sayreville of the sewage Treatment Plant and other facilities of the Authority, and in lieu of payment of local property taxes to said Borough by reason of the Authority's acquisition of real property in the Borough of Sayreville there shall be credited against the Annual Charge otherwise payable by the Borough of Sayreville with respect to sewage delivered and discharged in each Fiscal Year, an amount equal to the cost of treating four hundred million (400,000,000) gallons of sewage. Such credit shall be considered part of the expenses of operation and maintenance of the Trunk System. Such Annual Charge shall be computed and established by the Authority on the basis of the quantity, quality and other characteristics of the sewage so delivered as shown by the records of the Authority, at the rate or rates prescribed by the Authority in accordance with Article IV hereof applicable from time to time during such Fiscal Year with respect to the said sewage delivered during such Fiscal Year. Each such Annual Charge shall at all events be due and payable not later than January 15 next ensuing after the close of such Fiscal Year, but provision for and payment of every such Annual Charge will be made by each Participant in accordance with the following Paragraphs of this Article."

Ⓟ & C.

Section 5. Article VI, *Meters and Records; Inspections; and Local Operations*, in the Agreement is hereby supplemented by adding the following language thereto:

"(G) *User Charge and Industrial Cost Recovery*. The Authority and each Municipality represents and agrees that it will adopt a system of user charges and industrial cost recovery which, at a minimum, complies with the rules and regulations of the EPA. Each Company, and all industries delivering sewage or other wastes for discharge and treatment into the Local Sewerage System of any

Municipality and the City of Plainfield and the Boroughs of North Plainfield and Dunellen, shall pay their proportionate share of any and all grant moneys received by the Authority from the EPA, allocable to the use of the Trunk System from such users in accordance with the industrial cost recovery provisions of EPA regulations as applicable from time to time. Each Company hereby agrees that it will make all such required payments to the Authority or the Municipality, as the case may be. Each Municipality and the City of Plainfield and the Boroughs of North Plainfield and Dunellen agree to require all industries within their respective jurisdictions to make the required payments to them, and all amounts so received shall be paid over to the Authority.

“(H) *Sewer Use Ordinance.* The Authority, each Municipality, and all public corporations not parties to this Agreement delivering sewage for discharge and treatment into the Local Sewerage System of any Municipality or Joint Meeting, shall secure passage of a sewer use ordinance or resolution, as the case may be, in accordance with the rules and regulations of the EPA. Said ordinance or resolution shall provide for (1) the industrial cost recovery charges; (2) pre-treatment standards for the industries served by the Municipalities or public corporations; (3) user charges; (4) control of infiltration-inflow and (5) requirements that new sewers and connections within the Local Sewerage System are properly designed and constructed, in accordance with Article VI (C) of the Service Contract, dated February 5, 1954. Notwithstanding the foregoing or any other provisions of this Agreement, each Municipality or corporation as hereinbefore referred to, to the extent permitted by EPA regulations and Federal law, may raise the necessary funds or sewage treatment through the imposition of the general ad valorem real property taxes in lieu of a schedule of user charges.

“(I) *Infiltration/Inflow.* Each Municipality and all public corporations discharging sewage into the Local Sewerage System of a Municipality will maintain its Local Sewerage System in such a manner as to exclude any excessive infiltration and/or inflow from entering into the Local Sewerage System. If excessive infiltration and/or inflow exists or occurs, the Municipality and public corporation will effect such repairs, or other measures, so as to eliminate the excessive infiltration inflow to normally allowable limits which are acceptable to the DEP and/or the EPA. Furthermore, if as a result of a sewer evaluation survey, rehabilitation work is shown to be required, each Municipality and public corporation will perform such work as may be necessary to rehabilitate its Local Sewerage System.

“(J) *Local Systems.* Each Municipality and/or the City of Plainfield, the Borough of North Plainfield, and the Borough of Dunellen, acting in Joint Meeting, at its own cost and expense will construct, install and operate any and all necessary Local Sewerage Systems and extensions thereto necessary to cause the same to reach to and deliver sewage at the point or points of connection to the Trunk System, and each public corporation discharging sewage into the Local Sewerage System of a municipality shall at its own cost and expense construct, install, and operate any and

all necessary local sewerage systems and extensions thereto necessary to cause the same to reach to and deliver sewerage into the local collection system of a Municipality, and after the making of such connection or connections each Municipality and/or Joint Meeting will keep its Local Sewerage System connected with the Trunk System and will deliver and discharge into the Trunk System all sewage originating in and collected by the Municipality, excepting however, such sewage which the Authority exempts from this regulation.

"(K) The Authority and the participants hereby agree that the Authority and the Participants will abide by EPA and DEP regulations* as may be in effect from time to time."

*effecting the treatment and disposal of sewerage

Ⓟ S.P.C.

Section 6. *Severability of Invalid Provisions.* If one or more of the covenants or agreements provided in this Supplemental Agreement, on the part of the Authority, Municipality or Company to be performed should be contrary to law, then such covenant or covenants, agreement or agreements, shall be deemed separable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Supplemental Agreement.

Section 7. *Effective Date.* This Supplemental Agreement shall be in full force and effect and be legally binding upon the Authority and upon each Participant and their successors and assigns, upon its execution and delivery by the Authority, and the Participant, except that the method of computing rates for the treatment of sewage delivered to the Authority as established in Section 3 of this Supplemental Agreement shall not become effective until January 1 of the first year in which the Authority estimates that either the Trunk System Improvement Project or the current treatment plant expansion will be placed into operation.

