



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

WATER

IN THE MATTER OF THE APPLICATION FOR	)	ORDER APPROVING AN
APPROVAL OF SERVICES AGREEMENT	)	AMENDMENT TO AND
AMENDMENT NO. 2 AND EXTENSION TO THE	)	EXTENSION OF THE PUBLIC-
SERVICES AGREEMENT FOR THE OPERATION,	)	PRIVATE CONTRACT BETWEEN
MANAGEMENT, MAINTENANCE AND REPAIR	)	THE CITY OF CAMDEN AND
OF THE CITY OF CAMDEN'S WATER SUPPLY	)	AMERICAN WATER OPERATIONS
AND SEWER COLLECTION SYSTEMS BY AND	)	AND MAINTENANCE, INC.
BETWEEN AMERICAN WATER OPERATIONS	)	
AND MAINTENANCE, LLC AND THE CITY OF	)	DOCKET NO. WO22090558
CAMDEN	)	

**Parties of Record:**

**Ryan J. Scerbo, Esq.**, DeCotiis, FitzPatrick & Cole, LLP, on behalf of the City of Camden  
**Gregory Samuels, Esq.**, Corporate Counsel, American Water Enterprises Group, on behalf of American Water Operations and Maintenance, Inc.  
**Brian Lipman, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:<sup>1</sup>

In this matter, the New Jersey Board of Public Utilities (“Board”) considers a petition filed by the City of Camden (“Camden” or “Petitioner”) for approval of a second set of amendments to its public-private contract with American Water Operations and Maintenance, Inc. (“American Water”) (“Petition”).

**BACKGROUND**

The Petitioner is a municipal corporation within the County of Camden and an owner and operator of a water supply, transmission, and distribution system providing services to Camden residents pursuant to the County and Municipal Water Supply Act: N.J.S.A. 40A:31-1 et seq. American Water serves Camden as a contract operator for Camden’s water and wastewater systems pursuant to an October 6, 2015 Services Agreement with American Water for the operation,

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<sup>1</sup> Commissioner Zenon Christodoulou has abstained from voting on this matter.

management, maintenance, and repair of the City of Camden's water supply and sewer collection systems ("Services Agreement").

On October 6, 2015, pursuant to the New Jersey Water Supply Public-Private Contracting Act ("Water Act"), N.J.S.A. 58:26-19 et seq., and the New Jersey Wastewater Treatment Public-Private Contracting Act, N.J.S.A. 58:27-19 et seq. ("Wastewater Act") (collectively, "Acts"), Camden filed a certified petition with the New Jersey Board of Public Utilities ("Board") for approval of the Services Agreement.

In accordance with N.J.S.A. 58:26-24(f) and N.J.S.A. 58:26-25, Camden filed applications for approval of the Services Agreement with the New Jersey Department of Community Affairs, Division of Local Government Services, Local Finance Board ("DCA"), and the New Jersey Department of Environmental Protection ("DEP"). On December 16, 2015, the Board approved the Services Agreement.<sup>2</sup>

Camden and American Water implemented the Services Agreement's terms and conditions in contract year three of the 10-year term. During these first three (3) years of operation, Camden and American Water identified multiple provisions in the Services Agreement requiring revision. Following negotiations, the Petitioner and American Water agreed to an amendment to the Services Agreement ("Amendment No. 1"). The Camden Township Council adopted Resolution No. MC-18:6405 on June 12, 2018, authorizing the filing of an application with the Local Finance Board ("LFB") for approval of Amendment No. 1 pursuant to the Acts. On June 25, 2018, Camden filed a petition with the Board for approval of Amendment No. 1, which the Board approved by Order dated October 29, 2018.<sup>3</sup>

#### Amendment No. 2

On September 6, 2022, Camden filed the Petition seeking approval of a second amendment to, and extension of, the Services Agreement ("Amendment No. 2"). Camden has absolute jurisdiction, pursuant to N.J.S.A. 40A:31-1 et seq., to set the terms and conditions under which it supplies water to customers within its municipal limits. Camden agreed to enter into the Services Agreement and Amendment No. 2 for services pursuant to the Acts. Amendment No. 2 provides for various changes to the Services Agreement including changes to definitions, minor changes to the operational terms and services of the contract, negotiated changes to the scope of services, and corresponding changes to rate, fee and charge structures. Camden included the full text of Amendment No. 2, and an itemized list of changes to the Services Agreement with the petition. The full text of Amendment No. 2 is attached as an exhibit to this order.

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<sup>2</sup> In re Draft Services Agreement for the Operation, Management, Maintenance and Repair of the City of Camden's Water Supply and Sewer Collection Systems, Order Approving a Public-Private Contract Between the City of Camden and American Water Operations and Maintenance, Inc., BPU Docket No. WO15101178, Order dated December 16, 2015.

<sup>3</sup> In re the Amendment to the Services Agreement for the Operation, Management, Maintenance and Repair of the City of Camden's Water Supply and Sewer Collection Systems, Order Approving an Amendment to the Private Public Contract Between the City of Camden and American Water Operations and Maintenance, Inc., BPU Docket No. WO18060672, Order dated October 29, 2018.

