

WASTEWATER TREATMENT & CONVEYANCE AGREEMENT

BETWEEN

THE TOWNSHIP OF WEST MANCHESTER

AND

PENNSYLVANIA-AMERICAN WATER COMPANY

\_\_\_\_\_, 2022

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## EXHIBITS

- Exhibit A – Points of Connection, System Map and Meter Connections (**CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION**)
- Exhibit B – IPP Establishments
- Exhibit C – Pennsylvania-American Water Company’s Rules and Regulations
- Exhibit D – Capacity Allocation and Limitations
- Exhibit E – Laterals and Mains
- Exhibit F – Certificate of Insurance
- Exhibit G – Sample Sewer Usage Charges
- Exhibit H – Inflow and Infiltration Specifications

**WASTEWATER TREATMENT & CONVEYANCE AGREEMENT**

THIS WASTEWATER TREATMENT & CONVEYANCE AGREEMENT is made on \_\_\_\_\_ day of \_\_\_\_\_, 2022 between Pennsylvania-American Water Company (“Pennsylvania-American”), 852 Wesley Drive, Mechanicsburg, PA 17055 and the Township of West Manchester (“West Manchester Township”), York County, Pennsylvania.

WHEREAS, Pennsylvania-American is a regulated water and wastewater public utility, organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, Pennsylvania-American anticipates acquiring and then operating a wastewater treatment plant and a collection and conveyance system, providing public sewer services to various municipalities in and near York County, Pennsylvania, which wastewater treatment facilities currently are owned and operated by the York City Sewer Authority (the “York System”); and

WHEREAS, West Manchester Township owns and operates the West Manchester Township Collection System (defined below) in West Manchester Township, York County, Pennsylvania; and

WHEREAS, West Manchester Township is a municipal corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, and provides wastewater collection service to residential, commercial, industrial and institutional users within the municipal limits of West Manchester Township; and

WHEREAS, the West Manchester Township Collection System (defined below) is connected to the York System to be acquired by Pennsylvania-American at Points of Connection (defined below) set forth on Exhibit A (**CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION**); and

WHEREAS, upon the closing of the transaction to acquire the York System, Pennsylvania-American will provide wastewater conveyance, treatment and disposal services for West Manchester Township to discharge its Wastewater (defined below) into the Sewage System (defined below); and

WHEREAS, Pennsylvania-American will provide Industrial Pretreatment Program (defined below) services directly to certain industrial customers within the municipal boundaries of West Manchester Township; and

WHEREAS, it is in the public interest that both Pennsylvania-American and West Manchester Township reach an agreement whereby Pennsylvania-American accepts, treats and disposes of Wastewater from West Manchester Township at the Treatment Plant (defined below) pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and obligations set forth in this Agreement and intending to be legally bound hereby, Pennsylvania-American and West Manchester Township agree as follows:

**Article I – DEFINITIONS**

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

Additional Capacity Reservation Fee – A capacity reservation fee paid by West Manchester Township in an amount set forth in Rules and Regulations (defined below), for capacity at the Treatment Plant made

available by Pennsylvania-American under Section 2 of Article V (regarding “Purchase of Additional Existing Capacity”).

AOCC – The US EPA Administrative Order for Compliance on Consent dated September 29, 2021, in order to comply with the effluent limitations, terms and conditions of NPDES Permit No. PA0026263 effective September 1, 2017 or in any required amendment to the AOCC.

Applicable Law – (1) any federal, state or local law, code or regulation; (2) any formally adopted and generally applicable rule, requirement, determination, standard, policy, or implementation schedule of any Governmental Authority having jurisdiction; (3) any established interpretation of law or regulation utilized by a Governmental Authority if such interpretation is documented by such Governmental Authority and generally applicable; (4) any Governmental Approval; and (5) any Order; in each case having the force of law and applicable to the design, improvement, operation, maintenance, repair or performance of the Treatment Plant or the management of Residuals.

BOD (Biochemical Oxygen Demand) – The quantity of oxygen expressed in terms of concentration as milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for 5 days at 20° Centigrade. The standard laboratory procedure is set forth in the latest edition of “Standard Methods for the Examination of Water and Wastewater” published by the American Public Health Association, the American Water Works Association, and/or the Water Pollution Control Federation.

Change of Law – The adoption, issuance, modification or change of interpretation of any Applicable Law by a Governmental Authority, involving any of the following requirements affecting the design, capacity, improvement, operation, maintenance, or repair or performance of the Treatment Plant or the management of Residuals that are more stringent than those in effect on the CoL Date, that are applicable to the Treatment Plant and that require implementation of a Material CapEx Project or result in a Material O&M Expense Increase:

- (1) New or more stringent effluent limits, treatment standards, air emission limits, or requirements applicable to management of Residuals at the Treatment Plant;
- (2) Requirements to reduce the energy consumption or increase the energy efficiency of the Treatment Plant, or to limit the types of energy sources that the Treatment Plant may utilize;
- (3) Requirements relating to floodplain management or floodproofing of the Treatment Plant;
- (4) Assessment of taxes, fees or charges by a Governmental Authority based upon the volume and/or concentration of effluent discharged by the Treatment Plant; or
- (5) Any other more stringent change to Applicable Law requiring modification of the design capacity, treatment processes, physical plant or equipment, operation, maintenance, repair or performance of the Treatment Plant or management of Residuals.

City of York Collection System – The wastewater collection system, including all related and necessary facilities, owned and operated by Pennsylvania-American, including all future additions, extensions and improvements to it, that exclusively serves the customers located within the City of York.

Connected Municipalities – the Township of Manchester, the Borough of North York, the Township of Spring Garden, the Township of Springettsbury, and the Township of York; provided that the term Connected Municipalities shall include the system in the Borough of West York owned and operated by

The York Water Company if The York Water Company executes a bulk services agreement materially consistent with the terms of this Agreement.

CoL Date - January 1, 2022.

CoL Surcharge – Defined in Section 1 of Article VIII.

CPI – A number equal to the rolling three (3) year average percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers, Series Id: CWUR0000SEHG01, Water and sewerage maintenance in U.S. city average, water and sewerage maintenance (1982-84 = 100), non-seasonally adjusted.

Customer Expansion Request – A request by West Manchester Township to Pennsylvania-American to expand Treatment Plant capacity for the use and benefit of West Manchester Township in exchange for the payment of an Additional Capacity Reservation Fee.

Domestic Wastewater – The liquid waste or liquid borne waste: (1) resulting from the non-commercial preparation, cooking and handling of food; (2) consisting of human excrement; or (3) consisting of wastewater, non-commercial laundering water, domestic housekeeping wastewater, and similar types of wastes from domestic sanitary uses.

Effective Date – The date of the consummation of the transaction between Pennsylvania-American and the City of York regarding the acquisition of the Sewage System by Pennsylvania-American.

Equivalent Dwelling Unit or “EDU” – The equivalent of 350 gallons per day per residential user.

Governmental Approval – Any permit, license, certificate, Order, consent, authorization, franchise, registration, or other approval from, or required by, any Governmental Authority.

Governmental Authority – Any federal, state, county, municipal, or regional legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any official thereof, having jurisdiction.

GPD – The gallons of Wastewater discharged during a 24-hour period from midnight to midnight.

Hauled Wastes – All Residuals that are introduced into the West Manchester Township’s Collection System that is discharged from a tank truck or other hauling vehicle.

