

**Draft – September 22, 2020**

**ASSET PURCHASE AGREEMENT**

**By and Between**

**Township of Willistown, Chester County,**

**As Seller**

**and**

**[\_\_\_\_\_]**

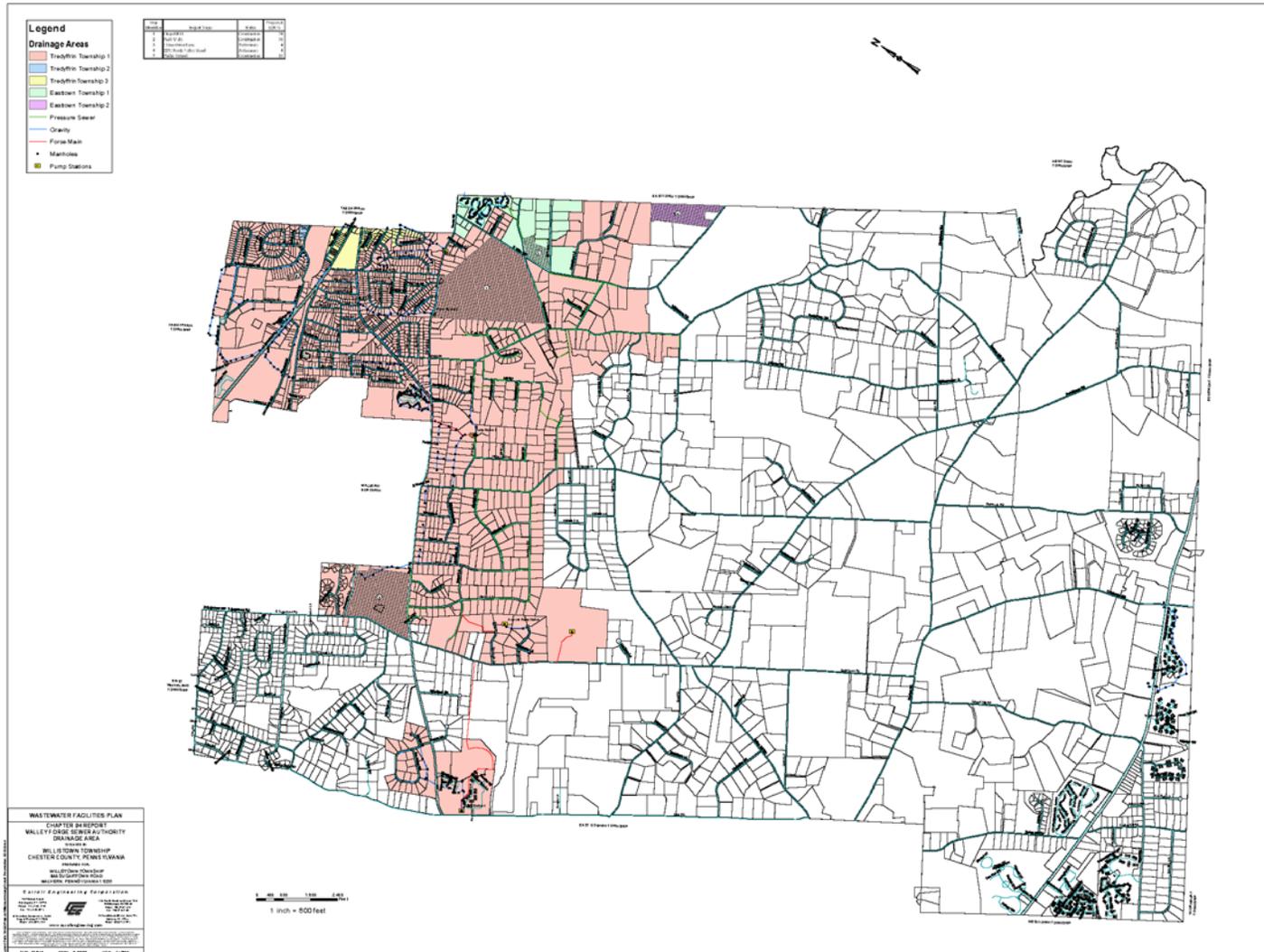
**As Buyer**

**SCHEDULES AND EXHIBITS**

**Capitalized terms used in the Schedules which are not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement. The Schedules are to be read in their entirety. Nothing in the Schedules is intended to broaden the scope of any representation or warranty in the Agreement. The disclosure of any item, explanation, exception or qualification in any Schedule is disclosure of that item for all purposes for which disclosure is required under the Agreement when it is reasonably apparent from the context that such item, explanation, exception or qualification also relates to another Schedule irrespective of whether any cross reference is made or no Schedule is provided with respect to a representation. Other than as expressly set forth herein or when the Schedules reference agreements or other matters not documented in a separate writing, all descriptions of agreements, written materials or other matters appearing herein, are summary in nature and are qualified by reference to the complete documents, which have been supplied to the Buyer or its counsel.**

