
**CITY OF NIAGARA FALLS
AND
NIAGARA FALLS WATER BOARD**

ACQUISITION AGREEMENT

DATED AS OF April 1, 2003

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ACQUISITION AGREEMENT

THIS ACQUISITION AGREEMENT dated as of April 1, 2003 by and between the NIAGARA FALLS WATER BOARD (the "Board"), a body corporate and politic constituting a corporate municipal instrumentality of the State of New York (the "State"), and the CITY OF NIAGARA FALLS (the "City"), a municipal corporation of the State.

WITNESSETH:

WHEREAS, the Niagara Falls Public Water Authority (the "Authority") was created by Chapter 275 of the Laws of 2002, constituting the Niagara Falls Public Water Authority Act, codified as Section 1230-a through 1230-aa of Title 10-B of Article 5 of the Public Authorities Law of the State, as amended (the "Authority Act"), and is vested with the powers and duties described in the Authority Act, including the power to borrow money, issue debt and enter into agreements with the Board and the City for the financing by the Authority of one or more "projects", as such term is defined in the Authority Act (such projects being sometimes hereinafter referred to as "Projects"); and

WHEREAS, the Board was created by Chapter 325 of the Laws of 2002 of the State, codified as Section 1231-a of Title 10-C of Article 5 of the Public Authorities Law of the State (the "Board Act") (the Authority Act and the Board Act, as amended from time to time, are hereinafter collectively referred to as the "Act"); and

WHEREAS, pursuant to the provisions of Section 1230-i of the Act, the Board is authorized to enter into agreements with the Authority and the City to provide a means whereby the Authority can finance, through the issuance of its special obligation revenue bonds (the "Bonds"), the cost of acquiring and/or constructing certain projects, including, but not limited to, the acquisition of the water, wastewater, and stormwater system (collectively the "System") (as defined in the Act); and

WHEREAS, the Board is empowered by the Act to (A) assume title to the System, and (B) raise revenues from users through fees, rates, rents or other service charges necessary or appropriate to secure such Bonds and to pay the cost of the operation, management, repair, upgrade and improvement of the System; and

WHEREAS, pursuant to the provisions of Section 1230-h of the Act, the Board and the City are authorized to enter into an agreement for the transfer of the System from the City to the Board for use by the Board in the exercise of the corporate powers and purposes of the Board; and

WHEREAS, pursuant to the provisions of the Act, (A) the City Council of the City by resolution has duly authorized the Mayor of the City to execute and deliver this Acquisition Agreement on behalf of the City, (B) the Board by resolution has duly authorized the Chairman or Vice Chairman of the Board to execute and deliver this Acquisition Agreement on behalf of the Board, and (C) the Authority by resolution has approved the terms of this Acquisition Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND OF THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES, AS FOLLOWS:

ARTICLE I
ACQUISITION OF ASSETS AND ACCEPTABLE TITLE

SECTION 1.01. SALE OF CERTAIN PREMISES. The City shall sell to the Board, and the Board shall purchase from the City, at the price and upon the terms and conditions set forth in this Acquisition Agreement, all right, title and interest of the City in and to the following (hereinafter sometimes collectively referred to, for convenience, as the "Assets"):

(A) the real property and interests in real property, including but not limited to easements and rights of way, and as described on Exhibit A attached hereto (the "Land");

(B) all buildings and improvements situated on the Land (the "Improvements");

(C) all fixtures, furniture, equipment and other personal property acquired, installed, rehabilitated or constructed (including all work in progress as soon as commenced) and used or to be used for the purpose of accumulating, supplying, transmitting, distributing, disposing or treating water, wastewater and stormwater, including, but not limited to, surface or groundwater reservoirs, basins, dams, canals, aqueducts, fire hydrants, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, walls, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion, storm sewers, catch basins, manholes, and other plants, structures, equipment, vehicles, conveyances, personal property or rights therein and appurtenances thereto used in or for the accumulation, supply, transmission, treatment or distribution of water, wastewater and stormwater (collectively, the "Equipment"), including, without limitation, those items described on Exhibit B attached hereto. The Land, Improvements and Equipment will hereinafter be sometimes collectively referred to, for convenience, as the "Property;"

(D) any other materials, supplies, plans and property whatsoever and however described, located on, in, under or contained in the above-mentioned Land, Improvements and plants and structures incidental to, or necessary, useful or convenient for, the construction, use, operation or maintenance of the System;

(E) all right, title and interest of the City in and to all contracts, agreements, warranties, guaranties, (the "Contracts") and the permits, licenses and approvals (collectively, the "Permits") used or usable in connection with the ownership, construction, use, operation or maintenance of the System, including, without limitation, the Contracts and Permits more particularly described in Exhibit C attached hereto;

(F) all books and records, engineering reports, maps, manuals and plans and specifications prepared on behalf of the City and other documents owned by the City and used or usable in connection with the construction, ownership, operation or maintenance of the System (collectively, the "Books and Records"); and

(G) all unexpended proceeds of the bonds and notes of the City described in Section 9.09 hereof (subject to the provisions of the Local Finance Law and the Internal Revenue Code of 1986, as amended), to be deposited by the Board with the Authority and to be expended on requisition of the Board for the purpose described in Section 8.07 hereof or, at the discretion of the Authority and the Board, to be used to defease or refund debt obligations, or to pay principal and interest on debt obligations; and

(H) all other cash on hand intended for or attributable to the water, wastewater or stormwater facilities of the City in any account held by the City, or any agent or trustee thereof, to be deposited in the Local Water Fund of the Board; and

(I) all accounts receivable of the City from and after the Closing Date (as defined in Section 3.01 hereof) in connection with its water, wastewater and stormwater related accounts (the "Accounts Receivable") in connection with its water, wastewater and stormwater related accounts (the "Accounts Receivable").

SECTION 1.02. ACCEPTABLE TITLE. The City shall convey and the Board shall accept title to the Assets in accordance with the terms and provisions of this Acquisition Agreement, subject only to the matters set forth in Exhibit D attached hereto (collectively the "Permitted Encumbrances") and such other matters as the Board and the Authority may approve.

SECTION 1.03. ACQUISITION OF ADDITIONAL PROPERTY BY EASEMENT OR LEASE. The City shall convey to the Board an interest by easement or lease, upon the terms and conditions set forth in this Acquisition Agreement, in certain rights and interests of the City in and to the following (hereinafter sometimes collectively referred to, for convenience, as the "Additional Property"):

(A) the interests in real property, if any, described on Exhibit E attached hereto (the "Additional Land"); and

(B) all buildings and improvements, if any, situated on the Additional Land (the "Additional Improvements").

ARTICLE II PURCHASE PRICE

SECTION 2.01. PURCHASE PRICE. Except as otherwise provided herein, on the Closing Date, the aggregate purchase price (the "Purchase Price") to be paid by the Board to the City for the Assets shall be paid to the City or applied as follows:

(A) The Board shall pay the City the sum of Four Million Dollars (\$4,000,000), together with funds in an amount sufficient for the City to defease, refund or otherwise eliminate the outstanding debt of the City that relates to the System. Included within such funds will be the amounts necessary to effect an exchange of outstanding City debt for Authority debt in connection with loans provided by the New York State Environmental Facilities Corporation; and

(B) The Board shall pay the City an amount equal to the cash payments made by the City from sources other than the City's Water Enterprise Fund and the Sewer Enterprise Fund to pay the debt service or expenses of the System (excluding any stormwater-related costs) in 2002 and in 2003 through the Closing Date. If the exact amount of the City's payments under this provision is not determined by the Closing Date, the Board shall pay an estimated amount to the City on the Closing Date and the City and the Board will use their best efforts to set an agreed-upon amount for such City payments within thirty (30) calendar days of the Closing Date. The Board or the City shall pay the other party on a timely basis any amounts that are owed not later than thirty (30) calendar days following the determination of the agreed-upon amount.

SECTION 2.02. MANNER OF PAYMENT. All monies payable under this Acquisition Agreement, unless otherwise specified in this Acquisition Agreement, shall be paid by the Board to the City on the Closing Date.