The Petitioner further submitted a Hearing Report to the DEP which must complete its review and submit its comments to the Board and DCA within 60 days of its receipt thereof.<sup>4</sup> To date, the Board has received no comments from the DEP and is unaware of any prevailing issues.

The LFB intends to consider Amendment No. 2 to the Services Agreement at its November 12, 2022 agenda meeting.

Due to the timing of the filing of the Petition, the 60-day time-period set forth in the Acts for the Board to make a determination in this matter expired prior to the date of the Board's November Agenda meeting. In light of these circumstances, Camden filed a letter with the Board on October 3, 2022 agreeing to an extension to the Board to act on this matter by November 9, 2022.

### **New Jersey Division of Rate Counsel ("Rate Counsel") Comments**

By letter dated November 3, 2022, Rate Counsel submitted a no objection letter to having the Board approve the amendment.

### **DISCUSSION AND FINDINGS**

The Acts provide criteria for amending public-private contracts which require approval by the Board and the DCA at the next public meeting following receipt of the proposed amendments. If the Board or DCA determine the proposed amendments are "substantial," the public entity must conduct a public hearing. Within 60 days of receipt of proposed amendments deemed non-substantial, the Board and DCA shall approve or conditionally approve the amendments.<sup>5</sup>

The Water Act further states that, upon Board approval of a proposed contract, the Board's jurisdiction terminates until or unless the contract is amended to change the formula or other basis for determining charges contained therein.<sup>6</sup> Additionally, the Board's enabling statute expressly limits the Board's jurisdiction over public-private contracts to the parameters set forth within the Public-Private Contracting Act.<sup>7</sup> Finally, the Water Act provides that, where the contract is subject to Board jurisdiction, the Board shall approve or conditionally approve the contract if the Board finds it to be in the public interest.<sup>8</sup>

Under Amendment No. 2, American Water would remain the operator pursuant to the existing Services Agreement. Further, Amendment No. 2 will enable continuation of the Services Agreement and will not necessitate a change in operator of Camden's water and wastewater systems and retains the substantial portions of the Services Agreement. As such, the Board **FINDS** the proposed amendments pursuant to Amendment No. 2 are not substantial and therefore do not require a public hearing.

After review of the record herein, the Board **FURTHER FINDS** that the statutory requirements listed above have been met subject to approval by the Local Finance Board. Specifically, the Board **FINDS**:

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<sup>4</sup> N.J.S.A. 58:26-25(a)

<sup>5</sup> N.J.S.A. 58:26-25(g)

<sup>6</sup> N.J.S.A. 58:26-25(c)

<sup>7</sup> N.J.S.A. 48:2-13

<sup>8</sup> N.J.S.A. 58:26-13(c).

1. American Water Operations and Maintenance, Inc. possesses the financial capacity and technical and administrative experience to ensure continuity of service over the term of the contract. American Water Operations and Maintenance, Inc., is a Texas corporation whose offices are located at 1025 Laurel Oak Road, Voorhees, NJ 08043. American Water was formed in 1996 and has been providing contract operations to municipal clients since its formation. American Water has operated water treatment plans and distribution systems and wastewater collection systems and treatment plants of various sizes across the United States, from plants rated at over 100 million gallons per day to facilities serving small residential communities. In addition, American Water is an operating entity for American Water's Contract Service group, which currently manages more than 40 operation and maintenance contracts across the United States. N.J.S.A. 58:26-25(c)(1).
2. The terms of Amendment No. 2 are not unreasonable given the services to be performed by American Water. N.J.S.A. 58:26-25(c)(2).
3. Camden's entire customer base is located within Camden's boundaries. Thus, there is no subsidization of customers outside the municipal boundaries, consistent with N.J.S.A. 58:26-25(c)(3).
4. The Services Agreement, as amended by Amendment No. 2, continues to contain provisions addressing the following:
  - a. N.J.S.A. 58:26-23(e)(1): The charges, rates, fees, or formulas used to determine the charges, rates, or fees to be charged by the public entity for the water supply services to be provided;
  - b. N.J.S.A. 58:26-23(e)(2): The allocation of the risks of financing and constructing planned capital additions or upgrades to existing water supply facilities are incorporated; and
  - c. N.J.S.A. 58:26-23(e)(6): The employment of employees whose positions of employment will be affected by the terms of the contract are addressed.

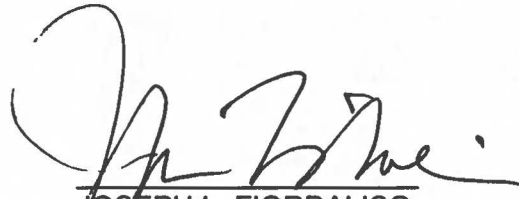
Based upon the above, the Board **HEREBY APPROVES** Amendment No. 2 to the Services Agreement between the City of Camden and American Water Operations and Maintenance, Inc. subject to the following condition:

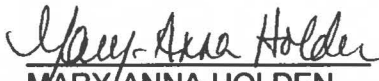
Any extension of the contract beyond the 15-year extension or pursuant to N.J.S.A. 58:26-25(c)(4), any amendment of the contract changing the formula or other basis for determining charges contained therein shall be subject to Board review and approval.