# SCHEDULE A

## Service Area



**Schedule 2.02(h)**

Excluded Assets

None.<sup>1</sup>

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<sup>1</sup> To confirm.

## **Schedule 4.05**

### Consents and Approvals

1. Pennsylvania Public Utility Commission (“PaPUC”) Approval of Transaction
2. PaPUC Approval of Consent to Assignment and Amendment to Sewer Service Agreements and Related Amendments
3. Pennsylvania Department of Environmental Protection (“PaDEP”) Approval of Sanitary Sewer Collection and Conveyance System Act 537 Plan recognizing transfer of wastewater collection system from Seller to Buyer
4. PaDEP Approval of Transfer of all NPDES and WQM Permits

**Schedule 4.06**

Undisclosed Liabilities

*To be provided upon further review of due diligence.*

**Schedule 4.07**

**Events Having a Material Adverse Effect**

*To be provided upon further review of due diligence.*

**Schedule 4.08**

Tax Matters

[None.]<sup>2</sup>

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<sup>2</sup> To confirm

## Schedule 4.09

### Real Property and Easements; Liens<sup>3</sup>

Deed of Dedication and Grant of Easements - Sewage Treatment System for Phase 1 between Township of Willistown, Okehocking Associates and Quakers Sewage, Inc. dated December 11, 1999.

§ 105-91 **Acceptance of dedication.**

Willistown Township hereby accepts the continuing offer of dedication of Quaker Sewer, Inc., a Pennsylvania corporation, and, thereby, Willistown Township acquires ownership of the easements more fully described in the Sanitary Sewage Cross-Easement Agreement recorded in Chester County in Deed Book 3528, Page 2258 et seq., as amended by the First Addendum recorded in Chester County in Deed Book 4181, Page 133 et seq., and legal title to the improvements, to a certain community sewage collection and disposal system more fully described in Appendix A appended hereto,<sup>[1]</sup> made a part hereof and incorporated herein by reference (the "community sewage system"); which community sewage system serves or will serve some 202 townhouse units, more or less, made a part of a certain residential land development known as Willistown Chase/Penns Preserve.

[1] *Editor's Note: Appendix A is on file in the Township offices.*

[Pump Stations 1, 2 and 3 and Booster Pump Station 1 are on Willistown owned parcels.]

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<sup>3</sup>Easement and real property information to be provided.

## Schedule 4.10

### Equipment and Machinery

#### Equipment

ICOM3 Software

#### Vehicles

Vehicle Type	VIN	Year	Make	Title Number
Video Pipe Inspection Trailer	56VBE1013FM621482	2015	RC	76467781701
Jet Truck	1HTWCAAR4FH709273	2015	International	74331292701

## **Schedule 4.11**

### Environmental Compliance

#### **Sanitary System Overflow (SSO) Reporting for Operating Years 2018 through 2020:**

- Pursuant to the Chapter 94 Municipal Wasteload Management Annual Report for Calendar Year 2018, there were six (6) SSOs reported.
  - Five (5) were dry weather overflows, including three (3) resulting from the collapsed sewer.
  - One (1) SSO occurred in a private sewer system connected to the Township's sewer system.
  - The one (1) wet weather overflow also was a result of the collapsed sewer.
- Pursuant to the Chapter 94 Municipal Wasteload Management Annual Report for Calendar Year 2019, there was no reported sanitary system overflow within the Willistown Township wastewater collection and conveyance system.
- To date, there has been one (1) SSO reported in 2020, which was caused by tree roots in the line.

## Schedule 4.12

### Authorizations and Permits

#### **537 Plan:**

- Act 537 Plan Update for Willistown Township, as prepared by Yerkes Associates, dated November 2001.
- Regional Act 537 Plan for Valley Forge Sewer Authority, as prepared by Buchart Horn, Inc, and Gannett Fleming, dated November 2006.
- Act 537 Plan Supplement for Wilson Road Force Main, as prepared by CH2M Hill, Inc., dated July 2016.

