

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION OF HOWARD COUNTY)
UTILITIES, INC. (“SELLER”), AND)
GREEN ACRES SUBDIVISION SEWER)
SYSTEM, INC. (“PURCHASER”) FOR: (A))
APPROVAL OF THE TRANSFER OF)
SELLER’S FRANCHISE, WORKS,)
SYSTEM, AND CERTIFICATE OF)
TERRITORIAL AUTHORITY TO)
PURCHASER PURSUANT TO AN) CAUSE NO. 45360
AGREEMENT FOR ACQUISITION OF)
ASSETS; (B) APPROVAL OF RATES THAT)
PURCHASER MAY CHARGE UPON)
CLOSING THE ACQUISITION; AND (C))
AUTHORITY FOR PURCHASER TO ISSUE)
BONDS, NOTES, OR OTHER)
OBLIGATIONS, INCLUDING A)
MORTGAGE ENCUMBRANCE THEREON.)

JOINT PETITION

This Joint Petition is filed by Howard County Utilities, Inc. (“Seller”) and Green Acres Subdivision Sewer System, Inc. (“Purchaser”) (“Joint Petitioners”) for: (a) approval of the transfer of Seller’s franchise, works, system, and Certificate of Territorial Authority (“CTA”) to Purchaser pursuant to an Agreement for Acquisition of Assets; (b) approval of rates that Purchaser may charge upon closing the acquisition; and (c) authority for Purchaser to issue bonds, notes, or other obligations, with such debt to be secured by a mortgage. In support of this Petition, Joint Petitioners state as follows:

1. Seller is a corporation owning plant and equipment which are used and useful in the provision of sewage collection and disposal service in a rural area in Howard County, Indiana. Seller holds a CTA as a result of the approval of the Indiana Utility Regulatory Commission

("IURC") in its Order in Cause No. 43294 issued January 23, 2008, which was modified by the Commission's *Nunc Pro Tunc* Order issued February 6, 2008.

2. Purchaser is a not-for-profit corporation, formed under the laws of the State of Indiana, acting on behalf of the Homeowners Association of the Green Acres Subdivision located in Kokomo, Indiana. Purchaser desires to acquire Seller's plant and equipment which are used and useful in the provision of sewage disposal service (the "System").

3. On March 9, 2020, Seller entered an Agreement for Acquisition of Assets (the "Agreement") with Purchaser, a true and accurate copy of which is attached hereto as Exhibit A. The Agreement is subject to numerous preconditions, including but not limited to the issuance of an order by this Commission granting the relief sought in this Petition.

4. Joint Petitioners seek approval of the Agreement and approval of the transfer of Seller's franchise, works, System, and CTA to Purchaser pursuant to the terms of the Agreement.

5. Joint Petitioners also seek approval of the rates that Purchaser may charge upon closing of the acquisition.

6. Joint Petitioners also seek authority for Purchaser to issue bonds, notes, or other obligations to finance the purchase of Seller's System. Purchaser intends to obtain the necessary funds to purchase Seller's System from revenues from the issuance of sewage works revenue bonds. The proposed bonds will be in principal amount not to exceed \$2.20 million and backed by a 90% guarantee from the United States Department of Agriculture Rural Development Program ("USDA RD"). The principal and interest of the new sewage works revenue bonds will be payable solely from future revenues of the System. Joint Petitioners anticipate the term of these bonds will not

exceed forty (40) years and that they may be issued in multiple series. The bonds will be directly placed with First Farmers Bank & Trust (“FFBT”) as the lender, and USDA RD as the guarantor. Such debt will be secured by a mortgage on the wastewater treatment plant. Purchaser also seeks authority to encumber the utility plant with such mortgage

7. It is a precondition to the Agreement that the requested approvals sought herein have been received pursuant to Final Order of this Commission no later than seven (7) months following the execution of the Agreement, or October 9, 2020.

