

Exhibit No. \_\_\_\_\_  
Issues: Applicant, Qualifications, Overview of  
Nonviable Utility Systems, Capital Structure,  
Tariffs and Rates, Public Interest  
Witness: Josiah Cox  
Type of Exhibit: Direct Testimony  
Sponsoring Party: Osage Utility Operating  
Company, Inc  
File Nos.: WA-2019-0185  
Date: July 11, 2019

**Missouri Public Service Commission**

**Direct Testimony**

**of**

**Josiah Cox**

**On Behalf of**

**Osage Utility Operating Company, Inc**

**July 11, 2019**

*Company* Exhibit No. 1  
Date 9-17-19 Reporter Rjt  
File No WA-2019-0185

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DIRECT TESTIMONY OF  
JOSIAH COX  
OSAGE UTILITY OPERATING COMPANY, INC.

1  
2  
3 WITNESS INTRODUCTION

4 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

5 A. My name is Josiah Cox. My business address is 500 Northwest Plaza Drive,  
6 Suite 500, St. Ann, Missouri, 63074.

7 Q. WHAT IS YOUR POSITION WITH OSAGE UTILITY OPERATING COMPANY,  
8 INC. (OUOC OR COMPANY)?

9 A. I hold the office of President of OUOC.

10 Q. PLEASE PROVIDE SOME BACKGROUND INFORMATION ABOUT OUOC.

11 A. OUOC is a Missouri corporation, active and in good standing with the Missouri  
12 Secretary of State. OUOC's principal office and place of business is located at  
13 500 Northwest Plaza Drive, Suite 500, St. Ann, Missouri, 63074. OUOC was  
14 formed for the purpose of providing water and sewer service to the public.

15 Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL  
16 EXPERIENCE.

17 A. I received a Bachelor of Science with a major in Environmental Science from the  
18 University of Kansas. Professionally, I have worked at the Kansas state  
19 biological survey, where I performed a wildlife habitat study. I then worked at a  
20 civil engineering firm where I was involved in various facets of the land  
21 development process, including permitting, entitlement, civil design, project  
22 management, and construction management. I focused mainly on the water and

1 wastewater side of the civil engineering business and participated in every part of  
2 the civil business from waste-load allocation studies (now known as the anti-  
3 degradation processes), design, permitting, project management, and  
4 construction management. I also ran the firm's environmental consulting  
5 division and was the second private consultant to submit a water quality impact  
6 study in the state of Missouri in 2003. I joined the engineering firm's executive  
7 leadership team and helped run all the firm's operations.

8 Beginning in 2005, I raised money from a group of investors and formed a  
9 full-service civil engineering, environmental consulting, general contracting, and  
10 construction management firm. I served as the Chief Operating Officer, and  
11 finally, Chief Executive Officer. I obtained extensive experience with rural  
12 communities in every facet of the water and wastewater compliance process,  
13 including environmental assessment, permitting, design, construction, operation  
14 and community administration of the actual water and wastewater (sewerage)  
15 systems. The firm performed stream sampling and built waste-load allocation  
16 models to determine receiving water-body protective permittable effluent  
17 pollutant loads. It also performed full engineering design of multiple whole  
18 community wastewater and water infrastructure systems including wells, water  
19 distribution, water treatment, water storage, wastewater conveyance, and  
20 wastewater treatment plants and taken these designs through federal and state  
21 permitting processes in Missouri. The engineering firm also administered the  
22 construction of these water and wastewater systems from green field site  
23 selection all the way through system startup and final engineering sign off.

1           During this time, I began the Master of Business Administration (MBA)  
2 program at Washington University in St. Louis, from which I graduated in 2007.

3           In addition, starting in 2008, I took over the operations of an existing rural  
4 sewer district and I still operate a system managing the functioning, testing, and  
5 maintenance of the system. I also act as the administrator for this non-profit  
6 system performing all the billing, emergency response, accounts  
7 payable/accounts receivable, collections, budgeting, customer service, and  
8 public meetings required to service the community.

9 **Q. DO YOU ALSO HAVE A POSITION AT CENTRAL STATES WATER**  
10 **RESOURCES, INC.?**

11 A. Yes. I have been the President of Central States Water Resources, Inc.  
12 (CSWR), for approximately four and a half years.

13 **Q. WHAT IS THE RELATIONSHIP OF OUOC TO CSWR?**

14 A. OUOC is an affiliate of CSWR. A corporate organization chart illustrating the  
15 relationship is attached hereto as Schedule JC-1. OUOC is one of the "Missouri  
16 UOCs" identified on the chart. Later in my testimony I will discuss the role  
17 CSWR would play in OUOC's future utility operations if the Commission  
18 approves the Amended Application in this case.

19 **PURPOSE**

20 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

21 A. The purpose of my testimony is: (1) to discuss OUOC's qualifications to own and  
22 operate the water and sewer systems it seeks to acquire; (2) provide an overview  
23 of the water and sewer systems OUOC seeks to acquire; (3) explain what rates

1 and regulations OUOC seeks to initially use in providing service; (4) explain  
2 OUOC's request for a rate of return premium and a debt acquisition adjustment  
3 in conjunction with the acquisition of these nonviable systems; (5) explain  
4 OUOC's position as to the conditions proposed by the Staff of the Commission in  
5 its *Staff Recommendation* and *Memorandum*; and, (6) explain why OUOC's  
6 acquisition of substantially all the water and sewer system assets of Osage  
7 Water Company, including its Certificates of Convenience and Necessity ("CCN")  
8 is not detrimental to the public interest; and (7) explain why OUOC's acquisition  
9 of the water and sewer system assets that serve Reflections Subdivision Master  
10 Association, Inc., and Reflections Condominium Owners Association, Inc. (known  
11 together herein as "Reflections"), and the Commission's granting of OUOC a  
12 CCN to operate Reflections is in the public interest.

13 **QUALIFICATIONS**

14 **Osage Utility Operating Company, Inc. ("OUOC")**

15  
16 **Q. PLEASE DESCRIBE OUOC.**

17 **A.** OUOC is a Missouri corporation, active and in good standing, with its principal  
18 office and place of business at 500 Northwest Plaza Drive, Suite 500, St. Ann,  
19 Missouri, 63074. OUOC was formed for the purpose of providing water and  
20 sewer service to the public and intends to be a "water corporation," a "sewer  
21 corporation," and a "public utility" as those terms are defined in Section 386.020,  
22 RSMo, and will be subject to the jurisdiction and supervision of the Commission  
23 as provided by law.

24 **Q. IS OUOC A PART OF A LARGER ORGANIZATION?**

1 A. Yes. CSWR, LLC (formerly known as First Round CSWR, LLC), is OUOC's  
2 ultimate parent company. Central States Water Resources, Inc., is the manager  
3 for CSWR, LLC. I commonly refer to the entire business organization as a whole  
4 by using the name "Central States" or "CSWR."

5 **Q. WHAT IS CSWR'S EXPERIENCE WITH WASTEWATER/SEWER SYSTEMS?**

6 A. On the wastewater side of the business, CSWR has purchased 22 wastewater  
7 treatment plants with associated sewer pumping stations, gravity force mains,  
8 and gravity conveyance lines. In Missouri, CSWR-affiliated companies have  
9 designed, permitted, and completed construction, with MDNR approval, of  
10 approximately \$5.1 million of sanitary sewer investments since March of 2015. In  
11 Arkansas, affiliated companies have designed, permitted, and completed  
12 construction, with the Arkansas Department of Environmental Quality approval,  
13 of approximately \$2.2 million of sanitary sewer systems investments since  
14 October of 2017. All of these improvements include wastewater line repairs to  
15 remove infiltration and inflow, building sewer main extensions, the repair of  
16 multiple lift stations, the construction of lift stations, the closure of an existing  
17 environmentally distressed waste water treatment plant, building two fully  
18 activated sludge plants, constructing moving bed bio-reactor plants, converting  
19 two failing wastewater treatment plants into sludge storage/flow equalization and  
20 treatment basins, converting failed mechanical systems to I-Fast systems, and  
21 constructing various other wastewater supporting improvements. In addition,  
22 CSWR has active acquisition cases, with the associated engineering/permitting,  
23 pending before the Tennessee Public Utility Commission for three systems, the

1 Kentucky Public Service Commission for eight systems, and the Louisiana Public  
2 Service Commission for approximately 170 systems.

3 **Q. WHAT IS CSWR's EXPERIENCE WITH WATER SYSTEMS?**

4 A. On the drinking water side of the business, CSWR-affiliated companies have  
5 purchased 13 drinking water systems in Missouri and Arkansas. In Missouri,  
6 CSWR has designed, permitted, and completed construction, with MDNR  
7 approval, of approximately \$4.1 million of investments in drinking water systems  
8 since March 2015. These improvements include construction of three new  
9 groundwater storage tanks, construction of three sets of drinking water  
10 pressurization pump assemblies, drilling a deep water well, erecting two new well  
11 houses, closing two failed well houses, closing an exposed failed deep water  
12 drinking well, blasting/coating existing tankage, rehabilitating an existing impaired  
13 well house, closing a failing booster pump station house, replacement of over  
14 750 meter pits with new meters, replacement of numerous existing water service  
15 lines, installing numerous isolation valve systems, installing multiple flush  
16 hydrants, repairing almost hundreds of leaks and repairing or building various  
17 other supporting drinking water system improvements.

18 In addition, CSWR has active acquisition cases, with associated design  
19 engineering/permitting, pending before the Louisiana Public Service Commission  
20 representing approximately 30 systems.

21 **Q. WILL OUOC AND CSWR HAVE PERSONNEL QUALIFIED TO PROVIDE**  
22 **SAFE AND ADEQUATE SERVICE IN THE SERVICE AREAS YOU PROPOSE**  
23 **TO ACQUIRE AND OPERATE IN THIS CASE?**



1 A. Yes, they will. CSWR is already providing those and other similar services for  
2 water and wastewater systems in Missouri and Arkansas. The level of  
3 experience and expertise CSWR currently provides affiliated systems in Missouri  
4 and Arkansas, and that it would bring to OUOC if the Amended Application is  
5 approved, is not usually available to small systems like those at issue in this  
6 case. But CSWR's business model provides these assets to its affiliates and  
7 does so through the economies of scale that CSWR's centralized management  
8 structure can achieve, at a lower cost than would be the case if OUOC or a  
9 similarly-sized company had to acquire or provide such expertise and support on  
10 its own.

11 **Q. HAS THE ORGANIZATION TAKEN STEPS TO IMPROVE SERVICES AT THE**  
12 **SYSTEMS IT NOW OPERATES?**

13 A. Yes. In addition to the capital improvements made on all the systems, the  
14 organization has built from scratch customer service systems at each Missouri  
15 utility it currently operates that provide benefits to the customers and comply with  
16 the Commission's Chapter 13 rules. This includes 24-hour emergency service  
17 phone lines for potential service issues, on-call emergency service contractor  
18 personnel, implementation of a computerized maintenance management system  
19 for wastewater and drinking water utility assets, real time remote monitoring to  
20 ensure service stability, customer dissemination of MDNR drinking water testing  
21 information, on-line bill-pay options, up-to-date website bulletins about current  
22 service status, and service initiation or discontinuance procedures.

1 Q. DOES OUOC HAVE THE TECHNICAL CAPACITY TO OPERATE THE  
2 ASSETS IT PROPOSES TO PURCHASE?

3 A. Yes. We have experience in the design and operation of water and sewer  
4 systems. OUOC intends to utilize a contract operator for plant operations,  
5 utilizing the services of appropriately qualified and licensed utility system  
6 operators (for water and for sewer) ultimately supervised by me. The contract  
7 operator will undertake routine day-to-day inspections, checks, sampling,  
8 reporting, and meter reading for the water and sewer systems, as well as  
9 accomplish most system repairs and extraordinary operations tasks as needs  
10 arise, to address proper facility operations and customer service matters. All  
11 these activities will be tracked inside CSWR's computerized maintenance  
12 management system. Computerized maintenance monitoring also feeds in  
13 remote monitoring data from individual plants, which together with the  
14 maintenance data, integrate with a water information management system for all  
15 CSWR facilities.

16 Q. DOES OUOC HAVE THE FINANCIAL CAPACITY TO OPERATE THE ASSETS  
17 IT PROPOSES TO PURCHASE?

18 A. Yes. OUOC has been able to attract investment capital to construct and  
19 maintain facilities necessary to provide safe and reliable water and wastewater  
20 service. Additionally, attached as Schedule JC-2C is an adjusted balance sheet  
21 and income statement showing the results of the acquisition of properties  
22 acquired by CSWR and its affiliates, which shows CSWR is a substantial  
23 company with the financial wherewithal to own and operate the systems at issue

1 in this case. Schedule JC-2C has been identified as Confidential in accordance  
2 with Commission Rule 4 CSR 240-2.135(2)(A)(3) and (6), as it contains market  
3 specific information and information representing strategies employed in contract  
4 negotiations. Schedule JC-3C is a feasibility study for the water and sewer  
5 systems required by the Commission's rules, which includes estimated expenses  
6 and revenues during the first three years of operation by OUOC of the systems at  
7 issue in this case. Schedule JC-3C has been identified as Confidential in  
8 accordance with Commission Rule 4 CSR 240-2.135(2)(A)(3) and (6), as it  
9 contains market specific information and information representing strategies  
10 employed in contract negotiations.

11 **Q. DOES OUOC HAVE THE MANAGERIAL CAPACITY TO OPERATE THE**  
12 **ASSETS IT PROPOSES TO PURCHASE?**

13 A. Yes. Like routine facility operations, OUOC intends to utilize a contract billing  
14 agent and utilize an emergency answering service. The billing agent will be  
15 responsible for computing, printing, and sending monthly bills to customers, and  
16 then collecting payment. The billing agent will also have customer service staff  
17 that will be able to take and process customer inquiries pertaining to billing, make  
18 bill adjustments, and enter into payment plans within company guidelines,  
19 interact with the Commission's Staff in working with customer complaints, and  
20 manage new customer accounts and the closing of customer accounts. The  
21 contract billing agent will also be available to route service complaints and  
22 inquiries. In addition, I will also be personally available by telephone when severe

1 emergencies arise. OUOC will comply with the Commission's rules and  
2 standards regarding the provision of water and sewer services.

3 **Q. IF THE COMMISSION APPROVES THE AMENDED APPLICATION, IS**  
4 **OUOC WILLING AND ABLE TO MAKE IMPROVEMENTS NECESSARY TO**  
5 **BRING THE OSAGE WATER COMPANY AND REFLECTIONS WATER AND**  
6 **WASTEWATER SYSTEMS UP TO APPLICABLE COMMISSION STANDARDS**  
7 **AND INTO COMPLIANCE WITH MDNR REGULATIONS?**

8 A. Yes. If the Commission grants OUOC the authority it seeks in the Amended  
9 Application, OUOC and CSWR have access to adequate capital and are willing  
10 and able to invest the capital necessary to bring the water and wastewater  
11 systems at issue in this case up to standard and maintain compliance with  
12 applicable MDNR regulations.

13 **Q. HOW DOES OUOC PLAN TO FINANCE THE PURCHASE OF THE SYSTEMS**  
14 **TO BE ACQUIRED AND THE MAKING OF THE NECESSARY**  
15 **IMPROVEMENTS?**

16 A. OUOC plans to fund the purchases using equity infused by OUOC's parent  
17 company, CSWR, LLC. OUOC has not yet determined whether improvements  
18 at each system will be funded by equity, debt, or a combination of both. The  
19 terms of any debt financing that OUOC would enter into would be subject to the  
20 approval of the Commission.

21 **SYSTEMS TO BE ACQUIRED**

22 **Q. WHAT DOES OUOC PROPOSE IN THIS MATTER?**

1 A. OUOC proposes to acquire substantially all the water and sewer system assets  
2 of Osage Water Company, including its CCNs. OUOC also proposes to acquire  
3 all of the water and sewer system assets that serve Reflections and requests the  
4 Commission grant it a CCN to operate the systems and provide service to the  
5 public.

6 **Q. WHAT IS THE GENERAL CONDITION OF THE SYSTEMS TO BE**  
7 **ACQUIRED?**

8 A. All the systems to be acquired lack the financial, technical, and/or managerial  
9 capacity needed to provide safe and reliable water and/or sewer service. Osage  
10 Water Company filed for bankruptcy on October 11, 2017. Great Southern Bank  
11 has foreclosed on the Reflections' systems. In addition to financial problems, the  
12 systems have distinct operational problems that I will generally discuss on a  
13 system by system basis. I will also provide a general overview of the systems  
14 and their state of operation. The direct testimony of Todd Thomas will address  
15 the detailed conditions of the systems and OUOC's proposed improvements to  
16 those systems in greater detail.

17 **Q. PLEASE DESCRIBE OSAGE WATER COMPANY**

18 A. In 1989, Osage Water Company was granted a CCN to operate a water and  
19 sewer utility in Commission Case No. WA-89-73. However, on December 10,  
20 2002, the Commission issued a Report and Order in Case No. WC-2003-0134,  
21 finding, among other things:

22 . . . that Osage Water Company has been effectively abandoned by  
23 its owners and that it is unable or unwilling to provide safe and  
24 adequate service to its customers. The Commission directs its

1 Staff to file a petition in circuit court seeking an order attaching the  
2 assets of Osage Water and appointing a receiver to take control  
3 and responsibility of the company. The Commission also directs its  
4 Staff to seek a determination from the circuit court that Osage  
5 Water Company should not be returned to its owners but rather  
6 should be liquidated by the receiver, acting in the best interest of  
7 the company's customers.  
8

9 *See Report and Order in Case No. WC-2003-0134, p. 2.*

10 Osage Water Company consists of four water and wastewater service areas:  
11 Chelsea Rose Water and Sewer Service Area, Cimarron Bay Water and Sewer  
12 Service Area, Cedar Glen Water and Sewer Service Area, and Eagle Woods  
13 Water and Sewer Service Area. OUOC proposes to acquire each of these  
14 service areas. Currently, the systems provide water service to approximately 402  
15 customers and sewer service to approximately 420 customers, all in Camden  
16 County, Missouri.

17 **Q. WAS OSAGE WATER COMPANY PLACED INTO PERMANENT**  
18 **RECEIVERSHIP?**

19 **A.** Yes. On October 21, 2005, Osage Water Company was placed into permanent  
20 receivership and a Receiver was appointed by Order of the Camden County  
21 Circuit Court. A copy of the Court's Order is attached to my testimony as  
22 **Schedule JC-4**. By the same Order, the Court further directed the Receiver to  
23 liquidate Osage Water Company's assets as quickly as practicable on terms that  
24 protect the interests of Osage Water Company's customers, subject to approval  
25 by the Court. *Id.* On August 28, 2017, the Court authorized the Receiver to file  
26 an action in Federal Bankruptcy Court for the liquidation of assets and discharge

1 of debt of Osage Water Company. The Court's Order authorizing the filing of a  
2 bankruptcy petition is attached to my testimony as Schedule JC-5.

3 **Q. HAS OSAGE WATER COMPANY SINCE FILED FOR BANKRUPTCY?**

4 A. Yes. On October 11, 2017, Osage Water Company filed a voluntary petition for  
5 relief under Chapter 11 of the United States Bankruptcy Code before the U.S.  
6 Bankruptcy Court for the Western District of Missouri. The petition is attached to  
7 my testimony as Schedule JC-6. On October 27, 2017, the Bankruptcy Court  
8 approved the appointment of Jill D. Olsen as Trustee to manage the business  
9 affairs of Osage Water Company during the pendency of the case. *See Order of*  
10 *the Court*, Case No. 17-42759-drd11, October 27, 2017.

11 **Q. HAS THE TRUSTEE SOUGHT A SALE OF OSAGE WATER COMPANY'S**  
12 **ASSETS?**

13 A. Yes. On August 26, 2018, the Trustee filed a motion with the Court seeking an  
14 order authorizing her to sell substantially all Osage Water Company's assets  
15 pursuant to the bid procedures attached to the sale motion. Copies of the  
16 Trustee's motion and bid procedures are attached to my testimony as Schedule  
17 JC-7. On September 19, 2018, the Bankruptcy Court entered its Order  
18 approving the procedures for the solicitation of offers and sale of Osage Water  
19 Company's assets. Schedule JC-8. On October 24, 2018, an auction was  
20 conducted and OUOC was the successful bidder for the assets of Osage Water  
21 Company. Schedule JC-9. On November 14, 2018, the Bankruptcy Court  
22 issued an Order approving the Sale of Osage Water Company's assets, wherein  
23 the Court approved CSWR as a successful bidder for the assets set forth in the

1           executed asset purchase agreement by and among CSWR and the Trustee.

2           Schedule JC-10.

3   **Q.   HAS OUOC AND THE TRUSTEE EXECUTED AN ASSET PURCHASE**  
4   **AGREEMENT?**

5   A.   Yes. The *Agreement For Sale of Utility System between OUOC and the Trustee*  
6   *of Osage Water Company* ("Asset Purchase Agreement") is attached as  
7   Schedule JC-11. Pursuant to the Asset Purchase Agreement, OUOC proposes  
8   to purchase substantially all the water and sewer assets of Osage Water  
9   Company from the bankruptcy estate, as specifically described in the agreement  
10   and under the terms and provisions further described in the agreement. Such  
11   assets include the Osage Water Company CCNs.

12           ***Reflections Subdivision***

13   **Q.   PLEASE DESCRIBE THE DEVELOPMENT OF REFLECTIONS SUBDIVISION.**

14   A.   Abba Development Company, L.L.C., ("Abba Development") developed the  
15   Reflections subdivision located on Lake of the Ozarks in Camden County,  
16   Missouri. The development consists of three condominium buildings containing a  
17   total of 50 units along with the water and wastewater facilities. After  
18   development, Abba Development recorded the *Declaration of Restrictions for*  
19   *Reflections Subdivision* ("*Declaration*") on March 5, 2002, in the Camden County,  
20   Missouri Recorder's Office.

21   **Q.   DOES ABBA DEVELOPMENT OPERATE THE SYSTEMS AT REFELCTIONS**  
22   **SUBDIVISION?**



1 A. No. On or about November 12, 2012, Abba Development defaulted on the  
2 development loan it had with Great Southern Bank. Great Southern Bank took  
3 title to the real estate in Reflections Subdivision, including the parcels that the  
4 utility systems are located on. See Schedule JC-12.

5 **Q. DOES THE DECLARATION CONTAIN ANY PROVISIONS RELATED TO THE**  
6 **OPERATION OF THE WATER AND SEWER FACILITIES AT REFLECTIONS**  
7 **SUBDIVISION?**

8 A. Yes. Pursuant to the *Declaration*, the Reflections Subdivision Master  
9 Association, Inc., was charged with the operation of the water and sewer facilities  
10 serving the Reflections Subdivision. Pursuant to Section 16.1.5 of the  
11 *Declaration*, the Reflections Subdivision Master Association, Inc., is required to  
12 convey the wastewater system to any public authority, municipal corporation, or  
13 private corporation certificated by the Commission as soon as practical when any  
14 such entity is willing to accept such conveyance and perform all functions relating  
15 to the system. Further, pursuant to Section 3.3.1 of the *Declaration* and  
16 Reflections Subdivision Master Association, Inc.'s bylaws, Reflections  
17 Subdivision Master Association, Inc. also has authority to convey the water  
18 system to a buyer.

19 **Q. HAS REFLECTIONS SUBSDIVISION MASTER ASSOCIATION, INC. TAKEN**  
20 **STEPS TO CONVEY THE SYSTEMS TO A BUYER?**

21 A. Yes. CSWR, Great Southern Bank, and Reflections Subdivision Master  
22 Association, Inc., entered into an agreement dated October 11, 2018, to transfer  
23 the water and wastewater systems to CSWR.

1 Q. HAS REFLECTIONS CONDOMINIUM OWNERS ASSOCIATION, INC. TAKEN  
2 STEPS TO CONVEY THE SYSTEMS TO A BUYER?

3 A. Yes. Subsequent to the October 11, 2018, agreement, the Reflections  
4 Condominium Owners Association, Inc., voted to approve the transfer of the  
5 water system to CSWR. Then on December 4, 2018, Great Southern Bank,  
6 Reflections Subdivision Master Association, Inc., Reflections Condominium  
7 Owners Association, Inc., and CSWR entered into an *Amended and Restated*  
8 *Agreement For Sale of Utility System* ("Amended Agreement for Sale"), for  
9 CSWR to purchase the water and wastewater systems in the Reflections  
10 subdivision. A copy of the Amended Agreement for Sale is attached to my  
11 testimony as Schedule JC-13C and has been identified as Confidential in  
12 accordance with Commission Rule 4 CSR 240-2.135(2)(A)(3) and (6), as it  
13 contains market specific information and information representing strategies  
14 employed in contract negotiations.

15 Q. PLEASE DISCUSS THE GENERAL CONDITION OF THE OSAGE WATER  
16 COMPANY SYSTEMS TO BE ACQUIRED.

17 *Osage Water Company—Chelsea Rose Water and Sewer Service Area:*

18 Chelsea Rose is a residential community with approximately 42 water and  
19 38 wastewater residential connections to townhomes developed in the greater  
20 Lake of the Ozarks area in and around Camden County, Missouri.

21 The water system has two well house structures. One well is inactive and  
22 inoperable and the active well and well house are significantly deteriorated.  
23 There is no treatment or disinfection of water in the Chelsea Rose system.

1 OUOC proposes to invest in upgrades to make the water system viable and  
2 maintain compliance with Missouri Department of Natural Resources (MDNR)  
3 regulations.

4 The wastewater system consists of an extended aeration plant with two  
5 aeration chambers, one clarifier, one aerobic sludge digester, and chlorination  
6 and dichlorination equipment. The wastewater treatment system is in a general  
7 state of disrepair and OUOC proposes to invest in upgrades to make the  
8 wastewater system viable and maintain compliance with MDNR regulations.

9 The direct testimony of Todd Thomas discusses the state of these  
10 systems in more detail and the projected cost of the proposed improvements.

11 **Osage Water Company—Cimarron Bay Water and Sewer Service Area:**

12 Cimarron Bay is a residential community with approximately 110  
13 residential water and 110 wastewater connections developed in the greater Lake  
14 of the Ozarks area in and around Camden County, Missouri. Cimarron Bay, a  
15 residential town home subdivision, and Harbour Bay, a condominium community,  
16 collectively known as the Cimarron Bay service area, are served by one water  
17 system and one wastewater treatment system.

18 The water system consists of a well house, one well, one submersible well  
19 pump, a master meter, a 35,000 gallon hydro-pneumatic pressure tank, and a  
20 bladder tank. The well house is dilapidated and requires repairs inside and out,  
21 the electrical wiring needs updating, and there are no flushing hydrants on the  
22 distribution system. There is no treatment or disinfection of water in the Cimarron

1 Bay system. OUOC proposes to invest in upgrades to make the water system  
2 viable and maintain compliance with MDNR regulations.

3 The wastewater system consists of a recirculating sand filter facility with a  
4 central septic tank. The gravity collection system delivers wastewater to a lift  
5 station that pumps the wastewater to the treatment facility. The wastewater  
6 treatment system is in a general state of disrepair and OUOC proposes to invest  
7 in upgrades to make the wastewater system viable and maintain compliance with  
8 MDNR regulations.

9 The direct testimony of Todd Thomas discusses the state of these  
10 systems in more detail and the projected cost of the proposed improvements.

11 **Osage Water Company—Cedar Glen Water and Sewer Service Area:**

12 Cedar Glen is a residential condominium community with approximately  
13 216 water and 216 wastewater connections, located in Camdenton, Camden  
14 County, Missouri.

15 The water system consists of one well house, one well, one submersible  
16 well pump, a master meter, a 35,000-gallon hydro-pneumatic pressure tank,  
17 piping and valves, and three unused bladder tanks. The well house is in poor  
18 shape with exposed wiring either hanging or stapled to the walls. The system  
19 does not have adequate storage capacity for the number of customers served.  
20 There is no treatment or disinfection of water in the Cedar Glen system, and the  
21 distribution system is without flushing hydrants. OUOC proposes to invest in  
22 upgrades to make the water system viable and maintain compliance with MDNR  
23 regulations.

1           The wastewater system consists of a gravity collection system, lift station,  
2           and a recirculating sand filter treatment facility with a central septic tank. The  
3           sand plant consists of four beds, with the northeast-most bed appearing to have  
4           integrity issues and some failed piping. The control panel has caught fire a  
5           couple of times and the system has difficulty dealing with the irregular flows due  
6           to the seasonality of the residents. The wastewater treatment system is in a  
7           general state of disrepair, and OUOC proposes to invest in upgrades to make the  
8           wastewater system viable and maintain compliance with MDNR regulations.

9           The direct testimony of Todd Thomas discusses the state of these  
10          systems in more detail and the projected cost of the proposed improvements.

11          **Osage Water Company—Eagle Woods Water and Sewer Service Area:**

12          The Eagle Woods subdivision is a residential development located in  
13          Camden County, Missouri, with approximately 34 drinking water connections.  
14          The sewer service area consists of the Eagle Woods subdivision with 33  
15          wastewater connections, and the Golden Glade subdivision with 23 customers,  
16          each located in Camden County, Missouri. The treatment facility serving Golden  
17          Glade and Eagle Woods is known as the Highway KK facility.

18          The water system consists of one well house, one well, chlorine  
19          disinfection, two ground storage tanks, and a 357-gallon hydro-pneumatic tank  
20          for system pressure. Chlorine is stored in the well house with the system  
21          equipment, which is causing the metal components to corrode. The system is  
22          short on storage capacity and needs improved pressure control to meet MDNR

1 recommendations. OUOC proposes to invest in upgrades to make the water  
2 system viable and maintain compliance with MDNR regulations.

3 The wastewater system is a recirculating sand filter facility with chlorine  
4 disinfection. Sewage from customers' homes flows through the collection system  
5 to multi-home septic tanks for partial treatment. The effluent then flows by  
6 gravity to the treatment facility, with three lift stations assisting in hilly portions.

7 The sand plant has two failing concrete beds, both with cracks in the walls  
8 and issues with failing distribution piping. The makeshift chlorine disinfection  
9 system consists of a plastic storage container that was converted to a contact  
10 chamber with blocks for travel path requirements of MDNR. The wastewater  
11 treatment system is in a general state of disrepair and OUOC proposes to invest  
12 in upgrades to make the wastewater system viable and maintain compliance with  
13 MDNR regulations.

14 The direct testimony of Todd Thomas discusses the state of these  
15 systems in more detail and the projected cost of the proposed improvements.

16 **Reflections Water and Wastewater Systems**

17 **Q. PLEASE DISCUSS THE GENERAL CONDITION OF THE REFLECTIONS**  
18 **SYSTEMS TO BE ACQUIRED.**

19 **A.** The water system consists of one well house. The well house has seven 119-  
20 gallon pressure tanks. The system does not disinfect the drinking water prior to  
21 distribution. There is exposed electrical wiring inside the well house, and the  
22 exterior of the well house has not been maintained, which will lead to premature  
23 failure of the structure. The main water line feeding the condominium units is

1 exposed but has some form of insulation. This will be an ongoing concern in the  
2 winter when usage is low. OUOC proposes to invest in upgrades to make the  
3 water system viable and maintain compliance with the applicable statutes and  
4 regulations of MDNR.

5 The wastewater system is a series of interconnected, above-ground,  
6 poured-in-place concrete basins, consisting of flow equalization, extended  
7 aeration, clarification, chlorination, and sludge holding. The gravity collection  
8 system collects wastewater from the three condominium buildings the system  
9 serves, and two pump stations assist in conveying wastewater to the treatment  
10 plant. Sludge is hauled off and disposed of by a contract hauler. The treatment  
11 facility has serious structural defects and operational impairments. The concrete  
12 structure is in poor shape. The walls are nearing failure due to corroding steel.  
13 Various corners of the structure are crumbling, and chunks of concrete have  
14 already separated and fallen from the walls. The walls are also leaking, which  
15 will continue to expedite the concrete deterioration until the leakage is  
16 addressed. The clarifier has a large amount of sludge at the surface, which will  
17 lead to washout and potential for contamination of the lake. The wastewater  
18 treatment system is in a general state of disrepair and OUOC proposes to invest  
19 in upgrades to make the wastewater system viable and maintain compliance with  
20 MDNR regulations.

21 The direct testimony of Todd Thomas discusses the state of these  
22 systems in more detail and the projected cost of the proposed improvements.

1 Q. HAS OUOC REQUESTED CCNS FOR THE REFLECTIONS' WATER AND  
2 SEWER SYSTEMS?

3 A. Yes. As part of both the Application filed December 19, 2018, and the Amended  
4 Application filed February 19, 2019, OUOC requests the Commission grant it  
5 permission, approval, and a CCN to install, own, acquire, construct, operate,  
6 control, manage, and maintain water and sewer systems for the public in an area  
7 of Camden County, Missouri, as set forth on the map attached hereto and  
8 labeled Schedule JC-14, and the legal description found on Schedule JC-15.

9 TARIFFS AND RATES

10 Q. IF THE AMENDED APPLICATION IS APPROVED, WHAT RATES DOES  
11 OUOC REQUEST TO UTILIZE FOR THE PROVISION OF SERVICE?

12 A. OUOC proposes to use the existing rates for Osage Water Company customers.

13 The current water rates for Osage Water Company are as follows:

14 Monthly Minimum: (Includes 2,000 gallons of water)  
15 For Service through a 5/8" water meter \$24.76 per month  
16 For Service through a 1" water meter \$34.27 per month  
17 For Service through a 1 1/2" water meter \$58.80 per month  
18 For Service through a 2" meter \$66.98 per month  
19 For Service through a 3" meter \$96.19 per month  
20 For Service through a 4" meter \$243.89 per month

21 Commodity Charge: For metered usage greater than 2,000 gallons per month  
22 \$5.86 per 1,000 gallons

23 Any applicable federal, state, or local taxes computed on a billing basis would be  
24 added as a separate item in each bill.

25 The current sewer rates for Osage Water Company are as follows:

26 Monthly Bill  
27 Unmetered Condominium \$29.02 per month



1 For Service through a 5/8" water meter \$29.02 per month  
2 For Service through a 1" water meter \$51.34 per month  
3 For Service through a 1 1/2" water meter \$109.96 per month  
4 For Service through a 2" meter \$129.49 per month  
5 For Service through a 3" meter \$199.25 per month  
6 For Service through a 4" meter \$363.14 per month

7 Any applicable federal, state, or local taxes computed on a billing basis would be  
8 added as a separate item in each bill.

9 As for Reflections, the Reflections Condominium Owners Association,  
10 Inc., charges a flat rate for water and wastewater service based on the size of the  
11 unit serviced:

12 3 bedroom townhouse--\$59.00/month  
13 3 bedroom garden--\$51.00/month  
14 3 bedroom -- \$48.00/month  
15 2 bedroom -- \$40.00/month  
16

17 OUOC proposes to charge a flat rate of \$25.00 for water service and \$25.00 for  
18 wastewater service, for a combined total of \$50.00 for both services.

19 **Q. WILL THOSE RATES EVENTUALLY REQUIRE ADJUSTMENT?**

20 **A.** Yes. The current rates for Osage Water Company and Reflections do not reflect  
21 the current cost of providing service. Additionally, as indicated above, these  
22 systems will require substantial investment after the purchases by OUOC that will  
23 likely result in a rate increase of some amount after those additions have been  
24 completed. However, any such increase would require a separate, future rate  
25 case for the purpose of considering such factors.

26 **Q. IF THE AMENDED APPLICATION IS APPROVED, WHAT RULES AND**  
27 **REGULATIONS DOES OUOC PLAN TO UTILIZE FOR THE PROVISION OF**  
28 **SERVICE?**

1 A. OUOC proposes to adopt the rules and regulations currently approved for  
2 Osage Water Company. OUOC proposes to add Reflections into the adopted  
3 Osage Water Company tariff.

4 **REQUEST FOR ACQUISITION INCENTIVES**

5 **Q. IS OUOC REQUESTING ANY ACQUISITION INCENTIVES IN CONJUNCTION**  
6 **WITH ITS ACQUISITION OF THE OSAGE WATER COMPANY AND**  
7 **REFLECTIONS SYSTEMS?**

8 A. Yes. OUOC requests a rate of return premium and a debt acquisition adjustment  
9 equal to the difference between the total purchase prices and the total rate base  
10 values for the Osage Water Company and Reflections systems.

11 **Q. ARE THE OSAGE WATER COMPANY AND REFLECTIONS SYSTEMS**  
12 **NONVIABLE UTILITIES WITHIN THE MEANING OF THE COMMISSION'S**  
13 **RULES?**

14 A. Yes. The Osage Water Company and Reflections systems are nonviable utilities  
15 within the meaning of Commission Rule 4 CSR 240-10.085(1)(C). The Osage  
16 Water Company has filed bankruptcy and the Trustee is liquidating the utility's  
17 assets. Abba Development defaulted on the loan for Reflections and now Great  
18 Southern Bank holds title to the land the systems are located on. As such,  
19 neither Osage Water Company or Reflections are expected to furnish and  
20 maintain safe and adequate service and facilities in the future. The respective  
21 purchase agreements are the result of arm's length negotiations between the  
22 parties and the terms are fair and reasonable given the systems' current  
23 procedural states and operating conditions.

1 Q. IS OUOC A VIABLE UTILITY WITHIN THE MEANING OF THE  
2 COMMISSION'S RULES?

3 A. OUOC is a viable utility and will not be materially impaired by the acquisition of  
4 these systems. OUOC and CSWR have the resources to rehabilitate the  
5 systems it proposes to acquire, and the managerial, technical, and financial  
6 capabilities to safely and adequately operate the systems going forward. The  
7 testimony of Todd Thomas explains the plant improvements necessary to make  
8 these systems viable, all of which will be completed by OUOC. MDNR has  
9 already reached out to OUOC regarding the negotiation of Agreements on  
10 Consent to establish reasonable compliance timeframes for any necessary  
11 improvements after the closing. OUOC anticipates further discussions occurring  
12 with MDNR. Any deficiencies that can be corrected without capital improvements  
13 will be completed as timely as possible after closing, but no later than six months  
14 from the closing.

15 Q. ARE ACQUISITIONS OF THE OSAGE WATER COMPANY AND  
16 REFLECTONS SYSTEMS UNLIKELY TO OCCUR WITHOUT THE  
17 PROBABILITY OF OBTAINING A RATE OF RETURN PREMIUM AND A DEBT  
18 ACQUISITION ADJUSTMENT?

19 A. OUOC is proposing to acquire 10 separate utility systems as part of this case.  
20 The acquisition of all 10 utility systems, all requiring some level of investment in  
21 improvements, is unlikely to occur without the probability of obtaining a rate of  
22 return premium and acquisition adjustment. If the Commission decides not to

1 award the incentives requested, OUOC will need to reevaluate its risk in taking  
2 on numerous failing systems to determine how it will move forward.

