

**ASSET PURCHASE AGREEMENT**

This **Asset Purchase Agreement** (the “Agreement”) is made and entered into on the 18<sup>th</sup> day of December 2014 by and between **Missouri-American Water Company**, a Missouri corporation (“Missouri-American”), and **The City of Arnold, Missouri** (“Seller”). Hereinafter, Missouri-American and Seller may be referred to individually as a “Party” or together as the “Parties”.

**RECITALS:**

A. Seller currently owns and operates a sanitary sewer system consisting of approximately 600,000 linear feet of sewer lines, as shown on Exhibit 1 attached hereto, with six pumping systems and a SCADA system that provides sewer service to approximately 8,800 residential, commercial and industrial customers within the City of Arnold and approximately 496 customers located outside the City of Arnold, including pursuant to an intergovernmental agreement with the Rock Creek Public Sewer District (the “Rock Creek Agreement”) which also covers wastewater sent from commercial customers within the City limits to the Rock Creek Public Sewer District (collectively, the “System”) in or near the City of Arnold, Missouri.

B. Seller desires to sell substantially all of the assets that constitute or are used in furtherance of the System to Missouri-American pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals, and the representations, warranties, and covenants contained herein, and in exchange for other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

**ARTICLE 1**

**Definitions and Related Matters**

For purposes of this Agreement, the capitalized terms used herein shall have the meanings assigned to them herein or in the attached Exhibit 2 and, for purposes of this Agreement and all other documents executed in connection herewith, the rules of construction set forth in Exhibit 2 shall govern.

**ARTICLE 2**

**Purchase and Sale of Assets; Closing**

**2.1 Transfer of Assets.** On and subject to the terms and conditions of this Agreement, at the Closing on the Closing Date and effective as of the Effective Time, Missouri-American shall purchase, acquire and accept from Seller, and Seller shall sell, convey, transfer, assign and deliver to Missouri-American, free and clear of all Encumbrances, the Acquired Assets. Notwithstanding anything to the contrary contained in this Section 2.1 or elsewhere in this Agreement, the Excluded Assets are not part of the sale and purchase contemplated hereunder, are excluded from the Acquired Assets, and shall remain the exclusive property of Seller subsequent to the Closing.

**2.2 Consideration.**

(a) The consideration for the System and the Acquired Assets shall consist of the Purchase Price. At Closing, Missouri-American shall pay to the Seller and such other payees, if any, set forth on Schedule 2.2, in accordance with wire transfer instructions to be provided by the Seller to Missouri-American at least ten (10) Business Days prior to the Closing Date, in immediately available funds, an aggregate amount equal to the Purchase Price. Immediately following its receipt of the Purchase Price, Seller shall (i) pay over to the DNR an amount equal to the aggregate amount then payable by Seller to the DNR and (ii) provide to Missouri-American a receipt and payoff letter, in form and substance reasonably acceptable to Missouri-American and duly executed by the DNR, as to the DNR’s receipt of such amount.

(b) Missouri-American shall prepare the Allocation, which Allocation shall be binding upon Seller. The Parties shall report, act, and file Tax Returns in all respects and for all Tax purposes consistent with the Allocation. No Party shall take any Tax position (whether in audits, Tax Returns, or otherwise) that is inconsistent with or contrary to the Allocation. In the event that the Allocation is disputed by any Governmental Authority, the Party receiving notice of such dispute will promptly notify the other Party, and the Parties will consult in good faith as to how to resolve such dispute in a manner consistent with the Allocation.

**2.3 Assumption of Liabilities; Excluded Liabilities.** Upon the terms and subject to the satisfaction or, if permissible, waiver, of the conditions of this Agreement, at the Closing on the Closing Date and as of the Effective Time, Missouri-American shall assume and discharge, when and as due, only the Assumed Liabilities. Notwithstanding anything in this Agreement to the contrary, the Excluded Liabilities shall remain the sole responsibility of and shall be retained, paid, performed and discharged solely by Seller.

**2.4 Closing.** Unless this Agreement is first terminated pursuant to Article 8 hereof, and subject to the satisfaction or, if permissible, waiver of each of the conditions set forth in Article 5 hereof, the Closing will take place at the offices of Bryan Cave LLP, 211 N. Broadway, Suite 3600, St. Louis, Missouri 63102 or such other place or by such other means (e.g., e-mail/PDF or facsimile and overnight delivery of original execution documents) as is agreed to by the Parties at 10:00 A.M., Central time, on (a) such date as is three (3) Business Days after the date on which all of the conditions set forth in Article 5 hereof shall have been satisfied or (to the extent permissible) waived (other than those conditions which, by their nature are to be satisfied or waived at Closing but subject to their satisfaction or waiver at Closing) or, if Missouri-American shall so elect, the final day of Seller's billing period of which such date is a part or (b) such other date as the Parties hereto may agree upon in writing. In any event, the Closing shall be effective as of the Effective Time.

**2.5 Closing Obligations.**

In addition to any other documents to be delivered under other provisions of this Agreement, at Closing:

(a) Seller shall deliver or cause to be delivered to Missouri-American, together with funds sufficient to pay all Taxes necessary for the transfer, if applicable, and filing or recording thereof, the following documents:

- (i) the Bill of Sale, duly executed by Seller;
- (ii) the Intangible Assignments, duly executed by Seller;
- (iii) the Assignment and Assumption Agreement, duly executed by Seller;
- (iv) the Franchise Agreement, duly executed by Seller;

(v) all Consents and approvals from Governmental Authorities, and third parties under Contracts, necessary to ensure that Missouri-American will continue to have the same full rights with respect to the Acquired Assets as Seller had immediately prior to the consummation of the Contemplated Transactions, including the written Consents, in form and substance reasonably acceptable to Missouri-American, of the Governmental Authorities and third parties set forth in Schedule 2.5(a)(v);

(vi) a payoff letter from each lender from which Seller has incurred indebtedness for borrowed money which is outstanding, if any, and from each person or entity listed on Schedule 2.2, and a release of all Encumbrances relating to the Acquired Assets executed, filed and/or recorded by the holder of

or parties to each such Encumbrance (including without limitation any violations cited by the Missouri Department of Natural Resources or any other Governmental Authority with authority over the System or the Acquired Assets), if any, in each case in substance and form reasonably satisfactory to Missouri-American and its counsel;

(vii) if applicable, an affidavit, as provided in Section 1445(b)(2) of the Code, stating under penalties of perjury that Seller is not a foreign person within the meaning of Section 1445(f)(3) of the Code;

(viii) for each interest in Real Property and each easement and/or right-of-way affecting any Real Property or Acquired Asset, whether or not identified on Schedule 3.4, a recordable warranty deed or such other appropriate document or instrument of transfer or approval, as the case may require, each in form and substance reasonably satisfactory to Missouri-American;

(ix) such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by Missouri-American, each in form and substance reasonably satisfactory to Missouri-American;

(x) a copy of each permit, license, easement, land-right and other necessary authority for the operation of the System and the Acquired Assets, in each case validly issued in the name of the Seller and in full force and effect;

(xi) if applicable, a copy of Tax clearance certificates (or equivalent,) indicating Seller has no Tax due and dated within 30 days of Closing from any jurisdictions for which Seller may be subject to Tax, including, without limitation, Missouri;

(xii) the certificate contemplated by Section 5.1(d);

(xiii) a legal opinion of Seller's legal counsel, affirmatively opining to such matters as Missouri-American or its legal counsel may reasonably request, including but not limited to the due authorization and execution of this Agreement by Seller and the enforceability thereof;

(xiv) a copy, certified by a representative of the governing body of Seller to be true, complete and correct as of the Closing Date, of the governing documents and authorizing resolutions of Seller authorizing and approving the Contemplated Transactions and as to the incumbency and signatures of the authorized representatives of Seller executing this Agreement or any of the Transaction Documents on behalf of Seller;

(xv) to the extent such transfer is requested by Missouri-American, evidence satisfactory to Missouri-American of the transfer of all utilities with respect to the System from Seller to Missouri-American;

(xvi) the Lease, duly executed by Seller; and

(xvii) all other documents, instruments and writings required or reasonably requested by Missouri-American to be delivered at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith.

(b) At or prior to the Closing, Missouri-American shall deliver the following:

(i) to the Seller and such other payees set forth on Schedule 2.2, if any, in accordance with wire transfer instructions to be provided by the Seller to Missouri-American at least ten (10) Business

Days prior to the Closing Date, in immediately available funds, an aggregate amount equal to the Purchase Price;

- (ii) to the Seller, the Intangible Assignments, duly executed by Missouri-American;
- (iii) to the Seller, the Assignment and Assumption Agreement, duly executed by Missouri-American;
- (iv) to the Seller, the Lease, if applicable, duly executed by Missouri-American, for any premises of Seller to be leased by Missouri-American post-closing; and
- (v) to the Seller, all other documents, instruments and writings required or reasonably requested by Seller to be delivered at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith.

### ARTICLE 3 Representations and Warranties of Seller

Seller hereby makes the following representations and warranties to Missouri-American, each of which is true and correct on the date hereof, will be true and correct at Closing and shall survive the Closing and the Contemplated Transactions hereby to the extent set forth herein:

**3.1 Power and Authority.** Seller has full power and authority to conduct the Business and the System as they are now being conducted and to own, lease and operate the System and the Acquired Assets.

**3.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms. Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents and to consummate the Contemplated Transactions. The appropriate governing bodies of Seller have duly authorized the execution, delivery, and performance of this Agreement by Seller and no other proceeding on the part of Seller is necessary to authorize the execution, delivery and performance of this Agreement.

(b) This Agreement has been, and the Transaction Documents will be, duly executed and delivered by Seller.

(c) Neither the execution, delivery or performance by Seller of this Agreement or the Transaction Documents nor the consummation by it of the Contemplated Transactions will (i) contravene, conflict with or result in a violation of any provisions of the ordinances or other governing documents of Seller, (ii) contravene, conflict with or result in a violation of or give any Governmental Authority or other Person the right to challenge any of the Contemplated Transactions or to exercise any remedy or obtain any relief under any Laws or any Order to which Seller or any of the Acquired Assets may be subject, (iii) contravene, conflict with or result in a violation of any of the terms or requirements of or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify any Permit or other authorization by a Governmental Authority that is held by Seller or that otherwise relates to the System or any of the Acquired Assets, (iv) contravene, conflict with or result in a violation or breach of any provision of, require the Consent of any Person under, or give any Person the right to declare a default or exercise any remedy under or to accelerate the maturity or performance of or to cancel, terminate or modify any Contract, indenture, mortgage, note, lease or other instrument or document to which Seller is a party or by which any of the Acquired Assets are bound or (v) result in the imposition or creation of any Encumbrance upon or with respect to any of the Acquired Assets.

(d) No filings or registrations with, notifications to, or authorizations, Consents or approvals of, a Governmental Authority or third party are required to be obtained or made by Seller in connection with the execution, delivery or performance by Seller of this Agreement or the Transaction Documents or the consummation by Seller of the Contemplated Transactions except related to the MoPSC approval. Neither the Contemplated Transactions nor the Transaction Documents will result in the creation of any Encumbrance against any of the Acquired Assets.

**3.3 Assets.** Seller has clear, good, and marketable title to, or a valid leasehold interest in, all of the Acquired Assets, free and clear of all Encumbrances. None of the Acquired Assets are leased or on loan by Seller to any third party. The Acquired Assets constitute all of the assets and property that, together with the rights granted or conveyed under the Transaction Documents, are necessary for the operation of the System, the Business and the Acquired Assets as conducted as of the date hereof. Upon the Closing, Missouri-American shall continue to be vested with good title or a valid leasehold interest in the System and all of the Acquired Assets. The Business constitutes all of the business conducted by any Person in connection with the System.