Section 8. *Execution.* This Supplemental Agreement may be executed in any number of counterparts each of which shall be executed by the Authority and any one or more of the Municipalities and Companies and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

IN WITNESS WHEREOF, the Authority and the Municipalities and the Companies have caused their respective corporate seals to be hereunto affixed and attested and these presents to be signed by their respective officers thereunto duly authorized and this Agreement to be dated as of the day and year first above written.

MIDDLESEX COUNTY SEWERAGE AUTHORITY

Attest:

Anthony J. Popowski
Anthony J. Popowski, Sec.

by *H. Mat Adams*
H. Mat Adams, Chairman

Borough of Bound Brook:

Attest:

Anthony J. Orlando
Anthony J. Orlando
Borough Clerk

by *Samuel E. Patullo*
Samuel E. Patullo, Mayor

SCHEDULE "A"

The Project as so defined is as follows:

- (a) A trunk sewer extending from the Borough of Bound Brook, N.J. in a general direction downstream along or near the Raritan River to a point in the Borough of Sayreville, N.J., southerly of the Raritan River and near the South River; and
 - (b) An intercepting sewer extending from a point within a one mile radius of Old Bridge in the Township of Madison, N.J., near the New Jersey State Highway, Route S - 28, in a general direction downstream along or near the South River to or near said point in the Borough of Sayreville; and
 - (c) A sewerage pumping station at or near said point in the Borough of Sayreville, together with a force main or pressure sewer extending therefrom in a generally northeasterly direction to a point in the said Borough of Sayreville near the property of National Lead Co., and
 - (d) An out-fall relief extending from the Authority's sewage disposal plant in a general easterly direction to a point in Raritan Bay; and
 - (e) All connections, river crossings, manholes, valves, pumping stations, meters, structures, equipment, apparatus and other real or tangible personal property necessary or desirable for the efficient construction and operation of the above described sanitation facilities.
-

**INTERLOCAL SERVICES AGREEMENT
BETWEEN THE TOWNSHIP OF BRIDGEWATER AND THE BOROUGH OF BOUND
BROOK**

This Interlocal Services Agreement (the "Agreement") made this 25th day of August, 2009,
by and between **THE TOWNSHIP OF BRIDGEWATER** (hereinafter referred to as "**Bridgewater**"), a municipal corporation of the State of New Jersey, with offices at 100 Commons Way, Bridgewater, New Jersey 08807 (the "Township")
and **THE BOROUGH OF BOUND BROOK** (hereinafter referred to as "**Bound Brook**"), a municipal corporation of the State of New Jersey, with offices at 230 Hamilton Street, Bound Brook, NJ 08805;

WHEREAS, the Borough of Bound Brook accepts into its sanitary sewer system the sewerage from 381 dwellings located in developments known as Glen Brook Park, Chestnut Hill and Clearview Estates, the Somerset Valley Nursing Home, and three dwellings on the easterly side of Mountain Avenue located at 754 Mountain Avenue, 746 Mountain Avenue and 624 Mountain Avenue, all of which are located in the Township of Bridgewater, County of Somerset and State of New Jersey; and

WHEREAS, the Borough of Bound Brook has requested a sewer fee for the above described residents in Bridgewater that is equal to the annual sewer fee charged by the Borough of Bound Brook together with one-half of the difference in the fees charged by Bound Brook and Bridgewater, for example, for 2009 the annual sewer fee would be:

Bridgewater	\$399.00
Bound Brook	\$180.00
Difference	\$219.00

One-half of difference is	\$109.50
Total payment to Bound Brook	\$289.50

WHEREAS, N.J.S.A. 40:48-5 authorizes a municipality to contract with any public entity for the provision of any service which the municipality itself could provide directly; and

WHEREAS, N.J.S.A. 40:8A -1 et seq., the Interlocal Services Act, provides a mechanism for making such contracts between public entities; and

WHEREAS, the Chief Financial Officer of the Township of Bridgewater has recommended that the Township directly bill the residents in Bridgewater that discharge into the Bound Brook sanitary sewer system and that the Township of Bridgewater will remit to the Borough of Bound Brook the cost of providing those sewer services to the aforementioned Bridgewater residents.

This Agreement sets forth the payment of sewer fees to Bound Brook for collection and treatment of sanitary sewerage from the above described residents in accordance with N.J.S.A.40:48-2 and N.J.S.A.40:8A-1 et seq, the Interlocal Services Act, as follows:

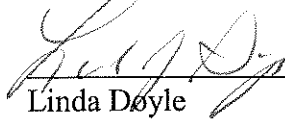
1. The Township of Bridgewater will directly bill the residents in Bridgewater that discharge into the Bound Brook sanitary sewer system and the Township of Bridgewater will remit to the Borough of Bound Brook the cost of providing those sewer services to the above described Bridgewater residents.
2. The annual fees to be charged by Bound Brook shall be equal to the annual sewer fee charged for residential units by the Borough of Bound Brook, plus one-half of the difference of the fees paid by Bridgewater Township for residential use and the annual fee charged by Bound Brook, for example, for 2009 the annual sewer fee would be:

Bridgewater	\$399.00
Bound Brook	\$180.00
Difference	\$219.00
One-half of difference is	\$109.50
Total payment to Bound Brook	\$289.50

3. In no event shall the fees described in Paragraph 2 of this Agreement exceed the annual fee charged by Bridgewater Township for any residential use.
4. Each municipality shall be responsible for maintaining its sewer lines located within each municipality.
5. This Agreement shall take effect upon adoption of authorizing resolutions by the Township of Bridgewater, and the Borough of Bound Brook and execution of this Agreement by the appropriate officials of the municipalities therein.
6. Pursuant to the provisions of N.J.S.A.40:8A-6 (iv), the duration of this Agreement shall be for seven (7) years unless otherwise agreed upon between the parties.