#### **NPDES Permits<sup>4</sup>**

#### **WQM Permits**

<b>Pump Station</b>	<b>WQM Permit Number</b>
Pump Station No. 1	#PA 1505406
Pump Station No. 2	#PA 1505406
Pump Station No. 3	#PA 1505406
Pump Station No. 4 (Penns Preserve)	[#PA 1505406] <sup>5</sup>
Dovecote Pump Station	

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<sup>4</sup> To be provided

<sup>5</sup> To confirm

**Schedule 4.13**

Assigned Contracts

<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Agreement	Willistown Township East Whiteland Township East Whiteland Municipal Authority	September 14, 1993	Transmission of sewage from 114 apartments in East Whiteland Township within the Woodview Apartments from East Whiteland to the collection system in Willistown (which will then go through the Valley Creek Trunkline to the Valley Forge Sewage Treatment Plant).
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Valley Forge Sewer Treatment Plant Agreement	Schuylkill Township East Pikeland Township Charlestown Township East Whiteland Township	November 1, 1970	Transmission and treatment of sewage from the municipalities to the Valley Forge Sewage Treatment Plant (“VFSTP”),

	<p>East Whiteland Municipal Authority</p> <p>Tredyffrin Township</p> <p>Tredyffrin Municipal Authority</p> <p>Willistown Township</p> <p>Easttown Township</p> <p>Easttown Municipal Authority</p> <p>Malvern Borough</p> <p>Malvern Municipal Authority</p> <p>Valley Forge Sewer Authority ("VFSA")</p>		<p>including charges for maintenance and repairs to the VFSTP.</p>
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<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Composite Amendment No. 1	Schuylkill Township East Pikeland Township Charlestown Township East Whiteland Township Tredyffrin Township Willistown Township Easttown Township Malvern Borough East Whiteland Municipal Authority Tredyffrin Municipal Authority Easttown Municipal Authority Malvern Municipal Authority Valley Forge Sewer Authority (“VFSA”)	December 18, 1974	This amendment amends portions of (and specifically Section 2.03 and certain Exhibits) of the Valley Creek Trunk line Agreement, the East Whiteland Trunk line Agreement and the Valley Forge Sewer Treatment Plant Agreement to address the construction by and reimbursement of Tredyffrin Authority by the other municipalities for its construction of the portion of the Valley Creek Trunk Sewer located in Valley Forge State Park. Also addresses the award of and credit for certain grants from the EPA

			to each of the authorities for the respective collection systems.
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Amendment to Valley Forge Sewage Treatment Agreement	Schuylkill Township East Pikeland Township Charlestown Township East Whiteland Township East Whiteland Municipal Authority Tredyffrin Township Tredyffrin Municipal Authority Willistown Township Easttown Township Easttown Municipal Authority Malvern Borough Malvern Municipal Authority Valley Forge Sewer Authority (“VFSA”)	January 1, 1983	This amendment changed the interest rates for late payments.

<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
<p>Supplement to Valley Forge Sewage Treatment Agreement for the Purpose of Complying with the United States Environmental Protection Agency Regulations</p>	<p>Schuylkill Township  East Pikeland Township  Charlestown Township  East Whiteland Township  East Whiteland Municipal Authority  Tredyffrin Township  Tredyffrin Municipal Authority  Willistown Township  Easttown Township</p>	<p>December 2, 1985</p>	<p>This supplement includes requirements that the municipalities, in order to comply with EPA regulations, enact ordinances to include monitoring, reporting and other requirements for industrial users and it gives VFSA authority to inspect, charge, fine, etc. industrial users and act on behalf of each municipality if necessary.</p>

	<p>Easttown Municipal Authority</p> <p>Malvern Borough</p> <p>Malvern Municipal Authority</p> <p>Valley Forge Sewer Authority (“VFSA”)</p>		
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Addendum to Valley Forge Sewage Treatment Agreement for the Purpose of Permitting and administering the Sale of Reserved Capacity among the Parties	<p>Schuylkill Township</p> <p>East Pikeland Township</p> <p>Charlestown Township</p> <p>East Whiteland Township</p> <p>East Whiteland Municipal Authority</p> <p>Tredyffrin Township</p> <p>Tredyffrin Municipal Authority</p> <p>Willistown Township</p> <p>Easttown Township</p>	October 1994	This addendum addresses disparities between the reserved capacities of the various municipalities by allowing for the permanent sale of unused reserved capacity between the municipalities, with the consent of VFSA and pursuant to certain offer and sale procedures.

