

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("Agreement"), dated ____, 2017 is made and entered into by and between the **TOWNSHIP OF WEST MILFORD**, a public body corporate and politic in Passaic County, in the State of New Jersey (the "Township"), and **SUEZ WATER NEW JERSEY INC.**, a New Jersey corporation with principal corporate offices at 461 From Road, Suite 400, Paramus, New Jersey 07652 (the "Buyer"). The Buyer and the Township are referred to collectively herein as the "Parties."

WHEREAS, the Township, pursuant to N.J.S.A. 40:62-3 and 40A:11-4.4, authorized the Request for Proposals ("RFP") dated May 18, 2017 for the sale of the Authority's assets; and

WHEREAS, the Authority, by way of Resolution 2017-016 dated May 9, 2017, endorsed and recommended that the Township issue an RFP for the sale of the Authority's assets; and

WHEREAS, the Authority currently owns certain Water Systems and Wastewater Systems (collectively, the "Systems"), more particularly described herein, located in the Township of West Milford, New Jersey; and

WHEREAS, the Authority will be unconditionally transferring all of its rights, title and interests in the Systems to the Township free of all liens and encumbrances prior to the Closing contemplated by this Agreement; and

WHEREAS, in connection with the proposed sale of its Systems, the Township prepared, advertised, and made available to all prospective buyers a Request for Proposals on May 18, 2017; and

WHEREAS, on June 27, 2017, the Township received one proposal in response to the RFP; and

WHEREAS, after review of the proposal received and discussions with the proposer, the Township determined that the Buyer had submitted the most advantageous proposal; and

WHEREAS, the Township and the Buyer have negotiated this Agreement, which sets forth the terms upon which sale of the Authority's Systems to the Buyer will take place, provided all conditions of the Closing are satisfied; and

WHEREAS, the Township desires to sell and the Buyer desires to purchase the Systems 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 Systems and all exhibits, attachments, and schedules hereto, dated _____, 2017.

"Assumed Liabilities" shall have the meaning set forth in Section 4.5.

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

"Buyer" means Suez Water New Jersey Inc.

"Authority" means the West Milford Municipal Utilities Authority.

"Closing" has the meaning set forth in Section 4.6.

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

"Deposit" shall mean a payment of money equal to 10% of the Purchase Price, which is payable to the Township upon execution of this Agreement, 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.

"Designated Employee" means the Authority's employees listed in Exhibit J.

"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 the law firm of Dorsey & Semrau, LLC.

"Final Approval Order" shall mean an order of the BPU authorizing the Buyer and the Township 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 Authority and encumbering any of the Systems, and (b) mortgages, security interests and other liens granted by the Authority and encumbering the Systems.

"Municipal Consent" shall mean the municipal consent ordinance that is to be enacted by the Township as a condition of the Closing.

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

"Ordinary Course of Business" means the ordinary course of business consistent with past custom and practice.

"Party" shall mean either the Township or the Buyer.

"Parties" shall mean the Township 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 Systems held by the Authority.

"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.

"RFP" means the Request for Proposals for the sale of the Systems issued by the Township on May 18, 2017 and responded to by the Buyer.

"Systems" shall mean the Authority's Water Systems and Wastewater Systems.

"Township" means the Township of West Milford, New Jersey.

"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.

"Transferred Employee" means each Designated Employee who accepts the Buyer's offer of employment pursuant to Section 4.5(F).

"Wastewater Systems" mean the Authority's wastewater treatment and collection systems, as described in detail in **Exhibit A**.

"Water Systems" mean the Authority's wells, water treatment plants and water distribution systems, as described in detail in **Exhibit A**.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE TOWNSHIP

Section 2.1. REPRESENTATIONS OF THE TOWNSHIP. Except as set forth in the disclosure schedule accompanying this Agreement and initialed by the Parties (the "Disclosure Schedule"), a form of which is attached as Exhibit H, the Township represents to the Buyer that, to that best of the Township's knowledge, the information contained in this Article II is 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 Township. The Township is a public body corporate in Passaic County in the State of New Jersey. The Authority is a public body corporate and politic and an agency and instrumentality of the Township of West Milford in Passaic County in the State of New Jersey.
- (B) Authorization of Transaction. The Township has full right and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to the conditions set forth in N.J.S.A. 40:62-3, -4 and -5.
- (C) No Litigation. There is no litigation, either at law or in equity, nor any proceedings before any commission or regulatory body pending, or, to the best of the Township's knowledge, threatened against the Authority involving or related to the Systems, or which in any way would affect the Authority's ability to perform its obligations under the Agreement. However, there are certain Notices of Violations issued by the New Jersey Department of Environmental Protection ("NJDEP").
- (D) No Default. The Authority is not in default or violation 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 Systems, except for certain violations issued by the NJDEP.
- (E) No Reimbursement Obligations. The Authority is not party to any water or 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 Systems.
- (F) Compliance. Except where otherwise noted, the Systems are in compliance with all State, federal, and local laws and regulations.
- (G) Tariff. The tariff, attached as Exhibit D, represents the true rates of the Systems and is in effect as of the Contract Date.

Section 2.2. DISCLAIMER OF OTHER REPRESENTATIONS AND WARRANTIES. Except for the representations and warranties specifically set forth in this Article II, the Township makes no representation or warranty, express or implied, at law or in equity, with respect to the Systems 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 Systems on an "as-is, where-is" basis. The Buyer shall be afforded all rights of inspection and review prior to award of the bid. The Buyer has satisfied itself on all aspects of the Systems, 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 Township in connection therewith except for the representations and warranties set forth in this Agreement. Neither the Township nor the Authority shall not be liable for any latent or patent defects in the System.

Section 2.3. SURVIVAL OF REPRESENTATIONS AND WARRANTIES. All of the representations and warranties made by the Township pursuant to this Article II and the representation to be provided by the Township with respect to title pursuant to Section 4.7(a)(viii) shall survive the Closing for a period of three (3) years. In accordance with Section 4.7(a)(viii), the Township shall provide a signed certification at Closing that the warranties and representations in Article II and the representation to be provided by the Township with respect to title are true and correct as of the Closing Date subject to any disclosures made to the Buyer by the Township on or prior to the Closing Date and any adjustments agreed upon by the Parties pursuant to Section 7.1(F) or Section 7.1(G). No claim for a misrepresentation or breach of warranty of the Township 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 or should have been 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 Township 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 and numbered 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 laws 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. There is neither litigation, either at law or in equity, nor any proceedings before any commission or regulatory body pending, or, to the best of the Buyer's knowledge, threatened against the Buyer, that would in any way affect its ability to perform its obligations under this Agreement.
- (D) No Warranties. The Buyer is purchasing the Systems "as is", and the Buyer will have no recourse against the Township with respect to any condition of the Systems 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 Systems to the extent that the Buyer deemed necessary and has made such examination of the Systems, 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 Township or any agent, employee or other representative of the Township or by any broker or any other person representing or purporting to represent the Township, 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 Township in accordance with this Agreement are not derived from any illegal activity.

- (H) Not a Blocked Person. The Buyer is not, 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 pursuant to this Article III shall survive the Closing for a period of three (3) years. In accordance with Section 4.7(b)(vi), the Buyer shall provide a signed certification at Closing that the warranties and representations in Article III are true and correct as of the Closing Date subject to any disclosures made to the Township by the Buyer on or prior to the Closing Date. No claim for a misrepresentation or breach of warranty of the Buyer 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 Township prior to the Closing.