Identified Bulk Municipalities – Collectively, the Township of Manchester, the Borough of North York, the Township of Spring Garden, the Township of West Manchester, and the Township of York, collectively, the “Identified Bulk Municipalities”; provided that the term Identified Bulk Municipalities shall include the system in the Borough of West York owned and operated by The York Water Company if The York Water Company executes a bulk services agreement materially consistent with the terms of this Agreement.

Industrial/Commercial Waste Pretreatment Program or IPP – On and after the Effective Date, the program established by Pennsylvania-American that requires the establishments set forth on Exhibit B to monitor, test, treat and control as necessary pollutants in their Wastewater prior to discharge into the West Manchester Township Collection System and then into the Sewage System.

Industrial/Commercial Waste – Industrial waste originating from the establishments set forth on Exhibit B, as distinct from Domestic Wastewater. For the purposes of this Agreement, the terms “industrial waste” and “establishment” are defined in Section 1 of the Act of June 22, 1937 (P.L.1987, No.394), as amended, known as The Clean Streams Law.

Infiltration – The seepage of groundwater into the West Manchester Township Collection System or the Sewage System, including service connections, which occurs through defective or cracked pipes, pipe joints, connections and manholes.

Inflow – Stormwater that enters the West Manchester Township Collection System or the Sewage System directly, through sources including but not limited to: storm drains, area drains, roof drains, sump pumps, manhole covers, etc.

Material CapEx Project – A project or group of directly related projects (determined to be prudent and recoverable by the PaPUC) necessary to comply with requirements imposed by one or more Change of Law events that involve physical improvements to the Treatment Plant requiring a capital expenditure of \$1,000,000 or more with respect to Items (1)-(4) in the definition of “Change of Law” or \$3,000,000 or more with respect to Item (5) in the definition of “Change of Law”, *except that* a “Material CapEx Project” does not include any capital project that (i) was included in the Planned Capital Projects; (ii) is necessary in order for Pennsylvania-American to comply with Applicable Law on or prior to the CoL Date; (iii) is necessary to implement the ten (10) corrective action projects specified in the AOCC; or (iv) is related exclusively to the City of York Collection System (provided further that exceptions (ii) and (iii) do not apply to any more stringent effluent limitations, requirements, terms and conditions contained in any NPDES Permit or in any amendment to the AOCC or other Order by USEPA after the CoL Date).

Material O&M Expense Increase – An increase in the total costs of operation and maintenance of the Treatment Plant (determined to be prudent and recoverable by the PaPUC) (“Treatment Plant O&M Costs”) necessary to comply with requirements imposed by a single Change of Law event or related Change of Law events (A) by 4.0 percent or more with respect to increased O&M costs associated with a Material CapEx Project; or (B) for O&M costs not associated with a Material CapEx Project, by 6.0 percent or more with respect to Items (1)-(4) in the definition of “Change of Law” or 9.0 percent or more with respect to Item (5) in the definition of “Change in Law”, in each case compared to the Treatment Plant O&M costs absent such requirements, *except that* a “Material O&M Expense Increase” does not include (i) any increased O&M costs arising from Planned Capital Projects; (ii) increased O&M costs for Pennsylvania-American to comply with Applicable Law on or prior to the CoL Date; (iii) increased O&M costs to implement the ten (10) corrective action projects specified in the AOCC; or (iv) increased O&M costs related exclusively to the City of York Collection System (provided further that exceptions (ii) and (iii) do not apply to any more stringent effluent limitations, requirements, terms and conditions contained in any NPDES Permit or in any amendment to the AOCC or other Order by USEPA after the CoL Date).

Meter Locations – The meter pits, manholes, or other locations where Pennsylvania-American wastewater flow meters are located.

Order – Any judicial order or administrative order issued by a Governmental Authority, including any decree, consent decree, consent order, decision or similar document, imposing obligations with respect to the design, improvement, operation, maintenance, or repair or performance of the Treatment Plant or the management of Residuals.

Party – West Manchester Township or Pennsylvania-American and the term “Parties” means collectively West Manchester Township and Pennsylvania-American.



PaDEP – The Pennsylvania Department of Environmental Protection.

PaPUC – The Pennsylvania Public Utility Commission.

Planned Capital Projects – Those capital projects included Pennsylvania-American’s financial assumptions and projections for the York System that provide the basis for agreeing upon the base Sewer Use Charge set forth in the Agreement.

Point of Connection – Point or points at which (i) Pennsylvania-American receives and conveys Wastewater from the West Manchester Township Collection System to a point for treatment and disposal at the Sewage System and (ii) Pennsylvania-American discharges wastewater into the West Manchester Township Collection System. Each Point of Connection is set forth on Exhibit A (**CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION**), as updated from time to time by the mutual agreement of the Parties.

Rate Deficiency Finding – The entry of a final and unappealable order by the PaPUC, after the Effective Date, finding that the Sewer Use Charge or any other charge under this Agreement is inadequate to recover Pennsylvania-American’s cost to provide service (including, where applicable, a reasonable return on capital investment) from West Manchester Township and directing that such shortfall be imputed to Pennsylvania-American’s shareholders. A Rate Deficiency Finding will not be considered a Change of Law.

Regulatory Rate Change – The entry of a final and unappealable final order by the PaPUC, after the Effective Date, ordering that the Sewer Use Charge or any other charge under this Agreement be increased.

Residuals – Any solid, liquid or other wastes produced in the course of operation, maintenance and repair of the Treatment Plant. By way of illustration, but without limitation, Residuals include sludges generated in the course of treatment processes at the Treatment Plant.

Rules and Regulations – Exclusive of the Sewer Use Charge or any CoL Surcharge, which are set solely by the terms of this Agreement, the then-current rules and regulations established by Pennsylvania-American from time to time as approved by the PaPUC. The current Rules and Regulations are set forth on Exhibit C.

Sewage System – The existing sanitary wastewater collection, conveyance, treatment and disposal facilities, together with other related facilities and appurtenances and any future additions, modifications and improvements thereto, in and adjacent to the City of York (including the City of York Collection System), which will be owned and operated by Pennsylvania-American on the Effective Date and which are utilized in part for the collection and conveyance of Wastewater originating from the West Manchester Township’s Points of Connection through the Treatment Plant.

Sewer Use Charge – The Sewer Use Charge for West Manchester Township is \$3.75/1,000 gallons until the third anniversary of the Effective Date (“Freeze Period”) and thereafter determined in accordance with Article VII.

State of Emergency – A state of emergency that is declared by authorities of the Commonwealth of Pennsylvania or the United States of America that causes an increase in Wastewater flow into the Treatment Plant for an area including West Manchester Township, the Connected Municipalities or the City of York.

Term – Defined in Section 1 of Article III.

Total Suspended Solids (“TSS”) – The total matter in water, wastewater or other liquids which is retained by laboratory filtering, expressed in terms of concentration as milligrams per liter.

Treatment Plant – Existing wastewater treatment plant facility, which is part of the Sewage System and will be owned and operated by Pennsylvania-American on the Effective Date, utilized in part for the treatment and disposal of Wastewater originating from the West Manchester Township Collection System, together with any additions, modifications and/or improvements thereto.

US EPA – The United States Environmental Protection Agency.

Wastewater– Any used water and water-carried solids collected or conveyed by a sewer, including:

- (1) Sewage, as defined in Section 2 of the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act;
- (2) Industrial/Commercial Waste subject to the IPP;
- (3) Infiltration or Inflow; and
- (4) Other water containing solids or pollutants.