**3.4 Real Property; Easements.**

(a) With limited exceptions that are identified in Schedule 3.4(b)(i) or Schedule 3.4(b)(ii), and which do not impact the operation of the sewer system, Seller owns and has good and marketable title to the Real Property, free and clear of all options, leases, covenants, conditions, easements, agreements, claims, and other Encumbrances of every kind and there exists no restriction on the use or transfer of such property. Set forth on Schedule 3.4(a) is a complete and accurate listing of all Real Property. Seller is not the lessor or lessee of any real property, and there are no outstanding options, rights of first refusal or rights of first offer to purchase any of the Real Property or any portion thereof or interest therein. Seller has made available to Missouri-American copies of all title reports, surveys, title policies and appraisals relating to the Real Property. At and after the Closing, Missouri-American shall have the right to maintain or use the Real Property, including the space, facilities or appurtenances outside the building lines, whether on, over or under the ground, and to conduct such activities thereon as maintained, used or conducted by Seller on the date hereof and such right is not subject to revocation. At and after the Closing, Missouri-American shall have all rights, easements and agreements necessary for the use and maintenance of sewer pipelines, or other like facilities, and appurtenances thereto, over, across and under the Real Property.

(b) The Real Property is properly classified under applicable zoning Laws, ordinances, and regulations for the current and continued operation of the System on the Real Property. No Proceeding is pending or threatened which could adversely affect the zoning classification of the Real Property. Seller's current use and occupancy of the Real Property and its operation of the System thereon does not violate any easement, covenant, condition, restriction or similar provision in any instrument of record or other unrecorded agreement affecting such Real Property. The present use and operation of the Real Property does not constitute a non-conforming use and is not subject to a variance. Seller has not received any notice of violation of any easements, covenants, restrictions or similar instruments and there is no basis for the issuance of any such notice or the taking of any action for such violation. Set forth on Schedule 3.4(b)(i) hereto is a true, correct and complete list of all easements relating to the Real Property or the Acquired Assets. All of such easements are valid and will be transferred to Missouri-American and remain in full force as of the Closing. Set forth on Schedule 3.4(b)(ii) hereto is a true, correct and complete list of all rights of way relating to the Real Property or the Acquired Assets. All of such rights of way are valid and will be transferred to Missouri-American and remain in full force as of the Closing. All Improvements located on, and the use presently being made of, the Real Property comply with all applicable zoning and building codes, ordinances and regulations and all applicable fire, environmental, occupational safety and health standards and similar standards established by Law and the same use thereof by Missouri-American following Closing will not result in any violation of any such code, ordinance, regulation or standard. There is no proposed,

pending or threatened change in any such code, ordinance, regulation or standard which would adversely affect the Business, the System or the Acquired Assets.

(c) With limited exceptions that are identified in Schedule 3.4(c), and which do not impact the operation of the sewer system, no Improvements encroach on any land that is not included in the Real Property or on any easements affecting such Real Property, or violate any building lines or set-back lines, and there are no encroachments onto the Real Property, or any portion thereof, which would interfere with the use or occupancy of such Real Property or the continued operation of the System as currently conducted.

(d) There is no applicable unpaid property Tax, levy or assessment against the Real Property (except for Encumbrances relating to Taxes not yet due and payable), nor is there pending or threatened any condemnation Proceeding against the Real Property or any portion thereof.

(e) Except as set forth in Schedule 3.4(e), there is no condition affecting the Real Property or the Improvements located thereon which requires repair or correction to restore the same to reasonable operating condition.

**3.5 Personal Property.** Set forth on Schedule 3.5(a) is a complete and accurate listing of all Acquired Assets which are personal property. Except as set forth in Schedule 3.5(b): (i) no Acquired Asset which is personal property is in the possession of others (other than immaterial items temporarily in the possession of others for maintenance or repair), (ii) neither Seller nor any of its Affiliates holds any such property on consignment, and (iii) each item of such Acquired Assets has been maintained in accordance with normal industry practice, is in good operating condition and repair (subject to normal wear and tear) and is suitable for the purposes for which it is presently used.

**3.6 No Undisclosed Liabilities.** Except (a) to the extent and for the amount reflected as a Liability on the balance sheet included in the Unaudited Financial Statements, (b) Liabilities incurred in the Ordinary Course of Business since the date of the most recent balance sheet included in the Unaudited Financial Statements (none of which will or may reasonably be expected to have an adverse effect upon the Business), or (c) as set forth on Schedule 3.6, Seller does not have any Liabilities (with respect to the System, the Business or the Acquired Assets) whatsoever, known or unknown, asserted or unasserted, liquidated or unliquidated, accrued, absolute, contingent, or otherwise, there is no basis for any claim against Seller, the System or any of the Acquired Assets for any such Liability and there is no basis for any such Liability to become the Liability of Missouri-American from and after the Closing.

**3.7 Tax Matters.**

(a) Seller has timely and properly filed all Tax Returns, if any, that it was required to file. There are no Encumbrances on any of the Acquired Assets that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) Seller has withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, member, stockholder, or other third party. Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(c) There are no audits or examinations of any Tax Returns pending or threatened that relate to Seller's operation of the System or the Acquired Assets.

(d) None of the Acquired Assets represent property or obligations of Seller, including but not limited to uncashed checks to vendors, customers or employees, non-refunded overpayments or unclaimed subscription balances, that is escheatable to any Governmental Authority under any applicable escheatment

Laws as of the date hereof or that may at any time after the date hereof become escheatable to any Governmental Authority under any applicable escheatment Law.

**3.8 Contracts.** Set forth on Schedule 3.8(a) is a complete and correct list of all Contracts related to the System to which Seller is a party or is otherwise bound. Seller has delivered or caused to be delivered to Missouri-American correct and complete copies of each such Contract (including any and all amendments), a description of the terms of each such Contract which is not in writing, if any, and all documents affecting the rights or obligations of any party thereto. None of such Contracts have been modified or amended except as disclosed on Schedule 3.8(b). Neither Seller nor any of its Affiliates has received any written notice of any intention to terminate, repudiate or disclaim any such Contract. Except as set forth on Schedule 3.8(b): (i) each such Contract is valid and enforceable in accordance with its terms and is in full force and effect, and each such Contract constitutes a legal, valid and binding obligation of the other parties thereto, enforceable against them in accordance with its terms except as such enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the rights of creditors generally and by general principles of equity; (ii) no default and no event which, with the giving of notice, lapse of time, or both, would result in a default has occurred under any such Contract; (iii) there are no setoffs, counterclaims or disputes existing or asserted with respect to any such Contract, and Seller has not made any agreement with any other party thereto for any deduction from or increase to any amount payable thereunder; (iv) there are no facts, events or occurrences which in any way impair the validity or enforcement of any such Contract or tend to reduce or increase the amounts payable thereunder; (v) Seller has not, directly or indirectly, by operation of Law or otherwise, transferred or assigned all or any part of its right, title or interest in and to any such Contract to any other Person; and (vi) unless identified in Schedule 3.8(b), there are no Proceedings pending nor, to the Knowledge of Seller, threatened against any party to any of such Contracts which relate to the subject matter of the said Contract. No such Contract automatically terminates or allows termination by the other party thereto upon consummation of the Contemplated Transactions. At and after the Closing, Missouri-American shall have and be entitled to exercise all of its rights under each Assumed Contract, without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments that Seller would otherwise be required to pay had the Contemplated Transactions not occurred. Further, there is no Contract of service in force between Seller and any of its directors, shareholders, officers or employees which is not terminable by Seller without compensation on less than three (3) months' notice given at any time or which provides for compensation specifically in connection with the Contemplated Transactions. There are no consultancy or management services agreements in existence between Seller and any other Person with respect to the Business.

**3.9 Environmental Matters.**

(a) Except as otherwise more fully set out in Schedule 3.9(a), Seller is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable Environmental Law. Seller has no basis to expect nor has it received any actual or threatened Order, notice or other communication from any Governmental Authority or other Person of any actual or potential violation or failure to comply with any Environmental Law or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Real Property or any other properties or assets (whether real, personal or mixed) in which Seller has or has had an interest or with respect to the Real Property or any other real property at or to which Hazardous Materials were generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) There are no pending or threatened claims, Encumbrances or other restrictions of any nature, resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting the Real Property or any other properties and assets (whether real, personal or mixed) in which Seller has or had an interest.

(c) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has any Environmental, Health and Safety Liabilities with respect to the Real Property or with respect to any other properties and assets (whether real, personal or mixed) in which Seller (or any predecessor) has or has had an interest or at any property geologically or hydrologically adjoining the Real Property or any such other property or assets that could reasonably be expected to have a material adverse effect thereon.

(d) There are no Hazardous Materials, except those used in connection with the operation of the System and set forth in the list on Schedule 3.9(d), present on or in the Environment at the Real Property or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent and deposited or located in land, water, sumps or any other part of the Real Property or such adjoining property or incorporated into any structure therein or thereon. Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to the Real Property or any other properties or assets (whether real, personal or mixed) in which Seller has or has had an interest except in material compliance with all applicable Environmental Laws. There has been no Release or threat of Release, of any Hazardous Materials at or from the Real Property or from or by any other properties and assets (whether real, personal or mixed) in which Seller has or has had an interest, or any geologically or hydrologically adjoining property, whether by Seller or any other Person.

(e) Except as set forth in Schedule 3.9(e), none of the following exists at the System or on the Real Property: (1) underground storage tanks; (2) asbestos-containing material in any form; (3) materials or equipment containing polychlorinated biphenyl; (4) groundwater monitoring wells; or (5) landfills, surface impoundments, or disposal areas.

(f) Except as set forth in Schedule 3.9(f) neither Seller nor any of its Affiliates is obligated to provide financial assurance in consideration of the System under Environmental Law.

(g) Seller has delivered to Missouri-American true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed or initiated by Seller or its predecessors pertaining to Hazardous Materials or Hazardous Activities in, on or under the Real Property, or concerning compliance by Seller, its predecessors, or any other Person for whose conduct Seller is or may be held to be responsible, with Environmental Laws, said reports, studies, etc. to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Seller.

**3.10 Permits.** Set forth on Schedule 3.10(a) is a complete and correct list of all Permits used by Seller in the continuing operation of the System. Except as set forth on Schedule 3.10(b), such Permits constitute all those necessary for the continuing operation of the System and are all valid and subsisting and in full force and effect. No fact or circumstance exists which is reasonably likely to cause any such Permit to be revoked or materially altered subsequent to the execution of this Agreement and the Closing Date. Neither the execution of this Agreement nor the Closing do or will constitute or result in a default under or violation of any such Permit.

**3.11 Insurance.** Seller maintains and has maintained appropriate insurance necessary for the full protection of all of its assets, properties, the System, operations, products and services. All such policies are in full force and effect and Seller will use commercially reasonable efforts to cause such policies to be outstanding and in full force and effect as of Closing. Seller further agrees to maintain such insurance coverage immediately following the execution of this Agreement and the consummation of the Contemplated Transactions to the extent allowed by its unique coverage as a political subdivision of the State of Missouri. There are no pending Proceedings arising out of, based upon or with respect to any of such policies of insurance and, to Seller's Knowledge, no basis for any such Proceedings exists. Seller is not in default with respect to any provisions contained in any such insurance policies and no insurance provider is in default with



respect to such insurance policies. Set forth in Schedule 3.11 is a true and accurate list of all such insurance policies Seller maintains, and the premiums therefor have been paid in full as they have become due and payable.

**3.12 Absence of Certain Changes.** There has not been any occurrence or event which, individually or in the aggregate, has had or is reasonably expected to have any Material Adverse Effect. Seller has continually operated the System and the Business only in the Ordinary Course of Business. Without limitation of the foregoing, Seller has not entered into, amended, terminated or received notice of termination of any Permit necessary for the continued operation of the System. In addition, Seller has not taken any action in connection with the System or the Business which, if taken on or after the date hereof, would have required the prior written Consent of Missouri-American pursuant to Section 6.6 hereof.