	<p>Easttown Municipal Authority</p> <p>Malvern Borough</p> <p>Malvern Municipal Authority</p> <p>Valley Forge Sewer Authority (“VFSA”)</p>		
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Wastewater Conveyance Agreement	<p>Aqua Resources, Inc.</p> <p>Schuylkill Township</p> <p>East Pikeland Township</p> <p>Charlestown Township</p> <p>East Whiteland Township</p> <p>Tredyffrin Township</p> <p>Willistown Township</p> <p>Easttown Township</p> <p>Easttown Municipal Authority</p> <p>Malvern Borough</p>	November 2018	<p>The transmission of sewage from the municipalities through the Valley Creek Trunkline (owned by Aqua) to be treated at Valley Forge Sewer Treatment Plant (“VFSTP”). The VFSA agrees to accept, treat and dispose of such sewage pursuant to this Agreement and the Valley Forge Sewage Treatment</p>

	Tredyffrin Township Municipal Authority  Valley Forge Sewer Authority (“VFSA”)		Plant Agreement.
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Inter-municipal Sewer Line Extension Agreement	Willistown Township  Borough of Malvern	May 17, 1988	Concerns service to border customers of Malvern and Willistown via inter-municipal sewer line extensions and service from the other municipality. Any new sewer line extension requires a new inter-municipal agreement. Each municipality bills and sets fees for the customers located in its jurisdiction and then the “transporting” municipality compensates the “receiving” municipality.

			<p>Compensation was originally the sewer rent of the receiving municipality, but the August 1996 Amendment changed the billing to provide that the flow from the transporting municipality is subtracted from the flows of the receiving municipality for VCTS and VFSTP reporting.</p>
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Inter-municipal Sewer Line Connection and Use Agreement	Willistown Township Borough of Malvern	August 20, 1996	<p>Covers extension of a Willistown line to the Tidewater development (80 townhouses) located in Malvern Borough. This amendment revises the billing procedures for the Tidewater development and all other future sewer</p>

			<p>line extensions to provide that flow from the transporting municipality (Malvern) is subtracted from the flows of the receiving municipality (Willistown) for reporting to VCTS and VFSTP.</p> <p>All flow is measured by a flow meter, to be installed, maintained and read by transporting municipality. Transporting municipality pays receiving municipality a quarterly charge per EDU, which may be updated no more frequently than every 2 years.</p>
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<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Inter-municipal Sewer Agreement – Village at Pennwyck	Willistown Township Borough of Malvern	August 11, 2000	Covers extension of a Willistown line to 12 homes in the Village of Pennwyck development located in Malvern Borough (access road and certain other public improvements are located in Willistown). The collection system (Pennwyck Sanitary Sewer System) in Malvern discharges the flow into sewage gravity mains in Willistown. Malvern collects all fees directly from the customers located in its municipality. Sewer rental is based off

			water meter readings obtained at the sole cost and expense of Malvern. For billing purposes, flow from the Pennwyck homes is subtracted from Willistown's flow for purposes of reporting to VCTS and VFSTP. A fee is also payable to Willistown upon connection to the system and then on a quarterly basis.
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sewage Treatment Agreement	Willistown Township East Goshen Township East Goshen Municipal Authority	December 23, 1996	Concerns 1 home (59 Line Road, Malvern PA) in Willistown Township connected to the East Goshen system. Sewage from this home is received by East Goshen

			<p>for treatment in the Ridley Creek Sewage Plant. Willistown bills the customer and East Goshen bills Willistown on a quarterly basis at the regular residential sewer rental rates according to the East Goshen sewer rate ordinance. Agreement provides that East Goshen is responsible for all repairs to the system, including the portion within Willistown Township.</p>
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sewage Treatment Agreement	<p>Willistown Township</p> <p>East Goshen Township</p> <p>East Goshen Municipal Authority</p>	October 11, 1988	<p>Hunter's Run is a subdivision with lots in East Goshen, Westtown and Willistown Townships. Three of the lots are located in Willistown. All Hunter's</p>