3 **STAFF'S PROPOSED CONDITIONS**

4 **Q. STAFF FILED A RECOMMENDATION IN REGARD TO THE AMENDED**  
5 **APPLICATION. HAVE YOU REVIEWED THE STAFF'S RECOMMENDATION?**

6 **A.** Yes. The Staff recommends approval of the transfer of assets of Osage Water  
7 Company and transfers of the relevant CCNs, and approval of the transfer of  
8 assets of Reflections and issuance of new CCNs for Reflections, with 17  
9 conditions and actions. They are:

10 1. Issue a new CCN to OUOC to provide water and sewer service for the  
11 proposed Reflections service area, with OUOC to begin providing such  
12 service upon closing of the assets;

13  
14 2. Approve rates of \$25 per month for water service, and \$25 per month  
15 for sewer service, for OUOC, applicable to customers in the Reflections  
16 service area;

17  
18 3. Require OUOC to submit appropriate tariff sheets for water and sewer  
19 service, as a thirty (30) day filing, within ten (10) days after the effective  
20 date of approval of a CCN for Reflections by the Commission, to become  
21 effective before OUOC closes on the Reflections' assets;

22  
23 4. Authorize OWC to sell and transfer utility assets to OUOC, and transfer  
24 the CCN's currently held by OWC to OUOC upon closing on any of the  
25 respective systems;

26  
27 5. Upon closing on each of the OWC water and sewer systems, authorize  
28 OWC to cease providing service, and authorize OUOC to begin providing  
29 service;

30  
31 6. Require OUOC to file Tariff Adoption Notice tariff sheets for the  
32 corresponding water and sewer tariffs of the regulated OWC systems  
33 within ten (10) days after closing on the OWC assets;

34  
35 7. Upon closing on each of the water and sewer systems, authorize  
36 OUOC to provide service by applying, on an interim basis, the existing

1 rates, rules and regulations as outlined in OWC's water tariff and sewer  
2 tariff, until the effective date of respective adoption notice tariff sheets, as  
3 recommended above;

4  
5 8. Require OUOC to create and keep financial books and records for plant  
6 in service, revenues, and operating expenses (including invoices) in  
7 accordance with the NARUC Uniform System of Accounts;

8  
9 9. Require OUOC to, going forward, keep and make available for audit  
10 and review all invoices and documents pertaining to the capital costs of  
11 constructing and installing the water and sewer utility assets;

12  
13 10. Approve depreciation rates for water and sewer utility plant accounts  
14 as described and shown herein;

15  
16 11. Require OUOC to distribute to all customers an informational brochure  
17 detailing the rights and responsibilities of the utility and its customers  
18 regarding its water service, consistent with the requirements of  
19 Commission Rule 4 CSR 240-13, within thirty (30) days after the effective  
20 date of approval of a CCN by the Commission;

21  
22 12. Require OUOC to, within ninety (90) days of the effective date of a  
23 Commission order approving OUOC's Application, complete repairs to  
24 resolve the bypassing of treatment at any wastewater treatment system;

25  
26 13. Resolve all issues regarding noncompliance with Missouri Department  
27 of Natural Resources (DNR) regulations for all water and sewer systems;

28  
29 14. Require OUOC to provide adequate training for the correct application  
30 of rates and rules to all customer service representatives, including those  
31 employed by contractors, prior to the customers receiving their first bill  
32 from OUOC;

33  
34 15. Require OUOC to provide to the Customer Experience Department  
35 Staff a sample of ten (10) billing statements of bills issued to OWC and  
36 Reflections customers within thirty (30) days of such billing;

37  
38 16. Require OUOC to file notice in this case once Staff's  
39 recommendations regarding customer communications and billing, listed  
40 above, have been completed; and

41  
42 17. Require OUOC to file a rate case with the Commission no later than  
43 twenty-four (24) months after the effective date of an order approving  
44 OUOC's Application.  
45

1 Q. ARE STAFF'S RECOMMENDED ACTIONS AND CONDITIONS ACCEPTABLE  
2 TO OUOC?

3 A. Yes. Should the Commission award the requested acquisitions incentives and  
4 OUOC moves forward with acquiring all 10 utility systems, Staff's conditions are  
5 acceptable to OUOC.

6 PUBLIC INTEREST

7 Q. HOW DO YOU BELIEVE THE PROPOSED TRANSACTIONS RELATE TO THE  
8 PUBLIC INTEREST?

9 A. As my testimony explains, the proposed acquisition of the specified assets of  
10 Osage Water Company and the related transactions are not detrimental to the  
11 public interest of the State of Missouri. Further, a grant of the requested  
12 certificates of convenience and necessity associated with the proposed  
13 acquisition of the specified assets of Reflections and the related transactions are  
14 in the public interest of the State of Missouri. The assets would be acquired by  
15 OUOC and be subject to the jurisdiction of the Commission. OUOC is fully  
16 qualified, in all respects, to own and operate the systems to be acquired and to  
17 otherwise provide safe and adequate service – something that is not present at  
18 the current time.

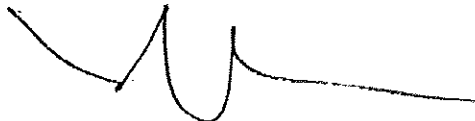
19 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

20 A. Yes, it does.

AFFIDAVIT

STATE OF MISSOURI     )  
                                  )  
COUNTY OF ST. LOUIS    )     ss

I, Josiah Cox, state that I am the President of Osage Utility Operating Company, Inc.; that the Direct Testimony and schedules attached hereto have been prepared by me or under my direction and supervision; and, that the answers to the questions posed therein are true to the best of my knowledge, information and belief.

  
\_\_\_\_\_

Subscribed and sworn to before me this 10th day of July, 2019.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

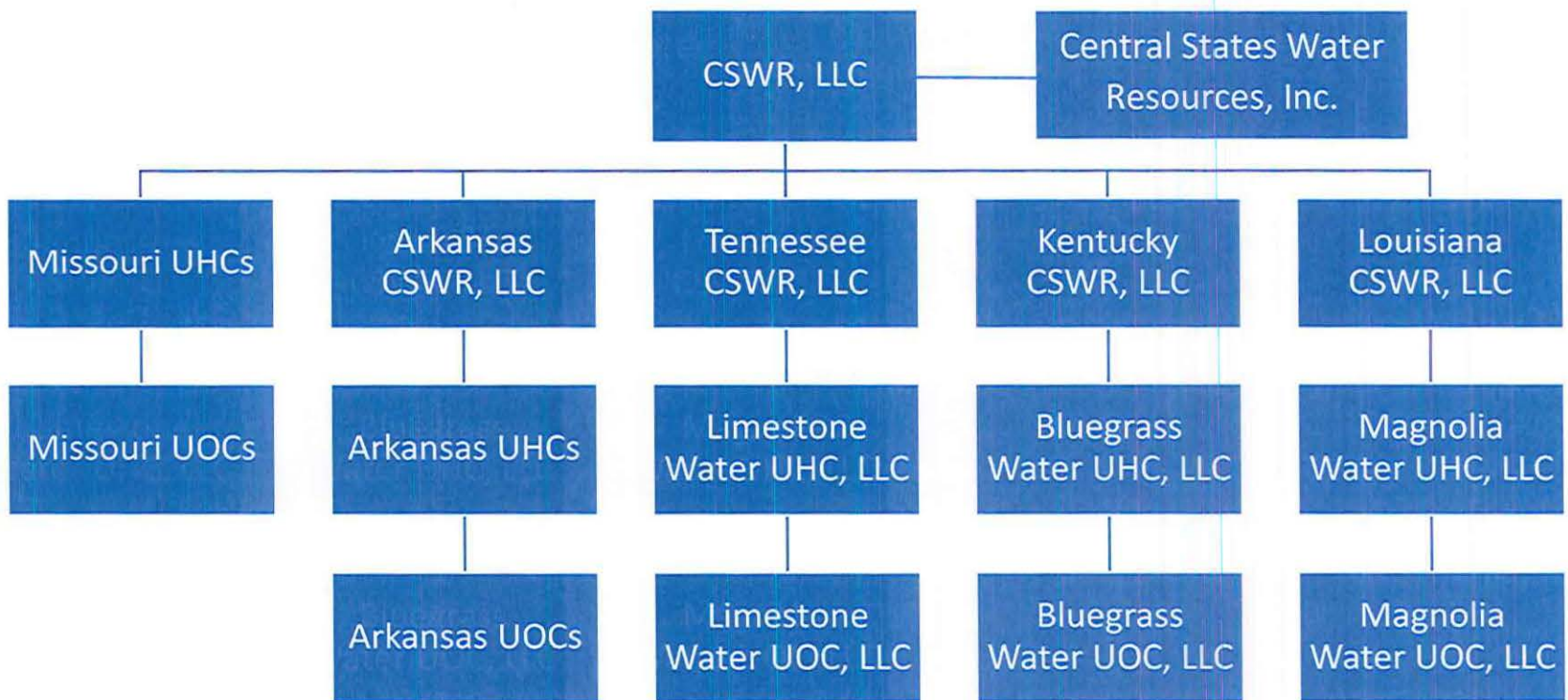
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(SEAL)





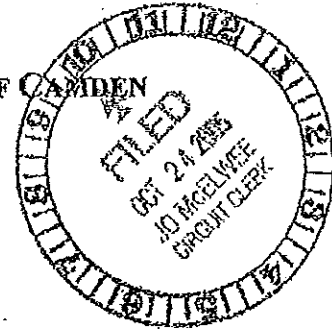


Central States Water Resources Corporate Entity Organizational Chart





IN THE CIRCUIT COURT FOR THE COUNTY OF CAMDEN  
STATE OF MISSOURI



Public Service Commission of the State of Missouri,  
Plaintiff,  
v.  
Osage Water Company,  
Defendant.

Case No. CV102-965CC

**ORDER**

On the 8<sup>th</sup> day of March, 2004, this cause came on for trial. Plaintiff Public Service Commission appeared by its attorneys, Keith R. Krueger and David A. Meyer. Intervenor Office of the Public Counsel appeared by its attorney, Ruth O'Neill. Paula Hernandez-Johnson, attorney for Defendant Osage Water Company failed to appear, and Defendant appeared without counsel, but William P. Mitchell, president of Defendant was present in court as the corporate representative of Defendant Osage Water Company.

Cause called. After the commencement of the trial, the Court received faxed copies of a Motion for Continuance and an Application / Petition to Disqualify Judge, submitted by Paula Hernandez-Johnson, counsel of record for Defendant Osage Water Company, which were overruled as untimely filed.

On March 9, 2004, after the conclusion of evidence, and during argument on the cause by counsel, the Court received a Notice of Bankruptcy Court Filing issued by the United States Bankruptcy Court for the Western District of Missouri in Case No, 04-20546, which indicated that Defendant Osage Water Company filed a Petition for Bankruptcy under Chapter 7 of the

United States Bankruptcy Code on March 9, 2004, at 1:59 p.m. The Notice of Bankruptcy Court Filing further included the following statement:

The filing of a bankruptcy case automatically stays certain actions against the debtor and the debtor's property. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

Pending resolution of the bankruptcy case, further proceedings in this cause were stayed.

The U.S. Bankruptcy Court issued its judgment dismissing Osage Water Company's bankruptcy case on April 29, 2004. The Bankruptcy Court's Judgment further enjoined Osage Water Company from filing a subsequent bankruptcy petition for 180 days.

On or before June 2, 2004, Gregory D. Williams entered his appearance as attorney for Osage Water Company.

On June 2, 2004, the Court heard argument on various legal issues and the Company advised the Court that it had nearly reached agreement to sell its assets to Missouri-American Water Company. The Court announced that it had determined that the appointment of a receiver was appropriate, but that it would delay the entry of such an order, while the proposal to sell the Company's assets was pending.

Upon the direction of the Court, the Commission subsequently filed 39 Status Reports regarding the progress of the proposed sale of the Company's assets to Missouri-American and of the application to the Commission for approval of such sale of assets.

On October 7, 2005, the Commission and the Company appeared through counsel for argument on the Commission's Petition for Appointment of Receiver. The Office of the Public Counsel, although notified of the hearing, appeared not.

This Court will now rule upon the Plaintiff's Petition.

The Court finds that, based upon the evidence received in this proceeding, Osage Water Company has failed to provide safe and adequate water service to its customers as required by Section 393.130.1 RSMo. (2000). Section 393.130.1 provides, in part, as follows:

Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service and instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable.

The Court further finds that although Osage Water Company did execute a contract to sell its assets to Missouri-American Water Company and did seek the Commission's approval of this asset sale, the Commission found, in the opinion of this Court improperly and against public interest, that the proposed asset sale was detrimental to the public interest and dismissed Osage Water Company's application, and that the Company has not sought judicial review of the Commission's order.

By reason of the refusal of the Commission to approve the contract of sale the appointment of a receiver for Osage Water Company is necessary to promote the best interests of the customers of the Company, and to ensure that the customers of the Company receive safe and adequate water and sewer service. See Section 393.145.6, RSMo, as amended by Senate Bill 462 (Laws 2005). Section 393.145.5, RSMo, as amended by Senate Bill 462 (Laws 2005) authorizes the Court to grant the Commission's Petition to appoint a receiver for a water corporation or a sewer corporation. It provides that "[f]he court, after hearing, may grant the commission's petition for appointment of a receiver" and "[a] receiver appointed pursuant to this section shall be a responsible person, partnership, or corporation knowledgeable in the operation of utilities."

The Court further finds that Gary Cover of Clinton, Missouri possesses the foregoing statutory qualifications for service as a receiver. The Court therefore appoints Gary Cover as

receiver for Osage Water Company until further order of this Court. The appointed receiver shall have all of the powers, rights and authority vested in receivers pursuant to the provisions of Section 393.145.6, RSMo, as amended by Senate Bill 462 (Laws 2005). The appointed receiver shall post bond in the amount of \$50,000, with the premium therefore to be paid from the assets of the Company.

The Court further directs the receiver to negotiate with Mike McDuffey, the owner of Lake of the Ozarks Water and Sewer, for the provision of services to operate and maintain the Company's water and sewer facilities.

The Court further orders that Osage Water Company and its officers, agents and representatives, and specifically its past contractual agent and representative Environmental Utilities, LLC, employees and successors, and all other persons in active concert and participation with them, are directed to cooperate with Mr. Cover and with Mr. McDuffey to promptly transfer control of Osage Water Company to the appointed receiver; and to deliver to him all records and assets.

Section 393.145 also authorizes the Court to direct the receiver to liquidate the assets of the Company. Section 393.145.7, RSMo, as amended by Senate Bill 462 (Laws 2005) provides in full as follows:

Control of and responsibility for the utility shall remain in the receiver until the utility can, in the best interests of its customers, be returned to the owners. However, if the commission or another interested party petitions and the court determines, after hearing, that control of and responsibility for the utility should not, in the best interests of its customers, be returned to the owners, the court shall direct the receiver to transfer by sale or liquidate the assets of the utility in the manner provided by law.

The Court directs the receiver to liquidate the assets of the Company as soon as practicable on terms that protect the interest of the customers of the Company, and allow them to

continue to receive utility service from the assets that have been put in place to serve them. The Court further directs and requires the appointed receiver to exercise care when liquidating the assets of the Company to ensure that any assets that are not immediately sold may still be efficiently operated after other systems and assets are sold. Further the Court requires the Receiver to file with the Court a request to proceed with sale upon the event that a buyer is found on terms agreeable to the Receiver.

The Receiver shall file monthly status reports with the Court and provide e-mail copies to the Court and to Attorneys of record, and to the Company if it is not represented.

The Court further grants the oral motion of Gregory D. Williams to withdraw as counsel for Osage Water Company.

That the Order for periodic reports by the Commission and Company is terminated.

So ordered this 21<sup>st</sup> day of October, 2005.

  
John R. Hutcherson, Judge





**FILED**

**8/28/2017 03:47 PM**

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

**Jo McElwee  
Camden County  
Circuit Clerk**

**PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI,  
PLAINTIFF,**

**VS.**

**CASE # 26V010200965**

**OSAGE WATER CO.,  
DEFENDANT**

**ORDER APPROVING REPORT OF RECEIVER AND AUTHORIZING THE FILING OF FEDERAL BANKRUPTCY  
PROCEEDING**

Now on this day, the Court having considered the contents of the file herein, the cited case law authority herein and the recent report of the Receiver and Special Master, does hereby make the following order and findings:

This case was originally filed December 31<sup>st</sup>, 2002 and in the interim almost 15 years has passed while Defendant has been subject to these proceedings and to the ministrations of the Missouri Public Service Commission, Plaintiff herein.

Shortly after the case was filed a buyer for the assets was found. Weekly and then monthly reports were filed By Plaintiff with regard to the administrative proceeding in The Missouri Public service Commission for the sale of assets of Defendant. This petition set the debts of the Defendant at 1.13 Million in indebtedness plus a past due obligation to the US Treasury. The petition alleged an inability of the Corporation to grow its business sufficiently to pay their debt and cited bad relations with existing customers as well. The Petition filed by Plaintiff suggested a danger of service disruption due to deferred maintenance on the assets of the corporation.

The offer made was insufficient to pay most of the existing debt, but it would have likely been eagerly accepted by the creditors of the Defendant if the allegations of the petition were true. The proposed buyer offered \$950,000 as measured by some formula not apparent from the record. The Missouri Public Service Commission received the formal application July 2<sup>nd</sup>, 2004, during a recess of the bifurcated hearing on the petition.

The reports filed with the Court indicated that approval of the bid by the Missouri Public Service Commission, Plaintiff herein, depended on clarification of two issues. One dealt with the post sale service rate to be charged. The second issue required clarification of the title to the sewerage system being operated in Cedar Glen subdivision. Ultimately, the bid of Missouri-American Water Company was rejected. The order of the Commission denying the application was issued June 9<sup>th</sup>, 2005 and became effective June 19<sup>th</sup>, 2005. The denial declined to approve the application because the bid did not dispose of all of the assets of Defendant. Shortly after this order of dismissal, the Missouri Department of Natural Resources issued a Notice Of Violation due to the discharge of effluence into a tributary of a Missouri waterway.

Early the next month Plaintiff filed a Motion to Conclude Trial and for immediate appointment of a Receiver. The trial, having been commenced March 8<sup>th</sup>, 2004, ended in the Court's order of October 21<sup>st</sup>, 2005.

After appointment of the Receiver no further attempt to sell the assets was undertaken for a period of years. The receiver engaged in defense of several litigation cases involving the prior operation of the business and affairs of Defendant. The Cedar Glen issue resulted in litigation being filed to resolve the questions raised regarding ownership of the land wherein the sewer system was located. The litigation did not move swiftly through the trial courts due to issues created by creditors seeking compensation for investments in the water company's business. These litigations were apparently resolved by September 2014 when the Receiver reported his efforts to sell the assets of the Defendant had yielded four bids, all significantly less than the original bid of Missouri American Water company made so many years earlier.

Since the rejection of the bids for the sale of assets above mentioned, the Receiver appointed by the Court has on behalf of the creditors and Plaintiff on behalf of the customers of Osage Water reviewed the several bids for sale of the business. Each bid has failed to sell all the assets or has failed to respond to the bids' request for cash payment. As far as is known to the Court the issues raised by the administrative agencies (including Natural Resources which resulted in payment of a "small fine" and renovation of the Cedar Cove sewer system) have been adequately addressed. The Receivership is operating the system but not generating sufficient funds with which to resolve the solvency issue originally raised.

In 2014 the Missouri American Water Company submitted another bid to buy the assets of the Defendant. This bid was for a little more than a third of the original bid. On an earlier occasion Missouri American Water Company was invited to submit another bid by the Receiver but declined to do so. The recently submitted bid reflects a change of perspective as to the condition of the affairs of Defendant and of its assets.

The Plaintiff has suggested the Court consider the authorization of the Receiver to file a bankruptcy. The Court has a serious question that any of the presently proposed buyers will be able to navigate the Plaintiff's requirements for approval of the sale. A stay order previously proceeded from a Bankruptcy filing but the case was dismissed from Bankruptcy Court for reasons that are not immediately apparent to this Court.

No party can cite any Missouri authority for the filing of a bankruptcy action by a Receiver, but, Plaintiff has cited Federal Court rulings in which Receivers were approved for Petitioners in Bankruptcy. The Court believes these citations are a correct recitation of Federal Bankruptcy Court jurisdiction over Receiverships. **In Re Central Mortgage 50 BR 1010 (SD Texas 1985) and In Re Sparkling Bldg Group 316 B.R. 466 (N.D. Texas, 2004)**. Neither can any party cite to the Court an authority for the Receiver to transfer the assets of the Defendant free of liens and encumbrances. The Bankruptcy Trustee could achieve a result more beneficial to the creditors than can be achieved by a Trustee in a State Court action.

Statutory authority for the action requested by Plaintiff and Receiver herein appears to lack much specificity as to what actions may be authorized by the Court or undertaken by the Receiver. Legal authorities appear to believe the statutes have invested the Court wide discretion. The action undertaken in this proceeding appears to have been brought pursuant to Sec. 515.240 et seq

R.S.Mo.2000, which appears has been replaced by the provisions of Section 515.500 et seq RSMo 2016 the adoption of which repealed the statutory authority pursuant to which this Receivership was petitioned. This new statutory scheme authorizes the Receiver to exercise all such power as the Court may confer. This appears to be a codification of the prior law. Sec. 515.545.R.S.Mo.2016.

Section 351.494 R.S.Mo. 2000 is the statutory authority for the dissolution of a corporation. There is no request for dissolution of Osage Water herein, however, this statute permits of the appointment of a Receiver in some cases and appears to grant the Court authority to initiate "other action" when "required". Sec. 515.545.1 (11)RSMo 2016

During the course of the Receiver's operation of the affairs of the Defendant, litigation has been commenced and threatened by one of the creditors against the Receiver. The filed action pertained to the use of water by Receiver from a well located on land owned by the creditor. The further current threat involves an alleged abandonment of assets of the Defendant to another water supplier without compensation.

The Court believes that unless the Court permits the filing of Bankruptcy that no bid acceptable to the Plaintiff and to the creditors of Defendant will be obtained. The chance of that happening ended when the Plaintiff rejected the bid of Missouri- American Water Company. The history of this case bears this out. In response to the Court 's most recent order for bids, there were bids filed by two of the creditors of Osage Water Company. It appears to this Court, because of a dearth of authority on the subject, that acceptance of either of such bids might result in further litigation and might result in favoring one creditor over another. The Court is of the opinion that after 15 years since the petition was filed (less than that since the Receiver was appointed) that the issues that led to the original application to appoint the receiver still exist. The Court further believes that acceptance of any bid submitted so far would not resolve those same issues. The acceptance of a bid from a creditor would not likely lead to resolution of these issues. There is nothing to be gained from continued attempts to sell the assets in this proceeding. The continued operation of this Receivership is antithetical to the resolution of the causes for the Plaintiff to have instituted the petition. The history of the case causes the Court to conclude that no further efforts herein to resolve the problems encountered by Defendant can be expected to succeed, saving only the filing of bankruptcy.

During the course of the operation of the receivership, a trial was held in Camden County Circuit Court which resulted in judgment having been entered in the amount of One Million Forty-one Thousand Eight Hundred Six Dollars (\$1,041, 806) which lawsuit. This Court is not immediately aware as to when this cause of action accrued or as to what actions were taken by any party to resolve the same.

With regard to the Plaintiff's ultimate rejection of the Missouri- American Water Company original bid, there is nothing in the file to indicate that Plaintiff's actions were arbitrary. The shame of this episode is that Receivership and the Receiver are locked into endless operation or continued litigation.

The Court rejects the bids presented in response to the last publication as not complying with the requests contained therein.

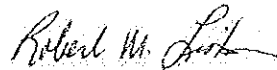
The Court authorizes the Receiver to institute an action in Federal Bankruptcy Court under any applicable chapter of Bankruptcy Law that is thought will best accomplish the goals of Receiver's appointment. The Court sustains Receiver's motion for the Court to authorize filing of Bankruptcy action.

The Court will retain jurisdiction of the case until the assets have been disposed of appropriately.

The report filed herein by the Court Appointed Master herein is approved. The Receiver is authorized to file in Federal Bankruptcy Court an action for liquidation of assets and discharge of debt. The Receiver is authorized to set aside Twenty-five Thousand Dollars to defray the cost of the bankruptcy filing including the payment of an attorney to initiate and conclude the proceedings and for the payment of all additional costs of the proceedings. The Special Master herein is awarded of fee of One Thousand Dollars.

August. 28th, 2017

\_\_\_\_\_  
Dated



\_\_\_\_\_  
Robert M. Liston  
Circuit Judge, Senior

**Fill in this information to identify your case:**

United States Bankruptcy Court for the:

WESTERN DISTRICT OF MISSOURI

Case number (if known) \_\_\_\_\_ Chapter 11

Check if this an amended filing

**Official Form 201**

**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

4/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name Osage Water Company
2. All other names debtor used in the last 8 years  
Include any assumed names, trade names and doing business as names
3. Debtor's federal Employer Identification Number (EIN) 43-1462300
4. Debtor's address
- |  |   |
|--|---|
| Principal place of business  | Mailing address, if different from principal place of business  |
| <u>c/o Gary V. Cover, Receiver</u><br><u>137 W. Franklin</u><br><u>Clinton, MO 64735</u><br>Number, Street, City, State & ZIP Code | _____   |
| <u>Henry</u><br>County   | Location of principal assets, if different from principal place of business<br><u>Camden County, MO</u><br>Number, Street, City, State & ZIP Code |
5. Debtor's website (URL) \_\_\_\_\_
6. Type of debtor
- Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
  - Partnership (excluding LLP)
  - Other. Specify: \_\_\_\_\_

Schedule JC-6

Debtor Osage Water Company  
Name

Case number (if known) \_\_\_\_\_

7. Describe debtor's business A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. § 101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. § 781(3))
- None of the above

B. Check all that apply

- Tax-exempt entity (as described in 26 U.S.C. §501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. §80a-3)
- Investment advisor (as defined in 15 U.S.C. §80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor.  
See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

8. Under which chapter of the Bankruptcy Code is the debtor filing? Check one:

- Chapter 7
- Chapter 9
- Chapter 11. Check all that apply:

- Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).
- The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- A plan is being filed with this petition.
- Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11 (Official Form 201A) with this form.
- The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

- No.
- Yes.

If more than 2 cases, attach a separate list.

District _____	When _____	Case number _____
District _____	When _____	Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- No
- Yes.

List all cases. If more than 1, attach a separate list

Debtor _____	Relationship _____
District _____	When _____ Case number, if known _____

Debtor **Osage Water Company**  
Name

Case number (if known)

11. Why is the case filed in this district? *Check all that apply:*
- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
  - A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?
- No
  - Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.
- Why does the property need immediate attention? (Check all that apply.)**
- It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.  
What is the hazard? \_\_\_\_\_
  - It needs to be physically secured or protected from the weather.
  - It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
  - Other \_\_\_\_\_
- Where is the property?** \_\_\_\_\_  
Number, Street, City, State & ZIP Code
- Is the property insured?**
- No
  - Yes. Insurance agency \_\_\_\_\_  
Contact name \_\_\_\_\_  
Phone \_\_\_\_\_

**Statistical and administrative information**

13. Debtor's estimation of available funds. *Check one:*
- Funds will be available for distribution to unsecured creditors.
  - After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors
- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000     |
| <input type="checkbox"/> 50-99           | <input type="checkbox"/> 5001-10,000   | <input type="checkbox"/> 50,001-100,000    |
| <input type="checkbox"/> 100-199         | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999         |  |  |

15. Estimated Assets
- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0 - \$50,000                  | <input type="checkbox"/> \$1,000,001 - \$10 million    | <input type="checkbox"/> \$500,000,001 - \$1 billion     |
| <input checked="" type="checkbox"/> \$50,001 - \$100,000 | <input type="checkbox"/> \$10,000,001 - \$50 million   | <input type="checkbox"/> \$1,000,000,001 - \$10 billion  |
| <input type="checkbox"/> \$100,001 - \$500,000           | <input type="checkbox"/> \$50,000,001 - \$100 million  | <input type="checkbox"/> \$10,000,000,001 - \$50 billion |
| <input type="checkbox"/> \$500,001 - \$1 million         | <input type="checkbox"/> \$100,000,001 - \$500 million | <input type="checkbox"/> More than \$50 billion          |

16. Estimated liabilities
- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0 - \$50,000          | <input checked="" type="checkbox"/> \$1,000,001 - \$10 million | <input type="checkbox"/> \$500,000,001 - \$1 billion     |
| <input type="checkbox"/> \$50,001 - \$100,000    | <input type="checkbox"/> \$10,000,001 - \$50 million           | <input type="checkbox"/> \$1,000,000,001 - \$10 billion  |
| <input type="checkbox"/> \$100,001 - \$500,000   | <input type="checkbox"/> \$50,000,001 - \$100 million          | <input type="checkbox"/> \$10,000,000,001 - \$50 billion |
| <input type="checkbox"/> \$500,001 - \$1 million | <input type="checkbox"/> \$100,000,001 - \$500 million         | <input type="checkbox"/> More than \$50 billion          |

Debtor Osage Water Company Case number (if known) \_\_\_\_\_  
Name

**Request for Relief, Declaration, and Signatures**

**WARNING** -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**17. Declaration and signature of authorized representative of debtor**

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.  
I have been authorized to file this petition on behalf of the debtor.  
I have examined the information in this petition and have a reasonable belief that the information is true and correct.  
I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 11, 2017  
MM / DD / YYYY

/s/ Gary V. Cover, Receiver  
Signature of authorized representative of debtor  
Title Receiver Case No. 26V010200965

Gary V. Cover, Receiver  
Printed name

**18. Signature of attorney**

/s/ John C. Reed  
Signature of attorney for debtor

Date October 11, 2017  
MM / DD / YYYY

John C. Reed  
Printed name

Pletz and Reed, P.C.  
Firm name

515 East High Street  
P.O. Box 1048  
Jefferson City, MO 65102  
Number, Street, City, State & ZIP Code

Contact phone 573-635-8500 Email address prlaw@embarqmail.com

28741  
Bar number and State



**Fill in this information to identify the case:**

Debtor name Osage Water Company  
 United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI  
 Case number (if known) \_\_\_\_\_

Check if this is an amended filing

**Official Form 206Sum  
 Summary of Assets and Liabilities for Non-Individuals**

12/15

**Part 1: Summary of Assets**

1. **Schedule A/B: Assets-Real and Personal Property** (Official Form 206A/B)

1a. Real property: Copy line 88 from Schedule A/B.....	\$ <u>0.00</u>
1b. Total personal property: Copy line 91A from Schedule A/B.....	\$ <u>75,585.47</u>
1c. Total of all property: Copy line 92 from Schedule A/B.....	\$ <u>75,585.47</u>

**Part 2: Summary of Liabilities**

2. <b>Schedule D: Creditors Who Have Claims Secured by Property</b> (Official Form 206D) Copy the total dollar amount listed in Column A, <i>Amount of claim</i> , from line 3 of Schedule D.....	\$ <u>2,451,070.14</u>
3. <b>Schedule E/F: Creditors Who Have Unsecured Claims</b> (Official Form 206E/F)	
3a. Total claim amounts of priority unsecured claims: Copy the total claims from Part 1 from line 5a of Schedule E/F.....	\$ <u>0.00</u>
3b. Total amount of claims of nonpriority amount of unsecured claims: Copy the total of the amount of claims from Part 2 from line 5b of Schedule E/F.....	+\$ <u>0.00</u>
4. <b>Total liabilities</b> ..... Lines 2 + 3a + 3b	\$ <u>2,451,070.14</u>

**Fill in this information to identify the case:**

Debtor name Osage Water Company

United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI

Case number (if known) \_\_\_\_\_

Check if this is an amended filing

**Official Form 206A/B**  
**Schedule A/B: Assets - Real and Personal Property**

12/15

Disclose all property, real and personal, which the debtor owns or in which the debtor has any other legal, equitable, or future interest. Include all property in which the debtor holds rights and powers exercisable for the debtor's own benefit. Also include assets and properties which have no book value, such as fully depreciated assets or assets that were not capitalized. In Schedule A/B, list any executory contracts or unexpired leases. Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. At the top of any pages added, write the debtor's name and case number (if known). Also identify the form and line number to which the additional information applies. If an additional sheet is attached, include the amounts from the attachment in the total for the pertinent part.

For Part 1 through Part 11, list each asset under the appropriate category or attach separate supporting schedules, such as a fixed asset schedule or depreciation schedule, that gives the details for each asset in a particular category. List each asset only once. In valuing the debtor's interest, do not deduct the value of secured claims. See the instructions to understand the terms used in this form.

**Part 1: Cash and cash equivalents**

1. Does the debtor have any cash or cash equivalents?

- No. Go to Part 2.  
 Yes Fill in the information below.

All cash or cash equivalents owned or controlled by the debtor

Current value of debtor's interest

3. Checking, savings, money market, or financial brokerage accounts (Identify all)	Name of institution (bank or brokerage firm)	Type of account	Last 4 digits of account number	Current value of debtor's interest
3.1.	Hawthorn Bank	Money Market Checking Account	2646	\$67,147.25
3.2.	First National Bank	Checking Account	5874	\$8,438.22

4. Other cash equivalents (Identify all)

5. Total of Part 1.

Add lines 2 through 4 (including amounts on any additional sheets). Copy the total to line 80.

**\$75,585.47**

**Part 2: Deposits and Prepayments**

6. Does the debtor have any deposits or prepayments?

- No. Go to Part 3.  
 Yes Fill in the information below.

**Part 3: Accounts receivable**

10. Does the debtor have any accounts receivable?

- No. Go to Part 4.  
 Yes Fill in the information below.

**Part 4: Investments**

Debtor Osage Water Company Case number (if known) \_\_\_\_\_  
 Name

13. Does the debtor own any investments?

- No. Go to Part 5.
- Yes Fill in the information below.

**Part 5: Inventory, excluding agriculture assets**

18. Does the debtor own any inventory (excluding agriculture assets)?

- No. Go to Part 6.
- Yes Fill in the information below.

**Part 6: Farming and fishing-related assets (other than titled motor vehicles and land)**

27. Does the debtor own or lease any farming and fishing-related assets (other than titled motor vehicles and land)?

- No. Go to Part 7.
- Yes Fill in the information below.

**Part 7: Office furniture, fixtures, and equipment; and collectibles**

38. Does the debtor own or lease any office furniture, fixtures, equipment, or collectibles?

- No. Go to Part 8.
- Yes Fill in the information below.

**Part 8: Machinery, equipment, and vehicles**

46. Does the debtor own or lease any machinery, equipment, or vehicles?

- No. Go to Part 9.
- Yes Fill in the information below.

**Part 9: Real property**

54. Does the debtor own or lease any real property?

- No. Go to Part 10.
- Yes Fill in the information below.

55. Any building, other improved real estate, or land which the debtor owns or in which the debtor has an interest

Description and location of property Include street address or other description such as Assessor Parcel Number (APN), and type of property (for example, acreage, factory, warehouse, apartment or office building, if available.	Nature and extent of debtor's interest in property	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
55.1. Real Estate and water and wastewater system located at Cedar Glen Condominiums in Camden County, Missouri.	Fee simple	Unknown	N/A	Unknown

Debtor Osage Water Company Case number (if known) \_\_\_\_\_  
 Name

55.2. Real Estate and water and wastewater system located at Chelsea Rose Subdivision in Camden County, Missouri. Fee simple Unknown N/A Unknown

55.3. Real Estate and water and wastewater system located at Harbor Bay Condominiums, Camden County, Missouri. Fee simple Unknown N/A Unknown

55.4. Real Estate and water and wastewater system located at Eagle Woods Subdivision, Camden County, Missouri. Fee simple Unknown N/A Unknown

56. Total of Part 9. \$0.00  
 Add the current value on lines 55.1 through 55.6 and entries from any additional sheets. Copy the total to line 88.

57. Is a depreciation schedule available for any of the property listed in Part 9?  
 No  
 Yes

58. Has any of the property listed in Part 9 been appraised by a professional within the last year?  
 No  
 Yes

**Part 10: Intangibles and intellectual property**

59. Does the debtor have any interests in intangibles or intellectual property?  
 No. Go to Part 11.  
 Yes Fill in the information below.

**Part 11: All other assets**

70. Does the debtor own any other assets that have not yet been reported on this form? Include all interests in executory contracts and unexpired leases not previously reported on this form.  
 No. Go to Part 12.  
 Yes Fill in the information below.

Debtor Osage Water Company Case number (if known) \_\_\_\_\_  
 Name

**Part 12: Summary**

In Part 12 copy all of the totals from the earlier parts of the form

Type of property	Current value of personal property	Current value of real property
80. Cash, cash equivalents, and financial assets. Copy line 5, Part 1	\$75,585.47	
81. Deposits and prepayments. Copy line 9, Part 2.	\$0.00	
82. Accounts receivable. Copy line 12, Part 3.	\$0.00	
83. Investments. Copy line 17, Part 4.	\$0.00	
84. Inventory. Copy line 23, Part 5.	\$0.00	
85. Farming and fishing-related assets. Copy line 33, Part 6.	\$0.00	
86. Office furniture, fixtures, and equipment; and collectibles. Copy line 43, Part 7.	\$0.00	
87. Machinery, equipment, and vehicles. Copy line 51, Part 8.	\$0.00	
88. Real property. Copy line 56, Part 9.....>		\$0.00
89. Intangibles and intellectual property. Copy line 66, Part 10.	\$0.00	
90. All other assets. Copy line 78, Part 11.	+ \$0.00	
91. Total. Add lines 80 through 90 for each column	\$75,585.47	+ 91b. \$0.00
92. Total of all property on Schedule A/B. Add lines 91a+91b=92		\$75,585.47

**Fill in this information to identify the case:**

Debtor name Osage Water Company

United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI

Case number (if known) \_\_\_\_\_

Check if this is an amended filing

Official Form 206D

**Schedule D: Creditors Who Have Claims Secured by Property**

12/15

Be as complete and accurate as possible.

**1. Do any creditors have claims secured by debtor's property?**

- No. Check this box and submit page 1 of this form to the court with debtor's other schedules. Debtor has nothing else to report on this form.
- Yes. Fill in all of the information below.

**Part 1: List Creditors Who Have Secured Claims**

2. List in alphabetical order all creditors who have secured claims. If a creditor has more than one secured claim, list the creditor separately for each claim.