ARTICLE IV

BASIC TRANSACTION

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

Section 4.2. EXCLUDED ASSETS. Except as specifically described in Exhibit A, in no event shall the Systems include pre-Closing claims or liabilities, personal property, office equipment, office supplies, cash, securities, and the accounts receivable of the Authority relating to the Systems 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 Escrow Agent, at the Closing referred to in Section 4.6, the sum of Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00), as such sum may be adjusted by written agreement of the parties pursuant to the terms hereof, (the "Purchase Price"). Upon the execution of this Agreement and the negotiation of mutually agreeable Escrow Agreement, the Buyer shall pay the Deposit to be held by the 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 Escrow Agent at least five (5) business days prior to the Closing Date. The Escrow Agent shall disperse same and thereafter release the Closing Deliverables described in Section 4.7 hereof to Buyer and the Township as appropriate, all in accordance with the terms of the Escrow Agreement.

Section 4.4. TOWNSHIP TRANSACTION EXPENSE. Notwithstanding any obligations of the Township 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 Township \$250,000 for costs and expenses incurred and reasonably anticipated to be incurred by the Township in connection with the sale of the Systems, including, but not limited to, legal, engineering, inspection, and other consultant costs (collectively the "Transaction Costs Payment"). The Buyer agrees to pay the Township one-third (\$83,333) of the Transaction Costs Payment upon the full execution of this Agreement and the remaining two-thirds (\$166,667) at the Closing. In the event the Closing does not occur due to the acts or omissions of the Township and this Agreement is terminated pursuant to Section 9.2, the Township shall return the \$83,333 portion of the Transaction Costs Payment to the Buyer.

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 all post-Closing claims and liabilities relating to the Systems;

- (B) assume and meet all contractual commitments of the Authority and Township 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 as set forth in Section 8.2 herein;
- (D) provide the customers of the Systems with service including the supply of potable water in accordance with applicable laws and regulations, and the Buyer's tariff as approved by the BPU;
- (E) maintain or expand the Systems in conformance with existing Township land use and zoning ordinances, master plan, and historic district standards, if applicable;
- (F) in addition to the conditions set forth in Article VII, and as a condition to closing, offer employment to each of the three Authority employees listed in Exhibit J or if the Buyer elects not to offer employment to an employee, it shall pay the Authority an employment termination payment which shall include a payout of six (6) months' salary, and, with respect to the administrator position, an additional \$18,000 for temporary health insurance coverage, which payments shall in turn be made by the Authority to the affected employee(s) upon termination of their employment by the Authority.
 - (i) Employee Orientation. Within 15 days following when this Agreement is executed, the Buyer and the Authority shall conduct joint employee orientation workshops for the purpose of familiarizing Designated Employees with the obligations of the Buyer under this Agreement, the specific details of the manner in which the Buyer plans to carry out and implement its obligations under this section, and the options of any Designated Employee if such employee were to choose not to accept the Buyer's employment offer. The workshops shall provide each Designated Employee with information sufficient to make an informed decision as to whether to accept the Buyer's offer of employment, including a written statement of compensation and benefits. . The Buyer shall provide interviews, career planning services, continuing orientation workshops, employee performance analyses, and training needs assessments. All written communications by the Buyer to the Designated Employees prior to the Closing shall be subject to the prior written approval of the Authority.
 - (ii) Offer and Terms of Employment. Unless the Buyer has elected to pay the employment termination payment described above, the Buyer shall offer full time, regular employment to all Designated Employees, to be effective as of the Closing. The Buyer's offer of employment shall be subject to Buyer's hiring and employment policies, shall reflect the requirements of this Section 4.5, shall be made no later than 60 days following the execution of this Agreement (provided the Buyer receives all necessary information from the Authority within 30 days of the execution of this Agreement) and shall be a condition to Closing; provided, however, the Buyer shall be permitted to require the Designated Employees to complete basic information reports regarding their experience level and to require Designated Employees to cooperate in drug screening tests. Offers of employment required hereunder shall be for positions and responsibilities which are substantially similar in nature to the positions and responsibilities of the employee while under the Authority's employ and shall be for a location in the geographic vicinity of West Milford. No offer

of employment shall be for a position lower than that held by the employee at the time of such offer. The Buyer acknowledges that the Authority intends to terminate its employment of the Designated Employees at or shortly after the Closing.

- (iii) Wages and Benefits. The Buyer's offer of employment to each Designated Employee shall include: (i) wages and health benefits which shall each be overall comparable to the wages paid and health benefits provided by the Authority to such Designated Employee as described in Exhibit J and (ii) retirement plan benefits, the value of which, taken together with the value of the retirement benefits accrued by the Designated Employee from his or her service to the Authority through the Closing, is reasonably projected to be overall comparable to the value of the retirement benefits the Designated Employee would receive were the Designated Employee to remain in the employment of the Authority through the date upon which the Designated Employee retires from service to the Buyer. The Buyer's employee health benefits shall be made available to the Transferred Employees without any elimination periods, pre-existing condition provisions, or other limitations on full and immediate coverage.
- (iv) Crediting Years of Service and Accrued Time. The Buyer shall recognize the Transferred Employee's years of service with the Authority (determined as of the Closing without regard to any accrued annual leave, accrued sick leave, or accrued compensatory time) as years of service with the Buyer for the following purposes: (i) any job-related matter based on seniority (such as off-days, shift preference, and overtime) to the extent that the Buyer uses seniority for such job-related matters; (ii) determining eligibility for and vesting under (but not benefit accrual or contributions to) the Buyer's employee benefit plans; and (iii) determining eligibility for and the amount of vacation, sick leave and any other payroll policies of the Buyer.
- (v) Termination of Employment of the Authority's Business Administrator. If the Authority's Business Administrator elects to become a Transferred Employee, the Buyer may not terminate the employment of the Authority's Business Administrator for a period of one (1) year after the Closing unless: (i) the Authority's Business Administrator voluntarily quits; (ii) the Authority's Business Administrator voluntarily elects an early retirement, severance or other incentive termination package

sponsored and funded by the Buyer; (iii) the Authority's Business Administrator is dismissed for just cause following a pre-termination process in accordance with Buyer's employment policies; or (iv) the Authority's Business Administrator is dismissed without just cause, provided that in such circumstances the Buyer shall pay to the Authority's Business Administrator an employment termination payment which shall consist of a payout of six (6) months' salary, and an additional \$18,000 for temporary health insurance coverage. In the event that the Authority's Business Administrator elects to become a Transferred Employee, the Buyer shall provide a six-month grace period in which the Business Administrator can make a decision as to whether or not to stay with the Buyer. During such six-month period, the Business Administrator can either choose to take six months' severance pay plus \$18,000 for health insurance or choose to stay on with Buyer as a regular employee.

- (vi) Enforcement of Rights By Designated Employees. To the extent Buyer offers individual employment offer letters to Designated Employees, those offer letters shall reflect the terms and conditions and employment practices described in this Section 4.5(F) which may be enforced by the applicable Designated Employee.
- (vii) Indemnification for Transferred Employee Claims. The Buyer shall indemnify and hold harmless the Authority and Township, in the manner provided in Article XII, against any Loss-and-Expense which may result from any claim, demand, grievance or legal proceeding made or filed by any Transferred Employee or labor organization representing a Transferred Employee for any claim, demand, grievance or legal proceeding pertaining to an action or treatment of such employee which occurred subsequent to the Closing Date.

