

BILL NO. 4758ORDINANCE NO. 4758

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FESTUS, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT, THE FESTUS-CRYSTAL CITY SEWAGE COMMISSION, AND THE CITY OF CRYSTAL CITY TO TRANSFER THE SEWAGE TREATMENT PLANT AND SYSTEMS OWNED AND OPERATED BY THE FESTUS-CRYSTAL CITY SEWAGE COMMISSION FOR THE BENEFIT OF THE CITIES TO THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT, REPEALING ALL ORDINANCES IN CONFLICT THEREWITH, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VI, Section 16 of the Missouri Constitution and Section 70.220, RSMo, municipalities and political subdivisions of the State of Missouri are empowered to enter into contracts with one another for common services; and

**WHEREAS**, the Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri ("District"), is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668, RSMo, and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640, RSMo, and is authorized to enter into agreements pursuant to Section 204.618, RSMo for the purposes set forth herein; and

**WHEREAS**, The City of Festus ("Festus") is a third class municipal corporation formed pursuant to Chapter 77, RSMo; and

**WHEREAS**, The City of Crystal City ("Crystal City") is a third class municipal corporation formed pursuant to Chapter 77, RSMo; and

**WHEREAS**, the Festus-Crystal City Sewage Commission ("Commission"), a political subdivision of the State of Missouri, is a joint municipal utility commission established by ordinances adopted by Festus and Crystal City pursuant to Sections 70.210 through 70.320, RSMo, and is authorized to enter into agreements pursuant to Section 70.260.2(4), RSMo, for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances ("Treatment Facility"), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus owns, maintains, and operates a sewage collection system ("Festus Collection System") that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City owns, maintains, and operates a sewage collection system ("Crystal City Collection System") that collects sewage from various improved properties located

within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on June 26, 2023, the City Council adopted Resolution No. 4724.5, authorizing and directing the Mayor to approve a letter of intent to enter into an agreement with the Jefferson County Public Sewer District (the “District”) to sell the Plant to the District, and such letter of intent was subsequently amended on July 24, 2023 by Resolution No. 4730.5, and on December 18, 2023 by Resolution No. 4755.5; and

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District’s boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FESTUS, MISSOURI, AS FOLLOWS:**

SECTION I. The City Council of the City of Festus hereby approves the agreements in substantially the forms set forth as Exhibits hereto to effectuate the transfer of the Treatment Facility, and the Festus Collection System to the Jefferson County Public Sewer District, and authorizes the Mayor to execute on behalf of the City the following agreements:

- (a) a **Master Agreement Regarding Sewage Collection and Treatment Systems of Festus an Crystal City** among the District, the Commission, Festus, and Crystal City, in substantially the form set forth in Exhibit A, attached hereto and incorporated by reference;
- (b) a **System Operating and Cooperation Agreement** between Festus and the District, Agreement, which shall be substantially similar to the System Operating Agreement attached hereto as Exhibit B, attached hereto and incorporated by reference; and

- (c) an Asset Transfer Agreement among the District, the Commission, Festus, and Crystal City, in substantially the form set forth in Exhibit C, attached hereto and incorporated by reference.

SECTION II. The Mayor, City Administrator, and other officials of the City of Festus are authorized to take such administrative steps reasonably necessary to comply with the intent of this Ordinance, and to take all actions authorized by the agreements authorized by Section 1 of this Ordinance. The Mayor, City Administrator, and other officials of the City of Festus are authorized to execute any documents, including but not limited to easements, lease agreements, transfers of real estates, and other documents or agreements among the Parties reasonably necessary to effectuate the intent of this Ordinance.

SECTION III. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION IV. This Ordinance shall be in full force and effect upon its passage by the City Council and the approval by the Mayor.

READ TWO TIMES AND PASSED THIS 23 DAY OF January, 2024.

Saul F. Richard  
President of the City Council

APPROVED THIS 23 DAY OF January, 2024.



Saul F. Richard  
Mayor of the City of Festus

  
City Clerk



**Exhibit A**

[ *insert Master Agreement* ]

**Exhibit B**

[ *insert System Operating and Cooperation Agreement* ]

**Exhibit C**

[ *insert Asset Transfer Agreement* ]