This Order shall be effective on November 9, 2022.

DATED: November 9, 2022

BOARD OF PUBLIC UTILITIES  
BY:

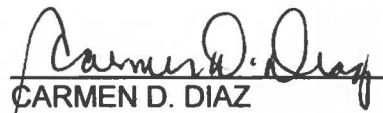
  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT

  
\_\_\_\_\_  
MARYANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER

  
\_\_\_\_\_  
ROBERT M. GORDON  
COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
CARMEN D. DIAZ  
ACTING SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities.

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF SERVICES AGREEMENT  
AMENDMENT NO. 2 AND EXTENSION TO THE SERVICES AGREEMENT FOR THE  
OPERATION, MANAGEMENT, MAINTENANCE AND REPAIR OF THE CITY OF CAMDEN'S  
WATER SUPPLY AND SEWER COLLECTION SYSTEMS BY AND BETWEEN AMERICAN  
WATER OPERATIONS AND MAINTENANCE, LLC AND THE CITY OF CAMDEN

BPU DOCKET NO. WO22090558

SERVICE LIST

**City of Camden**

Ryan Scerbo, Esq.  
Decotiis, FitzPatrick & Cole, LLP  
Glenpointe Centre West  
500 Frank W. Burr Boulevard, Suite 31  
[rscerbo@decotiislaw.com](mailto:rscerbo@decotiislaw.com)

**American Water Enterprises Group**

Gregory Samuels  
American Water Operations and Maintenance,  
Inc.  
1025 Laurel Oak Road  
Voorhees, NJ 08043  
[gregory.samuels@amwater.com](mailto:gregory.samuels@amwater.com)

**Division of Rate Counsel**

140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 0003  
Trenton, NJ 08625-0003

Brian Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

**Board of Public Utilities**

44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Carmen Diaz, Acting Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

Division of Water and Energy

Michael Kammer, Director  
[mike.kammer@bpu.nj.gov](mailto:mike.kammer@bpu.nj.gov)

Paul Lupo, Bureau Chief  
[paul.lupo@bpu.nj.gov](mailto:paul.lupo@bpu.nj.gov)

Office of General Counsel

Michael Beck, General Counsel  
[michael.beck@bpu.nj.gov](mailto:michael.beck@bpu.nj.gov)

Carol Artale, Deputy General Counsel  
[carol.artale@bpu.nj.gov](mailto:carol.artale@bpu.nj.gov)

David Schmitt, Legal Specialist  
[david.schmitt@bpu.nj.gov](mailto:david.schmitt@bpu.nj.gov)

**EXHIBIT A**

**TERMS OF AMENDMENT NO. 2**

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF SERVICES AGREEMENT AMENDMENT NO. 2 AND EXTENSION TO THE SERVICES AGREEMENT FOR THE OPERATION, MANAGEMENT, MAINTENANCE AND REPAIR OF THE CITY OF CAMDEN'S WATER SUPPLY AND SEWER COLLECTION SYSTEMS BY AND BETWEEN AMERICAN WATER OPERATIONS AND MAINTENANCE, LLC AND THE CITY OF CAMDEN

BPU Docket No.WO22090558

**A. Article I—Section 1.1 - Definitions**

The following new definitions are added to section 1.1:

**“Nonrevenue Water” or “NRW”** – means the difference between the volume of water delivered to the Water System and the sum of: i) the volume of water metered and billed; ii) the volume of water billed but not metered; iii) the volume of water metered to City facilities set forth in Schedule 14, which are unbilled; and iv) the volume of water authorized but not metered or billed for various maintenance and safety uses, including but not limited to water used for sewer cleaning, hydrant flushing and firefighting.

**“Service Order”** – means an order for work or inquiry follow-up at a customer’s location and issued from the customer information system database, Utility Management Billing System (“UMBS”).

**“Work Order”** – means an order for work on the City-owned Systems that is issued from the City’s Hyperweb computerized maintenance management system (“CMMS”).

**B. Article III – Section 3.1 - Term**

Pursuant to Section 3.1(b) of the Agreement, the Parties agree to extend the Agreement Term from 10 years to 15 years.

**D. Multiple Articles and Sections – Outstanding Deliverables**

The Operator is required to provide numerous deliverables under the terms and conditions of the Agreement. Multiple deliverables that were not delivered on their original due date are technically past due. Both Parties agree that the accuracy of the deliverable is more important than schedule. While largely completed, the mandated annual updates were not always met due to the short interim time frame between actual completion and next scheduled updates. As a result, the Parties wish to the agree to the following recovery schedule:

Contract/ Schedule Section	Contract Schedule	Contract Deliverable	Additional Description	Recovery Date
6.3(b)	NA	O&M Plans	Annual Update (To include upgrades from ongoing CIP)	To be completed by 12/31/22
4.1	2	O&M Plans	Hard copies due - DELAYED FROM ORIGINAL SUBMITTAL)	To be completed and printed after the MD PFAS treatment is completed
6.7	10	Asset Inventory	Annual Update – Delayed with CIP programs	Completed by 6/30/22
Sch. 2 5.10	2	Asset Management Plan	Ensure Plan includes sewer systems	11/1/22
Sch.2 5.8	2	Equipment Report	Electronic records with annual report	To be completed by 8/31/22