Section 4.6. THE CLOSING. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Dorsey & Semrau, LLC, 714 Main Street, Boonton, NJ 07005 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.

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

- (A) The Township, and where applicable, the Authority, will execute, acknowledge (if appropriate), and deliver to the Escrow Agent:
 - (i) a bargain and sale deed for the real property associated with the Systems without covenant against grantor's acts, in recordable form, duly executed by Authority or Township, where applicable;
 - (ii) an assignment of easements in the form attached hereto as Exhibit F, to convey all easement rights associated with the Systems, 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 as described in Section 4.9;
 - (vii) a certified copy of the appropriate Township resolution(s) authorizing the transactions contemplated hereunder;
 - (viii) a signed certification by the Township which certification shall provide that the warranties and representations in Article II are true and correct as of the Closing Date and contain a representation that the Township is the sole owner of all assets and each fee parcel of real property included in the Systems, and leasehold interest, license or easements in all other real property in the Systems, subject to any disclosures made by the Authority or the Township to the Buyer on or prior to Closing and any adjustments agreed upon by the Parties pursuant to Section 7.1(F) or Section 7.1(G);
 - (ix) such other documents, resolutions, instruments, affidavits and documents as may be reasonably necessary to effectuate the transaction;
 - (x) originals or copies of all governmental permits and licenses for the System, or any component thereof, in the Township or Authority's possession, to the extent transferable;
 - (xi) any other tax information regarding the Township or Authority 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.
- (B) Buyer will execute, acknowledge (if appropriate) and deliver to the Escrow Agent:
- (i) an assignment of easements in the form attached hereto as **Exhibit F**, to convey all easement rights associated with the Systems, 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 as described in Section 4.9;
 - (v) a 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 (\$166,667);
- (x) a letter offer of employment to any Designated Employee to whom the Buyer will offer employment, which may be accepted or denied by said Designated Employee(s);
- (xi) releases of any pre-Closing claims against the Authority or related to the Systems by each of the Designated Employees;
- (xii) any applicable employment termination payment pursuant to Section 4.5(F); and
- (xiii) 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 Systems assets to be transferred to the Buyer and all other operating expenses for the Systems allocable to periods before and after the Closing Date, shall be apportioned for the Systems 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

Section 5.1. PRE-CLOSING COVENANTS. 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. Where a pre-Closing covenant in this Article V places an obligation upon the Authority, the Township agrees to assume liability for that covenant as to the Buyer and to ensure that the Authority complies with same.
- (B) Access to Books. Upon reasonable prior notice, the Authority 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 Authority's records, books, and properties with respect to the Systems, 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 Systems as the Buyer may reasonably request, provided such documents and electronic media are in the Authority's possession or in the possession of third parties under contract with the Authority.
- (C) Permits. Prior to the Closing, the Parties shall cooperate to effect the transfer of all Permits related to the operation of the Systems which were granted to the Authority by any Governmental Authority, which transfer shall be effective on or after but not before the Closing. The Township and Authority shall provide reasonable assistance to the Buyer as reasonably requested by the Buyer with respect to such applications.
- (D) Operation of Systems. The Authority will:
 - (i) continue to operate and maintain the Systems only in the Ordinary Course of Business until Closing;
 - (ii) maintain the Systems in at least as good order and condition as existed on the date of this Agreement, casualty and normal wear and tear excepted; and
 - (iii) timely comply with the provisions of all leases, agreements, and contracts relating to the Systems.

- (E) BPU Approvals.
- (i) The Buyer shall as soon as reasonably practicable after the execution of this Agreement by both Parties, at its sole cost and expense, file or cause to be filed all necessary documentation with the BPU to obtain the approvals required for the sale of the Systems to the Buyer.
- (F) Municipal Consent. The Township shall be responsible, at its sole cost and expense, with reasonable assistance from the Buyer, for passing the Municipal Consent pursuant to N.J.S.A. 48:2-14 as necessary. The Township shall also be responsible for carrying out the public referendum process. The Parties acknowledge that the Township cannot guarantee the outcome of the public referendum process.
- (G) Risk of Loss. The Parties agree that the Township and Authority shall bear the risk of and be responsible for loss with respect to the assets and properties constituting the Systems from the date of this Agreement through the Closing Date. In the event that the condition of the Systems 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 Township 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 Systems. If the Township and the Buyer cannot reach agreement within sixty (60) days of the event, 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 Township 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.
- (H) Customer List and Information; Final Bills. The Authority shall provide or cause to be provided to the Buyer a full and complete customer list for the Systems 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 Authority 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 Systems' 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 forth in Section 4.5(C), the Buyer must assume the Authority's obligations on and following the Closing Date for those agreements set forth in Exhibit E to the extent permissible under

applicable law, regulation or administrative authority.

- (K) Buyer Access. The Authority shall provide the Buyer, at the Buyer's sole cost, reasonable access to the Systems 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 plant and equipment; and surveys of the real property comprising the Systems and easements. The Buyer hereby agrees to indemnify and hold the Township and Authority 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 Systems 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 Authority's continuing operation of the Systems. The Authority shall cooperate with the Buyer with respect to such access to ensure a smooth transition in ownership of the Systems.

- (L) Confidentiality. Any information provided by the Township and/or Authority to Buyer regarding the Authority's customers and the Systems 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 Authority's operation and administration of the Systems.

ARTICLE VI

TITLE AND CONDITION OF SYSTEMS

Section 6.1. TITLE. Title to the Systems shall be conveyed by the Township to the Buyer at the Closing free and clear of all Encumbrances except as otherwise agreed to by the Parties, subject only to the Permitted Encumbrances. Fee simple title to the real property associated with the Systems' assets shall be conveyed to Buyer whenever possible. Sufficient easement rights may substitute for fee simple title when necessary and as agreed to by the Parties. "Permitted Encumbrances" means any and all:

- (A) matters disclosed by the Property Information Materials (hereinafter defined);
- (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 Systems;
- (D) rights of way and easements that do not materially interfere with the existing use of the real property comprising the Systems;
- (E) zoning and other governmental restrictions;
- (F) matters common to any plat or subdivision in which the real property comprising the Systems is located; and

taxes, assessments and other public charges on real property comprising the Systems 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 Systems, Buyer shall within seven (7) 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 seven (7) business days after receipt of the Commitment, the Buyer shall notify the Township of any objections, other than the Permitted Encumbrances. Any matters set forth on the Commitment and not objected to by the Buyer within said seven (7) day period shall become Permitted Encumbrances hereunder. The Township may elect to cure any title defect by so notifying the Buyer. If the Township does not so elect within twenty (20) days after notice of the objection, or if after so electing, the Township fails to cure the defect(s) prior to the Closing, then the Buyer's sole remedy shall be to close without any reduction in the Purchase Price or to terminate this Agreement upon notice to the Township, said notice to be delivered within seven (7) days of the Township's failure to so elect or, if the Township elects to cure but does not, to be delivered at the Closing. If the Buyer terminates the Agreement pursuant to this section, the Township shall promptly, and in no event later than 5 business

days after such termination, repay to the Buyer the Deposit and the \$83,333 portion of the Transaction Costs Payment paid to the Township upon execution of the Agreement, 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 Township delivered to the Buyer and the Buyer reviewed the materials and information concerning the Systems provided as part of the RFP (collectively, "Property Information Materials"). The Buyer acknowledges and understands that the Property Information Materials may have been prepared by parties other than the Township and that the Township 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 Township 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 Authority contained in this Contract. However, the foregoing release shall not apply to any Claims resulting from any intentional omissions, misstatements or willful misconduct on the part of the Authority.