**JEFFERSON COUNTY PUBLIC SEWER DISTRICT, FESTUS,  
CRYSTAL CITY, FESTUS-CRYSTAL CITY SEWAGE COMMISSION**

**CLOSING DOCUMENTS**

**1. MASTER AGREEMENT REGARDING SEWAGE COLLECTION AND TREATMENT  
SYSTEMS OF FESTUS AND CRYSTAL CITY**

Exhibit 1 – Festus Boundaries

Exhibit 2 – Crystal City Boundaries

Exhibit 3 – Asset Transfer Agreement

Exhibit 4 – Festus Sewer System Operation and Cooperation Agreement

Exhibit 5 - Crystal City Sewer System Operation and Cooperation Agreement

**2. ASSET TRANSFER AGREEMENT**

None

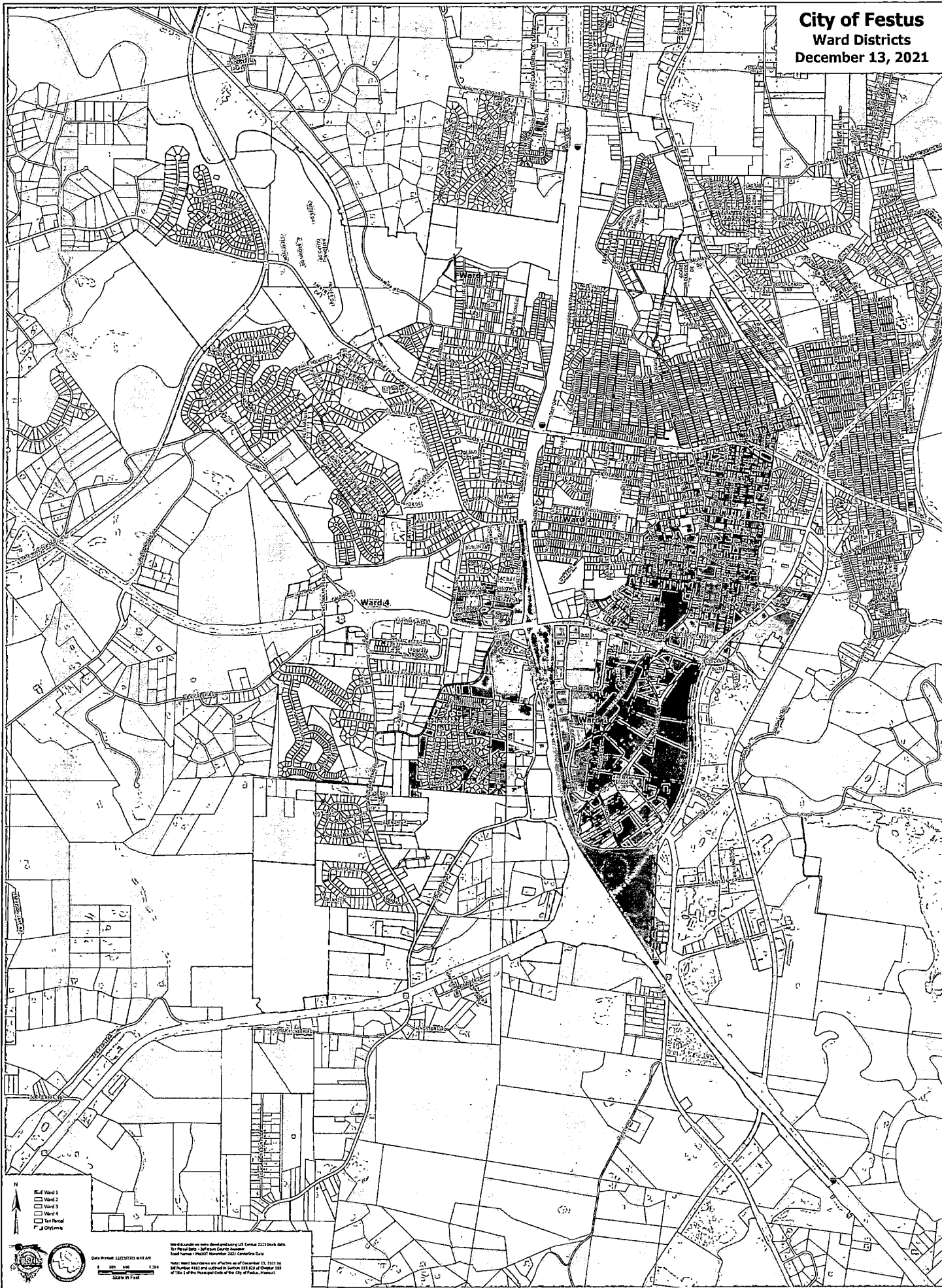
**3. FESTUS SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT**

Attachment A - Rate Caps

**4. CRYSTAL CITY SEWER SYSTEM OPERATION AND COOPERATION  
AGREEMENT**

Attachment A - Rate Caps

**City of Festus**  
**Ward Districts**  
**December 13, 2021**



- ☐ Ward 1
- ☐ Ward 2
- ☐ Ward 3
- ☐ Ward 4
- ☐ City Portal
- ☐ City Limits



Date Printed: 11/23/2021 9:43 AM  
Scale: 1" = 1,000'

Map & boundaries were developed using GIS. Current: 11/23/2021 9:43 AM.  
By: [Name] - [Title] - [Department] - [City of Festus, Missouri]  
Last Update: 11/23/2021 9:43 AM  
Notes: Map boundaries are effective as of December 13, 2021 by  
Ordinance 4462 and adopted by Council 11/23/21 at Chapter 139  
of the 1st of the Municipal Code of the City of Festus, Missouri.

**ASSET TRANSFER AGREEMENT**

THIS ASSET TRANSFER AGREEMENT (“Agreement“) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the Commission has authorized the execution of this Agreement by Resolution No. 23-0445, adopted by its Commissioners on September 23, 2023;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I  
TERMS OF SALE**

1.1 Sale of Assets. Commission agrees to sell, transfer, assign, convey, and deliver or cause the same to occur to District, and District agrees to purchase, acquire, and accept from Commission or other designee of the Commission, to the full extent reasonable and legal, all the right, title and interest in and to the Treatment Facility, including but not limited to all land, buildings, fixtures, and equipment thereon or used in the operation of the Treatment Facility (collectively, "Assets"), free and clear of all financial encumbrances, mortgages, pledges, liens, security interests, obligations, and liabilities. The conveyance of the Assets shall include the assignment and assumption of applicable Missouri Department of Natural Resources and Environmental Protection agency licenses and/or permits held by the Commission but only to the extent such interests are assignable.

1.2 No Assumption of Liabilities. District is not assuming any liabilities of Commission in existence prior to the Closing Date unless expressly agreed to herein but is assuming all liabilities regarding the Assets arising on and after the Closing Date. On the Closing Date, District shall assume and agrees to pay, perform, or otherwise discharge the liabilities of the Treatment Facility arising on and after the Closing Date. Commission shall perform or timely otherwise discharge the liabilities of the Treatment Facility arising before the Closing Date. The Parties shall prorate utility expenses and similar charges relating to the Treatment Facility, and Commission shall be liable to the extent such expenses and charges relate to any time before the Closing Date, and the District shall be liable to the extent such expenses and charges relate to any time on and after the Closing Date.

1.3 Payables. Commission shall be responsible for all payables resulting from the operation of the Treatment Facility prior to the Closing Date. District shall be responsible for all payables resulting from the operation of the Treatment Facility following the Closing Date.

1.4 Purchase Price. The purchase price for the sale of the Assets contemplated herein shall be Five Million and 00/100 Dollars (\$5,000,000.00), which shall be paid as follows: One Million and 00/100 Dollars (\$1,000,000.00) on the Closing Date, with Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Festus and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Crystal City and ten equal installment payments of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) each, without interest, with Two Hundred Fifty-Six Thousand and 00/100 Dollars (\$256,000.00) to be paid to Festus and One Hundred

Forty-Four Thousand and 00/100 Dollars (\$144,000.00) to be paid to Crystal City, with the first such payment due and payable on the first anniversary date of the Closing Date and successive payments due and payable on the successive anniversary dates of the Closing Date until fully paid. There shall be no prepayment penalty. To the extent required by art. VI, section 26 of the Missouri Constitution, such payments shall be subject to annual appropriation of funds by District. If District appropriates funds for such payments this Agreement shall remain in force and effect.