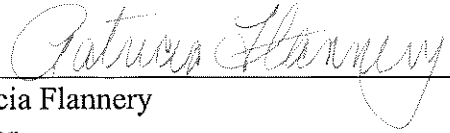
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and attested to by them and / or their appropriate officers who have hereunto affixed their seals, where appropriate.

ATTEST:



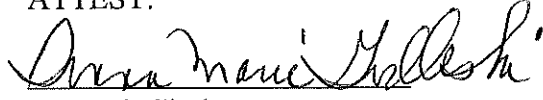
Linda Doyle
Township Clerk

TOWNSHIP OF BRIDGEWATER

By: 

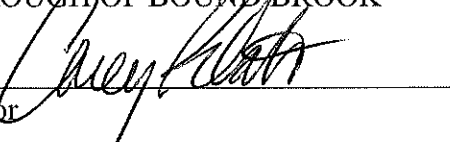
Patricia Flannery
Mayor

ATTEST:



Anna Marie Galleshi
Borough Clerk

BOROUGH OF BOUND BROOK

By: 

Carey Klotz
Mayor

EXHIBIT F

FORM OF ASSIGNMENT AND GRANT OF EASEMENTS.

RIGHTS OF WAY, AND OTHER PROPERTY

THIS ASSIGNMENT is made this ___ day of _____, 2022 between the **BOROUGH OF BOUND BROOK**, a public body corporate and politic in Somerset County in the State of New Jersey (the “Grantor”), and New Jersey American Water Company, Inc., a [New Jersey Corporation] (the “Grantee”), having an address at One Water Street, Camden, NJ 08102.

WHEREAS, pursuant to an Agreement of Sale (the “Agreement”) dated February 10, 2022 and a Bill of Sale contemporaneously herewith, the Grantor has granted, sold, conveyed, assigned, transferred, set over, and vested in Grantee, its successors, and its assigns, all of the Grantor's right, title, and interest in the Wastewater System as defined in the Agreement.

WITNESSETH, that Grantor for and in consideration of the sum of One Dollar (\$1.00) lawful money of the United States of America, and other valuable consideration, unto it well and truly paid by Grantee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has assigned, granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents does assign, grant, bargain, sell, alien, enfeoff, release, and confirm unto Grantee, its successors and assigns:

ALL Grantor's right, title and interest in and to any and all: (a) those certain rights of way, easements, licenses, and other rights and interests created or evidenced by those instruments listed in **Schedule I to Exhibit F** and made a part hereof, as well as any and all other easements and rights of way owned by Grantor which are rights in real property related to the provisions of water and wastewater service (collectively, the “Easements”); (b) any rights of way or easements that may be located in private property without written instruments where rights may have arisen from the passage of time, the operation of law, or otherwise; (c) all rights of Grantor to easements that may be shown on subdivision or development plans; and (d) all rights, liberties, privileges, hereditaments, and appurtenances whatsoever thereunto belonging, or in and otherwise appertaining, and the reversions, remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim, and demand whatsoever in and to the same and every part thereof (all of the foregoing being herein referred to as the “**Premises**”);

TOGETHER WITH all of Grantor's occupancy rights and privileges to use, maintain, replace, and repair all water mains and appurtenant facilities located in the public rights-of-way of State highways and Borough’s roads.

TOGETHER WITH all of Grantor's rights of ingress, egress, and regress to and from said Easements, water and wastewater mains and appurtenances, at any and all times for the purpose of operating the Wastewater System and laying, relaying, installing, operating, inspecting, maintaining, repairing, altering, removing, renewing, and replacing the Wastewater System and their appurtenances;

TO HAVE AND TO HOLD the Easements and Premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the Grantee, its successors and assigns, to and for the only proper use of the Grantee, its successors and assigns, forever.

This Grant and all of the covenants herein contained shall inure to the benefit of and shall be binding upon Grantor, its successors and assigns, and Grantee, its successors or assigns.

The Grantee accepts and assumes any and all obligations under and arising in connection with the Easements and shall indemnify the Borough in connection with the Grantee's failure or improper performance of such obligations.

IN WITNESS WHEREOF the Grantor has caused this Assignment and Grant to be duly executed the day and year first above written.