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 Systems 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 RFP, 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 Systems. The Buyer has satisfied itself on all aspects, without limitation, of the Systems and is not relying on any representation of the Authority and/or Township 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 Township 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) in connection with the negotiation and approval process for the new NJDEP Administrative Consent Order(s) affecting the Systems and addressing the permit violations issued by NJDEP and referenced in the Request for Proposals dated May 18, 2017 (the "Current Violations"), the Township shall have obtained a reduction in the fines and penalties associated with the Current Violations and shall not have incurred any additional violations associated with the Systems (the "Future Violations"), such that the aggregate amount owed at Closing by the Township to NJDEP for the Current Violations and Future Violations is ~~\$3,000,000.00~~ or less; If the amount of fines exceed \$1,300,000, the Township shall have the right to terminate the Agreement and return all deposits.

the Buyer, at its own cost and expense, shall have secured from the BPU, NJDEP, and all other applicable governmental and quasi-governmental entities, all authorizations and approvals, including the Final Approval Order, required for the transfer of the Systems to the Buyer, in such form and content as is materially consistent with the terms of this Agreement and as described in Section (D)(i) hereof, including but not limited to the NJDEP Permits and permit modifications, if necessary (the "Approvals") and (i) with respect to BPU approval, said Final Approval Order shall not include a decrease in water or sewer rates materially contrary to Buyer's rate stabilization plan set forth in Section 8.2; and (ii) with respect to any anticipated NJDEP Administrative Consent Orders with proposed limits or terms that would affect Buyer's operation of the Systems post-Closing, Buyer shall have negotiated with NJDEP terms that provide a compliance schedule that would require capital investment materially consistent with the annual capital investment schedule set forth in Exhibit M (unless a shorter schedule is agreed to by the Buyer) and that includes interim limits that the Systems can reasonably achieve during the interim period. The Buyer 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 Township or cause to be delivered to the Township, 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 Township shall provide reasonable assistance to the Buyer in connection with the Buyer's obligation to obtain the Approvals required to be obtained by the Buyer under this Agreement, including signing applications, attending public hearings and meetings of the Governmental Bodies charged with issuing the Approvals, and assisting in providing the Buyer with all readily available relevant data, documents and supporting materials that are within the Township's custody or control or are reasonably obtainable by the Township and which are reasonably required for such purpose; provided, however, that the Township's obligation to provide such reasonable assistance shall be limited, in light of the Buyer's primary role in obtaining the Approvals, only to those actions which involve providing information which is in the possession of or reasonably obtainable by the Township. Any such assistance shall be provided upon the reasonable request of the Buyer made directly to the Township, and the Township shall have no affirmative obligation independently to initiate or to provide such assistance. This covenant shall not obligate the Township to staff the Buyer's efforts, to undertake any new studies or investigations, or to affirmatively seek to obtain the issuance of the Approvals required to be obtained by the Buyer. The Buyer shall immediately notify the Township in writing of any determinations made by any authority considering any application. In the event that the Approvals are received but are not materially consistent with the terms of this Agreement as described above, the Buyer and the Township shall meet to determine any appropriate adjustments to this agreement in light of such Approvals;

- (E) the Buyer shall have offered employment to the three existing Authority employees identified in Exhibit J or paid the applicable employment termination payment(s) in accordance with Section 4.5(F);
- (F) within four (4) months following execution of this Agreement, Buyer shall have completed and be satisfied with the results of a Phase I Environmental Site Assessment or other environmental assessment performed with respect to the real property portion of the Systems. If the results of the environmental assessment reveal the existence of material liabilities that Buyer could not have reasonably known about as of the Agreement execution date based upon the information provided to the Buyer by the Township prior to the date of this Agreement, Buyer and Seller shall meet and confer in good faith to determine an appropriate adjustment to the Purchase Price. If the Parties cannot agree on a Purchase Price adjustment after good faith negotiations within three months from the time Buyer notified the Township of the existence of a material liability, the Parties shall enter into binding arbitration in accordance with Section 11.6. In addition, if as a result of the negotiation or arbitration, the Purchase Price is reduced below \$10,500,000, the Township shall have the right to terminate the Agreement and the Deposit shall be returned to Buyer; and
- (G) within four (4) months following execution of this Agreement, Buyer shall have completed and be satisfied with the results of a title search and survey with respect to the real property portion of the Systems. If the results of the title search or survey reveal the existence of material liabilities that Buyer could not have reasonably known about as of the Agreement execution date based upon information provided by the Township prior to the date of this Agreement, Buyer and Seller shall meet and confer in good faith to determine an appropriate adjustment to the Purchase Price. If the Parties cannot agree on a Purchase Price

adjustment after good faith negotiations within three months from the time Buyer notified the Township of the existence of a material liability, the Parties shall

enter into binding arbitration in accordance with Section 11.6. In addition, if as a result of the negotiation or arbitration, the Purchase Price is reduced below \$10,500,000, the Township shall have the right to terminate the Agreement and the Deposit and \$83,333 of the Transaction Costs Payment shall be returned to Buyer.

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

- (A) the Buyer shall have performed and complied with all of its covenants hereunder in all material respects through the Closing;
- (B) 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;
- (C) in connection with the negotiation and approval process for the new NJDEP Administrative Consent Order(s) affecting the Systems and addressing the permit violations issued by NJDEP and referenced in the Request for Proposals dated May 18, 2017 (the "Current Violations"), the Township shall have obtained a reduction in the fines and penalties associated with the Current Violations and shall not have incurred any additional violations associated with the Systems (the "Future Violations"), such that the aggregate amount owed at Closing by the Township to NJDEP for the Current Violations and Future Violations is \$1,300,000.00 or less. In the event the total fines exceed this amount the Township is not obligated to close this transaction. However, the deposit will be returned to Buyers;
- (D) the Buyer, at its own cost and expense, shall have secured from the BPU, NJDEP, and all other applicable governmental and quasi-governmental entities, all authorizations and approvals, including the Final Approval Order, required for the transfer of the Systems to the Buyer, in such form and content as is materially consistent with the terms of this Agreement and as described in Section (D)(i) hereof, including but not limited to the NJDEP Permits and permit modifications, if necessary (the "Approvals") and (i) with respect to BPU approval, said Final Approval Order shall not include a decrease in water or sewer rates materially contrary to Buyer's rate stabilization plan set forth in Section 8.2; and (ii) with respect to any anticipated NJDEP Administrative Consent Orders with proposed limits or terms that would affect Buyer's operation of the Systems post-Closing, Buyer shall have negotiated with NJDEP terms that provide a compliance schedule that would require capital investment materially consistent with the annual capital investment schedule set forth in Exhibit M (unless a shorter schedule is agreed to by the Buyer) and that includes interim limits that the Systems can reasonably achieve during the interim period. The Buyer 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 Township or cause to be delivered to the Township, 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 Township shall

provide reasonable assistance to the Buyer in connection with the Buyer's obligation to obtain the Approvals required to be obtained by the Buyer under this Agreement, including signing applications, attending public hearings and meetings of the Governmental Bodies charged with issuing the Approvals, and assisting in providing the Buyer with all readily available relevant data, documents and supporting materials that are within the Township's custody or control or are reasonably obtainable by the Township and which are reasonably required for such purpose; provided, however, that the Township's obligation to provide such reasonable assistance shall be limited, in light of the Buyer's 20primary role in obtaining the Approvals, only to those actions which involve providing information which is in the possession of or reasonably obtainable by the Township. Any such assistance shall be provided upon the reasonable request of the Buyer made directly to the Township, and the Township shall have no affirmative obligation independently to initiate or to provide such assistance. This covenant shall not obligate the Township to staff the Buyer's efforts, to undertake any new studies or investigations, or to affirmatively seek to obtain the issuance of the Approvals required to be obtained by the Buyer. The Buyer shall immediately notify the Township in writing of any determinations made by any authority considering any application. In the event that the Approvals are received but are not materially consistent with the terms of this Agreement as described above, the Buyer and the Township shall meet to determine any appropriate adjustments to this agreement in light of such Approvals;