1.5 Closing. The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on, \_\_\_\_\_, 2024, or at such other time, date, and place as Festus, Crystal City, the Commission and District may mutually agree upon in writing (“Closing Date”)

## **Article II REPRESENTATIONS AND WARRANTIES OF COMMISSION**

Commission hereby represents and warrants to District as follows:

2.1 Authorization. Commission has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the Commission. This Agreement is a legal, valid, and binding obligation of the Commission.

2.2 No Violation. Neither the execution and delivery of this Agreement by Commission, the performance by Commission of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will: (i) violate any provision of the official policies of the Commission; or (ii) to the best knowledge of Commission, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which Commission is subject.

2.3 Litigation. There is no action, proceeding, or investigation pending or to the Commission’s knowledge threatened against or involving Commission or any of the Assets which, if determined adversely, could materially and adversely affect the Treatment Facility taken as a whole, and Commission is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the Treatment Facility taken as a whole.

2.4 No Warranties. The Assets sold hereunder are being sold “AS IS, WHERE IS” and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of Commission; provided, however, that Commission does warrant its title to the Assets and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED



WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2.5 Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the Treatment Facility or the Assets; and (ii) the form of each of Commission's standard form written agreements or contracts which relates to or arises from the Treatment Facility or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.

2.6 Environmental Matters.

(a) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are currently and have been in compliance with all Environmental Laws.

(b) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are in material compliance with all environmental permits necessary for the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets and all such environmental permits are in full force and effect and shall be maintained in full force and effect by Commission through the Closing Date in accordance with all Environmental Laws; and Commission is not aware of any condition, event or circumstance that might result in noncompliance with any environmental permit or prevent or impede, after the Closing Date, the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets.

(c) Commission has not received from any person any: (i) environmental notice or environmental claim with respect to the Treatment Facility or the Assets; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.

(d) To the knowledge of Commission, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the Closing in connection with the operation or continued operation of the Treatment Facility or the ownership or use of the Assets in a manner consistent with current operation thereof by Commission, except for any permit, transfer, registration, or similar fees associated with any required approvals. Commission has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the Treatment Facility.

(e) The Treatment Facility has, to Commission's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous

Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.

2.7 Certain Due Diligence Material. Prior to the date of this Agreement, Commission has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:

(a) The deeds and other instruments (as recorded) by which Commission acquired the Treatment Facility and all title insurance policies, opinions, abstracts, and surveys in the possession of Commission with respect to such parcels.

(b) A listing of all easements or similar instruments under which Commission is the grantee where the easement or real property right evidenced is utilized in any manner by Commission for the placement, maintenance, repair, operation, or improvement of the Treatment Facility.

(c) All environmental reports and investigations that Commission owns, has obtained, or has ordered with respect to the Treatment Facility or the Assets.

(d) A complete inventory of all tangible personal property owned or leased by Commission and used in connection with the Treatment Facility;

(e) Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the Treatment Facility;

(f) All certificates of occupancy and other governmental licenses or approvals relating to any portion of the Treatment Facility, including any necessary operating permits and all other Permits;

(g) Any service records or bills for repairs to any part of the Treatment Facility for the prior three (3) years;

(h) All warranties, if any, relating to the Treatment Facility; and

(i) All reports or documentation available to Commission to support the cost basis of the Assets.

2.8 Disclosure. No representation or warranty by Commission in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.9 Brokers and Agents. No broker, agent or representative of Commission has any agreement or contract with Commission entitling such broker, agent or representative to

any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

**ARTICLE III  
REPRESENTATIONS AND WARRANTIES OF DISTRICT**

District hereby represents and warrants to Commission as follows:

3.1 Corporate Organization. District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.

3.2 Authorization. District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.

3.3 No Violation. Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.

3.4 Title to Assets. Title to and risk of loss, destruction or damage to the Assets shall pass to District on the Closing Date, subject to the rights of the Commission under any easement document.

3.5 Inspection of Assets. District has inspected the Assets and is satisfied with the condition of the Assets subject to the acknowledgments in Section 2.5.

**Article IV  
ADDITIONAL COVENANTS**

4.1 Closing Documents.

(a) On the Closing Date, Commission shall deliver or cause to be delivered the following to District:

- (i) If and when possible, a duly executed General Warranty Deed for all real property, including but, not limited to, the Treatment Facility at 355 County Road, Crystal City, MO 63019, County Locator Number Parcel IDs: 19-3.0-08.0-2-010-006, 19-3.0-08.0-2-010-007, and 19-3.0-08.0-2-010-008 . The Parties understand said parcels may have such deed or other restrictions as would prevent them from being transferred. The Parties will negotiate in good faith to transfer District such easement rights

as will provide District with unfettered and unchallengeable access to and control of said parcels. In the event the Parties determine the restrictions have been removed and the parcels may be transferred, the Parties shall cause to be delivered a General Warranty Deed to the District; and

- (ii) Bill of Sale, Easements, General Assignment conveying the Assets to District;
- (iii) Copies of or access to all books and records of Commission with respect to the construction, operation, billings, and permits issued with respect to the Treatment Facility; and
- (iv) Certified resolutions or ordinances of the Commission authorizing this Agreement and the transactions contemplated hereby.

(b) On the Closing Date, District shall deliver the following to Commission: certified resolutions of the Board of Trustees of District authorizing this Agreement and the transactions contemplated hereby.

4.2 Each party is a public entity and carries adequate insurance. Nothing in this Agreement shall constitute or be construed as a waiver of sovereign immunity, official immunity, good faith immunity or any other immunities or defenses available under state law.

4.3 Indemnity. To the extent permitted by law, the Commission agrees to indemnify, defend, and hold harmless District from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with the operation or management of the Treatment Facility prior to the Closing Date, any agreements entered into by Commission that are not expressly identified and assumed herein by District, including, but not limited to, any agreement for the operation, maintenance, repair or improvement of the Treatment Facility, and events or occurrences or based on the condition of the Treatment Facility before the Closing Date. District agrees to indemnify, defend, and hold harmless Commission from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with events or occurrences or based upon the condition of the Treatment Facility arising after the Closing Date.