**3.13 Litigation and Proceedings.** There are no Proceedings, other than those listed on Schedule 3.13, either pending or threatened, anticipated or contemplated, against Seller or involving the operation of the System, any of the Acquired Assets, or any of Seller's members, shareholders, directors, officers, agents or other governing persons, equity holders or personnel in their capacity as such, which could directly affect any of the Acquired Assets or the System. Seller has not been charged with, nor is it under investigation with respect to, any charge which has not been resolved to its favor concerning any violation of any applicable Law with respect to any of the Acquired Assets or the System and there is no valid basis for any such charge or investigation. Neither Seller nor any of its Affiliates has been subject to or threatened to be subject to any Proceeding or Order relating to personal injury, death or property or economic damage arising from products sold, licensed or leased and services performed by Seller or any of its Affiliates with respect to the System or the Business. No judgment, Order, writ, injunction, decree, assessment or other command of any Governmental Authority affecting Seller or any of the Acquired Assets or the System has been entered which is presently in effect. There is no Proceeding pending or, to Seller's Knowledge, threatened which challenges the validity of this Agreement or the Contemplated Transactions or otherwise seeks to prevent, directly or indirectly, the consummation of the Contemplated Transactions, nor is there any valid basis for any such Proceeding.

**3.14 Compliance with Laws.** Seller is in compliance with all Laws, Permits, Orders, ordinances, rules and regulations, whether civil or criminal, of any federal, state, local or foreign governmental authority applicable to the System or the Business and has not committed any violation of any Law or any provision of its governing documents applicable to the Acquired Assets and/or the operation of the System. Except as set forth in Schedule 3.14 neither Seller nor any of its Affiliates has received any notice alleging such default, breach or violation.

**3.15 Financial Statements.** Attached as Schedule 3.15 are the Financial Statements. The Financial Statements have been prepared in accordance with the requirements of the Governmental Accounting Standards Board ("GASB"), subject in the case of the Unaudited Financial Statements to normal year-end adjustments and the absence of footnotes. The Financial Statements were derived from the books and records of Seller, are true correct and complete in all material respects and present fairly in all material respects the financial condition, operating results and cash flows of Seller as of the dates and during the periods indicated therein (subject, in the case of the Unaudited Financial Statements, to normal year-end adjustments and the absence of footnotes).

**3.16 Transactions with Related Parties.** Except as set forth on Schedule 3.16, no governing person or Affiliate of Seller has any financial interest, direct or indirect, in any supplier or customer of, or other business which has any transactions or other business relationship with, Seller. Without limiting the generality of the foregoing, neither Seller nor any of its Affiliates nor any governing person of Seller, any of its Affiliates or the Business owns, directly or indirectly, any interest in or is an owner, sole proprietor, member, stockholder, partner, director, officer, employee, consultant or agent of any Person which is a lessor, lessee, customer, licensee, or supplier of the Business and none of the employees of or servicing the Business

owns, directly or indirectly, in whole or in part, any tangible property, patent, trademark, service mark, trade name, copyright, franchise, invention, Permit or license which was developed by or is used and necessary for the operation of the Business.

**3.17 Customer Advances.** Set forth on Schedule 3.17 is a complete and accurate list of (i) all unexpired Extension Deposit Agreements (or similar agreements) to which Seller is a party (each an “Extension Deposit Agreement”) and which contain unexpired obligations of Seller to provide for the payment of periodic refunds to parties making advances for the construction of facilities for sewer service, (ii) all advances or prepayments made by any customer or other Person to Seller with respect to the System or the service provided thereby and (iii) all other amounts payable (whether as a reimbursement or in the form of a credit) by Seller to any customer or other Person with respect to the System or the service provided thereby. Seller will provide to Missouri-American within 15 days of the execution of this Agreement (to be updated at Closing), true and complete copies of each such Extension Deposit Agreement. All records of Seller relating to each Extension Deposit Agreement is complete and accurate in all material respects and, together with the relevant Extension Deposit Agreement, is all the information reasonably required to determine Seller’s, and, consequently, Missouri-American’s obligations to each party to the Extension Deposit Agreements; and there are no disputes or disagreements with any party to an Extension Deposit Agreement relating to the amount due under that agreement or the method of calculating that amount or in connection with any advance, prepayment or amount payable of the type described in (ii) or (iii) above. Schedule 3.17 may be updated at Closing only with the mutual consent of the parties.

**3.18 Accounts Receivable.** Set forth on Schedule 3.18 is a list of all the accounts receivable of Seller with respect to the System and an aging schedule related thereto, as of the date hereof. Such accounts receivable, together with any such accounts receivable arising between such date and the Closing Date (collectively, the “Accounts Receivable”), are (to the extent not yet paid in full) valid, genuine and existing and arose or will have arisen from bona fide sales of products or services actually made in the Ordinary Course of Business. The Accounts Receivable are not subject to, and Seller has received no notice of, any counterclaim, set-off, defense or Encumbrance with respect to the Accounts Receivable. Except to the extent paid prior to Closing, the Accounts Receivable are and will be current and fully collectible. No agreement for deduction, free goods, discount or deferred price or quantity adjustment has been made with respect to any Accounts Receivable.

**3.19 Brokers, Finders.** Except as set forth in Schedule 3.19, no finder, broker, agent or other intermediary, acting on behalf of Seller or any of Seller’s Affiliates, is entitled to a commission, fee or other compensation in connection with the negotiation or consummation of this Agreement or any of the transactions contemplated hereby.

**3.20 Employees.** Schedule 3.20(a) contains a complete and accurate list of the following information for each employee of the Seller, including each such employee on leave of absence or layoff status: name, job title, current compensation paid or payable, any change in compensation since the date of the most recent Audited Financial Statement, and hire date. Except as set forth in Schedule 3.20(b), none of such employees is a party to, or is otherwise bound by, any agreement or arrangement, including any confidentiality, non-competition or proprietary rights agreement, between such employee and any other Person that in any way adversely affected, affects or may affect (i) the performance of his or her duties as an employee of the Business, or (ii) the ability of Missouri-American to conduct the Business.

#### **ARTICLE 4**

#### **Representations and Warranties of Missouri-American**

Missouri-American hereby makes the following representations and warranties to Seller:

**4.1 Organization.** Missouri-American is a duly organized and validly existing corporation in good standing under the Laws of Missouri and has the power and authority to own, lease and operate its assets and properties.

**4.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes the legal, valid and binding obligation of Missouri-American and is enforceable against Missouri-American in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the rights of creditors generally and by general principles of equity. Missouri-American has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder.

(b) Neither the execution or delivery of this Agreement nor the consummation of the Contemplated Transactions shall result in: (i) a violation of or a conflict with any provision of the articles of incorporation or the bylaws of Missouri-American; (ii) a material breach of or default under any term, condition or provision of any Contract to which Missouri-American is a party, or an event which, with the giving of notice, lapse of time, or both, would result in any such breach or default; or (iii) a material violation of any applicable Law, Order, judgment, writ, injunction, decree or award or any event which, with the giving of notice, lapse of time, or both, would result in any such violation.

**ARTICLE 5**

**Conditions Precedent to Closing**

**5.1 Conditions Precedent to the Obligations of Missouri-American.** Missouri-American's obligations to consummate the Contemplated Transactions are subject to the satisfaction in full, unless expressly waived in writing by Missouri-American, of each of the following conditions:

(a) Authorization of Contemplated Transactions. Missouri-American shall have obtained all necessary corporate approvals to consummate the Contemplated Transactions, including, but not limited to the approval of its Board of Directors;

(b) Representations and Warranties. Each of the representations and warranties of Seller contained in this Agreement or in any Transaction Document shall have been true, correct and accurate in all respects on and as of the date hereof and shall also be true, correct and accurate in all material respects (other than Section 3.5 and representations and warranties qualified as to materiality, which shall have been true, correct and accurate in all respects) on and as of the Closing Date with the same force and effect as though made by Seller on and as of the Closing Date (except to the extent that any such representation or warranty is made solely as of the date hereof or as of another date earlier than the Closing Date, which shall be accurate as of such date);

(c) Covenants. Seller shall have performed, observed and complied in all material respects with all of its obligations, covenants, undertakings and agreements contained in this Agreement or any Transaction Document and required to be performed, observed or complied with by Seller prior to or at the Closing;

(d) Certificates. Seller shall have delivered to Missouri-American a certificate, dated as of the Closing Date and executed by an officer or other duly authorized representative of Seller, to the effect that the conditions set forth in Sections 5.1(b), (c) and (i) have been satisfied;

(e) Proceedings. No provision of any Law or Order shall be in effect, and no Proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, which

would: (i) prevent consummation of the Contemplated Transactions; (ii) have a likelihood of causing the Contemplated Transactions to be rescinded following consummation; (iii) adversely affect the right of Missouri-American to own any of the Acquired Assets; or (iv) adversely affect the System prospects or the value or condition of any of the Acquired Assets or the System;

(f) Closing Deliveries. Seller shall have delivered or caused to be delivered to Missouri-American each of the items set forth in Section 2.5(a);

(g) Governmental and Third Party Approvals. (i) Missouri-American shall have obtained a certificate of convenience and necessity and all necessary regulatory approvals by the MoPSC, or any other applicable regulatory body, and all other applicable Consents and approvals from Governmental Authorities and other third parties which are required in connection with the Contemplated Transactions, each in form and substance (including without limitation with respect to the terms and conditions contained in any such approval) acceptable to Missouri-American in its sole and absolute discretion, and (ii) any waiting periods under existing Laws, and all extensions thereof, the passing of which is necessary to consummate the Contemplated Transactions, shall have expired;

(h) Due Diligence. Missouri-American shall have completed and be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the Acquired Assets and Seller, including without limitation, with the results of any Phase I Environmental Site Assessment or other environmental assessment performed with respect to the Real Property or the Acquired Assets or chain of title search, all material contracts and operating permits and licenses of the System, and the Seller's operations, contracts, employment practices, compliance, accounting and other items as Missouri-American deems necessary, as each of the foregoing items relate to the System or the Acquired Assets;

(i) No Material Adverse Effect. Missouri-American shall have determined that there shall not have occurred any event or circumstance which, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect; and

(j) Certain Agreements. Missouri-American shall be party to an agreement, whether by assignment and assumption of an existing agreement to which Seller and each such Person is a party or by direct agreement between Missouri-American and each such Person, with each Person listed on Schedule 5.1(j) attached hereto, each in form and substance satisfactory to Missouri-American in its sole discretion.

**5.2 Conditions Precedent to Obligations of Seller**. Seller's obligation to consummate the Contemplated Transactions is subject to the satisfaction in full, unless expressly waived in writing by Seller, of each of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Missouri-American contained in this Agreement or in any Transaction Document shall have been true, correct and accurate in all respects on and as of the date hereof and shall also be true, correct and accurate in all material respects (other than representations and warranties qualified as to materiality, which shall have been true, correct and accurate in all respects) on and as of the Closing Date with the same force and effect as though made by Missouri-American on and as of the Closing Date (except to the extent that any such representation or warranty is made solely as of the date hereof or as of another date earlier than the Closing Date, which shall be accurate as of such date);

(b) Covenants. Missouri-American shall have performed, observed and complied in all material respects with all of its obligations, covenants, undertakings and agreements contained in this Agreement or any Transaction Document and required to be performed, observed or complied with by Missouri-American prior to or at the Closing;

(c) Proceedings. No provision of any Law or Order shall be in effect which would prevent consummation of the Contemplated Transactions; and

(d) Closing Deliveries. Missouri-American shall have delivered or caused to be delivered to Seller each of the items set forth in Section 2.5(b).

## ARTICLE 6 Covenants and Special Agreements

### 6.1 Access to Information; Confidentiality

(a) Access. Between the date of this Agreement and the Closing Date, Missouri-American may, directly and through its representatives, make such confirmatory investigation of the System and the Acquired Assets as each deems necessary or advisable. In furtherance of the foregoing, Missouri-American and its representatives shall have reasonable access, upon reasonable notice during normal business hours, to all employees, properties, books, Contracts, commitments and records of the Business, and Seller shall furnish and cause to be furnished to Missouri-American and its representatives such financial and operating data and other information as may from time to time be reasonably requested relating to the System, shall permit Missouri-American or its representatives to conduct such physical inspections and environmental audits of the Real Property as requested by Missouri-American and shall permit Missouri-American or its representatives to conduct interviews of employees of or servicing the Business. Seller and the management, employees, accountants and attorneys of or servicing the Business shall cooperate fully with Missouri-American and its representatives in connection with such investigation.