The term does not include stormwater collected in a municipal separate storm sewer, as that term is defined by 40 CFR 122.26(b)(8) (relating to stormwater discharges (applicable to State NPDES programs, see §123.25)).

Wastewater Quality Standards – Defined in Section 8 of Article III.

West Manchester Township Collection System – The wastewater collection system, including all related and necessary facilities, owned and operated by West Manchester Township, including all future additions, extensions and improvements to it.

## Article II – CONVEYANCE AND TREATMENT AND INFORMATION SHARING

Section 1 – Covenants to Convey, Treat and Dispose. West Manchester Township shall (i) convey all Wastewater flowing through the West Manchester Township Collection System to the Sewage System (at one or more Points of Connection set forth on Exhibit A (CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION)) and (ii) pay the Sewer Use Charge and other charges, as applicable, to Pennsylvania-American in accordance with this Agreement. Pennsylvania-American shall (i) accept all Wastewater conveyed from West Manchester Township to the Sewage System (at one or more Points of Connection set forth on Exhibit A (CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION)); (ii) treat and dispose of all conveyed Wastewater in common with other wastes flowing from and through the Sewage System and (iii) charge the Sewer Use Charge and other charges, as applicable, in accordance with this Agreement. In accordance with Section 4 of Article III, Pennsylvania-American may discharge Wastewater originating from the Sewage System (at one or more Points of Connection set forth on Exhibit A (CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION)) in accordance with this Agreement.

Section 2 – Covenants to Maintain and Operate Systems. The Parties shall operate each of their systems (West Manchester Township Collection System and the Sewage System) continuously and keep

and maintain the same at all times in good repair and order, and in good and efficient operating condition, and to meet the standards prescribed by the PaDEP, the PaPUC or any other Governmental Authority having jurisdiction over the Parties' respective systems.

### Article III – RIGHTS AND OBLIGATIONS OF THE PARTIES

**Section 1 – Term.** This Agreement is effective as of the Effective Date and continues in effect for a period of forty (40) years from the Effective Date (the “Term”). After expiration of the Term, the Agreement will continue in effect until one Party terminates the Agreement upon at least three (3) years written notice to the other Party.

Notwithstanding the previous paragraph, during the Term:

- i) If a Regulatory Rate Change takes effect, West Manchester Township may terminate the Agreement upon five (5) years written notice of termination to Pennsylvania-American. West Manchester Township may provide the notice of termination within one (1) year of the effective date of the Regulatory Rate Change. Pennsylvania-American shall not directly or indirectly request or advocate for a Regulatory Rate Change.
- ii) If a Rate Deficiency Finding takes effect, Pennsylvania-American may terminate the Agreement upon nine (9) years written notice of termination to West Manchester Township. Pennsylvania-American may provide notice of termination within one (1) year of the effective date of the Rate Deficiency Finding.
- iii) During the first six (6) months after a Party gives notice of early termination under this paragraph, the Parties shall engage in good faith negotiations regarding a revised Sewer Use Charge or other charge. Upon the request of one Party, the Parties will enlist the assistance of a qualified, mutually acceptable mediator in the negotiation. The costs of the mediator will be shared equally.

**Section 2 – Permits and Permitted Treatment Capacity.** The Parties acknowledge that the Treatment Plant has permitted capacities set forth in NPDES Permit No. PA0026263 dated September 1, 2017, issued by the PaDEP. During the Term, Pennsylvania-American shall, subject to any change in law, rule, regulation or order by Governmental Authority that was neither requested by Pennsylvania-American nor brought about by its inaction, maintain the rated treatment capacity permitted on the Effective Date.

**Section 3 – Additional Connections.** West Manchester Township may, provided it is in compliance with respect to its obligations under this Agreement, make additional connections to the West Manchester Township Collection System provided that the connection or connections do not cause the total amount of Wastewater treated at the Treatment Plant to exceed the capacity allocation limitations for West Manchester Township set forth in Exhibit D.

**Section 4 – Right to Discharge to West Manchester Township Collection System and Reconciliation of Inter-Municipal Discharges.** West Manchester Township grants Pennsylvania-American the right to discharge Wastewater originating from the Sewage System at one or more Points of Connection set forth on Exhibit A (CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION). Pursuant to this Section 4, Pennsylvania-American shall deduct the discharge amounts from the Sewage System from the total Wastewater flow amount from West Manchester Township to the Sewage System in calculating the Sewer Use Charge or any CoL Surcharge. Discharge amounts from Pennsylvania-American to West Manchester Township will be determined for purposes of calculating final Sewer Use Charge as follows:

- i) If metered, the existing wastewater meter pits will be used to measure the amount of wastewater discharged from the Sewage System into the West Manchester Township

Collection System and that amount will be deducted from the existing Wastewater meter total calculations for the Wastewater discharge entering back into the Sewage System from the West Manchester Township Collection System.

- ii) If unmetered and water usage data is available, the discharge from the Sewage System to the West Manchester Township Collection System will be calculated by multiplying water usage data by a factor of 1.3x to account for Infiltration and Inflow and that amount will be deducted from the existing Wastewater meter total calculations for the Wastewater discharge entering back into the Sewage System from the West Manchester Township Collection System.
- iii) If unmetered and water usage data is not available, discharge from the Sewage System to the West Manchester Township Collection System will be calculated by multiplying the number of unmetered EDUs discharging to West Manchester Township Collection System, as determined consistent with the Rules and Regulations, by 350 gallons per day and that amount will be deducted from the existing Wastewater meter total calculations for the Wastewater discharge entering back into the Sewage System from the West Manchester Township Collection System.

Pennsylvania-American and West Manchester Township will continue to work in good faith to develop the information and systems necessary for Pennsylvania-American to be able to reconcile Wastewater discharges between West Manchester Township and the Connected Municipalities for billing purposes. As soon as commercially reasonable, discharge amounts among West Manchester Township and any of the other Connected Municipalities (“Other Municipality”) will be determined for purposes of calculating the final Sewer Use Charge and other charges permitted under this Agreement as follows:

- i) If metered, (a) the metered discharge from the West Manchester Township Collection System to Other Municipality collection system will be added by Pennsylvania-American to the West Manchester Township existing Wastewater meter total calculations for the Wastewater discharge entering the Sewage System from the West Manchester Township Collection System; and, (b) the metered discharge from Other Municipality collection system to the West Manchester Township Collection System will be deducted by Pennsylvania-American from the West Manchester Township existing Wastewater meter total calculations for the Wastewater discharge entering the Sewage System from the West Manchester Township Collection System.
- ii) If unmetered and water usage data is available, (a) discharge from West Manchester Township Collection System to Other Municipality collection system will be calculated by multiplying water usage data by a factor of 1.3x to account for Infiltration and Inflow and that amount will be added to the West Manchester Township existing Wastewater meter total calculations for the Wastewater discharge entering the Sewage System from the West Manchester Township Collection System; and, (b) discharge from Other Municipality collection system to the West Manchester Township Collection System will be calculated by multiplying water usage data by a factor of 1.3x to account for Infiltration and Inflow and that amount will be deducted from the West Manchester Township existing Wastewater meter total calculations for the Wastewater discharge entering the Sewage System from the West Manchester Township Collection System.
- iii) If unmetered and water usage data is not available, (a) discharge from the West Manchester Township Collection System to Other Municipality collection system will be calculated by multiplying the number of unmetered EDUs discharging from the West Manchester

Township Collection System, as determined consistent with the Rules and Regulations, by 350 gallons per day and that amount will be added to the West Manchester Township existing Wastewater meter total calculations for the Wastewater discharge entering the Sewage System from the West Manchester Township Collection System; and, (b) discharge from Other Municipality collection system to the West Manchester Township Collection System will be calculated by multiplying the number of unmetered EDUs discharging from any other Bulk Customer Collection System, as determined consistent with the Rules and Regulations, by 350 gallons per day and that amount will be deducted from the West Manchester Township existing Wastewater meter total calculations for the Wastewater discharge entering the Sewage System from the West Manchester Township Collection System.