SECTION 2.03. ACCOUNTS PAYABLE AND ACCOUNTS RECEIVABLE. All accounts payable which are owed in connection with the System from and after the Closing Date shall be adjusted as hereinafter provided by the City on an on-going basis until such adjustments are no longer necessary. Accounts payable which are allocable to the City's ownership of the System prior to Closing shall be paid by the City. Amounts which are allocable to the Board's ownership of the System from and after the Closing shall be paid by the Board. The City warrants that the Accounts Payable balance on the Closing Date includes only routine amounts that are payable and that there are no extraordinary accounts outstanding. All Accounts Receivable of the City arising from or in connection with the System and the Assets shall be transferred to the Board as of the Closing Date.

ARTICLE III CLOSING

SECTION 3.01. CLOSING. The closing of the transfer of title to the Assets (and the acquisition of the interest or interests in the Additional Property described in Section 1.03 hereof) pursuant to this Acquisition Agreement (the "Closing") shall take place on the date (the "Closing Date") of issuance by the Authority of its original series of Bonds and receipt by the Board from the Authority of monies in an amount at least sufficient to enable the Board to pay the Purchase Price.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE CITY

The City represents and warrants to, and agrees with, the Board that as of the date hereof and the Closing Date:

SECTION 4.01. PENDING LITIGATION. The City has no knowledge of any suit, litigation, action (legal or otherwise) or proceeding (involving zoning or otherwise) or governmental investigation pending against or relating to the City with respect to the Assets, or the transactions contemplated by this Acquisition Agreement nor, to the best of the City's knowledge, is there

any basis for any such action. If any lawsuit is pending or is commenced after the Closing Date against the City with respect to the Assets or the transactions contemplated by this Acquisition Agreement and which relates to any event or condition which occurred or existed on or prior to the Closing Date, the City shall indemnify, defend and hold the Authority and the Board harmless from and against any and all liability with respect to such suits, which obligation of the City shall survive the Closing.

SECTION 4.02. CONDEMNATION. The City has no knowledge of any pending or threatened condemnation of the Land, Improvements, Equipment, or Additional Property, or any part thereof.

SECTION 4.03. NOTICE BY INSURANCE COMPANIES. The City has not received (and has no knowledge of) any notice or request from any insurance company, Board of Fire Underwriters, or organization exercising functions similar thereto, requesting the performance of any work or alteration with respect to the Assets.

SECTION 4.04. OWNERSHIP. The City is the owner of the Assets, or the holder of an interest in the Assets sufficient to permit the use and operation of the Assets, and no other person or entity has any right to acquire all or any portion of the Assets or any right or estate in and to the Assets from the City. All of the Land and Improvements and the Additional Property are exempt from all real estate taxes and any other governmental impositions.

SECTION 4.05. PERMITTED ENCUMBRANCES. No part of the Assets are encumbered by any mortgage, lease, easement, restrictive covenant, encumbrance or lien of any kind, except Permitted Encumbrances.

SECTION 4.06. NOTICE OF VIOLATIONS. No notes or notices of violation of law or municipal ordinances or of federal, state, county or municipal or other governmental agency regulations, orders or requirements relating to the Assets have been received by the City, and the City has no reason to believe that any such note or notice may or will be received.

SECTION 4.07. PERMITS, LICENSES AND APPROVALS. Except as set forth in Article IX hereof or listed on Exhibit C hereto, no Permits are required by any governmental agency in connection with the transfer of the Assets contemplated by this Acquisition Agreement.

SECTION 4.08. CONSENTS OR RELEASES. No consents, approvals, filings or releases, other than those heretofore obtained or set forth on Exhibit F attached hereto, are required from or with any person in connection with the transfer of the Assets contemplated by this Acquisition Agreement or in connection with the construction, operation, use or maintenance thereof.

SECTION 4.09. COMPLIANCE WITH LAWS. The Assets and the present use and condition thereof do not, in any material respect, violate any applicable deed restrictions or other covenants, restrictions, easements, agreements, zoning, environmental, subdivision or state or local fire code regulations applicable to the Assets, except Permitted Encumbrances, and the City is not aware of any of the foregoing which would prohibit the use of the Assets as contemplated herein, and all requisite Contracts and Permits for us the Assets are in full force and effect. To

the best of the City's knowledge and belief, set forth in Exhibit C attached hereto is a true, current and complete list of all Permits presently in effect with respect to the Assets. Unless otherwise specified in Exhibit C, all such Permits to the extent assignable by the City to the Board, will be assigned by the City to the Board at Closing. To the extent that the City becomes aware of any other permit not set forth on Exhibit C, the City shall likewise assign such Permit to the Board, as necessary and allowed by law.

SECTION 4.10. APPLICATIONS WITH FEDERAL AND STATE AGENCIES. Any application filed or proceeding heretofore commenced by the City in relation to the Assets which is pending with the State Department of Environmental Conservation or any other State agency or instrumentality or with any federal agency or instrumentality and which is transferable to the Board, to the extent necessary and as allowed by law, will be transferred by the City to the Board at Closing. The City and the Board shall enter into one or more agreements to effect such transfers, which agreements may provide that any such application or proceeding shall inure to and be for the benefit of the Board and shall be binding upon the Board to the same extent and in the same manner as if the Board had been a party to such application or proceeding from its inception, and that the Board shall be deemed a party thereto. Such agreements may provide that, to the extent permitted by the approving or licensing party, all licenses, approvals, permits or decisions heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding, shall inure to the benefit of and be binding upon the Board, and such agreements may be assigned and transferred by the City to the extent such transfer or assignment is not prohibited by State or Federal law, and is required to be transferred or assigned to the Board as owner of the Assets.

SECTION 4.11. ENVIRONMENTAL REPRESENTATIONS. To the best of the City's knowledge, except as disclosed and set forth in Exhibit G attached hereto:

(A) The Assets and their existing and prior uses comply and have at all times complied with, and the City is not in violation of and has not violated, in connection with the ownership, use, maintenance or operation of the System, any applicable Federal, State, County or local statutes, laws, regulations, rules, ordinances, codes, licenses and permits of any governmental authorities relating to environmental matters, including, without limitation, the Clean Air Act, the Federal Water Pollution Act of 1972, the Resource Conservation and Recovery Act of 1976, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (and any amendments or extensions thereof), and the Toxic Substance Control Act.

(B) Except as disclosed on Exhibit C, there are no underground storage tanks located in or on the Property, or the Additional Property.

(C) There are no statutes, order, rules or regulations relating to environmental matters requiring any work, repairs, construction or expenditures with respect to the Assets, nor has the City received any notice of any of the same.

(D) No Hazardous Materials, as hereinafter defined, have been or currently are being used, generated, stored, released or disposed of on or from the Property or Additional Property, except in accordance with all applicable Federal, State and local statutes, regulations and

ordinances. No Hazardous Materials have been or currently are being transported to or from the Property or Additional Property, except in accordance with all applicable Federal, State and local statutes, regulations and ordinances. For the purposes hereof, the term "Hazardous Materials" means, without limitation, any asbestos, petroleum or petroleum products, flammable explosives, radioactive materials, hazardous or toxic substances and wastes, or related materials, including, but not limited to "hazardous substances," "hazardous materials," or "toxic substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, all laws of the State of New York and all regulations and guidance manuals pursuant thereto, as they all may be amended from time to time. "Disposal," "release," and "threatened release" shall have the same meaning as set forth in CERCLA.

(E) No notices of any violation of any of the matters referred to in subsections (A) through (D) of this Section 4.11 relating to the Assets or its use have been received by or on behalf of the City.

SECTION 4.12. REPRESENTATIONS MATERIAL. The City acknowledges that each of the representations, warranties and agreements made by it in this Article IV and elsewhere in this Acquisition Agreement is material to the Board hereunder.

ARTICLE V CONDITIONS TO SALE

Except as may be waived by the Board, in its sole discretion, the Board's obligations under this Acquisition Agreement to accept title to the Assets at the Closing are contingent upon the following:

SECTION 5.01. PERMITS. The Board shall have obtained all Permits necessary to acquire and use or operate the Assets. The City will cooperate with the Board so that the Board may apply to obtain all necessary Permits needed by the Board to complete the purchase of the Assets and to contract with the City to operate the Assets as contemplated by this Acquisition Agreement.