#### (b) Confidentiality.

(i) Prior to Closing (and, in the case of Seller, following Closing), each Party shall ensure that all Confidential Information which such Party or any of its respective officers, directors, employees, counsel, agents, or accountants may have obtained, or may hereafter obtain, from the other Party (or, in the case of Seller following Closing, with respect to the Business or the System) (or create using any such information) relating to the financial condition, results of operations, System, properties, assets, Liabilities or future prospects of the other Party, any Related Person of the other Party or any customer or supplier of such other Party or any such Related Person (or, in the case of Seller following Closing, with respect to the Business or the System) shall not be published, disclosed or made accessible by any of them to any other Person at any time or used by any of them, in each case without the prior written Consent of the other Party; provided, however, that the restrictions of this sentence shall not apply (i) as may otherwise be required by Law, (ii) to the extent such Confidential Information shall have otherwise become publicly available, and (iii) as to Missouri-American, to disclosure by or on its behalf to regulatory authorities or other third parties whose Consent or approval may be required to consummate the Contemplated Transactions and to its lenders and professionals for the purpose of obtaining financing of such transactions.

(ii) In the event of termination of negotiations or failure of the Contemplated Transactions to close for any reason whatsoever, each Party promptly will destroy or deliver to the other Party and will not retain any documents, work papers and other material (and any reproductions thereof) obtained by each Party or on its behalf from such other Party or its subsidiaries as a result of this proposal or in connection therewith, whether so obtained before or after the execution hereof, and will not use any information so obtained and will cause any information so obtained to be kept confidential and not used in any way detrimental to such other Party.

**6.2 Publicity; Announcements**. Until after the Closing, no press release or other public statement concerning this Agreement or the transactions contemplated hereby shall be issued or made without the prior approval of the parties hereto, except as required by applicable law. After the Closing, no

press release or other public statement concerning this Agreement or the transactions contemplated hereby shall be issued or made by Seller without the prior approval of Missouri-American, except as required by applicable law.

**6.3 Cooperation.** Subject to the terms and conditions of this Agreement, the Parties shall cooperate fully with each other and their respective counsel and accountants in connection with, and take or cause to be taken and do or cause to be done, any actions required to be taken under applicable Law to make effective the Contemplated Transactions as promptly as practicable. Prior to the Closing, the parties shall proceed expeditiously and in good faith to make such filings and take such other actions as may be reasonably necessary to satisfy the conditions to Closing set forth in Section 5.1(g). From and after the Closing, the parties shall do such acts and execute such documents and instruments as may be reasonably required to make effective the transactions contemplated hereby. On or after the Closing Date, the parties shall, on request, cooperate with one another by furnishing any additional information, executing and delivering any additional documents and instruments, including contract assignments, and doing any and all such other things as may be reasonably required by the parties or their counsel to consummate or otherwise implement the transactions contemplated by this Agreement. Should Seller, in its reasonable discretion, determine after the Closing that books, records or other materials constituting Acquired Assets are still in the possession of Seller, Seller shall promptly deliver them to Missouri-American at no cost to Missouri-American. Seller hereby agrees to cooperate with Missouri-American to ensure a proper transition of all customers with respect to billing and customer service activities. Missouri-American shall take the lead in obtaining MoPSC approval with respect to the Contemplated Transactions.

**6.4 Exclusivity.** Seller will not and will not permit its affiliates, officers, directors, employees or other agents or representatives to, at any time prior to the termination of this Agreement, directly or indirectly, (i) take any action to solicit, initiate or encourage the making of any Acquisition Proposal, or (ii) discuss or engage in negotiations concerning any Acquisition Proposal with, or further disclose any non-public information relating to Seller to, any person or entity in connection with an Acquisition Proposal, in each case, other than Missouri-American and its representatives.

**6.5 No Inconsistent Action.** Prior to the Closing Date, no Party shall take any action, and each Party will use its commercially reasonable efforts to prevent the occurrence of any event (but excluding events which occur in the Ordinary Course of Business and events over which such Party has no control), which would result in any of its representations, warranties or covenants contained in this Agreement or in any Transaction Document not to be true and correct, or not to be performed as contemplated, at and as of the time immediately after the occurrence of such action or event. If at any time prior to the Closing Date, a Party obtains knowledge of any facts, circumstances or situation which constitutes a breach, or will with the passage of time or the giving of notice constitute a breach, of any representation, warranty or covenant of such Party under this Agreement or any Transaction Document or will result in the failure of any of the conditions contained in Article 5 to be satisfied, such Party shall give the other Party prompt written notice thereof; provided, however, that no such notice shall cure any breach of any representation, warranty or covenant contained herein or therein or will relieve any such Party of any obligations hereunder or thereunder unless specifically agreed to in writing by the other Party.

**6.6 Conduct of Business.** Between the date of this Agreement and the Closing Date, Seller shall carry on the operation of the System, the Business and the Acquired Assets in the Ordinary Course of Business and in compliance with Law, not introduce any materially new method of management or operation, use reasonable best efforts to preserve the System, the Business and the Acquired Assets, conserve the goodwill and relationships of its customers, suppliers, Governmental Authorities and others having business relations with it, maintain in full force and effect all policies of insurance now in effect for the benefit of Seller, maintain supplies at a level which is sufficient to operate the System in accordance with past practice and maintain the Acquired Assets in substantially the condition currently existing, normal wear and tear excepted. By way of illustration and not limitation, Seller will not, between the date hereof and the Closing

Date, directly or indirectly do, or prepare to do, any of the following without the prior written Consent of Missouri-American, (a) sell, lease, transfer or otherwise dispose of, or license, mortgage or otherwise encumber, or give a security interest in or subject to any Encumbrances, any of the Acquired Assets, (b) merge or consolidate with or acquire, or agree to merge or consolidate with or acquire (by merging or consolidating with, or by purchasing a substantial portion of the stock or assets of, or by any other manner), any business or corporation, partnership, joint venture, association or other business organization or division thereof or otherwise change the overall character of the Business in any material way, (c) enter into any Contract other than in the Ordinary Course of Business or amend, waive any right under or terminate any Assumed Contract, (d) abandon, sell, license, transfer, convey, assign, fail to maintain or otherwise dispose of any item of the transferred intellectual property, (e) make any change in any of its present accounting methods and practices, (f) to the extent applicable, make any new Tax election, or change or revoke any existing Tax election, or settle or compromise any Tax liability or file any income Tax Return prior to the last day (including extensions) prescribed by Law, in the case of any of the foregoing, material to the business, financial condition or results of operations of Seller, (g) engage in any transactions with any Related Person which would survive Closing, (h) pay, discharge, settle or satisfy any material claims or Liabilities (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction, in the Ordinary Course of Business or in accordance with their terms, of Liabilities reflected or reserved against in the Financial Statements (or the notes thereto), or not required by GASB to be so reflected or reserved, or incurred since the date of the most recent Audited Financial Statement in the Ordinary Course of Business, or waive any material benefits of, or agree to modify any material confidentiality, standstill, non-solicitation or similar agreement with respect to the Business to which Seller or any of its Affiliates is a party, (i) engage in any activity with the purpose or intent of (A) accelerating the collection of accounts receivable or (B) delaying the payment of the accounts payable, (j) enter into commitments for new capital expenditures in excess of \$25,000 in the aggregate, (k) create or issue or grant an option or other right to subscribe, purchase or redeem any of its securities or other equity interests (other than with Missouri-American), (l) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such a liquidation or dissolution, merger, consolidation, restructuring, recapitalization or reorganization or (m) enter into any agreement (conditional or otherwise) to do any of the foregoing.

**6.7 No Transfer at Odds with Law.** Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall be deemed to require the conveyance, assignment or transfer of any Acquired Asset or Assumed Liability that by operation of applicable Law cannot be conveyed, assigned, transferred or assumed. Each Party shall continue to use reasonable best efforts to obtain at the earliest practicable date all unobtained Consents or approvals required to be obtained by it in connection with the transfer of the Acquired Assets and Assumed Liabilities or performance of any Transaction Document. If and when any such Consents or approvals shall be obtained, then Seller shall promptly, and hereby does, assign its rights and obligations thereunder to Missouri-American without payment of consideration and Missouri-American shall, and hereby does, without the payment of any consideration therefor, (i) assume such rights and obligations or (ii) perform (or agree to perform) under such Transaction Document, as applicable. Each Party shall execute such good and sufficient instruments as may be necessary to evidence such assignment and assumption. The entire beneficial interest in and to, and the risk of loss with respect to, the Acquired Assets and the Assumed Liabilities shall, regardless of when legal title thereto shall be transferred to Missouri-American, pass to Missouri-American at Closing as of the Effective Time, and Seller shall, without consideration therefor, pay, assign and remit to Missouri-American all monies, rights and other consideration received in respect of such performance. To the extent permitted by Law, Seller shall exercise or exploit its rights in respect of such Acquired Assets only as directed by Missouri-American.

**6.8 Release of Encumbrances.** Seller promptly shall take such actions as shall be requested by Missouri-American to secure the release of all Encumbrances relating to the Acquired Assets, in each case in substance and form reasonably satisfactory to Missouri-American and its counsel.

**6.9 Retention of Records.** Subject to applicable Law and, subject to any applicable restrictions as to confidentiality (as to which Missouri-American does not provide indemnification, or the waiver of which Seller shall not have obtained after using reasonable best efforts), Seller shall preserve any books and records relating to the System or the Business that are not delivered to Missouri-American hereunder for a period no less than seven (7) years after the Closing Date (or such longer period as shall be required by applicable Law), and Seller shall make available such books and records for review and copying to Missouri-American and its authorized representatives following the Closing at Missouri-American's expense upon reasonable notice during normal business hours. During such period, Seller shall permit, to the extent permitted by applicable Law and upon request of Missouri-American, Missouri-American and any of its agents, representatives, advisors or consultants reasonable access to employees of or servicing the Business for information related to periods up to and including the Closing.

**6.10 Tax Covenants.**

(a) To the extent applicable, Seller shall pay all Taxes of Seller, the System and the Acquired Assets for any Tax year or period (or portion thereof) ending at or before the Closing. For the purposes of this Section 6.10(a), the portion of such personal property or similar ad valorem Tax that relates to the Tax period ending as of the Closing shall be deemed to be the amount of such Tax for the entire Tax period multiplied by a fraction, the numerator of which is the number of days in the Tax period ending as of the Closing and the denominator of which is the number of days in the entire Tax period. For purpose of this Section 6.10(a), the portion of all other Taxes that relates to the Tax period ending as of the Closing shall be determined on the basis of an interim closing of the books.

(b) Each Party agrees to furnish or cause to be furnished to the other Party, upon request, as promptly as practical, such information (including reasonable access to books and records, Tax Returns and Tax filings) and assistance as is reasonably necessary for the filing of any Tax Return, the conduct of any Tax audit, and for the prosecution or defense of any claim, suit or Proceeding relating to any Tax matter. The Parties shall cooperate with each other in the conduct of any Tax audit or other Tax Proceedings and each shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Section 6.10(b).

**ARTICLE 7  
Indemnification**

**7.1 Survival of Representations and Warranties and Covenants.**

(a) All of the representations and warranties made by Seller in this Agreement, its Schedules, or any certificates or documents delivered hereunder shall survive the Closing Date and consummation of the Contemplated Transactions for a period of three (3) years; provided, however, that the representations and warranties contained in Sections 3.1, 3.2, 3.3, 3.5, 3.6, 3.7, 3.9 and 3.19 shall survive indefinitely.