		Column A Amount of claim  Do not deduct the value of collateral.	Column B Value of collateral that supports this claim
<p><b>2.1 Gregory D. Williams</b> Creditor's Name</p> <p><b>16533 North State Hwy 5 Sunrise Beach, MO 65079</b> Creditor's mailing address</p> <p>_____ Creditor's email address, if known</p> <p><b>Date debt was incurred</b> <b>2015</b></p> <p><b>Last 4 digits of account number</b> <b>0413</b></p> <p><b>Do multiple creditors have an interest in the same property?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Specify each creditor, including this creditor and its relative priority.</p>	<p><b>Describe debtor's property that is subject to a lien</b> <b>Judgment</b></p> <hr/> <p><b>Describe the lien</b></p> <hr/> <p><b>Is the creditor an insider or related party?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes</p> <p><b>Is anyone else liable on this claim?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H)</p> <hr/> <p><b>As of the petition filing date, the claim is:</b> Check all that apply <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed</p>	<p><b>\$836,760.77</b></p>	<p><b>\$0.00</b></p>

<p><b>2.2 Hancock Construction Co.</b> Creditor's Name</p> <p><b>c/o David L. Hancock 2060 Chimney Point P.O. Box 450 Sunrise Beach, MO 65079</b> Creditor's mailing address</p> <p>_____ Creditor's email address, if known</p> <p><b>Date debt was incurred</b> <b>09/03/2002</b></p> <p><b>Last 4 digits of account number</b> <b>0008</b></p> <p><b>Do multiple creditors have an interest in the same property?</b></p>	<p><b>Describe debtor's property that is subject to a lien</b> <b>Judgment</b></p> <hr/> <p><b>Describe the lien</b></p> <hr/> <p><b>Is the creditor an insider or related party?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes</p> <p><b>Is anyone else liable on this claim?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H)</p> <hr/> <p><b>As of the petition filing date, the claim is:</b> Check all that apply</p>	<p><b>\$215,640.39</b></p>	<p><b>\$0.00</b></p>
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Debtor Osage Water Company Case number (if know) \_\_\_\_\_  
Name

- No  
 Yes. Specify each creditor, including this creditor and its relative priority.
- Contingent  
 Unliquidated  
 Disputed

<b>2.3</b>	<b>Harbour Bay Development, L.L.C.</b> <small>Creditor's Name</small> <b>c/o Robert E. Roelofsz</b> <b>2025 S. Arlington Terrace</b> <b>Springfield, MO 65804</b> <small>Creditor's mailing address</small>  <small>Creditor's email address, if known</small>  <small>Date debt was incurred</small>  <small>Last 4 digits of account number</small>  <small>Do multiple creditors have an interest in the same property?</small> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Specify each creditor, including this creditor and its relative priority.	Describe debtor's property that is subject to a lien <span style="float:right"><u>\$67,000.00</u></span> <b>Judgment</b>  Describe the lien  Is the creditor an insider or related party? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Is anyone else liable on this claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H)  As of the petition filing date, the claim is: Check all that apply <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed
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<b>2.4</b>	<b>Jackson Engineering, Inc.</b> <small>Creditor's Name</small> <b>c/o William P. Mitchell</b> <b>Hwy 54 East</b> <b>Linn Creek, MO 65052</b> <small>Creditor's mailing address</small>  <small>Creditor's email address, if known</small>  <small>Date debt was incurred</small> <b>08/03/2004</b> <small>Last 4 digits of account number</small> <b>0636</b> <small>Do multiple creditors have an interest in the same property?</small> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Specify each creditor, including this creditor and its relative priority.	Describe debtor's property that is subject to a lien <span style="float:right"><u>\$112,015.08</u></span> <b>Judgment</b>  Describe the lien  Is the creditor an insider or related party? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Is anyone else liable on this claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H)  As of the petition filing date, the claim is: Check all that apply <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed
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<b>2.5</b>	<b>Summit Investments, LLC</b> <small>Creditor's Name</small> <b>c/o Jeffrey E. Green</b> <b>4558 Osage Beach</b> <b>Parkway</b> <b>Suite 106</b> <b>Osage Beach, MO 65065</b> <small>Creditor's mailing address</small>	Describe debtor's property that is subject to a lien <span style="float:right"><u>\$1,041,806.00</u></span> <b>Judgment</b>  Describe the lien
------------	---	---

Debtor Osage Water Company Case number (if known) \_\_\_\_\_  
Name

Is the creditor an insider or related party?  
 No  
 Yes

Creditor's email address, if known \_\_\_\_\_

Date debt was incurred  
**2016**

Last 4 digits of account number  
**0113**

Do multiple creditors have an interest in the same property?  
 No  
 Yes. Specify each creditor, including this creditor and its relative priority.

Is anyone else liable on this claim?  
 No  
 Yes. Fill out *Schedule H: Codebtors* (Official Form 206H)

As of the petition filing date, the claim is:  
 Check all that apply  
 Contingent  
 Unliquidated  
 Disputed

<b>2.6</b>	<b>Water Laboratory, Inc.</b>	Describe debtor's property that is subject to a lien <b>Judgment</b>	<b>\$177,847.90</b>	<b>\$0.00</b>
<small>Creditor's Name</small> c/o William P. Mitchell Hwy 54 East Linn Creek, MO 65052		<small>Creditor's mailing address</small>		
<small>Creditor's email address, if known</small> _____		<small>Describe the lien</small>		

Is the creditor an insider or related party?  
 No  
 Yes

Is anyone else liable on this claim?  
 No  
 Yes. Fill out *Schedule H: Codebtors* (Official Form 206H)

Date debt was incurred  
**08/03/2004**

Last 4 digits of account number  
**0636**

Do multiple creditors have an interest in the same property?  
 No  
 Yes. Specify each creditor, including this creditor and its relative priority.

As of the petition filing date, the claim is:  
 Check all that apply  
 Contingent  
 Unliquidated  
 Disputed

3. Total of the dollar amounts from Part 1, Column A, including the amounts from the Additional Page, if any. \$2,451,070.14

**Part 2: List Others to Be Notified for a Debt Already Listed in Part 1**  
 List in alphabetical order any others who must be notified for a debt already listed in Part 1. Examples of entities that may be listed are collection agencies, assignees of claims listed above, and attorneys for secured creditors.

If no others need to be notified for the debts listed in Part 1, do not fill out or submit this page. If additional pages are needed, copy this page.

Name and address	On which line in Part 1 did you enter the related creditor?	Last 4 digits of account number for this entity
Charles E. McElyea Attorney at Law Phillips, McElyea, Carpenter & Welch P.O. Box 559 Camdenton, MO 65020	Line <u>2.3</u>	
Janice A. Harder, Trustee 3610 Buttonwood Drive, Suite 200 Columbia, MO 65201	Line <u>2.2</u>	
William P. Mitchell 328 S. Frontage Rd. Osage Beach, MO 65065	Line <u>2.6</u>	



Debtor <u>Osage Water Company</u> <small>Name</small>	Case number (if know)
<b>William P. Mitchell</b> 6161 El Tara Lane Osage Beach, MO 65065	Line <u>2.6</u>
<b>William P. Mitchell</b> 328 S. Frontage Rd. Osage Beach, MO 65065	Line <u>2.4</u>
<b>William P. Mitchell</b> 6161 El Tara Lane Osage Beach, MO 65065	Line <u>2.4</u>

Fill in this information to identify the case:

Debtor name Osage Water Company  
United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI  
Case number (if known) \_\_\_\_\_

Check if this is an amended filing

Official Form 206E/F  
Schedule E/F: Creditors Who Have Unsecured Claims

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY unsecured claims and Part 2 for creditors with NONPRIORITY unsecured claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on Schedule A/B: Assets - Real and Personal Property (Official Form 206A/B) and on Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G). Number the entries in Parts 1 and 2 in the boxes on the left. If more space is needed for Part 1 or Part 2, fill out and attach the Additional Page of that Part included in this form.

Part 1: List All Creditors with PRIORITY Unsecured Claims

1. Do any creditors have priority unsecured claims? (See 11 U.S.C. § 507).

- No. Go to Part 2.
- Yes. Go to line 2.

Part 2: List All Creditors with NONPRIORITY Unsecured Claims

3. List in alphabetical order all of the creditors with nonpriority unsecured claims. If the debtor has more than 6 creditors with nonpriority unsecured claims, fill out and attach the Additional Page of Part 2.

Amount of claim

		As of the petition filing date, the claim is: Check all that apply.	Amount of claim
3.1	Nonpriority creditor's name and mailing address Colly J. Durley Attorney at Law 111 South Ninth Street, Suite 200 P.O. Box 918 Columbia, MO 65205-0918 Date(s) debt was incurred _____ Last 4 digits of account number _____	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<u>\$0.00</u>
3.2	Nonpriority creditor's name and mailing address Dave Hancock Highway 5 Sunrise Beach, MO 65079 Date(s) debt was incurred _____ Last 4 digits of account number _____	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<u>\$0.00</u>
3.3	Nonpriority creditor's name and mailing address Faye Coultas Attorney at Law 4558 Osage Beach Pkwy, Ste 106 Osage Beach, MO 65065 Date(s) debt was incurred _____ Last 4 digits of account number _____	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<u>\$0.00</u>
3.4	Nonpriority creditor's name and mailing address Gary Smith Attorney at Law 123 N. Jefferson P.O. Box 669 Lebanon, MO, MO 65537-0669 Date(s) debt was incurred _____ Last 4 digits of account number _____	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<u>\$0.00</u>

Debtor	Name	Case number (if known)
3.5	<b>Nonpriority creditor's name and mailing address</b> Gregory D. Williams Attorney at Law 16533 North State Highway 5 Sunrise Beach, MO 65079 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.6	<b>Nonpriority creditor's name and mailing address</b> J. Aaron Ellsworth Attorney at Law 2140 Bagnell Dam Boulevard, Suite 401 Lake Ozark, MO 65049-8604 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.7	<b>Nonpriority creditor's name and mailing address</b> Jeffrey E. Green Attorney at Law 4558 Osage Beach Parkway, Suite 106 Osage Beach, MO 65065 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.8	<b>Nonpriority creditor's name and mailing address</b> John E. Curran Attorney at Law 3750 Osage Beach Parkway #100 Osage Beach, MO 65065 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.9	<b>Nonpriority creditor's name and mailing address</b> Mark W. Comley Attorney at Law Newman, Comley & Ruth, P.C. P.O. Box 537 Jefferson City, MO 65102-0537 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.10	<b>Nonpriority creditor's name and mailing address</b> Pat Mitchell 328 South Frontage Road Osage Beach, MO 65065 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.11	<b>Nonpriority creditor's name and mailing address</b> Shelley Brueggemann General Counsel Missouri Public Service Commission P.O. Box 360 Jefferson City, MO 65102 Date(s) debt was incurred __ Last 4 digits of account number __	As of the petition filing date, the claim is: <i>Check all that apply.</i> <u>\$0.00</u> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Notice only</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes

Debtor Osage Water Company Case number (if known) \_\_\_\_\_

3.12 Nonpriority creditor's name and mailing address **As of the petition filing date, the claim is: Check all that apply.** \$0.00  
 Name Thomas E. Loraine  
Attorney at Law  
Loraine & Associates, LLC  
4075 Osage Beach Parkway, Suite 300  
Osage Beach, MO 65065  
 Date(s) debt was incurred \_\_\_\_\_  
 Last 4 digits of account number \_\_\_\_\_  
 Contingent  
 Unliquidated  
 Disputed  
 Basis for the claim: Notice only  
 Is the claim subject to offset?  No  Yes

3.13 Nonpriority creditor's name and mailing address **As of the petition filing date, the claim is: Check all that apply.** \$0.00  
 Name William O. Green  
Attorney at Law  
P.O. box 1157  
Osage Beach, MO 65065  
 Date(s) debt was incurred \_\_\_\_\_  
 Last 4 digits of account number \_\_\_\_\_  
 Contingent  
 Unliquidated  
 Disputed  
 Basis for the claim: Notice only  
 Is the claim subject to offset?  No  Yes

**Part 3: List Others to Be Notified About Unsecured Claims**

4. List in alphabetical order any others who must be notified for claims listed in Parts 1 and 2. Examples of entities that may be listed are collection agencies, assignees of claims listed above, and attorneys for unsecured creditors.

If no others need to be notified for the debts listed in Parts 1 and 2, do not fill out or submit this page. If additional pages are needed, copy the next page.

Name and mailing address	On which line in Part 1 or Part 2 is the related creditor (if any) listed?	Last 4 digits of account number, if any

**Part 4: Total Amounts of the Priority and Nonpriority Unsecured Claims**

5. Add the amounts of priority and nonpriority unsecured claims.

	Total of claim amounts
5a. Total claims from Part 1	\$ 0.00
5b. Total claims from Part 2	+ \$ 0.00
5c. Total of Parts 1 and 2 Lines 5a + 5b = 5c.	\$ 0.00

Fill in this information to identify the case:

Debtor name Osage Water Company

United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI

Case number (if known) \_\_\_\_\_

Check if this is an amended filing

Official Form 206G

Schedule G: Executory Contracts and Unexpired Leases

12/15

Be as complete and accurate as possible. If more space is needed, copy and attach the additional page, number the entries consecutively.

1. Does the debtor have any executory contracts or unexpired leases?

No. Check this box and file this form with the debtor's other schedules. There is nothing else to report on this form.

Yes. Fill in all of the information below even if the contacts of leases are listed on Schedule A/B: Assets - Real and Personal Property (Official Form 206A/B).

2. List all contracts and unexpired leases

State the name and mailing address for all other parties with whom the debtor has an executory contract or unexpired lease

2.1. State what the contract or lease is for and the nature of the debtor's interest

Lake of the Ozarks Water & Sewer, Inc. are the operators of the water and wastewater systems pursuant to a Court Order. ongoing

Lake of the Ozarks Water & Sewer, Inc.  
840 Thunder Mountain Road  
Camdenton, MO 65020

State the term remaining

List the contract number of any government contract

2.2. State what the contract or lease is for and the nature of the debtor's interest

Lease of well water rights from Ms. Jordan to Debtor

Ms. Denise Jordan  
6507 Red Fox Lane  
Osage Beach, MO 65065

State the term remaining

List the contract number of any government contract

**Fill in this information to identify the case:**

Debtor name Osage Water Company  
 United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI  
 Case number (if known) \_\_\_\_\_

Check if this is an amended filing

**Official Form 206H  
 Schedule H: Your Codebtors**

12/15

Be as complete and accurate as possible. If more space is needed, copy the Additional Page, numbering the entries consecutively. Attach the Additional Page to this page.

**1. Do you have any codebtors?**

- No. Check this box and submit this form to the court with the debtor's other schedules. Nothing else needs to be reported on this form.
- Yes

2. In Column 1, list as codebtors all of the people or entities who are also liable for any debts listed by the debtor in the schedules of creditors, Schedules D-G. Include all guarantors and co-obligors. In Column 2, identify the creditor to whom the debt is owed and each schedule on which the creditor is listed. If the codebtor is liable on a debt to more than one creditor, list each creditor separately in Column 2.

**Column 1: Codebtor**

**Column 2: Creditor**

	<b>Name</b>	<b>Mailing Address</b>	<b>Name</b>	<b>Check all schedules that apply:</b>
2.1	_____	Street _____ City State Zip Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.2	_____	Street _____ City State Zip Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.3	_____	Street _____ City State Zip Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.4	_____	Street _____ City State Zip Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G

**Fill in this information to identify the case:**

Debtor name Osage Water Company

United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI

Case number (if known) \_\_\_\_\_

Check if this is an amended filing

Official Form 202

**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

**WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**

**Declaration and signature**

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- Schedule A/B: Assets--Real and Personal Property* (Official Form 206A/B)
- Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
- Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
- Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
- Schedule H: Codebtors* (Official Form 206H)
- Summary of Assets and Liabilities for Non-Individuals* (Official Form 206Sum)
- Amended Schedule \_\_\_\_\_
- Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders* (Official Form 204)
- Other document that requires a declaration \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 11, 2017

X /s/ Gary V. Cover, Receiver

Signature of individual signing on behalf of debtor

Gary V. Cover, Receiver

Printed name

Receiver Case No. 26V010200965

Position or relationship to debtor

**Fill in this information to identify the case:**

Debtor name Osage Water Company

United States Bankruptcy Court for the: WESTERN DISTRICT OF MISSOURI

Case number (if known) \_\_\_\_\_

Check if this is an amended filing

**Official Form 207**

**Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy**

04/16

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

**Part 1: Income**

**1. Gross revenue from business**

None.

Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year

Sources of revenue  
Check all that apply

Gross revenue  
(before deductions and exclusions)

From the beginning of the fiscal year to filing date:  
From 1/01/2017 to Filing Date

Operating a business  
 Other \_\_\_\_\_

\$187,500.00

For prior year:  
From 1/01/2016 to 12/31/2016

Operating a business  
 Other \_\_\_\_\_

\$250,605.00

For year before that:  
From 1/01/2015 to 12/31/2015

Operating a business  
 Other \_\_\_\_\_

\$255,285.00

**2. Non-business revenue**

Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

None.

Description of sources of revenue

Gross revenue from each source  
(before deductions and exclusions)

**Part 2: List Certain Transfers Made Before Filing for Bankruptcy**

**3. Certain payments or transfers to creditors within 90 days before filing this case**

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$6,425. (This amount may be adjusted on 4/01/19 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

None.

Creditor's Name and Address

Dates

Total amount of value

Reasons for payment or transfer  
Check all that apply



Debtor Osage Water Company

Case number (if known) \_\_\_\_\_

Creditor's Name and Address	Dates	Total amount of value	Reasons for payment or transfer Check all that apply
3.1. Lake of the Ozarks Water & Sewer, Inc. 840 Thunder Mountain Road Camdenton, MO 65020	07/06/2017; 08/08/2017; 09/05/2017; 10/02/2017; 10/10/2017	\$29,953.13	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input checked="" type="checkbox"/> Services <input type="checkbox"/> Other _____
3.2. US Treasury Internal Revenue Service P.O. Box 1211 Charlotte, NC 28201-1211	09/18/2017; 09/26/2017; 10/10/2017	\$18,204.70	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>Taxes</u>
3.3. Gary V. Cover 137 W. Franklin Clinton, MO 64735	07/10/2017; 07/20/2017; 07/25/2017; 08/16/2017; 10/10/2017	\$28,963.74	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input checked="" type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>Receiver fees authorized pursuant to Court Order/Special Master Order in case no. 26V010200965</u>

4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or cosigned by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$6,425. (This amount may be adjusted on 4/01/19 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

None.

Insider's name and address Relationship to debtor	Dates	Total amount of value	Reasons for payment or transfer
4.1. Gary V. Cover 137 W. Franklin Clinton, MO 64735 Court Ordered Receiver	10/13/2016; 11/10/2016; 11/22/2016; 12/23/2016; 06/15/2017; 06/21/2017	\$49,000.00	Receiver fees authorized pursuant to Court Order/Special Master Order in case no. 26V010200965

5. Repossessions, foreclosures, and returns

List any property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

None

Creditor's name and address	Describe of the Property	Date	Value of property
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6. Setoffs

List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

None

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
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Debtor Osage Water Company

Case number (if known) \_\_\_\_\_

**Part 3: Legal Actions or Assignments**

**7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits**

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

None.

Case title Case number	Nature of case	Court or agency's name and address	Status of case
7.1. Public Service Commission of the State of Missouri vs. Osage Water Company 26V010200965	Request for Appointment of Receiver	Camden County Circuit Court Courthouse One Court Circle Camdenton, MO 65020	<input checked="" type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
7.2. Osage Water Company vs. Gregory D. Williams et al. 09CM-CC00413	Quiet Title Action/Counter Claim for Attorney's Fees	Camden County Circuit Court Courthouse One Court Circle Camdenton, MO 65020	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded
7.3. Summit Investments, LLC vs. Osage Water Company 11CM-CC00113	Breach of Contract	Camden County Circuit Court Courthouse One Court Circle Camdenton, MO 65020	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded

**8. Assignments and receivership**

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

None

Custodian's name and Address	Describe the property	Value
Gary V. Cover, Receiver 137 W. Franklin Clinton, MO 64735	Receiver is responsible for overall operation of the water and wastewater system, and for maintaining system assets.	\$0.00

Case title	Court name and address
MO Public Service Com. v. Osage Water Co	Camden County Circuit Court
Case number 26V010200965	One Court Circle
Date of order or assignment 10/21/2005	Camdenton, MO 65020

**Part 4: Certain Gifts and Charitable Contributions**

**9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000**

None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
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**Part 5: Certain Losses**

**10. All losses from fire, theft, or other casualty within 1 year before filing this case.**

None

Debtor Osage Water Company

Case number (if known)

Description of the property lost and how the loss occurred	Amount of payments received for the loss	Dates of loss	Value of property lost
	If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received.  List unpaid claims on Official Form 106A/B (Schedule A/B: Assets – Real and Personal Property).		

**Part 6: Certain Payments or Transfers**

**11. Payments related to bankruptcy**

List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

None.

Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value
11.1. John Reed, Attorney at Law Pletz and Reed, P.C. 515 East High Street, Suite 101 P.O. Box 1048 Jefferson City, MO 65102		10/09/17 \$10,000.00 10/11/17 \$15,000.00	\$25,000.00

Email or website address  
reedlaw@aol.com

Who made the payment, if not debtor?  
Receiver

**12. Self-settled trusts of which the debtor is a beneficiary**

List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device. Do not include transfers already listed on this statement.

None.

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value

**13. Transfers not already listed on this statement**

List any transfers of money or other property by sale, trade, or any other means made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

None.

Who received transfer? Address	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value

**Part 7: Previous Locations**

**14. Previous addresses**

List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

Does not apply

Address	Dates of occupancy From-To

**Part 8: Health Care Bankruptcies**

Debtor Osage Water Company

Case number (if known) \_\_\_\_\_

**15. Health Care bankruptcies**

Is the debtor primarily engaged in offering services and facilities for:  
 - diagnosing or treating injury, deformity, or disease, or  
 - providing any surgical, psychiatric, drug treatment, or obstetric care?

- No. Go to Part 9.  
 Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
---------------------------	--	---

**Part 9: Personally Identifiable Information**

**16. Does the debtor collect and retain personally identifiable information of customers?**

- No.  
 Yes. State the nature of the information collected and retained.

Osage Water Company maintains a listing of the names and addresses of all customers, and the amounts owed for water and wastewater services. Customer information is maintained by the operator, Lake of the Ozarks Water and Sewer, Inc., which has a privacy policy.

Does the debtor have a privacy policy about that information?

- No  
 Yes

**17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b), or other pension or profit-sharing plan made available by the debtor as an employee benefit?**

- No. Go to Part 10.  
 Yes. Does the debtor serve as plan administrator?

**Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units**

**18. Closed financial accounts**

Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred?  
 Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

- None

Financial Institution name and Address	Last 4 digits of account number	Type of account or instrument	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
--	---------------------------------	-------------------------------	--	---

**19. Safe deposit boxes**

List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

- None

Depository Institution name and address	Names of anyone with access to it Address	Description of the contents	Do you still have it?
---	---	-----------------------------	-----------------------

**20. Off-premises storage**

List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

Debtor Osage Water Company Case number (if known) \_\_\_\_\_

None

Facility name and address	Names of anyone with access to it	Description of the contents	Do you still have it?
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**Part 11: Property the Debtor Holds or Controls That the Debtor Does Not Own**

**21. Property held for another**

List any property that the debtor holds or controls that another entity owns. Include any property borrowed from, being stored for, or held in trust. Do not list leased or rented property.

None

Owner's name and address	Location of the property	Describe the property	Value
Customer Deposits	First National Bank 107 S. Second Clinton, MO 64735	Customer deposits are maintained in a separate account.	\$18,971.45

**Part 12: Details About Environment Information**

For the purpose of Part 12, the following definitions apply:

*Environmental law* means any statute or governmental regulation that concerns pollution, contamination, or hazardous material, regardless of the medium affected (air, land, water, or any other medium).

*Site* means any location, facility, or property, including disposal sites, that the debtor now owns, operates, or utilizes or that the debtor formerly owned, operated, or utilized.

*Hazardous material* means anything that an environmental law defines as hazardous or toxic, or describes as a pollutant, contaminant, or a similarly harmful substance.

Report all notices, releases, and proceedings known, regardless of when they occurred.

**22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.**

No.  
 Yes. Provide details below.

Case title Case number	Court or agency name and address	Nature of the case	Status of case
State v. Osage Water Company 26V010500617	Camden County Circuit Court	Failure to comply with Clean Water Act	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded

**23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?**

No.  
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
-----------------------	------------------------------------	-----------------------------	----------------

**24. Has the debtor notified any governmental unit of any release of hazardous material?**

No.  
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
-----------------------	------------------------------------	-----------------------------	----------------

**Part 13: Details About the Debtor's Business or Connections to Any Business**

Debtor Osage Water Company

Case number (if known) \_\_\_\_\_

**25. Other businesses in which the debtor has or has had an interest**

List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

None

Business name address	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.	Dates business existed
-----------------------	-------------------------------------	--	------------------------

**26. Books, records, and financial statements**

26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.

None

Name and address	Date of service From-To
26a.1. Taylor Nold and Associates LLC 108 N. Main Clinton, MO 64735	

26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.

None

Name and address	Date of service From-To
26b.1. Taylor Nold and Associates LLC 108 N. Main Clinton, MO 64735	

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.

None

Name and address	If any books of account and records are unavailable, explain why
26c.1. Taylor Nold and Associates LLC 108 N. Main Clinton, MO 64735	

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.

None

Name and address \_\_\_\_\_

**27. Inventories**

Have any inventories of the debtor's property been taken within 2 years before filing this case?

No

Yes. Give the details about the two most recent inventories.

Name of the person who supervised the taking of the inventory	Date of inventory	The dollar amount and basis (cost, market, or other basis) of each inventory
---	-------------------	--

28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Debtor Osage Water Company Case number (if known) \_\_\_\_\_

Name	Address	Position and nature of any interest	% of interest, if any
Gregory D. Williams	16533 North State Hwy 5 Sunrise Beach, MO 65079	unknown	unknown
Pat Mitchell	c/o Tom Loraine 4075 Osage Beach Pkwy Osage Beach, MO 65065	unknown	unknown
Dave Hancock	14130 N. State Hwy 5 Sunrise Beach, MO 65079	unknown	unknown

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?

- No
- Yes. Identify below.

30. Payments, distributions, or withdrawals credited or given to insiders

Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?

- No
- Yes. Identify below.

Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value
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31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?

- No
- Yes. Identify below.

Name of the parent corporation	Employer Identification number of the parent corporation
--------------------------------	--

32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?

- No
- Yes. Identify below.

Name of the parent corporation	Employer Identification number of the parent corporation
--------------------------------	--

Debtor Osage Water Company

Case number (if known) \_\_\_\_\_

**Part 14: Signature and Declaration**

**WARNING** -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

I have examined the information in this *Statement of Financial Affairs* and any attachments and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 11, 2017

/s/ Gary V. Cover, Receiver

Signature of individual signing on behalf of the debtor

Gary V. Cover, Receiver

Printed name

Position or relationship to debtor Receiver Case No. 26V010200965

Are additional pages to *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207) attached?

No

Yes



B2030 (Form 2030) (12/15)

United States Bankruptcy Court
Western District of Missouri

In re Osage Water Company

Debtor(s)

Case No.

Chapter

11

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Fed. Bankr. P. 2016(b), I certify that I am the attorney for the above named debtor(s) and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

Table with 2 columns: Description of compensation and Amount. Rows include: For legal services, I have agreed to accept (\$ 23,283.00); Prior to the filing of this statement I have received (\$ 23,283.00); Balance Due (\$ 0.00).

2. The source of the compensation paid to me was:

Debtor (checked) Other (specify):

3. The source of compensation to be paid to me is:

Debtor (checked) Other (specify):

4. I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached.

5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
d. [Other provisions as needed]

Negotiations with secured creditors

6. By agreement with the debtor(s), the above-disclosed fee does not include the following service:

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

October 11, 2017

Date

/s/ John C. Reed

John C. Reed

Signature of Attorney

Pletz and Reed, P.C.

515 East High Street

P.O. Box 1048

Jefferson City, MO 65102

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Sunrise Beach MO 65079

Gregory D. Williams  
Attorney at Law  
16533 North State Highway 5  
Sunrise Beach MO 65079

Hancock Construction Co.  
c/o David L. Hancock  
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P.O. Box 450  
Sunrise Beach MO 65079

Harbour Bay Development, L.L.C.  
c/o Robert E. Roelofsz  
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Springfield MO 65804

J. Aaron Ellsworth  
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2140 Bagnell Dam Boulevard, Suite 401  
Lake Ozark MO 65049-8604

Jackson Engineering, Inc.  
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Hwy 54 East  
Linn Creek MO 65052

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Osage Beach MO 65065

John E. Curran  
Attorney at Law  
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Osage Beach MO 65065

Lake of the Ozarks Water & Sewer, Inc.  
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Camdenton MO 65020

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Ms. Denise Jordan  
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General Counsel  
Missouri Public Service Commission  
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Summit Investments, LLC  
c/o Jeffrey E. Green  
4558 Osage Beach Parkway  
Suite 106  
Osage Beach MO 65065

Thomas E. Loraine  
Attorney at Law  
Loraine & Associates, LLC  
4075 Osage Beach Parkway, Suite 300  
Osage Beach MO 65065

Water Laboratory, Inc.  
c/o William P. Mitchell  
Hwy 54 East  
Linn Creek MO 65052

William O. Green  
Attorney at Law  
P.O. box 1157  
Osage Beach MO 65065

William P. Mitchell  
328 S. Frontage Rd.  
Osage Beach MO 65065

William P. Mitchell  
6161 El Tara Lane  
Osage Beach MO 65065

**United States Bankruptcy Court  
Western District of Missouri**

In re Osage Water Company

Debtor(s)

Case No.

Chapter

11

**VERIFICATION OF MAILING MATRIX**

The above-named Debtor(s) hereby verifies that the attached list of creditors is true and correct to the best of my knowledge and includes the name and address of my ex-spouse (if any).

Date: October 11, 2017

/s/ Gary V. Cover, Receiver

**Gary V. Cover, Receiver/Receiver Case No. 26V010200965**

Signer/Title

<b>Fill in this information to identify the case:</b>	
Debtor name	Osage Water Company
United States Bankruptcy Court for the:	WESTERN DISTRICT OF MISSOURI
Case number (if known):	_____

Check if this is an amended filing

**Official Form 204**

**Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders**

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
Gregory D. Williams 16533 North State Hwy 5 Sunrise Beach, MO 65079		Judgment		\$836,760.77	\$0.00	\$836,760.77
Hancock Construction Co. c/o David L. Hancock 2060 Chimney Point P.O. Box 450 Sunrise Beach, MO 65079		Judgment		\$215,640.39	\$0.00	\$215,640.39
Harbour Bay Development, L.L.C. c/o Robert E. Roelofsz 2025 S. Arlington Terrace Springfield, MO 65804		judgment		\$67,000.00	\$0.00	\$67,000.00
Jackson Engineering, Inc. c/o William P. Mitchell Hwy 54 East Linn Creek, MO 65052		Judgment		\$112,015.08	\$0.00	\$112,015.08
Summit Investments, LLC c/o Jeffrey E. Green 4558 Osage Beach Parkway Suite 106 Osage Beach, MO 65065		Judgment		\$1,041,806.00	\$0.00	\$1,041,806.00

Debtor Osage Water Company  
Name

Case number (if known) \_\_\_\_\_

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services,	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
Water Laboratory, Inc. c/o William P. Mitchell Hwy 54 East Linn Creek, MO 65052		Judgment		\$177,847.90	\$0.00	\$177,847.90

United States Bankruptcy Court  
Western District of Missouri

In re Osage Water Company

Debtor(s)

Case No.

Chapter 11

LIST OF EQUITY SECURITY HOLDERS

Following is the list of the Debtor's equity security holders which is prepared in accordance with rule 1007(a)(3) for filing in this Chapter 11 Case

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
Dave Hancock Highway 5 Sunrise Beach, MO 65079	unknown	unknown	unknown
Gregory D. Williams Attorney at Law 16533 North State Highway 5 Sunrise Beach, MO 65079	unknown	unknown	unknown
Pat Mitchell 328 South Frontage Road Osage Beach, MO 65065	unknown	unknown	unknown

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF CORPORATION OR PARTNERSHIP

I, the Receiver Case No. 26V010200965 of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing List of Equity Security Holders and that it is true and correct to the best of my information and belief.

Date October 11, 2017

Signature /s/ Gary V. Cover, Receiver  
Gary V. Cover, Receiver

*Penalty for making a false statement of concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.  
18 U.S.C. §§ 152 and 3571.*



**United States Bankruptcy Court  
Western District of Missouri**

In re Osage Water Company Debtor(s) Case No. \_\_\_\_\_  
Chapter 11

**CORPORATE OWNERSHIP STATEMENT (RULE 7007.1)**

Pursuant to Federal Rule of Bankruptcy Procedure 7007.1 and to enable the Judges to evaluate possible disqualification or recusal, the undersigned counsel for Osage Water Company in the above captioned action, certifies that the following is a (are) corporation(s), other than the debtor or a governmental unit, that directly or indirectly own(s) 10% or more of any class of the corporation's(s') equity interests, or states that there are no entities to report under FRBP 7007.1:

None [*Check if applicable*]

October 11, 2017

Date

/s/ John C. Reed

John C. Reed

Signature of Attorney or Litigant

Counsel for Osage Water Company

Pletz and Reed, P.C.

515 East High Street

P.O. Box 1048

Jefferson City, MO 65102

573-635-8500 Fax:573-634-3079

prlaw@embarqmail.com



IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
Debtor. )

**TRUSTEE'S MOTION TO APPROVE (A) THE SALE OF SUBSTANTIALLY ALL OF DEBTOR'S ASSETS FREE AND CLEAR OF ALL LIENS, INTERESTS, CLAIMS AND ENCUMBRANCES AND RELATED PROCEDURES AND BID PROTECTION PURSUANT TO 11 U.S.C. § 363, (B) THE POTENTIAL ASSUMPTION AND ASSIGNMENT, OR REJECTION, OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND RELATED PROCEDURES, PURSUANT TO 11 U.S.C. § 365, AND (C) RELATED RELIEF PURSUANT TO 11 U.S.C. §§ 102 AND 105**

Jill Olsen ("Trustee"), as Chapter 11 trustee of debtor Osage Water Company ("Debtor"), by and through counsel, for her Motion to Approve (a) the Sale of Substantially All of Debtor's Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 (the "Motion"), states and alleges as follows:

**BACKGROUND**

**Procedural Posture**

1. On October 11, 2017, (the "Petition Date"), Debtor filed its voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the "Code").
2. On or about October 26, 2017, Trustee was appointed as the Chapter 11 Trustee of Debtor.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(2)(A), (M), (N) and (O).
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.

WA 11145717.5

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1408.

**Nature of Pre-Petition Date Business Operations**

6. Debtor is a corporation organized under Missouri law.

7. Debtor owns, operates, and controls property in the distribution and sale of water to residents of Camden County, Missouri for gain ("Water Supply Systems").

8. Debtor also owns, operates, and controls property, including pipes, pumps, structures, appliances, and other real and personal property in connection with the collection, carriage, treatment and disposal of sewage for residents of Camden County, Missouri for gain ("Sewer Systems").

9. Debtor owns, operates, and controls Water Supply Systems and Sewer Systems in Camden County, Missouri, located at (i) Cedar Glen Condominiums; (ii) Chelsea Rose Subdivision; (iii) Harbor Bay Condominiums; and (iv) Eagle Woods Subdivision (collectively, "Operational Systems").

10. Debtor also owns non-operational Water Supply Systems and Sewer Systems in Camden County, Missouri, located at Osage Beach Parkway ("Non-Operational Systems, and together with the Operational Systems, "Water Systems") (Water Systems, together with all other of Debtor's right, title, and interest in real and personal property, the "Assets"). The Assets include customer deposits held by the Trustee (the "Customer Deposits").

11. In 2002, Debtor had three principals: Dave Hancock, Pat Mitchell, and Greg Williams.

12. In a report and order dated December 10, 2002 (the "PSC Order"), the Missouri Public Service Commission (the "PSC") determined Debtor had been effectively abandoned by its owners and that it was unable or unwilling to provide safe and adequate service to its customers.

13. The PSC Order recommended its staff seek the appointment of a receiver to take control and responsibility of the company. The PSC Order also recommended its staff seek a determination from the circuit court that Debtor should not be returned to its owners but rather should be liquidated by the receiver.

14. On October 21, 2005, the Circuit Court of Camden County (the "State Court") appointed Gary Cover receiver of Debtor (the "Receiver").

**Pre-Petition Date and Post-Petition Date Marketing Efforts**

15. The Receiver marketed the Assets prepetition, receiving multiple bids from 2014 to 2017.

16. In the Receiver's report to the State Court dated January 14, 2015, the Receiver reported the following bids: (1) Central States Water Resources, Inc., \$479,702.00; (2) Missouri American Water Company, \$250,000.00; (3) Cedar Glen Condominium Owners Association, Inc., Missouri Water Association, Inc., and Lake Area Waste Water Association, Inc. (joint bidders), \$160,000.00; and (4) Gregory Williams, satisfaction of judgment obtained in Case No. 09CM-CC00413.

17. In the Receiver's report to the State Court dated May 12, 2017, the Receiver reported the following bids: (1) Central States Water Resources, Inc., \$440,000.00; (2) Public Water Supply District # 5, \$636,000.00 (Cedar Glen service area only); (3) Patrick Mitchell, \$5,000.00 (all assets except Cedar Glen service area); and (4) Gregory Williams, satisfaction of judgment obtained in Case No. 09CM-CC00413.

18. None of the prepetition bids resulted in a sale.

19. The Trustee has contacted entities that expressed interest in the Assets prepetition as well as other entities.

### **The APA and Sale Process**

20. Good-faith and arms-length negotiations have resulted in the Trustee entering an asset purchase agreement (the “Stalking Horse APA”)<sup>1</sup> with Central States Water Resources, Inc. (the “Stalking Horse Purchaser”). The Stalking Horse APA provides for, among other things, the sale of substantially all of Debtor’s Assets, or portions thereof, free and clear of any and all liens, claims, encumbrances and other interests (the “Transaction”).

21. Trustee proposes to effectuate the Transaction(s) via the process and procedures outlined in the Bid Procedures (as defined below) in order to determine the highest and best bidder or bidders to enter into the Transaction(s) under the Timeline provided below.

### **RELIEF REQUESTED**

#### **Introduction**

22. Pursuant to Code §§ 102, 105, 363 and 365 and Rules 2002, 6004, 6006, 9006 and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Trustee requests the Court, *inter alia*, (a) approve the bid procedures (“Bid Procedures”) attached as Exhibit A to the proposed Order (“Bid Procedures Order”) attached hereto as **Exhibit 1**, (b) approve the form and manner of notice of the Bid Procedures, the Sale Hearing (as defined below), the Objection Deadline, the respective dates, times and places for an auction, if required under the Bid Procedures, and the possible assumption and assignment, or rejection, of executory contracts and unexpired leases and rights thereunder, substantially in the form attached as Exhibit B to the Bid Procedures Order (the “Transaction Notice”), (c) approve the Stalking Horse APA and Bid Procedures as set forth in the Bid Procedures Order, (d) establish procedures for objections to the Sale Motion and for determining cure amounts in connection with the assumption and

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<sup>1</sup> The attached Stalking Horse APA is unexecuted. The Trustee anticipates receiving signatures pages in the near term.

assignment of executory contracts and unexpired leases and rights thereunder, and (e) set a hearing on the Sale Motion.