SECTION 5.02. AGREEMENTS. The City will provide the Board with copies of all Contracts which are currently in effect with respect to the operation of the System, including, but not limited to, (A) the agreements for the sale of water and collection and treatment of sewage listed on Exhibit C hereto, (B) agreements for maintenance or other services and (C) agreements with any persons or entities which provide the City, and the City's business invitees, privileges and permissions to use any facilities, or which provide privileges and permissions for other persons and entities to use any facilities of the System.

SECTION 5.03. WARRANTIES. At the Board's request, the City will provide the Board with copies of any warranties for the Equipment which is to be transferred to the Board hereunder.

SECTION 5.04. TERMINATION OF CONTRACT. The Board shall have the right to examine the Assets and the System after execution of this Acquisition Agreement but prior to the Closing Date. During the pendency of this Acquisition Agreement, the Board and the Board's engineers

and other authorized representatives will have access to the Assets for the purpose of making inspections and tests to determine whether the Assets are suitable for the Board's intended use of the System. The Board may notify the City or the City's attorney no later than the Closing Date that the Assets and/or the System are unsuitable for the Board's intended use, and thereupon this Acquisition Agreement may be cancelled, null and void upon delivery of such notice by the Board, and neither party shall have any further obligation to the other.

SECTION 5.05. INDEMNIFICATION.

(A) The City expressly acknowledges and agrees that it will reimburse, defend, indemnify and hold the Authority and the Board and their respective officers, members, agents, servants and employees harmless from and against any and all liabilities, claims, or damages (including reasonable attorneys fees and litigation expenses), which may now or in the future, be undertaken, suffered, paid, awarded, assessed, or otherwise incurred as a result of any misrepresentation or breach of any warranty contained herein, or as a result of any contamination or release of Hazardous Materials existing on, above or under the Property and/or Additional Property, at the time of the Closing.

(B) The foregoing indemnity, and the indemnity in Section 4.01 herein, shall survive the Closing and shall be for the exclusive benefit of the Authority and the Board and their respective officers, members, agents, servants and employees and shall not be for the benefit of any subsequent purchaser of the Assets or any other party.

SECTION 5.06. CONDITIONS. The right to indemnification of the Authority and the Board and their respective members, officers, employees and agents by the City pursuant to Section 5.05 hereof is expressly subject to satisfaction of the following conditions:

(A) The Authority and the Board shall promptly forward to the City's Corporation Counsel all notices of a claim hereunder and all summonses or notices pertaining to claims received or served upon the Authority or the Board and their members, officers, employees or agents, together with a written request for indemnification pursuant to this Article;

(B) The Authority and/or the Board and their respective members, officers and employees shall cooperate in aiding the City to investigate, adjust, settle or defend each claim, action or proceeding; and

(C) The defense of all claims, actions and proceedings shall be conducted by, or under the supervision of, the City. Unless the City shall determine otherwise, the Corporation Counsel of the City shall be the attorney of record on behalf of the Authority and the Board and their respective members, officers, employees or agents, in all actions and proceedings for which indemnification is requested by the Authority and the Board.

ARTICLE VI
RESPONSIBILITY FOR VIOLATIONS

SECTION 6.01. CITY TO REMOVE VIOLATIONS. All notes or notices of violations of law or governmental ordinances, orders or requirements which are noted or issued prior to the Closing Date by any governmental department, agency or bureau having jurisdiction as to conditions materially affecting the Assets or the System shall be removed or complied with by the City prior to the Closing Date or as soon as practicable thereafter except as noted on Exhibit D.

ARTICLE VII
DESTRUCTION, DAMAGE OR CONDEMNATION

SECTION 7.01. APPLICABLE LAW. The provisions of Section 5-1311 of the General Obligations Law shall apply to the sale and purchase provided for in this Acquisition Agreement.

ARTICLE VIII
COVENANTS

The City and/or the Board, as applicable, covenant that, between the date of this Acquisition Agreement and the Closing Date:

SECTION 8.01. NO ENCUMBRANCES. The City shall not encumber the System or any of the Assets or enter into any lease or other occupancy agreement which would remain in effect beyond the Closing Date, without the prior written consent of the Board.

SECTION 8.02. NO MODIFICATION OF CONTRACTS. The City shall not modify or amend any service contract or enter into any new service contract with respect to the System or any of the Assets, except in the ordinary course of operating and maintaining the System or such Assets.

SECTION 8.03. INSURANCE. The City shall maintain in full force and effect until the Closing Date all insurance policies currently maintained by the City with respect to the Assets and the System.

SECTION 8.04. REMOVAL OF EQUIPMENT. No Equipment included in this sale shall be removed from the System unless the same is replaced with similar items of at least equal value and quality prior to Closing.

SECTION 8.05. ACCESS TO BOOKS, RECORDS, ETC. The City shall allow the Board or the Board's representatives or agents access to the Assets, including, but not limited to, the System, the contracts, agreements, books, records, plans and specifications and other documents required to be delivered under this Acquisition Agreement upon reasonable prior notice at reasonable times.

SECTION 8.06. APPLICATIONS FOR PERMITS, LICENSES OR APPROVALS. The City shall, if requested by the Board, cooperate with the Board in all respects in connection with any application made by the Board to any governmental authority for any permit, license or other approval in connection with the ownership, construction or operation of any of the Assets.

SECTION 8.07. EXISTING PROJECTS. The Board will complete each of the Projects set forth on the list of Projects attached hereto as Exhibit H using, subject to requisition, the proceeds transferred to the Board and the Authority of the City's general obligation bonds or notes previously issued for such purposes and any other funds made available therefor to the Board or the Authority.

SECTION 8.08. IMPOSITION OF TAXES. After the Closing Date, the City will not impose, levy or assess any taxes, fees, rents, charges or impositions, however described on the Assets or with respect to any real or personal property hereafter owned by the Board and used as part of or in furtherance of the System or public purposes of the Board.

ARTICLE IX THE CITY'S CLOSING OBLIGATIONS

At the Closing, the City shall deliver the following to the Board:

SECTION 9.01. REAL ESTATE DOCUMENTS. A deed (the "Deed to Board") and such other documents (together with the Deed to Board, the "Real Estate Documents") properly executed and in proper form for recording, so as to convey to the Board title to the Land and Improvements and the interests in the Additional Property as required by this Acquisition Agreement.

SECTION 9.02. BILL OF SALE. A bill of sale (the "Bill of Sale to Board") properly executed, conveying, transferring and selling to the Board all right, title and interest of the City in and to the Equipment.

SECTION 9.03. ASSIGNMENTS. An assignment (the "Assignment") in form satisfactory to the Board conveying to the Board the Accounts Receivable, the Water and Wastewater Fund accounts, the Contracts, the Permits and the Books and Records, to the extent they are assignable. In addition, the Assignment shall include an assignment to the Board of all of the City's interest in its State Pollutant Discharge Elimination System ("SPDES") Permit(s), and any other Permits which are then in effect and in the City's possession which have been issued for or with respect to the System and that are assignable by the City, together with all required consents of applicable governmental agencies to such assignment.

SECTION 9.04. PERMITS AND CONTRACTS. The City shall deliver to the Board copies of the following items assigned to the Board pursuant to the Assignment: (A) Permits which are then in effect and in the City's possession which have been issued for or with respect to the System, together with all required consents of applicable governmental agencies to such

assignment, and (B) all Contracts, including but not limited to, the Stipulation and Judgment with Settlement Agreement by and between the City and Occidental Chemical Corporation dated December 9, 1983, and as amended December 30, 1983.

SECTION 9.05. INSURANCE. A list of all insurance policies maintained by the City with respect to the System, together with any original insurance policies in the City's possession with respect to which premiums are to be apportioned or, if unobtainable, true copies or certificates thereof.

SECTION 9.06. CERTIFICATES. A certificate or certificates from duly authorized officials of the City to the effect that the information pertaining to the City, the Assets, the customers thereof and the past revenues and expenses thereof set forth in the Preliminary Official Statement relating to the initial Series of Bonds to be issued by the Authority does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading or incomplete.