**E. Multiple Articles and Sections – Consolidation of Deliverables**

The Parties agree that: i) the following deliverables were originally required by the Agreement ii) these deliverables should be consolidated because they overlap and could be considered redundant; and iii) the due dates for all such deliverables are revised as follows:

Proposed Category	Contract Section	Article / Contract Schedule /Section	Contract Deliverable	New Annual Due Date
O&M Plans	VI / 6.2d	2 / 4.1	O&M Plans	3/1
	VI / 6.3b	2 / 4.1	O&M Plans	
	VI / 6.20	2 / 3.7	Overflow Response Plan	
	VI / 6.20	2 / 3.8	Wet Weather Standard Operating Plan	
	VI / 6.20	2 / 4.1	O&M Plans	
	VI / 6.27	2 / 1.13	Facility Security	
	VI / 6.15b	2 / 4.7	Valve Exercising Program	
	VI	2 / 5.12	Annual O&M Report	
	VI / 6.24	N/A	COOP	3/1

Asset	VI / 6.7	10	Asset Inventory	
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Management				2/1
	VI / 6.3	2 / 5.8	Equipment Report	
	VI / 6.7	2 / 5.10	Asset Management Plan	

Water Loss Program	VI / .6.15k	2 / 2.15	Annual Water Loss & Conservation Plan	6/1
	VI / 6.15k	2 / 2.16	Leak Detection Program	

Financial Data

MR&R, Utility Reserve Allocations	VI / 6.2 (d)	N/A	MR&R, Utilities Reserves	10/1
Customer Service	VIII / 8.7 (e)	N/A	Customer Listing & Review Meeting	4/1
Capital Improvements	VII / 7.2	2 / 1.9 and 2 / 5.9	Capital Improvements Plan	4/1

**F. Article VI, Section 6.24**

New paragraphs (g) and (h) are - added to Section 6.24:

(g) Operator shall provide the City with a staffing plan that clearly explains how the Operator will, when necessary, transition key positions, including the Project Manager, Treatment Plant Licensed Operator and Collection and Distribution Systems Licensed Operators, due to retirements, terminations or transfers. Such plan will be provided within two weeks of any projected employee transition if such time is allowed by the specific circumstances. The plan will be updated by the Operator bi-weekly and provided to the City until such transition is completed. Updates will be provided to the City via email mid-month, and Operator will update the City in the monthly progress report.

(h) Operator shall provide a continuity of operations plan (“COOP”) in accordance with guidelines provided by FEMA, the State of New Jersey and Camden County to ensure that the Operator maintains adequate staff to sustain critical and life sustaining water and sewer services for the City. The COOP and the Operator’s emergency response plan shall be reviewed and updated by March 1 of each Contract Year by Operator, concurrent with all O&M manual and procedure updates.

**G. Article VI, Section 6.25**

Section 6.25 is amended by adding the following to the end of the Section:

In the event that there is an extended vacancy in any of the positions noted in the approved staffing plan that require New Jersey state licenses, the Operator will provide notice to the City if the position has been vacant more than forty-five (45) days. At such time, the Operator will provide the City with a detailed plan regarding how it intends to fill vacant licensed positions. Failure of the Operator to fill positions in the approved staffing plan within 120 days of the first date of vacancy will entitle the City to a reduction in the Operator’s Fixed Management Fee for an agreed upon period to be negotiated commensurate with the specific circumstances. In no case will the reduction in the Fixed Management Fee be more than 100% of the prorated cost of the position during the period of the vacancy. For the avoidance of all doubt, the City shall be entitled

to reduce the Fixed Management Fee even if NJDEP has approved the Operator's usage of a lower-level licensed employee to fill a vacant higher-licensed position.

**H. Article VIII, Section 8.5 – Establishment and Collection of Rates, Fees and Charges**

Subsection (a) is amended by adding the following language to the end of the subsection:

Operator agrees to assist the City and its hired professionals in evaluating any rate study which the City independently commissions. The Operator shall provide available data and information as requested by the City or its hired professionals to complete a rate study, to the extent that Operator has access to such information. The Operator, if requested by the City, and to the extent it deems itself qualified to do so, will within thirty (30) days of receipt by Operator, provide comments to and recommendations concerning any draft rate study or related document provided to Operator by the City. The City shall retain sole responsibility for establishing and enforcing all rates and changes thereto.

**I. Article VIII, Section 8.7 – Billing and Collections**

- i. **New Subsection (h) – Subcontractor Services** – A new subsection (h) is added to section 8.7 as follows:

(h) When Operator elects to materially change the Billing and Collection Services, Operator shall provide the City with a plan to address Operator's decision regarding how it will provide Billing and Collection Services, including the role of any subcontractor(s). Operator shall, prior to replacing the subcontractor: i) submit background information and credentials of the replacement subcontractor to the City for review; and ii) facilitate a meeting between the City and the replacement subcontractor, including addressment of all transitional items and preservation of billing records and files. All Billing and Collection Services shall be provided to the City in conformance with this new Section 8.7 and **Schedule 2**.