4.4 Conduct of Business Prior to the Closing. From the date of this Agreement until the Closing, except as otherwise provided in this Agreement or consented to in writing by District (which consent shall not be unreasonably withheld or delayed), Commission shall (i) operate the Treatment Facility in the ordinary course of operations consistent with past practice; and (ii) use reasonable best efforts to maintain and preserve intact the Treatment Facility and its operations and to preserve the rights, franchises, goodwill and relationships of the employees, customers, suppliers, regulators, and others having relationships with the Treatment Facility. Without limiting the foregoing, from the date hereof until Closing, Commission shall:

- (a) maintain the Treatment Facility and the Assets in the ordinary course of operations but, in any event consistent with good utility practices and applicable law, including, but not limited to, maintenance, repair, replacement, or changes to the Assets;
- (b) pay or otherwise satisfy in the ordinary course of operations all of its liabilities and obligations;
- (c) confer with District prior to implementing operational decisions of a material nature;
- (d) respond within five (5) days to reasonable inquiries of District concerning the status of the Treatment Facility, operations, and finances;
- (e) keep in full force and effect, without amendment, assigned contracts and all material rights relating to the Treatment Facility;
- (f) comply with all applicable law and contractual obligations applicable to the operations of the Treatment Facility;
- (g) continue in full force and effect the Treatment Facility's insurance coverage;
- (h) cooperate with District and assist District in identifying the consents, authorizations, orders, approvals, permits, governmental orders, declarations, or filings with, or notices to, all governmental authorities required by District to operate the Treatment Facility and own the Assets from and after the Closing and either transferring existing governmental authorizations of Commission to District, where permissible, or obtaining new governmental authorizations for District;
- (i) upon request from time to time, execute and deliver all documents, make all truthful oaths, testify in any legal or administrative proceedings, and do all other acts that may be reasonably necessary or desirable in the opinion of District to consummate the contemplated transactions, all without further consideration;
- (j) maintain all books and records of Commission relating to the Treatment Facility in the ordinary course of operations;
- (k) unless otherwise agreed to by District, complete all construction work on any new facilities such that no work will be in progress at Closing and pay any and all outstanding invoices related to such work prior to Closing;
- (l) give District prompt notice of any event or condition of any kind learned by Commission between the date of this Agreement and the Closing pertaining to and adversely affecting the Assets, excepting events or conditions affecting the wastewater utility business generally; and

(m) perform all of its obligations under all existing contracts.

4.5 Access to Information and Investigation. From the date of this Agreement until the Closing:

(a) Commission shall, upon reasonable notice and during normal operating hours, (i) afford District full and free access to and the right to inspect the Treatment Facility and Assets, and other documents and data related to the Treatment Facility; (ii) furnish District with such financial, operating, and other data and information related to the Treatment Facility as District may reasonably request.

(b) Without limiting the foregoing, District shall, upon reasonable notice, and at District's sole cost and expense, have the right to enter upon Commission's property to conduct physical inspections and testing of the facilities, surveys, environmental assessments and sampling, site analysis, engineering studies, and other investigations it deems reasonably necessary with respect to the Treatment Facility and the Assets.

(c) Any investigation pursuant to this Section 4.5 shall be conducted in such manner as not to interfere unreasonably with the conduct of the operations of the Treatment Facility or the business of Commission. No investigation by District or other information received by District shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Commission in this Agreement.

4.6 Notice of Certain Events.

(a) From the date of this Agreement until the Closing, Commission shall promptly notify District in writing if it becomes aware of:

- i. any fact, circumstance, event, or action the existence, occurrence or taking of which: (A) has, had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect; or (B) has resulted in, or could reasonably be expected to result in, any representation or warranty made by Commission hereunder not being true and correct;
- ii. any notice or other communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement;
- iii. any notice or other communication from any governmental authority in connection with the transactions contemplated by this Agreement; and
- iv. any action commenced or, to Commission's knowledge, threatened against, relating to, or involving or otherwise affecting the Treatment

Facility that, if pending on the date of this Agreement, would have been required to have been disclosed or that relates to the consummation of the transactions contemplated by this Agreement.

(b) District's receipt of information pursuant to this Section 4.6 shall not operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by Commission in this Agreement and shall not be deemed to amend or supplement the schedules to this Agreement.

4.7 Employees. Prior to the Closing, Commission will either terminate or reassign the employment of all of its employees and independent contractors in connection with the System, at its sole risk and expense. Commission shall bear any and all obligations and liability under the WARN Act resulting from employment losses pursuant to this Section.

4.8 District may, but will not be obligated to, offer employment to any of Commission's former or current employees but will not assume any employee-related liabilities prior to the Closing. In the event District retains any current employees of Commission, District will assume employee-related liabilities arising after the Closing Date.

## **ARTICLE V CONDITIONS PRECEDENT**

5.1 Conditions of Commission. The obligations of Commission hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by Commission in writing) on or prior to the Closing:

(a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and

(b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement.

5.2 Conditions of District. The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

(a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;

(b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement;

(c) Commission shall have delivered to District a General Warranty Deed, Bill of Sale, Assignment of Easements, and General Assignment conveying the Treatment Facility and the Assets to District;

**ARTICLE VI  
MISCELLANEOUS**

6.1 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

6.2 Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. Commission and District agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker, or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

6.3 Assignment. Neither Party shall assign this Agreement or any of its rights and obligations hereunder.

6.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their legal representatives, successors and permitted assigns.

6.5 Notices. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road



Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

(c) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(d) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019  
Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

6.6 Entire Agreement. This Agreement, along with the Definitive Agreements identified in that certain Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City (“Definitive Agreements”), the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and

understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

6.7 Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

6.8 Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

6.9 Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

6.10 Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

6.11 Attorney Fees. In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

6.12 Cooperation. District and Commission will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date Commission will at the request of District, but without further consideration, sale,

transfer, and conveyance, take such other and further action as District may reasonably request in order to more effectively vest in District and put District in possession of the Assets and assure to District the benefits thereof.