SECTION 9.07. OPINION. A satisfactory opinion of the Corporation Counsel of the City covering such matters as the Board shall reasonably require with respect to the Assets and the System and the authority of the City to consummate the transactions contemplated by this Acquisition Agreement.

SECTION 9.08. BOOKS AND RECORDS. A certificate or certificates from duly authorized officials of the City that access to and documents transferring ownership of original or certified copies of all books and records relating to the System and the operation or maintenance thereof, including all Books and Records to the Accounts Receivable and Accounts Payable, have been given to the Board.

SECTION 9.09. UNEXPENDED PROCEEDS. A certificate with respect to the City's general obligation bonds attributable to the System acknowledging transfer of all unexpended proceeds and evidencing the deposit of the same in the Authority or Board's Construction Fund established pursuant to the Resolution for the issuance of Bonds.

SECTION 9.10. OTHER DOCUMENTS. Any other documents required by this Acquisition Agreement to be delivered by the City, or to better effect the acquisition contemplated hereby, including certificates of title to the vehicles and machinery listed on Exhibit B hereto.

ARTICLE X THE BOARD'S CLOSING OBLIGATIONS

As of the Closing Date, the Board shall:

SECTION 10.01. DELIVERY OF FUNDS. Arrange for delivery of funds to the City as described in Section 2.02 hereof and otherwise deliver the Purchase Price due and payable at the Closing.

SECTION 10.02. RECORDATION AND DELIVERY OF DOCUMENTS. Cause the executed Real Estate Documents and other title transfer documents to be recorded or filed, as required by applicable law, and as recommended by counsel. In addition, the Board shall deliver to the City any documents required by this Acquisition Agreement to be delivered by the Board to the City. Any fees or taxes relating to such transfer of title and recording or filing shall be paid for by the Board and, if paid by the City, shall be reimbursed by the Board.

SECTION 10.03. TRANSFER OF EMPLOYEES. As of the Closing Date, all City employees who are currently assigned to work at the City's departments of Water and Wastewater (including stormwater personnel), and whose job titles are set forth in Exhibit I attached hereto and made a part hereof, shall be offered employment by the Board on such relevant terms and conditions of employment as are set forth in the current collective bargaining agreements between the City and the employees' Unions (the "Unions"), which are set forth in Exhibit J attached hereto. Each employee who accepts employment with the Board shall remain in the same Union local as was the case prior to such transfer to the Board, or in such union as the Board and the Unions may otherwise agree. Nothing herein shall prevent the Board and the Unions from negotiating new collective bargaining agreements in the future. The Board shall be the public employer of such employees in accordance with the provisions of section 1230-1 of the Act.

ARTICLE XI OBJECTION TO TITLE

SECTION 11.01. DISCHARGE OF LIENS. Any due and unpaid liens and encumbrances (other than Permitted Encumbrances) on the Assets or Additional Property which are against the City or other corporations, estates or persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, will be discharged by the City at the sole cost and expense of the City.

SECTION 11.02. TITLE TO THE ASSETS. If the Board raises a valid, written objection to the City's or the Board's title to the Assets being sufficient to operate and maintain the System, then the City shall proceed with due diligence to cure the defect, including by exercise by the City of its power of eminent domain or condemnation, at the sole cost and expense of the City. If the City effects such cure by exercise of its power of eminent domain or condemnation, it shall take the property (or interest therein, as the case may be) in its own name. The City will pay all costs and expenses incurred in connection with the acquisition of such property (or interest therein), such property (or interest therein) and promptly thereafter shall be conveyed by the City to the Board.

ARTICLE XII EFFECTIVENESS OF AGREEMENT AND CONDITIONS TO POSSESSION

SECTION 12.01. EFFECTIVENESS OF AGREEMENT. This Acquisition Agreement shall not become effective unless and until the following events shall have occurred:

(A) The Authority, the Board and the City have each, by resolution duly adopted, approved the terms and provisions of this Acquisition Agreement; and

(B) The Authority has issued the Bonds in an amount sufficient to pay the portion of the Purchase Price that is to be paid through the proceeds of Authority Bonds set forth in Article II herein.

SECTION 12.02. CONDITIONS TO POSSESSION. The Board shall not take possession of the System until the Real Estate Documents, and any other documents effectuating the transfer of the Property as contemplated hereunder, are filed with the clerk of the City and the Secretary of State of the State, and as otherwise required by applicable law.

ARTICLE XIII NOTICES

SECTION 13.01. NOTICES. (A) All notices, requests and other communications under this Acquisition Agreement shall be deemed to have been duly given if in writing when (1) delivered personally to the applicable address stated below, or (2) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (3) delivery is refused by the addressee, as evidenced by the affidavit of the person who attempted to effect such delivery. Except as provided in subsection (C) hereof, the addresses to which such notices, requests and other communications hereunder shall be delivered are as follows:

IF TO THE CITY:

Office of the Corporation Counsel of the City of Niagara Falls
City Hall
745 Main Street
Niagara Falls, New York 14302-0069

IF TO THE BOARD:

Niagara Falls Water Board
Attention: Executive Director
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

With a copy to:

Office of the Secretary
Niagara Falls Water Board
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

IF TO THE AUTHORITY:

Niagara Falls Public Water Authority
Attention: Chairman
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

With a copy to:

Office of the Secretary
Niagara Falls Public Water Authority
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

(B) A duplicate copy of each notice, certificate and other communication given hereunder shall be given to the Authority, and the Board, as the case may be.

(C) Each party entitled to receive notices hereunder may, by notice given hereunder, designate any further or different addresses to which subsequent notices, requests and other communication shall be sent.

ARTICLE XIV SURVIVAL OF REPRESENTATIONS AND WARRANTIES

SECTION 14.01. SURVIVAL OF REPRESENTATIONS AND WARRANTIES. The representations, warranties, covenants and other obligations of the City set forth in this Acquisition Agreement shall survive the Closing.

ARTICLE XV MISCELLANEOUS

SECTION 15.01. WAIVERS. No failure to exercise, and no delay in exercising on the part of the City or the Board, as the case may be, any right, power or privilege hereunder, shall operate as the waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power

or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

SECTION 15.02. AMENDMENTS. This Acquisition Agreement may not be amended unless such amendment or modification is in writing, duly authorized by resolution of the City Council of the City and by resolution of the Board, and the Authority has by resolution approved such amendment (and, if such amendment occurs subsequent to the Closing, the Trustee concurs in writing to such amendment).

SECTION 15.03. APPLICABLE LAW. This Acquisition Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

SECTION 15.04. CAPTIONS. The table of contents and headings of the several articles and sections of this Acquisition Agreement and the captions in this Acquisition Agreement are inserted for convenience of reference only and shall in no way define, describe or limit the scope or intent of this Acquisition Agreement or control, affect the meaning of or be taken as an interpretation of any provision of this Acquisition Agreement.

SECTION 15.05. FURTHER ASSURANCES. The City and the Board hereby covenant, from time to time, to do all acts and to make or enter into and deliver any contracts, agreements, leases, conveyances or other instruments as may be necessary or appropriate to effectuate this Acquisition Agreement or to better assure, transfer and confirm to the Board the Assets conveyed hereunder.

SECTION 15.06. NO PERSONAL LIABILITY. Nothing contained in this Acquisition Agreement and no act of the Board or the City or any member of the Board or any officer or employee of either the Board or the City performed or omitted in pursuance, effectuation or implementation thereof shall be construed to give rise to or create any personal liability whatsoever on the part of any present or future individual member or group of individual members of the Board or any officer or employee of either the Board or the City in his or her individual capacity.

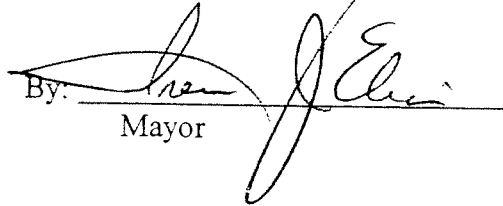
SECTION 15.07. SEVERABILITY. In the event that any one or more of the provisions contained in this Acquisition Agreement is or are invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions contained in this Acquisition Agreement shall be in no way affected, prejudiced or disturbed thereby.