8. Joint Petitioners are filing their case-in-chief contemporaneous with this Joint Petition. Joint Petitioners request that a preliminary hearing and prehearing conference promptly be scheduled for purposes of establishing the procedural schedule in this matter.

9. Counsel for Seller who are duly authorized to accept service of papers in this Cause on Seller’s behalf are:

Nicholas K. Kile (Atty No. 15203-53)
Hillary J. Close (Atty No. 25104-49)
Lauren M. Box (Atty No. 32521-49)
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, Indiana 46204
Kile Telephone: (317) 231-7768
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Box Telephone: (317) 231-7289
Facsimile No.: (317) 231-7433
Email: nicholas.kile@btlaw.com
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and Counsel for Purchaser is:

Marcus Misinec (Atty No. 33925-34)

Bayliff, Harrigan, Cord, Maugans, & Cox P.C.
319 North Main Street
P.O. Box 2249
Kokomo, Indiana 46904
Telephone No: (765) 459-3941
Facsimile No.: (765) 459-3974
Email: marcus.misinec@bhcmllaw.com

10. Joint Petitioners consider the following statutes, among others, may be applicable to this proceeding: Ind. Code §§ 8-1-2-4, 6, 23, 42, 76, 81, 83, and 89.

WHEREFORE, Joint Petitioners respectfully pray the Commission promptly notice and conduct a prehearing conference in this Cause and such hearings as are necessary and thereafter issue an Order:

1. Approving the transfer of Seller's franchise, works, System and CTA to Purchaser pursuant to the terms of the Agreement;
2. Approving the rates Purchaser may charge upon closing;
3. Authorizing Purchaser to issue bonds, notes, or other obligations to finance the purchase of Seller's System and to secure such debt by encumbering the utility plant with a mortgage; and
4. Providing such other relief deemed appropriate in the premises.

Respectfully submitted,

/s/ Nicholas K. Kile
Nicholas K. Kile (Atty No. 15203-53)
Hillary J. Close (Atty No. 25104-49)
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Attorneys for Petitioner
Howard County Utilities, Inc.

/s/ Marcus Misinec

Marcus Misinec (Atty No. 33925-34)
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Attorney for Petitioner
Green Acres Subdivision Sewer System, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Petition was served via electronic transmission, this 23rd day of March, 2020, addressed to:

William I. Fine
Office of Utility Consumer Counselor
PNC Center
Suite 1500 South
115 W. Washington Street
Indianapolis, Indiana 46204
wfine@oucc.in.gov
infomgt@oucc.in.gov

/s/ Nicholas K. Kile _____
Nicholas K. Kile

AGREEMENT BETWEEN
HOWARD COUNTY UTILITIES, INC.
AND GREEN ACRES SUBDIVISION SEWER SYSTEM, INC.
FOR ACQUISITION OF ASSETS

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PURCHASE AGREEMENT

THIS AGREEMENT ("Agreement"), entered into and effective as of the 9th day of March, 2020 by and between Howard County Utilities, Inc., an Indiana corporation ("Seller"), and Green Acres Subdivision Sewer System, Inc., an Indiana corporation ("Purchaser").

WITNESSETH THAT:

WHEREAS, the Seller is a public utility providing sewage treatment and disposal service in rural areas in Howard County, Indiana, pursuant to CTAs issued by the IURC and its predecessor the Public Service Commission of Indiana; and

WHEREAS, Purchaser is a not-for-profit corporation whose members include and will include the current customers of Seller in the Green Acres Subdivision in Kokomo, Indiana, which desires to acquire the Seller's System (as defined herein); and

WHEREAS, Purchaser, subject to certain limitations and conditions, is agreeable to acquire Seller's System; and

WHEREAS, Purchaser and Seller have determined that it is in the best interest of Seller for the Purchaser to acquire the Seller's System pursuant to the terms of this Agreement; and

NOW THEREFORE, in consideration of the foregoing premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser now agree as follows:

ARTICLE 1
Definitions

Throughout this Agreement, the following terms shall have the following meanings:

“Seller’s System” - The Seller’s plant and equipment that is used and useful in the provision of sewage treatment and disposal service by the Seller. The Seller’s System shall include but is not necessarily limited to all valves and appurtenances, pumps, treatment plants, mains, lift stations, service lines and laterals, leases, licenses, easements, permits, accounts receivable that are due and outstanding as of the Closing, and all other assets which are part of the sewage treatment and disposal system used by the Seller to provide sewer service to customers within Howard County, excluding liabilities contingent or otherwise. The Seller’s System shall also include approximately three (3) acres of real estate upon which the Seller’s treatment is located and is operated, but shall not include the remainder of the parcel of which said three (3) acres is a part. The Seller’s System shall not include: (a) liabilities, contingent or otherwise, and (b) Customer Service Connections (as defined herein) which are and shall remain the property of customers.

“CTA” – Seller’s certificates of territorial authority issued pursuant to Ind. Code § 8-1-2-89.

“Closing” - the consummation of the sale of the Seller’s System pursuant to the terms of this Agreement.

“Closing Date” - the date upon which the Closing occurs.

“Customer Premises” - dwelling, building, structure, or parcel of real estate which is

supplied with sewage disposal service.

“Customer Service Connection” - the service line extending from the Customer Premises to the sewer main.

“TURC” - the Indiana Utility Regulatory Commission.

ARTICLE 2
Conveyance and Certified Operation

2.1 Conveyance and Transfer. At the Closing, Seller shall convey and transfer to Purchaser and Purchaser shall accept all of the properties making up the Seller's System.

2.2 Consideration. As consideration for the Seller's System, the Purchaser shall make a payment at the Closing in cash of \$2,038,000 plus: (1) the balance of Seller's outstanding accounts receivable as of the Closing; and (2) actual costs of the transaction incurred by Seller not to exceed \$100,000 as of the Closing.

ARTICLE 3
Conditions to Closing

The obligations of the parties shall be contingent on satisfaction of the following conditions and agreements:

3.1 Approval By IURC. The IURC shall have first issued, free from burdensome or unsatisfactory conditions and restrictions, such approvals which, in Purchaser's sole discretion, are desirable for Purchaser to acquire Seller's System. The determination of whether or not the approvals are satisfactory shall be within the sole discretion of the Purchaser. Purchaser shall immediately notify the Seller when IURC approval has been obtained to its satisfaction. If Purchaser determines satisfactory approval is unobtainable, it shall notify Seller, whereupon this Agreement may be terminated at the election of Purchaser, without obligation to Seller. Seller and Purchaser agree to cooperate with each other in obtaining such approvals. At a minimum, such approvals include but are not limited to:

- (a) approval of this Agreement and the transfer of Seller's franchise, works, system, and CTAs to Purchaser; and
- (b) approval of the rates that Purchaser may charge upon Closing.

Within fifteen (15) days of execution of this Agreement, Seller shall cause to be filed with the IURC a joint petition requesting the authority it deems necessary and shall pursue such proceeding with reasonable diligence. Seller shall control the prosecution of the IURC proceeding.

3.2 Consents. At Closing, Seller shall first provide to Purchaser consents for the assignment or transfer of any contracts, leases, licenses, or permits which are to be assigned or transferred to Purchaser pursuant to this Agreement unless Purchaser specifically agrees in writing to waive such requirement in whole or in part.

3.3 Other Approvals. All necessary consents, approvals and authorizations of any governmental bodies, authorities and agencies, shall first be received, free of conditions or restrictions which would impair the ability of either party to consummate the transactions contemplated by this Agreement in accordance with its terms. If such consents, approvals and authorizations cannot be obtained, either party may terminate this Agreement without further obligation.

ARTICLE 4 **The Closing**

4.1 The Closing . The Closing shall take place within 30 days after the satisfaction of all conditions described in Article 3 and at a mutually acceptable location at a date and time mutually agreeable to the parties.

