

FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT (this "Amendment") is made as of the 8th day of August 2023, by and between the Butler Area Sewer Authority, a municipal authority, organized under the Pennsylvania Municipality Authorities Act (the "Seller"), and Pennsylvania-American Water Company (the "Buyer"), a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania.

RECITALS

A. Seller and Buyer are parties to a certain Asset Purchase Agreement dated as of October 11, 2022 (the "Asset Purchase Agreement").

B. Seller and Buyer wish to amend the Asset Purchase Agreement in order to update the Purchase Price.

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

1. **Recitals.** The Recitals set forth above are incorporated herein by reference as if set forth in full.

2. **Capitalized Terms.** Capitalized terms not otherwise defined herein shall have the meanings set forth in the Asset Purchase Agreement.

3. **Amendment.** Seller and Buyer hereby agree, subject to the Pennsylvania Public Utility Commission approval, without modification, of the "Joint Petition for Approval of Unanimous Settlement of All Issues" filed on August 14, 2023 at Docket Nos. A-2022-3037047 *et al.*, to amend Section 3.03 of the Asset Purchase Agreement as follows:

"Section 3.03. **Purchase Price and Adjustments to Purchase Price**

The Purchase Price for the Acquired Assets shall be Two Hundred Thirty Million Dollars (\$230,000,000)(the "Purchase Price"). The Purchase Price shall be adjusted as follows:

(a) Final Billing: The Buyer is entitled to all customer billings with respect to sanitary wastewater customers services for the period on or after the Closing Effective Time, and the Seller is entitled to all such billings prior to the Closing Effective Time. The Parties shall cooperate to calculate an agreed upon

proration of billing amounts and to credit the Purchase Price for the appropriate Party on the Closing Date. To the extent that either Party collects billings that are attributable to service provided by the other Party, the Party holding the other Party's billing collections shall pay such amount to the other Party."

4. **Ratification and Confirmation of Terms.** As specifically modified by this Amendment, the Asset Purchase Agreement and all covenants, agreements, terms and conditions hereof are and shall remain in full force and effect and are hereby in all respects adopted, ratified and confirmed.

5. **Amendments; Waivers.** The Parties may amend this Amendment only by the Parties' written agreement that identifies itself as an amendment to the Asset Purchase Agreement. Any waiver of, or consent to depart from, the requirements of any provision of this Amendment or the Asset Purchase Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Amendment or the Asset Purchase Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

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

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


8. **Governing Law; Jurisdiction.** This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The Parties


irrevocably agree and consent to the jurisdiction of the United States District Court for the Western District of Pennsylvania and the Court of Common Pleas of Butler County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Amendment. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Western District of Pennsylvania and the Court of Common Pleas of Butler County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in this Amendment shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AMENDMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AMENDMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AMENDMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

IN WITNESS WHEREOF, intending to be legally bound, Buyer and Seller hereto have duly executed this Amendment on the date specified above.


BUTLER AREA SEWER AUTHORITY

PENNSYLVANIA-AMERICAN
WATER COMPANY


By: 
Printed: Duane E. McKee
Its: Executive Director

By: 
Printed: Justin L. Ladner
Its: President

ATTEST:

By: 
Name: Lance R. Calvert
Its: Secretary

ATTEST:

By: 
Name: Andrew L. Swope
Its: VP, General Counsel and Secretary