SECTION 15.08. INCONSISTENCY. If the provisions of any schedule to this Acquisition Agreement are inconsistent with the provisions of this Acquisition Agreement, the provisions of such schedule shall prevail.

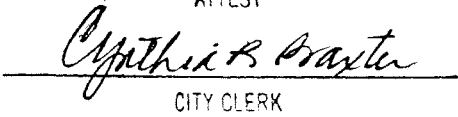
SECTION 15.09. EXECUTION OF COUNTERPARTS. This Acquisition Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the City and the Board have caused this Acquisition Agreement to be executed in their respective names by their respective authorized officers, all as of the date first above written.

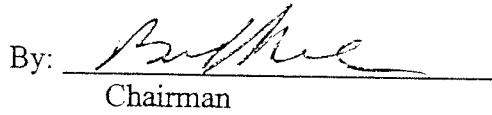
CITY OF NIAGARA FALLS

By: 
Mayor

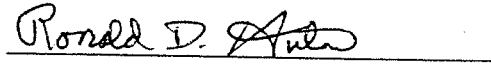
ATTEST


CITY CLERK

NIAGARA FALLS WATER BOARD

By: 
Chairman

APPROVED AS TO FORM:


Corporation Counsel of
The City of Niagara Falls

The Authority hereby approves this Acquisition Agreement, in accordance with the provisions of Section 1230-h of the Authority Act, as of the date first above written.

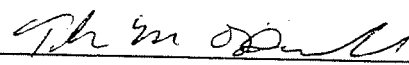
NIAGARA FALLS PUBLIC
WATER AUTHORITY

By: 
Chairman

STATE OF NEW YORK)
) ss:
COUNTY OF NIAGARA)

On the 14th day of April in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared Irene J. Elia, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

THOMAS M. O'DONNELL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
COMMISSION EXPIRES APRIL 30, 2003

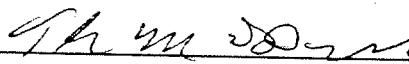


Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF NIAGARA)

On the 14th day of April in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared Brian F.Kane, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

THOMAS M. O'DONNELL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
COMMISSION EXPIRES APRIL 30, 2003

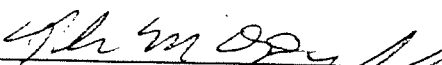


Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF NIAGARA)

On the 17th day of April in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared Carmen A. Colao, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

THOMAS M. O'DONNELL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
COMMISSION EXPIRES APRIL 30, 2003



Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND AND IMPROVEMENTS

All Property and interests in such Property including, but not limited to, approximately 265 miles of water pipes and 210 miles of wastewater (sanitary and combined sewer) pipes and appurtenances thereto owned, leased or licensed by the City of Niagara Falls and located within the boundaries of the City of Niagara Falls, Niagara County, New York, and now or hereafter used in connection with the City of Niagara Falls water, wastewater and stormwater system (the "System"), including but not limited to the following:

| <u>COMMONLY KNOWN DESCRIPTION OF PROPERTY</u> | <u>ASSESSMENT ADDRESS</u> |
|---|-------------------------------|
| <u>Fee Interests</u> | |
| 1. 56 th Street Tank | 440 56 th Street |
| 2. Beech Avenue Tank | 1780 Beech Avenue |
| 3. Water Treatment Plant Site | 5815 Buffalo Avenue* |
| 4. Eastern Area | 5317 Buffalo Avenue |
| 5. Frontier Avenue Lift Station | 8025 Frontier Avenue |
| 6. ByPass Pump Station | 8090 W. Rivershore Drive |
| 7. Stephenson Avenue Lift Station | 8020 Stephenson Avenue |
| 8. Griffon Avenue Lift Station | 8643 Griffon Avenue |
| 9. 56 th Street Lift Station | 5601 Buffalo Avenue |
| 10. Luick Avenue Lift Station | 932 91 st Street |
| 11. Bollier Avenue Lift Station | 1124 Military Avenue |
| 12. 101 st Lift Station | 1565 101 st Street |
| 13. Wastewater Treatment Plant | 1201 Buffalo Avenue |
| 14. Municipal Water Interconnection Building (City Water and Niagara County Water district) | 10016 Colvin Boulevard |
| 15. Bypass Pump Station | 539 Cayuga Drive Pump |
| 16. Gorge Pumping Station | 920 Whirlpool Street |
| 17. Regulator 1 | 315 - 19 th Street |
| 18. Regulator 2A/2B | 315 - 22 nd Street |
| 19. Regulator 3A | 315 - 24 th Street |
| 20. Regulator 4A | 300 - 27 th Street |
| 21. Regulator 5 | 400 - 30 th Street |
| 22. Regulator 6A/6B | 305 Hyde Park Boulevard |
| 23. Regulator 9 | 1757 Falls Street |
| 24. Regulator 10 | 227 - 12 th Street |
| 25. Regulator 11A/11B | 1002 Falls Street |
| 26. Regulator 12 | 300 - 4 th Street |
| 27. SSI Level Monitoring Station | 215 - 27 th Street |

* (Excluding, however, 3.38+/- acres east of west street line of 60th Street and identified as Sublot 601 on a map dated 6-28-99).

COMMONLY KNOWN DESCRIPTION
OF PROPERTY

ASSESSMENT
ADDRESS

- | | |
|--|-------------------------------|
| 28. SSI Level Monitoring Station (EJS) | 4400 Royal Avenue |
| 29. SSI Level Monitoring Station (Reg. 8) | 4700 Royal Avenue |
| 30. SSI Gas Monitoring Station | 201 – 22 nd Street |
| 31. NGI Gas Monitoring Station (Devils Hole) | 4800 Penn Street |
| 32. FST Junction Structure | Rainbow Bridge |

Licensed Interests

1. CSX License at Valuation Station 919, located 168' east of Mile Post 174 – Registry No.:187053
2. NY Central License Suspension Bridge – Registry No.: 17023-6
3. NY Central License Sugar Street, 5288' east of Suspension Bridge – Registry No.: 25881-3
4. NY Central License 5433' west of Suspension Bridge – Registry No.: 16374-2
5. Conrail License Suspension Bridge – Registry No.:170304
6. CSX Transportation License Echota Location at Iroquois & Buffalo Avenues – CR No.: 129966 (formerly 53131352)
7. CSX Transportation License Main St. & Ferry Avenue – CR No.: 129967
8. CSX Transportation License Maple & Hudson Avenues – CR No.: 017023002
9. CSX Transportation License LaFayette Avenue – CR No.: 017023004

Leased Interests

Letter Agreement by and between The City of Niagara Falls, The Niagara Falls Power Company, Niagara Junction Railway Co., and The Niagara Gorge Railroad Co., December 20, 1935 (Niagara Gorge Pump Station) (99-year term).

Permit with New York State (Division of General Services) dated August 23, 1994 for construction and maintenance of water intake tunnel for the water treatment plant under the Robert Moses Parkway and lands under water of Niagara River (50-year term).

Agreement by and between The New York Central Railroad Company and The City of Niagara Falls dated May 11, 1962 (Registry No. 129 966).

EXHIBIT B

DESCRIPTION OF THE EQUIPMENT

All articles of personal property and all appurtenances and additions thereto and substitutions or replacements thereof, and owned by the City of Niagara Falls and now or hereafter attached to, contained in or used in connection with the City of Niagara Falls water, wastewater and stormwater system (the "System") or placed on any part thereof, though not attached thereto, including, but not limited to, the following:

(A) all fixtures, furniture, equipment and other personal property acquired, installed, rehabilitated, or constructed (including all work in progress as soon as commenced) and used or to be used for the purpose of accumulating, supplying, transmitting, distributing disposing, or treating water, wastewater and stormwater including, but not limited to, surface or groundwater reservoirs, basins, dams, canals, aqueducts, fire hydrants, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion, storm sewers, catch basins and manholes and other plants, structures, equipment, vehicles, conveyances, personal property or rights therein and appurtenances thereto used in or for the accumulation, supply, transmission, treatment or distribution of water, wastewater and stormwater; and

(B) any other materials, supplies, plans and property whatsoever and however described, located on, in, under or contained in the above-mentioned plants and structures incidental to, or necessary, useful or convenient for, the construction, use, operation or maintenance of the System.