4.2 Assets To Be Sold. At the Closing, Seller shall convey and transfer to Purchaser free and clear of all liens, claims and encumbrances the Seller's System. Purchaser acknowledges that Seller's System shall be conveyed AS IS, WHERE IS.

4.3 Closing Conveyances. At the Closing, Seller shall deliver to Purchaser a Bill of Sale, Assignment and General Conveyance in the form attached hereto as Exhibit A. Seller shall also represent and warrant at Closing that there are no liens, or encumbrances on the assets making up the Seller's System except current personal property taxes not delinquent. All documents to which the parties are entitled under this Agreement, unless otherwise specified herein, shall also be duly delivered at or before the Closing.

4.4 Records, Plans, And Financial Statements. At the Closing, Seller shall deliver to Purchaser, to the extent such documents exist, copies of Seller's System customer lists and addresses, technical information, collection system maps, valve records, monthly reports submitted to state agencies, maintenance records on all mains, and all other records and documents relating to the Seller's System.

4.5 Property Taxes. All property taxes on the Seller's System owed but not delinquent as of the Closing shall be prorated between the Purchaser and Seller as of the Closing

Date, with the Seller paying to Purchaser its share of the prorated property taxes at the Closing. Seller shall remain responsible for all real and personal property taxes which have been or are assessed upon the Seller's System and which have not been paid as of the Closing Date for each tax year preceding the tax year in which the Closing occurs. Purchaser shall be responsible for all real and personal property taxes assessed for tax years including and subsequent to the tax year in which the Closing occurs.

4.6 Deadline for Closing. If the conditions to closing specified in Paragraph 3.1 have not been satisfied within seven (7) months of execution of this Agreement, this Agreement shall be deemed terminated unless extended by consent of the parties. If the Closing shall not have occurred within nine (9) months of the execution of this Agreement, this Agreement shall be deemed terminated unless extended by consent of both parties. Consent to a ninety (90) day extension of the deadline for Closing shall not be unreasonably withheld.

ARTICLE 5

Representations, Warranties and Covenants of Seller

5.1 No Liens Or Encumbrances. Seller represents and warrants that there are no liens or encumbrances on the assets making up the Seller's System.

5.2 Authorization. Seller represents and warrants that the execution and delivery of this Agreement and all other instruments or documents contemplated hereunder, and the performance by Seller of its obligations and duties thereunder have been duly authorized by all corporate action necessary to make the obligations of Seller hereunder enforceable and binding.

5.3 No Breach. Seller represents and warrants that the execution, delivery and performance of this Agreement (a) do not and will not constitute a breach or violation of or default under any agreements, contracts, mortgages or instruments to which Seller, or its properties are bound, (b) will not result in the creation of any lien, charge or encumbrance upon any property or assets included in the Seller's System and (c) to Seller's knowledge, will not violate any statute, regulation or ruling to which Seller is subject.

5.4 Contracts, Leases and Licenses. Seller represents and warrants to Purchaser that there are no contracts, leases, licenses or permits relating to the operation of the Seller's System.

5.5 Title To Assets. Seller represents and warrants that it has good and merchantable title to the assets comprising the Seller's System, free and clear of all liens, claims and encumbrances.

5.6 Warranty To Preserve And Maintain. Seller represents and warrants that, between the date of this Agreement and the closing, Seller will operate, maintain and preserve the Seller's System in a careful and proper manner.

5.7 Contractual Freeze. Seller agrees not to enter into any contractual agreements which relate to the Seller's System or the provision of sewer service thereby without Purchaser's written permission other than in connection with normal and usual commitments in the ordinary course of business for the purchase of materials and supplies.

5.8 Insurance. Seller shall continue to maintain its current insurance coverage on the Seller's System at Seller's expense through and including the Closing Date. Seller shall have the

insurable interest through the Closing Date. In the event of an insured loss between now and the Closing Date, Purchaser shall have the option to terminate this Agreement.