[SEAL]

BOROUGH OF BOUND BROOK, a
public body corporate and politic in
Somerset County in the State of New
Jersey

Attest: _____

By: _____
Name
Title:

STATE OF NEW JERSEY)
): SS.:
SOMERSET)

On this, the ___day of_____ 2022, before me, a Notary Public in and for said County, personally appeared _____, who acknowledged himself to be the _____ of the Borough of Bound Brook, a public body corporate and politic in Somerset County in the State of New Jersey, and that he, as such _____, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of _____ by himself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:
[SEAL]

SCHEDULE I TO EXHIBIT F

LIST OF EASEMENTS GRANTED TO OR OBTAINED BY THE BOROUGH

Easements granted to or obtained by the Borough of Bound Brook.

EXHIBIT G

FORM OF GENERAL ASSIGNMENT

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT, dated _____, 2022, by and between the **BOROUGH OF BOUND BROOK**, a public body corporate and politic in Somerset County in the State of New Jersey (the “Assignor”) and New Jersey American Water Company, Inc, a New Jersey corporation having a mailing address at One Water Street, Camden NJ 08102 (the “Assignee”).

WHEREAS, Assignor and Assignee entered into an Agreement of Sale dated February 10, 2022 (the “Agreement”) for the sale and purchase of the Wastewater System (as defined in the Agreement); and

WHEREAS, in connection with such sale and purchase, and as provided in the Agreement, Assignor desires to assign, transfer, set over, and deliver to Assignee all of Assignor's right, title, and interest in and to all assignable permits, licenses, plans, warranties, and guarantees benefiting the Wastewater System (each issuer of any such permit, license, plan, warranty, or guarantee is hereinafter referred to as an “Issuer”), including, without limitation, items described on **Schedule I to Exhibit G** attached hereto (the “Assigned Rights”), and

WHEREAS, Assignee desires to accept the Assigned Rights.

NOW, THEREFORE, in accordance with the Agreement and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

Section 1. **ASSIGNMENT**. Assignor does hereby assign, transfer, set over, and deliver unto Assignee all of the Assignor’s right, title, and interest in and to the Assigned Rights. Assignor agrees that upon Assignee’s request, it shall, without charge, execute such further reasonable documents as any Issuer may require to evidence this assignment, provided that no such document imposes any obligation or liability upon Assignor for any obligations or liabilities accruing on or after the date of this Assignment.

Section 2. **BINDING ASSIGNMENT**. This Assignment shall be: (i) binding upon, and inure to the benefit of the parties to this Assignment and their respective heirs, legal representatives, successors and assigns and (ii) construed in accordance with the laws of the State of New Jersey without regard to the application of choice of law principles.

Section 3. **COUNTERPARTS**. This Assignment may be executed in counterparts, all of which together shall constitute one agreement binding on all of the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, this General Assignment has been signed, sealed and delivered by the parties as of the date first above written.

WITNESS:

ASSIGNOR:

BOROUGH OF BOUND BROOK, a public body corporate and politic in Somerset County in the State of New Jersey

Accepted this ___ day of _____, 20__.

By: _____
Name
Title:

WITNESS:

ASSIGNEE:

By: _____

NEW JERSEY AMERICAN WATER COMPANY, INC

By: _____
Name
Title:

SCHEDULE I TO EXHIBIT G
LIST OF ASSIGNED RIGHTS

PERMITS:

None

EXHIBIT H

DISCLOSURE SCHEDULE TO THE AGREEMENT OF SALE

BETWEEN THE BOROUGH OF BOUND BROOK AND NEW JERSEY

AMERICAN WATER COMPANY, INC

These schedules are to be read in their entirety. Nothing in these schedules is intended to broaden the scope of any representation or warranty contained in the Agreement of Sale (the "Agreement"). The disclosure of any item, explanation, exception, or qualification in these schedules is disclosure of that item for all purposes for which disclosure is required under the Agreement, and is disclosed in all appropriate schedules irrespective of whether any cross-reference is made or whether no schedule is provided with respect to any representation or warranty. Capitalized terms used and not otherwise defined in these schedules shall have the meanings ascribed to them in the Agreement.

Schedule 2.1(A)

Organization of Borough

NONE

Schedule 2.1(B)

Authorization of Transaction

NONE

Schedule 2.1(C)

Title

None

Schedule 2.1(D)

Assets

NONE

Schedule 2.1(E)

Litigation

NONE

Schedule 2.1(F)

Default

NONE

Reimbursement Obligation

NONE

Schedule 2.1(G)

System Compliance

NONE

Schedule 2.1(H)

Tariff

NONE

Schedule 3.1(A)

Organization of Buyer

None

Schedule 3.1(B)

Authorization of Transaction

None

Schedule 3.1(C)

Litigation

None

Schedule 3.1(D)

Warranties

None

Schedule 3.1(E)

Right to Inspect

Schedule 3.1(F)

Other Limitations of Local, State, and Federal Laws and Regulations

None

Schedule 3.1(G)

Source of Funds

None

Schedule 3.1(H)

Blocked Person

None

EXHIBIT I

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of February 10, 2022 (this “Escrow Agreement”), by and among **BOROUGH OF BOUND BROOK**, a public body corporate and politic in Somerset County in the State of New Jersey (the “Borough”), **NEW JERSEY AMERICAN WATER COMPANY, INC.**, a New Jersey corporation (“Buyer”), and _____ (the “Escrow Agent”).