**7.2 Indemnification and Payment of Damages by Seller.** Subject to the terms of this Article 7, Seller hereby agrees to fully pay, protect, defend, indemnify and hold harmless the Indemnified Persons from any and all Damages arising out of, resulting from, relating to or caused by: (i) any inaccuracy in or breach of (or any claim by any third party alleging or constituting an inaccuracy or breach of) any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by, Seller; (ii) all Liabilities and/or duties of Seller, whether accruing prior to or after the Closing Date, other than the Assumed Liabilities, (iii) any Encumbrance affecting the Acquired Assets; (iv) assessments, charges and other similar claims due or owing, directly or indirectly, by Seller or otherwise as a result of or on account of the Acquired Assets or the System at any time prior to the Closing Date; (v) the ownership and/or operation of any of the Acquired Assets or the System prior to Closing, other than to the extent of the Assumed Liabilities; (vi) any Proceeding now



existing or hereafter arising and relating to the Acquired Assets or the System and arising from events or matters occurring prior to the Closing Date, other than to the extent of the Assumed Liabilities; (vii) any Excluded Assets or Excluded Liabilities; (viii) any and all Taxes imposed on or arising from the transfer of the Acquired Assets; (ix) intercompany accounts payable and accounts receivable by and among Seller and/or its Affiliates; (x) transaction costs and expenses incurred by or on behalf of Seller in connection with this Agreement or the Contemplated Transactions; or (xi) any matters described on Schedule 7.2.

**7.3 Indemnification By Missouri-American.** Missouri-American hereby agrees to fully pay, protect, defend, indemnify and hold harmless Seller and its respective successors and assigns, from any and all Damages incurred by any of them arising out of, resulting from, relating to or caused by (i) any inaccuracy in or breach of any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by, Missouri-American, (ii) the Assumed Liabilities or (iii) transaction costs and expenses incurred by or on behalf of Missouri-American in connection with this Agreement or the Contemplated Transactions.

**7.4 Notice of Claim.** In the event that either party seeks indemnification on behalf of an Indemnified Person, such party seeking indemnification (the "Indemnified Party") shall give reasonably prompt written notice to the indemnifying party (the "Indemnifying Party") specifying the facts constituting the basis for such claim and the amount, to the extent known, of the claim asserted; provided, however, that the right of a person or entity to be indemnified hereunder shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Subject to the terms hereof, the Indemnifying Party shall pay the amount of any valid claim not more than 10 days after the Indemnified Party provides notice to the Indemnifying Party of such amount.

**7.5 Right to Contest Claims of Third Persons.** If an Indemnified Party is entitled to indemnification hereunder because of a claim asserted by any Third Person, the Indemnified Party shall give the Indemnifying Party reasonably prompt notice thereof after such assertion is actually known to the Indemnified Party; provided, however, that the right of a Person to be indemnified hereunder in respect of claims made by a Third Person shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Missouri-American shall have the right, upon written notice to Seller, to investigate, contest or settle the Third Person Claim. Seller may thereafter participate in (but not control) the defense of any such Third Person Claim with its own counsel at its own expense. If Seller thereafter seeks to question the manner in which Missouri-American defended such Third Person Claim or the amount or nature of any such settlement, Seller shall have the burden to prove by clear and convincing evidence that conduct of Missouri-American in the defense and/or settlement of such Third Person Claim constituted gross negligence or willful misconduct. The Parties shall make available to each other all relevant information in their possession relating to any such Third Person Claim and shall cooperate in the defense thereof, provided that Missouri-American shall control the defense thereof. Promptly (and in any event within 10 days) following the resolution of any Third Person Claim, Seller shall pay to Missouri-American any amount to which Missouri-American is entitled pursuant to this Article 7 with respect to such Third Person Claim.

**7.6 Certain Indemnification Matters.**

(a) Notwithstanding anything contained herein or elsewhere to the contrary, all "material" and "Material Adverse Effect" or similar materiality type qualifications contained in the representations and warranties set forth in this Agreement shall be ignored and not given any effect for purposes of the indemnification provisions hereof, including, without limitation, for purposes of determining whether or not a breach of a representation or warranty has occurred and/or determining the amount of any Damages.

(b) No information or knowledge acquired, or investigations conducted, by Missouri-American or its representatives, of Seller or the System or otherwise shall in any way limit, or constitute a waiver of, or a defense to, any claim for indemnification by any Indemnified Persons under this Agreement.

## **ARTICLE 8**

### **Termination**

**8.1 Termination.** This Agreement may be terminated at any time prior to the Closing only (a) by mutual written Consent of Seller and Missouri-American, (b) by Seller or Missouri-American upon written notice to the other, if the Closing shall not have occurred on or prior to July 1, 2015; provided, however, that the right to terminate this Agreement under this Section 8.1(b) shall not be available to any Party whose breach under this Agreement has caused or resulted in the failure of the Closing to occur on or before such date, (c) by Missouri-American, if Missouri-American is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and Seller has not cured such breach within five (5) Business Days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured), (d) by Missouri-American, if, at any time before Closing, Missouri-American is not satisfied with the results of its due diligence review of the System and the Acquired Assets, (e) by Seller if Seller is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Missouri-American and Missouri-American has not cured such breach within five (5) Business Days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured), (f) by Seller or Missouri-American upon written notice to the other, if any court of competent jurisdiction or other competent Governmental Entity shall have issued a statute, rule, regulation, Order, decree or injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting the Contemplated Transactions, and such statute, rule, regulation, Order, decree or injunction or other action shall have become final and non-appealable, (g) by Missouri-American, if all necessary regulatory approvals (including rate treatment, refunds and setting of rate base and all approvals described in Section 5.1(g)) contemplated hereby or otherwise necessary to close the Contemplated Transactions have not been obtained within 270 days of the date hereof, or (h) by Missouri-American if any Material Adverse Effect shall have occurred or, in the reasonable judgment of Missouri-American, shall be reasonably likely to occur.

**8.2 Effect of Termination.** The right of each Party to terminate this Agreement under Section 8.1 is in addition to any other rights such Party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate, except that the obligations set forth in Section 6.1(b) (“Confidentiality”), Section 6.2 (“Publicity; Announcements”), this Section 8.2 (“Effect of Termination”) or Article 9 (“General Provisions”) will survive; provided, however, that if this Agreement is terminated by a Party because of the breach of the Agreement by another Party or because one or more of the conditions to the terminating Party’s obligations under this Agreement is not satisfied as a result of the other Party’s failure to comply with its obligations under this Agreement, the terminating Party’s right to pursue all legal remedies will survive such termination unimpaired.

## **ARTICLE 9**

### **General Provisions**

**9.1 Amendment and Modification.** No amendment, modification or supplement of any provision of this Agreement will be effective unless the same is in writing and is signed by the Parties.

**9.2 Assignments.** Seller may not assign or transfer any of its rights or obligations under this Agreement to any other Person without the prior written Consent of Missouri-American. Missouri-American may not assign its rights and obligations under this Agreement to any third party, without the prior written Consent of Seller, but may assign its rights and obligations under this Agreement to any Related Person or successor in interest without the Consent of Seller. Subject to this Section 9.2, all provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the Parties hereto and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

**9.3 Captions; Construction.** Captions contained in this Agreement and any table of contents preceding this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of this Agreement.

**9.4 Counterparts; Facsimile.** This Agreement may be executed by the Parties hereto on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the Parties hereto notwithstanding that all the Parties hereto are not signatories to the same counterpart. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by e-mail, facsimile machine or telecopier is to be treated as an original document.

**9.5 Entire Agreement.** This Agreement and the other Transaction Documents constitute the entire agreement among the Parties hereto pertaining to the subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the Parties hereto, whether oral or written, executed by the Parties pertaining to the subject matter hereof. All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

**9.6 Governing Law.** This Agreement and the rights and obligations of the Parties hereunder are to be governed by and construed and interpreted in accordance with the Laws of the State of Missouri applicable to Contracts made and to be performed wholly within Missouri, without regard to choice or conflict of laws rules.

**9.7 Legal Fees, Costs.** Except as provided herein, all legal, consulting and advisory fees and other costs and expenses incurred in connection with this Agreement and the Contemplated Transactions are to be paid by the Party incurring such costs and expenses.

**9.8 Notices.** All notices, Consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when delivered in person or by e-mail, (ii) three (3) Business Days after deposited in the United States mail, first class postage prepaid, or (iii) in the case of telegraph or overnight courier services, one (1) Business Day after delivery to the telegraph company or overnight courier service with payment provided, in each case addressed as follows:

(a) if to Seller, (i) to City of Arnold, 2101 Jeffco Blvd., Arnold, MO 63010, Attn: Mr. Bryan Richison, City Administrator (brichison@arnold.org) and (ii) with a copy to Mr. Robert Sweeney, P.O. Box 20, 503 Main Street, Hillsboro, Missouri 63050 (rks@robertsweeneylaw.com) or

(b) if to Missouri-American, (i) to Missouri-American Water Company, 727 Craig Road, St. Louis, Missouri 63141, Attn: Frank Kartmann, President (frank.kartmann@amwater.com), (ii) with a copy to Missouri-American Water Company, 727 Craig Road, St. Louis, Missouri 63141, Attn: Legal Department (timothy.luft@amwater.com) and (iii) with a copy to Bryan Cave LLP, 211 N. Broadway, Suite 3600, St.

Louis, Missouri 63102, Attn: Ryan S. Davis (rsdavis@bryancave.com), or to such other address as any Party hereto may designate by notice to the other Parties in accordance with the terms of this Section.

**9.9 Severability.** This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of this Agreement or of any other term hereof, which shall remain in full force and effect, for so long as the economic or legal substance of the Contemplated Transactions is not affected in any manner materially adverse to any Party.

**9.10 Specific Performance and Injunctive Relief; Remedies.** The Parties hereto recognize that if any or all of them fail to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at law may not provide adequate relief to the other Parties hereto. Therefore, in addition to any other remedy provided for in this Agreement or under applicable Law, any Party hereto may demand specific performance of this Agreement, and such Party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time when any of the other Parties hereto fail to comply with any of the provisions of this Agreement applicable to such Party. To the extent permitted by applicable Law, all Parties hereto hereby irrevocably waive any defense based on the adequacy of a remedy at law which might be asserted as a bar to such Party's remedy of specific performance or injunctive relief. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies under Law. Nothing contained herein shall be construed as limiting the Parties' rights to redress for fraud.

**9.11 No Third-Party Beneficiary.** This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns (and those Persons entitled to recover under the indemnity provisions hereof), and no other Person (other than those Persons entitled to recover under the indemnity provisions hereof) has any right, title, priority or interest under this Agreement or the existence of this Agreement.

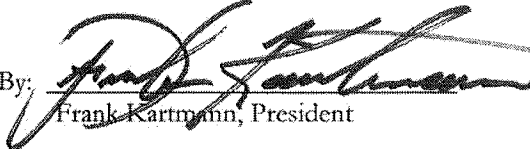
**9.12 Waiver of Compliance; Consents.** Any failure of a Party to comply with any obligation, covenant, agreement or condition herein may be waived by the other Party only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits Consent by or on behalf of any Party hereto, such Consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 9.12.

**9.13 Jurisdiction; Venue; Consent to Service of Process.** Each of the Parties irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Jefferson County Court in St. Louis, Missouri or, if such court will not accept jurisdiction, the Supreme Court of the State of Missouri or any court of competent civil jurisdiction sitting in Jefferson County, Missouri. In any action, suit or other Proceeding, each of the Parties irrevocably and unconditionally waives and agrees not to assert by way of motion, as a defense or otherwise any claims that it is not subject to the jurisdiction of the above courts, that such action or suit is brought in an inconvenient forum or that the venue of such action, suit or other Proceeding is improper. Each of the Parties also hereby agrees that any final and unappealable judgment against a Party in connection with any action, suit or other Proceeding shall be conclusive and binding on such Party and that such award or judgment may be enforced in any court of competent jurisdiction, either within or outside of the United States. Each Party irrevocably consents to service of process in the manner provided for the giving of notices pursuant to Section 9.8. Nothing in this Section 9.13 shall affect the right of any Party to serve process in any other manner permitted under applicable Law.

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first set forth above:

Missouri-American Water Company, a Missouri corporation

The City of Arnold, Missouri

By:   
Frank Kartmann, President

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

Attest:

Attest:

  
\_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first set forth above:

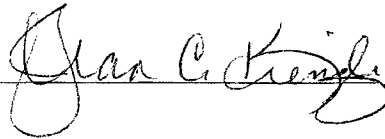
Missouri-American Water Company, a Missouri corporation

The City of Arnold, Missouri

By: \_\_\_\_\_  
Frank Kartmann, President

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

Attest:  
  
\_\_\_\_\_

Attest:  
 \_\_\_\_\_

**EXHIBIT 1**  
**System**

See attached.