5.9 Pending Litigation. Other than the IURC proceeding described in Paragraph 3.1, Seller represents and warrants that there are no actions, suits or proceedings pending or threatened against Seller or its properties at law or in equity, before or by any federal, state, county, municipal or government court, department, commission, board, bureau, agency or instrumentality wherein an adverse judgment, assessment or liability would have a material effect on Seller's title to any of the assets comprising the Seller's System, or its ability to perform its obligations under this Agreement.

5.10 Mechanic's Liens. Seller represents and warrants that no services, material or work have been supplied to the Seller's System for which payment has not been made in full. If, subsequent to the Closing Date, any mechanic's or other lien, charge or order for the payment of money shall be filed against any or all of the Seller's System or against the Purchaser, based upon any act or omission, or alleged act or omission before or after the Closing Date, of the Seller, its agents, servants or employees, or any contractor, subcontractor or materialman connected with the construction of improvements on any or all of the Seller's System at the direction of Seller, or repairs made to any or all of the Seller's System at the direction of Seller, whether or not such lien, charge or order shall be valid or enforceable, within ten (10) days after notice to the Seller of the filing thereof, the Seller shall take such action, by bonding, deposit, payment or otherwise, as will remove or satisfy such lien of record against the Seller's System.

ARTICLE 6
Additional Obligations of Seller

6.1 Inspection Of Property, Books and Records. Seller will allow Purchaser and its representatives to inspect [to Purchaser's satisfaction] all books, records, contracts and physical property of Seller pertaining to the Seller's System at times convenient to Purchaser and Seller prior to the Closing Date. Seller further agrees to supply other information concerning Seller's property and affairs that Purchaser may reasonably request at Purchaser's reasonable expense, which expense shall be disclosed by Seller in advance of being incurred.

6.2 Performance. Between the date of this Agreement and the Closing, Seller agrees to perform its duties under all contracts, leases, licenses, easements and permits in connection with the Seller's System without default.

6.3 Conduct Of Business. Between the date of this Agreement and the Closing, Seller shall not without the written consent of Purchaser, dispose of or encumber any of the assets comprising the Seller's System. Until the Closing Date, Seller shall operate and maintain the Seller's System in the ordinary course of business, consistent with good business practice. After the Closing Date, Seller shall have no role in the operation of the Seller's System.

6.4 Utilities. Seller shall pay all charges for utilities purchased by Seller for use in connection with the Seller's System prior to the Closing. Seller agrees to indemnify and hold Purchaser harmless from all liability with respect to Seller's utility charges.

6.5 Indemnification. Seller shall indemnify, defend and hold harmless Purchaser from and against any and all claims, causes of action (whether administrative or judicial),

liabilities, losses, damages, fines, penalties, costs or expenses of any kind or nature whether current, deferred or contingent (including, but not limited to, court costs and reasonable attorneys' fees) which arise out of or are in connection with:

- (a) Seller's breach, nonperformance, or nonfulfillment of any representation, warranty, covenant, or obligation under this Agreement;
- (b) the failure of Seller to comply with applicable statutes, regulations, codes or ordinances (including, but not limited to, any and all environmental or public health laws);
- (c) any actions, transactions, failure to act, or any negligence on Seller's part, in the ownership, use, maintenance or operation of the Seller's System prior to the Closing; or
- (d) the condition of the discharge from the Seller's System prior to Closing.

The terms of this paragraph shall survive the lawful termination of this Agreement.

6.6 Seller's Liabilities. Seller shall be responsible for all liabilities and obligations of, or pertaining to, the Seller's System arising or accruing through and including the commencement of the Closing Date. Seller shall remain liable after Closing for any and all liability for taxes, penalties, fines, obligations arising out of any occurrences or actions taken by Seller, or failure to act, arising or accruing through and including the Closing Date. Seller shall also pay and satisfy in full all accounts payable relating to the Seller's System which are accrued or accruable as of the Closing Date if they represent services or goods received by Seller prior to that date.