EXHIBIT C

CONTRACTS AND PERMITS

I. Settlement Agreement:

- (A) Stipulation and Judgment Approving Settlement Agreement dated December 9, 1983 and Agreement by and between City of Niagara Falls, New York and Occidental Chemical Corporation, formerly known as Hooker Chemical Corporation, formerly known as Hooker Chemicals & Plastics Corp. dated December 30, 1983.

II. Permits and Contracts:

(A) General

1. New York State Department of Environmental Conservation.
2. New York State Department of Health.
3. Federal Communications Commission.
4. United States Environmental Protection Agency.
5. United States Army Corps of Engineers.

Nationwide Permit

(B) Detail of Permits and Contracts

| <i>Description of Item</i> | <i>Party Information</i> |
|---|--|
| 1. Permit - Private Aids to Navigation Application Dated: 11/1/94 Renewed Annually 4/1-11/30 Permittee: CNF Water Facilities | DOT U.S. Coast Guard Howard Rick (216) 522-3366 |
| 2. Permit - Petroleum Bulk Storage Dated: 4/20/01 Exp.: 5/1/06 Permittee: Niagara Falls (c) Water | NYS DEC- Region 9 851-7220 |

| <i>Description of Item</i> | <i>Party Information</i> |
|---|--|
| 3. Permit – Water Supply Taking of Water from Niagara River Dated: 8/28/94 Permittee: City of NF | NYS DEC Regional Permit Administrator 851-7165 |
| 4. Permit – SPDES Effective Date: 2/1/93 Exp: 2/1/98 Modified: 1/197 Permittee: City of NF - Water Treatment | NYS DEC |
| 5. Permit – NYS Cert. of Approval for Laboratory Services Dated: 6/27/02 Permittee: NF Drinking Water Lab | NYS DOH |
| 6. Permit – NYS Cert. of Approval for Laboratory Services Dated: 6/27/02 Permittee: NF Drinking Water Lab | NYS DOH |
| 7. Permit – NYS Cert. of Approval for Laboratory Services Dated: 6/27/02 Permittee: NF Drinking Water Lab | NYS DOH |
| 8. Permit – SPDES Re: Pretreatment Program (incorporated into SPDES #NY0026336 Dated: 5/8/85 Permittee: Department of Utilities | NYS DEC Pretreatment Section (518) 457-4125 Regional Office 847-4590 |
| 9. Permit – SPDES Exp. 6/1/98 Permittee: City of NF - Waste Water Exp: 2003 | NYS DEC Steven Doleski 851-7165 |
| 10. Permit – Hazardous Substance Bulk Storage Registration Certificate Dated: 5/7/01 Exp Date: 7/5/03 Permittee: NF WW | NYS DEC |
| 11. Permit – Cert. of Approval for Lab Service Permittee: NFWW Facility Dated: 6/27/02 Exp.: 6/27/03 | NYS DOH |

| <i>Description of Item</i> | <i>Party Information</i> |
|--|--|
| 12. Permit – Cert. of Approval for Lab Service Permittee: NFWW Facility Dated: 6/27/02 Exp.: 6/27/03 | NYS DOH |
| 13. Contract – Shared Services Agreement re: provision of sanitary sewer services Dated: 12/14/99 Term: 10 years Renewal: unlimited 5 year terms | Town of Niagara |
| 14. Contract – Consult. Services for Watermain Replacement Dated: 6/19/02 | Wendel Duchscherer 75 John Muir Drive Suite 100 Amherst, NY 14228 |
| 15. Contract – to supplement Stipulation and Judgment Approving Settlement Agmt. Dated: 12/30/93 | Hooker Chemicals (Occidental Chemical Corp.) |
| 16. Contract – Agreement for purchase of 25+ acres of land for DWTP Dated: 12/19/91 | NYS Power Authority |
| 17. Contract – 15-02 For: De-Watering of alum-sludge @ Water Treatment Plant Term: 7/01/02-6/30/03 | J.A. Brundage The Drain Doctor, Inc. 1401 College Avenue Niagara Falls, NY 14305 |
| 18. Contract - 16-02 For: Hauling/disposal of alum sludge from Water Treatment Plant Term: 7/01/02-6/30/03 May be renewed by 6/30/04 | BFI Waste System of North America Inc. 2321 Kenmore Avenue P.O. Box 571 Kenmore, NY 14217 |
| 19. Mutual Aid Agreement 1/01/86 – City For: NCWD purchases filtered water from City; City purchases filtered water from NCWD Term: one year ending 12/31 with automatic renewals. | Niagara Co. Water District |

| <i>Description of Item</i> | <i>Party Information</i> |
|---|---|
| 20. Contract - Provision of engineering services for constr. of freeze/thaw sludge beds for WTP. Term: Completion of project. | Stearns & Wheeler LLC One Remington Park Drive Cazenovia, NY 13035 The Young Agency Inc. 500 Plum Street Suite 200 Syracuse, NY 13204 (315) 474-3374 |
| 21. Lease Agreement – Term: 12 mos. one-year option to lease; if exercised then lease four-year w/5 additional five-year terms @440 56 th Street | Voicestream (Tenant) 12920 SE 38 th Street Bellevue, WA 98006 Attn: PCS Leasing |
| 22. Lease - LP 8/04/99 BU13XCO79 Lease on water tank 3006 20 th Street “Beech Ave. Water Tower w/access easement; comm. equipment Term: five years; automatic renewal four five-year terms | Sprint Spectrum Cross Roads Corp. Center 1 International Blvd. Suite 800 Mahwah, NJ 07495 Attn: Michael Petronella (201) 512-4700 |
| 23. Lease - LP 2/12/97; lease on water tank Term: five years with four five-year automatic renewals | Sprint Spectrum Attn: Property Manager 2165 Brighton Henrietta Town Line Road Rochester, NY 14623 |
| 24. Contract - re WTP Eastern Area Phase II Investigation 6/20/00 until completion | O'Brien & Gere Engineers, Inc. 5500 Main Street Suite 301 Williamsville, NY 14221 |
| 25. Lease - Water Tank 440 56 th Street – radio communication equipment Term: five years with automatic extension of four five-year terms. | Upstate Cellular d/b/a Verizon Wireless 180 Washington Valley Road Bedminster, NJ 07921 Attn: Network Real Estate |
| 26. Contract - Nia-Co Water District transfers pipeline and obligation to supply Villages of Lewiston, Youngstown and Town of Lewiston with water. | Nia-Co Water District 5450 Ernst Road Lockport, NY 14094 |
| 27. Contract - 1/17/58 to supply water to AF Base | US Air Force Niagara Falls Municipal Airport Niagara Falls, NY |

| <i>Description of Item</i> | <i>Party Information</i> |
|--|---|
| 28. License - 6/10/85 Grants Town of Lewiston right to enter easement area and install 14" water line. | Nia. Co. Water District: Town of Lewiston |
| 29. Contract - NCWD – Town of Lewiston 5/05/62 to supply water to Sanborn Water District. | NCWD – Town of Lewiston 5450 Ernst Road Lockport, NY 14094 |
| 30. Contract - NCWD – Town of Lewiston 5/13/85 co-operation agreement to construct improvements to water distribution system. | NCWD – Town of Lewiston 5450 Ernst Road Lockport, NY 14094 |
| 31. Contract - NCWD and Town of Lewiston 2/14/83 grants water transmission rights to Town in 18". | NCWD and Town of Lewiston 5450 Ernst Road Lockport, NY 14094 |
| 32. Contract - NCWD – Town of Lewiston 11/21/85 co-operation agreement for construction of water storage facility to service area north of escarpment. | Town of Lewiston and NCWD |
| 33. Contract - Town of Lewiston: NCWD 3/30/81 grant of transmission rights to various water lines to Town and Village water supply. | Town of Lewiston and NCWD |
| 34. License Agreement 6/20/73 – Penn Central (CSX) and City temp. license to City to construct, maintain, repair, alter 12" cast iron water main over/under track at Ontario Branch Station 919 + 055+/- | Penn Central (CSX) Room 600 Six Penn Center Plaza Philadelphia, PA 19104 |
| 35. NY Central: Easement Dated: 10/11/10 terminable easement right to lay and maintain an 8" cast iron water pipe over tracks north of Suspension Bridge. | NY Central |
| 36. NY Central: Easement Dated: 10/22/23 terminable easement to lay and maintain a 24" cast iron water pipe across RR @Talls Branch near Sugar Street east of Suspension Bridge. | NY Central |