- ii. **New Subsection (i) – Recovery of Past Due Accounts/ Identification of Unbilled Accounts** – A new subsection (i) is added to section 8.7 as follows:

The City is aware that there are multiple past due accounts for both the Sewer Collection System and the Water Supply System and accounts for both of the Systems that are unbilled. The Operator agrees to work with the City to identify all such accounts as required by Amendment No.1 revision to **Schedule 2**, Section 2.15, and shall provide the City with an updated list of said accounts on a quarterly basis. Operator shall prepare appropriate correspondence to customers for bringing these accounts current, including identifying City approved payment plans and provide a quarterly update concerning its efforts in this regard. Two (2) times per calendar year, the City and the Operator shall meet to review the Operator's quarterly updates.

Operator shall continue to monitor the Systems to determine if there are unbilled connections to the City.

- iii. **New Subsection (j) – Accounting and Reporting** – A new subsection (j) is added to section 8.7 as follows:

(j) Accounting and Reporting. The Operator agrees to provide daily reporting data to the City on payments applied in the following four (4) distinct categories: water, water interest, sewer, and sewer interest.

**J. Article VIII, Section 8.7.2 – Collection Office**

Section 8.7.2 (Collection Office) is deleted in its entirety and is replaced with the following:

The Operator shall provide, within the geographical limits of the City, a centrally located collection office (such as a bank) where customers of the Systems may pay their bills Monday through Friday between 9:00 a.m. and 12:00 p.m.. The Operator shall also provide a "drop box" for customer use to be located in the City Hall; however, the Operator shall not be obligated to accept cash payments at the "drop box" located in City Hall.

- i. **New Subsection 10.27 – Capital Improvements Related to PFAS Treatment and Lead Service Line Replacements** – A new subsection 10.27 is added to Article X as follows:

The New Jersey Department of Environmental Protection ("NJDEP") recently set health based maximum contaminant levels ("MCL") for several per- and polyfluoroalkyl substances (PFNA, PFOA and PFOS, which are hereinafter collectively referred to as "PFAS") compounds. In addition, the State of New Jersey recently enacted N.J.A.C. 58:12A-40 et. seq. which mandates the replacement of lead service lines within a ten year period (the NJDEP MCLs and N.J.A.C. 58:12A-40 et. seq. may hereinafter be referred to as the "New Laws"). Both New Laws direct the City to address public health threats. In order to comply with these New Laws, additional Capital Improvements need to be undertaken. The City and Operator acknowledge and agree that: i) Capital Improvements to the Morris Delair and Parkside treatment plants related to PFAS treatment have been (and in the future may be) assigned to Operator via one or more change orders to the Agreement; ii) work related to lead service line replacement may be assigned to Operator via one or more change orders to the Agreement; and iii) Operator is not obligated to perform any work related to the New Laws until one or more change orders is executed for the performance of the Capital Improvements and is funded by the City, all as authorized pursuant to Section 7.3 of the Service Agreement and subject to the requirements of N.J.S.A. 58:26-25(b).

**L. Schedule 2 – Scope of Services**

- i. **Section 1.8 Utilities** – Schedule 2, Section 1.8 is amended by adding the following language to the end of the Section:

The Operator and the City may mutually agree during the Term to prepare an investment grade energy audit ("IGEA") for all of the City's Systems and related facilities with the assistance of a third party specializing in such services. The cost of said services shall be discussed in advance with the City and agreed upon between the Parties. The cost for the IGEA shall be the responsibility of the City. Upon completion of the IGEA, and with the assistance of the third party retained by Operator, the Operator shall present to the City an

energy savings plan outlining a self-funding energy savings capital improvement program for the Systems and their related facilities whereby the anticipated operating costs savings derived from the installation of new capital improvements can be utilized to fund the cost of said improvements within a period of time not to exceed fifteen (15) years, or twenty (20) years in the event that the energy savings plan includes combined heat and power measures. The energy savings plan shall be developed and implemented in a manner consistent with, to the extent possible, the Energy Savings Improvement Program Law set forth at N.J.S.A. 40A:11-4.6. Once completed, the City and the Operator shall review the energy savings plan and determine which of the recommended projects will be undertaken, upon which they must jointly agree. Based on the final selection of projects to be included in the energy savings plan, the Operator shall be entitled to an 8% mark-up on all projects that require a third party contractor to complete same.

**ii. New Section 1.21 Shared Services –**

Schedule 2, Section 1.21 is added to the Agreement as follows:

The City may contract with City agencies to undertake work similar to the Scope of Services which the Operator provides for the City Systems. Prior to entering into any such shared service agreements, the City shall meet with the Operator and discuss and agree in writing upon the services to be rendered to the City agency, a schedule for said services and an estimated cost for the Operator's services. The Operator will have the sole right to agree to conduct the work or to reject it. Once executed, a copy of the final shared services agreement shall be provided to the Operator, and **Table B** shall be adjusted to reflect the increased scope of services. The City shall, prior to the initiation of any work by the Operator, collect the cost for the services to be rendered from the City agency requesting the work. If the Operator agrees to increase the scope of services, then the Operator shall be paid for its services once same are completed and an invoice is submitted by the Operator to the City for payment. Payment to the Operator shall be rendered by the City within forty-five (45) days, regardless of the City's ability to collect payment from the City agency that requested the work.