- (E) the Authority shall have obtained any necessary consents and releases for the assignment and assumption of the assumed liabilities as defined in Exhibit B; and
- (F) the Buyer shall have offered employment to the three existing Authority employees identified in Exhibit J or paid the applicable employment termination payment(s) in accordance with Section 4.5(F).

Section 7.3. SCHEDULE FOR CLOSING CONDITIONS. The Buyer shall promptly initiate and complete its conditions of Closing set forth in Section 7.1 as soon as reasonably possible, 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. In the event that the Buyer has received the Approvals and the Township has complied with its Closing obligations but all other Closing conditions are not completed by such date notwithstanding the Company's good faith efforts, the Township shall have the right to invoke time of the essence for Closing upon 10 days' written notice to Buyer. If Buyer is unable or unwilling to consummate Closing within 10 days of the notice, the Township may terminate this Agreement and keep the Deposit. In the event the Buyer has not obtained the Approvals within twelve (12) months of the date of this Agreement, despite using good faith efforts, 10% of the Deposit shall become non-refundable. Buyer shall, prior to the expiration of the initial 12-month period, be entitled to request one additional 12-month extension from the Township, which extension shall not be unreasonably withheld, delayed or conditioned, provided that if Buyer elects not to request the extension, an \$83,333 portion of the Transaction Costs Payment already paid by the Buyer to the Township and 10% of the Deposit shall be retained by the Township and the Township shall have the right to terminate this Agreement. If Buyer requests the extension and at the end of the 12-month extension period, Buyer has still not received the Approvals, an additional 15% of the Deposit shall also become

non-refundable. The Township shall then have the right to invoke time of the essence for Closing upon 10 days' written notice to Buyer. If Buyer is unable or unwilling to consummate the Closing within 10 days of the notice, the Township may terminate this Agreement, retain the Deposit, and \$83,333 of the Transaction Costs Payment. The Parties may mutually agree in writing to further extend the timeframe to achieve Closing. For the avoidance of doubt, the Deposit shall be credited against the Purchase Price in the event the Closing occurs. Notwithstanding the above, in the event the Township of West Milford has not provided the Municipal Consent within four (4) months after the date of this Agreement, the 12-month period set forth above shall be extended on a day-to-day basis to reflect such delay unless the Parties agree to submit the BPU application prior to receiving the Municipal Consent. Notwithstanding anything to the contrary herein, if the sole cause of the failure to achieve its Closing within one year from the date of this Agreement is the failure of the Township to obtain a reduction of the files associated with the NJDEP violations, pass the Municipal Consent or the public referendum, this Agreement may be terminated by either Party as a result thereof, and the full Deposit and the \$83,333 portion of the Transaction Costs Payment shall be promptly returned to the Buyer.

ARTICLE VIII

POST-CLOSING OBLIGATIONS OF BUYER

Section 8.1. CONTINUATION OF WATER SERVICES. The Buyer shall continue to provide services in accordance with all local, state, and federal laws and regulations relating to potable water and the collection and conveyance of wastewater and shall operate and maintain the Systems to provide safe, reliable and adequate service.

Section 8.2. WATER AND SEWER RATES COVENANT. Buyer agrees to pursue the water and sewer rate plans described in the proposal Buyer submitted in response to the RFP, provided however that the parties recognize that water and sewer rates are ultimately contingent upon review and approval by the BPU.

Section 8.3. FIVE YEAR CAPITAL PLAN. Buyer shall implement the 5-Year Capital Plan attached hereto as Exhibit M, subject to adjustment as a result of Buyer's negotiations with NJBPU and/or NJDEP regarding the 5-Year Capital Plan, continued due diligence of the Systems, changes in law or regulation, or more critical capital needs that may arise in the Systems.

Section 8.4. CUSTOMER SERVICE PLAN. Buyer shall implement the Customer Service Plan attached as Exhibit K, subject to all applicable laws, regulations and regulatory guidance.

Section 8.5. FIRE HYDRANTS. The Authority's amended Rules and Regulations Section 3-3.10(A) provides that the hydrants on the Authority's water system are used for maintenance only. To the extent that these hydrants continue to be used for maintenance purposes only, Buyer shall not charge the Township for said hydrants. In the event that any or all of the hydrants are used for fire protection purposes, Buyer will charge the Township for said hydrants.

Section 8.6. STAFFING. Buyer shall operate, maintain and monitor the Systems with dedicated and non-dedicated personnel in accordance with Buyer's New Jersey Organization Chart set forth in Exhibit L.

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 Township to the Buyer specifying such material breach or default, the Township shall have the right as its sole remedy to terminate this Agreement and retain the Deposit and the \$83,333 portion of the Transaction Costs Reimbursement paid to the Township on the date of the Agreement as liquidated damages . The Township's rights and remedies pursuant to this Section 9.1 shall survive any termination of this Agreement by the Township as a result of the Buyer's default.

Section 9.2. PRE-CLOSING DEFAULT BY THE TOWNSHIP. In the event that the Township 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 Township 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 Township's default.

Section 9.3. POST-CLOSING DEFAULTS. In the event that any 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 to be attached hereto and incorporated herein by reference as Exhibit I. At Closing, the Buyer shall pay the balance of the Purchase Price to the Escrow Agent who shall disperse same and thereafter release the Closing Deliverables described in Section 4.7 hereof to Buyer and the Township as appropriate, all in accordance with the terms of the Escrow Agreement.

ARTICLE XI

NON-BINDING MEDIATION; ARBITRATION; 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 except with respect to Sections 7.1(F) and 7.1(G). 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 Township 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 Systems 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 the Passaic County, New Jersey.

Section 11.6. BINDING ARBITRATION. (A) Generally. A dispute pursuant to Sections 7.1(F) and 7.1(G) shall be resolved through binding "baseball" arbitration pursuant to the rules of the American Arbitration Association. The costs of such binding arbitration shall be divided equally between the Township and the Buyer.

(B) Procedure. The arbitrator 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 arbitrator shall have full discretion as to the conduct of the arbitration. The arbitrator's decision and award shall be entirely in one party's favor and there shall be no apportionment of fault. The decision and award of the arbitrator shall be final and binding on the parties and may be enforced in any court having jurisdiction.