			<p>Run lots are connected to the East Goshen sewage collection system and served by the West Goshen sewage treatment plant. Willistown bills the customers and East Goshen bills Willistown on a quarterly basis at the regular residential sewer rental rates according to the East Goshen sewer rate ordinance. Agreement provides that each party is responsible for the parts of the system in its own boundaries.</p>
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sewage Treatment Agreement	Willistown Township East Goshen Township	2003 (not dated or signed)	Concerns 1 home (79 Line Road, Malvern PA) in Willistown Township connected to the East

	East Goshen Municipal Authority		Goshen system. Sewage from this home is received by East Goshen for treatment in the Ridley Creek Sewage Plant. Willistown bills the customer and East Goshen bills Willistown on a quarterly basis at the regular residential sewer rental rates according to the East Goshen sewer rate ordinance. Agreement provides that East Goshen is responsible for all repairs to the system, including the portion within Willistown Township.
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sewage Treatment Agreement	Willistown Township  East Goshen Township	December 23, 1996	Willow Pond is a subdivision with lots in East Goshen and Willistown

	<p>East Goshen Municipal Authority</p>		<p>Townships. 14 lots are located in Willistown and 14 lots are located in East Goshen. All lots are connected to the East Goshen system and such sewage is treated at the Ridley Creek Treatment Plant in East Goshen. Willistown bills the customers and East Goshen bills Willistown on a quarterly basis at the regular residential sewer rental rates according to the East Goshen sewer rate ordinance. Agreement provides that the portions of the Willow Pond collection system located in each township are dedicated to each such township, but</p>
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			that East Goshen is responsible for all repairs to the system, including the portion within Willistown Township.
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sewage Treatment Agreement	Willistown Township Easttown Township Easttown Municipal Authority	December 1999	Easttown and Willistown each have customers near the township boundaries who cannot connect to the system of the municipality in which the customers are located, so such customers connect to the other municipality's system. Each municipality will bill customers within their own boundaries. For each such customer, before a connection is made to the receiving municipality, the transporting

			<p>municipality will initially pay the receiving municipality an amount equal to receiving municipality's tapping fee, connection charge, and inspection fee, if any. As a fee for conveyance of the wastewater, the transporting municipality will pay quarterly to the receiving municipality an amount equal to the usual sewer rental charges imposed from time to time by the receiving municipality upon its users located in the receiving municipality. Daily sewage flow from each dwelling shall be determined on an EDU basis.</p>
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>

<p>Purchase of Sewer Capacity Agreement</p>	<p>Willistown Township The Devereux Foundation</p>	<p>August 3, 2009</p>	<p>Devereux purchased 64 EDUs of sewage capacity from Willistown in order to connect to the Willistown sewer system. Devereux's connection was also via a pump station to be located on the Devereux property and a force main and piping to be installed within the public right-of-way of Sugartown Road to connect to an existing force main located in the vicinity of Sugartown Road and School Lane (the "Sewer Project"). The agreement sets forth the purchase price for the EDUs and additional fees and costs paid to Willistown for connection, and the timeframe for</p>
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			<p>connection and payment of sewer rentals. The pump station on the Devereux property is owned, operated and maintained by Devereux, but is subject to a continuing offer of dedication to Willistown. The force main and associated piping within the Sugartown Road right-of-way shall be subject to a continuing offer of dedication to Willistown, provided that Devereux agrees to the design for a possible future connection to the "Laurel Circle Area" and Devereux shall grant an easement to Willistown to service the Laurel Circle Area.</p>
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<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sewer Construction and Maintenance Agreement	Willistown Township  The Devereux Foundation	August 3, 2009	This agreement sets forth the specifications of the Sewer Project described in Purchase of Sewer Capacity Agreement between Devereux and Willistown Twp as well as Devereux's obligations and the timeframe for construction of the Sewer Project. It also addresses Devereux's obligations as to the continued maintenance of the Sewer Project (if and until it is dedicated to Willistown).
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Deed of Dedication and Grant of Easements – Sewage Treatment System for Phase 1	Willistown Township  Okehocking Associates  Quaker Sewer, Inc.	December 11, 1999	Dedicates sewer improvements for Quaker Farms (Penns Preserve and Willistown Chase) from the owner of

