



THOMAS, NIESEN & THOMAS, LLC

*Attorneys and Counsellors at Law*

THOMAS T. NIESEN  
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August 15, 2018

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

In re: Docket No. A-2017-2605434  
Second Amendment to Asset Purchase Agreement Between  
Aqua Pennsylvania Wastewater, Inc. and Limerick Township

Dear Secretary Chiavetta:

We are counsel to Aqua Pennsylvania Wastewater, Inc. ("Aqua") in the above matter and, in compliance with Ordering Paragraph 3.d of the Opinion and Order of the Public Utility Commission entered July 12, 2018, are submitting with this letter, via electronic filing, the Second Amendment to Asset Purchase Agreement ("APA") amending Section 7.05(b) of the APA.

Please contact me if anything further is required in regard to this matter.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

cc: Certificate of Service (w/encl.)  
Alexander R. Stahl, Esquire (via email, w/encl.)

**CERTIFICATE OF SERVICE**

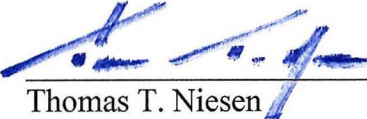
I hereby certify that I have this 15<sup>th</sup> day of August 2018, served a true and correct copy of the foregoing letter and Second Amendment to Asset Purchase Agreement Between Aqua Pennsylvania Wastewater, Inc. and Limerick Township upon the persons and in the manner set forth below:

**VIA FIRST CLASS MAIL, POSTAGE PREPAID**

Carrie B. Wright, Prosecutor  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Christine Maloni Hoover  
Erin L. Gannon  
Senior Assistant Consumer Advocates  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Thomas S. Wyatt, Esquire  
Dilworth Paxson LLP  
1500 Market Street  
Suite 3500E  
Philadelphia, PA 19102



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Thomas T. Niesen  
PA Attorney ID No. 31379

## SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT

**THIS SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT** (the "Amendment") is dated as of this 17<sup>th</sup> day of July, 2018, is made and entered into by and between **LIMERICK TOWNSHIP**, Montgomery County, a body corporate and politic, duly organized under the Pennsylvania Second Class Township Code (the "Seller"), and **AQUA PENNSYLVANIA WASTEWATER, INC.** (the "Buyer"), a Pennsylvania corporation.

### BACKGROUND

Seller and Buyer have entered into an Asset Purchase Agreement dated as of November 16, 2016 (the "Agreement"), regarding the purchase and sale of the assets owned and used by Seller in connection with its operation of a sanitary wastewater collection and treatment system that provides sanitary wastewater service to various customers in Limerick Township, Pennsylvania;

Under the Agreement, Buyer's obligation to proceed to Closing is conditioned upon the Pennsylvania Public Utility Commission's issuance of a Final Order.

On March 29, 2018, Buyer and Seller entered into the First Amendment to Asset Purchase Agreement.

Seller, Buyer, and the Office of Consumer Advocate have engaged in settlement discussions with respect to, among other items, the Pennsylvania Public Utility Commission's Final Order.

Seller and Buyer now wish to amend the Agreement to provide for clarification of the Stabilization Period on the terms and conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, each to the other paid, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller agree that notwithstanding any provision of the Agreement to the contrary:

1. **Defined Terms.** Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Agreement.

2. **Definition of Stabilization Period.** Section 7.05(b) is hereby deleted in its entirety and replaced with the following language:

**Rate Stabilization.** After Closing, Buyer shall begin charging the Base Rate as Buyer's rates within the Service Area, which Base Rate the Parties agree may not be increased until after the third anniversary of March 31, 2018 (the "Stabilization Period").

3. **Entire Agreement.** The Agreement, as modified by this Amendment, constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect the Agreement as modified herein, or

that induced any Party to enter into the Agreement as modified herein or on which reliance is placed by any Party, except as specifically set forth in the Agreement as modified herein. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of the Agreement as modified herein, (ii) the provisions and language of the Agreement as modified herein have been fully negotiated and (iii) no provision of the Agreement as modified herein shall be construed in favor of any Party or against any Party by reason of such provision of the Agreement as modified herein having been drafted on behalf of one Party rather than the other Party.

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

5. **Ratification.** Except as specifically modified herein, the Agreement is hereby ratified and confirmed in its entirety.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

LIMERICK TOWNSHIP,  
MONTGOMERY COUNTY

AQUA PENNSYLVANIA  
WASTEWATER, INC.

By: D. Elaine DeWan

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

Printed: D. ELAINE DE WAN

Printed: \_\_\_\_\_

Its: Chairman, Board of Supervisors

Its: \_\_\_\_\_

that induced any Party to enter into the Agreement as modified herein or on which reliance is placed by any Party, except as specifically set forth in the Agreement as modified herein. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of the Agreement as modified herein, (ii) the provisions and language of the Agreement as modified herein have been fully negotiated and (iii) no provision of the Agreement as modified herein shall be construed in favor of any Party or against any Party by reason of such provision of the Agreement as modified herein having been drafted on behalf of one Party rather than the other Party.

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LIMERICK TOWNSHIP,  
MONTGOMERY COUNTY

AQUA PENNSYLVANIA  
WASTEWATER, INC.

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

By: 

Printed: \_\_\_\_\_

Printed: MARC A. LUCCA

Its: \_\_\_\_\_

Its: PRESIDENT