| <i>Description of Item</i> | <i>Party Information</i> |
|--|---|
| 37. NY Central RR: Easement Dated: 10/10/18 terminable easement to lay and maintain 8" cast iron water pipe across RR within ROW lines of Niagara Branch and Ontario Branch west of Suspension Bridge. | NY Central RR |
| 38. Conrail: License Dated: 6/01/72 to lay 8" cast iron pipeline @ Suspension Bridge; cancels 2/17/19 license agreement. | Conrail 17 th Floor 1528 Walnut Street Philadelphia, PA 19102 |
| 39. Deed b/t 2/01/95 – Jessie M. Copia to James Copia. | |
| 40. Contract - #SC1632 Sewer Joint Grouting Repair Dated: 7/30/02 | Sewer Specialty Services Co., Inc. 2462 New Road Leicester, NY 14481 |
| 41. Contract - #50 Gorge Pump Station Elevator Shaft Rehabilitation Dated: 9/24/02 | Walter S. Johnson Building Company, Inc. 6638 Mooradian Drive P.O. Box 688 Niagara Falls, NY 14302 |
| 42. Contract – Engineering Services for Gorge Pumping Station Elevator Shaft Rehabilitation Dated: 3/07/02 | Wendel Duchscherer Architects & Engineers, P.C. 95 John Muir Drive Suite 100 Buffalo, NY 14228 |
| 43. License – Underground crossing of 24" cast iron water line opposite 53 rd Street Continues until terminated by either party Dated: 5/1/41 | Niagara Falls Power Company (Niagara Mohawk) 535 Washington Street Buffalo, NY 14203 |
| 44. Contract – Provision of replacement power from Niagara Mohawk to City of Niagara Falls. Replaces: previously entered contracts b/t Niagara Mohawk and City dated 11/13/74 and 3/17/82. Dated: 10/26/94 | |
| 45. Contract – Engineering Services for Grouting Storm/Sanitary Sewer Interconnections Dated: 5/1/02 | Parson's Engineering Science, Inc. |

| <i>Description of Item</i> | <i>Party Information</i> |
|--|--|
| 46. Contract – Customer Participation Agreement re study of alternatives for storage, transport of liquid waste | NYS Energy Research & Development Authority 617 Main Street Suite 105 Buffalo, NY 14203 |
| 47. Contract – Engineering Services re 2002 Structural Integrity Investigation of Carbon Filter Beds Dated: 2/28/02 | O'Brien & Gere Engineers, Inc. P.O. Box 4873 Syracuse, NY 13221 The Young Agency 500 Plum Street Suite 200 Syracuse, NY 13204 (315) 474-3347 |
| 48. Contract – Engineering Services for North Gorge Interceptor Falls Street Tunnel Conveyance Restoration Dated: 2/28/02 | O'Brien & Gere Engineers, Inc. P.O. Box 4873 Syracuse, NY 13221 The Young Agency 500 Plum Street Suite 200 Syracuse, NY 13204 (315) 474-3347 |
| 49. Contract – Engineering Services for Local Discharge Limits – Response to USEPA Comments Dated: 8/7/00 | Malcolm Pirnie, Inc. 40 Centre Drive P.O. Box 1936 Buffalo, NY 14219-0138 |
| 50. Contract – Engineering Services for Luick Avenue Lift Station Electrical Upgrade Dated: 6/6/02 | O'Brien & Gere Engineers, Inc. Syracuse, New York (Engineer) P.O. Box 4873 Syracuse, NY 13221 The Young Agency, Inc. 500 Plum Street Suite 200 Syracuse, NY 13204 (315) 474-3374 |
| 51. Contract – Refractory Repairs to the Carbon Regeneration System – Bid #20-01 | |
| 52. Amendment to Contract for Engineering Services re: SPDES Permit | Limno-Tech, Inc. Michigan |

III. Cellular Antenna Lease Contracts:

- (A) ATT, aka Divine Tower (56th Street & Beech Ave Tank)
- (B) Cellular One, aka Cingular or Buffalo Telephone (56th Street Tank)
- (C) Cricket, aka Nortel (56th Street Tank)
- (D) Sprint Spectrum (56th Street & Beech Ave Tank)
- (E) Voice Stream, aka Omnipoint Holdings (56th Street Tank)
- (F) Verizon (56th Street Tank)

EXHIBIT D

PERMITTED ENCUMBRANCES

The term "Permitted Encumbrances" when used with reference to the Purchased Property, shall include the following:

(A) Any and all liens, encumbrances, security interests or other defects in title which may exist on the Closing Date and which are consented to by the Board in the exercise of its reasonable discretion,

(B) utility, access and other easements, rights of way and exceptions which do not materially impair the operation or maintenance of the System or the revenues therefrom,

(C) mechanics' materialmen's, warehousemen's, carriers' and other similar liens, to the extent permitted by law, and liens for taxes at a time not being delinquent or being contested, and

(D) all other matters of record; provided, however, that such matters do not impair the use and operation of the System.

EXHIBIT E

DESCRIPTION OF THE ADDITIONAL PROPERTY

All Property and interests in such Property, owned or used by the City of Niagara Falls and located outside the boundaries of the City of Niagara Falls, Niagara County, New York, and now or hereinafter used in connection with the City of Niagara Falls System, including but not limited to the following:

- (A) such interests, if any, in the area of the Niagara River; and
- (B) such interests, if any, lying outside the municipal boundaries of the City of Niagara Falls.

EXHIBIT F
CONSENTS AND APPROVALS

- (A) New York State Department of Environmental Conservation.
- (B) New York State Department of Health.
- (C) Federal Communications Commission.
- (D) United States Environmental Protection Agency.
- (E) United States Army Corps of Engineers.
- (F) United States Coast Guard.

EXHIBIT G

DISCLOSURE OF ENVIRONMENTAL CONDITIONS

(A) A proposed Administrative Consent Order (ACO) was issued by the NYSDEC relative to clearing obstructions in the North Gorge Interceptor.

The proposed ACO included a suggested schedule for compliance.

The City, prior to formation of the Board and Authority, has begun undertaking the activities required by the proposed ACO in order to rectify the situation, and has contracted with an engineering firm to begin the design.

Application has been made to finance the project (No. C9-6664-08-00) through the Clean Water State Revolving Fund (CWSRF) administered by the New York State Environmental Facilities Corporation (EFC).

The City Council approved a bond resolution to provide for the financing of this improvement.

There has been no enforcement action either at the state or federal level in connection with the wastewater system, other than the proposed administrative consent order.

(B) "Eastern Area" and "One Acre Site"

Properties (immediately west of the water treatment plant site) are currently listed on the NYS Department of Environmental Conservation (DEC) Registry of In-Active Hazardous Waste Sites as 2A.

In April 2002, to resolve this status, the City Water Department submitted a Phase II Environmental Investigation of both sites to the DEC, which is still under review.

The intended land use plan for this acreage includes construction of freeze-thaw beds and a maintenance yard for water distribution maintenance.

EXHIBIT H

CITY'S EXISTING APPROVED PROJECTS

On or before the Closing Date, the City shall provide a certificate which provides a list and full description of Projects that the City has approved and/or is under contract to perform for which it has funds encumbered and/or unexpended, together with the amount of such unexpended funds as of such date.