ARTICLE 7
Purchaser's Representations And Additional Obligations

7.1 Existence and Power. Purchaser represents and warrants that it is a Corporation duly organized, and validly existing under the laws of the State of Indiana, and has the full power and authority to enter this Agreement.

7.2 Authorization of Agreement. Purchaser represents and warrants that there are no approvals or authorizations other than those specified herein which are necessary to make this Agreement binding on and enforceable against Purchaser.

7.3 Agreement to Create No Default. Purchaser represents and warrants that the execution of this Agreement and the performance of the covenants and conditions herein contained do not, and will not as of the Closing Date or thereafter, result in any breach of any of the terms, conditions or provisions of or constitute a default under any indenture, agreement, or other instrument to which Purchaser is a party or by which it may be bound or affected.

7.4 Purchaser's Liability. Purchaser shall be responsible for all liabilities and obligations of, or pertaining to, the Seller's System arising or accruing after the Closing Date.

ARTICLE 8
Miscellaneous

8.1 Assignment. Neither party shall assign, convey, sell, pledge, encumber, or otherwise transfer its interests under this Agreement without the express written consent of the other party hereto.

8.2 Waiver. No delay, forbearance or neglect by either party hereunder in the enforcement of any of the conditions of this Agreement or any of such party's rights or remedies hereunder shall constitute or be construed as a waiver thereof. No waiver of any of the matters or agreements contained in this Agreement by either party shall be effective unless expressly and affirmatively made and given by the party waiving such matter in writing to the other.

8.3 Expenses. Except as otherwise expressly provided herein, the parties agree that the expenses incurred in connection with this Agreement shall be allocated as described on Exhibit A attached hereto. Other specific expenses are allocated to the parties in separate provisions of this Agreement.

8.4 Notices. All notices required or permitted to be given by either party to the other under this Agreement shall be sufficiently given, in the absence of a specific provision to the contrary, in writing and personally delivered or sent by United States Certified Mail, Return Receipt Requested, or by any nationally recognized overnight or express courier service, addressed as follows:

To Seller to: Scott L. Lods
 3350 West County Rd., 250 N.
 West Lafayette, IN 47906

with copy to:

Nicholas K. Kile
Barnes & Thornburg, LLP
11 South Meridian Street
Indianapolis, IN 46204

To Purchaser to: Henry Weller
1621 Greenacres Drive
Kokomo, IN 46901

with copy to:

Marcus L. Misinec
Bayliff, Harrigan, Cord, Maugans & Cox, P.C.
319 N. Main Street
Kokomo, IN 46901

8.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between the Seller and the Purchaser. No statements, promises, or agreements whatsoever, in writing or verbal, in conflict with the terms of this Agreement have been made by the Seller or the Purchaser which in any way modify, vary, alter, enlarge, or invalidate any of the provisions hereof and/or obligations herein stated. This Agreement may be amended and modified only in writing signed by both the Seller and the Purchaser and executed with the same formality as this Agreement.

8.6 Governing Law. This Agreement shall be construed under and governed by the laws of the State of Indiana.

8.7 Force Majeure. In the event that the Seller or the Purchaser shall be delayed, hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lock-outs, labor trouble, inability to procure materials, failure of power, unforeseen governmental laws or regulations, riots, insurrections, war, adverse weather conditions, the act or failure to act or default of the other party to this Agreement, or other reason beyond such party's reasonable control ("force majeure event"), the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided such party exercises its best efforts to meet the performance obligation. "Best efforts" shall

include such party's use of reasonable efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that delay is minimized to the greatest extent possible. "Force majeure" does not include financial inability of either party to pay the expenses or complete the work required by this Agreement or increases in the costs thereof.

8.8 Section Headings. All section headings herein are inserted for convenience of reference only and shall not control, affect or modify the meaning or construction of any of the terms of provisions hereof.

8.9 Survival Of Representations and Warranties. All agreements, representations, and warranties contained in this Agreement shall apply as of the Closing Date and shall survive the Closing.