**Summary of Key Provisions**

<b><u>Event</u></b>	<b><u>Date and Time (if applicable)</u></b>
Transaction Notice	Within seven (7) days of the entry of the Bid Procedures Order
Notice to Contract/Lease Parties of Potential Assignment of Rejection	Within seven (7) days of the entry of the Bid Procedures Order
Bid Deadline	<b>[21 days after Bid Procedures Order], 5:00 p.m. prevailing Central Time</b>
Auction	<b>[35 days after Bid Procedures Order], 9:30 a.m. prevailing Central Time</b>
Contract/Lease and Sale Hearing Objection Deadline	<b>[42 days after Bid Procedures Order], 3:00 p.m. prevailing Central Time</b>
Sale Hearing	<b>[To be determined by the Court] __m. prevailing Central Time</b>

**Sale Hearings**

23. Concurrently with this motion, the Trustee has requested an initial hearing on the Motion (the “Initial Hearing”) be set on September 20, 2018, to approve the procedures described herein including, without limitation, the Bid Procedures. Trustee also requests a final hearing on the Sale Motion (the “Sale Hearing”) be set on or after November 2, 2018 to grant the remaining relief requested hereunder.

**The Sale Process**

24. Pursuant to Bankruptcy Rule 6004(f)(1), sales of property outside the ordinary course of business may be by private sale or auction. Good cause exists to expose the Assets to auction. Trustee believes an auction conducted substantially in accordance with the Bid

Procedures will enable Trustee to obtain the highest or best offer(s) for the Assets under the circumstances, thereby maximizing the value of Debtor's estate.

25. Pursuant to the Bid Procedures, a Potential Bidder (other than the Stalking Horse Purchaser) must deliver the following to Trustee, prior to submitting any Bid: financial statements of, or other information relating to, the Potential Bidder or, if the Potential Bidder is an entity formed for the purpose of the Transaction, financial statements of the equity holder(s) of the Potential Bidder, or such other form of financial disclosure or evidence of financial capability and performance and legal authority acceptable to Trustee as requested by Trustee (and, if requested by Trustee, certified to by a duly authorized representative of the Potential Bidder (or equity holders thereof, as applicable)), demonstrating such Potential Bidder's financial capability and legal authority to close the proposed Transaction in a timely manner.

26. A Potential Bidder that delivers the documents described in paragraph 25 and that Trustee determines in her business judgment is financially capable of consummating the Transaction in a timely manner will be permitted to further participate in the Bidding Process.

27. A Potential Bidder who desires to make a Bid must deliver a written copy of its written asset-purchase agreement marked to show the specific changes to the Stalking Horse APA that the Potential Bidder requires (which marked copy may be an electronic comparison of the written asset-purchase agreement submitted and the Stalking Horse APA) on or before the Bid Deadline. Trustee may extend the Bid Deadline, but the Trustee will promptly notify all Potential Bidders of any such extension.

28. A Bid received from a Potential Bidder (other than the Stalking Horse Purchaser) by the Bid Deadline will constitute a "Qualified Bid" only if it includes all of the following requirements, as determined by Trustee in her sole discretion:



- a. A written purchase agreement duly executed by the Potential Bidder substantially in the same form as the Stalking Horse APA, together with a copy of such agreement marked to show the specific changes to the Stalking Horse APA that the Potential Bidder requires (which marked copy may be an electronic comparison of the written asset purchase agreement submitted and the Stalking Horse APA). The asset-purchase agreement submitted by a Potential Bidder must fulfill the requirements stated in the Bidding Procedures.
- b. The Bid must provide for the purchase of all or substantially all of the Assets and for consideration that exceeds the cash portion of the consideration offered by the Stalking Horse Purchaser by at least \$15,000 (the "Initial Minimum Overbid"). The Trustee may aggregate two or more Bids that collectively provide for the purchase for all or substantially all of the Assets and exceed the Initial Minimum Overbid into a joint Bid, which shall be deemed a Qualified Bid if it otherwise meets the bid requirements.
- c. The Bid must be in cash unless Trustee consents otherwise.
- d. The Bid must be accompanied by satisfactory evidence of committed financing or other financial ability to consummate the Transaction in a timely manner.
- e. If a Bid indicates a Potential Bidder will seek the assumption and assignment of executory contract(s) or unexpired lease(s), the Bid must include sufficient information to permit Trustee, if necessary, to timely file a motion to assume and assign such executory contract(s) or unexpired lease(s) to determine the proposed assignee's ability to comply with Code § 365 (to the extent applicable).
- f. The Bid cannot be conditioned upon the Bankruptcy Court's approval of any bid protections, such as a break-up fee, termination fee, expense reimbursement, working fee or similar type of payment.
- g. The Bid must expressly acknowledge and represent that the Potential Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Assets and business of Debtor and the Transaction prior to making its Bid, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and the Assets and business of Debtor in making its Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the business or Assets of Debtor or the Transaction, or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the APA ultimately accepted and executed by Trustee, and (iv) has

authority to make the Bid, execute any documents to close on the Transaction, and proceed to closing on the Transaction.

h. The Bid must be received by the Bid Deadline.

29. If more than one Qualified Bid is submitted for the Assets in accordance with the Bid Procedures, Trustee will conduct an auction (the "Auction"). Trustee will notify all Qualified Bidders who have submitted Qualified Bids (collectively, the "Auction Participants") of the time and date of the Auction.

30. Prior to the Auction, Trustee will evaluate the Qualified Bids and select the Qualified Bid or combination of Qualified Bids that Trustee determines in her business judgment to be the highest or best Qualified Bid(s) (the "Initial Highest Bid") for the assets of Debtor's estate. In making this determination, Trustee may consider, among other things, the amount of cash to be paid or delivered, the conditions to closing, the Assets being purchased, the amount of liabilities being assumed and related matters.

31. Trustee will give each of the Auction Participants notice of the Initial Highest Bid and a copy of such Bid prior to the scheduled start of the Auction.

32. At the commencement of the Auction, Trustee will formally announce the Initial Highest Bid(s) and the assets to which they relate. All Qualified Bids at the Auction will be based on the Initial Highest Bid(s) and increased therefrom, and thereafter made in minimum increments higher than the previous Qualified Bid in an amount of at least \$10,000.<sup>2</sup>

33. Trustee will have the right to adopt such other rules for the Auction which she believes in her business judgment will promote the goals of the Auction to obtain the highest and best price for the Assets.

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<sup>2</sup> Minimum bid increments must consist solely of cash consideration unless otherwise authorized by Trustee.

34. Trustee may (a) determine which Qualified Bid, if any, is the highest or otherwise best offer(s); and (b) reject at any time before entry of an Order of the Bankruptcy Court approving the Successful Bid(s), any bid that, in the discretion of Trustee, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interests of Debtor's estate and its creditors.

35. The Bid Procedures provide an appropriate framework for obtaining offers for the purchase of the Assets and will enable Trustee to review, analyze and compare all Bids received to determine which Bid (or Bids) is in the best interests of Debtor's estate and its creditors. Therefore, Trustee respectfully requests this Court approve the Bid Procedures and authorize Trustee to take any and all actions necessary or appropriate to implement the Bid Procedures.

#### Credit Bid

36. Code § 363(k) states:

At a sale under subsection (b) of this section of property that is subject to a lien that secures an allowed claim, unless the court for cause orders otherwise the holder of such claim may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of the property.

37. Cause exists to prohibit credit bidding in this case. The Debtors' schedules only list judgment lienholders as creditors who may have a claim secured by property. The Trustee disputes these liens, as explained in the Trustee's Motion for Partial Summary Judgment [Doc. 59] in Adv. Pro. No. 17-2010. As there is a dispute about whether these judgment lienholders have liens on the property, credit bidding should not be permitted. "[C]ourts have found 'cause' to deny the opportunity to credit bid when a sufficient dispute exists regarding the validity of the lien forming the basis for the credit bid." *In re L.L. Murphrey Co.*, No. 12-03837-8, 2013 WL 2451368, at \*5 (Bankr. E.D.N.C. June 6, 2013); *see also In re Fisker Automotive Holdings, Inc.*, 510 B.R. 55, 61 (Bankr. D. Del. 2014) (limiting credit bidding when "the validity of [creditor's]

secured status has not been determined”); *In re Daufuskie Island Properties, LLC*, 441 B.R. 60, 63 (Bankr. D.S.C. 2010) (finding that cause existed to deny credit bidding when claim was disputed); *In re McMullan*, 196 B.R. 818, 835 (Bankr. W.D. Ark. 1996) (holding that if there was a sale, the creditor could not credit bid “because the validity of its liens and security interests are unresolved”), *aff’d*, 162 F.3d 1164 (8th Cir. 1998).

**Procedure to Address Assumption and Assignment, or Rejection,  
of Unexpired Leases and Executory Contracts**

38. Trustee currently anticipates that the Prevailing Bid at the Sale Hearing may include provisions requesting that the Trustee assume and assign, or reject, certain unexpired leases or executory contracts. However, the Trustee does not yet know exactly which unexpired leases or executory contracts may be assumed and assigned, or rejected. Accordingly, Trustee is proposing to send a separate notice to all non-debtor parties to unexpired leases and executory contracts of the potential assumption and assignment, or rejection, of unexpired leases and executory contracts, including schedules detailing Trustee’s calculation of the amount, if any, necessary to cure any default or compensate for any actual pecuniary loss in accordance with Code § 365(b)(1)(A) and (B).

39. Additionally, as soon as the Trustee determines the highest and best bid, the Trustee will file a Supplemental Notice with the Bankruptcy Court and deliver it to all non-debtor parties to unexpired leases and executory contracts. The Supplemental Notice will, among other things, identify the unexpired leases and executory contracts that the Successful Bidder(s) are proposing to have Trustee assume and assign, or reject, if any.

**Objections and Related Procedures**

40. Trustee requests the following procedures be implemented with respect to the notices discussed herein and relief related thereto:

- a. Objections, if any, to all or any part of the Motion shall be filed on the docket of the Bankruptcy Court and served such that each objection is actually received by the following parties on or before the relevant objection deadline specified above: (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, adam.e.miller@usdoj.gov.
- b. Any person failing to timely file an objection to the Motion shall be barred from objecting to the Motion, including the sale of the Assets free and clear of any and all liens, claims, encumbrances, and other interests, and will be deemed to consent to the Transaction(s), including the sale of the Assets free and clear of any and all liens, claims, encumbrances, and other interests.

41. The above procedures are fair, reasonable and appropriate to provide a framework for the Court to consider the Motion and the relief requested thereunder. Trustee respectfully requests the Court approve the foregoing notice and objection procedures.

#### **LEGAL ARGUMENT SUPPORTING RELIEF REQUESTED**

##### **Sale Under Code § 363 Generally**

42. Code § 363(b)(1) provides: "The Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." Code § 105(a) provides in relevant part: "The Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

43. A sale of assets of a debtor should be authorized pursuant to Code § 363 if a sound business purpose exists for doing so. *See, e.g., Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513, 515 (7th Cir. 1991); *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1993). The Trustee has determined a sale of the Assets to the Successful Bidder(s) is the best way to maximize the value of the Assets in this case. Maximization of asset value is a sound business purpose, warranting authorization of the sale.

**Sale Free of Liens, Interests, Claims and Encumbrances Under Code § 363(f)**

44. Code § 363(f) provides:

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if –

- (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

45. Code § 363(f) is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to warrant the Trustee's sale of the Assets free and clear of all liens, claims and encumbrances. Each lien, claim or encumbrance attached to the Assets satisfies at least one of the five conditions of Code § 363(f), and Trustee submits that any such lien, claim or encumbrance will be adequately protected by attachment to the net proceeds of the proposed sale(s), subject to any claims and defenses Trustee or any other party in interest may possess with respect thereto. For the avoidance of doubt, this includes, without limitation, the Trustee's Motion for Partial Summary Judgment [Doc. 59] in Adv. Pro. No. 17-2010. Accordingly, the Trustee requests that the Assets be transferred to the Successful Bidder(s) free and clear of all liens, claims, interests and encumbrances, with such liens, claims, interests and encumbrances to attach to the proceeds of the sale of the Assets.

46. The Trustee is not seeking to sell the Customer Deposits free and clear of any interest that the Debtor's customers may have in the Customer Deposits. The Stalking Horse

APA contemplates that the Trustee will transfer the Customer Deposits to the Stalking Horse Purchaser, and the Customer Deposits shall remain subject to the customers' claims for refund of the Customer Deposits.

**Good Faith Purchaser Code § 363(m)**

47. Code § 363 (m) provides:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

While the Bankruptcy Code does not define "good faith," the Seventh Circuit in *In the Matter of Andy Frain Services, Inc.*, 798 F.2d 1113 (7th Cir. 1986) held that:

The requirement that a purchaser act in good faith . . . speaks to the integrity of his conduct in the course of the sale proceedings. Typically, the misconduct that would destroy a purchaser's good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.

798 F.2d at 1125 (emphasis omitted) (quoting *In re Rock Industries Machinery Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978) (interpreting Bankruptcy Rule 805, the precursor of Code § 363(m))).

The Trustee submits that any agreement reached with the Successful Bidder pursuant to the Bidding Procedures is an arm's length negotiated transaction entitled to the protections of Code § 363(m) and will adduce evidence of the same at the Sale Hearing. See *In re Trism*, 328 F.3d 1003, 1006 (8th Cir. 2003).

**Bid Protection Under Code § 363**

48. The Stalking Horse APA provides that the Trustee may solicit bids from other prospective buyers and conduct an auction. However, in light of the Stalking Horse Purchaser's commitments and undertakings with respect to this transaction, the Stalking Horse APA provides

that the Stalking Horse Purchaser will have the right to seek expense reimbursement as an administrative expense claim of up to 3% of the purchase price. The Stalking Horse APA further provides that the Stalking Horse Purchaser will have matching rights with respect to other bids, with the other bidder having the right to increase its offer over the matched offer, and with the Stalking Horse Purchaser having the ability to keep matching the highest offer.

49. In the context of bankruptcy cases, it is appropriate to grant bidding incentives to prospective purchasers. Bidding incentives are considered proper compensation for the risk involved in preparing and proposing a bid that will establish a minimum standard for competing bids. *See In re Integrated Resources, Inc.*, 147 B.R. 650, 659 (S.D.N.Y. 1992) (Bid fees are “important tools to encourage bidding and to maximize the value of the debtor’s assets”).

50. Here, the bidding incentives are entirely fair and reasonable. The ability to seek an expense reimbursement of 3% of a transaction is modest. Further, the matching rights do not unduly chill any potential bidding process in that a potential purchaser can continue to keep bidding on the Assets even if matched by the Stalking Horse Purchaser, subject to the Stalking Horse Purchaser being declared the high bidder if it matches the highest bid.

51. The bid protections described herein meet the “business judgment rule” standard. The bid protection described herein promote more competitive bidding by inducing the Stalking Horse Purchaser to hold its offer open as a minimum or floor bid on which other bidders—and the Trustee—can rely. The Stalking Horse bid increases the likelihood that the price at which the Assets are sold will reflect their true worth, and the Stalking Horse Purchaser is entitled to be able to seek compensation as a result.



**Assumption and Assignment, or Rejection, of Unexpired Leases and Executory Contracts**

52. Code § 365(a) provides that a trustee “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). Upon finding that a trustee has exercised its sound business judgment in determining to assume an executory contract or unexpired lease, courts should approve the assumption under section 365(a) of the Bankruptcy Code unless there is “a finding of bad faith or gross abuse of [the trustee’s] ‘business discretion’”. See *In re Crystalin, L.L.C.*, 293 B.R. 455, 463-64 (8th Cir. B.A.P. 2003)(citations omitted).

53. Pursuant to Code § 365(f)(2), a trustee may assign an executory contract or unexpired lease of nonresidential real property if “adequate assurance of future performance by the assignee of such contract or lease is provided.” 11 U.S.C. § 365(f)(2). “As used in [Code] § 365(f)(2)(B), ‘adequate’ is a term of art and simply means assurances that are commercially reasonable under the particular circumstances of the case. This is a commonsense, case-specific inquiry, and [Code] § 365(f)(2)(B) is given a practical, pragmatic construction....” *In re Resource Technology Corp.*, 624 F.3d 376, 383 (7th Cir. 2010)(internal quotation and citation omitted).

54. At the Sale Hearing, to the extent necessary, the Trustee will be prepared to proffer testimony or present evidence to demonstrate the ability of each Prevailing Bidder to perform under any of the contracts that the Trustee seeks to assume and assign. The Sale Hearing, therefore, will provide the Court and other interested parties with the opportunity to evaluate the ability of a Prevailing Bidder to provide adequate assurance of future performance, as required by Code § 365(b)(1)(C). Accordingly, it is requested that at the conclusion of the

Sale Hearing, the proposed assumption and assignment of any identified executory contracts or leases be approved.

55. To facilitate the assumption and assignment of any executory contracts or unexpired leases, the Trustee further requests the Court find all anti-assignment provisions of such executory contracts or unexpired leases to be unenforceable under Code § 365(f).<sup>3</sup>

WHEREFORE, Trustee respectfully requests the Court enter an Order granting the requested relief and granting such other and further relief as is necessary and appropriate.

Date: August 26, 2018

Respectfully submitted,

**SPENCER FANE LLP**

By: /s/ Eric L. Johnson

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COUNSEL FOR TRUSTEE

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<sup>3</sup>Code § 365(f)(1) provides in part that, “notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease...” 11 U.S.C. § 365(f)(1). Code § 365(f)(3) further provides that “Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.” 11 U.S.C. § 365(f)(3).

**EXHIBIT 1**

**Proposed Bid Procedures and Bid Protection Order for Initial Hearing**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
 )  
Debtor. )

**ORDER APPROVING PROCEDURES FOR THE SOLICITATION OF OFFERS FOR  
(A) THE SALE OF SUBSTANTIALLY ALL OF DEBTOR’S ASSETS FREE AND  
CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (B) THE  
POSSIBLE ASSUMPTION AND ASSIGNMENT, OR REJECTION, OF CERTAIN  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES;  
AND (C) RELATED RELIEF**

At a hearing on [ ], 2018 (the “Bid Procedures Hearing”), this Court considered Trustee’s Motion to Approve (a) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. \_\_\_\_\_] (the “Motion”).<sup>1</sup> Based on the arguments and evidence at the Bid Procedures Hearing, the Court hereby finds and determines that:

1. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, the consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b), and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. As reflected in the Certificate of Service [Docket \_\_\_\_] filed with respect to the Bid Procedures Hearing, notice of the Motion and of the Bid Procedures Hearing were served on

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<sup>1</sup> Capitalized terms that are not defined herein shall have the meanings given to them in the Bid Procedures.

interested parties (the "Notice"). The Notice is reasonable and sufficient in light of the circumstances and nature of the relief requested in the Motion, and no other or further notice of the Motion for the Bid Procedures Hearing is necessary. A reasonable and fair opportunity to object to the Motion and the relief granted in this Order has been afforded under the circumstances.

3. Trustee has articulated good and sufficient reasons for this Court to grant the relief requested in the Motion. Such good and sufficient reasons were set forth in the Motion and on the record at the Bid Procedures Hearing and are incorporated by reference herein and, among other things, form the basis for the findings of fact and conclusions of law set forth herein.

4. The bid procedures in the form attached as **Exhibit A** (the "Bid Procedures"), are fair, reasonable, and appropriate, and are designed to maximize the value of the Debtor's estate.

5. The Stalking Horse APA in **Exhibit B**, or as modified in the discretion of Trustee, is also fair, reasonable, and appropriate, and is designed to maximize the value of Debtor's estate.

6. The service of the notice of the Bid Procedures, the Sale Hearing (as defined below), the Objection Deadline (as defined below), the respective dates, times and places for an Auction (as defined below), if required under the Bid Procedures, substantially in the form attached as **Exhibit C** (the "Transaction Notice"), is adequate and reasonably calculated to provide due, proper, and timely notice to all interested parties of, among other things, the entry of this Order, the Bid Procedures, the Auction (if required under the Bid Procedures), the Sale Hearing, the Sale Motion (as defined below), the proposed Transaction(s), including the sale of Debtor's estate's right, title, and interest in, to, and under the Assets free and clear of any and all liens, claims, encumbrances, and interests, and the procedure for objecting thereto, the possible

assumption and assignment of desired unexpired leases and executory contracts and rights thereunder, and the procedures for objecting thereto. Except as otherwise set forth herein, no other or further notice is necessary.

7. The procedures for objecting to the Transaction(s) and the proposed assumption and assignment of desired unexpired leases and executory contracts are fair, reasonable, and appropriate.

8. The findings of fact and conclusions of law herein constitute the Court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- a. The Motion is **GRANTED** as set forth herein.
- b. All objections to the relief requested in the Motion, if any, that have not been withdrawn, waived, or settled as announced to the Court at the Bid Procedures Hearing are denied and overruled in their entirety on the merits.
- c. The Stalking Horse APA is fair, reasonable, and appropriate, and is designed to maximize the value of Debtor's estate.
- d. Trustee's selection of the Stalking Horse Purchaser is fair, reasonable, and appropriate, and is designed to maximize the value of Debtor's estate.
- e. The Bid Procedures are fair, reasonable, and appropriate, and are designed to maximize the value of Debtor's estate.
- f. The Stalking Horse Purchaser is authorized to seek expense reimbursement up to 3% of the purchase price, in accordance with the terms of the Stalking Horse APA.
- g. No person other than the Stalking Horse Purchaser shall be entitled to any expense reimbursement, break-up fee, "topping," termination, or other similar fee or payment, and by submitting a Bid, such person or entity is

deemed to have waived its right to request or file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of Code § 503(b) or otherwise.

- h. Trustee may proceed with the Transaction(s) in accordance with the Bid Procedures, which procedures are hereby approved in their entirety in the form attached hereto as Exhibit A. However, the consummation of the sale of the Assets (as provided in the APA) shall remain subject to the entry of an Order granting the Motion.
- i. Potential Bidders must comply with all terms of the Bid Procedures in order to participate in the bidding process. All Bids must satisfy all of the requirements contained in the Bid Procedures.
- j. The Stalking Horse Purchaser is deemed a Qualified Bidder, and the Stalking Horse APA is deemed a Qualified Bid.
- k. Trustee is authorized and directed to take any and all actions necessary or appropriate to implement the Bid Procedures. The process for submitting Qualified Bids is fair, reasonable and appropriate and is designed to maximize recoveries for the benefit of Debtor's estate, its creditors and other parties in interest. Any disputes as to the selection of a Qualified Bid, Initial Highest Bid, and/or Successful Bid shall be resolved by this Court.
- l. The Stalking Horse APA, in the form attached as Exhibit B, is approved in its entirety. Notwithstanding the foregoing, Trustee shall have the right to modify the Stalking Horse APA as appropriate in her sole discretion without further Order of this Court in order to consummate the Transaction(s).
- m. As further described below, the key dates for this Order and the Bid Procedures are as follows, with each of such dates being subject to extension by Trustee:

<u>Event</u>	<u>Date and Time (if applicable)</u>
Transaction Notice	Within seven (7) days of the entry of this Order
Notice to Contract/Lease Parties of Potential Assignment of Rejection	Within seven (7) days of the entry of this Order
Bid Deadline	[21 days after Order], 5:00 p.m. prevailing Central Time
Auction	[35 days after Order], 9:30 a.m. prevailing Central time

Contract/Lease and Sale [42 days after Order], 3:00 p.m. prevailing Central Time  
Hearing Objection Deadline

Sale Hearing [To be determined by Court] a.m. prevailing Central Time

- n. Any person desiring to submit a Bid for the Assets must comply with the Bid Procedures and shall not be permitted to participate at the Auction unless such person is an Auction Participant or is otherwise permitted to participate at the Auction under the Bid Procedures.
- o. If the Trustee does not receive any Qualified Bids (other than the Stalking Horse APA); (i) Trustee will not hold the Auction, and (ii) the Stalking Horse Purchaser will be deemed the Successful Bidder for the Assets.
- p. If a Qualified Bid (other than the Stalking Horse APA) has been submitted for the Assets in accordance with the Bid Procedures, Trustee will conduct an auction as to such Assets (the "Auction") on [\_\_\_\_], 2018, prevailing Central time, at the offices of Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, Missouri 64106 or at such later time or other place as designated by Trustee, or approved by Order of the Court, and of which Trustee will notify all Qualified Bidders who have submitted Qualified Bids.
- q. A final hearing (the "Sale Hearing") to consider the Motion shall be held [\_\_\_\_], 2018, in Courtroom 4B before the Honorable Dennis R. Dow, United States Bankruptcy Judge, at the United States Bankruptcy Court, Western District of Missouri, 80 Lafayette Street, Jefferson City, MO.
- r. Objections, if any, to the Motion shall be filed on the docket of the Court and served such that each objection is actually received by the following parties on or before 3:00 p.m., prevailing Central time on [\_\_\_\_], 2018 (the "Objection Deadline"): (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, adam.e.miller@usdoj.gov.
- s. Any person failing to timely file an objection to the Motion shall be barred from objecting to the Motion, including the sale of the Assets in accordance with the Stalking Horse APA, free and clear of any and all liens, claims, encumbrances, and interests and will be deemed to consent to the Transaction(s), including the sale of the Assets in accordance with the Stalking Horse APA free and clear of any and all liens, claims, encumbrances, and other interests; provided however, that the Transaction shall not be free and clear of any liens, claims, encumbrances, or interests that customers have in the Customer Deposits.



- t. Any person failing to timely file an objection to any cure amounts set forth in notice of the proposed assumption and assignment of the Trustee's right, title and interest in, to and under desired unexpired leases and executory contracts shall be barred from objecting to the cure amounts and from asserting a claim for any cure or other amounts (or asserting that any defaults exist under the desired unexpired leases and executory contracts as of the date of assumption) against the Trustee, the estate, or the Successful Bidder(s) with respect to the desired unexpired leases and executory contracts arising prior to assumption and assignment of the Trustee's right, title and interest in, to and under the desired unexpired leases and executory contracts and will be deemed to consent to the proposed assumption and assignment of the desired unexpired leases and executory contracts and rights thereunder as provided by such Transaction(s).
- u. Where any party files a timely objection to the maximum cure amount set forth in the notice and the parties are unable to consensually resolve the dispute prior to the Sale Hearing, the amount to be paid with respect to such objection will be determined at the Sale Hearing or such other date and time as may be fixed by this Court. All other objections to the proposed assumption and assignment of the Trustee's right, title and interest in, to and under the desired unexpired leases and executory contracts will be heard at the Sale Hearing.
- v. For cause shown, notwithstanding Bankruptcy Rules 6004, 6006, or otherwise, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. To the extent applicable, the stays described in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived.
- w. The terms of this Order shall control to the extent of any conflict with the Motion or the Bid Procedures.
- x. This Order shall become effective immediately upon its entry.
- y. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

Date: \_\_\_\_\_, 2018

\_\_\_\_\_  
HONORABLE DENNIS R. DOW  
United States Bankruptcy Judge

**Exhibit A**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
 )  
Debtor. )

**BID PROCEDURES**

On August 25, 2018, Trustee filed her Motion to Approve (a) Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures Pursuant to 11 U.S.C. § 365, and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. \_\_\_\_] (the “Motion”), pursuant to which Trustee requested authority to sell substantially all of the assets of Debtor’s estate to the highest and best bidders subject to the process outlined herein (the “Transaction”). On August \_\_, 2018, Trustee entered into an asset purchase agreement (the “Stalking Horse APA”) with Central States Water Resources, Inc. (the “Stalking Horse Purchaser”) pursuant to which the Stalking Horse Purchaser proposes to acquire from Trustee the Assets (as defined in the Stalking Horse APA). These Bid Procedures have been approved and authorized pursuant to the Order Approving Procedures for the Solicitation of Offers for (a) the Sale of Substantially All of Debtor’s Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (b) the Possible Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and (c) Related Relief [Docket No. \_\_\_\_] (the “Bid Procedures Order”) entered by the United States Bankruptcy Court for the Western District of Missouri (the “Bankruptcy Court”) on [\_\_], 2018.

**The Bidding Process**

Subject to the conditions set forth herein, at any time on or before [\_\_\_\_], 2018, at 5:00 p.m. (prevailing Central Time) (the “Bid Deadline”), Trustee will (i) engage in discussions and negotiations regarding a sale transaction with any entity (a “Potential Bidder”) that has made inquiry with Debtor, Trustee, or counsel thereof, within the past 12 months regarding potential asset sales and/or that Trustee reasonably believes could lead to a bona fide written offer relating to a Transaction that would meet the requirements of these Bid Procedures (the “Proposal”), (ii) furnish to such Potential Bidder and its Representatives,<sup>1</sup> and to any other party that has made a

<sup>1</sup> “Representatives” means, with respect to any person, the officers, directors, employees, members, managers, partners, investment bankers, attorneys, accountants, consultants or other advisors, agents or representatives of such person, when acting in such capacity on behalf of such person.

request therefor in connection with its consideration of making an offer or proposal relating to a Transaction (each a “Bid”), public and non-public information relating to Debtor and its assets and businesses and (iii) afford to any such Potential Bidder reasonable access to any data site, properties, assets, books or records of Debtor.

Trustee shall provide these Bid Procedures,<sup>2</sup> together with a copy of the Stalking Horse APA to each Potential Bidder.

Any Potential Bidder wishing to conduct due diligence concerning a prospective Transaction shall be granted access to all relevant business, financial and other information of Debtor as may be reasonably necessary (to be determined at Trustee’s discretion) to enable such Potential Bidder to evaluate the assets and business of Debtor and the prospective Transaction. Debtor shall make such access available during normal business hours as soon as reasonably practicable. Potential Bidders interested in conducting due diligence should contact counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com. Notwithstanding the foregoing, Trustee is not required to provide confidential or proprietary information to any person if Trustee determines such disclosure could be detrimental to the interests of Debtor’s estate.

Prior to the selection of a Bid as the highest or best offer for any individual asset, portion of the Assets, or all of the Assets (the “Successful Bid(s)”), Trustee may: (a) receive Bids from Potential Bidders, (b) request information from Potential Bidders and engage in discussions with Potential Bidders and take such other actions to determine whether any Bid constitutes or could lead to a superior Proposal, (c) evaluate any Bid made by a Potential Bidder, (d) engage in discussions and negotiations with any Potential Bidder with respect to any Bid submitted by a Potential Bidder, and (e) take any other actions contemplated under these Bid Procedures (collectively, the “Bidding Process”).

#### **Deliveries by Potential Bidders**

In order to participate in the Bidding Process, each Potential Bidder (other than the Stalking Horse Purchaser) must deliver the following to Trustee prior to the Bid Deadline (unless previously delivered in a form acceptable to Trustee as provided herein or waived by Trustee):

- a. Financial statements of, or other information relating to, the Potential Bidder or, if the Potential Bidder is an entity formed for the purpose of the Transaction, financial statements of or other information relating to the equity holder(s) of the Potential Bidder, or such other form of financial disclosure or evidence of financial capability and performance and legal authority acceptable to Trustee (and, if requested by Trustee, certified to by a duly authorized representative of the Potential Bidder (or equity holders thereof, as applicable)), demonstrating such Potential Bidder’s financial capability and legal authority to close the proposed Transaction in a timely manner.

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<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the same meaning as set forth in the Motion.

A Potential Bidder that delivers the documents described in subparagraph (a) above and that Trustee determines in her business judgment is financially capable of consummating the Transaction in a timely manner shall be permitted to further participate in the Bidding Process. Trustee may require an update of such information and an affirmation of any Potential Bidder's financial capability to bid and consummate any Transaction contemplated hereunder.

#### **Due Diligence for Potential Bidders**

To obtain due diligence access or additional information, a Potential Bidder must first advise Trustee of the nature and extent of additional due diligence such Potential Bidder may wish to conduct. Trustee shall coordinate all requests for additional information and due diligence access by such Potential Bidders with Debtor. No conditions relating to the completion of due diligence will be permitted to exist after the Bid Deadline, except as otherwise agreed to by Trustee in writing.

#### **Submission by Bid Deadline**

A Potential Bidder who desires to make a Bid must deliver a written copy of its written asset purchase agreement marked to show the specific changes to the Stalking Horse APA that the Potential Bidder requires (which marked copy may be an electronic comparison of the written asset purchase agreement submitted and the Stalking Horse APA) on or before [\_\_\_\_], 2018, 5:00 p.m., prevailing Central time, to counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com. Trustee may extend the Bid Deadline, but Trustee shall promptly notify all Potential Bidders of any such extension.

#### **Determination of "Qualified Bid" Status**

A Bid received from a Potential Bidder by the Bid Deadline (other than the Stalking Horse Purchaser) will constitute a "Qualified Bid" only if it includes all of the following documents (the compliance of which shall be determined by Trustee) (collectively, the "Required Bid Documents") and a Good Faith Deposit as described below and meets all of the Bid Requirements (as defined below):

- a. A written asset purchase agreement duly executed by the Potential Bidder in substantially the same form as the Stalking Horse APA with changes only regarding the applicable Assets and contracts being purchased and changes acceptable to Trustee, together with a copy of such agreement marked to show the specific changes to the Stalking Horse APA that the Potential Bidder requires (which marked copy may be an electronic comparison of the written asset purchase agreement submitted and the Stalking Horse APA). The asset purchase agreement submitted by a Potential Bidder shall:
  - i. specifically delineate which individual Asset, portion of the Assets, or all of the Assets the Potential Bidder proposes to purchase;

- ii. if not purchasing all of the Assets, allocate the value the Potential Bidder places on the Assets that is proposed to be purchased;
  - iii. include a complete set of all schedules and exhibits thereto which, to the extent practicable, will be marked to show the specific changes to the schedules and exhibits to the Stalking Horse APA, if applicable;
  - iv. identify each and every executory contract and unexpired lease that is to be assumed and assigned to the Potential Bidder, if any;
  - v. not contain any financing or due diligence contingencies to closing on the proposed Transaction;
  - vi. not contain any condition to closing of the Transaction on the receipt of any third party approvals (excluding required Bankruptcy Court approval and any required governmental and/or regulatory approvals, including without limitation, approval from the Missouri Public Service Commission); and
  - vii. provide that the offer of the Potential Bidder is irrevocable through 180 days after the entry of an Order approving the Sale Motion and subject to the backup bidder provisions herein.
- b. A good faith deposit (the “Good Faith Deposit”) in the form of a wire transfer to Trustee or a certified or bank check payable to the order of Trustee (or other form acceptable to Trustee) in the amount of at least 10% of the proposed purchase price.

Each Potential Bidder that makes a Qualified Bid shall be referred to as a “Qualified Bidder.” Notwithstanding anything to the contrary herein, the Stalking Horse Purchaser shall be deemed a Qualified Bidder, and the Stalking Horse APA shall be deemed a Qualified Bid.

#### **Bid Requirements**

All Bids must also satisfy all of the following requirements, all solely as determined by Trustee:

- a. The Bid must provide for consideration under the APA for each of the Assets proposed to be purchased.
- b. The Bid must provide for the purchase of all or substantially all of the Assets and for consideration that exceeds the cash portion of the consideration offered by the Stalking Horse Purchaser by at least \$15,000 (the “Initial Minimum Overbid”). The Trustee may aggregate two or more Bids that collectively provide for the purchase for all or substantially all of the Assets and exceed the Initial Minimum Overbid into a joint Bid, which shall be deemed a Qualified Bid if it otherwise meets the bid requirements.

- c. The Bid must be in cash unless Trustee consents otherwise.
- d. The Bid must be accompanied by satisfactory evidence of committed financing or other financial ability to consummate the Transaction in a timely manner.
- e. If a Bid indicates that a Potential Bidder will seek the assumption and assignment of executory contract(s) or unexpired lease(s), the Bid must include sufficient information to permit Trustee, if necessary, to timely file a motion to assume and assign such executory contract(s) or unexpired lease(s) to determine the proposed assignee's ability to comply with Code § 365 (to the extent applicable).
- f. The Bid (other than the Stalking Horse APA) cannot be conditioned upon the Bankruptcy Court's approval of any bid protections, such as a break-up fee, termination fee, expense reimbursement, working fee or similar type of payment.
- g. The Bid must expressly acknowledge and represent that the Potential Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the assets and businesses of Debtor and the Transaction prior to making its Bid, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and the assets and businesses of Debtor in making its Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the business or assets of Debtor or the Transaction, or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the APA ultimately accepted and executed by Trustee, and (iv) has authority to make the Bid, execute any documents to close on the Transaction and proceed to closing on the Transaction.
- h. The Bid must be received by the Bid Deadline.

#### Auction

If a Qualified Bidder (other than the Stalking Horse Purchaser) has been submitted for any or all of the Assets, the Trustee shall conduct an auction (the "Auction") with respect to such Qualified Bids in order to determine, in the business judgment of Trustee, the Successful Bid(s). If no Qualified Bid (other than the Stalking Horse APA) has been submitted by the Bid Deadline or aggregated by the Trustee, the Stalking Horse APA shall be deemed the Successful Bid and no Auction shall be conducted.

Prior to the Auction, Trustee shall attempt to aggregate Bids for less than substantially all of the Assets into a Qualified Bid, evaluate the Qualified Bids and select the Qualified Bid or combination of Qualified Bids Trustee determines in her business judgment to be the highest or best Qualified Bid(s) (the "Initial Highest Bid") for a sale of the Assets. In making this

determination, Trustee may consider, among other things, the amount of cash to be paid or delivered, and the other terms and conditions of the Qualified Bid(s). For the avoidance of doubt, Trustee shall not be required to aggregate Bids for less than substantially all of the Assets if there are no circumstances under which such aggregation would constitute a Qualified Bid.

The Auction, if required, will commence at 9:30 a.m. (prevailing Central Time) on [\_\_\_\_], 2018 at the offices of Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, Missouri 64106 or at such later time or other place as designated by Trustee, or approved by Order of the Bankruptcy Court, and of which Trustee will notify all Qualified Bidders who have submitted Qualified Bids (collectively, the "Auction Participants").

Trustee shall give each of the Auction Participants notice of the Initial Highest Bid and a copy of such Bid prior to the scheduled start of the Auction.

Only Debtor, Trustee, the Auction Participants, potential financing sources of the Auction Participants, and their respective Representatives will be entitled to attend, participate and be heard at the Auction. For the avoidance of doubt, Bidders that submit Bids for only a portion of the Assets that are not aggregated into a joint bid that is a Qualified Bid after the Bid Deadline but prior to the Auction, shall not be permitted to attend, participate, or be heard at the Auction. In order to participate and be heard at the Auction, a party must actually attend the Auction; telephonic appearances will not be allowed.