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

*Samuel F. Richards*

\_\_\_\_\_

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

By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Mayor

SEAL



ATTEST:  
\_\_\_\_\_  
, Secretary

*[Signature]*  
\_\_\_\_\_  
City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY  
SEWAGE COMMISSION

\_\_\_\_\_

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:  
\_\_\_\_\_  
, Secretary

ATTEST:  
\_\_\_\_\_  
, Secretary

**FESTUS**  
**SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT**

THIS SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT (“Agreement”) is an intergovernmental agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between **Jefferson County Public Sewer District** (“District” or “Operator”), and **the City of Festus, Missouri**, a third class municipal corporation formed pursuant to Chapter 77 RSMo. (“City”), (jointly referred to as “Parties”), and provides as follows:

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”) owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein;

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the District and Commission have entered into an Asset Transfer Agreement to transfer the ownership of the Treatment Facility to the District

contemporaneously with this Agreement, the Closing of such Asset Transfer Agreement being a condition precedent to the Closing on this Agreement; and

**WHEREAS**, the Festus owns and operates a sewage collection system within its city limits (“System”); and

**WHEREAS**, Festus deems it necessary to the preservation and promotion of the public health, safety and welfare of its citizens and the general public to transfer the operation and maintenance of the City’s sewer system, including all property, equipment and appurtenances of said System, and ultimately to convey and transfer the same, to the Sewer District and for the Sewer District to manage, operate, maintain, and ultimately own said System for the benefit and welfare of the citizen’s and their property;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I  
TERMS; EFFECTIVE DATE**

**Section 1.1 Term and Extension Option.**

(a) Term. The term of this Agreement will extend for a period of thirty (30) years from the Effective Date (“Term”). At the expiration or termination of the Term, all other obligations of the Parties hereunder shall terminate unless otherwise agreed.

(b) Term Extension Option. Either Party may provide written notice to the other Party that such Party intends for this Agreement to terminate at the end of the Term not later than five (5) years prior to the end of the Term and at least one (1) year prior to the end of every fifth (5<sup>th</sup>) year thereafter. In the event that neither Party has provided written notice to the other Party that this Agreement shall terminate at the end of the Term, the Term shall be automatically extended for additional successive five (5) year periods (collectively, as appropriate, the “Term”).

**Section 1.2 Effective Date; Binding Effect.** This Agreement and the rights and obligations of each Party hereunder shall become effective on \_\_\_\_\_, 2024 (“Effective Date”).

**Section 1.3 Closing.** The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on \_\_\_\_\_, 2024, or at such other time, date, and place as the Commission and District may mutually agree upon in writing (“Closing Date”).

**ARTICLE II**

## **REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF CITY**

**Section 2.1** City hereby represents and warrants to District as follows:

- (a) Authorization. City has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the City. This Agreement is a legal, valid, and binding obligation of the City.
- (b) No Violation. Neither the execution and delivery of this Agreement by City, the performance by City of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the official policies of the City, or (ii) to the best knowledge of City, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which City is subject.
- (c) Litigation. Except as specifically identified in this section, there is no action, proceeding or investigation pending or to the City's knowledge threatened against or involving City, if determined adversely, could materially and adversely affect the System taken as a whole, and City is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the System taken as a whole.
- (d) No Warranties. The System will be operated by the District "AS IS, WHERE IS" and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of City; provided, however, that City does warrant its title to the System and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (e) Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the System or the Assets; and (ii) the form of each of City's standard form written agreements or contracts which relates to or arises from the System or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.
- (f) Environmental Matters.
  - a. City and the operations of City with respect to the System and the Assets are currently and have been in compliance with all Environmental Laws.

- b. City and the operations of City with respect to the System are in material compliance with all Environmental Permits necessary for the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by City through the Closing Date in accordance with all Environmental Laws; and City is not aware of any condition, event or circumstance that might result in noncompliance with any Environmental Permit or prevent or impede, after the Closing Date, the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System.
  - c. City has not received from any person any: (i) Environmental Notice or Environmental Claim with respect to the System; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.
  - d. To the knowledge of City, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the time of Closing in connection with the operation or continued operation of the System or the ownership or use of the System in a manner consistent with current operation thereof by City, except for any permit, transfer, registration, or similar fees associated with any required approvals. City has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the System.
  - e. The System has, to City's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.
- (g) Certain Due Diligence Material. Prior to the date of this Agreement, City has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:
- a. The deeds and other instruments (as recorded) by which City acquired the System and all title insurance policies, opinions, abstracts, and surveys in the possession of City with respect to such parcels.
  - b. A listing of all easements or similar instruments under which City is the grantee where the easement or real property right evidenced is utilized in

any manner by City for the placement, maintenance, repair, operation, or improvement of the System.

- c. All environmental reports and investigations that City owns, has obtained, or has ordered with respect to the System.
  - d. A complete inventory of all tangible personal property owned or leased by City and used in connection with the System;
  - e. Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the System;
  - f. All certificates of occupancy and other governmental licenses or approvals relating to any portion of the System, including any necessary operating permits and all other Permits;
  - g. Any service records or bills for repairs to any part of the System for the prior three (3) years;
  - h. All warranties, if any, relating to the System; and
  - i. All reports or documentation available to City to support the cost basis of the System.
- (h) Disclosure. No representation or warranty by City in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement knowingly contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.
- (i) Brokers and Agents. No broker, agent or representative of City has any agreement or contract with City entitling such broker, agent or representative to any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

**Section 2.2 Conditions of City.** The obligations of City hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by City in writing) on or prior to the Closing:

- (a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and
- (b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement; and



- (c) All Definitive Agreements are executed, and all required governmental authorizations are obtained.

**ARTICLE III**  
**REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF**  
**DISTRICT**

**Section 3.1 Representations and Warranties.** District hereby represents and warrants to City as follows:

- (a) Corporate Organization. District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.
- (b) Authorization. District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.
- (c) No Violation. Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.
- (d) The District has reviewed and is satisfied with the condition of the Due Diligence Materials and has no objections to such documents. Further, the District has inspected and reviewed the condition of the sewage collection systems and is satisfied with the condition of the system.

**Section 3.2. Conditions of District.** The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

- (a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;
- (b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed and all County Authorizations are obtained.

**ARTICLE IV  
OPERATION OF THE SYSTEM**

**Section 4.1 The System Generally.**

**(a) Reliance.** The Operator acknowledges that the City, in wastewater collection and treatment services, is providing an essential public service and, in complying with applicable law, will rely on the performance by the Operator of its obligations hereunder.

**(b) Limitation on Operator Rights.** The Operator shall not use the System for any purpose other than the purposes contemplated hereby.