CITY OF ARNOLD, MISSOURI



***SEWER SYSTEM EVALUATION  
SURVEY (SSES) STUDY  
Phase 3 Technical Memorandum***

Prepared For:  
City of Arnold

Prepared By:  
Fribis Engineering  
HDR Engineering  
TREKK Design Group

October 2013  
HDR Project No. 185520





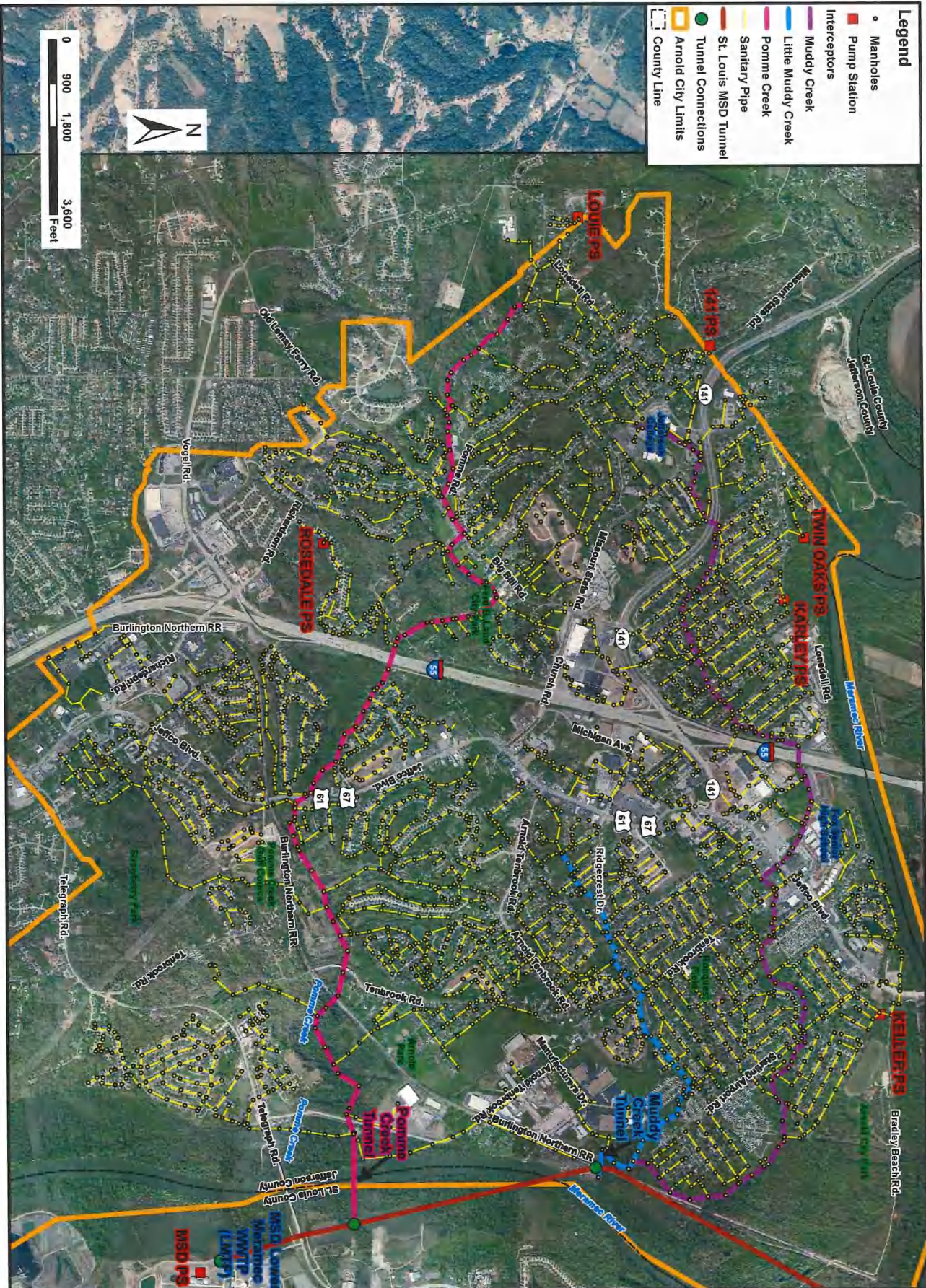
## **2 EXISTING WASTEWATER SYSTEM**

The City of Arnold is bordered by the Meramec River on the north and east. The Meramec River continues south until it converges with the Mississippi River, which is located at the southeast corner of the City. The north portion of the City drains to the east along the Muddy Creek tributary to the Meramec River. The south portion of the City drains to the east along the Pomme Creek tributary to the Meramec River. The City of Arnold covers approximately 7,800 acres.

The City owns and operates their collection system that collects wastewater from approximately 9,000 customers, with the majority being residential customers. There are approximately 350 non-residential (commercial and industrial) sewer customers. Most of the City is served by approximately 110 miles of gravity sewer system. However, there are a total of 7 active pump stations within the system and their respective force mains. The majority of these pump stations are located within subdivisions. The City wastewater is conveyed to one of three main interceptors that lead to one of two tunnel outlets to facilities (LMTF) owned and operated by MSD. The City owns no wastewater treatment facilities. Figure 2-1 shows the City's sewer system according to the current GIS mapping and the two tunnel outlets to the MSD facilities.

The City consists of three watershed districts: Muddy Creek, Little Muddy Creek, and Pomme Creek. The sewers of the three watersheds drain to their respective interceptor that conveys the wastewater to a tunnel outlet that takes the flow to MSD's LMTF. The three interceptors are called the Muddy Creek, Little Muddy Creek, and Pomme Creek interceptors. Figure 2-2 depicts the delineation of the three watersheds and their corresponding interceptors.

The three watersheds within the City were divided into 26 basins. These basins define areas within the collection system where wastewater may be collected and conveyed downhill by gravity. Seventeen of these basins (3-13, 15-16, 22-25), in the Muddy Creek and Little Muddy Creek Watersheds, are located in the northern portion of the City and convey the flow east within the Muddy Creek and Little Muddy Creek interceptors toward the deep Muddy Creek Tunnel that goes under the Meramec River to the MSD system. The other nine basins (0-2, 14, 17-21), in the Pomme Creek Watershed, are located in the southern portion of the City and convey the flow east within the Pomme Creek interceptor toward the deep Pomme Creek Tunnel that goes under the Meramec River to the MSD system. Figure 2-3 illustrates the 26 basins divided within the City. See Figure 4-1 for subbasin delineations.

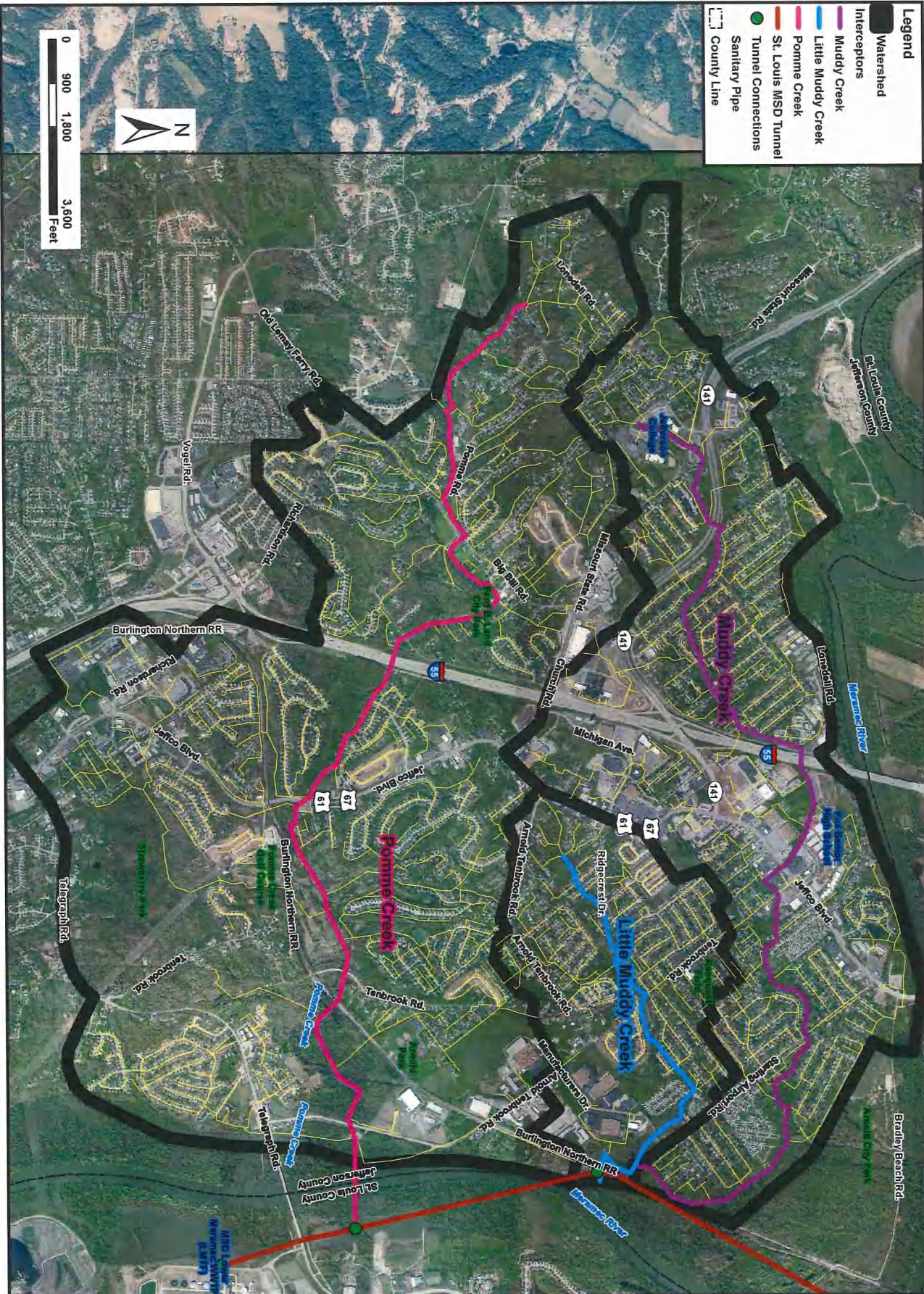


- Legend**
- Manholes
  - Pump Station
  - Interceptors
  - Muddy Creek
  - Little Muddy Creek
  - Sanitary Pipe
  - St. Louis MSD Tunnel
  - Tunnel Connections
  - Arnold City Limits
  - County Line