WITNESSETH

WHEREAS, the Buyer has executed and delivered to the Borough an Asset Agreement of Sale, dated as of February 10, 2022 (the “Agreement”), pursuant to which the Buyer will purchase from the Borough, and the Borough will sell to the Buyer, the Wastewater System as defined in the Agreement;

WHEREAS, it is contemplated under the Agreement that the Buyer will deposit or cause to be deposited into escrow the sum of 10% of the Purchase Price (the “Escrow Amount”) in cash upon its execution of the Agreement, to be held and disbursed by the Escrow Agent in accordance with the terms herein; and

WHEREAS, Escrow Agent is willing to act as the Escrow Agent hereunder.

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

Section 1. APPOINTMENT AND AGREEMENT OF ESCROW AGENT. The Buyer and the Borough hereby appoint the Escrow Agent to serve as, and the Escrow Agent hereby agrees to act as the escrow agent upon the terms and conditions of this Agreement.

Section 2. ESTABLISHMENT OF THE ESCROW FUND. Pursuant to Section 2.4 of the Agreement, the Buyer shall deliver to the Escrow Agent on the date hereof the Escrow Amount. The Escrow Agent shall hold the Escrow Amount and all interest and other amounts earned and/or accrued thereon (the “Escrow Fund”) in escrow pursuant to the terms of this Escrow Agreement and the Agreement.

Section 3. PURPOSE OF THE ESCROW FUND. The Escrow Amount will be held by the Escrow Agent as a deposit made by the Buyer to be credited against the Purchase Price to the Borough pursuant to Section 2.4 of the Agreement.

Section 4. PAYMENTS FROM THE ESCROW FUND.

(A) At the Closing, upon written request of the Buyer and the Borough, the Escrow Agent shall pay in full to the Borough in immediately available funds all such amounts in the Escrow Fund. The Buyer and Borough agree that such amount shall be credited against the Purchase Price in favor of the Buyer at the Closing.

(B) In the event that the Agreement is terminated as described in Section 9.2 of the Agreement of Sale, the Buyer shall provide written notice to the Escrow Agent of such termination specifying in reasonable detail the nature and basis for such termination. The Escrow Agent shall, upon receipt of such notice, deliver a copy of such notice to the Borough's Representative. If within ten (10) Business Days after delivery of such notice, the Escrow Agent has not received a written objection from the Borough or the Borough's Representative, the Escrow Agent shall promptly transfer the Escrow Fund to the Buyer, by wire transfer in immediately available funds. If the Escrow Agent has received an objection within the stated time period, then Escrow Agent will proceed as described in Section 5 below.

(C) In the event that the Agreement is terminated as described in Section 9.1 of the Agreement, the Borough shall provide written notice to the Escrow Agent of such termination specifying in reasonable detail the nature and basis for such termination. The Escrow Agent shall, upon receipt of such notice, deliver a copy of such notice to the Buyer. If within ten (10) Business Days after delivery of such notice, the Escrow Agent has not received a written objection from the Buyer, the Escrow Agent shall promptly transfer the Escrow Fund to the Borough by wire transfer in immediately available funds. If the Escrow Agent has received an objection with the stated time period, then Escrow Agent will proceed as described in Section 5 below.

Section 5. OBJECTION TO A TERMINATION NOTICE. Either party, after receipt of a notice from the Escrow Agent that the other party is claiming a right to payment of the Escrow Fund pursuant to a termination right under the Agreement, may at any time within the ten (10) Business Days after receipt of said notice object by delivering to the Escrow Agent a writing specifying in reasonable detail the nature and basis for such objection. Upon receipt of such an objection, the Escrow Agent shall deliver a copy of such objection to the party seeking payment of the Escrow Fund. Unless the Escrow Agent thereafter receives, a statement from the objecting party that it is withdrawing its objection, the Escrow Fund shall be held by the Escrow Agent and shall not be released except in accordance with either: (i) written instructions jointly executed by an authorized officer of the Buyer and the Borough's Representative or (ii) the final non-appealable judgment of a court.

Section 6. MAINTENANCE OF THE ESCROW FUND; TERMINATION OF THE ESCROW FUND.

(A) The Escrow Agent shall maintain the Escrow Fund in a non-interest bearing account in [Bank] until the earlier of:

- (i) the time at which there shall be no funds in the Escrow Fund; or
- (ii) the termination of this Escrow Agreement.

(B) Notwithstanding any other provision of this Escrow Agreement to the contrary, at any time prior to the termination of the Escrow Fund, the Escrow Agent shall, if so instructed in a writing jointly signed by the Buyer and the Borough's Representative, pay from the Escrow Fund, as instructed, to the Borough or the Buyer, as directed in such writing, the amount of cash so instructed.

(C) Escrowee shall not be responsible for any interest on the Deposit except as is actually earned, or for the loss of any interest resulting from the withdrawal of the Deposit prior to the date interest is posted thereon or for any loss caused by the failure, suspension, bankruptcy or dissolution of the institution in which the Deposit is deposited.