Pennsylvania-American's obligation to true-up discharge amounts between West Manchester Township and any Other Municipality under this Section 4 terminates on the date that this Agreement or any of the substantially similar bulk wastewater conveyance and treatment agreements with Pennsylvania-American and the Other Municipality terminates. West Manchester Township shall report discharge amounts to Pennsylvania-American as soon as reasonably practicable in advance of the end of Pennsylvania-American's billing period for West Manchester Township. After invoicing by Pennsylvania-American, any dispute between West Manchester Township and the Other Municipality shall be resolved between West Manchester Township and the Other Municipality without the involvement of Pennsylvania-American.

**Section 5 – Continuance of Connections and Flow.** After the Effective Date and for so long as the Agreement is in effect, West Manchester Township shall not disconnect from the Points of Connection or otherwise direct any of its Wastewater flow to another treatment provider other than Pennsylvania-American unless mutually agreed by the Parties (or otherwise authorized by West Manchester Township's Act 537 Plan). Any disconnection by West Manchester Township from the Points of Connection shall be done in compliance with the Rules and Regulations. West Manchester Township retains the right to routinely update its Act 537 planning in accordance with Applicable Law. West Manchester Township will not directly or indirectly request or advocate for a change to its Act 537 Plan such that its Wastewater flow will be diverted to another treatment provider other than projects that are underway in accordance with its current Act 537 Plan.

Except where prohibited by an Act 537 Plan, West Manchester Township shall afford a right of first refusal to Pennsylvania-American for new or additional Wastewater flow where West Manchester Township has a viable alternative treatment provider and Pennsylvania-American is willing and able to meet the lower cost of the alternative treatment provider. In such circumstance, the Parties shall also discuss in good faith the possibility of a new Pennsylvania-American treatment facility to service the new or additional Wastewater flow.

**Section 6 – Extra-Territorial Connections.** West Manchester Township shall not offer wastewater service to customers or other municipalities outside of its borders without the prior consent of Pennsylvania-American. West Manchester Township shall direct any request for wastewater service from customers or municipalities outside of West Manchester Township's borders to Pennsylvania-American.

**Section 7 – Rules and Regulations.** Pennsylvania-American shall maintain and enforce the Rules and Regulations. Except as may otherwise be provided in this Agreement, West Manchester Township shall adopt and enforce resolutions or ordinances and keep those resolutions or ordinances in full force and effect during the Term that establish rules and regulations consistent with the Rules and Regulations and with this Agreement. If Pennsylvania-American changes or updates its Rules and Regulations in a manner that affects a material term or condition of this Agreement, Pennsylvania-American shall provide West Manchester Township reasonable notice and reasonable time to make any necessary changes to its

resolutions or ordinances. Nothing contained in this Agreement prohibits West Manchester Township from challenging a change or update to the Rules and Regulations before the PaPUC. West Manchester Township shall provide authorized representatives of Pennsylvania-American with access, at reasonable times, to the West Manchester Township Collection System in order to assure compliance with the terms of this Agreement. Pennsylvania-American shall provide authorized representatives of West Manchester Township with access, at reasonable times, to the Sewage System in order to ensure compliance with the terms of this Agreement. During the times of access, the Parties or their duly authorized representatives may inspect the West Manchester Township Collection System connections and identify to West Manchester Township any connection that Pennsylvania-American finds to be in violation of the provisions of this Agreement, the requirements of PaDEP, or the Rules and Regulations.

**Section 8 – Wastewater Quality Standards.** Pennsylvania-American has adopted or will adopt reasonable and uniform Wastewater quality standards applicable to the Sewage System that are set forth in Exhibit C, which are designed to ensure that Pennsylvania-American complies with the requirements of PaDEP, US EPA and other Governmental Authorities having jurisdiction over the Treatment Plant (singularly, a “Wastewater Quality Standard” and, collectively, the “Wastewater Quality Standards”).

Pennsylvania-American shall not change the Wastewater Quality Standards except upon reasonable prior notice to West Manchester Township and an explanation regarding what new applicable requirement requires the change. Except when not permitted by Applicable Law or the PaPUC, Pennsylvania-American shall provide West Manchester Township with complete copies of all Wastewater Quality Standards at least sixty (60) days prior to their implementation.

West Manchester Township shall cause the Wastewater discharged from the West Manchester Township Collection System into the Sewage System to comply with the Wastewater Quality Standards. The Parties agree that West Manchester Township shall, within six (6) months of receiving notification from Pennsylvania-American of violation of a Wastewater Quality Standard, enable and support Pennsylvania-American to complete enforcement steps, including but not limited to the enforcement rights granted to Pennsylvania-American in the applicable ordinances and resolutions regarding violations of Wastewater Quality Standards.

**Section 9 – Future Land Development.** West Manchester Township shall submit all proposed land development planning modules for all land developments to be served by the Sewage System to Pennsylvania-American for review and approval of the proposed planning module, prior to approval by West Manchester Township and prior to submitting it to PaDEP for approval. Pennsylvania-American shall provide West Manchester Township any planning modules that may affect the Wastewater flows from Pennsylvania-American that are conveyed through the West Manchester Township Collection System to the Sewage System for review and approval by West Manchester Township. If West Manchester Township utilizes a PaDEP sewage planning mailer, West Manchester Township shall submit the mailer to Pennsylvania-American for review and confirmation of ability to treat prior to submitting it to PaDEP for approval.

#### Article IV – COLLECTION FACILITIES, METERS AND INTERCONNECTIONS

**Section 1 – Systems and Ownership.** West Manchester Township owns and is solely responsible for the West Manchester Township Collection System. On the Effective Date, Pennsylvania-American will own and be solely responsible for the Sewage System.

**Section 2 – Laterals.** West Manchester Township shall adopt rules and regulations governing the installation of laterals and main sewers connecting properties in West Manchester Township to the West



Manchester Township Collection System, which shall be at least as stringent as requirements for similar installations adopted by Pennsylvania-American as set forth on Exhibit E.

**Section 3 – Rights of Way.** West Manchester Township grants to Pennsylvania-American, and its successors and assigns, all easements, rights-of-way, and other rights necessary in, along, over, and under streets, roads, lanes, courts, public squares, alleys, and roadways of West Manchester Township in, along, over, or under which the Sewage System has been constructed, together with free ingress, egress, and regress therein and thereto, along with other persons having interests or rights therein, for use in connection with constructing, replacing, repairing, altering, maintaining, and operating the Sewage System and roadways of West Manchester Township in accordance with the standards of the Pennsylvania Department of Transportation with respect to similar repairs of comparably constructed state roadways.