At the commencement of the Auction, Trustee shall formally announce the Initial Highest Bid(s) and the assets to which they relate. All Qualified Bids at the Auction will be based on and increased therefrom, and thereafter made in minimum increments higher than the previous Qualified Bid by at least \$10,000.<sup>3</sup>

Trustee shall have the right to adopt such other rules for the Auction which Trustee believes in her business judgment will promote the goals of the Auction, including, without limitation, that Trustee can continue to take and negotiate bids in lot or in bulk until the Successful Bid(s) have been selected.

Each Auction Participant shall be deemed to have agreed to keep its final Qualified Bid made at or prior to the Auction open through 180 days after the entry of an Order approving the Motion. Bidding at the Auction will continue until such time as the highest or otherwise best Qualified Bid(s) are determined in the business judgment of Trustee. To facilitate a deliberate and orderly consideration of competing Qualified Bids submitted at the Auction, Trustee may adjourn the Auction at any time and from time-to-time and may conduct multiple rounds of bidding. Upon conclusion of the Auction, Trustee will (a) review each Qualified Bid on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the sale, and (b) identify the Successful Bid(s). In making this determination, Trustee may consider, among other things, the amount of cash to be paid or delivered and the other terms or conditions of the Qualified Bid(s), and the determination by Trustee shall be final for the purposes of these Bid Procedures.

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<sup>3</sup> Minimum bid increments must consist solely of cash consideration unless otherwise authorized by Trustee.

### **Credit Bid Right**

The sale of Water Systems is not subject to the right to credit bid pursuant to Code §363(k).

### **Sale Hearing**

An evidentiary hearing to consider the Sale Motion and approval of the Successful Bid(s) (the "Sale Hearing"), will be held on [\_\_\_\_], 2018 at [\_\_\_\_], prevailing Central time, in the Courtroom 4B before the Honorable Dennis R. Dow, United States Bankruptcy Judge, at the United States Bankruptcy Court, Western District of Missouri, 80 Lafayette Street, Jefferson City, MO. The Sale Hearing may be adjourned or rescheduled as ordered by the Bankruptcy Court without further notice to creditors and parties in interest other than by announcement by Trustee of the adjourned date at the Sale Hearing.

Trustee's presentation to the Bankruptcy Court for approval of the Successful Bid(s) does not constitute Trustee's acceptance of the Bid(s). Trustee will be deemed to have accepted a Bid only when the Bid has been approved by Order of the Bankruptcy Court.

### **Objections**

Objections, if any, to the Motion, or to any assumption and assignment, or rejection, of any unexpired leases or executory contract, shall be filed on the docket of the Bankruptcy Court and served such that each objection is actually received by the following parties on or before **3:00 p.m., prevailing Central time on [\_\_\_\_], 2018** (the "Objection Deadline"): (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, adam.e.miller@usdoj.gov.

### **Back-Up Bidders**

If any Auction Participant whose Qualified Bid is a Successful Bid (a "Successful Bidder") fails to consummate the Transaction because of a breach or failure to perform on the part of such Successful Bidder, or for any reason other than the failure of the Bankruptcy Court to approve the terms of the Transaction, the Auction Participant that had submitted the next highest or otherwise best Qualified Bid for the same asset or assets of the estates at the Auction or prior to the Auction (the "Back-Up Bidder") will be deemed to be the Successful Bidder, and Trustee will be authorized to consummate the Transaction with such Auction Participant without further order of the Bankruptcy Court, and such Qualified Bid shall thereupon be deemed the Successful Bid; provided that upon being notified that its Qualified Bid has become the Successful Bid, the Auction Participant submitting such Qualified Bid shall within three (3) business days after such notification provide a Good Faith Deposit (unless such Auction Participant previously shall have provided a Good Faith Deposit that shall not have been returned as described below). Upon providing such Good Faith Deposit, such Auction Participant shall be deemed the Successful Bidder. If any Auction Participant fails to consummate the Transaction because of a breach or failure to perform on the part of such Auction Participant (including, without limitation, the failure to timely deposit the Good Faith Deposit), the process described



above may continue with other Auction Participants in decreasing order of the Qualified Bids as determined by Trustee, until an Auction Participant shall consummate the Transaction.

#### **Disposition of Good Faith Deposit**

The Good Faith Deposit of the Successful Bidder(s), or a Back-Up Bidder that consummates a transaction in place of a Successful Bidder as provided for herein, shall be retained by Trustee and applied toward the payment of the Successful Bid(s) at the closing of the Transaction. If any Successful or Back-Up Bidder fails, for any reason other than Bankruptcy Court denial of the Transaction, to close a Transaction, then the Good Faith Deposit shall be retained by Debtor's estate as partial damages for the failure to consummate the Transaction (the "Forfeited Good Faith Deposit"). The Good Faith Deposit of all Qualified Bidders (other than the Successful Bidder(s), a Back-Up Bidder that consummates a Transaction in place of a Successful Bidder as provided for herein, or a Successful Bidder or a Back-Up Bidder that forfeits its deposit as liquidated damages as provided for herein) will be returned, without interest, to each such Qualified Bidder within ten business days after the closing of all proposed Transactions approved by the Bankruptcy Court at the Sale Hearing. For the avoidance of doubt, any Forfeited Good Faith Deposit shall be deemed property of the Debtor's bankruptcy estate and not subject to any liens.

#### **Modifications**

Trustee may (a) determine which Qualified Bid, if any, is the highest or otherwise best offer(s); and (b) reject at any time before entry of an Order of the Bankruptcy Court approving the Successful Bid(s), any bid that, in the discretion of Trustee is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interests of Debtor's estate and its creditors. At or before the conclusion of the Auction, Trustee may impose such other terms and conditions upon Qualified Bidders as Trustee determines to be in the best interests of the Debtor's estate.

**Exhibit B**

**Stalking Horse Asset Purchase Agreement**

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

THIS AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_\_ day of August, 2018 (the “Effective Date”), by and between Central States Water Resources, Inc., a Missouri corporation, or its affiliate (“Buyer”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as “Assets”); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Buyer of all of the Assets (as hereinafter defined) of the System; and

WHEREAS, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code.

NOW, THEREFORE, it is mutually agreed that:

1. **SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Buyer, or Buyer's designated affiliate, all of Seller's then existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or*

*sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer* service, except accounts receivable accrued prior to the closing of this sale;

(f) All customer deposits held by Seller (the "Customer Deposits"); and

(g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, excepting therefrom, and from any other assets described in the paragraphs above of this Section I, any and all cash, cash equivalents and banking deposits (other than customer deposits held by Seller) in existence prior to the closing of the sale contemplated under this Agreement.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment or other means, in a form satisfactory to Buyer.

At Buyer's expense, Buyer shall obtain, within ten (10) business days of the date hereof, a Commitment to issue an Owner's Policy of Title Insurance to Buyer in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri. Within twenty (20) days after Buyer's receipt of said title insurance commitment, Buyer shall

notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Buyer, at Buyer's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Buyer agree to make application to the Missouri Public Service Commission for authority to complete the transfer of the Assets. Buyer and Seller agree to assist the other in this process when requested to do so. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources for transfer of Seller's permits, if any. Other than the Seller's attorney fees, any expenses resulting from such approval shall be borne by the Buyer.

**4. PURCHASE PRICE.**

Buyer agrees to pay to Seller at the Closing **Four Hundred Sixty Five Thousand Dollars (\$465,000.00)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

On the date of the Seller's acceptance of this Agreement, Buyer shall make a deposit equal to ten percent (10%) of the Purchase Price (the "Deposit"). The Deposit shall be deducted from the Purchase Price due by Buyer at closing. The Deposit is non-refundable regardless of

any termination of this agreement; provided, however, if the transactions hereby are not consummated because either the Seller accepts a Competing Offer pursuant to Section 10 or because Buyer is not the successful purchaser on the account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a higher and better Competing Offer, the Deposit shall be promptly returned to Buyer without setoff or deduction of any kind after the entry of the Bankruptcy Court order approving such a return.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, and Buyer having obtained financing under terms acceptable to Buyer in Buyer's sole discretion, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Buyer such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to Buyer any of the Assets to be sold hereunder, and will assist Buyer in the collection or reduction to possession of such Assets. Buyer will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Buyer, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Buyer is purchasing the Assets in reliance upon Buyer's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:



(a) **Organization and Standing of Buyer.**

Buyer is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by Buyer, and all necessary action on the part of Buyer has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Buyer under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The Missouri Public Service Commission and Missouri Department of Natural Resources shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Buyer from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by Buyer, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Buyer in Buyer's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions

contemplated herein, Buyer may terminate this Agreement by providing written notice to Seller at Buyer's sole and absolute discretion.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of Buyer's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Buyer deems necessary for Buyer's proposed uses of the Assets, the results thereof to be satisfactory to Buyer, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Buyer, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies,

inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Buyer.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court in a form reasonably acceptable to Seller and Buyer (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to Buyer free and clear of all liens pursuant to 11 U.S.C. § 363(f); (iii) find that Buyer is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has

discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Buyer's Right to Terminate.**

If Buyer determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Buyer shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Buyer.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters set forth on Exhibit E.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court, in a form and substance reasonably acceptable to buyer, approving the Bidding Procedures and certain other matters in connection with the potential Auction.

(b) **Other Bids.**

Seller may solicit bids from other prospective buyers for the sale of the Assets, on terms and conditions substantially the same in all respects to this Agreement (or more

favorable terms to Seller). No other offers or bids for the Assets shall be allowed after the entry of the Sale Order unless this Agreement is terminated pursuant to Section 9. If other bids are received pursuant to the Bidding Procedures, then Seller shall conduct an Auction.

(c) **Matching Rights.**

In return for Buyer's commitments and undertakings hereunder, Buyer shall have the right and option, in its sole discretion, to match ("Matching Right") any competing offer or bid for the Assets or any related asset ("Competing Offer") that may be submitted by any person other than Buyer before or after the Effective Date and up to the close of the Auction in accordance with the Bidding Procedures Order, and to the extent Buyer exercises the Matching Right, Seller shall support that Buyer be declared by the Bankruptcy Court as the high bidder; provided, however, that if Buyer matches a Competing Offer, the other offeror can increase its offer over the matched offer with the Buyer having the ability to keep matching the highest offer until there are no other Competing Offers at which time the Buyer will be declared the high bidder.

(d) **Buyer as Prevailing Bidder.**

If (i) Buyer is the Prevailing Bidder (as defined herein) at the Auction or (ii) Buyer is deemed the Prevailing Bidder under the Bidding Procedures Order, then the Seller shall use her best efforts to consummate the transactions contemplated by this Agreement as soon as possible.

(e) **Buyer as Back-up Bidder.**

If an Auction is conducted, and Buyer is not the prevailing Party at the conclusion of such Auction (such prevailing Party, the "Prevailing Bidder"), Buyer may, in Buyer's

sole discretion, agree to serve as the back-up bidder (the "Back-up Bidder") and keep Buyer's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable until 11:59 p.m. on the date of closing of an Alternative Transaction with the Prevailing Bidder (the "Outside Back-up Date"). Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder fails to consummate the Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder, the Back-up Bidder will be deemed to have the new prevailing bid, and Seller shall be required, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) with the Back-up Bidder pursuant to the procedures set forth in the Bidding Procedures Order.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Buyer's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement (as the same may be improved upon in the Auction) where the Buyer is either the Prevailing Bidder or Back-up Bidder at the conclusion of the Auction.

**12. INDEMNIFICATION.**

Buyer shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of Buyer.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this



Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by

overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Buyer:

Josiah Cox, President  
Central States Water Resources, Inc.  
500 Northwest Plaza Drive #500  
St. Ann, MO 63074  
Facsimile: (314) 238-7201  
E-mail: [jcox@cswrgroup.com](mailto:jcox@cswrgroup.com)

With a Copy to:

James A. Beckemeier  
The Beckemeier Law Firm, LC  
13421 Manchester Road, Suite 103  
St. Louis, MO 63131  
Facsimile: (314) 965-0127  
E-mail: [jim@beckemeierlaw.com](mailto:jim@beckemeierlaw.com)

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

Buyer and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

If this Agreement is terminated or if the transactions hereby are not consummated either because Seller accepts any Competing Offer pursuant to Section 10 or because Buyer is not the successful purchaser on account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a higher and better Competing Offer, Buyer shall have the right to assert an administrative expense against the Bankruptcy Estate by making proper application with the Court under Section 503(b) of the Bankruptcy Code in an amount equal to all Buyer's costs and out-of-pocket expenses incurred by Buyer in connection with its legal, environmental,

accounting, and business due diligence and the preparation and negotiation of this Agreement up to three percent (3%) of the Purchase Price (the "Expense Reimbursement"). The Expense Reimbursement shall be payable by Seller upon the first to occur of (i) Seller's closing of any alternate sale of the Assets to any other person or (ii) Seller's liquidation of assets sufficient to generate proceeds equal to or exceeding the amount of the Expense Reimbursement; provided however, such payment shall not be paid until the Seller's fees and expenses have been fully paid including, without limitation, any tax obligations and professional fees.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY'S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys' fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its

reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day and year first above written.

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Central States Water Resources, Inc.**

By: \_\_\_\_\_  
Josiah Cox, President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps and pressurized tanks
- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)



**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)

EXHIBIT E  
[Bidding Procedures]

**Exhibit C**

**Transaction Notice**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

IN THE MATTER OF: )
OSAGE WATER COMPANY, ) Case No. 17-42759-drd11
Debtor. )

NOTICE OF (A) THE SALE OF SUBSTANTIALLY ALL OF DEBTOR’S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS (B) THE POSSIBLE ASSUMPTION AND ASSIGNMENT, OR REJECTION, OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (C) RELATED RELIEF

TO ALL PERSONS RECEIVING THIS NOTICE, PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On [ ], 2018, Trustee filed her Motion to Approve (a) Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases; and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. \_\_\_\_] (the “Motion”).

2. In the Motion, among other things, Trustee seeks an order of the Bankruptcy Court (a) authorizing her to sell, pursuant to Bid Procedures attached hereto as Exhibit A, outside the ordinary course of business and free and clear of all liens, claims, encumbrances, and interests, all of Debtor’s right, title and interest substantially all of the assets owned by Debtor (collectively, the “Assets”) to the Stalking Horse Purchaser,<sup>1</sup> (b) authorizing the Trustee to assume and assign the Desired 365 Contracts (as defined below), and (c) otherwise granting all necessary and appropriate related relief. A copy of the Motion, the Bid Procedures Order identified below and other pleadings in the bankruptcy case may be obtained upon written request to Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com.

The Sale Process

3. The Bid Procedures Order sets forth the following dates in connection with the transactions contemplated in the Motion:

Event

Date

1 Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion and Bid Procedures.

Bid Deadline	<b>[21 days after Bid Procedures Order], 5:00 p.m. prevailing Central Time</b>
Auction	<b>[35 days after Bid Procedures Order], 9:30 a.m. prevailing Central Time</b>
Contract/Lease and Sale Hearing Objection Deadline	<b>[42 days after Bid Procedures Order], 3:00 p.m. prevailing Central Time</b>
Sale Hearing	<b>[To be determined by the Court] __.m. prevailing Central Time</b>

4. An initial hearing on the Motion, focusing on approval of the Stalking Horse Purchaser, Stalking Horse APA, and the Bidding Procedures, was held on [ ], 2018. Thereafter, the Bankruptcy Court entered that certain Order Approving Procedures for the Solicitation of Offers for (a) the Sale of Substantially All of Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (b) the Possible Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and (c) Related Relief [Docket No. \_\_\_] (the "Bid Procedures Order").

5. Pursuant to the Bid Procedures Order, if a Qualified Bid (other than the Stalking Horse APA) has been submitted for the Assets on or before [\_\_\_\_], 2018 in accordance with the Bid Procedures, Trustee will conduct an auction (the "Auction") on [\_\_\_\_], 2018 at **9:30 a.m., prevailing Central time**, with respect to such Qualified Bids (including the Stalking Horse APA) in order to determine the Successful Bid(s) to submit for approval by the Bankruptcy Court at the Sale Hearing. Qualified Bidders seeking to participate as a bidder at the Auction must comply with the Bid Procedures.

6. The Sale Hearing on the Sale Motion shall be held on [\_\_\_\_], 2018, at [\_\_\_\_], **prevailing Central time**, in the Courtroom 4B before the Honorable Dennis R. Dow, United States Bankruptcy Judge, at the United States Bankruptcy Court, Western District of Missouri, 80 Lafayette Street, Jefferson City, MO.

#### **Additional Information Regarding Any Objection**

7. Objections, if any, to all or any part of the Motion or the assumption and assignment, or rejection, of Desired 365 Contracts shall be filed on the docket of the Bankruptcy Court and served such that each objection is actually received by the following parties on or before the relevant objection deadline specified above: (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, adam.e.miller@usdoj.gov.

8. Any person failing to timely file an objection to the Motion shall be barred from objecting to the Motion, including the sale of the Assets free and clear of any and all liens, claims, encumbrances, and interests and will be deemed to consent to the Transaction(s).

9. Copies of the Motion, the Bid Procedures, and the Bid Procedures Order, together with any and all exhibits, schedules, and attachments thereto, may be obtained upon written request to Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com.

### **The Unexpired Lease and Executory Contract Process**

In connection with the Transaction(s), Trustee may seek to assume certain executory contracts and unexpired leases (collectively, the “Desired 365 Contracts”) and rights thereunder and assign such executory contracts and unexpired leases and rights thereunder to a Successful Bidder. Alternatively, the Trustee may seek to reject any unexpired leases or executory contracts that are not Desired 365 Contracts. You may be receiving this notice because you are identified as a party to one or more unexpired leases or executory contracts that may be rejected, or may be assumed by the Debtors and assigned to a Successful Bidder. IF YOU BELIEVE YOU ARE RECEIVING THIS NOTICE AS A PARTY TO ONE OR MORE OF THE DEBTORS’ UNEXPIRED LEASES OR EXECUTORY CONTRACTS, YOU SHOULD LOOK AT THE PROPOSED CURE SCHEDULE ATTACHED AS EXHIBIT B.

The Proposed Cure Schedule in Exhibit B (the “Cure Schedule”) lists the maximum amount that the trustee believes that a Successful Bidder(s) may be required to pay to cure all monetary defaults with respect to each of the Desired 365 Contracts that may be sought to be assumed and assigned pursuant to the Sale Motion (the “Cure Amounts”). The inclusion of any Desired 365 Contract in the Cure Schedule shall not be deemed to be an admission by the trustee that such Desired 365 Contract is an “executory contract” or “unexpired lease” for purposes of Section 365 of the Bankruptcy Code, and the trustee reserves all rights in connection with same. The trustee proposes to require the Successful Bidder(s) to pay such Cure Amounts directly to the listed Desired 365 Contract counterparties to cure all defaults related to the Desired 365 Contracts as a condition to assumption and assignment of the applicable Desired 365 Contract. The Trustee believes that the Successful Bidder(s) will provide adequate assurance of future performance under each respective Desired 365 Contract.

The trustee may amend the Cure Schedule by sending a new or amended Cure Schedule at any time prior to the Sale Hearing solely to the counterparties affected. Any party to an unexpired lease or executory contract that desires to receive electronic notice of any amendment to the Cure Schedule must deliver a written request for such electronic notice, including an appropriate electronic address, to counsel for trustee no later than [ ] .

After the assumption and assignment of any Desired 365 Contracts and rights thereunder, the trustee and the Successful Bidder(s) will be relieved of any liability to any Desired 365 Contract counterparties or other third parties that accrued or arose before the date of assumption. Further, each such Desired 365 Contracts will remain in full force and effect for the benefit of any Successful Bidder(s) in accordance with its terms, notwithstanding any provision in any such Desired 365 Contract which prohibits, restricts or conditions such assignment or transfer thereof or its rights thereunder.

IF NO PARTY OBJECTS TO THE PROPOSED ASSUMPTION AND ASSIGNMENT OF A DESIRED 365 CONTRACT AND RIGHTS THEREUNDER OR THE CURE AMOUNT OR ADEQUATE ASSURANCE OF FUTURE PERFORMANCE BEFORE THE OBJECTION

DEADLINE: (I) SUCH DESIRED 365 CONTRACT AND RIGHTS THEREUNDER MAY BE ASSUMED AND ASSIGNED, IN WHICH CASE ALL COUNTERPARTIES THERETO WILL BE DEEMED TO HAVE CONSENTED AND WILL BE BOUND BY ORDER OF THE COURT TO SUCH ASSUMPTION AND ASSIGNMENT; (II) ANY SUCCESSFUL BIDDER WILL ENJOY ALL OF THE RIGHTS AND BENEFITS UNDER SUCH DESIRED 365 CONTRACT WITHOUT THE NECESSITY OF OBTAINING ANY COUNTERPARTY'S WRITTEN CONSENT TO THE ASSUMPTION AND ASSIGNMENT THEREOF; (III) SUCH COUNTERPARTIES WILL BE FOREVER BARRED AND ESTOPPED FROM ASSERTING OR CLAIMING AGAINST THE DEBTORS, THE DEBTORS' ESTATES, ANY SUCCESSFUL BIDDER, OR AN ASSIGNEE THAT ANY ADDITIONAL AMOUNTS, OTHER THAN THE CURE AMOUNT, ARE DUE OR DEFAULTS EXIST UNDER SUCH DESIRED 365 CONTRACT, OR THAT CONDITIONS TO ASSIGNMENT MUST BE SATISFIED UNDER SUCH DESIRED 365 CONTRACT FOR THE PERIOD PRIOR TO THE EFFECTIVE DATE; AND (IV) ANY CLAIMS THAT HAVE BEEN FILED ON ACCOUNT OF SUCH DESIRED 365 CONTRACT SHALL BE DISALLOWED AND EXPUNGED IN THESE CASES AS TO THE DEBTOR'S ESTATE.

Respectfully submitted,

**SPENCER FANE LLP**

By: /s/

Eric L. Johnson MO Bar No. 53131

Andrea M. Chase MO Bar No. 66019

Zach R.G. Fairlie MO Bar No. 68057

1000 Walnut Street, Suite 1400

Kansas City, MO 64106

Office: 816-474-8100

Facsimile: 816-474-3216

[ejohnson@spencerfane.com](mailto:ejohnson@spencerfane.com)

[achase@spencerfane.com](mailto:achase@spencerfane.com)

[zfairlie@spencerfane.com](mailto:zfairlie@spencerfane.com)

COUNSEL FOR TRUSTEE

**EXHIBIT A**

**[Bid Procedures]**



**EXHIBIT B**

**[Cure Notice]**



IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
 )  
Debtor. )

**ORDER APPROVING PROCEDURES FOR THE SOLICITATION OF OFFERS FOR  
(A) THE SALE OF SUBSTANTIALLY ALL OF DEBTOR'S ASSETS FREE AND  
CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (B) THE  
POSSIBLE ASSUMPTION AND ASSIGNMENT, OR REJECTION, OF CERTAIN  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES;  
AND (C) RELATED RELIEF**

This matter having come before the Court on the Trustee's Motion to Approve (a) the Sale of Substantially All of Debtor's Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. 115] (the "Motion").<sup>1</sup> The Court hereby finds and determines that:

1. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, the consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b), and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. As reflected in the Certificate of Service [Docket No. 120] filed with respect to the Bid Procedures Hearing, notice of the Motion and of the Bid Procedures Hearing were served on interested parties (the "Notice"). The Notice is reasonable and sufficient in light of the

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<sup>1</sup> Capitalized terms that are not defined herein shall have the meanings given to them in the Bid Procedures.

circumstances and nature of the relief requested in the Motion, and no other or further notice of the Motion for the Bid Procedures Hearing is necessary. A reasonable and fair opportunity to object to the Motion and the relief granted in this Order has been afforded under the circumstances.

3. Trustee has articulated good and sufficient reasons for this Court to grant the relief requested in the Motion. Such good and sufficient reasons were set forth in the Motion and on the record at the Bid Procedures Hearing and are incorporated by reference herein and, among other things, form the basis for the findings of fact and conclusions of law set forth herein.

4. The bid procedures in the form attached as **Exhibit A** (the "Bid Procedures"), are fair, reasonable, and appropriate, and are designed to maximize the value of the Debtor's estate.

5. The Stalking Horse APA in **Exhibit B**, or as modified in the discretion of Trustee, is also fair, reasonable, and appropriate, and is designed to maximize the value of Debtor's estate.

6. The service of the notice of the Bid Procedures, the Sale Hearing (as defined below), the Objection Deadline (as defined below), the respective dates, times and places for an Auction (as defined below), if required under the Bid Procedures, substantially in the form attached as **Exhibit C** (the "Transaction Notice"), is adequate and reasonably calculated to provide due, proper, and timely notice to all interested parties of, among other things, the entry of this Order, the Bid Procedures, the Auction (if required under the Bid Procedures), the Sale Hearing, the Sale Motion (as defined below), the proposed Transaction(s), including the sale of Debtor's estate's right, title, and interest in, to, and under the Assets free and clear of any and all liens, claims, encumbrances, and interests, and the procedure for objecting thereto, the possible assumption and assignment of desired unexpired leases and executory contracts and rights

thereunder, and the procedures for objecting thereto. Except as otherwise set forth herein, no other or further notice is necessary.

7. The procedures for objecting to the Transaction(s) and the proposed assumption and assignment of desired unexpired leases and executory contracts are fair, reasonable, and appropriate.

8. The findings of fact and conclusions of law herein constitute the Court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- a. The Motion is **GRANTED** as set forth herein.
- b. All objections to the relief requested in the Motion, if any, that have not been withdrawn, waived, or settled are denied and overruled in their entirety on the merits.
- c. The Stalking Horse APA is fair, reasonable, and appropriate, and is designed to maximize the value of Debtor's estate.
- d. Trustee's selection of the Stalking Horse Purchaser is fair, reasonable, and appropriate, and is designed to maximize the value of Debtor's estate.
- e. The Bid Procedures are fair, reasonable, and appropriate, and are designed to maximize the value of Debtor's estate.
- f. The Stalking Horse Purchaser is authorized to seek expense reimbursement up to 3% of the purchase price, in accordance with the terms of the Stalking Horse APA.
- g. No person other than the Stalking Horse Purchaser shall be entitled to any expense reimbursement, break-up fee, "topping," termination, or other similar fee or payment, and by submitting a Bid, such person or entity is deemed to have waived its right to request or file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of Code § 503(b) or otherwise.

- h. Trustee may proceed with the Transaction(s) in accordance with the Bid Procedures, which procedures are hereby approved in their entirety in the form attached hereto as Exhibit A. However, the consummation of the sale of the Assets (as provided in the APA) shall remain subject to the entry of an Order granting the Motion.
- i. Potential Bidders must comply with all terms of the Bid Procedures in order to participate in the bidding process. All Bids must satisfy all of the requirements contained in the Bid Procedures.
- j. The Stalking Horse Purchaser is deemed a Qualified Bidder, and the Stalking Horse APA is deemed a Qualified Bid.
- k. Trustee is authorized and directed to take any and all actions necessary or appropriate to implement the Bid Procedures. The process for submitting Qualified Bids is fair, reasonable and appropriate and is designed to maximize recoveries for the benefit of Debtor's estate, its creditors and other parties in interest. Any disputes as to the selection of a Qualified Bid, Initial Highest Bid, and/or Successful Bid shall be resolved by this Court.
- l. The Stalking Horse APA, in the form attached as Exhibit B, is approved in its entirety. Notwithstanding the foregoing, Trustee shall have the right to modify the Stalking Horse APA as appropriate in her sole discretion without further Order of this Court in order to consummate the Transaction(s).
- m. As further described below, the key dates for this Order and the Bid Procedures are as follows, with each of such dates being subject to extension by Trustee:

<u>Event</u>	<u>Date and Time (if applicable)</u>
Transaction Notice	Within seven (7) days of the entry of this Order
Notice to Contract/Lease Parties of Potential Assignment of Rejection	Within seven (7) days of the entry of this Order
Bid Deadline	<b>October 10, 2018, 5:00 p.m. prevailing Central Time</b>
Auction	<b>October 24, 2018, 9:30 a.m. prevailing Central time</b>
Contract/Lease and Sale Hearing Objection Deadline	<b>October 31, 2018, 3:00 p.m. prevailing Central Time</b>
Sale Hearing	<b>November 15, 2018, 9:00 a.m. prevailing Central Time</b>

- n. Any person desiring to submit a Bid for the Assets must comply with the Bid Procedures and shall not be permitted to participate at the Auction unless such person is an Auction Participant or is otherwise permitted to participate at the Auction under the Bid Procedures.
- o. If the Trustee does not receive any Qualified Bids (other than the Stalking Horse APA); (i) Trustee will not hold the Auction, and (ii) the Stalking Horse Purchaser will be deemed the Successful Bidder for the Assets.
- p. If a Qualified Bid (other than the Stalking Horse APA) has been submitted for the Assets in accordance with the Bid Procedures, Trustee will conduct an auction as to such Assets (the "Auction") on **October 24, 2018, 9:30 a.m. prevailing Central time**, at the offices of Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, Missouri 64106 or at such later time or other place as designated by Trustee, or approved by Order of the Court, and of which Trustee will notify all Qualified Bidders who have submitted Qualified Bids.
- q. A final hearing (the "Sale Hearing") to consider the Motion shall be held **November 15, 2018 at 9:00 a.m., in Courtroom 4B before the Honorable Dennis R. Dow, United States Bankruptcy Judge, at the United States Bankruptcy Court, Western District of Missouri, 80 Lafayette Street, Jefferson City, MO.**
- r. Objections, if any, to the Motion shall be filed on the docket of the Court and served such that each objection is actually received by the following parties on or before 3:00 p.m., prevailing Central time on **October 31, 2018** (the "Objection Deadline"): (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, adam.e.miller@usdoj.gov.
- s. Any person failing to timely file an objection to the Motion shall be barred from objecting to the Motion, including the sale of the Assets in accordance with the Stalking Horse APA, free and clear of any and all liens, claims, encumbrances, and interests and will be deemed to consent to the Transaction(s), including the sale of the Assets in accordance with the Stalking Horse APA free and clear of any and all liens, claims, encumbrances, and other interests; provided however, that the Transaction shall not be free and clear of any liens, claims, encumbrances, or interests that customers have in the Customer Deposits.
- t. Any person failing to timely file an objection to any cure amounts set forth in notice of the proposed assumption and assignment of the Trustee's right, title and interest in, to and under desired unexpired leases and executory contracts shall be barred from objecting to the cure amounts and

from asserting a claim for any cure or other amounts (or asserting that any defaults exist under the desired unexpired leases and executory contracts as of the date of assumption) against the Trustee, the estate, or the Successful Bidder(s) with respect to the desired unexpired leases and executory contracts arising prior to assumption and assignment of the Trustee's right, title and interest in, to and under the desired unexpired leases and executory contracts and will be deemed to consent to the proposed assumption and assignment of the desired unexpired leases and executory contracts and rights thereunder as provided by such Transaction(s).

- u. Where any party files a timely objection to the maximum cure amount set forth in the notice and the parties are unable to consensually resolve the dispute prior to the Sale Hearing, the amount to be paid with respect to such objection will be determined at the Sale Hearing or such other date and time as may be fixed by this Court. All other objections to the proposed assumption and assignment of the Trustee's right, title and interest in, to and under the desired unexpired leases and executory contracts will be heard at the Sale Hearing.
- v. For cause shown, notwithstanding Bankruptcy Rules 6004, 6006, or otherwise, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. To the extent applicable, the stays described in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived.
- w. The terms of this Order shall control to the extent of any conflict with the Motion or the Bid Procedures.
- x. This Order shall become effective immediately upon its entry.
- y. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

Date: September 19, 2018

/s/Dennis R. Dow  
HONORABLE DENNIS R. DOW  
United States Bankruptcy Judge



**Exhibit A**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
Debtor. )

**BID PROCEDURES**

On August 26, 2018, Trustee filed her Motion to Approve (a) Sale of Substantially All of Debtor's Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures Pursuant to 11 U.S.C. § 365, and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. 115] (the "Motion"), pursuant to which Trustee requested authority to sell substantially all of the assets of Debtor's estate to the highest and best bidders subject to the process outlined herein (the "Transaction"). On August 24, 2018, Trustee entered into an asset purchase agreement (the "Stalking Horse APA") with Central States Water Resources, Inc. (the "Stalking Horse Purchaser") pursuant to which the Stalking Horse Purchaser proposes to acquire from Trustee the Assets (as defined in the Stalking Horse APA). These Bid Procedures have been approved and authorized pursuant to the Order Approving Procedures for the Solicitation of Offers for (a) the Sale of Substantially All of Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (b) the Possible Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and (c) Related Relief [Docket No. [125]] (the "Bid Procedures Order") entered by the United States Bankruptcy Court for the Western District of Missouri (the "Bankruptcy Court") on September 19, 2018.

**The Bidding Process**

Subject to the conditions set forth herein, at any time on or before October 10, 2018, at 5:00 p.m. (prevailing Central Time) (the "Bid Deadline"), Trustee will (i) engage in discussions and negotiations regarding a sale transaction with any entity (a "Potential Bidder") that has made inquiry with Debtor, Trustee, or counsel thereof, within the past 12 months regarding potential asset sales and/or that Trustee reasonably believes could lead to a bona fide written offer relating to a Transaction that would meet the requirements of these Bid Procedures (the "Proposal"), (ii) furnish to such Potential Bidder and its Representatives,<sup>1</sup> and to any other party that has made a

<sup>1</sup> "Representatives" means, with respect to any person, the officers, directors, employees, members, managers, partners, investment bankers, attorneys, accountants, consultants or other advisors, agents or representatives of such person, when acting in such capacity on behalf of such person.

request therefor in connection with its consideration of making an offer or proposal relating to a Transaction (each a "Bid"), public and non-public information relating to Debtor and its assets and businesses and (iii) afford to any such Potential Bidder reasonable access to any data site, properties, assets, books or records of Debtor.

Trustee shall provide these Bid Procedures,<sup>2</sup> together with a copy of the Stalking Horse APA to each Potential Bidder.

Any Potential Bidder wishing to conduct due diligence concerning a prospective Transaction shall be granted access to all relevant business, financial and other information of Debtor as may be reasonably necessary (to be determined at Trustee's discretion) to enable such Potential Bidder to evaluate the assets and business of Debtor and the prospective Transaction. Debtor shall make such access available during normal business hours as soon as reasonably practicable. Potential Bidders interested in conducting due diligence should contact counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com. Notwithstanding the foregoing, Trustee is not required to provide confidential or proprietary information to any person if Trustee determines such disclosure could be detrimental to the interests of Debtor's estate.

Prior to the selection of a Bid as the highest or best offer for any individual asset, portion of the Assets, or all of the Assets (the "Successful Bid(s)"), Trustee may: (a) receive Bids from Potential Bidders, (b) request information from Potential Bidders and engage in discussions with Potential Bidders and take such other actions to determine whether any Bid constitutes or could lead to a superior Proposal, (c) evaluate any Bid made by a Potential Bidder, (d) engage in discussions and negotiations with any Potential Bidder with respect to any Bid submitted by a Potential Bidder, and (e) take any other actions contemplated under these Bid Procedures (collectively, the "Bidding Process").

#### **Deliveries by Potential Bidders**

In order to participate in the Bidding Process, each Potential Bidder (other than the Stalking Horse Purchaser) must deliver the following to Trustee prior to the Bid Deadline (unless previously delivered in a form acceptable to Trustee as provided herein or waived by Trustee):

- a. Financial statements of, or other information relating to, the Potential Bidder or, if the Potential Bidder is an entity formed for the purpose of the Transaction, financial statements of or other information relating to the equity holder(s) of the Potential Bidder, or such other form of financial disclosure or evidence of financial capability and performance and legal authority acceptable to Trustee (and, if requested by Trustee, certified to by a duly authorized representative of the Potential Bidder (or equity holders thereof, as applicable)), demonstrating such Potential Bidder's financial capability and legal authority to close the proposed Transaction in a timely manner.

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<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the same meaning as set forth in the Motion.

A Potential Bidder that delivers the documents described in subparagraph (a) above and that Trustee determines in her business judgment is financially capable of consummating the Transaction in a timely manner shall be permitted to further participate in the Bidding Process. Trustee may require an update of such information and an affirmation of any Potential Bidder's financial capability to bid and consummate any Transaction contemplated hereunder.

#### **Due Diligence for Potential Bidders**

To obtain due diligence access or additional information, a Potential Bidder must first advise Trustee of the nature and extent of additional due diligence such Potential Bidder may wish to conduct. Trustee shall coordinate all requests for additional information and due diligence access by such Potential Bidders with Debtor. No conditions relating to the completion of due diligence will be permitted to exist after the Bid Deadline, except as otherwise agreed to by Trustee in writing.

#### **Submission by Bid Deadline**

A Potential Bidder who desires to make a Bid must deliver a written copy of its written asset purchase agreement marked to show the specific changes to the Stalking Horse APA that the Potential Bidder requires (which marked copy may be an electronic comparison of the written asset purchase agreement submitted and the Stalking Horse APA) on or before **October 10, 2018, 5:00 p.m., prevailing Central time**, to counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com. Trustee may extend the Bid Deadline, but Trustee shall promptly notify all Potential Bidders of any such extension.

#### **Determination of "Qualified Bid" Status**

A Bid received from a Potential Bidder by the Bid Deadline (other than the Stalking Horse Purchaser) will constitute a "Qualified Bid" only if it includes all of the following documents (the compliance of which shall be determined by Trustee) (collectively, the "Required Bid Documents") and a Good Faith Deposit as described below and meets all of the Bid Requirements (as defined below):

- a. A written asset purchase agreement duly executed by the Potential Bidder in substantially the same form as the Stalking Horse APA with changes only regarding the applicable Assets and contracts being purchased and changes acceptable to Trustee, together with a copy of such agreement marked to show the specific changes to the Stalking Horse APA that the Potential Bidder requires (which marked copy may be an electronic comparison of the written asset purchase agreement submitted and the Stalking Horse APA). The asset purchase agreement submitted by a Potential Bidder shall:
  - i. specifically delineate which individual Asset, portion of the Assets, or all of the Assets the Potential Bidder proposes to purchase;

- ii. if not purchasing all of the Assets, allocate the value the Potential Bidder places on the Assets that is proposed to be purchased;
  - iii. include a complete set of all schedules and exhibits thereto which, to the extent practicable, will be marked to show the specific changes to the schedules and exhibits to the Stalking Horse APA, if applicable;
  - iv. identify each and every executory contract and unexpired lease that is to be assumed and assigned to the Potential Bidder, if any;
  - v. not contain any financing or due diligence contingencies to closing on the proposed Transaction;
  - vi. not contain any condition to closing of the Transaction on the receipt of any third party approvals (excluding required Bankruptcy Court approval and any required governmental and/or regulatory approvals, including without limitation, approval from the Missouri Public Service Commission); and
  - vii. provide that the offer of the Potential Bidder is irrevocable through 180 days after the entry of an Order approving the Sale Motion and subject to the backup bidder provisions herein.
- b. A good faith deposit (the “Good Faith Deposit”) in the form of a wire transfer to Trustee or a certified or bank check payable to the order of Trustee (or other form acceptable to Trustee) in the amount of at least 10% of the proposed purchase price.