**(c) Curtailments and Shutdowns.** If delivery of wastewater collection and treatment services through the System is temporarily reduced, curtailed, or shut down, the Operator shall promptly advise the City as to the probable nature, reason and duration thereof and the expected effect thereof on the operation of the System and provide routine updates to the City on the status until such time as operations have returned to normal. The Operator shall be in charge of announcements to the public or the media in accordance with the provisions of this Agreement.

**Section 4.2 Operation and Construction.** At all times, the Operator shall operate the System on behalf of City and provide the operations and construction of the System in accordance with this Agreement, including, without limitation, all National Pollutant Discharge Elimination System discharge permits and all other applicable permits currently held by the City or which may hereafter be acquired by the Operator. The City hereby grants to the Operator all rights necessary to perform the construction, improvement, management, operation, and maintenance of the System (and such additional rights and responsibilities as it may be granted and assumed, respectively) and the establishment of policies, programs, and procedures with respect thereto.

**Section 4.3 Rights and Responsibilities of Operator.** Subject only to the limitations imposed in this Agreement, the Operator shall have the full and complete duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with the System, provided that the District shall not unreasonably interfere with any activities or operations of the City within or upon the City's property and its rights-of-way and such operation is conducted at the costs and expense of the Operator. Without limiting the Operator's power or authority under this Agreement, the Operator's specific rights and responsibilities with respect to the operation, maintenance, improvement, and construction of the System shall include the following all at the cost and expense of the Operator:

(a) The right, without obtaining consent or approval of the City, to set rates for any and all sewage collection, treatment, operation, and/or maintenance services in accordance with applicable law; provided, however, the Operator shall set the rates for the first two years after the Effective Date of this Agreement no higher than the rates specified in Attachment A, attached hereto and made a part hereof for all purposes. Except as specifically provided otherwise in the prior sentence, nothing in this Agreement is intended to impair the District's right to approve final rates and charges to the System's customers;

(b) The right, without obtaining consent or approval of the City, to purchase, acquire, sell, alienate, lease, convey, exchange, option, agree to sell or buy, dispose of, manage, lease or operate all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator, including all property now owned or hereafter acquired by the Operator, whether now or in the future, for such consideration as the Operator may deem appropriate, including for cash, credit, a combination of both, an exchange of property rights, with such acts to contain such terms and conditions as the Operator may deem necessary, proper and/or advisable;

(c) The right, without obtaining consent or approval of the City, to borrow any sum or sums of monies and incur obligations, but only as may be permitted by law, whether secured or unsecured, from any bank, financial institution, corporation, individual or entity, including, but not limited to, borrowings from any affiliate of the Operator, and to guaranty or endorse the debts and obligations of any individual or entity, all to be on such terms and conditions and in such amounts and to contain such rates of interest and repayment terms as the Operator may deem necessary or proper; from time to time make, execute and issue promissory notes and other negotiable or non-negotiable instruments, continuing guaranties or evidences of indebtedness, loan agreements and letters of credit, all to be on such terms and conditions and to contain such rates of interest and repayment terms as the Operator may deem reasonably necessary under the prevailing circumstances; and prepay, in whole or in part, refinance, increase, modify, consolidate or extend any debt, obligation, mortgage, or other security device, on such terms as the Operator may deem reasonably necessary under the prevailing circumstances;

(d) The right, without obtaining consent or approval of the City, to assign, pledge, mortgage, or grant other security interests, but only as may be permitted by law, in or otherwise encumber all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator and execute and bind the Operator on any mortgage, assignment, security agreement, financing statement, pledge or any other document creating such encumbrances to secure the obligations of the Operator or any other individual or entity, with such documents to contain the usual and customary security clauses, all upon such terms and conditions as the Operator may deem necessary or proper;

(e) The right, without obtaining consent or approval of the City, to acquire and enter into any contract of insurance which the Operator deems reasonably necessary

and proper for the protection of the Operator and for the conservation of the Operator's assets, or for any purpose convenient or beneficial to the Operator;

(f) The right, without obtaining consent or approval of the City, to employ from time to time on behalf of the Operator individuals on such terms and for such compensation as the Operator shall determine;

(g) The right, without obtaining consent or approval of the City, to make decisions as to accounting principles and elections, whether for book or tax purposes (and such decisions may be different for each purpose);

(h) The right, without obtaining consent or approval of the City, to open checking and savings accounts in banks or similar financial institutions in the name of the Operator, and deposit cash in and withdraw cash from such accounts;

(i) The right, without obtaining consent or approval of the City, to set up or modify record keeping, billing and accounts payable accounting systems;

(j) The right, without obtaining consent or approval of the City, to adjust, arbitrate, compromise, sue or defend, abandon, or otherwise deal with and settle any and all claims in favor of or against the Operator or the System, as the Operator shall deem reasonable and proper;

(k) The right, without obtaining consent or approval of the City, to enter into, make, perform, and carry out all types of contracts, leases, and other agreements, and amend, extend, or modify any contract, lease or agreement at any time entered into by the Operator with the exception of any agreements executed jointly between the parties hereto;

(l) The right, without obtaining consent or approval of the City, to represent its interests in connection with any interactions with industry or regulatory institutions or organizations;

(m) The right, without obtaining consent or approval of the City, to execute, on behalf of and in the name of the Operator, any and all contracts, leases, agreements, instruments, notes, certificates, titles or other documents of any kind or nature as deemed reasonably necessary and proper by the Operator;

(n) The right, without obtaining consent or approval of the City, to enter into joint ventures or intergovernmental agreements and execute any and all acts and agreements in connection therewith, all upon such terms and conditions as the Operator may deem appropriate;

(o) The right, without obtaining consent or approval of the City, to do all acts necessary or desirable to carry out the business for which the Operator is formed in the

county of Jefferson or which may facilitate the Operator's exercise of its powers hereunder;

(p) The obligation to operate, maintain, and improve the System in conformity with this Agreement;

(q) The obligation to, at Operator's own cost, adequately maintain the System throughout the Term through routine maintenance and repair so that at the end of the Term, the System shall be and remain in good operating condition, normal wear and tear excepted, and successfully satisfying the District's policies and standards;

(r) The sole responsibility for all right-of-way acquisitions and the obligation to procure all such other rights and approvals necessary or useful for the performance of its obligations hereunder as it relates to this Agreement.