8.10 Due Diligence. The parties acknowledge that Purchaser has the right to investigate the general condition of the assets being sold as set forth herein, the transferability of licenses, permits, etc., as provided for herein, and other matters relating to the Seller's System and Purchaser's purchase thereof. Seller agrees to cooperate with Purchaser in the course of Purchaser's investigation and to provide Purchaser with access to information and facilities to the extent reasonably requested by Purchaser.

8.11 Termination Without Further Obligation. Whenever either party rightfully exercises an option to terminate this Agreement as provided herein, such exercise shall be without further obligation except as expressly provided herein.

8.12 Representative Capacity. The parties acknowledge that the signatories hereto have executed this Agreement in their representative capacity only and not in their individual capacities. Upon execution hereon, the signatories shall provide evidence that they have been duly authorized to sign.

IN WITNESS WHEREOF, the undersigned certify that they are duly authorized and empowered to execute this Agreement and thus bind the corporate or entity in whose behalf they sign on the dates shown below.

SELLER: HOWARD COUNTY UTILITIES, INC.

By: Scott L. Lott
Date: 9-MAR-2020

PURCHASER: GREEN ACRES SUBDIVISION SEWER SYSTEM, INC.

By: Henry E. Wellen
Date: Mar 9 2020

AMENDMENT TO AGREEMENT FOR ACQUISITION OF ASSETS

This Amendment (“Amendment”) is made and entered into this 20th day of March, 2020, by and between Howard County Utilities, Inc., an Indiana corporation (“Seller”) and Green Acres Subdivision Sewer System, Inc., an Indiana not-for-profit corporation (“Purchaser”).

WITNESSETH THAT:

WHEREAS, on March 9, 2020, the parties executed an Agreement for Acquisition of Assets (the “Agreement”) for the purpose of Purchaser acquiring Seller’s System (as defined in the Agreement) pursuant to the terms of the Agreement; and

WHEREAS, Section 2.2 of the Agreement outlines the Consideration for the acquisition and describes how transaction costs incurred by the parties shall be paid at Closing; and

WHEREAS, the parties wish to enter into this Amendment for the purpose of clarifying Section 2.2 to more closely reflect the parties’ intent with regard to how transaction costs of both Seller and Buyer shall be paid at Closing.

NOW THEREFORE, the parties, in consideration of the mutual promises, covenants, and agreements to be kept and performed hereunder, including the aforesaid recitals which shall be incorporated herein by reference and construed as terms of this Agreement with full force and effect equal to the following terms, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, do hereby agree as follows:

1. Both Seller and Purchaser have long understood and acknowledged that professional fees associated with the acquisition would be incurred by both parties and that Purchaser may not have funds available in the early stages of the project to pay those costs. Thus, to the extent Purchaser has paid any fees out of its existing funds (or to the extent that Seller has advanced funds to Purchaser), both parties agree such expenses should be reimbursed out of the loan proceeds at Closing. Further, both parties agree that total professional fees paid from the loan proceeds will be capped at \$100,000, \$30,000 of which will be allocated for Seller's counsel fees.

2. Except as amended hereby, the parties hereby agree that the Agreement remains in full force and effect. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned certify that they are duly authorized and empowered to execute this Amendment and thus bind the corporate or entity on whose behalf they sign on the dates shown below.

SELLER: HOWARD COUNTY UTILITIES, INC.

By: Scott Hms

Date: 20 MAR 20

PURCHASER: GREEN ACRES SUBDIVISION SEWER SYSTEM, INC.

By: _____

Date: _____

IN WITNESS WHEREOF, the undersigned certify that they are duly authorized and empowered to execute this Amendment and thus bind the corporate or entity on whose behalf they sign on the dates shown below.

SELLER: HOWARD COUNTY UTILITIES, INC.

By: _____

Date: _____

PURCHASER: GREEN ACRES SUBDIVISION SEWER SYSTEM, INC.

By: Chuck Lewis Secretary

Date: March 20, 2020