Each Potential Bidder that makes a Qualified Bid shall be referred to as a “Qualified Bidder.” Notwithstanding anything to the contrary herein, the Stalking Horse Purchaser shall be deemed a Qualified Bidder, and the Stalking Horse APA shall be deemed a Qualified Bid.

#### **Bid Requirements**

All Bids must also satisfy all of the following requirements, all solely as determined by Trustee:

- a. The Bid must provide for consideration under the APA for each of the Assets proposed to be purchased.
- b. The Bid must provide for the purchase of all or substantially all of the Assets and for consideration that exceeds the cash portion of the consideration offered by the Stalking Horse Purchaser by at least \$15,000 (the “Initial Minimum Overbid”). The Trustee may aggregate two or more Bids that collectively provide for the purchase for all or substantially all of the Assets and exceed the Initial Minimum Overbid into a joint Bid, which shall be deemed a Qualified Bid if it otherwise meets the bid requirements.

- c. The Bid must be in cash unless Trustee consents otherwise.
- d. The Bid must be accompanied by satisfactory evidence of committed financing or other financial ability to consummate the Transaction in a timely manner.
- e. If a Bid indicates that a Potential Bidder will seek the assumption and assignment of executory contract(s) or unexpired lease(s), the Bid must include sufficient information to permit Trustee, if necessary, to timely file a motion to assume and assign such executory contract(s) or unexpired lease(s) to determine the proposed assignee's ability to comply with Code § 365 (to the extent applicable).
- f. The Bid (other than the Stalking Horse APA) cannot be conditioned upon the Bankruptcy Court's approval of any bid protections, such as a break-up fee, termination fee, expense reimbursement, working fee or similar type of payment.
- g. The Bid must expressly acknowledge and represent that the Potential Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the assets and businesses of Debtor and the Transaction prior to making its Bid, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and the assets and businesses of Debtor in making its Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the business or assets of Debtor or the Transaction, or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the APA ultimately accepted and executed by Trustee, and (iv) has authority to make the Bid, execute any documents to close on the Transaction and proceed to closing on the Transaction.
- h. The Bid must be received by the Bid Deadline.

### Auction

If a Qualified Bidder (other than the Stalking Horse Purchaser) has been submitted for any or all of the Assets, the Trustee shall conduct an auction (the "Auction") with respect to such Qualified Bids in order to determine, in the business judgment of Trustee, the Successful Bid(s). If no Qualified Bid (other than the Stalking Horse APA) has been submitted by the Bid Deadline or aggregated by the Trustee, the Stalking Horse APA shall be deemed the Successful Bid and no Auction shall be conducted.

Prior to the Auction, Trustee shall attempt to aggregate Bids for less than substantially all of the Assets into a Qualified Bid, evaluate the Qualified Bids and select the Qualified Bid or combination of Qualified Bids Trustee determines in her business judgment to be the highest or best Qualified Bid(s) (the "Initial Highest Bid") for a sale of the Assets. In making this

determination, Trustee may consider, among other things, the amount of cash to be paid or delivered, and the other terms and conditions of the Qualified Bid(s). For the avoidance of doubt, Trustee shall not be required to aggregate Bids for less than substantially all of the Assets if there are no circumstances under which such aggregation would constitute a Qualified Bid.

The Auction, if required, will commence at 9:30 a.m. (prevailing Central Time) on **October 24, 2018** at the offices of Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, Missouri 64106 or at such later time or other place as designated by Trustee, or approved by Order of the Bankruptcy Court, and of which Trustee will notify all Qualified Bidders who have submitted Qualified Bids (collectively, the "Auction Participants").

Trustee shall give each of the Auction Participants notice of the Initial Highest Bid and a copy of such Bid prior to the scheduled start of the Auction.

Only Debtor, Trustee, the Auction Participants, potential financing sources of the Auction Participants, and their respective Representatives will be entitled to attend, participate and be heard at the Auction. For the avoidance of doubt, Bidders that submit Bids for only a portion of the Assets that are not aggregated into a joint bid that is a Qualified Bid after the Bid Deadline but prior to the Auction, shall not be permitted to attend, participate, or be heard at the Auction. In order to participate and be heard at the Auction, a party must actually attend the Auction; telephonic appearances will not be allowed.

At the commencement of the Auction, Trustee shall formally announce the Initial Highest Bid(s) and the assets to which they relate. All Qualified Bids at the Auction will be based on and increased therefrom, and thereafter made in minimum increments higher than the previous Qualified Bid by at least \$10,000.<sup>3</sup>

Trustee shall have the right to adopt such other rules for the Auction which Trustee believes in her business judgment will promote the goals of the Auction, including, without limitation, that Trustee can continue to take and negotiate bids in lot or in bulk until the Successful Bid(s) have been selected.

Each Auction Participant shall be deemed to have agreed to keep its final Qualified Bid made at or prior to the Auction open through 180 days after the entry of an Order approving the Motion. Bidding at the Auction will continue until such time as the highest or otherwise best Qualified Bid(s) are determined in the business judgment of Trustee. To facilitate a deliberate and orderly consideration of competing Qualified Bids submitted at the Auction, Trustee may adjourn the Auction at any time and from time-to-time and may conduct multiple rounds of bidding. Upon conclusion of the Auction, Trustee will (a) review each Qualified Bid on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the sale, and (b) identify the Successful Bid(s). In making this determination, Trustee may consider, among other things, the amount of cash to be paid or delivered and the other terms or conditions of the Qualified Bid(s), and the determination by Trustee shall be final for the purposes of these Bid Procedures.

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<sup>3</sup> Minimum bid increments must consist solely of cash consideration unless otherwise authorized by Trustee.

### **Credit Bid Right**

The sale of Water Systems is not subject to the right to credit bid pursuant to Code §363(k).

### **Sale Hearing**

An evidentiary hearing to consider the Sale Motion and approval of the Successful Bid(s) (the "Sale Hearing"), will be held on **November 15, 2018 at 9:00 a.m., prevailing Central time**, in the Courtroom 4B before the Honorable Dennis R. Dow, United States Bankruptcy Judge, at the United States Bankruptcy Court, Western District of Missouri, 80 Lafayette Street, Jefferson City, MO. The Sale Hearing may be adjourned or rescheduled as ordered by the Bankruptcy Court without further notice to creditors and parties in interest other than by announcement by Trustee of the adjourned date at the Sale Hearing.

Trustee's presentation to the Bankruptcy Court for approval of the Successful Bid(s) does not constitute Trustee's acceptance of the Bid(s). Trustee will be deemed to have accepted a Bid only when the Bid has been approved by Order of the Bankruptcy Court.

### **Objections**

Objections, if any, to the Motion, or to any assumption and assignment, or rejection, of any unexpired leases or executory contract, shall be filed on the docket of the Bankruptcy Court and served such that each objection is actually received by the following parties on or before **3:00 p.m., prevailing Central time on October 31, 2018** (the "Objection Deadline"): (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, [adam.e.miller@usdoj.gov](mailto:adam.e.miller@usdoj.gov).

### **Back-Up Bidders**

If any Auction Participant whose Qualified Bid is a Successful Bid (a "Successful Bidder") fails to consummate the Transaction because of a breach or failure to perform on the part of such Successful Bidder, or for any reason other than the failure of the Bankruptcy Court to approve the terms of the Transaction, the Auction Participant that had submitted the next highest or otherwise best Qualified Bid for the same asset or assets of the estates at the Auction or prior to the Auction (the "Back-Up Bidder") will be deemed to be the Successful Bidder, and Trustee will be authorized to consummate the Transaction with such Auction Participant without further order of the Bankruptcy Court, and such Qualified Bid shall thereupon be deemed the Successful Bid; provided that upon being notified that its Qualified Bid has become the Successful Bid, the Auction Participant submitting such Qualified Bid shall within three (3) business days after such notification provide a Good Faith Deposit (unless such Auction Participant previously shall have provided a Good Faith Deposit that shall not have been returned as described below). Upon providing such Good Faith Deposit, such Auction Participant shall be deemed the Successful Bidder. If any Auction Participant fails to consummate the Transaction because of a breach or failure to perform on the part of such Auction Participant (including, without limitation, the failure to timely deposit the Good Faith Deposit), the process described

above may continue with other Auction Participants in decreasing order of the Qualified Bids as determined by Trustee, until an Auction Participant shall consummate the Transaction.

#### **Disposition of Good Faith Deposit**

The Good Faith Deposit of the Successful Bidder(s), or a Back-Up Bidder that consummates a transaction in place of a Successful Bidder as provided for herein, shall be retained by Trustee and applied toward the payment of the Successful Bid(s) at the closing of the Transaction. If any Successful or Back-Up Bidder fails, for any reason other than Bankruptcy Court denial of the Transaction, to close a Transaction, then the Good Faith Deposit shall be retained by Debtor's estate as partial damages for the failure to consummate the Transaction (the "Forfeited Good Faith Deposit"). The Good Faith Deposit of all Qualified Bidders (other than the Successful Bidder(s), a Back-Up Bidder that consummates a Transaction in place of a Successful Bidder as provided for herein, or a Successful Bidder or a Back-Up Bidder that forfeits its deposit as liquidated damages as provided for herein) will be returned, without interest, to each such Qualified Bidder within ten business days after the closing of all proposed Transactions approved by the Bankruptcy Court at the Sale Hearing. For the avoidance of doubt, any Forfeited Good Faith Deposit shall be deemed property of the Debtor's bankruptcy estate and not subject to any liens.

#### **Modifications**

Trustee may (a) determine which Qualified Bid, if any, is the highest or otherwise best offer(s); and (b) reject at any time before entry of an Order of the Bankruptcy Court approving the Successful Bid(s), any bid that, in the discretion of Trustee is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interests of Debtor's estate and its creditors. At or before the conclusion of the Auction, Trustee may impose such other terms and conditions upon Qualified Bidders as Trustee determines to be in the best interests of the Debtor's estate.



**Exhibit B**

**Stalking Horse Asset Purchase Agreement**

**Exhibit C**

**Transaction Notice**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
Debtor. )

**NOTICE OF (A) THE SALE OF SUBSTANTIALLY ALL OF  
DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,  
AND INTERESTS (B) THE POSSIBLE ASSUMPTION AND ASSIGNMENT, OR  
REJECTION, OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES,  
AND (C) RELATED RELIEF**

**TO ALL PERSONS RECEIVING THIS NOTICE, PLEASE TAKE NOTICE OF  
THE FOLLOWING:**

1. On August 26, 2018, Trustee filed her Motion to Approve (a) Sale of Substantially All of Debtor's Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases; and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. 115] (the "Motion").

2. In the Motion, among other things, Trustee seeks an order of the Bankruptcy Court (a) authorizing her to sell, pursuant to Bid Procedures attached hereto as **Exhibit A**, outside the ordinary course of business and free and clear of all liens, claims, encumbrances, and interests, all of Debtor's right, title and interest substantially all of the assets owned by Debtor (collectively, the "Assets") to the Stalking Horse Purchaser,<sup>1</sup> (b) authorizing the Trustee to assume and assign the Desired 365 Contracts (as defined below), and (c) otherwise granting all necessary and appropriate related relief. A copy of the Motion, the Bid Procedures Order identified below and other pleadings in the bankruptcy case may be obtained upon written request to Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com.

**The Sale Process**

3. The Bid Procedures Order sets forth the following dates in connection with the transactions contemplated in the Motion:

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion and Bid Procedures.

<u>Event</u>	<u>Date</u>
Bid Deadline	<b>October 10, 2018, 5:00 p.m. prevailing Central Time</b>
Auction	<b>October 24, 2018, 9:30 a.m. prevailing Central Time</b>
Contract/Lease and Sale Hearing Objection Deadline	<b>October 31, 3:00 p.m. prevailing Central Time</b>
Sale Hearing	<b>November 15, 2018, 9:00 a.m. prevailing Central Time</b>

4. On September 19, 2018, the Bankruptcy Court entered that certain Order Approving Procedures for the Solicitation of Offers for (a) the Sale of Substantially All of Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (b) the Possible Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and (c) Related Relief [Docket No. 125] (the "Bid Procedures Order").

5. Pursuant to the Bid Procedures Order, if a Qualified Bid (other than the Stalking Horse APA) has been submitted for the Assets on or before **October 10, 2018** in accordance with the Bid Procedures, Trustee will conduct an auction (the "Auction") on **October 24, 2018 at 9:30 a.m., prevailing Central time**, with respect to such Qualified Bids (including the Stalking Horse APA) in order to determine the Successful Bid(s) to submit for approval by the Bankruptcy Court at the Sale Hearing. Qualified Bidders seeking to participate as a bidder at the Auction must comply with the Bid Procedures.

6. The Sale Hearing on the Sale Motion shall be held on **November 15, 2018, at 9:00 a.m., prevailing Central time**, in the Courtroom 4B before the Honorable Dennis R. Dow, United States Bankruptcy Judge, at the United States Bankruptcy Court, Western District of Missouri, 80 Lafayette Street, Jefferson City, MO.

#### Additional Information Regarding Any Objection

7. Objections, if any, to all or any part of the Motion or the assumption and assignment, or rejection, of Desired 365 Contracts shall be filed on the docket of the Bankruptcy Court and served such that each objection is actually received by the following parties on or before the relevant objection deadline specified above: (a) counsel for Trustee, Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com; and (b) Office of the United States Trustee's Office, Adam E. Miller, Trial Attorney, 400 East 9<sup>th</sup> Street, Room 3440, Kansas City, Missouri, adam.e.miller@usdoj.gov.

8. Any person failing to timely file an objection to the Motion shall be barred from objecting to the Motion, including the sale of the Assets free and clear of any and all liens, claims, encumbrances, and interests and will be deemed to consent to the Transaction(s).

9. Copies of the Motion, the Bid Procedures, and the Bid Procedures Order, together with any and all exhibits, schedules, and attachments thereto, may be obtained upon written request to Andrea M. Chase, Spencer Fane LLP, 1000 Walnut, Suite 1400, Kansas City, MO 64106, achase@spencerfane.com.

### **The Unexpired Lease and Executory Contract Process**

In connection with the Transaction(s), Trustee may seek to assume certain executory contracts and unexpired leases (collectively, the “Desired 365 Contracts”) and rights thereunder and assign such executory contracts and unexpired leases and rights thereunder to a Successful Bidder. Alternatively, the Trustee may seek to reject any unexpired leases or executory contracts that are not Desired 365 Contracts. You may be receiving this notice because you are identified as a party to one or more unexpired leases or executory contracts that may be rejected, or may be assumed by the Debtors and assigned to a Successful Bidder. **IF YOU BELIEVE YOU ARE RECEIVING THIS NOTICE AS A PARTY TO ONE OR MORE OF THE DEBTORS’ UNEXPIRED LEASES OR EXECUTORY CONTRACTS, YOU SHOULD LOOK AT THE PROPOSED CURE SCHEDULE ATTACHED AS EXHIBIT B.**

The Proposed Cure Schedule in Exhibit B (the “Cure Schedule”) lists the maximum amount that the trustee believes that a Successful Bidder(s) may be required to pay to cure all monetary defaults with respect to each of the Desired 365 Contracts that may be sought to be assumed and assigned pursuant to the Sale Motion (the “Cure Amounts”). The inclusion of any Desired 365 Contract in the Cure Schedule shall not be deemed to be an admission by the trustee that such Desired 365 Contract is an “executory contract” or “unexpired lease” for purposes of Section 365 of the Bankruptcy Code, and the trustee reserves all rights in connection with same. The trustee proposes to require the Successful Bidder(s) to pay such Cure Amounts directly to the listed Desired 365 Contract counterparties to cure all defaults related to the Desired 365 Contracts as a condition to assumption and assignment of the applicable Desired 365 Contract. The Trustee believes that the Successful Bidder(s) will provide adequate assurance of future performance under each respective Desired 365 Contract.

The trustee may amend the Cure Schedule by sending a new or amended Cure Schedule at any time prior to the Sale Hearing solely to the counterparties affected. Any party to an unexpired lease or executory contract that desires to receive electronic notice of any amendment to the Cure Schedule must deliver a written request for such electronic notice, including an appropriate electronic address, to counsel for trustee no later than October 10, 2018.

After the assumption and assignment of any Desired 365 Contracts and rights thereunder, the trustee and the Successful Bidder(s) will be relieved of any liability to any Desired 365 Contract counterparties or other third parties that accrued or arose before the date of assumption. Further, each such Desired 365 Contracts will remain in full force and effect for the benefit of any Successful Bidder(s) in accordance with its terms, notwithstanding any provision in any such Desired 365 Contract which prohibits, restricts or conditions such assignment or transfer thereof or its rights thereunder.

**IF NO PARTY OBJECTS TO THE PROPOSED ASSUMPTION AND ASSIGNMENT OF A DESIRED 365 CONTRACT AND RIGHTS THEREUNDER OR THE CURE AMOUNT OR ADEQUATE ASSURANCE OF FUTURE PERFORMANCE BEFORE THE OBJECTION**

DEADLINE: (I) SUCH DESIRED 365 CONTRACT AND RIGHTS THEREUNDER MAY BE ASSUMED AND ASSIGNED, IN WHICH CASE ALL COUNTERPARTIES THERETO WILL BE DEEMED TO HAVE CONSENTED AND WILL BE BOUND BY ORDER OF THE COURT TO SUCH ASSUMPTION AND ASSIGNMENT; (II) ANY SUCCESSFUL BIDDER WILL ENJOY ALL OF THE RIGHTS AND BENEFITS UNDER SUCH DESIRED 365 CONTRACT WITHOUT THE NECESSITY OF OBTAINING ANY COUNTERPARTY'S WRITTEN CONSENT TO THE ASSUMPTION AND ASSIGNMENT THEREOF; (III) SUCH COUNTERPARTIES WILL BE FOREVER BARRED AND ESTOPPED FROM ASSERTING OR CLAIMING AGAINST THE DEBTORS, THE DEBTORS' ESTATES, ANY SUCCESSFUL BIDDER, OR AN ASSIGNEE THAT ANY ADDITIONAL AMOUNTS, OTHER THAN THE CURE AMOUNT, ARE DUE OR DEFAULTS EXIST UNDER SUCH DESIRED 365 CONTRACT, OR THAT CONDITIONS TO ASSIGNMENT MUST BE SATISFIED UNDER SUCH DESIRED 365 CONTRACT FOR THE PERIOD PRIOR TO THE EFFECTIVE DATE; AND (IV) ANY CLAIMS THAT HAVE BEEN FILED ON ACCOUNT OF SUCH DESIRED 365 CONTRACT SHALL BE DISALLOWED AND EXPUNGED IN THESE CASES AS TO THE DEBTOR'S ESTATE.

Respectfully submitted,

**SPENCER FANE LLP**

By: \_\_\_\_\_  
Eric L. Johnson MO Bar No. 53131  
Andrea M. Chase MO Bar No. 66019  
Zach R.G. Fairlie MO Bar No. 68057  
1000 Walnut Street, Suite 1400  
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ejohnson@spencerfane.com  
achase@spencerfane.com  
zfairlie@spencerfane.com

COUNSEL FOR TRUSTEE

**EXHIBIT A**

**[Bid Procedures]**

**EXHIBIT B**

**[Cure Notice]**



**AGREEMENT FOR SALE OF UTILITY SYSTEM**

**THIS AGREEMENT** (“Agreement”) is made and entered into this 24 day of August, 2018 (the “Effective Date”), by and between Central States Water Resources, Inc., a Missouri corporation, or its affiliate (“Buyer”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as “Assets”); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Buyer of all of the Assets (as hereinafter defined) of the System; and

WHEREAS, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code.

NOW, THEREFORE, it is mutually agreed that:

**1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Buyer, or Buyer's designated affiliate, all of Seller's then existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or*

*sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer* service, except accounts receivable accrued prior to the closing of this sale;

(f) All customer deposits held by Seller (the "Customer Deposits"); and

(g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, excepting therefrom, and from any other assets described in the paragraphs above of this Section 1, any and all cash, cash equivalents and banking deposits (other than customer deposits held by Seller) in existence prior to the closing of the sale contemplated under this Agreement.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment or other means, in a form satisfactory to Buyer.

At Buyer's expense, Buyer shall obtain, within ten (10) business days of the date hereof, a Commitment to issue an Owner's Policy of Title Insurance to Buyer in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri. Within twenty (20) days after Buyer's receipt of said title insurance commitment, Buyer shall

notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Buyer, at Buyer's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Buyer agree to make application to the Missouri Public Service Commission for authority to complete the transfer of the Assets. Buyer and Seller agree to assist the other in this process when requested to do so. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources for transfer of Seller's permits, if any. Other than the Seller's attorney fees, any expenses resulting from such approval shall be borne by the Buyer.

**4. PURCHASE PRICE.**

Buyer agrees to pay to Seller at the Closing **Four Hundred Sixty Five Thousand Dollars (\$465,000.00)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

On the date of the Seller's acceptance of this Agreement, Buyer shall make a deposit equal to ten percent (10%) of the Purchase Price (the "Deposit"). The Deposit shall be deducted from the Purchase Price due by Buyer at closing. The Deposit is non-refundable regardless of

any termination of this agreement; provided, however, if the transactions hereby are not consummated because either the Seller accepts a Competing Offer pursuant to Section 10 or because Buyer is not the successful purchaser on the account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a higher and better Competing Offer, the Deposit shall be promptly returned to Buyer without setoff or deduction of any kind after the entry of the Bankruptcy Court order approving such a return.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, and Buyer having obtained financing under terms acceptable to Buyer in Buyer's sole discretion, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Buyer such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to Buyer any of the Assets to be sold hereunder, and will assist Buyer in the collection or reduction to possession of such Assets. Buyer will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Buyer, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Buyer is purchasing the Assets in reliance upon Buyer's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

(a) **Organization and Standing of Buyer.**

Buyer is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by Buyer, and all necessary action on the part of Buyer has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Buyer under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The Missouri Public Service Commission and Missouri Department of Natural Resources shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Buyer from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by Buyer, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Buyer in Buyer's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions

contemplated herein, Buyer may terminate this Agreement by providing written notice to Seller at Buyer's sole and absolute discretion.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of Buyer's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Buyer deems necessary for Buyer's proposed uses of the Assets, the results thereof to be satisfactory to Buyer, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Buyer, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies,



inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Buyer.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court in a form reasonably acceptable to Seller and Buyer (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to Buyer free and clear of all liens pursuant to 11 U.S.C. § 363(f); (iii) find that Buyer is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has

discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Buyer's Right to Terminate.**

If Buyer determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Buyer shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Buyer.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters set forth on Exhibit E.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court, in a form and substance reasonably acceptable to buyer, approving the Bidding Procedures and certain other matters in connection with the potential Auction.

(b) **Other Bids.**

Seller may solicit bids from other prospective buyers for the sale of the Assets, on terms and conditions substantially the same in all respects to this Agreement (or more

favorable terms to Seller). No other offers or bids for the Assets shall be allowed after the entry of the Sale Order unless this Agreement is terminated pursuant to Section 9. If other bids are received pursuant to the Bidding Procedures, then Seller shall conduct an Auction.

(c) **Matching Rights.**

In return for Buyer's commitments and undertakings hereunder, Buyer shall have the right and option, in its sole discretion, to match ("Matching Right") any competing offer or bid for the Assets or any related asset ("Competing Offer") that may be submitted by any person other than Buyer before or after the Effective Date and up to the close of the Auction in accordance with the Bidding Procedures Order, and to the extent Buyer exercises the Matching Right, Seller shall support that Buyer be declared by the Bankruptcy Court as the high bidder; provided, however, that if Buyer matches a Competing Offer, the other offeror can increase its offer over the matched offer with the Buyer having the ability to keep matching the highest offer until there are no other Competing Offers at which time the Buyer will be declared the high bidder.

(d) **Buyer as Prevailing Bidder.**

If (i) Buyer is the Prevailing Bidder (as defined herein) at the Auction or (ii) Buyer is deemed the Prevailing Bidder under the Bidding Procedures Order, then the Seller shall use her best efforts to consummate the transactions contemplated by this Agreement as soon as possible.

(e) **Buyer as Back-up Bidder.**

If an Auction is conducted, and Buyer is not the prevailing Party at the conclusion of such Auction (such prevailing Party, the "Prevailing Bidder"), Buyer may, in Buyer's

sole discretion, agree to serve as the back-up bidder (the "Back-up Bidder") and keep Buyer's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable until 11:59 p.m. on the date of closing of an Alternative Transaction with the Prevailing Bidder (the "Outside Back-up Date"). Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder fails to consummate the Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder, the Back-up Bidder will be deemed to have the new prevailing bid, and Seller shall be required, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) with the Back-up Bidder pursuant to the procedures set forth in the Bidding Procedures Order.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Buyer's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement (as the same may be improved upon in the Auction) where the Buyer is either the Prevailing Bidder or Back-up Bidder at the conclusion of the Auction.

**12. INDEMNIFICATION.**

Buyer shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of Buyer.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this

Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by

overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Buyer:

Josiah Cox, President  
Central States Water Resources, Inc.  
500 Northwest Plaza Drive #500  
St. Ann, MO 63074  
Facsimile: (314) 238-7201  
E-mail: [jcox@cswrgroup.com](mailto:jcox@cswrgroup.com)

With a Copy to:

James A. Beckemeier  
The Beckemeier Law Firm, LC  
13421 Manchester Road, Suite 103  
St. Louis, MO 63131  
Facsimile: (314) 965-0127  
E-mail: [jim@beckemeierlaw.com](mailto:jim@beckemeierlaw.com)

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.



**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

Buyer and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

If this Agreement is terminated or if the transactions hereby are not consummated either because Seller accepts any Competing Offer pursuant to Section 10 or because Buyer is not the successful purchaser on account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a higher and better Competing Offer, Buyer shall have the right to assert an administrative expense against the Bankruptcy Estate by making proper application with the Court under Section 503(b) of the Bankruptcy Code in an amount equal to all Buyer's costs and out-of-pocket expenses incurred by Buyer in connection with its legal, environmental,

accounting, and business due diligence and the preparation and negotiation of this Agreement up to three percent (3%) of the Purchase Price (the "Expense Reimbursement"). The Expense Reimbursement shall be payable by Seller upon the first to occur of (i) Seller's closing of any alternate sale of the Assets to any other person or (ii) Seller's liquidation of assets sufficient to generate proceeds equal to or exceeding the amount of the Expense Reimbursement; provided however, such payment shall not be paid until the Seller's fees and expenses have been fully paid including, without limitation, any tax obligations and professional fees.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY'S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys' fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its

reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day and year first above written.

**SELLER:**

By: Jill D. Olsen, Trustee  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Central States Water Resources, Inc.**

By: \_\_\_\_\_  
Josiah Cox, President

reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

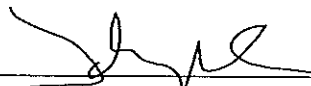
**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day and year first above written.

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Central States Water Resources, Inc.**

By:  \_\_\_\_\_  
Josiah Cox, President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps and pressurized tanks
- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

EXHIBIT "C"

Plant and Equipment

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

EXHIBIT "D"

Rights Via Agreements, Contracts, Misc.

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)



EXHIBIT E  
[Bidding Procedures]



IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
Debtor. )

**NOTICE OF AUCTION RESULTS**

Pursuant to Fed. R. Bankr. P. 6004(f), Jill Olsen, the duly appointed Chapter 11 trustee of Osage Water Company ("Trustee") hereby notifies the Court and all parties in interest of the following:

1. On August 26, 2018, Trustee filed her Motion to Approve (a) Sale of Substantially All of Debtor's Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases; and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 [Docket No. 115] (the "Sale Motion").

2. In the Sale Motion, among other things, Trustee seeks an order of the Bankruptcy Court (a) authorizing her to sell, pursuant to Bid Procedures attached as Exhibit A to the Sale Motion, outside the ordinary course of business and free and clear of all liens, claims, encumbrances, and interests, all of Debtor's right, title and interest in the Assets to the Stalking Horse Purchaser,<sup>1</sup> (b) authorizing the Trustee to assume and assign the Desired 365 Contracts, and (c) otherwise granting all necessary and appropriate related relief.

<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Sale Motion and Bid Procedures.

3. On September 19, 2018, the Bankruptcy Court entered that certain Order Approving Procedures for the Solicitation of Offers for (a) the Sale of Substantially All of Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (b) the Possible Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and (c) Related Relief [Docket No. 125] (the "Bid Procedures Order"). The Bid Procedures Order approved certain Bid Procedures and other relief requested in the Sale Motion.

#### Auction Results

4. On October 24, 2018, the Auction contemplated in the Sale Motion and Bid Procedures Order was held. Three Qualified Bidders participated in the Auction. The Auction commenced at approximately 9:30 a.m. prevailing Central time, and concluded at approximately 12:40 p.m. prevailing Central time. A copy of the sign-in sheet for the people at the Auction is attached as **Exhibit A**.

5. The Trustee has identified the highest and best bid for the Assets to be a bid of \$800,000 by the Stalking Horse Purchaser. A copy of the revised asset purchase agreement with the Stalking Horse Purchaser is attached hereto as **Exhibit B**.<sup>2</sup>

6. The first Back-up Bidder is a joint bid by Public Water Supply District No. 5 of Camden County, Missouri, Missouri Water Association, Inc., and Lake Area Waste Water Association, Inc. with a bid for the Assets of \$800,000. A copy of the asset purchase agreement for this joint bid is attached hereto as **Exhibit C**.<sup>3</sup>

<sup>2</sup> The attached asset purchase agreement is unexecuted. The Trustee anticipates receiving signatures pages in the near term.

<sup>3</sup> The attached asset purchase agreement is unexecuted. The Trustee anticipates receiving signatures pages in the near term.

7. The second Back-up Bidder is Missouri-American Water Company with a bid for the Assets of \$600,000. A copy of the asset purchase agreement for this joint bid is attached hereto as **Exhibit D**.

**Desired 365 Contracts**

8. At the time this Notice is filed, the only known Desired 365 Contracts are the contracts identified in **Exhibit E**.

Respectfully submitted,

**SPENCER FANE LLP**

By: /s/ Andrea M. Chase

Eric L. Johnson MO Bar No. 53131

Andrea M. Chase MO Bar No. 66019

Zach R.G. Fairlie MO Bar No. 68057

1000 Walnut Street, Suite 1400

Kansas City, MO 64106

Office: 816-474-8100

Facsimile: 816-474-3216

[ejohnson@spencerfane.com](mailto:ejohnson@spencerfane.com)

[achase@spencerfane.com](mailto:achase@spencerfane.com)

[zfairlie@spencerfane.com](mailto:zfairlie@spencerfane.com)

COUNSEL FOR TRUSTEE

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
 )  
Debtor. )

OCTOBER 24, 2018 AUCTION ATTENDEE LIST

Company Name	Individual	E-mail Address	Phone Number
CSWR	Joseph Cox	jcox@CSWgroup.com	317-746-2717
MAWC	TIM LUFT	tim.luft@amwater.com	314 996-2279
Ellsworth Hardwick	Agree Ellsworth	ellsworth@lolaoffice.com	(573) 693-9050
PWS D <sup>PS</sup>	DAVID STONE	LINDYSTONEY@GMAIL.COM	636-262-1512
KREHBIEL	DAVID <del>KREHBIEL</del>	DAVE K@CREK.NET	573-346-5326

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

THIS AGREEMENT (“Agreement”) is made and entered into this 24th day of October, 2018 (the “Effective Date”), by and between Central States Water Resources, a Missouri corporation, or its affiliate (“Buyer”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**EXHIBIT B**

**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, Buyer has tendered a deposit in the amount of \$46,500 (the "Deposit"); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and Buyer's Qualified Bid was determined to be the highest and best and Buyer was declared to be the Prevailing Bidder at the Auction; and

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as "Assets"); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Buyer of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission ("PSC").

**NOW, THEREFORE**, it is mutually agreed that:

**1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Buyer, or Buyer's designated affiliate, all of Seller's then



existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer* service, except accounts receivable accrued prior to the closing of this sale;

(f) All customer deposits held by Seller (the "Customer Deposits"); and

(g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to Buyer, and Buyer will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. "Excluded Assets" means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller's bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. "Excluded Causes of Action" means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment or other means, in a form satisfactory to Buyer.

At Buyer's expense, Buyer shall obtain, within ten (10) business days of the date hereof, a Commitment to issue an Owner's Policy of Title Insurance to Buyer in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri.

Within twenty (20) days after Buyer's receipt of said title insurance commitment, Buyer shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Buyer, at Buyer's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Buyer agree to make application to the PSC for authority to complete the transfer of the Assets. Buyer and Seller agree to assist the other in this process when requested to do so. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources ("DNR") for transfer of Seller's permits, if any. Other than the Seller's attorney fees, any expenses resulting from such approval shall be borne by the Buyer.

**4. PURCHASE PRICE.**

Buyer agrees to pay to Seller at the Closing **Eight Hundred Thousand Dollars (\$800,000)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by Buyer at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if

the transactions hereby are not consummated because Buyer is not the successful purchaser on the account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a different competing offer, the Deposit shall be promptly returned to Buyer without setoff or deduction of any kind after the entry of the Bankruptcy Court order approving such a return.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Buyer such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to Buyer any of the Assets to be sold hereunder, and will assist Buyer in the collection or reduction to possession of such Assets. Buyer will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits,

excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Buyer, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Buyer is purchasing the Assets in reliance upon Buyer's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

(a) **Organization and Standing of Buyer.**

Buyer is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by Buyer, and all necessary action on the part of Buyer has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Buyer under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Buyer from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by Buyer, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Buyer in Buyer's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and Buyer shall submit its application to the PSC by no later than December 17, 2018. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, Buyer may terminate this Agreement by providing written notice to Seller at Buyer's sole and absolute discretion. If Buyer fails to submit

the required application to the PSC by December 17, 2018, Seller may terminate this Agreement by providing written notice to Buyer.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of Buyer's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Buyer deems necessary for Buyer's proposed uses of the Assets, the results thereof to be satisfactory to Buyer, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Buyer, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies,

inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Buyer.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court in a form reasonably acceptable to Seller and Buyer (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to Buyer free and clear of all liens pursuant to 11 U.S.C. § 363(f); (iii) find that Buyer is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has



discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Buyer's Right to Terminate.**

If Buyer determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Buyer shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) Nothing herein shall restrict the Seller from entering into back-up purchase agreements for the sale of the Assets, as contemplated by the Bidding Procedures.

(b) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Buyer.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court, in a form and substance reasonably acceptable to buyer, approving the Bidding Procedures and certain other matters in connection with the potential Auction.

(c) **Buyer as Prevailing Bidder.**

Buyer has been declared the Prevailing Bidder (as defined herein) at the Auction. As such, the Seller shall use her best efforts to consummate the transactions contemplated by this Agreement as soon as possible.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Buyer's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement.

**12. INDEMNIFICATION.**

Buyer shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and

expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of Buyer.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent

between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Buyer:

Josiah Cox, President  
Central States Water Resources, Inc.  
500 Northwest Plaza Drive #500  
St. Ann, MO 63074  
Facsimile: (314) 238-7201  
E-mail: [jcox@cswrgroup.com](mailto:jcox@cswrgroup.com)

With a Copy to:

James A. Beckemeier  
The Beckemeier Law Firm, LC  
13421 Manchester Road, Suite 103  
St. Louis, MO 63131  
Facsimile: (314) 965-0127  
E-mail: [jim@beckemeierlaw.com](mailto:jim@beckemeierlaw.com)

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC

118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustec@olsenlawkc.com](mailto:trustec@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

Buyer and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

If this Agreement is terminated or if the transactions hereby are not consummated because Buyer is not the successful purchaser on account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a competing offer, Buyer shall have the right to assert an administrative expense against the Bankruptcy Estate by making proper application with the Court under Section 503(b) of the Bankruptcy Code in an amount equal to all Buyer's costs and out-of-pocket expenses incurred by Buyer in connection with its legal, environmental, accounting, and business due diligence and the preparation and negotiation of this Agreement up to three percent (3%) of the Purchase Price (the "Expense Reimbursement"). The Expense Reimbursement shall be payable by Seller upon the first to occur of (i) Seller's closing of any alternate sale of the Assets to any other person or (ii) Seller's liquidation of assets sufficient to generate proceeds equal to or exceeding the amount of the Expense Reimbursement; provided however, such payment shall not be paid until the Seller's fees and expenses have been fully paid including, without limitation, any tax obligations and professional fees.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed

also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY’S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys’ fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its reasonable and actually incurred attorneys’ fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

[SIGNATURE PAGES TO FOLLOW]



**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day  
and year first above written.

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Central States Water Resources, Inc.**

By: \_\_\_\_\_  
Josiah Cox, President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps and pressurized tanks
- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

**THIS AGREEMENT** (“Agreement”) is made and entered into this 24th day of October, 2018 (the “Effective Date”), by and between Public Water Supply District No. 5 of Camden County, Missouri (“PWSD #5), established pursuant to the law of the State of Missouri, Missouri Water Association, Inc., a Missouri non-profit corporation, and Lake Area Waste Water Association, Inc., a Missouri non-profit corporation (collectively, “First Back-up Bidder”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and

**EXHIBIT C**

Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, First Back-up Bidder has tendered a deposit in the amount of \$48,000 (the “Deposit”); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and First Back-up Bidder’s Qualified Bid was determined to be the first back-up bidder; and

**WHEREAS**, in the event the Seller is unable to close the Alternative Transaction with the Prevailing Bidder, Seller desires to sell, and First Back-up Bidder desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as “Assets”); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by First Back-up Bidder of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission (“PSC”).

**NOW, THEREFORE**, it is mutually agreed that:

1. **SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the conditions, covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to First Back-up Bidder, or First Back-up Bidder's designated affiliate, all of Seller's then existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or*



*sewer* service, except accounts receivable accrued prior to the closing of this sale;

- (f) All customer deposits held by Seller (the "Customer Deposits"); and
- (g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to First Back-up Bidder, and First Back-up Bidder will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. "Excluded Assets" means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller's bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. "Excluded Causes of Action" means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to First Back-up Bidder, and will vest

marketable title in fact in the First Back-up Bidder. Easements shall be assigned by written assignment or other means, in a form satisfactory to First Back-up Bidder.

At First Back-up Bidder's expense, First Back-up Bidder shall obtain, within ten (10) business days of being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to Back-up Bidders, a Commitment to issue an Owner's Policy of Title Insurance to First Back-up Bidder in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri. Within twenty (20) days after First Back-up Bidder's receipt of said title insurance commitment, First Back-up Bidder shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then First Back-up Bidder, at First Back-up Bidder's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and First Back-up Bidder agree to make application to the PSC for authority to complete the transfer of the Assets. First Back-up Bidder and Seller agree to assist the other in this process when requested to do so. First Back-up Bidder and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources ("DNR") for transfer of Seller's permits, if any. Other than the Seller's

attorney fees, any expenses resulting from such approval shall be borne by the First Back-up Bidder.