ARTICLE XII

INDEMNIFICATION

Section 12.1(a). INDEMNIFICATION BY THE BUYER. The Buyer hereby agrees to indemnify, defend, and hold harmless the Township, its officers, employees, agents, board members, and elected officials (together, the "Township Indemnitees") for three (3) years from the Closing Date from and against all demands, claims, actions, judgments, damages, losses, liabilities, costs, and expenses (including attorney's fees and costs) (collectively, "Losses") resulting from third-party claims arising out of or resulting from any acts or omissions of the Buyer, its officers, employees, agents, contractors or affiliates in connection with the performance or non-performance of its obligations under this Agreement and for breach of any representation, warranty, covenant, or agreement made by the Buyer in this Agreement or in any other Transaction Document. If the Township Indemnitees suffer any Losses, or if any legal proceedings are instituted (whether frivolous or otherwise) against any of the Township Indemnitees with respect to any breach of any representation, warranty, covenant, or agreement made by the Buyer in this Agreement or in any other Transaction Document, the Township Indemnitees shall promptly give written notice thereof to the Buyer, which shall, at its sole cost and expense, pay for or defend (with counsel reasonably acceptable to the Township Indemnitees) all such actions and pay for all Losses incurred by the Township Indemnitees in defense of such legal proceedings.

Section 12.1(b). INDEMNIFICATION BY THE TOWNSHIP. The Township hereby agrees to indemnify, defend, and hold harmless the Buyer, its officers, employees, agents, and affiliates (together, the "Buyer Indemnitees") for three (3) years from the Closing Date from and against all demands, claims, actions, judgments, damages, losses, liabilities, costs, and expenses (including attorney's fees and costs) (collectively, "Losses") resulting from third-party claims arising out of or resulting from any acts or omissions of the Township or the Authority, their officers, employees, agents, contractors or affiliates in connection with the performance or non-performance of their obligations under this Agreement and for breach of any representation, warranty, covenant, or agreement made by the Township or the Authority in this Agreement or in any other Transaction Document. If the Buyer Indemnitees suffer any Losses, or if any legal proceedings are instituted (whether frivolous or otherwise) against any of the Buyer Indemnitees with respect to any breach of any representation, warranty, covenant, or agreement made by the Township or the Authority in this Agreement or in any other Transaction Document, the Buyer Indemnitees shall promptly give written notice thereof to the Township, which shall, at its sole cost and expense, pay for or defend (with counsel reasonably acceptable to the Buyer Indemnitees) all such actions and pay for all Losses incurred by the Buyer

Indemnities in defense of such legal proceedings.

Section 12.2. THIRD PARTY CLAIMS. An Indemnified Party shall give the Party from which it is seeking indemnification (for purposes of this Section 12.2, the "Indemnitor") notice of any matter which an Indemnified Party 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 Indemnified Party 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 Indemnified Party within five (5) days of the receipt of such notice from the Indemnified Party. In the event the Indemnitor exercises the right to undertake any such defense against any such Indemnified Party as provided above, the Indemnified Party 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 Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnitor. Similarly, in the event the Indemnified Party is, directly or indirectly, conducting the defense against any such Indemnified Claim, the Indemnitor shall cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, 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 Indemnified Party. No such Indemnified Claim may be settled by the Indemnitor without the prior written consent of the Indemnified Party which shall not be unreasonably withheld. If the Indemnitor fails to acknowledge its indemnity obligation within the time period provided above then the Indemnified Party may undertake its own defense without waiving its right to seek indemnity hereunder, including reimbursement of any defense costs incurred.

Section 12.3. LIMITATION ON 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. Notwithstanding anything to the contrary contained in this Agreement or provided for under any applicable Law, neither Party shall be entitled to any recovery from the other Party with respect to any such Losses unless and until the amount of such damages suffered, sustained or incurred by the claimant, or to which such claimant becomes subject, by reason of such Losses shall exceed Twenty-Five Thousand Dollars (USD \$25,000.00) calculated on a cumulative basis and not a per item basis, after which such responsible Party shall be obligated to pay the claimant for all Losses from dollar one. In no event shall either Party be liable to the other for Losses in an aggregate amount in

excess of One Million Five Hundred Thousand Dollars (USD \$1,500,000.00). Notwithstanding anything to the contrary in this Agreement, the limitations set forth in this Section 12.3 shall not apply to any damages that arose from (a) fraud or intentional fault, (b) knowing or intentional misrepresentations or omissions, or(c) third party claims

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 Document 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 Township:

Antoinette Battaglia, Administrator/Clerk
Township of West Milford 480 Union Valley Road
West Milford, NJ 07480

Copy to:

Fred Semrau, Esq.,
Dorsey & Semrau, LLC
714 Main Street
Boonton, NJ 07005

If to Buyer:
SUEZ Water New Jersey Inc.
461 From Road, Suite 400
Paramus, New Jersey 07652
Attn: President

Copy to:

SUEZ Water New Jersey Inc.
461 From Road, Suite 400
Paramus, New Jersey 07652
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 Township. 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 Township's retention of the \$83,333 portion of the Transaction Costs Payment paid to the Township upon execution of the Agreement (except as provided in Section 5.1), 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. The Parties have participated jointly in the negotiation and drafting of this Agreement. 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.

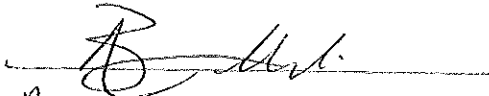
Section 13.13. INCORPORATION OF EXHIBITS AND SCHEDULES. The Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

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

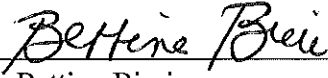
Section 13.15. TIME IS OF THE ESSENCE. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

(Signature Page Follows)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement of the date first above written.


ATTEST
ANTOINETTE BATTAGLIA
CLERK
9/6/2017

TOWNSHIP OF WEST MILFORD

By: 
Name: Bettina Bieri
Title: Mayor

SUEZ WATER NEW JERSEY INC.