(D) In the event that the Escrow Agent is uncertain as to its duties or rights hereunder or receives instructions from any party hereto with respect to the Escrow Fund which, in its reasonable opinion, are in conflict with any of the provisions of this Escrow Agreement or any instructions received from one of the other parties to this Escrow Agreement, the Escrow Agent shall be entitled to refrain from taking any action other than to keep the Escrow Fund in question until: (i) such time as there has been a "Final Determination" (as defined herein) with respect to the Escrow Fund or (ii) deposit the Escrow Fund in escrow into any Court of competent jurisdiction at any time and thereafter shall have no further obligations or liabilities to anyone under this Escrow Agreement. For purposes of this Section, there shall be deemed to have been a "Final Determination" of the rights of the applicable parties with respect to the Escrow Fund at such time as any of the applicable parties shall file with the Escrow Agent: (i) an official certified copy of a court order, together with an opinion of counsel of the party filing the foregoing, in form and substance acceptable to the Escrow Agent and its counsel, stating that the court order is a final determination (and not subject to appeal in a federal or state court of competent jurisdiction) of the rights of the parties hereto with respect to the Escrow Fund, that the time to appeal from said court order has expired, and that said court order is binding upon the applicable parties or (ii) a fully executed agreement or consent by and among the applicable parties which provides for disposition of the Escrow Fund in accordance with Article XII of the Agreement.

Section 7. ASSIGNMENT OF RIGHTS TO THE ESCROW FUND; ASSIGNMENT OF OBLIGATIONS; SUCCESSORS. This Agreement may not be assigned by operation of law or otherwise without the express written consent of each of the parties hereto (which consent may be granted or withheld in the sole discretion of such parties); provided, however, that the Buyer may assign this Escrow Agreement to an Affiliate of the Buyer without the consent of the other parties. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns.

Section 8. ESCROW AGENT.

(A) Except as expressly contemplated by this Agreement or by joint written instructions from the Buyer and the Borough, the Escrow Agent shall not sell, transfer, or otherwise dispose of all or any portion of the Escrow Fund in any manner, except pursuant to an order of a court of competent jurisdiction.

(B) The duties and obligations of the Escrow Agent shall be determined solely by this Escrow Agreement, and the Escrow Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Escrow Agreement.

(C) In the performance of its duties hereunder, the Escrow Agent shall be entitled to rely upon any document, instrument, or signature believed by it in good faith to be genuine and signed by any party hereto or an authorized officer or agent thereof (specifically

including the Borough's Representative), and shall not be required to investigate the truth or accuracy of any statement contained in any such document or instrument. The Escrow Agent may assume that any person purporting to give any notice on behalf of a party hereto in accordance with the provisions of this Agreement has been duly authorized to do so.

(D) The Escrow Agent shall not be liable for any error of judgment or any action taken, suffered, or omitted to be taken hereunder except in the case of its gross negligence, bad faith, or willful misconduct. The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

(E) The Escrow Agent shall have no duty as to the collection or protection of the Escrow Fund or income thereon, nor to preserve any rights pertaining thereto beyond the safe custody of any such funds actually in its possession.

(F) As compensation for its services to be rendered under this Agreement, Escrow Agent shall be reimbursed upon request for all expenses, disbursements, and advances, including reasonable fees of outside counsel, if any, incurred or made by it in connection with the preparation of this Escrow Agreement and the carrying out of its duties under this Escrow Agreement. All such expenses shall be the joint and several responsibility of the Borough and the Buyer.

(G) The Buyer and the Borough shall reimburse and indemnify the Escrow Agent for and hold it harmless against any loss, liability, or expense, including, without limitation, reasonable attorney's fees incurred except in connection with gross negligence, bad faith, or willful misconduct on the part of the Escrow Agent arising out of, or in connection with the acceptance or performance of its duties and obligations under this Escrow Agreement.

(H) The Escrow Agent may resign at any time by giving twenty (20) Business Days' prior written notice of resignation to the Borough's Representative and the Buyer. The Borough and the Buyer may remove the Escrow Agent at any time by jointly giving the Escrow Agent ten (10) Business Days' written notice signed by each of them. If the Escrow Agent is to resign or be removed, a successor Escrow Agent shall be appointed by the Buyer by written instrument executed by the Borough's Representative and the Buyer. Such instrument shall be delivered to the Escrow Agent and to such successor Escrow Agent and, thereupon, the resignation or removal of the predecessor Escrow Agent shall become effective and such successor Escrow Agent, without any further act, deed or conveyance, shall become vested with all right, title, and interest to all cash and property held hereunder of such predecessor Escrow Agent. Such predecessor Escrow Agent shall, on the written request of the Borough's Representative, the Buyer, or the successor Escrow Agent, execute and deliver to such successor Escrow Agent all the right, title, and interest hereunder in and to the Escrow Fund of such predecessor Escrow Agent and all other rights hereunder of such predecessor Escrow Agent. If no successor Escrow Agent is appointed within twenty (20) Business Days of a notice of resignation by the Escrow Agent, the Escrow Agent's sole responsibility shall thereafter be to hold the Escrow Fund until the earlier of its receipt of designation of a successor Escrow Agent, a joint written instruction by the Borough's Representative and the Buyer, or termination of this Escrow Agreement in accordance with its terms.

(I) The Escrow Agent is acting as a stakeholder only with respect to the Escrow Fund. Upon making delivery of the Escrow Fund in the manner herein provided, the Escrow Agent shall have no further liability hereunder.

(J) The Borough and the Buyer acknowledge that the Escrow Agent has represented the Borough in connection with, among other things, the Agreement and the matters giving rise to this Escrow Agreement and will continue to represent the Borough in connection with such matters and any other matters. Each of the parties to this Agreement waives any right it now has or may have in the future to any claim of conflict as a result of the Escrow Agent's execution, delivery, and performance of this Agreement or the transactions contemplated hereby and the Escrow Agent's representation of the Borough in any matter including, without limitation, any action, litigation, or representation relating to the Agreement, this Escrow Agreement, and the matters giving rise to each of them.