**4. PURCHASE PRICE.**

First Back-up Bidder agrees to pay to Seller at the Closing **Eight Hundred Thousand Dollars (\$800,000)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by First Back-up Bidder at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if the transactions hereby are not consummated because either the Seller consummates a competing offer pursuant to Section 10 or because First Back-up Bidder's back-up bid is not approved by the Bankruptcy Court the Deposit shall be promptly returned to First Back-up Bidder without setoff or deduction of any kind pursuant to the Bidding Procedures.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to First Back-up Bidder such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in First Back-up Bidder such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and First Back-up Bidder will deliver to Seller the Purchase Price. From time to time, at First Back-up Bidder's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and

transfer and take such other action as First Back-up Bidder reasonably may require to more effectively convey and transfer to First Back-up Bidder any of the Assets to be sold hereunder, and will assist First Back-up Bidder in the collection or reduction to possession of such Assets. First Back-up Bidder will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to First Back-up Bidder hereunder.

On the date of closing, First Back-up Bidder shall accept and assume ownership and title to the Assets to be conveyed hereunder and First Back-up Bidder shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to First Back-up Bidder, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

First Back-up Bidder is purchasing the Assets in reliance upon First Back-up Bidder's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

First Back-up Bidder represents and warrants as follows:

(a) **Organization and Standing of First Back-up Bidder.**

First Back-up Bidder is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by First Back-up Bidder and the purchase of the Assets as contemplated hereby have been duly authorized by First Back-up Bidder, and all necessary action on the part of First Back-up Bidder has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of First Back-up Bidder under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale,

transfer or disposition of the Assets to First Back-up Bidder from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by First Back-up Bidder, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to First Back-up Bidder in First Back-up Bidder's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and First Back-up Bidder shall submit its application to the PSC by no later than thirty (30) days after being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to back-up bidders. Further, First back-up Bidder shall complete any necessary annexation by no later than sixty (60) days after being notified that it has been deemed the Successful Bidder. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, First Back-up Bidder may terminate this Agreement by providing written notice to Seller at First Back-up Bidder's sole and absolute discretion. If First Back-up Bidder fails to submit the required application to the PSC or complete any necessary annexation within the time required by this section, Seller may terminate this Agreement by providing written notice to First Back-up Bidder.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of First Back-up Bidder's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals First Back-up Bidder deems necessary for First Back-up Bidder's proposed uses of the Assets, the results thereof to be satisfactory to First Back-up Bidder, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, First Back-up Bidder, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies, inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by First Back-up Bidder.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to First Back-up Bidder free and clear of all liens pursuant to 11 U.S.C. § 363(f) in the event the Prevailing Bidder is unable to close; (iii) find that First Back-up Bidder is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.



(h) **First Back-up Bidder's Right to Terminate.**

If First Back-up Bidder determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, First Back-up Bidder shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than First Back-up Bidder.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court approving the Bidding Procedures and certain other matters in connection with the potential Auction.

5. "Prevailing Bidder" shall mean the prevailing party at the conclusion of the Auction.

6. "Second Back-up Bidder" shall mean the party who had the third-best bid at the conclusion of the Auction."

(b) **First Back-up Bidder as Back-up Bidder.**

Pursuant to the Bidding Procedures, First Back-up Bidder is required to keep First Back-up Bidder's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable until one hundred eighty (180) days after the date of the Sale Order (the "Outside Back-up Date"). Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder fails to consummate the Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder, the First Back-up Bidder will be deemed to have the new prevailing bid, and Seller shall be required, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement. If Seller consummates the Alternative Transaction with the Prevailing Bidder, this Agreement will be deemed terminated and the Seller will promptly tender the Deposit back to the First Back-up Bidder.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

First Back-up Bidder's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

First Back-up Bidder shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by First Back-up Bidder prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement..

**12. INDEMNIFICATION.**

First Back-up Bidder shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of First Back-up Bidder.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of First Back-up Bidder and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in

accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to First Back-up Bidder:

Aaron Ellsworth  
Ellsworth & Hardwick  
PO Box 250  
Lake Ozark, MO 65049  
Facsimile: (573) 693-4232  
E-mail: [ellsworth@lolawoffice.com](mailto:ellsworth@lolawoffice.com)

With a Copy to:

Neddie K. Goss, Administrator

Lake Area Waste Water Association, Inc., and Missouri Water Assc. Inc.  
515 Old South 5  
Camdenton, MO 65020  
Facsimile: (573) 346-4411  
Email: [cmelyea@pmcwlaw.com](mailto:cmelyea@pmcwlaw.com)

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by First Back-up Bidder and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

First Back-up Bidder and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY'S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys' fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its



reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Public Water Supply District No. 5 of  
Camden County, Missouri**

By: \_\_\_\_\_  
Name:  
Title:

**Lake Area Waste Water Assc., Inc.**

By: \_\_\_\_\_  
Name:  
Title:

**Missouri Water Assc., Inc.**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force

main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity

collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps

and pressurized tanks

- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

Plant and Equipment

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.  
(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

**THIS AGREEMENT** (“Agreement”) is made and entered into this 29th day of October, 2018 (the “Effective Date”), by and between Missouri-American Water Company, a Missouri corporation, or its affiliate (“Second Back-up Bidder”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, Second Back-up Bidder has tendered a deposit in the amount of \$48,000 (the "Deposit"); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and Second Back-up Bidder's Qualified Bid was determined to be the Second Back-Up Bidder; and

**WHEREAS**, in the event the Seller is unable to close the Alternative Transactions with Prevailing Bidder or the First Back-Up Bidder, Seller desires to sell, and Second Back-up Bidder desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as "Assets");

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Second Back-up Bidder of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission ("PSC")

**NOW, THEREFORE**, it is mutually agreed that:



**1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the conditions, covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Second Back-up Bidder, or Second Back-up Bidder's designated affiliate, all of Seller's then existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer*

service, except accounts receivable accrued prior to the closing of this sale;

(f) All customer deposits held by Seller (the "Customer Deposits"); and

(g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to Second Back-up Bidder, and Second Back-up Bidder will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. "Excluded Assets" means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller's bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. "Excluded Causes of Action" means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Second Back-up Bidder, and will vest

marketable title in fact in the Second Back-up Bidder. Easements shall be assigned by written assignment or other means, in a form satisfactory to Second Back-up Bidder.

At Second Back-up Bidder's expense, Second Back-up Bidder shall obtain, within ten (10) business days of being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to Back-up Bidders, a Commitment to issue an Owner's Policy of Title Insurance to Second Back-up Bidder in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri. Within twenty (20) days after Second Back-up Bidder's receipt of said title insurance commitment, Second Back-up Bidder shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Second Back-up Bidder, at Second Back-up Bidder's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Second Back-up Bidder agree to make application to the PSC for authority to complete the transfer of the Assets. Second Back-up Bidder and Seller agree to assist the other in this process when requested to do so. Second Back-up Bidder and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of

Natural Resources ("DNR") for transfer of Seller's permits, if any. Other than the Seller's attorney fees, any expenses resulting from such approval shall be borne by the Second Back-up Bidder.

**4. PURCHASE PRICE.**

Second Back-up Bidder agrees to pay to Seller at the Closing **Six Hundred Thousand Dollars (\$600,000)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by Second Back-up Bidder at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if the transactions hereby are not consummated because either the Seller consummates a competing offer pursuant to Section 10 or because Second Back-up Bidder's backup bid is not approved by the Bankruptcy Court, the deposit shall be promptly returned to Second Back-up Bidder without setoff or deduction of any kind pursuant to the Bidding Procedures.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Second Back-up Bidder such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Second Back-up Bidder such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Second Back-up Bidder will deliver to Seller the Purchase Price. From time to time, at Second Back-up Bidder's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer

and take such other action as Second Back-up Bidder reasonably may require to more effectively convey and transfer to Second Back-up Bidder any of the Assets to be sold hereunder, and will assist Second Back-up Bidder in the collection or reduction to possession of such Assets. Second Back-up Bidder will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Second Back-up Bidder hereunder.

On the date of closing, Second Back-up Bidder shall accept and assume ownership and title to the Assets to be conveyed hereunder and Second Back-up Bidder shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Second Back-up Bidder, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Second Back-up Bidder is purchasing the Assets in reliance upon Second Back-up Bidder's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

**8. BUYER'S REPRESENTATIONS AND WARRANTIES.**

Second Back-up Bidder represents and warrants as follows:

**(a) Organization and Standing of Second Back-up Bidder.**

Second Back-up Bidder is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

**(b) Authority.**

The execution and delivery of this Agreement by Second Back-up Bidder and the purchase of the Assets as contemplated hereby have been duly authorized by Second Back-up Bidder, and all necessary action on the part of Second Back-up Bidder has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

**9. CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Second Back-up Bidder under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

**(a) Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Second Back-up Bidder from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory

compliance deemed necessary by Second Back-up Bidder, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Second Back-up Bidder in Second Back-up Bidder's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and Second Back-up Bidder shall submit its application to the PSC by no later than thirty (30) days after being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to Back-up Bids. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, Second Back-up Bidder may terminate this Agreement by providing written notice to Seller at Second Back-up Bidder's sole and absolute discretion. If Second Back-up Bidder fails to submit the required application to the PSC within the time required by this section, Seller may terminate this Agreement by providing written notice to Second Back-up Bidder.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of Second Back-up Bidder's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Second Back-up Bidder deems necessary for Second Back-up Bidder's proposed uses of the Assets, the results thereof to be satisfactory to Second Back-up Bidder, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Second Back-up Bidder, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies, inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Second Back-up Bidder.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the



sale of the Assets to Second Back-up Bidder free and clear of all liens pursuant to 11 U.S.C. § 363(f) in the event the Prevailing Bidder or First Back-up Bidder fails to close; (iii) find that Second Back-up Bidder is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Second Back-up Bidder's Right to Terminate.**

If Second Back-up Bidder determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Second Back-up Bidder shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Second Back-up Bidder.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court approving the Bidding Procedures and certain other matters in connection with the potential Auction.

5. "Prevailing Bidder" shall mean the prevailing party at the conclusion of the Auction.

6. "First Back-up Bidder" shall mean the party who had the second-best bid at the conclusion of the Auction.

7. "Second Back-up Bidder" shall mean the party who had the third-best bid at the conclusion of the Auction."

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(b) **Second Back-up Bidder as Back-up Bidder.**

Pursuant to the Bidding Procedures, Second Back-up Bidder is required to keep Second Back-up Bidder's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement open and irrevocable until one hundred eighty (180) days after the date of the Sale Order (the "Outside Back-up Date"). Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder or First Back-up Bidder fail to consummate the Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder or First Back-up Bidder, the Second Back-up Bidder will be deemed to have the new prevailing bid, and Seller shall be required, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement. If Seller consummates an Alternative Transaction with either the Prevailing Bidder or the First Back-up Bidder, this Agreement will be deemed terminated and the Seller will promptly tender the Deposit back to the Second Back-up Bidder.

11. **CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Second Back-up Bidder's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Second Back-up Bidder shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Second Back-up Bidder prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement.

**12. INDEMNIFICATION.**

Second Back-up Bidder shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the

successors and assigns of Second Back-up Bidder.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Second Back-up Bidder and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Second Back-up Bidder:

Missouri-American Water Company  
727 Craig Road  
St. Louis, Missouri 63141  
Attention: Legal Department

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencrfanc.com](mailto:achase@spencrfanc.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Second Back-up Bidder and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

Second Back-up Bidder and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY'S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys' fees to enforce the terms of this Agreement or to recover



damages for breach of this contract, then the prevailing Party shall be entitled to receive its reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day and year first above written.

[SIGNATURE PAGES TO FOLLOW]

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**SECOND BACK-UP BIDDER:**

**MISSOURI-AMERICAN WATER  
COMPANY**

By: Cheryl Norton \_\_\_\_\_  
Name: Cheryl Norton  
Title: President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps and pressurized tanks
- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)

**EXHIBIT E**

<b>Contracting Party</b>	<b>Notice Address</b>	<b>Contract Description</b>	<b>Cure Amount</b>
Denise Jordan	6507 Red Fox Lane Osage Beach, MO 65065	Lease of well water rights	n/a
Lake of the Ozarks Water & Sewer, Inc.	840 Thunder Mountain Road Camdenton, MO 65020	Operation and Maintenance Agreement	n/a





IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

IN THE MATTER OF: )  
 ) Case No. 17-42759-drd11  
OSAGE WATER COMPANY, )  
 )  
Debtor. )

**ORDER APPROVING (A) THE SALE OF SUBSTANTIALLY ALL OF DEBTOR'S  
ASSETS FREE AND CLEAR OF ALL LIENS, INTERESTS, CLAIMS AND  
ENCUMBRANCES AND RELATED PROCEDURES AND BID PROTECTION  
PURSUANT TO 11 U.S.C. § 363, (B) THE POTENTIAL ASSUMPTION AND  
ASSIGNMENT, OR REJECTION, OF CERTAIN EXECUTORY CONTRACTS AND  
UNEXPIRED LEASES, AND RELATED PROCEDURES, PURSUANT TO 11 U.S.C.  
§ 365, AND (C) RELATED RELIEF PURSUANT TO 11 U.S.C. §§ 102 AND 105**

This matter comes before the Court upon the Motion to Approve (a) the Sale of Substantially All of Debtor's Assets Free and Clear of All Liens, Interests, Claims and Encumbrances, and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (b) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (c) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105 (the "Motion"), filed by Jill Olsen ("Trustee"), the Chapter 11 trustee of Osage Water Company ("Debtor"). Notice of this order was served on interested parties [Docket \_\_\_\_ and \_\_\_\_], and no party filed an objection by the November 13, 2018 objection deadline. For the reasons detailed in this order, the Court finds and determines that:

1. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, the consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b), and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

WA 12010740.3

2. On September 19, 2018, after appropriate notice, this Court entered that certain Order Approving Procedures for the Solicitation of Offers for (A) the Sale of Substantially all of Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests; (B) the Possible Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases; and (C) Related Relief [Docket 126] (the "Bid Procedures Order"). The Bid Procedures Order approved certain Bid Procedures and other relief requested in the Motion.

3. As reflected in the Certificate of Service [Docket 120] filed with respect to the Motion, the Motion was served via the Court's electronic filing system on those parties receiving electronic notice by such system, and on all other parties identified in the certificate of service, including the mailing matrix for the case, via U.S. Mail.

4. As evidenced by the Certificates of Service [Docket 127] filed with respect to the Bid Procedures Order, the Bid Procedures Order, which attached the Transaction Notice (as defined in the Bid Procedures Order), was served via the Court's electronic filing system on those parties receiving electronic notice by such system, and on all other parties identified in the certificate of service, including the mailing matrix for the case, via U.S. Mail.

5. The Court finds the scope and manner of notice and service to be proper, timely, adequate, and sufficient in accordance with Bankruptcy Code §§ 105(a), 363 and 365 and Bankruptcy Rules 2002, 6004, 6006, 6007, and 9014, and in compliance with the Bid Procedures Order. No further notice of the Motion, the Bid Procedures, the Auction, the Sale Hearing, or the assignment and assumption of the Desired 365 Contracts is or shall be required.

6. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion has been afforded to all creditors and parties in interest.

7. The Trustee has conducted the sale process in compliance with the Bid Procedures Order and has completed a full, fair, and complete auction process.

8. At the Auction held on October 24, 2018 (the "Auction"), the Trustee determined that the highest and best Qualified Bid (as defined in the Bid Procedures) for the Assets is the Stalking Horse Purchaser, as identified in the Notice of Auction Results [Docket 130] (the "Auction Report"). The Stalking Horse Purchaser is approved as a Successful Bidder for the Assets set forth in the executed asset purchase agreement by and among the Stalking Horse Purchaser and the Trustee attached hereto and incorporated by reference as **Exhibit A** (the "Stalking Horse APA"). Public Water Supply District No. 5 of Camden County, Missouri, Missouri Water Association, Inc., and Lake Area Waste Water Association, Inc. (collectively, the "First Back-up Bidder"), who together submitted a joint bid, were selected as the first Back-up Bidder at the Auction pursuant to the executed asset purchase agreement attached hereto as **Exhibit B** (the "First Back-up APA"). Missouri-American Water Company (the "Second Back-up Bidder", together with the Stalking Purchaser and First Back-up Bidder, the "Proposed Purchasers") was selected as the second Back-up Bidder at the Auction pursuant to the executed asset purchase agreement attached hereto as **Exhibit C** (the "Second Back-up APA", together the Stalking Horse APA and the First Back-Up APA, collectively, the "APAs")<sup>1</sup>.

9. The Auction conducted by the Trustee, including the methodology for determining the highest and best offers, was conducted in a manner that was reasonably calculated to achieve the highest and best offers for the Assets. The Auction was conducted in a non-collusive, fair and good faith manner and a reasonable opportunity has been given to any interested party to make a higher or otherwise better offer for the Assets.

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<sup>1</sup> This Order is approving all of the APAs to the Proposed Purchasers with the understanding that the First Back-up APA and the Second Back-up APA are contingent agreements that shall only be consummated if the Stalking Horse APA or, if applicable, the First Back-up APA does not close.

10. The Trustee has full power and authority to execute the APAs and all other documents referenced in or contemplated by the APAs or that are necessary or appropriate to effectuate the sale of the Assets as contemplated under the APAs. All actions contemplated by the APAs have been duly and validly authorized and the Trustee has the full power and authority to consummate the transactions contemplated by the APAs. No further consents or approvals, other than the entry of this Order and any necessary approval by the any state regulatory authorities, including the Missouri Public Service Commission or the Missouri Department of Natural Resources, are required for the Trustee to consummate the transactions contemplated in the APAs.

11. The APAs were negotiated, proposed, and entered into by the Trustee and Proposed Purchasers in good faith, without collusion, and was the result of arm's-length bargaining with the parties represented by independent counsel.

12. The Proposed Purchasers are good faith purchasers of the Assets under Bankruptcy Code § 363(m) and, as such, are entitled to all of the protections afforded thereby. The Proposed Purchasers have acted in good faith within the meaning of Bankruptcy Code § 363(m) prior to entry of this Order and the Proposed Purchasers may rely on entry of this Order and this good faith determination in closing such transactions.

13. The Proposed Purchasers would not have entered into the APAs and would not consummate the transactions contemplated thereby if either (i) the sale and the assignment of the Assets were not free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever (except as otherwise provided herein or in the APAs), or (ii) the Proposed Purchasers would, or in the future could, be liable for any of such liens, claims, encumbrances, and other interests (except as otherwise provided herein or in the APAs).

14. The sale of the Assets to the Proposed Purchasers pursuant to the APAs is reasonable and appropriate under the circumstances.

15. Subject to any necessary approval by the any state regulatory authorities, including the Missouri Public Service Commission or the Missouri Department of Natural Resources, the Trustee is authorized to sell the Assets free and clear of all liens, claims, encumbrances, and other interests (except as otherwise provided herein or in the APAs), as one or more of the standards set forth in Bankruptcy Code § 363(f) have been satisfied with respect to each such lien, claim, encumbrance, and other interest. The transfers of the Assets to Proposed Purchasers pursuant to the APAs will be legal, valid, and effective transfers of the Assets, and will vest Proposed Purchasers with all of the Debtor's rights, title, and interest in and to the Assets free and clear of all liens, claims, encumbrances, and other interests (except as otherwise provided herein or in the APAs), which have, or could have, been asserted by the Debtor, its creditors, or other holders of such liens, claims, encumbrances, and other interests.

16. The assumption and assignment of the Desired 365 Contracts is integral to the APAs, is in the best interests of the Debtor's estate, creditors, and other parties in interest, and represents a reasonable exercise of sound and prudent business judgment by the Trustee.

17. There are no outstanding cure amounts for the Desired 365 Contracts. The Trustee shall have no further liability or obligation under the Desired 365 Contracts, and Proposed Purchasers shall have no obligation to make any payment or provide any performance to cure any default or breaches arising on or before the closing under the APAs.

18. The Proposed Purchasers have each demonstrated adequate assurance of future performance under the Desired 365 Contracts that will be assumed and assigned pursuant to this Order.

19. Subject to the terms of the APAs and the occurrence of their respective closing dates, the assumption by the Trustee and the Desired 365 Contracts and the assignment of such Desired 365 Contracts, as provided for or contemplated by the APAs, is hereby authorized and approved pursuant to sections 363 and 365 of the Bankruptcy Code.

20. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), the stay pursuant to Bankruptcy Rule 6004(h) or 6006(d) is hereby waived and this Order shall be effective and enforceable immediately upon entry. To the extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds that cause exists not to delay the implementation of this Order due to the time, effort, expense, and risk of delaying any closing(s) under the APAs. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a) upon its entry.

21. The findings of fact set forth above and conclusions of law stated herein shall constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.

**BASED ON THE FOREGOING FINDINGS OF FACT, GOOD CAUSE EXISTS FOR ENTRY OF THE FOLLOWING ORDER. IT IS THEREFORE ORDERED:**

22. The notice of the Motion and Sale Hearing and notice of the assumption and assignment of the Desired 365 Contracts are approved as being fair, reasonable and adequate under the circumstances of these cases, and any additional notice as may otherwise be required under state and federal law is hereby deemed satisfied.

23. The Motion is **GRANTED** as set forth herein and the sale of the Assets and assumption and assignment of the Desired 365 Contracts to the Proposed Purchasers is hereby authorized as set forth in this Order.

24. All objections to the Motion that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby **OVERRULED** on the merits.

25. The Trustee and the Proposed Purchasers have complied with the Bid Procedures Order and Stalking Horse Purchaser is a Successful Bidder for the Assets on the terms and conditions set forth in the Stalking Horse APA.

26. Should the Stalking Horse Purchaser fail to close on the sale pursuant to the Stalking Horse APA, and without further order from this Court, the Trustee is authorized and empowered to sell the Assets to the First Back-up Bidder and execute and deliver the agreements contemplated herein and to implement and consummate all of the transactions and perform all obligations contemplated by the First Back-up Bidder's back-up bid at the Auction and this Order as if the First Back-up Bidder were the Stalking Horse Purchaser and the First Back-up Bidder shall be entitled to all of the findings and protections of this Order provided to the Stalking Horse Purchaser.

27. Should the Stalking Horse Purchaser and First Back-up Bidder both fail to close on the sale, and without further order from this Court, the Trustee is authorized and empowered to sell the Assets to the Second Back-up Bidder and execute and deliver the agreements contemplated herein and to implement and consummate all of the transactions and perform all obligations contemplated by the Second Back-up Bidder's back-up bid at the Auction and this Order as if the Second Back-up Bidder were the Stalking Horse Purchaser and the Second Back-

up Bidder shall be entitled to all of the findings and protections of this Order provided to the Stalking Horse Purchaser.

28. The APAs, all exhibits and schedules thereto, and all of the terms and conditions thereof are hereby approved.

29. Pursuant to Bankruptcy Code §§ 105, 363 and 365, the Trustee is authorized and directed to consummate the sale of the Assets, pursuant to and in accordance with the terms and conditions of the APAs, including, without limitation, to convey to Proposed Purchasers the Assets and assume and assign the Desired 365 Contracts and rights thereunder. Notwithstanding the foregoing, the closing of the sale remains subject to any necessary approval by the any state regulatory authorities, including the Missouri Public Service Commission or the Missouri Department of Natural Resources.

30. Without need for any additional Court order, the Trustee and her agents are authorized and directed to execute and deliver, and empowered to perform under, consummate, and implement the APAs, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the APAs, and to take all further actions as may be reasonably requested by Proposed Purchasers or otherwise required under the APAs.

31. The consideration to be provided by Proposed Purchasers for the purchase of the Assets under the APAs constitutes reasonably equivalent value, fair value, and fair consideration thereof under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, and any other applicable state or federal law.

32. Pursuant to Bankruptcy Code §§ 105(a), 363(b) and 363(f), the transfer of the Assets to Proposed Purchasers pursuant to the APAs shall (a) be valid, legal, binding, and effective transfers, (b) vest Proposed Purchasers with all rights, title, and interest of the Debtor's



estate in and to the Assets effective as of the time of the transfers under the APAs, and (c) be free and clear of liens, claims, encumbrances, and other interests in the Assets (except as otherwise provided herein or in the APAs) including, without limitation, mortgages, restrictions, hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, options, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, liens — including, without limitation, mechanics', materialmen's and other consensual and nonconsensual liens and statutory liens — judgments, demands, encumbrances, rights of first refusal, offsets, contracts, rights of recovery, claims for reimbursement, contribution, indemnity, exoneration, products liability, alter-ego, environmental, or tax, decrees of any Court or foreign or domestic governmental entity, or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership, debts arising in any way in connection with any agreements, acts, or failures to act, of the Debtor, its estate, or its predecessors or affiliates, claims (as that term is defined in the Bankruptcy Code), reclamation claims, obligations, liabilities, demands, guaranties, options, rights, contractual or other commitments, restrictions, interests and matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of these cases, and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under doctrines of successor liability, whether arising prior to or subsequent to the commencement of these cases, and whether imposed by agreement, law, equity or otherwise, with all the same released, terminated and discharged as to

the Assets. Notwithstanding the foregoing, the closing of the sale remains subject to any necessary approval by the any state regulatory authorities, including the Missouri Public Service Commission or the Missouri Department of Natural Resources.

33. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Trustee to transfer the Assets to Proposed Purchasers in accordance with this Order and the terms of the APAs, or otherwise interfere with Proposed Purchasers' title to or use and enjoyment of the Assets.

34. This Order shall be the Court's determination that, on the closing date of the respective APA, all liens, claims, encumbrances, and other interests in and to the Assets being conveyed have been unconditionally released, discharged, and terminated from the Assets.

35. Proposed Purchasers shall have no liability or responsibility for any liability or other obligation of the Debtor arising under or related to the Assets other than as expressly set forth herein or in the APAs, and in no event shall Proposed Purchasers have any liability or responsibility for any liabilities of the Debtor (including any unrecorded liabilities of the Debtor) other than as expressly set forth herein or in the APAs. Without limiting the effect or scope of the foregoing, the transfer of the Assets from the Trustee to Proposed Purchasers does not and will not subject Proposed Purchasers or its affiliates, successors or assigns or their respective properties (including the Assets) to any liability for claims (as that term is defined in Bankruptcy Code § 101(5)) against the Debtor or the Assets (other than as expressly set forth herein or in the APAs) by reason of such transfer under the laws of the United States or any state, territory or possession thereof applicable to such transactions. Except as otherwise provided herein or in the APAs, on and after the closing date of the APAs, all persons or entities holding liens, claims, encumbrances, or other interests of any kind and nature with respect to the Assets are hereby

forever barred and estopped from asserting such liens, claims, encumbrances, or other interests of any kind or nature against Proposed Purchasers, their successors or assigns, or the Assets.

36. On and after the closing date of the applicable APA, except as otherwise set forth herein or in the APAs, the Trustee shall have no liability or responsibility for the Assets.

37. On the closing date of the applicable APA, the Trustee is hereby authorized and directed, pursuant to §§ 363 and 365 of the Bankruptcy Code, to assume and assign to the applicable Proposed Purchaser the Desired 365 Contracts and rights thereunder.

38. On the closing date of the applicable APA, the Debtor's right, title and interest in, to and under the Desired 365 Contracts attributable to each closing shall be assumed by the Debtor's estate and assigned to the applicable Proposed Purchaser, and the Desired 365 Contracts will remain valid and binding and in full force and effect in accordance with their respective terms for the benefit of Proposed Purchasers, notwithstanding any provision in such contracts or leases (including those described in Bankruptcy Code §§ 365(b)(2) and (f)(1) and (3)), that prohibits, restricts or conditions such assignment or transfer.

39. The Trustee is further authorized and directed to take any and all actions necessary or appropriate to consummate the proposed assignment of the Debtor's right, title and interest in, to and under the Desired 365 Contracts to Proposed Purchasers, as specified in the APAs. Proposed Purchasers shall have no liability for any defaults under the Desired 365 Contracts (except as may be explicitly provided in the APAs) that occurred prior to the assignment of the Debtor's right, title and interest in, to and under the Desired 365 Contracts. Pursuant to Bankruptcy Code § 365(k), the Trustee and Debtor are relieved of any liability for any breach of any Desired 365 Contract that is assigned to Proposed Purchasers occurring after the assignment of such Desired 365 Contracts to Proposed Purchasers.

40. The failure of the Trustee or Proposed Purchasers to enforce at any time one or more terms or conditions of any Desired 365 Contracts shall not be a waiver of such terms or conditions, or of Proposed Purchasers' rights to enforce every term and condition of the Desired 365 Contracts.

41. There shall be no rent accelerations, assignment fees, increases, or any other fees charged to Proposed Purchasers as a result of the assumption, assignment, and sale of the Desired 365 Contracts.

42. The Trustee is authorized to execute such other necessary documents and take other necessary actions in connection therewith.

43. No bulk sales law, or similar law of any state or other jurisdiction, shall apply in any way to the transaction contemplated by the APAs and this Order.

44. The failure specifically to include any particular provision of the APAs in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the APAs be authorized and approved in its entirety.

45. This Order (a) shall be effective as a determination that, on the closing date, all liens, claims, encumbrances, other interests, and rights of any kind or nature whatsoever existing with respect to the Assets have been unconditionally released, discharged and terminated (except as otherwise provided herein or in the APAs), and that the conveyances described herein have been effected and (b) shall be binding upon and shall govern the acts of all entities, including without limitation all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept,

file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Assets.

46. Each and every federal, state, and local governmental agency or department is hereby directed to accept for filing and/or recording, and approve as necessary, any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the APAs.

47. To the extent permitted by § 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Assets sold, transferred, or conveyed to Proposed Purchasers on account of the filing or pendency of these cases or the consummation of the sale.

48. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing claims or interests with respect to the Assets shall not have delivered to the Trustee prior to the closing date, in proper form for filing and executed by the appropriate parties, releases of liens or interests which the person or entity has with respect to the Assets, then Proposed Purchasers, at its own expense, is hereby authorized to file, register, or otherwise record a certified copy of this Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all liens, claims, encumbrances, and other interests in the Assets of any kind or nature whatsoever to the extent provided herein.

49. All entities that presently are in possession of some or all the Assets hereby are directed to surrender possession of the Assets to Proposed Purchasers at the closing date.

50. This Court retains exclusive jurisdiction so long as the Debtor's case is pending to determine as a core proceeding (by motion and without necessity for an adversary proceeding)

any proceeding, dispute, or controversy (i) to enforce and implement the terms and provisions of the APAs (including any breach of the APAs), all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith in all respects and (ii) arising out of or related to this Order and the APAs.

51. The transactions contemplated by the APAs are undertaken by Proposed Purchasers in good faith, as that term is used in Bankruptcy Code § 363(m). Accordingly, the reversal or modification of the authorization provided herein to consummate the transactions contemplated herein shall not affect the validity of the sale of the Assets to Proposed Purchasers, unless such authorization is duly stayed. Proposed Purchasers is entitled to all of the protections afforded by Bankruptcy Code § 363(m).

52. The consideration to be provided by Proposed Purchasers for the Assets under the APAs is fair and reasonable, and the sale of the Assets and the related transactions may not be avoided under Bankruptcy Code § 363(n).

53. The terms and conditions of the APAs and this Order shall be binding in all respects and shall inure to the benefit of the Trustee, Debtor and its creditors and interest holders, successors, and assigns and Proposed Purchasers, and its respective affiliates, successors and assigns.

54. The APAs and any related agreements, documents or other instruments may be modified, amended, supplemented, or waived by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that such modification, amendment, supplement, or waiver shall not have a material adverse effect on the Debtor's estate.

55. The provisions of this Order are non-severable and mutually dependent.

56. In the event of any inconsistency between the terms and provisions of this Order and the APAs, the terms and provisions of this Order shall control unless explicitly provided otherwise herein.

57. This Court may supplement this Order with one or more additional orders within the scope of this Order, with or without additional notice or opportunity for a hearing to other parties depending upon the facts and circumstances as determined by the Court at the time the Court is requested to enter such separate order(s).

58. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), there is no stay pursuant to Bankruptcy Rule 6004(h) or 6006(d) and this Order shall be effective and enforceable immediately upon entry.

59. Counsel for Trustee shall serve a copy of this Order by mail to all interested parties who were not served electronically.

Date: 11/14/18

/s/ Dennis R. Dow  
HONORABLE DENNIS R. DOW  
United States Bankruptcy Judge

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

**THIS AGREEMENT** (“Agreement”) is made and entered into this 24th day of October, 2018 (the “Effective Date”), by and between Central States Water Resources, a Missouri corporation, or its affiliate (“Buyer”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**EXHIBIT A**



**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, Buyer has tendered a deposit in the amount of \$46,500 (the "Deposit"); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and Buyer's Qualified Bid was determined to be the highest and best and Buyer was declared to be the Prevailing Bidder at the Auction; and

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as "Assets"); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Buyer of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission ("PSC").

**NOW, THEREFORE**, it is mutually agreed that:

**1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Buyer, or Buyer's designated affiliate, all of Seller's then

existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

- (a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;
- (b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;
- (c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;
- (d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;
- (e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer* service, except accounts receivable accrued prior to the closing of this sale;
- (f) All customer deposits held by Seller (the "Customer Deposits"); and
- (g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to Buyer, and Buyer will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. "Excluded Assets" means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller's bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. "Excluded Causes of Action" means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## 2. CONVEYANCES OF REAL ESTATE.

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment or other means, in a form satisfactory to Buyer.

At Buyer's expense, Buyer shall obtain, within ten (10) business days of the date hereof, a Commitment to issue an Owner's Policy of Title Insurance to Buyer in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri.

Within twenty (20) days after Buyer's receipt of said title insurance commitment, Buyer shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Buyer, at Buyer's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Buyer agree to make application to the PSC for authority to complete the transfer of the Assets. Buyer and Seller agree to assist the other in this process when requested to do so. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources ("DNR") for transfer of Seller's permits, if any. Other than the Seller's attorney fees, any expenses resulting from such approval shall be borne by the Buyer.

**4. PURCHASE PRICE.**

Buyer agrees to pay to Seller at the Closing **Eight Hundred Thousand Dollars (\$800,000)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by Buyer at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if

the transactions hereby are not consummated because Buyer is not the successful purchaser on the account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a different competing offer, the Deposit shall be promptly returned to Buyer without setoff or deduction of any kind after the entry of the Bankruptcy Court order approving such a return.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Buyer such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to Buyer any of the Assets to be sold hereunder, and will assist Buyer in the collection or reduction to possession of such Assets. Buyer will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits,

excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Buyer, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Buyer is purchasing the Assets in reliance upon Buyer's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

(a) **Organization and Standing of Buyer.**

Buyer is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by Buyer, and all necessary action on the part of Buyer has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Buyer under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Buyer from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by Buyer, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Buyer in Buyer's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and Buyer shall submit its application to the PSC by no later than December 17, 2018. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, Buyer may terminate this Agreement by providing written notice to Seller at Buyer's sole and absolute discretion. If Buyer fails to submit

the required application to the PSC by December 17, 2018, Seller may terminate this Agreement by providing written notice to Buyer.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of Buyer's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Buyer deems necessary for Buyer's proposed uses of the Assets, the results thereof to be satisfactory to Buyer, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Buyer, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies,



inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Buyer.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court in a form reasonably acceptable to Seller and Buyer (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to Buyer free and clear of all liens pursuant to 11 U.S.C. § 363(f); (iii) find that Buyer is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has

discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Buyer's Right to Terminate.**

If Buyer determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Buyer shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) Nothing herein shall restrict the Seller from entering into back-up purchase agreements for the sale of the Assets, as contemplated by the Bidding Procedures.

(b) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Buyer.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court, in a form and substance reasonably acceptable to buyer, approving the Bidding Procedures and certain other matters in connection with the potential Auction.

(c) **Buyer as Prevailing Bidder.**

Buyer has been declared the Prevailing Bidder (as defined herein) at the Auction. As such, the Seller shall use her best efforts to consummate the transactions contemplated by this Agreement as soon as possible.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Buyer's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement.

**12. INDEMNIFICATION.**

Buyer shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and

expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of Buyer.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent

between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Buyer:

Josiah Cox, President  
Central States Water Resources, Inc.  
500 Northwest Plaza Drive #500  
St. Ann, MO 63074  
Facsimile: (314) 238-7201  
E-mail: jcox@cswrgroup.com

With a Copy to:

James A. Beckemeier  
The Beckemeier Law Firm, LC  
13421 Manchester Road, Suite 103  
St. Louis, MO 63131  
Facsimile: (314) 965-0127  
E-mail: jim@beckemeierlaw.com

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC

118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

Buyer and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

If this Agreement is terminated or if the transactions hereby are not consummated because Buyer is not the successful purchaser on account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a competing offer, Buyer shall have the right to assert an administrative expense against the Bankruptcy Estate by making proper application with the Court under Section 503(b) of the Bankruptcy Code in an amount equal to all Buyer's costs and out-of-pocket expenses incurred by Buyer in connection with its legal, environmental, accounting, and business due diligence and the preparation and negotiation of this Agreement up to three percent (3%) of the Purchase Price (the "Expense Reimbursement"). The Expense Reimbursement shall be payable by Seller upon the first to occur of (i) Seller's closing of any alternate sale of the Assets to any other person or (ii) Seller's liquidation of assets sufficient to generate proceeds equal to or exceeding the amount of the Expense Reimbursement; provided however, such payment shall not be paid until the Seller's fees and expenses have been fully paid including, without limitation, any tax obligations and professional fees.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed



also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY’S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys’ fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its reasonable and actually incurred attorneys’ fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day  
and year first above written.

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Central States Water Resources, Inc.**

By: \_\_\_\_\_  
Josiah Cox, President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps and pressurized tanks
- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.  
(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

THIS AGREEMENT (“Agreement”) is made and entered into this 24th day of October, 2018 (the “Effective Date”), by and between Public Water Supply District No. 5 of Camden County, Missouri (“PWSD #5), established pursuant to the law of the State of Missouri, Missouri Water Association, Inc., a Missouri non-profit corporation, and Lake Area Waste Water Association, Inc., a Missouri non-profit corporation (collectively, “First Back-up Bidder”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and

**EXHIBIT B**

Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, First Back-up Bidder has tendered a deposit in the amount of \$48,000 (the “Deposit”); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and First Back-up Bidder’s Qualified Bid was determined to be the first back-up bidder; and

**WHEREAS**, in the event the Seller is unable to close the Alternative Transaction with the Prevailing Bidder, Seller desires to sell, and First Back-up Bidder desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as “Assets”); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by First Back-up Bidder of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission (“PSC”).