**Section 4 – Meters.** The Meter Locations at the Points of Connection, or any future Meter Locations installed by Pennsylvania-American at its discretion and cost, where West Manchester Township Wastewater is discharged into the Sewage System and Meter Locations where Pennsylvania-American wastewater is discharged into the West Manchester Township Collection System shall be owned and maintained by Pennsylvania-American. Pennsylvania-American shall read the meter monthly. Where available, Pennsylvania-American will utilize continuous data recording capability and shall cause the meters to record data electronically with sufficient data storage capacity to store at least twelve (12) months of Wastewater flow data with similar backup storage capacity. Pennsylvania-American shall cause the meters to be designed to operate without extraordinary operator intervention. Pennsylvania-American shall share meter data with West Manchester Township on a monthly basis. Meters are located at the Points of Connection set forth on Exhibit A (**CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION**), as updated from time to time as provided for in this Section 4.

Pennsylvania-American shall cause all meters to be installed and maintained in accordance with accepted industry hydraulic standards.

Pennsylvania-American shall cause the future Meter Locations to be installed at the Points of Connection or at a location that is mutually acceptable to the Parties and to the standards approved by Pennsylvania-American. The costs to install future Meter Locations will be borne by the Party requesting the installation.

Pennsylvania-American shall have the meters calibrated by a qualified technician annually or more frequently in the sole discretion of Pennsylvania-American. The cost of such meter calibration inspections and the cost of any repairs or replacement shall be borne by Pennsylvania-American. Pennsylvania-American shall notify West Manchester Township at least one (1) week in advance of a calibration. West Manchester Township shall grant all necessary access to Pennsylvania-American, its personnel and its agents to accomplish the maintenance and calibration of the meters.

West Manchester Township has the right to observe the calibration, and receive a copy of the calibration report. If the West Manchester Township representative fails to appear in response to such notice, the meter test will be binding. West Manchester Township shall have the right at any time upon request to perform a calibration check of the meter to determine its accuracy. If results of a requested calibration shows that the meter was malfunctioning by variations from actual flow of less than five (5%) percent, then all costs of the requested calibration will be paid by West Manchester Township. If results of a requested calibration shows that the meter was malfunctioning by variations from actual flow of five (5%) percent or more, then all costs of the requested calibration will be paid by Pennsylvania-American.

If the percentage of inaccuracy is found to be in excess of five (5%) percent when tested (resulting in either an over-recovery or under-recovery by Pennsylvania-American), then such data that the meter has recorded shall be adjusted for a period extending back to the time when such inaccuracy began if such time is ascertainable; however, if such time is not ascertainable, the adjustment shall be made for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration test, or the date of the adjustment to correct the registration, whichever is later, not to exceed one hundred eighty (180) days. Exceptions may be made only if the facts clearly show that the stated method does not give the correct use for the period. Pennsylvania-American shall adjust the Sewer Use Charge for the over-recovery or under-recovery resulting from the meter error in equal amounts over the same amount of time for which the adjustment was made.

Pennsylvania-American shall at its own expense install and maintain a level monitoring system on the Meter Locations at the existing or future Points of Connection, where West Manchester Township Wastewater is discharged into the Sewage System. If a Pennsylvania-American interceptor overflows or floods beyond its design capacity, as indicated by the level monitoring system, and causes a Meter Location to have false readings, the data collected from that meter shall be considered void and the average flow from remaining data shall be substituted in its place for the Sewer Use Charge and Exceedance Penalty (defined below) calculations.

**Section 5 – Missing Meter Data.** If for any reason, the meter at any Meter Location is out of service or out of repair or missing flow records due to faulty meter registration or otherwise, or the amount of flow through the meter cannot be ascertained or computed from the reading of the meter, the flow delivered shall be estimated for the purposes of determining volume of Wastewater discharged and agreed upon by the Parties on the basis of an average of the best available historic similar season flow records as applied to present conditions.

**Section 6 – Hauled Wastes.** West Manchester Township will not accept the discharge of, or itself discharge, Hauled Wastes without the prior consent of Pennsylvania-American, which consent will not be unreasonably withheld.

Subject to any required PaDEP regulatory approval, Pennsylvania-American will accept Residuals from West Manchester Township's clean out of the West Manchester Township Collection System. West Manchester Township will deliver the Residuals from a clean out to a location at the Treatment Plant as designated by Pennsylvania-American.

## Article V – TREATMENT PLANT

**Section 1 – Capacity Allocation.** West Manchester Township shall, as of the Effective Date, be allocated the capacity set forth in Exhibit D.

**Section 2 – Purchase of Additional Existing Capacity.** To the extent that additional capacity exists at the Treatment Plant as determined in Pennsylvania-American's sole discretion, Pennsylvania-American and West Manchester Township may negotiate the purchase of additional capacity by West Manchester Township. West Manchester Township shall pay an Additional Capacity Reservation Fee for additional capacity. Any Additional Capacity Reservation Fee will be deemed a reimbursement to Pennsylvania-American for purposes of computing the tapping fee that West Manchester Township charges pursuant to the Municipality Authorities Act. If Pennsylvania-American makes additional capacity available for purchase, West Manchester Township and Connected Municipalities shall each be given a right of first refusal to the additional capacity on a proportional/pro rata basis (in accordance with then-existing capacity allocations). West Manchester Township and Connected Municipalities may purchase additional



capacity from each other, to the extent excess capacity exists, prior to negotiating the purchase of additional capacity from Pennsylvania-American.

Pennsylvania-American shall, no later than in its first base rate case filing with the PaPUC in which the Sewage System is included, propose a tariff supplement that, if approved by the PaPUC, would permit Pennsylvania-American to discount its tariffed capacity reservation fees for competitive alternative, economic development, and flow stabilization reasons for qualifying bulk service customers. Pennsylvania-American shall offer a discount to West Manchester Township on capacity reservation fees to the extent permitted by the PaPUC-approved tariff and provided that West Manchester Township provides adequate supporting information to justify the discount.

**Section 3 – Additions and Improvements.** Pennsylvania-American may make additions, improvements, and modifications to the Treatment Plant in its sole discretion. If the construction of additional facilities is required for a Customer Expansion Request or to treat Wastewater requiring specialized treatment emanating exclusively or in part from West Manchester Township other than a customer that is subject to the IPP, West Manchester Township shall pay the full or proportional cost as may be agreed to between the Parties. West Manchester Township shall have the right of engineering review and audit of construction costs at West Manchester Township’s sole expense. If the construction of additional facilities is for the benefit of Pennsylvania-American’s customers other than West Manchester Township, West Manchester Township shall not be required to participate in the cost of expansion.

**Section 4 – Penalty for Capacity Exceedances.** If the quantity of flow to the Sewage System from West Manchester Township exceeds West Manchester Township’s maximum flow capacity over a 24-hour period (set forth on Exhibit D as “Max Gallons Over 24 Hrs”) (singularly, a “Capacity Exceedance” and, plurally, “Capacity Exceedances”), Pennsylvania-American may charge two times (2x) the Sewer Use Charge for the exceedance gallonage over the Max Gallons Over 24 Hrs (singularly, an “Exceedance Penalty” and, plurally, “Exceedance Penalties”); except that Pennsylvania-American will not charge Exceedance Penalties for three (3) Capacity Exceedances during each quarterly billing cycle while Pennsylvania-American is billing West Manchester Township the Sewer Use Charge on a quarterly basis, an Exceedance Penalty for one (1) Capacity Exceedance during each monthly billing cycle while Pennsylvania-American is billing the Sewer Use Charge on a monthly basis, and Exceedance Penalties for Capacity Exceedances that occur during a State of Emergency.