**iii. New Section 1.22 Engineering Services –**

Schedule 2, Section 1.22 is added to the Agreement as follows:

In addition to the services being provided by the Operator to the City pursuant to Section 6.11, the Operator agrees that it shall provide to the City engineering support and project management support services related to sewer and water related issues such as, but not limited to, well location, plant and process modifications necessary to address regulatory changes, and development and redevelopment matters affecting the City's Systems. The Operator will provide up to 120 hours of engineering support each Contract Year. The Operator's cost for the support for such work shall be included in the Fixed Management Fee. Any allocation for engineering support described under this new Section 1.22 not utilized in a Contract Year will be rolled over to the following Contract Year. If the engineering support exceeds the allocation of hours in any Contract Year, then: i) the excess amount will be counted against the allocation for engineering support in the next Contract Year; or ii) if the Agreement terminates prior to the completion of the following Contract Year, the City will pay to Operator the value of the excess engineering support upon termination of the Agreement. Operator will track all hours used in the monthly progress report.

**iv. New Section 1.23 Open Public Records Request Responses –**

Schedule 2, Section 1.23 is added to the Agreement as follows:

As a result of the City's process for reviewing and responding to Open Public Records Requests submitted pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et. Seq. ("OPRA"), the Operator has been asked on multiple occasions to identify responsive records maintained on the City's behalf by the Operator and prepare records packages for the City to utilize in responding to OPRA requests. The frequency of OPRA requests has required the Operator to spend a significant amount of time reviewing and responding to same on behalf of the City. As a result, the Operator and City wish to identify review of and response to OPRA requests as part of the Operator's scope of Services. The Operator agrees that it shall provide the City with up to 80 hours of services related to the review, investigation and response to OPRA requests during each Contract Year. The Operator's support for such work shall be included in the Fixed Management Fee. Any allocation for support described under this new Section 1.23 not utilized in a Contract Year will be rolled over to the following Contract Year. If the support exceeds the allocation of hours in any Contract Year, then: i) the excess amount will be counted against the allocation for support in the next Contract Year; or ii) if the Agreement terminates prior to the completion of the following Contract Year, the City will pay to Operator the value of the excess support upon termination of the Agreement at the rate of \$125.00 per hour. Operator will track all hours used in the monthly progress report.

**v. Section 2.15 Annual Water Loss and Conservation Plan –**

The second paragraph of Schedule 2, Section 2.15 is amended so that the beginning sentence reads as follows: Incorporating the AWWA Water Audit Software, required for the annual Delaware River Basin Commission ("DRBC") submittal, the Operator shall develop and implement an Annual Water Loss and Conservation Plan.

The last paragraph of Schedule 2, Section 2.15 is amended by deleting the last two sentences and replacing them with the following: Additionally, on a monthly basis, the Operator shall include in the monthly progress report an update of Nonrevenue Water and a key performance indicator ("KPI") tracking the monthly average. The Operator shall provide the City with an updated Water Loss and Conservation Plan within thirty (30) days following the required DRBC submittal. The Water Loss and Conservation Plan shall report Nonrevenue Water and shall describe activities completed by the Operator in the period as well as those proposed for the upcoming period. The report shall include a record/timeline of performance for the Term. With the City's recent acquisition of leak detection equipment, the Operator shall implement a defined program for leak detection investigations within the City's System, will incorporate the program into the O&M Manual, and will include updates regarding the progress of the leak detection program in the monthly progress report.

**Section 4.7—Valve Maintenance**

The language in section 4.7 of Schedule 2 of the Agreement is deleted in its entirety and is replaced with the following:

The Operator shall develop and implement a reasonable valve exercising program to be implemented in a progressive manner and address those valves deemed to be critical to the System's operation.

The valve exercising program shall be included in the O&M Plan. All valves determined to be broken or inoperative shall be reported to the City as part of the Monthly Progress Report and then repaired/replaced by the Operator as part of the O&M Plan.

The valve exercising program shall be developed such that the valves are exercised in accordance with all Applicable Law. Currently, the valves are required to be exercised as follows:

- Valves equal to or greater than 12" are to be exercised once every 4 years
- Valves less than 12" are to be exercised once every 4 years

This program shall be developed in accordance with the manufacturer's recommended procedures and include several key components including:

- Locating the valves via GPS
- Developing and maintaining a GIS valve database

The valve exercising program shall be incorporated into the O&M Plan after review at the Annual Maintenance, Repair and Replacement Workshop held during each Contract Year. Valve exercising can result in breakages in valve stems and exercised valves being left in a position other than as found. Valves that are found broken or frozen shall be identified and recorded for inclusion in an annual valve replacement project of the City's Capital Improvement program.