**NOW, THEREFORE**, it is mutually agreed that:



1. **SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the conditions, covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to First Back-up Bidder, or First Back-up Bidder's designated affiliate, all of Seller's then existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or*

*sewer* service, except accounts receivable accrued prior to the closing of this sale;

- (f) All customer deposits held by Seller (the “Customer Deposits”); and
- (g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the “Assets.”

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to First Back-up Bidder, and First Back-up Bidder will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. “Excluded Assets” means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller’s bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. “Excluded Causes of Action” means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee’s deed, in a form satisfactory to First Back-up Bidder, and will vest

marketable title in fact in the First Back-up Bidder. Easements shall be assigned by written assignment or other means, in a form satisfactory to First Back-up Bidder.

At First Back-up Bidder's expense, First Back-up Bidder shall obtain, within ten (10) business days of being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to Back-up Bidders, a Commitment to issue an Owner's Policy of Title Insurance to First Back-up Bidder in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri. Within twenty (20) days after First Back-up Bidder's receipt of said title insurance commitment, First Back-up Bidder shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then First Back-up Bidder, at First Back-up Bidder's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and First Back-up Bidder agree to make application to the PSC for authority to complete the transfer of the Assets. First Back-up Bidder and Seller agree to assist the other in this process when requested to do so. First Back-up Bidder and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources ("DNR") for transfer of Seller's permits, if any. Other than the Seller's

attorney fees, any expenses resulting from such approval shall be borne by the First Back-up Bidder.

4. **PURCHASE PRICE.**

First Back-up Bidder agrees to pay to Seller at the Closing **Eight Hundred Thousand Dollars (\$800,000)** for purchase of the Assets ("Purchase Price").

5. **DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by First Back-up Bidder at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if the transactions hereby are not consummated because either the Seller consummates a competing offer pursuant to Section 10 or because First Back-up Bidder's back-up bid is not approved by the Bankruptcy Court the Deposit shall be promptly returned to First Back-up Bidder without setoff or deduction of any kind pursuant to the Bidding Procedures.

6. **CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to First Back-up Bidder such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in First Back-up Bidder such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and First Back-up Bidder will deliver to Seller the Purchase Price. From time to time, at First Back-up Bidder's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and

transfer and take such other action as First Back-up Bidder reasonably may require to more effectively convey and transfer to First Back-up Bidder any of the Assets to be sold hereunder, and will assist First Back-up Bidder in the collection or reduction to possession of such Assets. First Back-up Bidder will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to First Back-up Bidder hereunder.

On the date of closing, First Back-up Bidder shall accept and assume ownership and title to the Assets to be conveyed hereunder and First Back-up Bidder shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to First Back-up Bidder, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

First Back-up Bidder is purchasing the Assets in reliance upon First Back-up Bidder's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

First Back-up Bidder represents and warrants as follows:

(a) **Organization and Standing of First Back-up Bidder.**

First Back-up Bidder is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by First Back-up Bidder and the purchase of the Assets as contemplated hereby have been duly authorized by First Back-up Bidder, and all necessary action on the part of First Back-up Bidder has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of First Back-up Bidder under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale,

transfer or disposition of the Assets to First Back-up Bidder from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by First Back-up Bidder, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to First Back-up Bidder in First Back-up Bidder's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and First Back-up Bidder shall submit its application to the PSC by no later than thirty (30) days after being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to back-up bidders. Further, First back-up Bidder shall complete any necessary annexation by no later than sixty (60) days after being notified that it has been deemed the Successful Bidder. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, First Back-up Bidder may terminate this Agreement by providing written notice to Seller at First Back-up Bidder's sole and absolute discretion. If First Back-up Bidder fails to submit the required application to the PSC or complete any necessary annexation within the time required by this section, Seller may terminate this Agreement by providing written notice to First Back-up Bidder.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of First Back-up Bidder's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals First Back-up Bidder deems necessary for First Back-up Bidder's proposed uses of the Assets, the results thereof to be satisfactory to First Back-up Bidder, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, First Back-up Bidder, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies, inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by First Back-up Bidder.

(e) **No Casualty.**



The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to First Back-up Bidder free and clear of all liens pursuant to 11 U.S.C. § 363(f) in the event the Prevailing Bidder is unable to close; (iii) find that First Back-up Bidder is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **First Back-up Bidder's Right to Terminate.**

If First Back-up Bidder determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, First Back-up Bidder shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than First Back-up Bidder.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court approving the Bidding Procedures and certain other matters in connection with the potential Auction.

5. "Prevailing Bidder" shall mean the prevailing party at the conclusion of the Auction.

6. "Second Back-up Bidder" shall mean the party who had the third-best bid at the conclusion of the Auction."

(b) **First Back-up Bidder as Back-up Bidder.**

Pursuant to the Bidding Procedures, First Back-up Bidder is required to keep First Back-up Bidder's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable until one hundred eighty (180) days after the date of the Sale Order (the "Outside Back-up Date"). Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder fails to consummate the Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder, the First Back-up Bidder will be deemed to have the new prevailing bid, and Seller shall be required, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement. If Seller consummates the Alternative Transaction with the Prevailing Bidder, this Agreement will be deemed terminated and the Seller will promptly tender the Deposit back to the First Back-up Bidder.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

First Back-up Bidder's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

First Back-up Bidder shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by First Back-up Bidder prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement..

**12. INDEMNIFICATION.**

First Back-up Bidder shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of First Back-up Bidder.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of First Back-up Bidder and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in

accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to First Back-up Bidder:

Aaron Ellsworth  
Ellsworth & Hardwick  
PO Box 250  
Lake Ozark, MO 65049  
Facsimile: (573) 693-4232  
E-mail: [ellsworth@lolawoffice.com](mailto:ellsworth@lolawoffice.com)

With a Copy to:

Neddie K. Goss, Administrator

Lake Area Waste Water Association, Inc., and Missouri Water Assc. Inc.  
515 Old South 5  
Camdenton, MO 65020  
Facsimile: (573) 346-4411  
Email: cmelyea@pmcwlaw.com

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by First Back-up Bidder and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**



Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

First Back-up Bidder and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY'S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys' fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its

reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day  
and year first above written.

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Public Water Supply District No. 5 of  
Camden County, Missouri**

By: \_\_\_\_\_  
Name:  
Title:

**Lake Area Waste Water Assc., Inc.**

By: \_\_\_\_\_  
Name:  
Title:

**Missouri Water Assc., Inc.**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force

main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity

collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps

and pressurized tanks

- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)

**AGREEMENT FOR SALE OF UTILITY SYSTEM**

**THIS AGREEMENT** (“Agreement”) is made and entered into this 29th day of October, 2018 (the “Effective Date”), by and between Missouri-American Water Company, a Missouri corporation, or its affiliate (“Second Back-up Bidder”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**EXHIBIT C**



**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, Second Back-up Bidder has tendered a deposit in the amount of \$48,000 (the “Deposit”); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and Second Back-up Bidder’s Qualified Bid was determined to be the Second Back-Up Bidder; and

**WHEREAS**, in the event the Seller is unable to close the Alternative Transactions with Prevailing Bidder or the First Back-Up Bidder, Seller desires to sell, and Second Back-up Bidder desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as “Assets”);

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Second Back-up Bidder of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission (“PSC”)

**NOW, THEREFORE**, it is mutually agreed that:

**1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the conditions, covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Second Back-up Bidder, or Second Back-up Bidder's designated affiliate, all of Seller's then existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer*

service, except accounts receivable accrued prior to the closing of this sale;

- (f) All customer deposits held by Seller (the "Customer Deposits"); and
- (g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to Second Back-up Bidder, and Second Back-up Bidder will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. "Excluded Assets" means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller's bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. "Excluded Causes of Action" means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Second Back-up Bidder, and will vest

marketable title in fact in the Second Back-up Bidder. Easements shall be assigned by written assignment or other means, in a form satisfactory to Second Back-up Bidder.

At Second Back-up Bidder's expense, Second Back-up Bidder shall obtain, within ten (10) business days of being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to Back-up Bidders, a Commitment to issue an Owner's Policy of Title Insurance to Second Back-up Bidder in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri. Within twenty (20) days after Second Back-up Bidder's receipt of said title insurance commitment, Second Back-up Bidder shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Second Back-up Bidder, at Second Back-up Bidder's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Second Back-up Bidder agree to make application to the PSC for authority to complete the transfer of the Assets. Second Back-up Bidder and Seller agree to assist the other in this process when requested to do so. Second Back-up Bidder and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of

Natural Resources (“DNR”) for transfer of Seller’s permits, if any. Other than the Seller’s attorney fees, any expenses resulting from such approval shall be borne by the Second Back-up Bidder.

**4. PURCHASE PRICE.**

Second Back-up Bidder agrees to pay to Seller at the Closing **Six Hundred Thousand Dollars (\$600,000)** for purchase of the Assets (“Purchase Price”).

**5. DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by Second Back-up Bidder at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if the transactions hereby are not consummated because either the Seller consummates a competing offer pursuant to Section 10 or because Second Back-up Bidder’s backup bid is not approved by the Bankruptcy Court, the deposit shall be promptly returned to Second Back-up Bidder without setoff or deduction of any kind pursuant to the Bidding Procedures.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller’s Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Second Back-up Bidder such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Second Back-up Bidder such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Second Back-up Bidder will deliver to Seller the Purchase Price. From time to time, at Second Back-up Bidder’s request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer

and take such other action as Second Back-up Bidder reasonably may require to more effectively convey and transfer to Second Back-up Bidder any of the Assets to be sold hereunder, and will assist Second Back-up Bidder in the collection or reduction to possession of such Assets. Second Back-up Bidder will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Second Back-up Bidder hereunder.

On the date of closing, Second Back-up Bidder shall accept and assume ownership and title to the Assets to be conveyed hereunder and Second Back-up Bidder shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Second Back-up Bidder, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Second Back-up Bidder is purchasing the Assets in reliance upon Second Back-up Bidder's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

**8. BUYER'S REPRESENTATIONS AND WARRANTIES.**

Second Back-up Bidder represents and warrants as follows:

(a) **Organization and Standing of Second Back-up Bidder.**

Second Back-up Bidder is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by Second Back-up Bidder and the purchase of the Assets as contemplated hereby have been duly authorized by Second Back-up Bidder, and all necessary action on the part of Second Back-up Bidder has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

**9. CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Second Back-up Bidder under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Second Back-up Bidder from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory

compliance deemed necessary by Second Back-up Bidder, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Second Back-up Bidder in Second Back-up Bidder's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and Second Back-up Bidder shall submit its application to the PSC by no later than thirty (30) days after being notified that it has been deemed the Successful Bidder pursuant to the Bid Procedures related to Back-up Bids. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, Second Back-up Bidder may terminate this Agreement by providing written notice to Seller at Second Back-up Bidder's sole and absolute discretion. If Second Back-up Bidder fails to submit the required application to the PSC within the time required by this section, Seller may terminate this Agreement by providing written notice to Second Back-up Bidder.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**



Completion of Second Back-up Bidder's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Second Back-up Bidder deems necessary for Second Back-up Bidder's proposed uses of the Assets, the results thereof to be satisfactory to Second Back-up Bidder, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Second Back-up Bidder, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies, inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Second Back-up Bidder.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the

sale of the Assets to Second Back-up Bidder free and clear of all liens pursuant to 11 U.S.C. § 363(f) in the event the Prevailing Bidder or First Back-up Bidder fails to close; (iii) find that Second Back-up Bidder is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Second Back-up Bidder's Right to Terminate.**

If Second Back-up Bidder determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Second Back-up Bidder shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

**10. ADDITIONAL AGREEMENTS AND COVENANTS**

(a) **Definitions.**

1. “Alternative Transaction” shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Second Back-up Bidder.
  2. “Auction” shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.
  3. “Bidding Procedures” shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.
  4. “Bidding Procedures Order” shall mean a final order from the Bankruptcy Court approving the Bidding Procedures and certain other matters in connection with the potential Auction.
  5. “Prevailing Bidder” shall mean the prevailing party at the conclusion of the Auction.
  6. “First Back-up Bidder” shall mean the party who had the second-best bid at the conclusion of the Auction.
  7. “Second Back-up Bidder” shall mean the party who had the third-best bid at the conclusion of the Auction.”
-

(b) **Second Back-up Bidder as Back-up Bidder.**

Pursuant to the Bidding Procedures, Second Back-up Bidder is required to keep Second Back-up Bidder's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement open and irrevocable until one hundred eighty (180) days after the date of the Sale Order (the "Outside Back-up Date"). Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder or First Back-up Bidder fail to consummate the Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder or First Back-up Bidder, the Second Back-up Bidder will be deemed to have the new prevailing bid, and Seller shall be required, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement. If Seller consummates an Alternative Transaction with either the Prevailing Bidder or the First Back-up Bidder, this Agreement will be deemed terminated and the Seller will promptly tender the Deposit back to the Second Back-up Bidder.

11. **CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Second Back-up Bidder's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Second Back-up Bidder shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Second Back-up Bidder prior to or at the Closing.

**(c) Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement.

**12. INDEMNIFICATION.**

Second Back-up Bidder shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the

successors and assigns of Second Back-up Bidder.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Second Back-up Bidder and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Second Back-up Bidder:

Missouri-American Water Company  
727 Craig Road  
St. Louis, Missouri 63141  
Attention: Legal Department

If to Seller:

Jill D. Olsen  
The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Second Back-up Bidder and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.



**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**24. EXPENSES.**

Second Back-up Bidder and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY'S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys' fees to enforce the terms of this Agreement or to recover

damages for breach of this contract, then the prevailing Party shall be entitled to receive its reasonable and actually incurred attorneys' fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.

**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day and year first above written.

[SIGNATURE PAGES TO FOLLOW]

**SELLER:**

By: \_\_\_\_\_  
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**SECOND BACK-UP BIDDER:**

**MISSOURI-AMERICAN WATER  
COMPANY**

By: Cheryl Norton  
Name: Cheryl Norton  
Title: President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force

main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity

collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps

and pressurized tanks

- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

**Rights Via Agreements, Contracts, Misc.**

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)





**AGREEMENT FOR SALE OF UTILITY SYSTEM**

**THIS AGREEMENT** (“Agreement”) is made and entered into this 24th day of October, 2018 (the “Effective Date”), by and between Central States Water Resources, a Missouri corporation, or its affiliate (“Buyer”), and Jill D. Olsen as Chapter 11 Trustee of Osage Water Company (“Seller”) (collectively, “Parties”).

**WITNESSETH:**

**WHEREAS**, on October 11, 2017, Osage Water Company filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri (“Bankruptcy Court”); and

**WHEREAS**, on October 26, 2017, Jill D. Olsen was appointed as the Chapter 11 Trustee of Osage Water Company; and

**WHEREAS**, Osage Water Company has developed and operates as a regulated *water and sewer* corporation *water and sewer* facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit “A,”* situated in Camden County, Missouri (hereinafter the “System”); and

**WHEREAS**, on August 26, 2018, the Seller filed a Motion to Approve (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims, and Encumbrances and Related Procedures and Bid Production Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 104 (the “Sale Motion”); and

**WHEREAS**, on September 19, 2018, Bankruptcy Court entered an Order Approving the Bidding Procedures (as defined herein); and

**WHEREAS**, Buyer has tendered a deposit in the amount of \$46,500 (the “Deposit”); and

**WHEREAS**, on October 24, 2018, the Seller conducted the Auction and Buyer’s Qualified Bid was determined to be the highest and best and Buyer was declared to be the Prevailing Bidder at the Auction; and

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements for the conveyance of *water and sewer* to each of the customers connected to the service area (defined further below as “Assets”); and

**WHEREAS**, the Parties have reached an understanding with respect to the sale by Seller and the purchase by Buyer of all of the Assets (as hereinafter defined) of the System;

**WHEREAS**, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order and such further orders to be entered by the Bankruptcy Court and applicable provisions of the Bankruptcy Code; and

**WHEREAS**, the transactions contemplated by this Agreement are also subject to approval from the Missouri Public Service Commission (“PSC”).

**NOW, THEREFORE**, it is mutually agreed that:

**1. SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the covenants and promises hereinafter set forth, Seller agrees that on the closing date, Seller shall sell, transfer, assign and deliver to Buyer, or Buyer’s designated affiliate, all of Seller’s then

existing assets pertaining to the provision of *water and/or sewer* service in the System located in Camden County, in the State of Missouri, and related properties, including, without limitation, the following:

(a) The land, improvements thereon, easements, rights of way, permits and leases related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;

(b) All of Seller's *water and/or sewer* service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

(c) Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Camden County, Missouri, and used or held for use in connection with the System as generally described in *Exhibit "C"* attached hereto;

(d) All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of *water and/or sewer* service in Camden County, Missouri as generally described in *Exhibit "D"* attached hereto;

(e) All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the *water and/or sewer* service, except accounts receivable accrued prior to the closing of this sale;

(f) All customer deposits held by Seller (the "Customer Deposits"); and

(g) All assets not described which are located in Camden County, Missouri, and used or useful to operate the System, except for Excluded Assets.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets."

Notwithstanding anything herein to the contrary, Seller will not sell, assign, convey, transfer or deliver to Buyer, and Buyer will not purchase, acquire or assume or take assignment or delivery of, Excluded Assets or any and all assets, contracts or rights that are not expressly Purchased Assets. "Excluded Assets" means (i) all deposit accounts, cash on hand and in banks (other than Customer Deposits) and cash equivalents (including marketable securities and short term investments) that relate to the Debtor, that are in possession or control of the Seller or in Seller's bank accounts as of the closing date; (ii) Excluded Causes of Action; and (iii) all other property or assets not described as Assets. "Excluded Causes of Action" means causes of action or claims (i) that are not assignable under applicable law; (ii) Chapter 5 Causes of Action; (iii) as have or may have been asserted in the case styled *Williams v. Hancock Construction Company, et al.*, Adv. No. 17-02010-drd; (iv) any breach of fiduciary duty or similar claims; or (v) that are not specially identified as Assets above.

## **2. CONVEYANCES OF REAL ESTATE.**

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any *water and/or sewer* and other utility easements. The real estate will be conveyed by trustee's deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment or other means, in a form satisfactory to Buyer.

At Buyer's expense, Buyer shall obtain, within ten (10) business days of the date hereof, a Commitment to issue an Owner's Policy of Title Insurance to Buyer in the amount of the Purchase Price issued by a company authorized to issue title insurance in the state of Missouri.

Within twenty (20) days after Buyer's receipt of said title insurance commitment, Buyer shall notify Seller, in writing, of any objections thereto. If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have twenty (20) business days to correct the title and Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Buyer, at Buyer's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

**3. REGULATORY APPROVAL.**

Seller and Buyer agree to make application to the PSC for authority to complete the transfer of the Assets. Buyer and Seller agree to assist the other in this process when requested to do so. Buyer and Seller shall act diligently and cooperate with each other in obtaining final approval, if necessary, of the Missouri Department of Natural Resources ("DNR") for transfer of Seller's permits, if any. Other than the Seller's attorney fees, any expenses resulting from such approval shall be borne by the Buyer.

**4. PURCHASE PRICE.**

Buyer agrees to pay to Seller at the Closing **Eight Hundred Thousand Dollars (\$800,000)** for purchase of the Assets ("Purchase Price").

**5. DEPOSIT.**

The Deposit shall be deducted from the Purchase Price due by Buyer at closing. The Deposit is non-refundable regardless of any termination of this agreement; provided, however, if

the transactions hereby are not consummated because Buyer is not the successful purchaser on the account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a different competing offer, the Deposit shall be promptly returned to Buyer without setoff or deduction of any kind after the entry of the Bankruptcy Court order approving such a return.

**6. CLOSING.**

The closing of the sale shall take place at a mutually agreeable location no later than thirty (30) days after the effective date of any necessary regulatory authority approval, and satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, or at such other time as the Parties hereto may mutually agree. At the closing, Seller shall have delivered to Buyer such deeds, bills of sale, endorsements, assignments and other sufficient instruments of transfer and conveyance as shall be effective to vest in Buyer such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request and expense, whether at or after the closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to Buyer any of the Assets to be sold hereunder, and will assist Buyer in the collection or reduction to possession of such Assets. Buyer will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Buyer hereunder.

On the date of closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets going forward including the Customer Deposits,

excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of closing other than claims related to the refund of Customer Deposits.

7. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

(a) **Validity of Agreement.**

Subject to any necessary authorization from the Bankruptcy Court, Seller has the full power and authority to execute and deliver any documents necessary to consummate the transactions contemplated hereby and thereby.

(b) **Title to Assets.**

Subject to Bankruptcy Court approval and any approval required by the PSC or DNR, Seller has the power and right to sell, assign and transfer and Seller will sell and deliver to Buyer, the Assets free and clear of all claims and liens, other than customer claims in the Customer Deposits.

(c) **As Is, Where Is.**

Buyer is purchasing the Assets in reliance upon Buyer's personal inspection and knowledge of the Assets and in an "as-is" and "where-is" condition. Seller makes no warranties or representations, express or implied, of any kind or nature, written, oral or otherwise.

8. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

(a) **Organization and Standing of Buyer.**

Buyer is a body corporate organized and existing under the constitution and laws of the State of Missouri, is in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

(b) **Authority.**

The execution and delivery of this Agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by Buyer, and all necessary action on the part of Buyer has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

9. **CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Buyer under this Agreement are subject to the fulfillment or waiver, prior to or at the closing, of each of the following conditions:

(a) **Regulatory Approval.**

The PSC and DNR shall have, if necessary, authorized or approved the sale, transfer or disposition of the Assets to Buyer from Seller, the proposed financing, and any schedule of compliance for proposed utility improvement projects for regulatory compliance deemed necessary by Buyer, each in form and substance (including without limitation with respect to the terms and conditions contained in such approval) acceptable to Buyer in Buyer's sole and absolute discretion. Both Parties shall diligently pursue the required approvals and authorizations contemplated herein, and Buyer shall submit its application to the PSC by no later than December 17, 2018. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, Buyer may terminate this Agreement by providing written notice to Seller at Buyer's sole and absolute discretion. If Buyer fails to submit



the required application to the PSC by December 17, 2018, Seller may terminate this Agreement by providing written notice to Buyer.

(b) **Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(c) **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the closing; including the payment of all taxes and assessments, or portions thereof, attributable to periods prior to or ending on the closing date, to include Public Service Commission assessments.

(d) **Inspections.**

Completion of Buyer's examination, testing and inspection of the Assets and the securing of any and all licenses, permits or governmental approvals Buyer deems necessary for Buyer's proposed uses of the Assets, the results thereof to be satisfactory to Buyer, in its sole discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both Parties to the date that is twenty (20) days prior to the closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Buyer, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies,

inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Buyer.

(e) **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

(f) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of an order of the Bankruptcy Court in a form reasonably acceptable to Seller and Buyer (the "Sale Order"). The Sale Order shall (i) approve this Agreement and the transactions contemplated hereby; (ii) approve the sale of the Assets to Buyer free and clear of all liens pursuant to 11 U.S.C. § 363(f); (iii) find that Buyer is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m); (iv) provide that the provisions of Federal Rule of Bankruptcy Procedure 6004(g) are waived and there will be no stay of execution of the Sale Order under Federal Rule of Civil Procedure 62(a); (iv) retain jurisdiction of the Bankruptcy Court to interpret and enforce the terms and provisions of this Agreement; and (vi) authorize and approve the results of the Auction.

(g) **Correction of Legal Description.**

Osage Water Company obtained a Quit Claim Deed (the "Chelsea Rose Deed") from Hurricane Deck Holding Company for the parcel commonly known as Chelsea Rose ("Chelsea Rose"), which was directed by the judgment in *Osage Water Company, et al. v. Hurricane Deck Holding Company et al.*, Case No. 06CM-CC00014 in Camden County, Missouri. Seller has

discovered a defect in the legal description of the Chelsea Rose Deed. Seller shall obtain a corrected deed, an amended judgment, or other order or judgment conveying Chelsea Rose to Osage Water Company with the correct legal description.

(h) **Buyer's Right to Terminate.**

If Buyer determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Buyer shall have the right to terminate this Agreement at any time prior to closing upon written notice to Seller.

10. **ADDITIONAL AGREEMENTS AND COVENANTS**

(a) Nothing herein shall restrict the Seller from entering into back-up purchase agreements for the sale of the Assets, as contemplated by the Bidding Procedures.

(b) **Definitions.**

1. "Alternative Transaction" shall mean (a) a transaction or series of transactions pursuant to which Seller sells, transfers, leases, or otherwise disposes of all or any material portion of the Assets to a person other than Buyer.

2. "Auction" shall mean the auction conducted by Seller pursuant to the Bidding Procedures Order for the Assets.

3. "Bidding Procedures" shall mean the rules, processes, bidding procedures and other matters approved by the Bidding Procedures Order.

4. "Bidding Procedures Order" shall mean a final order from the Bankruptcy Court, in a form and substance reasonably acceptable to buyer, approving the Bidding Procedures and certain other matters in connection with the potential Auction.

(c) **Buyer as Prevailing Bidder.**

Buyer has been declared the the Prevailing Bidder (as defined herein) at the Auction. As such, the Seller shall use her best efforts to consummate the transactions contemplated by this Agreement as soon as possible.

**11. CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the closing, of each of the following conditions:

(a) **Representations and Warranties True at Closing.**

Buyer's representations and warranties contained in this Agreement shall be true at the time of closing as though such representations and warranties were made at such time.

(b) **Performance.**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing.

(c) **Bankruptcy Court Approval.**

This Agreement is subject to and contingent upon approval by the Bankruptcy Court and entry of Sale Order approving this Agreement.

**12. INDEMNIFICATION.**

Buyer shall, and hereby does agree to indemnify and hold harmless Seller, at any time after the closing, from and against all damages, penalties, losses, deficiencies, costs, expenses, obligations, fines, expenditures, claims, and liabilities, including reasonable attorneys' fees and

expenses (each a "Loss" and collectively, "Losses") incurred or suffered by the Seller based upon, arising out of, or otherwise related to the Customer Deposits.

**13. FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

**14. BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of Buyer.

**15. GOVERNING LAW.**

This Agreement is being delivered and is intended to be performed in the State of Missouri, and shall be construed and enforced in accordance with the laws of such state and any applicable bankruptcy law.

**16. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

**17. NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**18. ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

**19. SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

**20. HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**21. NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 21, shall be addressed to the Parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent

between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the e-mail address set forth below, and (3) acknowledged as received by the recipient, by reply or separate e-mail, (d) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

If to Buyer:

Josiah Cox, President  
Central States Water Resources, Inc.  
500 Northwest Plaza Drive #500  
St. Ann, MO 63074  
Facsimile: (314) 238-7201  
E-mail: [jcox@cswrgroup.com](mailto:jcox@cswrgroup.com)

With a Copy to:

James A. Beckemeier  
The Beckemeier Law Firm, LC  
13421 Manchester Road, Suite 103  
St. Louis, MO 63131  
Facsimile: (314) 965-0127  
E-mail: [jim@beckemeierlaw.com](mailto:jim@beckemeierlaw.com)

If to Seller:

Jill D. Olsen

The Olsen Law Firm, LLC  
118 N. Conistor Ln., Suite B #290  
Liberty, MO 64068  
Facsimile: (816) 278-9493  
E-mail: [trustee@olsenlawkc.com](mailto:trustee@olsenlawkc.com)

With a Copy to:

Andrea M. Chase  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Facsimile: (816)-474-3216  
E-mail: [achase@spencerfane.com](mailto:achase@spencerfane.com)

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

**22. AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**23. SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.



**24. EXPENSES.**

Buyer and Seller shall each bear their own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for Closing.

If this Agreement is terminated or if the transactions hereby are not consummated because Buyer is not the successful purchaser on account of the Bankruptcy Court denying Buyer's offer because the Bankruptcy Court has accepted a competing offer, Buyer shall have the right to assert an administrative expense against the Bankruptcy Estate by making proper application with the Court under Section 503(b) of the Bankruptcy Code in an amount equal to all Buyer's costs and out-of-pocket expenses incurred by Buyer in connection with its legal, environmental, accounting, and business due diligence and the preparation and negotiation of this Agreement up to three percent (3%) of the Purchase Price (the "Expense Reimbursement"). The Expense Reimbursement shall be payable by Seller upon the first to occur of (i) Seller's closing of any alternate sale of the Assets to any other person or (ii) Seller's liquidation of assets sufficient to generate proceeds equal to or exceeding the amount of the Expense Reimbursement; provided however, such payment shall not be paid until the Seller's fees and expenses have been fully paid including, without limitation, any tax obligations and professional fees.

**25. CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event 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 of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed

also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

**26. INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

**27. DEFAULT; ATTORNEY’S FEES.**

If either Party shall default in their performance under this Agreement, which default results in the expenditure of attorneys’ fees to enforce the terms of this Agreement or to recover damages for breach of this contract, then the prevailing Party shall be entitled to receive its reasonable and actually incurred attorneys’ fees and costs in addition to any other damages that the Party is entitled to recover at law or in equity.


**28. AUTHORITY TO EXECUTE.**

Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the Party on whose behalf this Agreement is executed, subject to Bankruptcy Court approval.

[SIGNATURE PAGES TO FOLLOW]

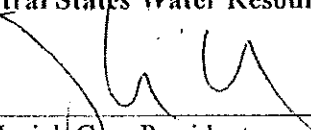
IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

**SELLER:**

By:   
Jill D. Olsen, not individually but as Chapter  
11 Trustee of the Osage Water Company  
bankruptcy estate

**BUYER:**

**Central States Water Resources, Inc.**

By:   
Josiah Cox, President

**EXHIBIT "A"**

**Service Area Description**

**1. CEDAR GLEN CONDOMINIUMS**

- (a) Location: Sunny Slope Drive, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Sand filter with lift stations and force main

**2. CHELSEA ROSE**

- (a) Location: Oak Bend Road, Camden County
- (b) Description of Water System: 600 pressurized storage, deep well
- (c) Description of Wastewater System: Partial force main and gravity collection to an activated sludge facility

**3. HARBOUR BAY/CIMARRON BAY**

- (a) Location: MM40-Blue Water Bay Road, Camden County
- (b) Description of Water System: 35,000 gallon hydro tank with deep well
- (c) Description of Wastewater System: Force main to sand filter

**4. EAGLE WOODS/KK WASTEWATER**

- (a) Location: Highway KK and Red Barn Road, Camden County
- (b) Description of Water System: 10,000 gallon storage tank to booster pumps and pressurized tanks
- (c) Description of Wastewater System: Force main and gravity collection system to a sand filter

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to Closing).

**EXHIBIT "C"**

**Plant and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

**EXHIBIT "D"**

Rights Via Agreements, Contracts, Misc.

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, and customer deposits)





# Camden County, MO

## Property Report Card

Parcel Number: 07-3.0-08.0-000.0-005-001.000

Name: GREAT SOUTHERN BANK

Address: PO BOX 68

City: SPRINGFIELD

State: MO

Zip: 65801-0068

Legal Description: PT SW SW

Deeded Acres: 9.77

Tax District: 06C

MLS:

Section: 08

Township: 39N

Range: 17W

Lot Frontage:

Lot Side:

Year

Total Living Area:

Sale Date 11/13/2012 12:00:00 AM

Book/Page 729/954

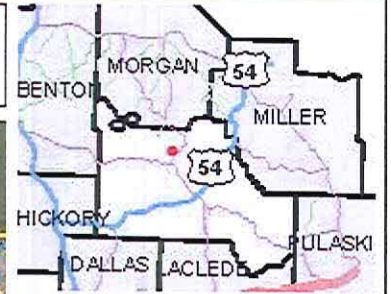
Land Use



Data contained within this web site was created from record research provided by the county and/or city. Camden County, Missouri does not guarantee any accuracies to the data or attribute information displayed, queried, or printed from this web site. This web site is only intended for informational purposes.



# Camden County, MO



### Legend

- Highway
  - Interstate Highway
  - US Highway
  - Numbered State Highway
  - Lettered State Highway
- Road
- Address Point
- Condo Point
- Parcel
- Corporate Limit Line
- Land Hook
  - DASHED LAND HOOK
  - SOLID LAND HOOK
- Original Lot
- Section
- County Boundary

Notes

Schedule JC-14

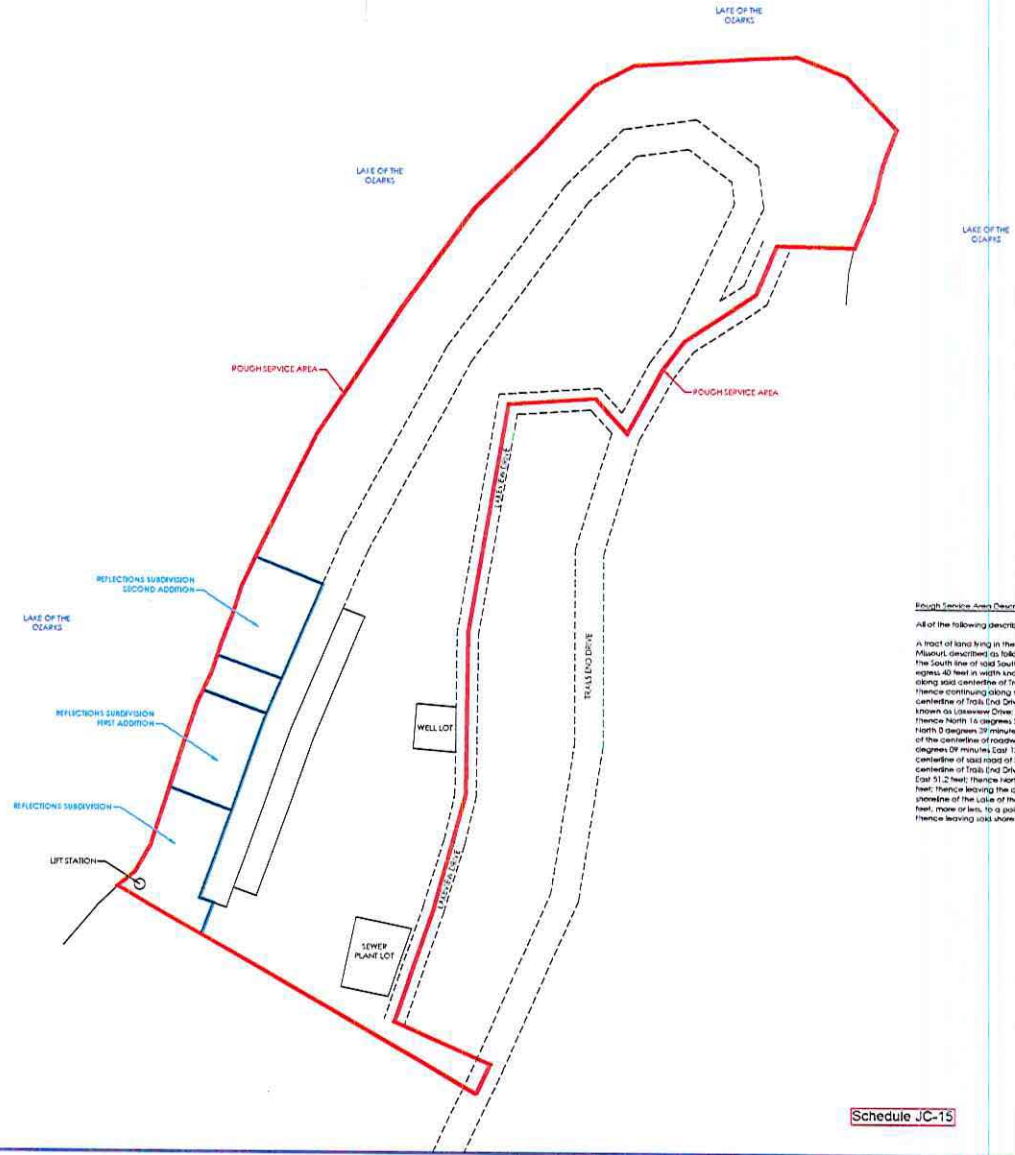
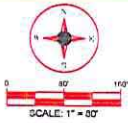
552.5                      0                      276.26                      552.5 Feet

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



# SERVICE AREA MAP FOR REFLECTIONS



Rough Service Area Description for Reflections

All of the following described land lying above contour elevation 62 feet.

A tract of land lying in the Southwest Quarter of Section 8, Township 29 North, Range 17 West, Camden County, Missouri described as follows: from the Southwest corner of the Southwest Quarter of Section 8, run West along the South line of said Southwest Quarter, a distance of 1,918.4 feet to the centerline of a road of egress and egress 40 feet in width known as Trails End Drive, thence leaving said South line of the Southwest Quarter and run along east centerline of Trails End Drive, north 23 degrees 20 minutes East 324.6 feet to the point of beginning; thence continuing along said centerline, North 23 degrees 20 minutes East 45.65 feet; thence leaving the centerline of Trails End Drive and run north 64 degrees 04 minutes West 147.07 feet to the centerline of a roadway known as Lakeside Drive, thence along said centerline as follows: north 18 degrees 43 minutes East 146.1 feet; thence north 14 degrees 54 minutes East 103.3 feet; thence north 13 degrees 09 minutes East 63.9 feet; thence north 9 degrees 29 minutes East 327.1 feet; thence north 9 degrees 29 minutes East 332.7 feet to the intersection of the centerline of roadway known as Lakeside Drive, thence along centerline of said Lakeside Drive, North 84 degrees 09 minutes East 122.4 feet; thence South 42 degrees 01 minutes East 66.2 feet to the intersection of the centerline of said road of egress and egress 40 feet in width, known as Trails End Drive, thence along the centerline of Trails End Drive, north 28 degrees 27 minutes East 103.5 feet; thence north 36 degrees 47 minutes East 91.2 feet; thence north 36 degrees 47 minutes East 119.5 feet; thence north 23 degrees 07 minutes East 252.0 feet; thence leaving the centerline of Trails End Drive, run South 89 degrees 03 minutes East 109.7 feet to the shoreline of the Lake of the Clarks; thence along said shoreline in a northerly and southwesterly direction 2,150 feet, more or less, to a point that is North 39 degrees 58 minutes West 547.0 feet from the point of beginning; thence leaving said shoreline, run South 59 degrees 58 minutes East 567.0 feet to the point of beginning.

**MAP LEGEND**

ROAD EASEMENT	---
PARCEL LINE	---
SUBDIVISION CURB	---
ROUGH SERVICE AREA	---

Schedule JC-15

SURVEY CERTIFICATE OF AUTHORITY NO. LS-2013000294	
ENGINEERING CERTIFICATE OF AUTHORITY NO. EC-2013000679	
DATE	11/28/18
PROJECT NO.	0416-17
DRAWN BY	J.P.P.
SCALE	1"=40'
SHEET NAME	SERVICE AREA MAP

**21**  
**DESIGN**  
**GROUP INC.**  
 ENGINEERING & SURVEYING

151 Jefferson Ave., St. Louis, MO 63102  
 (314) 241-1000  
 www.21design.com