Section 9. TERMINATION. This Escrow Agreement shall terminate on the earlier of: (i) the date on which there are no funds remaining in the Escrow Fund or (ii) the date on which the Escrow Agreement receives a signed notice from the Borough and the Buyer that the Escrow Agreement is terminated, including instruction to the Escrow Agent on the disbursement of the Escrow Fund.

Section 10. NOTICES. All notices, requests, claims, demands, and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by courier service, by cable, by telecopy, by telegram, by telex, or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10):

If to the Buyer:

New Jersey-American Water Company, Inc.
1 Water Street
Camden, NJ 08102
Attn: Vice President – Operations

With a copy to:

New Jersey-American Water Company, Inc.
120 Raider Blvd
Hillsborough, NJ, 08844
Attn: Sr. Director, Central Operations

New Jersey-American Water Company, Inc.
1 Water Street
Camden, NJ 08102
Attn: General Counsel

If to the Borough:

Hector Herrera
Business Administrator
230 Hamilton Street
Bound Brook, NJ 08805

hherrera@boundbrook-nj.org

Copy to:

Ryan J. Scerbo, Esq.

61 South Paramus Road

Suite 250

Paramus, NJ 07652

rscerbo@decotiislaw.com

Section 11. GOVERNING LAW. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New Jersey applicable to contracts executed and to be performed entirely within that State.

Section 12. AMENDMENTS. This Agreement may not be amended or modified except: (i) by an instrument in writing signed by, or on behalf of, the Borough, the Buyer, and the Escrow Agent or (ii) by a waiver in accordance with this Agreement.

Section 13. WAIVER. Any party hereto may: (i) extend the time for the performance of any obligation or other act of any other party hereto or (ii) waive compliance with any agreement or condition contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition or a waiver of any other terms or conditions of this Agreement. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any of such rights.

Section 14. SEVERABILITY. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect as long as the economic and legal substance of the transactions contemplated by this Escrow Agreement is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

Section 15. ENTIRE AGREEMENT. This Escrow Agreement and the Agreement constitute the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, among the Borough, the Buyer, and the Escrow Agent with respect to the subject matter hereof.

Section 16. NO THIRD PARTY BENEFICIARIES. This Escrow Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Escrow Agreement.

Section 17. HEADINGS. The descriptive headings contained in this Escrow

Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 18. COUNTERPARTS. This Agreement may be executed in one or more counterparts, and by different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which when taken together shall constitute one and the same agreement.

Section 19. BOROUGH'S REPRESENTATIVE. The Borough hereby appoints its Municipal Clerk as its representative (the "Borough's Representative") and agrees that such appointment give the Borough's Representative full legal power and authority to take any action or decline to take any action on behalf of the Borough.

Section 20. DEFINITIONS. Terms defined in the Agreement and not otherwise defined herein may be used herein as defined in the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

BOROUGH OF BOUND BROOK

**NEW JERSEY AMERICAN WATER
COMPANY, INC**

By: _____
Name
Title:

By: _____
Name
Title:

ESCROW AGENT

By: _____
Stephen M. Flatow
Vested Land Services, LLC

EXHIBIT J

CUSTOMER SERVICE STANDARDS AND CUSTOMER SERVICE PLAN

1. The Buyer shall maintain the Wastewater System laterals from mains to curb line of property and shall undertake all necessary capital improvements, maintenance, repairs, and replacement to the Wastewater System as shall be required from time to time. Such undertaking shall be made in accordance with prudent industry standards.
2. The Buyer shall maintain buildings and property in a neat and orderly appearance consistent with community standards and shall undertake reasonable measures to protect the health, safety, and welfare of the public with respect to the Wastewater System.
3. The Buyer shall operate the Wastewater System in a manner to minimize odors, dust, spills, and other nuisances. The Buyer shall provide appropriate customer service staffing and response times for any complaints about nuisances or service problems.
4. The Buyer's employees shall provide a qualified staff and experienced employees and third party contractors who have direct experience in operating similar systems. The Buyer shall maintain the necessary number of employees, staff, and third party contractors to operate, maintain, and manage the Wastewater System.
5. The Buyer shall implement a plan of action protocol for emergency events which shall include notices to the Borough and other regulating entities having jurisdiction and for measures which facilitate coordinated emergency response actions, as needed. The Buyer shall maintain a toll-free 24 hour telephone number where users of the Wastewater System can report emergencies.

EXHIBIT K

CAPITAL IMPROVEMENTS

The following is a list of capital improvements the Buyer intends to make as part of its ten (10) year \$11.0 million commitment in Section 8.4 of the Agreement. The list is subject to revision based upon further due diligence conducted post-Closing.