			<p>the tract on which the improvements are located (Okehocking) and the owner and general contractor of the improvements (Quaker) to Willistown Twp. The agreement provides that, if a portion of the tract involving the spray irrigation fields is not utilized for a period of 2 continuous years for the purpose of spray irrigation or other sewage treatment involving land application, that portion shall automatically be released from the easement and Willistown's rights will be extinguished and all property rights and easements will revert to</p>
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			the original owner.
<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Pump Station, Operation and Maintenance Agreement	Willistown Township Devereux Foundation - Mapleton Campus (“Owner”)	September 8, 2020	Addresses the construction, operation and maintenance by Owner of a pump station and force main that will convey waste water from Owner’s facility located at 655 Sugartown Road to Willistown’s collection system. All construction required to be in accordance with permit granted by DEP. Township has access to the pump station at all times for inspection. Owner is required to make all repairs determined upon inspection and if it fails to, or in the event of an emergency, Willistown may make such repairs at

<b>Name of Contract</b>	<b>Parties to Contract</b>	<b>Date of Contract</b>	<b>Subject</b>
Sanitary Sewage Cross Easement Agreement	Okehocking Associates  Quaker Real Estate	March 18, 1993	Owner's expense.  Establishes cross easements between property owned by Okehocking on the side of West Chester Pike and property owned by Quaker on the South side of West Chester Pike, which each require certain common sewage facilities (the Spray Irrigation System). The easements were granted to facilitate the installation, operation, maintenance, repair and replacement of the Spray Irrigation System. Pursuant to the agreement, the Spray Irrigation System has subsequently been dedicated

			to the Township, pursuant to the Deed of Dedication described above.
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**Schedule 4.14**  
**Seller Litigation**

[None.]<sup>6</sup>

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<sup>6</sup> To confirm

**Schedule 4.16(a)**

Exception to Title to Acquired Assets

*To be provided upon further review of due diligence.*

**Schedule 4.16(b)**

Sufficiency

*To be provided upon further review of due diligence*

### Schedule 4.17

#### Pending Development Plans

Service Area	Project	Status	Projected EDUs	YoY New EDU Projections				
				2020	2021	2022	2023	2024
VFSA Service Area	Troutbeck Farm	Preliminary	38	-	-	10	10	10
	314 South Valley Road	Preliminary	1	1	-	-	-	-
	57 Grubb Road	Preliminary	1	1	-	-	-	-
	107 Central Avenue	Preliminary	1	1	-	-	-	-
	1 Wildwood Drive	Preliminary	1	1	-	-	-	-
	620 Sugartown Road	Preliminary	1	-	1	-	-	-
	1 Greenbriar Lane	Preliminary	4	-	-	-	-	-
	2291 South Valley Road	Preliminary	4	-	1	1	1	1
East Goshen	None	N/a	-	-	-	-	-	-
Penn's Preserve	None	N/a	-	-	-	-	-	-

**Schedule 4.18**

**Land Development/Financial Security Agreements**

None.

## **Schedule 5.04**

### **Buyer Consents and Approvals**

1. Pennsylvania Public Utility Commission (the “PaPUC”) Approval of Transaction
2. PaPUC Approval of Consent to Assignment and Amendment to Sewage Treatment Agreements and Related Amendments
3. Pennsylvania Department of Environmental Protection (the “PaDEP”) Approval of Sanitary Sewer Collection and Conveyance System Act 537 Plan recognizing transfer of wastewater collection system from Seller to Buyer
4. PaDEP transfer of all NPDES and WQM Permits

**Schedule 5.11**

**Buyer Litigation**

*To be addressed by Buyer.*

**Schedule 6.05(e)**

**Missing Easements**

*To be provided upon further review of due diligence.*

**Schedule 7.03(a)**

Rates

**A. Gravity Sewer Customers, Valley Forge Sewer System**

Base Rate: \$124.66 per quarter/\$41.55 per month

Quarterly Consumption Based on Usage: \$0.00552 per gallon

**B. Low Pressure Sewer Customers, Valley Forge System – Including But Not Limited to the Sugartown Road – School Lane Sewer District, The East Central Sewer District, and The Acres Sewer District**

Base Rate: \$124.66 per quarter/\$41.55 per month

Quarterly Pump Maintenance Fee: \$50.00

Quarterly Consumption Based on Usage: \$0.00552 per gallon

**C. Penns Preserve Sewer**

Base Rate: \$187.96 per quarter/\$62.65 per month

**D. East Goshen Sewer**

Base Rate: \$153.87 per quarter/\$51.29 per month

East Goshen customers will be billed and responsible for payment of the prorated portion of the quarterly sewer payment due to East Goshen Township and/or East Goshen Municipal Authority.