#### Article VI – INDEMNITY AND INSURANCE

**Section 1 – Indemnity.** Each Party agrees to indemnify, defend and release the other Party against all costs, losses or damage, including payment of reasonable attorneys and expert consultant fees, on account of any injury to persons or property occurring in the performance of this Agreement due to each Parties’ negligence or willful misconduct or the negligence or willful misconduct of its agents or employees; provided, however, that no Party waives any rights or immunities arising out of any applicable governmental immunity law and statute of limitations imposed by the PaPUC.

**Section 2 – Insurance.** On the Effective Date, each Party shall provide the other Party a Certificate of Insurance indicating the insurance limits and coverages applicable to each Party set forth on Exhibit F.

#### Article VII – SEWER USE CHARGES AND PAYMENTS

**Section 1 – Sewer Use Charge and Adjustments.** Pennsylvania-American shall charge the Sewer Use Charge in accordance with this Agreement.

**Section 2 – Sewer Use Charge Adjustments.** The Sewer Use Charge will be adjusted as follows:

- i) Upon expiration of the Freeze Period, the Sewer Use Charge will be increased by CPI. The next CPI increase will not take effect until the first January 1st occurring not less than 12 months following the first CPI increase. Thereafter, the CPI increase will occur on each January 1st (during the Term, as may be extended). The calculation of the rolling average percentage change in the CPI to be applied in each applicable calendar year will be based on the CPI value for the latest month prior to January 1 for which a final CPI value has been published. (For example, if as of January 1, 2027, September 2026 is the latest month for which a final CPI has been published, the final values published for September 2026, September 2025, and September 2024 will be used in calculating the rolling 3-year average percentage change in CPI.) By October 1 of each year, Pennsylvania-American will provide to West Manchester Township for budgeting purposes an estimate of the anticipated CPI increase based on the CPI data as is at that point available.
- ii) The Sewer Use Charge may be adjusted if a Regulatory Rate Change takes effect.

**Section 3 – Sewer Use Charge Calculations.** Pennsylvania-American shall charge the Sewer Use Charge based upon readings taken at the meters provided for under Article IV and Section 4 of Article III, plus other flows emanating from other Points of Connection (the metering and/or the method of computing flow totals for the other Points of Connection are set forth on Exhibit A (CONFIDENTIAL PUBLIC UTILITY SECURITY INFORMATION)), irrespective of the source of Wastewater flows. In the absence of metering facilities, the Sewer Use Charge shall be computed first on the basis of water usage data (multiplied by a factor of 1.3x to account for Infiltration and Inflow) and, in the absence of water usage data, on the basis of an EDU count for customers of West Manchester Township multiplied by 350 gallons per day and as determined consistent with the Rules and Regulations. An example of the calculation of the Sewer Use Charge is set forth on Exhibit G.

The Parties agree that the volume of Wastewater entering the Sewage System from the West Manchester Township Collection System, as indicated by the meters, shall be adjusted by deducting an estimate or measurement where possible of the volume of Wastewater discharged into the West Manchester Township Collection System by Pennsylvania-American and by adding an estimate or measurement where possible of the volume of Wastewater from any of the West Manchester Township's customers that does not flow through one of the meters. Any estimate of the flow of Wastewater from any customer of West Manchester Township shall be made jointly by Pennsylvania-American and West Manchester Township.

**Section 4 – Pennsylvania-American Billing.** Pennsylvania-American will bill the Sewer Use Charge and any other applicable charge under this Agreement to West Manchester Township on a quarterly basis during the Freeze Period. After the Freeze Period, Pennsylvania-American may begin billing the Sewer Use Charge and any other applicable charge under this Agreement to West Manchester Township on a monthly basis. Pennsylvania-American will bill in a manner that provides West Manchester Township with sufficient detail regarding the basis for the bill and reflecting the appropriate charges for the preceding quarter, all in accordance with this Agreement.

**Section 5 – West Manchester Township Payment.** West Manchester Township shall pay invoices for Sewer Use Charge or other charges pursuant to the Agreement within thirty (30) days from the date the invoice is transmitted by Pennsylvania-American. If the last day for payment falls on a Saturday, Sunday or bank holiday, or on any day when the offices of Pennsylvania-American are not open to the general public, the due date is extended to the next business day.

Article VIII – CHANGE OF LAW, PAYMENTS AND DISPUTE RESOLUTION

**Section 1 – Calculation of CoL Surcharge.** If a Change of Law event requires a Material CapEx Project or results in a Material O&M Expenses Increase, the following process will be utilized to negotiate and determine the appropriate CoL Surcharge, if any.

1. **CapEx Project Related Costs.** If a Change of Law event or related Change of Law events requires implementation of a Material CapEx Project, West Manchester Township will be charged a surcharge (the “CoL Surcharge”), appearing as a separate line item on Pennsylvania-American’s invoice to West Manchester Township, to be calculated as follows:
  - (a) Pennsylvania-American shall calculate the “Project CapEx Cost” based on the prudent and recoverable cost for design, permitting, construction and installation of the Material CapEx Project.
  - (b) The Project CapEx Cost is converted to an “Annualized CapEx Amount” consisting of recovery of depreciation and the pre-tax weighted cost of capital. Depreciation will be determined by applying straight line depreciation over the applicable depreciation period(s) for the asset class of the facilities and equipment involved in the project. Pennsylvania-American shall utilize the asset classes and depreciation periods utilized in its most-recent base rate case as approved by the PaPUC prior to calculating any Annualized CapEx Amount. The pre-tax weighted cost of capital used in calculating the Annualized CapEx Amount will be equal to the pre-tax rate of return from Pennsylvania-American’s most recent quarterly wastewater Distribution System Improvement Charge filing with the PaPUC that included a calculation of the pre-tax rate of return.
  - (c) A portion of the Annualized CapEx Amount will be allocated to the Identified Bulk Municipalities based upon the then-existing percentage share of capacity reserved for the Identified Bulk Municipalities divided by the rated available treatment capacity of the Treatment Plant (the “Bulk Community Portion”). (Currently, that percentage is understood to be 54%, but that value may be adjusted in the future if the Identified Bulk Municipalities purchase additional capacity, sell existing capacity to a community other than an Identified Bulk Municipality, or if there is an increase in the rated available treatment capacity of the Treatment Plant.)
  - (d) The Bulk Community Portion will be used to calculate the CoL Surcharge as follows (and be uniform for the Identified Bulk Municipalities). The Bulk Community Portion of Annualized CapEx Amount will be converted to a capital expense portion of the CoL Surcharge by dividing the Bulk Community Portion by the total 5 (five)-year average annual flows from the Identified Bulk Municipalities (measured in thousands of gallons) occurring in the five years prior to the surcharge. The resulting CoL Surcharge will be expressed in the form of \$ per 1000 gallons amount and billed in accordance with the billing timing for the Sewer Use Charge (Article VII). The capital expense portion of the CoL Surcharge shall not be subject to adjustment by the CPI.
2. **Material O&M Expense Increase.** If a Change of Law event or related Change of Law events result in an increase to prudent and recoverable O&M costs that qualify as a Material O&M Expenses Increase, West Manchester Township will be charged a surcharge (the “CoL Surcharge”), appearing as a separate line item on Pennsylvania-American’s invoice to West Manchester Township, to be calculated as follows:

- (a) Pennsylvania-American shall make a reasonable estimate of the resulting total additional O&M costs arising from a Change of Law event or related Change of Law events (the “Annualized Additional O&M Cost”). To the extent that requirements associated with a Change of Law event affecting the Treatment Plant are addressed by Pennsylvania-American or affiliated companies at the company level (e.g., through shared services), only that portion of costs attributable to work performed at the company level that relate to the Treatment Plant shall be considered in calculating Annualized Additional O&M Cost.
- (b) The Bulk Community Portion related to any Annualized Additional O&M Cost will be calculated as in the same manner as it is with a Material CapEx Project above.
- (c) The Bulk Community Portion of such Annualized Additional O&M Amount will be converted to a CoL Surcharge expressed in the form of \$ per 1000 gallons by dividing the Bulk Community Portion by the total 5-year average annual flows from the Identified Bulk Municipalities, calculated in the same manner as it is with a Material CapEx Project above.
- (d) The resulting O&M portion of the CoL Surcharge shall be adjusted annually by the CPI in the same manner as provided for the base Sewer Use Charge.

**Section 2 – Notice of Change of Law and Dispute Resolution.** The Parties shall use the following process when a Change of Law event is reasonably expected to require a Material CapEx Project or is reasonably expected to result in a Material O&M Expense Increase:

1. Pennsylvania-American will provide written notice to West Manchester Township within one hundred-eighty (180) days of Pennsylvania-American’s determination that (i) a Change of Law event has occurred and (ii) such Change of Law event is reasonably expected to require a Material CapEx Project or is reasonably expected to result in a Material O&M Expense Increase.
2. Following provision of such notice, Pennsylvania-American shall keep West Manchester Township reasonably informed as studies and plans regarding response to such Change of Law event progress.
3. After Pennsylvania-American has sufficient information to accurately determine the need for and amount of a CoL Surcharge according to the Principles, Pennsylvania-American shall provide a written notice (the “Adjustment Notice”) to West Manchester Township setting forth the amount of the CoL Surcharge to be effective upon a date certain which may not be less than 60 days from the date of such Adjustment Notice. Pennsylvania-American shall provide supporting documentation demonstrating the calculation of the proposed CoL Surcharge with the Adjustment Notice.
4. Upon request by West Manchester Township, Pennsylvania-American shall, within twenty (20) days of a written request, meet with West Manchester Township to explain the Change of Law event and calculation.
5. Within sixty (60) days of Pennsylvania-American’s Adjustment Notice, West Manchester Township may notify Pennsylvania-American in writing of its opposition, if any, to the proposed CoL Surcharge or any portion of the CoL Surcharge. Upon receipt of such notice, Pennsylvania-American and West Manchester Township shall engage in good faith negotiations to resolve the dispute. Upon mutual agreement, the Parties may submit the matter to mediation to resolve the dispute. The cost of mediation shall be borne equally by the Parties.

6. If the Parties cannot resolve the dispute within one hundred-twenty (120) days of Pennsylvania-American's Adjustment Notice, the Parties shall refer the matter to AAA arbitration for a final and binding determination.
7. Pennsylvania-American has the right to be paid any CoL Surcharge resulting either from the Parties' good faith negotiations, mediation, or arbitration retroactive to the date Material CapEx Projects are placed in operation or Material O&M Expense Increases are incurred by Pennsylvania-American as identified in the Adjustment Notice for the CoL Surcharge (the ("CoL Surcharge Effective Date"), provided that Pennsylvania-American shall not bill West Manchester Township for the CoL Surcharge or related retroactive amounts until the next January 1<sup>st</sup> occurring after the CoL Surcharge amount has been finally determined (the "First Billing Date"). Any CoL Surcharge accruing from the period from the CoL Surcharge Effective Date and the First Billing Date shall be paid by West Manchester Township as follows: (i) at least 50% within three (3) months of the First Billing Date; and (ii) the balance within six (6) months of the First Billing Date.

## Article IX INFLOW AND INFILTRATION

**Section 1 – I&I Specifications.** The Parties shall use commercially reasonable efforts to ensure that the Wastewater, either directly or indirectly by any user into either of their respective systems (West Manchester Township Collection System and the Sewage System) does not contain unreasonable levels of Inflow and Infiltration or materially adversely affect West Manchester Township's ability to fully utilize the capacity allocated to it. The Parties shall use commercially reasonable efforts to address Inflow and Infiltration in accordance with the specifications set forth on Exhibit H. Both Pennsylvania-American's and West Manchester Township's sewer construction specifications shall comply with the specifications set forth on Exhibit H.

## Article X – INDUSTRIAL/COMMERCIAL WASTE

**Section 1 – IPP Compliance.** A list of establishments that discharge Industrial/Commercial Waste that are subject to the IPP is set forth on Exhibit B. Whenever a new user of West Manchester Township Collection System proposes to introduce Industrial/Commercial Waste into the West Manchester Township Collection System, West Manchester Township shall notify Pennsylvania-American and Pennsylvania-American shall cause the user to comply with the Rules and Regulations pertaining to the discharge of Industrial/Commercial Waste. West Manchester Township shall assist Pennsylvania-American with implementation and enforcement of the IPP by instituting any necessary resolutions and ordinances that will enable Pennsylvania-American to take necessary enforcement actions.

**Section 2 – Sampling.** Pennsylvania-American may install temporary sampling and metering equipment at or near the Points of Connection in order to sample the Wastewater Pennsylvania-American receives from West Manchester Township and the Wastewater, if any, that Pennsylvania-American discharges to West Manchester Township. If Pennsylvania-American both discharges Wastewater to and receives Wastewater from West Manchester Township, Pennsylvania-American will analyze the samples of the Wastewater it discharges and receives for the same parameters, and, for purposes of determining compliance with this Article X, West Manchester Township shall not be responsible for concentrations or loadings of parameters discharged by Pennsylvania-American into West Manchester Township Collection System and subsequently discharged by West Manchester Township back to the Sewage System.

**Section 3 – Testing.** Pennsylvania-American, from time to time in its discretion, may test Wastewater discharged from West Manchester Township into the Sewage System, including but not limited to testing for pollutants addressed by the IPP. Pennsylvania-American shall provide the test results to West

Manchester Township upon completion. Pennsylvania-American will provide West Manchester Township with a split sampling, if requested by West Manchester Township, in order to have additional analytical testing. All costs associated with split sampling and additional analytical testing will be the sole expense of West Manchester Township.

**Section 4 – Analysis of Samples.** Samples of Wastewater discharged into the Sewage System from the West Manchester Township Collection System may be obtained and analyzed by the Parties at any place, at any reasonable time, in order to ensure compliance with the terms and provisions of this Agreement.

**Section 5 – Provision of Information by Pennsylvania-American.** Pennsylvania-American shall furnish or to cause to be furnished to West Manchester Township, all information requested by West Manchester Township, as appropriate, for determination of the character and strength of Wastewater discharged into the Sewage System or for any such PaDEP or US EPA reporting requirements.

**Section 6 – Provision of Information by West Manchester Township.** West Manchester Township shall furnish or to cause to be furnished to Pennsylvania-American all information requested by Pennsylvania-American for determination of the character and strength of Wastewater discharged from the West Manchester Township Collection System into the Sewage System or for any such PaDEP or US EPA reporting requirements.