**vi. Section 5.10—Asset Management Plan.**

The first paragraph of section 5.10 (Asset Management Plan) of Schedule 2 is deleted in its entirety and is replaced with the following:

The Operator shall develop an Asset Management Plan as required by the New Jersey Water Quality Accountability Act to support the long-term sustainability of the Water Supply System and the Sewer Collection System by helping the City make informed decisions on when it is most appropriate to repair, replace, or rehabilitate particular assets and by developing a long-term funding strategy.

**x. Section 6.1—General Provisions.**

The first paragraph of section 6.1 (General Provisions) of Schedule 2 is deleted in its entirety and is replaced with the following:

The Operator shall coordinate, prepare, print and deliver 90% of each month's utility bills to the post office for mailing by the 22<sup>nd</sup> of each month. The remaining bills will be mailed by the end of the month. The Operator shall include public service messages on bills when directed by the City.

**ix. Section 6.1—General Provisions.**

The second paragraph of section 6.1 (General Provisions) of Schedule 2 is deleted in its entirety and is replaced with the following:

The Operator shall be responsible for: i) posting premises for shut-off and implementing the City's water service termination procedures to any customer of the Water Supply System not in compliance with their obligation to pay the established rates in conformance with the City's policy; and ii) reestablishing services when appropriate in conformance with the City's policy. Shut-offs shall not be made during the winter months (November through March) or during any lawfully imposed moratorium. Shut-offs and posting premises for

shut-off shall be subject to safety considerations and availability of police protection, where reasonably required. The practice regarding shut-offs is that the Operator will send letters quarterly to all delinquent customers, requesting payment and advising each customer of the water shut-off alternative.

**xii. Section 6.6--Municipal Wastewater Service**

Section 6.6 (Municipal Wastewater Service) of Schedule 2 is deleted in its entirety and is replaced with the following:

At no cost or expense to the City, the Operator shall, during the Term of the Agreement, provide sewer service to the Municipal Building and all other City offices and public and quasi-public facilities, including but not limited to, the police department and fire department, and those facilities identified in the Agreement. Such sewer service shall be made in accordance with the terms and parameters set forth in the Agreement, and which shall include a cap on service in the event of variations from the three (3) year average immediately prior to the Commencement Date. The City will, at least every Contract Year commencing with Contract Year 3: i) supplement Schedule 14 to identify any properties acquired after commencement of the Agreement that fall into the City and/or other public and/or quasi-public category to which sewer service shall be provided in accordance with this section 6.6; and ii) provide the Operator instruction on how to handle any outstanding account balance from the previous owner.

**xiii. Section 6.7 – Performance Standards and Targets**

The Parties acknowledge and agree that: i) the new Tables S3-1, S3-2, S3-3 and S3-4 that are referenced in section 6.7 of Schedule 2 and were modified in Amendment No. 1 were inadvertently not attached to the final version of Amendment No. 1; ii) the parties fully intended that the new Tables S3-1, S3-2, S3-3 and S3-4 be included in Amendment No. 1; iii) the Parties have been following Tables S3-1, S3-2, S3-3 and S3-4 as if they were attached to Amendment No. 1; and iv) the new Tables S3-1, S3-2, S3-3 and S3-4 referenced in Amendment No. 1 are as follows:

**Table S3-1**

Billing & Collection Performance Targets

Parameter	Requirement
Customer Meter Reading	Reading & Billing Monthly; Rotating Quarters
Water & Sewer Billing	7 calendar days of meter reading
Water & Sewer Collection Rate	90% - On an Annual Basis

\* Note - Public properties that are not subject to lien are excluded from this calculation

**Table S3-2**

Billing & Collection Monitoring Targets

Type	Requirement
Billed Water & Sewer Consumption by Customer Class	Monthly
Customer Historical Water Usage	Monthly
Customer Inquiries/Complaints - Camden Office	Ongoing
Customer Inquiries/Complaints - Call Center	Ongoing

**Table S3-3**

Billing & Collection Reporting Targets

Item/Parameter	Reporting Requirement
Billing Delinquency Notification - 30 days	Monthly
Disconnect Notices	Monthly
Billing Delinquency Notification - 90 days	Monthly
Billing Delinquency Notification - 120 days	Monthly
Bankruptcy Notices	Within 5 business days of notice

**Table S3-4**

Call Center Reporting Targets

Parameter	Reporting Requirement
Calls answered	> 90%
Dropped Calls	<10%
First call resolution (via phone)	> 90%
Average hold time	< 60 seconds

**xiv. Section 6.7 – Performance Standards and Targets**

The parties further acknowledge and agree that Tables S3-1, S3-2, S3-3 and S3-4 that are referenced in section 6.7 of Schedule 2 (and that were originally modified in Amendment 1) are deleted and their entirety and are replaced with the new Tables S3-1, S3-2, S3-3 and S3-4, as follows:

**Table S3-1**

Billing & Collection Performance Targets

Parameter	Requirement
Customer Meter Reading	Reading & Billing Monthly; Rotating Quarters
Water & Sewer Billing	90% of current bills issued by the 22 <sup>nd</sup> of the current month
Water & Sewer Collection Rate*	90% - based on 12 month running annual average

\* Note - Public properties that are not subject to lien are excluded from this calculation