**Figure 2-1**  
**City of Arnold Sanitary Sewer System**  
 City of Arnold, MO  
 SSES Phase 3



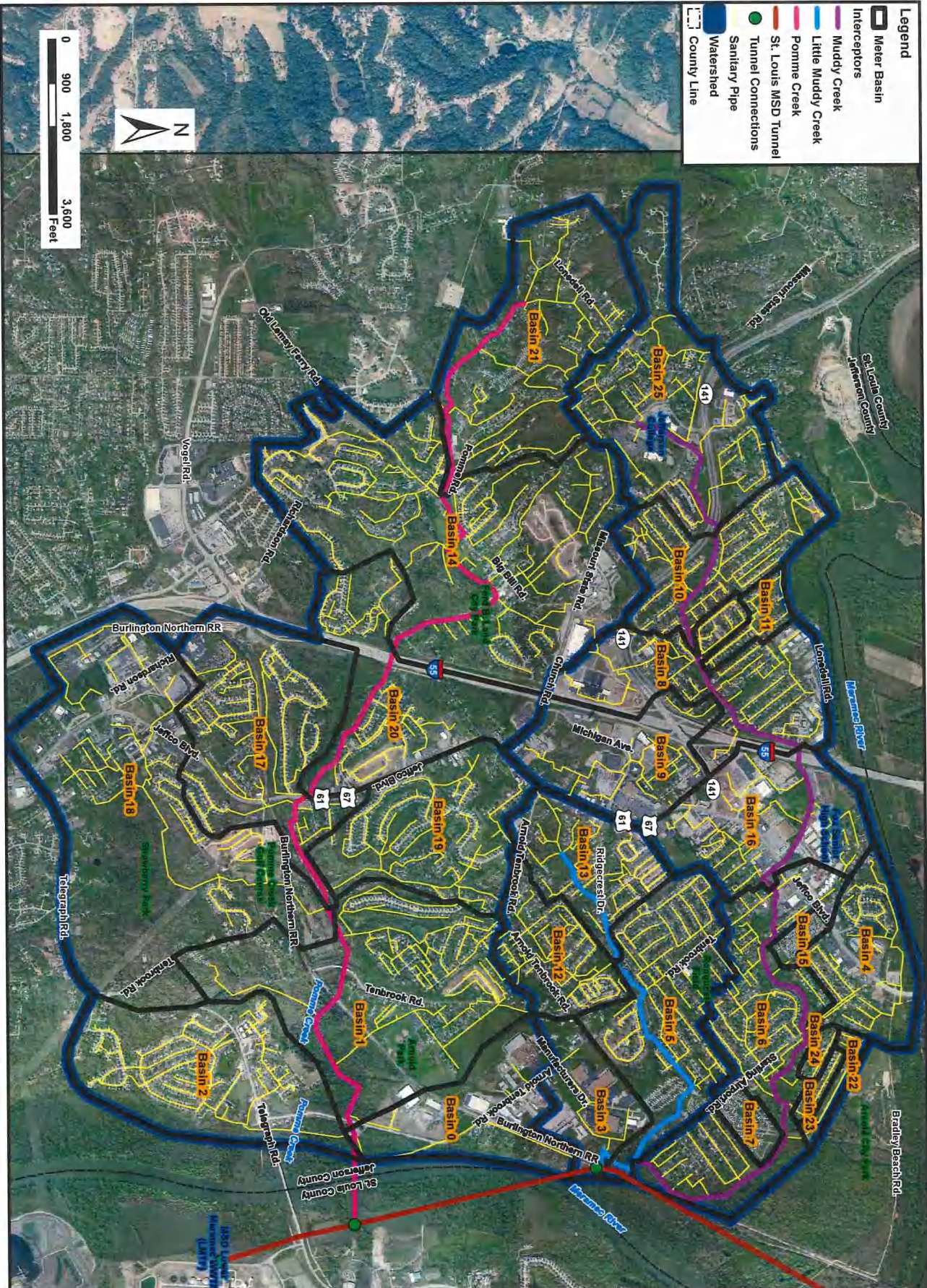


- Legend**
- Watershed
  - Interceptors
  - Muddy Creek
  - Little Muddy Creek
  - Pomme Creek
  - St. Louis MSD Tunnel
  - Tunnel Connections
  - Sanitary Pipe
  - County Line



**Figure 2-2**  
**Watershed Delineation**  
 City of Arnold, MO  
 SSES Phase 3





**Figure 2-3**  
**Basin Delineation**  
 City of Arnold, MO  
 SSES Phase 3



## EXHIBIT 2 Definitions

“Acquired Assets” means all right, title, and interest in and to all of the assets which are owned or held by Seller as of the Effective Time that constitute the System or that are used in the operation thereof, including, with respect to the System, all of its (a) Real Property now used and required in the ongoing operation of the System, (b) Tangible Personal Property, (c) intellectual property, goodwill associated therewith, licenses and sublicenses granted and obtained with respect thereto, and rights thereunder, remedies against past, present, and future interests therein under the Laws of all jurisdictions, (d) leases, subleases, easements, rights of way, and rights thereunder, (e) all rights of Seller in and to the Assumed Contracts, (f) all rights of Seller in and to any indentures, mortgages, instruments, Encumbrances, or guaranties secured for the operation of the System, (g) accounts, notes, and other receivables arising after the Effective Time, (h) claims, deposits, prepayments, refunds, causes of action, rights of recovery, rights of set-off, and rights of recoupment (including any such item relating to the payment of Taxes), (i) franchises, approvals, Permits, pending application for Permits and Permit renewals, exemptions from any Permits, licenses, Orders, registrations, certificates, variances, and similar rights obtained from governments and governmental agencies in each case to the extent assignable or transferable to Missouri-American, (j) books, data, records, ledgers, files, documents, correspondence, lists, plats, architectural plans, drawings, specifications, creative materials, studies, reports, and other printed or written materials related to Seller’s construction, maintenance, and operation of the System, and (k) all of the intangible rights and property, if any, of Seller utilized in the operation of the System, provided that Acquired Assets shall not include any Excluded Assets.

“Acquisition Proposal” means any offer or proposal for the acquisition of Seller, the Acquired Assets or any portion thereof, whether by way of merger, consolidation or statutory share exchange or the acquisition of shares of capital stock, the acquisition of assets or similar transaction.

“Affiliate” means, with respect to any Person, any Person which, directly or indirectly controls, is controlled by, or is under common control with, such Person.

“Allocation” means a reasonable and supportable allocation of the Purchase Price and the Assumed Liabilities among the Acquired Assets in accordance with Code section 1060 and the Treasury regulations thereunder (and any similar provisions of state or local Law, as appropriate).

“Assignment and Assumption Agreement” means an Assignment and Assumption Agreement for the Assumed Liabilities in form and substance reasonably acceptable to Missouri-American.

“Assumed Contracts” means the Contracts listed on Exhibit 3.

“Assumed Liabilities” means only the Liabilities arising out of, resulting from or relating to the Assumed Contracts, but only to the extent such Liabilities (A) are to be performed after the Effective Time, (B) do not arise as a consequence of any breach or default prior to the Effective Time, and (C) are accompanied by a correlated duty of performance or payment on the part of the other party(s) thereto.

“Audited Financial Statements” means the audited balance sheets of Seller as of August 31, 2012, 2013 and 2014 and the related audited statements of income and cash flows for the twelve (12) month period ended August 31, 2012, 2013 and 2014, respectively.

“Bill of Sale” means a bill of sale for all of the Acquired Assets that are Tangible Personal Property in form and substance reasonably acceptable to Missouri-American.

“Business” means the business of Seller as the same is conducted by Seller as of the date hereof and as the same shall be conducted by Seller as of immediately prior to the Closing.

“Business Day(s)” means any day other than (i) Saturday or Sunday, or (ii) any other day on which governmental offices in the State of Missouri are permitted or required to be closed.

“Cleanup” means investigation, cleanup, removal, containment or other remediation or response actions.

“Closing” means the closing of the Contemplated Transactions.

“Closing Date” means the date on which the Closing actually occurs.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations and other guidance promulgated thereunder.

“Confidential Information” means (i) information not available to the general public concerning the System and financial affairs with respect to a Party hereto or its Affiliates, and (ii) analyses, compilations, forecasts, studies and other documents prepared on the basis of such information by the Parties or their agents, representatives, any Related Person, employees or consultants.

“Consent” means any approval, consent, ratification, waiver or other authorization.

“Contemplated Transactions” means the transactions contemplated by this Agreement and the Transaction Documents.

“Contract” means any agreement, contract, obligation, legally binding commitment or undertaking (whether written or oral and whether express or implied).

“Damages” means any and all claims, losses and other liabilities, plus reasonable attorneys’ fees and expenses, including court costs and expert witness fees and costs, incurred in connection with such claims, losses and other liabilities and/or enforcement of this Agreement.

“DNR” means the Missouri Department of Natural Resources.

“Effective Time” means 12:01 a.m. on the Closing Date.

“Encumbrance” means any charge, claim, community property interest, condition, easement, equitable interest, encumbrance, lien, mortgage, option, pledge, security interest, right of first refusal, right of way, servitude or restriction of any kind, including any restriction on use, transfer, receipt of income or exercise of any other attribute of ownership, or any repayment obligation under any grant.

“Environment” means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

“Environmental, Health and Safety Liabilities” means any cost, damages, expense, liability, obligation or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to (a) any environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of chemical substances or products), (b) fines, penalties, judgments, awards, settlements, legal or administrative Proceedings, damages, losses, claims, demands and response, investigative, remedial or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law, (c) financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any Cleanup required by

applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Authority or any other Person) and for any natural resource damages, or (d) any other compliance, corrective, investigative or remedial measures required under Environmental Law or Occupational Safety and Health Law. The terms “removal,” “remedial,” and “response action,” include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended, and the United States Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended.

“Environmental Law” means any Law relating to pollution or protection of human health, safety, the environment, natural resources or Law relating to releases or threatened releases of Hazardous Materials into the indoor or outdoor environment (including, without limitation, ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, release, transport or handling of Hazardous Materials.

“Excluded Assets” means (a) all cash, cash equivalents and short-term investments of Seller, including all bank accounts, demand accounts, certificates of deposit, time deposits, marketable securities, negotiable instruments and the proceeds of accounts receivable paid prior to the Closing Date, other than deposits and funds included in the Acquired Assets, (b) all accounts receivable of Seller accrued and payable prior to the Effective Time, (c) all intercompany accounts receivable of Seller and notes for those accounts receivable, (d) all Contracts to which the Seller is a party (other than the Assumed Contracts), including the Contracts listed on Schedule 3.8 (other than the Assumed Contracts listed thereon), (e) all equity interests owned or held by Seller, (f) all insurance policies of Seller and rights thereunder, (g) all causes of action, judgments, claims, reimbursements and demands of whatever nature (including rights under and pursuant to all warranties, representations and guarantees made by suppliers of products, materials or equipment, or components thereof) in favor of Seller to the extent related to any Excluded Asset or Excluded Liability, (h) all corporate minute books and stock Records of Seller and personnel Records and other Records that Seller is required by Law to retain in its possession, (i) all rights of Seller under this Agreement and the Transaction Documents and (j) all rights, properties and assets set forth on Schedule A.

“Excluded Liabilities” means any and all Liabilities of Seller, whether or not incurred in connection with the operation of the System, other than the Assumed Liabilities.

“Financial Statements” means the Audited Financial Statements and the Unaudited Financial Statements.

“Franchise Agreement” means that certain Franchise Agreement in form and substance reasonably acceptable to Missouri-American.

“Governmental Authority(ies)” means any (a) nation, state, county, city, village, district or other jurisdiction of any nature, (b) federal, state, local, municipal, foreign or other government, (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official or entity and any court or other tribunal), (d) multi-national organization or body or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature. For purposes of this Agreement, Seller shall not be deemed included in the definition of a “Governmental Authority.”

“Hazardous Activity” means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about or from the System or any part thereof into the Environment, and any other act, system, operation or thing that increases the danger or risk of danger, or poses an unreasonable risk of harm to persons or property on or off the System, or that may affect the value of the System or the Business.

“Hazardous Materials” means any waste or other substance that is listed, defined, designated or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials.

“Improvements” means all buildings, structures, fixtures, building systems and equipment, and all components thereof, including the roof, foundation, load-bearing walls, and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing, and other building systems, environmental control, remediation, and abatement systems, sewer, storm, and waste water systems, irrigation and other water distribution systems, parking facilities, fire protections, security, and surveillance systems, and telecommunications, computer, wiring, and cable installations, included in the Real Property.

“Indemnified Persons” means Missouri-American and Missouri-American’s Affiliates and the past, present and future officers, directors, shareholders, partners, employees, agents, attorneys, representatives, successors and assigns of each of them in their capacities as such.

“Intangible Assignments” means the assignments of all of the Acquired Assets which are intangible personal property in form and substance reasonably acceptable to Missouri-American.

“Knowledge” means (i) the actual knowledge of a particular fact by any of the Persons listed on Schedule B (each, a “Knowledge Party”), and (ii) knowledge that would have been acquired by any Knowledge Party acting reasonably and diligently in the performance of such person’s role with and duties to Seller. The words “know,” “knowing” and “known” shall be construed accordingly.

“Law(s)” means any law, rule, regulation or ordinance of any federal, foreign, state or local Governmental Authority or other provisions having the force or effect of law, including all judicial or administrative Orders and determinations, and all common law.