**Section 7 – Exceedance of Capacity Allocation or Limitation.** The Parties agree that the Meter Locations and other sampling points selected by Pennsylvania-American will be used to determine if the Wastewater discharge exceeds the capacity allocation and limitations set forth in the IPP or violates any prohibition of the IPP. The Parties agree that compliance with the capacity allocation and limitations shall be determined on the basis set forth in Exhibit D. If a capacity allocation or limitation is exceeded, or a prohibition of the IPP is violated, Pennsylvania-American shall notify West Manchester Township thereof in writing within thirty (30) days. The Parties agree that West Manchester Township shall within six (6) months of receiving such notification from Pennsylvania-American, assist Pennsylvania-American in its enforcement steps by instituting and maintaining ordinances and resolutions that enable Pennsylvania-American to take enforcement actions, to reduce loadings to within the capacity allocation and limitations or assure compliance with the prohibitions of the IPP.

## Article XI – MEDIATION

**Section 1 – Mediation and Procedures.** Upon the written request of a Party, any dispute or claim in law or equity arising out of this Agreement (other than matters addressed in Article VIII relating to CoL Surcharges) shall be submitted to neutral, non-binding mediation prior to the commencement of arbitration, litigation, or any other proceeding before a trier of fact. The Parties agree to act in good faith to participate in mediation and to identify a mutually acceptable mediator. If they are unable to agree upon a mediator, the Parties may, after twenty (20) days have elapsed from the date of the written request for mediation, petition the Court of Common Pleas of York County to appoint a mediator; provided, however, that issues within the primary or exclusive jurisdiction of the PaPUC shall in the first instance be referred to the Mediation Division of the PaPUC Office of Administrative Law Judge. Issues within the primary or exclusive jurisdiction of the PaPUC include, but are not limited to, quality of service, discrimination in service offerings, the Rules and Regulations and other PaPUC-approved tariff provisions, PaPUC-approved rates, and the like (“PaPUC Issues”). The Parties shall share equally in the costs, if any. If the dispute or claim is resolved through mediation, the resolution will be documented by a written agreement executed by the Parties. If the mediation does not successfully resolve the dispute or claim, the mediator shall provide notice to the Parties reflecting the same, and the Parties may then proceed to seek an alternative form of resolution to the dispute or claim in accordance with the remaining terms of this Agreement and other rights and remedies afforded by law.

Upon a Party's request for mediation and where PaPUC Issues are not involved, the Parties to the dispute shall have twenty (20) days to select a mediator. If the Parties cannot agree on a mediator within twenty (20) days and the mediator must be selected as set forth above, the Parties in dispute shall petition the Court of Common Pleas of York County for the appointment of a mediator within ten (10) days of the expiration of the initial twenty (20) day time period. After the selection of the mediator, the Parties shall submit to mediation for a period up to forty-five (45) days. If the dispute or claim is not resolved by the forty-fifth (45<sup>th</sup>) day after the selection of the mediator then the mediator shall provide notice to the Parties reflecting the same and the Parties may seek alternative forms of resolution as stated above; provided, however, that PaPUC Issues shall in the first instance be brought by a Party before the PaPUC.

## Article XII – MISCELLANEOUS

**Section 1 – Governing Law.** The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this Agreement, including torts. Except for PaPUC issues, any cause of action arising under or related to this Agreement, after any mediation is held in accordance with Section 1 of Article XI, shall be brought in the Court of Common Pleas of York County.

**Section 2 – Connected Municipalities Meeting.** After the Effective Date and during the Term, the Parties shall continue to conduct the quarterly Connected Municipalities Meeting currently utilized by West Manchester Township, the Connected Municipalities and the City of York. Pennsylvania-American shall organize and conduct the Connected Municipalities Meeting in such a manner to provide an opportunity for periodic discussion at least on a quarterly basis to review and consider recommendations on all matters relating to this Agreement and the provision of Wastewater treatment services. Upon reasonable notice, West Manchester Township or Pennsylvania-American may call a Connected Municipality Meeting.

**Section 3 – Most Favored Nation.** Except any agreement or modification with the Township of Springettsbury and where Pennsylvania-American discounts its charges in order to obtain new or additional Wastewater flow from another of the Connected Municipalities pursuant to Section 5 of Article III, Pennsylvania-American shall not enter into any additional agreements, or modify any existing agreements with any existing or future bulk customer related to accepting, treating and disposing of wastewater at the Sewage System that has the effect of establishing rights or otherwise benefiting other bulk customers in a manner more favorable in any respect to that bulk customer than the rights and benefits established in favor of West Manchester Township by this Agreement, unless, in every case, West Manchester Township has been provided with the same rights and benefits. This provision shall not apply to rates set by the PaPUC for other bulk customers.

**Section 4 – Waiver.** The failure of any Party to insist upon strict performance of this Agreement or any of the terms or conditions thereof shall not be construed as a waiver of any of its rights hereunder.

**Section 5 – Integration.** This writing constitutes the entire Agreement between the Parties, and there are no other representations or agreements, verbal or written, other than those contained the Agreement. This Agreement supersedes any prior agreements relating to the subject matter hereof in their entirety.

**Section 6 – Notices.** All notices, requests, reports, other communications and approvals required or permitted by this Agreement must be in writing, state specifically that they are being given pursuant to this Agreement and be addressed as follows:

Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055  
Attention: General Counsel

Township of West Manchester  
380 East Berlin Rd.  
York, PA 17408

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

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

**Section 8 – Severability.** The invalidity or unenforceability of any portion or provision of this Agreement shall in no way affect the validity or enforceability of any other portion or provision hereof. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain such invalid or unenforceable portion or provision. If any such provision of this Agreement is so declared invalid, the Parties shall promptly negotiate in good faith new provisions to eliminate such invalidity and to restore this Agreement as near as possible to its original intent and effect.

**Section 9 – Amendment.** No provision of this Agreement may be amended, modified or waived except by an instrument in writing signed by the Parties; provided that no amendment, modification or waiver may affect the rights, duties and obligations of the Parties hereunder without their prior consent.

**Section 10 – Successors and Assigns.** This Agreement is binding on the Parties and on their respective successors, heirs and assigns.

**Section 11 – PaPUC Approval.** The Parties acknowledge that this Agreement will not be effective until the PaPUC issues a certificate of filing or otherwise approves this Agreement pursuant to Section 507 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 507. Pennsylvania-American will file a copy of this Agreement with the PaPUC and the Parties shall cooperate in good faith to obtain a certificate of filing or approval in a timely fashion. The Parties further acknowledge that amendments to this Agreement must be filed with the PaPUC under Section 507.

*[Remainder of Page Left Blank Intentionally]*



IN WITNESS WHEREOF, the Parties have executed, or caused to be executed by their duly authorized representatives, this Agreement on the date first above written.

**TOWNSHIP OF WEST MANCHESTER**

**PENNSYLVANIA-AMERICAN WATER COMPANY**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit A – Points of Connection, System Map and Meter Connections (**CONFIDENTIAL PUBLIC  
UTILITY SECURITY INFORMATION**)

Exhibit B – IPP Establishments

Exhibit C – Pennsylvania-American Water Company’s Rules and Regulations

Exhibit D – Capacity Allocation and Limitations

Exhibit E – Laterals and Mains

Exhibit F – Certificate of Insurance

Exhibit G – Sample Sewer Usage Charges



## Exhibit H – Inflow and Infiltration Specifications