**Table S3-2**

Billing & Collection Monitoring Targets\*

Type	Requirement
Billed Water & Sewer Consumption by Customer Class	Performed monthly on 1/3 of accounts monthly on quarterly Billing Cycle
Customer Historical Water Usage	Performed monthly on 1/3 of accounts monthly on quarterly Billing Cycle
Customer Inquiries/Complaints - Camden Office	Tallied and Record as they occur

\* Reported in Monthly Operations Report



**Table S3-3**

Billing & Collection Reporting Targets

Item/Parameter	Reporting Requirement
Billing Delinquency Notification - 30 and 90 day	Monthly in Operations Report
Disconnect Notices	Monthly
Bankruptcy Notices	Within 5 business days of notice

**Table S3-4**

Regular Communication

Method	Requirement
Daily, Weekly, Monthly as needed in regular course of business	Ongoing and Timely
Quarterly Review Meetings with City, RosTech and Operator to review performance and develop appropriate corrective action plans	By 15 <sup>th</sup> of month following FY Quarter end
Annual meeting with City, RosTech and Operator to review KPIs and propose adjustments to KPIs	By 15 <sup>th</sup> of month following FY end

**M. Schedule 4 – Computer Information Systems**

**Section 4.4—Billing and Collection Systems**

Section 4.4 of Schedule 4 of the Agreement is deleted in its entirety and is replaced with the following:

The Operator shall be required to implement and maintain computerized programs to prepare billing and collections as well as all associated management reports. All information contained in the billing and collection system used by the Operator in performance of these activities is and shall remain the property of the City. Upon termination of this Agreement for any reason, the Operator shall convey all billing and collection information to the City in a mutually-agreed upon format in order to ensure continuity of historical records, including ninety-six (96) months of Service Orders.

**Annual Fees/Contract Price**

**5.1 START-UP SERVICES FEE**

The Start-Up Services Fee shall be \$1,800,460. The City shall pay the Start-Up Services Fee to the Operator as set forth in **Table A** of **Schedule 2**. The status of the items contained in **Table A** of the Agreement as of the date of Amendment No.2 are reflected in updated **Table A** attached to the Amendment No.2.

**5.2 FIXED MANAGEMENT FEE**

The Fixed Management Fee for the Contract Year beginning February 1, 2023 shall be \$8,843,318.00. This Fixed Management Fee represents a significant increase of scope over the Fixed Management Fee for the Contract Year ending January 31, 2023. Attached hereto as Table 5-1, is a chart that reflects the basis for said increases. The Fixed Management Fee shall be increased by the Index Factor as set forth in this **Schedule 5** for the year beginning February 1, 2023 and each year thereafter.

The adjustment to the Fixed Management Fee noted above includes the sum of items A, B, C, D and E below (see Table 5-1 for details):

- A. Seven (7) additional full-time staffing positions added in response to address new regulatory requirements and enhance performance for maintenance activities as a result of experience gained during the contract term to date. Fee established based on total average salaries multiplied by 1.4 for payroll overheads and taxes, then add 15% of total for overhead and profit.
- B. Increased water treatment plant operations and maintenance expenses (projected annual costs plus 8% for overhead and profit), including:
  - a. granular activated carbon change outs at the Parkside water treatment plant, which assumes 3 (three) change outs per Contract Year
  - b. Zinc orthophosphate corrosion control inhibitor at both the Parkside and Morris-Delair treatment plants.
  - c. Should operational conditions result in additional costs for either granular activated carbon or zinc orthophosphate then any additional costs will be covered by the MR&R Allocation.
- C. Additional scope items (projected annual costs plus 8% for overhead and profit), including:
  - a. updating the water system hydraulic model;
  - b. Adhoc engineering support for the water and wastewater systems;
  - c. additional support for the myriad of OPRA requests; and
  - d. Support needed in response to changes in the New Jersey Water Quality Accountability Act.
- D. Additional water quality monitoring samples (projected first year costs plus 8% for overhead and profit), including:
  - a. Six (6) additional PFAS samples for process control at the Parkside water treatment plant.
- E. Adjustment to the Fixed Management Fee related to the 8% administrative fee for the Maintenance, Repair and Replacement ("MR&R") Allocation and to the Annual Utilities ("Utilities") Allocation as follows:
  - a. \$53,746.00 related to the adjustment to the MR&R Allocation in Amendment 1 of the Agreement from \$3,825,628.00 to \$4,497,449.00 that was inadvertently not added to the Fixed Management Fee in Amendment 1 to the Agreement. This adjustment will take effect, beginning with Contract Year ending January 31, 2023, and will continue through the remainder of the Term of the Agreement.
  - b. \$120,404.00 related to the adjustment to the MR&R Allocation at the beginning of Contract Year 7 from \$4,497,449.00 to \$6,000,000.00 and will be effective for the Contract Year ending January 31, 2023, and will continue through the remainder of the Term of the Agreement.

\$11,966 related to the adjustment to the Utilities Allocation at the beginning of Contract Year 7 from \$ 930,421.00 to \$1,080,000.00 and will be effective for the Contract Year ending January 31, 2023, and will continue through the remainder of the Term of the Agreement.