EXHIBIT I

SCHEDULE OF EMPLOYEE TITLES AND EMPLOYEES
TO BE TRANSFERRED TO THE BOARD

WASTEWATER DEPARTMENT

| <i>Titles</i> | <i>Names</i> |
|--|--|
| Crew leader | Murgia, David |
| Maintenance Worker - 3 | Flynn, Kevin |
| Maintenance Worker - 2 | Vesci, Russell Ingram, Rodney |
| Maintenance Worker - 1 (.5 WWF) | Bruno, Michael |
| Account Clerk | Capton, Roxanne Rossi, Valerie |
| Brick Layer | Sgro, Adam (Temp) |
| Chemist/Laboratory Technical Director | Kargatis, Kimberly |
| Chief of Administration/ Technical Support | Bolents, William |
| Chief of Maintenance | Gallagher, Donald (Prov) |
| Chief Operator | Crocker, Douglas |
| Control Maintenance Mechanic | Antonucci, Anthony Argona, Joseph Conti, James M Drylewski, Mark Ferrante, Christopher Mang, Ronald Mann, Brian McCarthy, Kevin Merino, Marc Neville, John Poremba, John Ricker, Paul |
| Cross Connection Inspector (.5 WWF) | Corulli, James |
| Crew Leader | Buffamonte, Edward Sicurella, Anthony Summerson, John |
| Director of Utilities – Exempt (.5 WWF) | Vacant |
| Electrician (.5 WWF) | Skupin, James Zysk, Neil (Temp-paid from open Operator position) Lowe, Daniel |

| <i>Titles</i> | <i>Names</i> |
|--|---|
| Environmental Engineer | Roll, Richard |
| Industrial Monitoring Coordinator | Zaepfel, Albert |
| Junior Account Clerk | Callan, Marcia |
| Laboratory Technician | Fratello, Al Jones, Scott Reichman, Donald VonCraigh, Ted Zaepfel, Patricia |
| Machinist | Infantino, Thomas |
| Maintenance Worker – 1 (.5 WWF) | Cavese, Anthony Fadel, Jon Tracy, Paul Veihdeffer, Steve Bruno, Michael |
| Maintenance Worker – 2 | Choolokian, Glenn Murphy, Fred Talarico, Dan Whitmire, William |
| Maintenance Worker – 3 | Bailey, Richard Hertel, Steve |
| Motor Equipment Operator – 2 | Mixon, Charles Palmer, Bruce |
| Operating Engineer | Gee, Hugh |
| Painter | Schiro, Neil |
| Planning Resource Coordinator | Wallace Blake |
| Senior Engineering System Technician | Hake, William |
| Senior Instrument Technician | Buchalski, Victor Czum, Martin (Prov) Wodka, James (Temp) |
| Senior Laboratory Technician | Colangelo, Ronald Graham, Kevin LaGamba, Joseph |
| Senior Storekeeper | Chiarenza, Vincent |
| Senior Waste Inspector | Paradise, Joel |
| Sewage Plant Operator | Albright, Gerald Bateman, Paul Bogal, Michael Congelosi, Joseph Foster, Bruce Hartman, Charles Heary, Dale Jenkins, Hank Kasper, Fred Kaylor, Stephen LaGamba, Ronald |

| <i>Titles</i> | <i>Names</i> |
|------------------------------------|--|
| | Lemke, James Muioio, Jerry O'Grady, Daniel Paterson, Robert Paulson, Roy Phillips, Donald Slagel, Leonard Speck, Carl Splendido, Richard Steele, Tom Udy, James Warner, Alan Wilkinson, Robert 1- OPEN POSITION |
| Shift Operation Supervisor | Charish, Joseph Fratello, Russell Konecki, Michael Kumm, Robert Scarupa, John |
| Supervisor of Maintenance | Vitello, Thomas 1- OPEN POSITION |
| Supervisor of Sewer Maintenance | Hook, James |
| Waste Inspector | Pierce, Russell Stewart, Steve |
| Waste Inspector/Compliance Officer | Lewis, Ted |

WATER DEPARTMENT

| <i>Titles</i> | <i>Names</i> |
|--|--|
| Account Clerk – 1 Position | Lora Daniels |
| Chief of Maintenance – 1 Position | Gerald Grose |
| Chief Operator – 1 Position | Charles Gonzalez |
| Control Maintenance Mechanic – 2 Positions | Michael Janese Kenneth Salhany |
| Cross Connection Inspector – ½ Position | James Corulli – Provisional from Sr. Meter Tech |
| Crew Leader – 4 Positions | Kevin Guyette Charles Battino Gregory Paul Gerald Tweed |
| Director of Utilities – <i>Exempt</i> – ½ Position | Vacant |
| Electrician – ½ Position | Daniel Lowes |
| Foreman – Outside Water Maintenance – 1 Position | Richard Rotella |
| Head Mechanic – Utilities – 1 Position | Michael Macri |

| <i>Titles</i> | <i>Names</i> |
|---|--|
| Junior Account Clerk – 1 Position | Mona Jacob |
| Junior Draftsmen – 1 Position | Donald Stevens |
| Laboratory Technician – 1 Position | Patrick Fama |
| Microbiologist – 1 Position | Larry Sklarski |
| Meter Technician – 2 Positions | Robert Reid – Provisional from MW-3 (Aubrey Hunt vacancy) 1 Vacancy (John Reese vacancy) |
| Maintenance Worker – 2-3 Positions | Willie Carson George Crawley Donald Martineau |
| Maintenance Worker – 3-9 Positions | Michael Hamera Vincent Roberts William Lutey Alfonso Pacitti Daniel Rhoney Richard J. Williams William Wright Carmen Zarrillo 1 Vacancy (Robert Reid on LOA) |
| Operating Engineer – 1 Position | Anthony Cheff - |
| Senior Engineering Aide – 1 Position – Water and Wastewater Facilities | Dana Sykes |
| Senior Instrument Technician – 1 Position | William Milroy |
| Senior Laboratory Technician – 1 Position | David Fiolkowski |
| Senior Meter Technician – 2 Positions | Stanley Fera Aubrey Hunt – Provisional from Sr. Meter Technician (James Corulli vacancy) |
| Senior Water Plant Operator – 5 Positions | Stephen Buchalski Colin Cuddy Gary Laible Richard A. Williams |
| Supervisor of Meter Maintenance – 1 Position | John Reece – Acting from Meter Technician |
| Storekeeper – 1 Position | Vacant |
| Water Plant Operator – 5 Positions | Robert Smith Leroy Stahlman Thomas Tarczynski 2 Vacant |

EXHIBIT J

SCHEDULE OF COLLECTIVE BARGAINING AGREEMENTS

- (A) Agreement by and between The United Steelworkers of America on behalf of Local No. 9434-02 with The City of Niagara Falls dated November 26, 2001.
- (B) Agreement by The United Steelworkers of America on behalf of Local 9434-02 and The City of Niagara Falls dated November __, 1999.
- (C) Agreement by The United Steelworkers of America on behalf of Local No. 9434-02 and The City of Niagara Falls dated as of January 1, 1998.
- (D) Agreement by The United Steelworkers of American on behalf of Local No. 9434-00 (15071) and The City of Niagara Falls dated as of January 1, 1996; together with Memorandum of Agreement between The United Steelworkers of America 9434-00 and The City of Niagara Falls for the term January 1, 2001-December 31, 2004 and Agreement by The United Steelworkers of America, Local No. 9434 and The City of Niagara Falls dated September 29, 2000.
- (E) Agreement by The United Steelworkers of America on behalf of Local 14551 and The City of Niagara Falls dated as of January 1, 1993, as amended and extended; together with Memorandum of Agreement between The City of Niagara Falls and United Steelworkers of America 9434-01 (term January 1, 2001-December 31, 2004).
- (F) Agreement by The City of Niagara Falls with The International Union of Operating Engineers, Local No. 463, The Bricklayers and Allied Craftsmen International Union of America, Local No. 2, Niagara-Genesee and Vicinity Local No. 280 of the United Brotherhood of Carpenters and Jointers of America, The International Brotherhood of Painters and Allied Trades Local Union No. 65, The International Brotherhood of Electrical Workers Local Union No. 237 and The Niagara County Building and Construction Trades Council, AFL-CIO dated as of January 1, 1996, as amended and extended.