“Lease” means that certain real property lease in form and substance reasonably acceptable to Missouri-American.

“Liability” or “Liabilities” means any liability, indebtedness or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of a Person.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, Liabilities (contingent or otherwise), operations or condition (financial or otherwise) of the System, the Business and the Acquired Assets, taken as a whole; provided, however, that “Material Adverse Effect” shall not include any changes resulting from general business or economic conditions, including such conditions related to the industry in which the System is operated, which do not specifically relate to the System and which are not disproportionately adverse to the System than to other businesses being operated in the industries in which the System operates, or (b) the ability of Seller to consummate the Contemplated Transactions.

“MoPSC” means the Missouri Public Service Commission.

“Occupational Safety and Health Law” means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (including those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.



“Order” means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Authority or by any arbitrator.

“Ordinary Course of Business” means, with respect to the System and the Business, only the ordinary course of commercial operations customarily engaged in by the System and the Business consistent with past practices, and specifically does not include (a) activity (i) involving the purchase or sale of the System or the Business or any product line or business unit thereof, or (ii) that requires approval by governing persons or equity holders of Seller or any of its Affiliates, as applicable, or (b) the incurrence of any Liability for any tort or any breach or violation of or default under any Contract or Law.

“Permit” means any approval, Consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law.

“Person” means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, cooperative, estate, trust, association, organization, labor union or other entity or Governmental Authority.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

“Purchase Price” means Thirteen Million Two Hundred Thousand Dollars (\$13,200,000).

“Real Property” means those parcels of real property and those easements or any right-of-way used in the operation of the System, together with all fixtures, fittings, buildings, structures and other Improvements erected therein or thereon.

“Records” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Related Person” means: (a) with respect to a particular individual, (i) each other member of such individual’s Family, (ii) any Person that is directly or indirectly controlled by such individual or one or more members of such individual’s Family, (iii) any Person in which such individual or members of such individual’s Family hold (individually or in the aggregate) a Material Interest, and (iv) any Person with respect to which such individual or one or more members of such individual’s Family serves as a director, officer, partner, executor or trustee (or in a similar capacity) and (b) with respect to a specified Person other than an individual, (i) any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with such specified Person, (ii) any Person that holds a Material Interest in such specified Person, (iii) each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity), (iv) any Person in which such specified Person holds a Material Interest, (v) any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity) and (vi) any Related Person of any individual described in clause (ii) or (iii). For purposes of this definition, (x) the “Family” of an individual includes (A) the individual, (B) the individual’s spouse, (C) any other natural person who is related to the individual or the individual’s spouse within the second degree, and (D) any other natural person who resides with such individual; and (y) “Material Interest” means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of voting securities or other voting interests representing at least five percent (5%) of the outstanding equity securities or equity interests in a Person.

“Release” means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping or other releasing into the Environment, whether intentional or unintentional.

“Tangible Personal Property” means all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies (including chemicals and spare parts), materials, vehicles and other items of tangible personal property of every kind owned or leased by Seller (wherever located and whether or not carried on Seller’s books), together with any express or implied warranty by the manufacturers or lessors of any item or component part thereof, and all maintenance records and other documents relating thereto.

“Tax” or “Taxes” means all taxes, charges, withholdings, fees, duties, levies, or other like assessments including, without limitation, income, gross receipts, ad valorem, value added, excise, property, sales, employment, withholding, social security, Pension Benefit Guaranty Corporation premium, environmental (under Section 59A of the Code) occupation, use, service, service use, license, payroll, franchise, transfer and recording taxes, fees and charges, windfall profits, severance, customs, import, export, employment or similar taxes, charges, fees, levies or other assessments, imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or any other basis, and shall include any interest, fines, penalties, assessments, or additions to tax resulting from, attributable to, or incurred in connection with any such Tax or any contest or dispute thereof, and including any Liability for the Taxes of another Person under Treasury Regulation section 1.1502-6 (or any similar provisions of state, local, or foreign Law), as transferee or successor, by Contract or otherwise.

“Tax Return” or “Tax Returns” means any return, declaration, report, claim for refund, or information return or statement relating to, or required to be filed in connection with any Taxes, including any schedule or attachment thereto and including any amendment thereof.

“Third Person” means a claimant other than an indemnified person hereunder.

“Third Person Claim” means a claim alleged by a Third Person.

“Transaction Documents” means this Agreement, the Bill of Sale, the Intangible Assignments, the Assignment and Assumption Agreement, the Franchise Agreement, the Lease and all other documents, certificates, assignments and agreements executed and/or delivered in connection with this Agreement in order to consummate the Contemplated Transactions, as the same may be amended, restated, modified or otherwise replaced from time to time.

“Unaudited Financial Statements” means the unaudited balance sheet of Seller as of November 30, 2014 and the related compiled consolidated statements of income and cash flows for the three month period then ended.

### **Rules of Construction**

For purposes of this Agreement and the other documents executed in connection herewith, the following rules of construction shall apply, unless specifically indicated to the contrary: (i) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter; (ii) the term “or” is not exclusive; (iii) the term “including” (or any form thereof) shall not be limiting or exclusive; (iv) the terms “hereof,” “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement; (v) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations as well as all rules and regulations promulgated thereunder, unless the context otherwise requires; (vi) all references in this Agreement or in the Schedules to this Agreement to sections, schedules, exhibits and attachments shall refer to the corresponding sections, schedules, exhibits and attachments of or to this Agreement; and (vii) all references to any instruments or agreements, including references to any of the

documents executed in connection herewith, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof.

**EXHIBIT 3**  
**Assumed Contracts**

Sewerage System Agreement dated as of December 11, 2008 by and between The Metropolitan St. Louis Sewer District and the City of Arnold, Missouri

Rock Creek Agreement

**Schedules to the Asset Purchase Agreement dated as of December 18, 2014 by and between  
Missouri-American Water Company and The City of Arnold, Missouri**

Schedule 2.2 (Payees other than Seller)

None.

Schedule 2.5(a)(v) (Required Consents)

MoPSC

The Metropolitan St. Louis Sewer District

Rock Creek Public Sewer District

Schedule 3.4 (Real Property; Easements)

(a)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.4(a) to provide a complete and accurate listing of all real property used in the operation of the System as of December 18, 2014.]*

(b)(i)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.4(b)(i) to provide a true, correct and complete list of all easements relating to the Real Property or the Acquired Assets as of December 18, 2014.]*

(b)(ii)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.4(b)(ii) to provide a true, correct and complete list of all rights of way relating to the Real Property or the Acquired Assets as of December 18, 2014.]*

(c)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.4(c) to provide a list of any Improvements which encroach on any land that is not included in the Real Property or any easements affecting such Real Property, or which violate any building lines or set-back lines or any encroachments onto the Real Property, or any portion thereof, which would interfere with the use or occupancy of such Real Property or the continued operation of the System as currently conducted, in each case as of December 18, 2014.]*

(e)

None.

Schedule 3.5 (Personal Property)

(a)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.5(a) to provide a complete and accurate listing of all Acquired Assets which are personal property as of December 18, 2014.]*

(b)

None.

Schedule 3.6 (No Undisclosed Liabilities)

None.

**Schedules to the Asset Purchase Agreement dated as of December 18, 2014 by and between Missouri-American Water Company and The City of Arnold, Missouri**

**Schedule 3.8 (Contracts)**

(a)

Contracts listed on Exhibit 3

Other “course of business” documents that are not specifically or exclusively used by the System (e.g., a grass cutting agreement) and which are not Assumed Contracts

(b)

None.

**Schedule 3.9 (Environmental Matters)**

(a)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.9(a) to provide a list of all exceptions to the following representation, as of December 18, 2014: Seller is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable Environmental Law.]*

(d)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.9(d) to provide a list of Hazardous Materials present on or in the Environment at the Real Property or at any geologically or hydrologically adjoining property or any other part of the Real Property or such adjoining property or incorporated into any structure therein or thereon, as of December 18, 2014.]*

(e)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.9(e) to provide a list of the following which exist at the System or on the Real Property: (1) underground storage tanks; (2) asbestos-containing material in any form; (3) materials or equipment containing polychlorinated biphenyl; (4) groundwater monitoring wells; or (5) landfills, surface impoundments, or disposal areas, in each case as of December 18, 2014.]*

(f)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.9(f) to provide a list of obligations of Seller or its Affiliates to provide financial assurance in consideration of the System under Environmental Law, as of December 18, 2014.]*

**Schedule 3.10 (Permits)**

(a)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.10(a) to list its state permit as in effect as of December 18, 2014.]*

(b) *[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.10(b) to list any exception to the following representation as of December 18, 2014: The permit listed in (a) constitutes all permits necessary for the continuing operation of the System and is valid and subsisting and in full force and effect.]*

**Schedules to the Asset Purchase Agreement dated as of December 18, 2014 by and between Missouri-American Water Company and The City of Arnold, Missouri**

**Schedule 3.11 (Insurance)**

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.11 to provide a list of all insurance policies Seller maintains as of December 18, 2014.]*

**Schedule 3.13 (Litigation and Proceedings)**

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.13 to provide a list of all Proceedings, pending or threatened, anticipated or contemplated, against Seller or involving the operation of the System, any of the Acquired Assets, or any of Seller's members, shareholders, directors, officers, agents or other governing persons, equity holders or personnel in their capacity as such, which could directly affect any of the Acquired Assets or the System, as of December 18, 2014.]*

**Schedule 3.14 (Compliance with Laws)**

None.

**Schedule 3.15 (Financial Statements)**

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.15 to attach (i) the audited balance sheets of Seller as of August 31, 2012, 2013 and 2014 and the related audited statements of income and cash flows for the twelve (12) month period ended August 31, 2012, 2013 and 2014, respectively, and (ii) the unaudited balance sheet of Seller as of November 30, 2014 and the related compiled consolidated statements of income and cash flows for the three month period then ended.]*

**Schedule 3.16 (Transactions with Related Parties)**

None.

**Schedule 3.17 (Customer Advances)**

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.17 to provide a complete and accurate list, as of December 18, 2014, of (i) all unexpired Extension Deposit Agreements (or similar agreements) to which Seller is a party and which contain unexpired obligations of Seller to provide for the payment of periodic refunds to parties making advances for the construction of facilities for sewer service, (ii) all advances or prepayments made by any customer or other Person to Seller with respect to the System or the service provided thereby and (iii) all other amounts payable (whether as a reimbursement or in the form of a credit) by Seller to any customer or other Person with respect to the System or the service provided thereby.]*

**Schedule 3.18 (Accounts Receivable)**

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.18 to include a list of all the accounts receivable of Seller with respect to the System and an aging schedule related thereto, as of December 18, 2014.]*

**Schedule 3.19 (Brokers, Finders)**

None.

**Schedules to the Asset Purchase Agreement dated as of December 18, 2014 by and between Missouri-American Water Company and The City of Arnold, Missouri**

Schedule 3.20 (Employees)

(a)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Seller to update this Schedule 3.20(a) to provide a list of the following information for each employee of the Seller, including each such employee on leave of absence or layoff status: name, job title, current compensation paid or payable, any change in compensation since the date of the most recent Audited Financial Statement, and hire date, in each case as of December 18, 2014.]*

(b)

None.

Schedule 5.1(j) (Certain Agreements)

The Metropolitan St. Louis Sewer District  
Rock Creek Public Sewer District

Schedule 7.2 (Indemnification and Payment of Damages by Seller)

*[As promptly as practicable following the date hereof (and in any event prior to Closing), Missouri-American to update this Schedule 7.2 to provide a list of any matters uncovered during its due diligence for which Seller should provide indemnification coverage.]*

Schedule A (Excluded Assets)

None.

Schedule B (Knowledge)

Mayor Ron Counts; City Council members: Jason Fulbright, Nancy Crisler, Mary Elizabeth Coleman, Brian McArthur, Paul Freese, Phil Amato, Butch Cooley and Gary Plunk; City Treasurer Dan Kroupa; City Administrator Bryan Richison; Finance Director Deborah Lewis; Public Works Director Ed Blattner; Sewer Superintendent Mark Migneco; City Attorney Robert Sweeney.