(s) The Operator shall be responsible for the payment of all applicable charges in respect of applications for such rights and approvals.

(t) Reporting; Attendance at Meetings. Upon City's reasonable request, the Operator shall attend relevant meetings of the City. The Operator shall, upon the City's reasonable request, provide periodic progress reports and other information as available in the Operator's ordinary course of business, including but not limited to the following:

- (i) Shutoff Reports;
- (ii) Growth rate of new customers;
- (iii) Results of all regular performance tests;
- (iv) Schedules of all upcoming routine maintenance and repair work;
- (v) Reports containing data, as appropriate, to demonstrate: the quality of the influent sewage and treated effluent; treatment plant efficiency; and the status of operations and maintenance activities;
- (vi) Contact information for Operator's key personnel;
- (vii) All material regulatory notifications to the Operator from the Environmental Protection Agency, Missouri Department of Natural Resources, or any other regulatory agency with oversight of the Operator's responsibilities hereunder;
- (viii) Customer data, including, but not limited to, connection times (length of time from connection request to fulfillment), repair times (length of time from requested repair to fulfillment), payment times (average number of days for bill payment), complaint log (log of all complaints organized by

complaint type), yearly customer satisfaction survey (survey to be conducted yearly by independent survey company);

- (ix) Any expansion plans or capital improvement plans;
- (x) Any master plan progress reports
- (xi) Any expense reports or other documents referencing costs and expenses for the System, including repairs, maintenance, operation, expansion, and improvement costs.

**Section 4.4 Rights and Responsibilities of the City.** As the owner of the System, the City retains only an ownership interest in the System. Without limiting the generality of rights of the Operator described in section 4.3 of the Agreement, the City's specific rights and responsibilities with respect to the System shall include:

(a) the responsibility to provide such staff and technical assistance as City is competent to provide upon the request of the Operator, at such hourly rates or salaries as the Parties may negotiate.

(b) the right to represent its interests, in coordination and cooperation with the Operator, in connection with any interactions with industry or regulatory institutions or organizations;

(c) the right to review and comment on all engineering and design plans developed for the expansion, improvement, and operation of the System by the Operator;

(d) the right (including reasonable audit rights during normal business hours and which do not interfere with the performance of the operations and construction services hereunder) to information relating to operations and construction services conducted under this Agreement by the Operator and any contractors and affiliates;

(e) the right, at its own expense, to monitor the progress, quality, and condition of the System;

(f) the right, at its own expense, to monitor the work performed by the Operator and its contractors and to receive copies of all plans and designs in relation to the System;

(g) the right to: (i) undertake such actions; (ii) receive additional information; (iii) consult with the representatives of the Operator; and (iv) make recommendations to the Operator, in each case as may be reasonably necessary or appropriate to perform the City's responsibilities and obligations under this Agreement and as may otherwise be necessary or appropriate to comply with the City's legal, contractual and fiduciary obligations; provided, however, that notwithstanding anything contained in Section 4.2

hereof, this Section 4.4 shall be subject to and shall not be in limitation of the rights, authority and responsibilities of the Operator under Section 4.2 and Section 4.3 hereof;

(h) the responsibility for the City's legal matters, including its reporting and related compliance with applicable law;

(i) the responsibility to: (i) respond in a timely and adequate manner to all requests of the Operator for action or decision by the City with respect to all matters as to which the Operator shall reasonably request the response of the City in accordance with the provisions of this Agreement; and (ii) provide the Operator with such information, data and assistance as may be necessary or appropriate for the Operator to perform its obligations hereunder;

(j) the responsibility to reasonably assist the Operator as necessary in its applications for the procurement of rights and approvals necessary or useful for the performance of the Operator's obligations hereunder and to actively assist the Operator in expediting the procurement of such rights and approvals in a timely manner, provided that the Operator shall remain responsible for the payment of all applicable charges in respect of applications for rights and approvals;

(k) the responsibility to use its best efforts to obtain and provide to the Operator such information and data as may be reasonably required by the Operator for planning and operating the System;

(l) the responsibility to do all things reasonably requested by the Operator in order to assist the Operator in the collection of the sewer charges and other charges;

(m) the responsibility to provide the Operator with all necessary and reasonable rights of access in connection with the construction of the System; and

(n) the responsibility to terminate, upon the District's request, its water service to any customer who fails to pay any bill of the Operator charged under the District's rates, rules, and regulations. Any disconnection fee or reconnection fee charged by the City related to the termination of water service for non-payment of the Operator's sewer service charges shall belong to the City.

(o) the responsibility to provide the Operator with notices of requests for building permits submitted after the Effective Date; and

(p) the responsibility to locate and mark underground facilities, as requested by the District, pursuant to the Sections 319.010 through 319.050 of the Revised Statutes of Missouri, the "Underground Facility Safety and Damage Prevention Act."

**Section 4.5 Safety.** The Operator shall perform its obligations under this Agreement with due regard for public safety and consistent with this Agreement.

**Section 4.6 Construction of System Capital Improvements; Capital Asset Control.**

(a) Capital Improvements. The Operator shall pay for all Capital Improvements under this Agreement, identified within its own discretion, from its own funds. The Operator may self-perform or may hire contractors to perform any such Capital Improvement project, with amounts payable to any of its contractors being the responsibility of the Operator. The Operator shall not cause any liens or encumbrances to be placed on the System. The Operator agrees to timely satisfy and pay any and all contractors performing work on the System. Should a lien or encumbrance be placed on the System, Operator agrees to immediately seek any and all remedies to satisfy and/or remove the lien or encumbrance from the System at the Operator's cost and expense.

(b) Operator Construction Duties. The Operator shall administer, coordinate, manage and oversee the construction of Capital Improvements. The System may include one or more treatment plants, a network of forced and gravity sewers to convey sewage to a central location within each drainage basin and a network of sewage pumping stations, gravity mains and force mains to convey the collected sewage to the treatment plant.

**Section 4.7 Technical Assistance.** The Operator may contract for the services of outside consultants, suppliers, manufacturers, or experts, provided that the Operator shall remain responsible for the performance of operations and construction services pursuant to the terms of this Agreement.

**Section 4.8 Other Services.**

(a) Bill Payments. The Operator shall timely pay all bills related to the System which are proper, appropriate, and not otherwise disputed and which it has authority to pay and shall assure that, to the extent within the Operator's control, no mechanics' lien or similar encumbrances are filed against any portion of the System.