- Sewer main and manhole replacement and rehabilitation program performed in consultation and coordination with the Borough on road improvement projects
- Sewer Vactor Truck purchase
- Safety and security upgrades at the Mountain Avenue Pump Station including Arc-Flash electrical upgrades and enhanced fencing and intrusion sensors
- Supervisory Control and Data Acquisition (SCADA) installation at Mountain Avenue Pump Station
- Generator replacement at Mountain Avenue Pump Station
- Replacement of the Mountain Avenue sewer pump station
- Acquisition of GIS/GPS coordinates for all above-ground or at-grade assets such as manholes, the pump station, valves, clean outs, etc... for GIS mapping of the Wastewater System
- Inflow and Infiltration Study & Manhole Elevation Survey
- Customer service lateral maintenance, replacements and upgrades

EXHIBIT L
BOROUGH CONSENT

Adopted Ordinance 2021-032

BOROUGH OF BOUND BROOK
County of Somerset

ORDINANCE NO. 2021-032

AN ORDINANCE GRANTING CONSENT AND PERMISSION TO NEW JERSEY-AMERICAN WATER COMPANY TO FURNISH WASTEWATER CONVEYANCE SERVICE IN THE BOROUGH OF BOUND BROOK, NEW JERSEY

WHEREAS, the Borough of Bound Brook, County of Somerset and State of New Jersey (the "Borough"), hereby grants consent and permission to New Jersey-American Water Company ("New Jersey-American"), a New Jersey Corporation to furnish wastewater conveyance service within the Borough; and

WHEREAS, New Jersey-American is in the process of acquiring the wastewater system (the "System") currently owned and operated by the Borough, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5 and other regulatory approvals; and

WHEREAS, The Borough is desirous of having New Jersey-American acquire the Systems; and

WHEREAS, New Jersey-American is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Borough to permit New Jersey-American to provide wastewater conveyance service through the System; and

WHEREAS, New Jersey-American has requested the consent of the Borough as required by N.J.S.A. 48:19-17 and 48:19-20, as amended, to lay its pipes beneath and restore such public roads, streets and places as it may deem necessary for its corporate purposes, free from all charges to be made for said privilege (except that fees for road opening permits shall be paid), provided that all said pipes installed after the date of this ordinance shall be laid at least three feet (3') below the surface and shall not in any way unnecessarily obstruct or interfere with the public travel or cause or permit other than temporary damage to public or private property; and

WHEREAS, it is deemed to be in the best interests of the citizens of the Borough to provide this consent;

WHEREAS, the Mayor and Council of the Borough have concluded that granting of said consent shall enhance the health, safety and welfare of the citizens of the Borough.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH AS FOLLOWS:

Section 1. That exclusive and perpetual consent and permission to furnish wastewater conveyance to the Borough and all residents, businesses and government buildings therein is hereby given and granted to New Jersey-American, its successors and assigns, subject

Adopted Ordinance 2021-032

to approval of such consent and permission by the Board of Public Utilities of the State of New Jersey.

Section 2. That exclusive consent and permission is given to New Jersey-American, its successors and assigns, under the provisions of N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20, as amended, without charge therefore, (except fees for road opening permits which shall be paid) as the same may be required in order to permit New Jersey American-Water to own and operate the System, add to, extend, replace, operate and maintain said System in the public property described herein in order to provide said wastewater conveyance service. This shall include permission to lay pipes beneath the public roads, streets, public property and public places.

Section 3. That a certified copy of this Ordinance, upon final passage, shall be sent to New Jersey-American, the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey.

Section 4. That the consent granted herein shall be subject to New Jersey-American complying with all applicable laws of the Borough and/or the State of New Jersey including, but not limited to, any and all applicable statutes and administrative agency rules and/or regulations and contingent upon the Borough and New Jersey American Water Company, Inc. executing the *Agreement of Sale Between the Borough of Bound Brook and New Jersey American Water Company, Inc.*

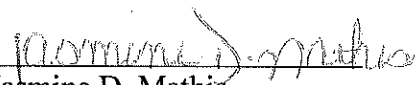
Section 5. The Mayor and the Clerk of the Borough are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

Section 6. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 7. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that if any portion of this Ordinance shall be declared invalid as a matter of law, such declaration shall not affect the remainder of said Ordinance; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication.

Attest: 
Jasmine D. Mathis
Borough Clerk

By: 
Mayor Robert Fazen

Date of Introduction: November 23, 2021

Date of Adoption: December 14, 2021

EXHIBIT M
RESERVED

EXHIBIT N
LIST OF BOROUGH FACILITIES

Facility	Address	Block	Lot	Account #
Borough Hall	230 Hamilton Street	52	1	1246000
Board of Education	120 East Second Street	9	3	289100
Bound Brook Hose Company No. 1	580 East Main Street	1	67	768000
America Hose & Engine Company No. 2	105 East Second Street	33	12	893000
Watchung Fire Company No. 3	616 Vosseller Avenue	103	12	2597000
Relief Fire Company No. 4	15 Van Keuren Avenue	21	12.01 & 13	893000
Rescue Squad	56 Van Keuren Avenue	22	2	593000
Board of Education	60 West High Street	31	7	838000
Board of Education	130 West Maple Avenue	76	6	1792000
Board of Education	111 West Union Avenue	76	7	1793000
Board of Education	337 West Second Street	22	22	501000
Board of Education	330 West Second Street	29	17	780000
Board of Education	163 Cherry Avenue	102	31	2585000
Board of Education Football Field	Cherry Avenue	103	13	2598000
Recreation Center	200 Thompson Avenue	44	1	1064000
Library	402 East High Street	12	14	347000
Ball Fields Hut	Tea Street	14	2	411000