By: 
Name: David Stanton
Title: President

SUEZ Highlands Operations

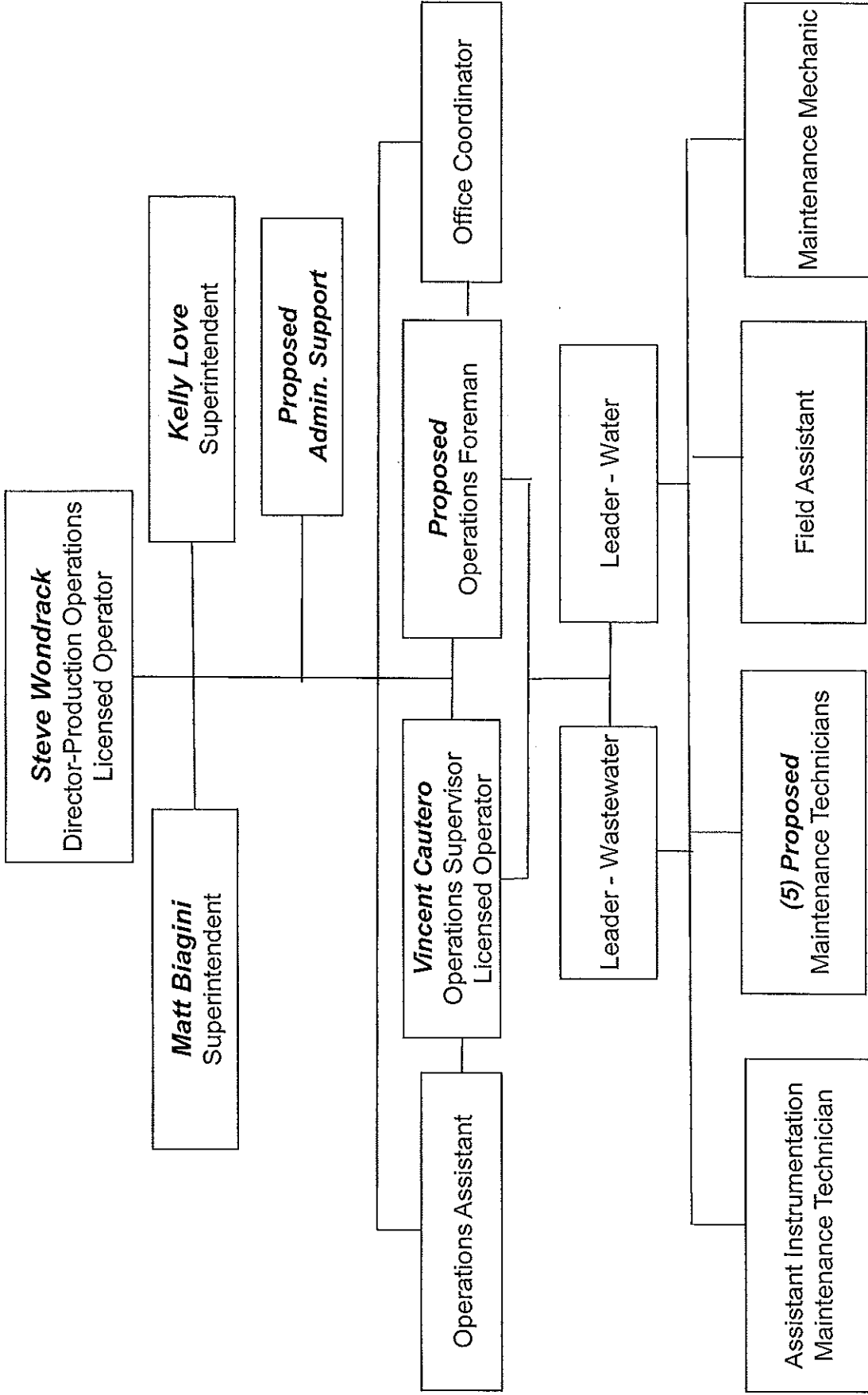


Exhibit L



Proposed Water Systems Capital Expenditures (20 years)

Work Description at the Water System	First Five Years CAPEX 2017-2021 (Addresses all violations and NOVs)	Next 15 Years of CAPEX 2022-2036
SCADA	\$ 82.5	\$ 3,135.0
General Security Items	\$ 237.5	\$ 495.0
Security Improvements- Cameras & Card Access Readers - NOT INCLUDED BUDGET DUE TO HIGH COST	\$ -	\$ -
Security/Vulnerability Assessment (Study)	\$44.0	\$ -
Tank Painting Annual Program w/Imps to take Tank off Line	\$ -	\$ 7,185.3
Well Rehabilitation	\$ 376.1	\$ 2,970.0
Annual Replacement of Misc. Failed Equipment (Well Pumps, Chemical Feed, Etc.)	\$ 412.5	\$ -
Customer Meter/RF Replacement (Over 3 Years)	\$ 489.5	\$ 632.5
AMI System - Assume 4 Collectors	\$ -	\$ 330.0
Production Meter Replacement (Every 5 years)	\$ 123.2	\$ 369.6
Arc Flash Study	\$ 197.4	\$ -
Leak Detection Survey	\$ 55.0	\$ 412.5
GIS Implementation	\$ -	\$ 188.0
Hydraulic Model	\$ -	\$ 188.0
Office Improvements/Security Installation/Facility Imps	\$ -	\$ -
Preliminary Studies	\$ 110.0	\$ 330.0
Master Plan	\$ 164.5	\$ 495.0
Rep/Rehab Mains & Valves - Asset Management - DSIC	\$ 235.0	\$ 12,043.8
Emergency Generator Installations	\$ 330.0	\$ 1,318.6
Interconnection Study/Additional Sources of Supply/Firm Capacity Issues/Emergency Interconnections	\$ -	\$ 2,750.0
UNKNOWN WATER QUALITY ISSUES THAT MAY REQUIRED ADDITIONAL TREATMENT (RADIONUCLIDES, UV, GWUDI, PERFORMANCE ISSUES WITH EXISTING TREATMENT, ETC.) - Annual Replacement of Misc. Failed Equipment (Well Pumps, Chemical Feed, Bldg. Improvements)	\$ -	\$ 2,640.0
Misc. well improvements (NOV)*	\$ 1,426.7	\$ 192.5
New Water tank at Parkway Facility (NOV)*	\$ 990.0	\$ -
Total Proposed Spending including engineering	\$ 5,274.01	\$ 35,675.89

*NOTE: Items required to address ACO/NOVs.

Proposed Sewer Systems Capital Expenditures (20 years)

Work Description of the Sewer Systems	First Five Years CAPEX 2017-2021 (addresses all violations and NOVs)	Next 15 Years of CAPEX 2022-2036
Birch Hill Sewer Plant Replacement	\$ 2,530.0	\$ -
Old Milford Estates STP Plant Replacement	\$ 13,475.0	\$ -
Crescent Park STP – abandon plant and divert flow to New Regional Plant (Old Milford Plant)	\$ 2,821.5	\$ -
High View Acres STP – abandon plant and divert flow to Old Milford Plant	\$ 2,179.1	\$ -
Bald Eagle Village STP – abandon plant and divert flow to Old Milford Plant	\$ -	\$ 1,410.3
Misc. Sewer System Improvements	\$ 4,912.3	\$ 3,402.8
Total Proposed Spending including engineering	\$ 25,917.9	\$ 4,813.0

NOTE: All sewer plants identified are subject to the ACOs and NOVs.

Total first five years spending on both water and sewer systems is estimated to be over \$31 million. The next 15 years estimated spending is around \$40 million.

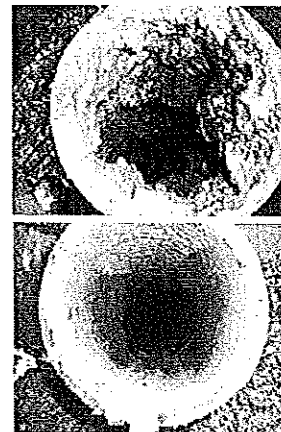
Engineering and CAPEX Management

SUEZ owns 15 utilities nationwide, its largest located in northern New Jersey and is one of the largest private water companies in the United States. Locally here in New Jersey, our water utility network in northern New Jersey encompasses:

- 2,210 miles of main
- 14 active storage tanks with total storage of 54 million gallons
- 206,480 service lines (domestic and fire)
- 23 pumping and booster stations
- 15,674 hydrants & 47,438 valves
- 19 pressure districts

Capital projects in the past few years here in New Jersey have included upgrading and installing new pump stations, building new water tanks and painting existing tanks, major backup generator electrical projects, new water mains or replacing existing mains, cleaning and lining projects, building renovations, dam improvement projects, surveying and hydraulic modeling, as well as sewer treatment projects. SUEZ commits significant investments to the improvement and maintenance of water and wastewater infrastructure for over 1.7 million New Jersey residents.

As part of our Capital Plan, the SUEZ engineering team will prepare and implement capital plans and budgets each year based on comprehensive facility evaluations, long-term planning, and immediate system needs.



The engineering team has project managers with expertise in potable water systems in the following categories:

- Ground and surface water supplies
- Water treatment
- Pump stations
- Transmission and distribution system upgrades and renewals
- Hydraulic modeling
- Water storage tank maintenance and improvements
- Main replacements and cleaning and lining
- Customer meter replacement
- Remote and advanced metering technology (AMI)
- Supervisory Control and Data Acquisition (SCADA)
- Facility improvements
- Utility master planning
- Water allocation and general permitting
- Non-revenue water planning, investigations and reduction projects

Project managers also have expertise in the collection, transmission and treatment of wastewater:

- Collection system maintenance and renewal, including laterals, manholes and mains
- Pump stations
- Wastewater treatment
- General plant improvements
- Permitting
- Infiltration and inflow (I&I) planning, investigations and reduction projects

The SUEZ team owns and operates wastewater treatment plants in Arlington, West Milford and Princeton Meadows, New Jersey. In Arlington and Princeton Meadows, SUEZ has conducted I&I studies including system-wide assessment by performing flow metering at strategic locations (Phase I Study) in order to identify and concentrate follow-up activities in specific problem areas. Phase II studies, in problem areas, have included smoke testing, television inspection, manhole inspections, wet weather flood mapping and other activities to identify I&I sources as well as portions of the sewer system in need of renewal. At the end of the investigations, rehabilitation (pipe joint sealing, short-liner repairs, manhole grouting, etc.) and replacement (pipe replacement, frame and cover replacement, etc.) have been performed to reduce I&I and address identified deficiencies.

The required capital improvements will require municipal and state approval. Approvals under the Highlands Protection and Planning Act of 2004 and by the NJDEP are required for the West Milford area and add an extra layer of complexity when constructing water and/or wastewater systems in this area. SUEZ currently owns the Vernon and West Milford Bald Eagle systems and has extensive experience with permitting projects in the Highlands area in Northwest New Jersey. The Barry Lakes pH Treatment Project in Sussex County is an example of a project involving both NJDEP and Highland Council permit approvals. We were able to obtain the requisite approvals from the NJDEP and the Highlands Council and close the project out on time and within budget.

Hydraulic Modeling

The SUEZ engineering team will build and/or implement a hydraulic model of the distribution system. The hydraulic model will be used as an operating tool to determine system impacts and water quality issues during emergencies. The model can also be used to identify necessary system improvements including piping and pumping modifications.

Facility Evaluation

The SUEZ engineering team is capable of assessing facilities and assets within a system and providing a report that will identify repairs and system upgrades that require immediate attention or long-term planning.

Wells – Testing, Permitting and Rehabilitation

SUEZ owns and/or operates over 100 potable, raw water and Aquifer Storage and Recovery (ASR) wells. SUEZ engineering has vast experience with the testing, permitting and rehabilitation of wells. To optimize performance, wells can be assessed for operational sequencing and aquifer recovery.

SCADA Implementation

Supervisory Control and Data Acquisition (SCADA) systems will be implemented for remote system operation, and to monitor performance and reliability.

Tank Maintenance and Painting Supervision

A system analysis will be conducted related to the inspection, repairs, maintenance and painting of water storage tanks. Analyses include system impacts with the tank out of service, counter measures to ensure service reliability and neighborhood impact (noise, visual, traffic, etc.).

Electrical Inspections and Evaluations

Electrical equipment and distribution systems will be evaluated for condition, suitability, and conformance with applicable codes. Backup power systems will also be evaluated for ability to supply a facility with power in the event of an emergency.

Energy Audits

Electrical engineers will perform comprehensive electrical energy audits for pump stations, treatment plants and other facilities.

Construction Management of Capital Projects

All aspects of capital improvement projects will be managed, including bidding, inspection and project management.

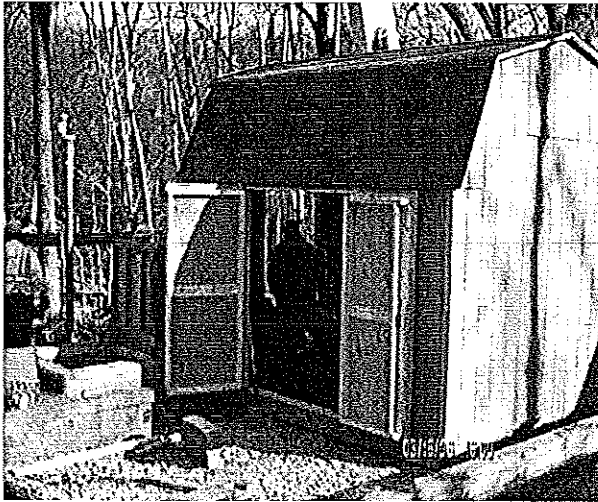
New Business

SUEZ works with new and existing customers to ensure their service needs are met, ranging from new or enlargement of services for single family homes to main extensions for new developments.

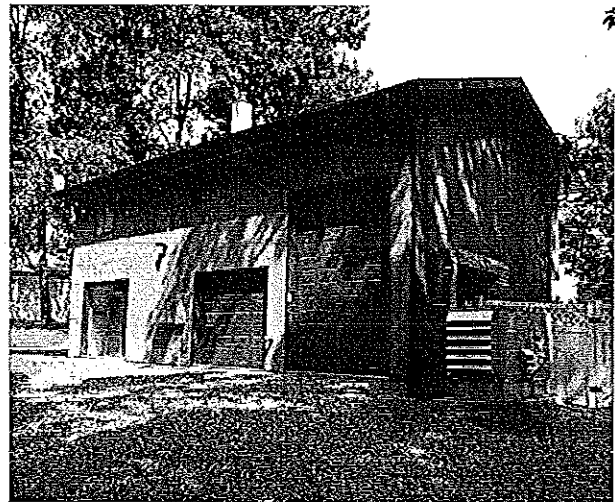
Emad Sidhom, P.E. will be responsible for the capital improvement plan for the WMMUA systems and lead the engineering team. His resume is shown in Appendix B.

Examples of Recent Capital Projects

Uranium Treatment – Sussex Hills

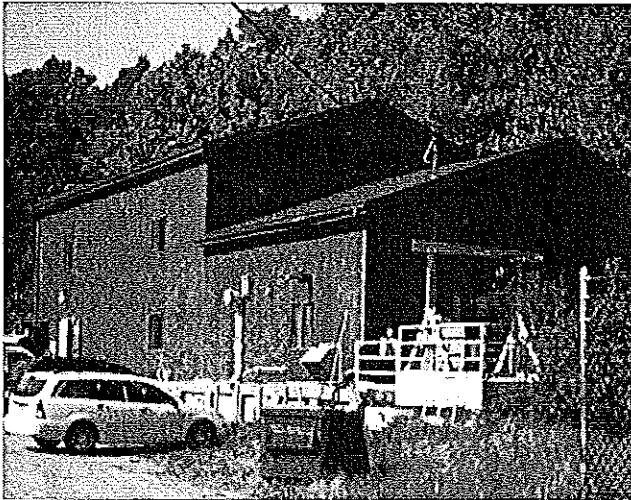


Before



After

Arlington Hills Wastewater Treatment Plant Replacement, 0.25 MGD



Before



After