(b) Implied Services. Any services, functions, or responsibilities not specifically described in this Agreement that are required for the proper performance and provision of the operation and construction of the System, shall be deemed to have been granted by the City to the Operator, except to the extent they are rights and responsibilities reserved to the City as set forth in Section 4.4 hereof.

**Section 4.11 Hazardous Materials.** The Operator shall give prior written notice to the City of its intention to handle, transport or dispose of Hazardous Materials. The Operator shall cause such Hazardous Materials to be transported to and disposed of in accordance with applicable law.

**Section 4.12 Connection of Newly Developed Properties to System.** The City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all



newly developed properties to apply to the Operator to be registered and connected to the System. In addition, the City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all real estate developers, after installing sewage collection systems within any real estate development within the city limits to dedicate and transfer ownership of the same to the Operator.

**Section 4.13 Access Rights.** The City shall make available to the Operator and its officers, contractors and suppliers without charge all necessary access rights when required so as to enable the Operator to operate, maintain, repair, and replace the System or any part thereof, and the City will procure, if necessary, the closure of any roads for the purposes of routine maintenance, repair, or replacement, provided that the Operator shall provide to the City notice of maintenance and repairs within a reasonable amount of time before the beginning of the time in question. It is recognized that the Operator may require immediate access in emergency situations.

## **ARTICLE V OWNERSHIP OF THE SYSTEM**

**Section 5.1 Ownership of the System.** (a) Ownership. The System as it exists or existed as of the Closing Date is and shall be owned by the City. All additions to the System received, purchased, or constructed directly or indirectly by the Operator in conjunction or for the use of any part of the System, including, but not limited to, any Capital Improvements, after the Closing Date during the Term shall be owned and the sole and exclusive property of Operator. Operator shall keep such records as are necessary to show and distinguish the portion of the System owned by City and the portion of the System owned by Operator.

(b) Rights/Duties of Operator. Subject only to the limitations imposed in this Agreement, the Operator shall have the duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with, the System. The Operator shall have the exclusive right and obligation to design, procure, construct, operate, and maintain the System and all future wastewater systems which may be installed in the Service Area, and Operator hereby accepts such rights and obligations upon the terms and conditions provided for herein. The Operator shall have the exclusive right to all revenues and benefits resulting from or attributable to the operation and maintenance of the System and all monies collected by or for the account of the Operator or its contractors pursuant to this Agreement shall be the property of the Operator and shall be deposited in such account as the Operator shall determine in its own discretion. For the avoidance of doubt, the Operator has the exclusive right and obligation to provide the operations and construction services to the customers of the System and receive all payments from the customers.

## **ARTICLE VI COMPENSATION**

As compensation to the Operator for providing the operation, maintenance, repair, and capital improvements to the System under this Agreement, and in consideration of Operator providing treatment of sewage generated by the System, the Operator shall be entitled to any and all revenues generated from or dedicated to the operation of the System. The City authorizes the Operator to send invoices or otherwise bill directly to customers and to determine the time and manner for the collection of payments from customers who use the System. To the extent that any customer sends payment to the City for any invoice or bill sent by the Operator, the City shall promptly forward such payments to the Operator.

## **ARTICLE VII PURCHASE OF SYSTEM**

It is the intent and desire of the Parties that the City will ultimately transfer ownership of its System to the District. To that end, the District shall have the option at its convenience to tender to the City an Asset Transfer Agreement during the term of this Agreement. The Asset Transfer Agreement shall provide for the District to pay the City Ten Dollars for the System and such other terms and conditions as within the District's judgment shall effectuate such transfer in a timely and administratively convenient manner, including, but not limited to, the following:

- a. Deeds and other instruments by which City will transfer all real property constituting any part of the System; and
- b. An assignment of all easements and/or similar instruments under which City will transfer all such rights constituting any part of the System; and
- c. A Bill of Sale transferring all tangible personal property owned by City and used in connection with the System; and
- d. An assignment of all warranties, if any, relating to the System.

It is acknowledged amongst the Parties that the consideration for the transfer of the System has been included in the purchase price of Five Million Dollars (\$5,000,000.00) as set forth in the Asset Transfer Agreement executed amongst the District and the Commission. The Parties agree to negotiate in good faith for the transfer of the System to the District, for no additional compensation beyond the amount provided herein, at a mutually agreeable time, and in the manner provided by law.

## **ARTICLE VIII INDEMNIFICATION**

**Section 8.1** To the extent permitted by law, the District agrees to indemnify and hold harmless City, and its elected officials, officers, agents, servants, and employees, from, against, and with respect to any and all third-party suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted

against City arising due to any negligence, intentional misconduct, or the violation of any Environmental Laws, of the District or any of its officers, agents, servants, employees in the performance of the Work, or the failure of the District to comply with any applicable environmental laws or other laws in performing the Work, except for those claims directly caused by the negligence or intentional misconduct of City or their officers, agents, servants, or employees. Nothing in this Section 8.1 is intended by the District to be a waiver of the District's sovereign immunity.

**Section 8.2** To the extent permitted by law, City agrees to indemnify, hold harmless and reimburse District, and its officers, agents, servants, and employees, from, against and for any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against District, arising due to any negligence or intentional misconduct of City or any of its officers, agents, servants or employees or which is assessable against City because of its ownership of the City Wastewater Collection System; but such indemnity shall specifically exclude without limitation those claims directly caused by the negligence or intentional misconduct of (i) District in the performance of Work or (ii) third parties using or accessing the City Wastewater Collection System during the term of this agreement. Nothing in this Section 8.2 is intended by the City to be a waiver of the City's sovereign immunity.

## **Article IX MISCELLANEOUS**

**Section 9.1 Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

**Section 9.2 Fees and Expenses.** Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. City and Operator agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

**Section 9.3 Assignment.** Neither Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Party.

**Section 9.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

**Section 9.5 Notices.** Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the

following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to City:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

**Section 9.6 Entire Agreement.** This Agreement along with the other Definitive Agreements, the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

**Section 9.7 Construction.** The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to

refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

**Section 9.8 Choice of Law.** This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

**Section 9.9 Remedies, Injunctive Relief.** The Parties agree that the breach of this Agreement is likely to cause both Parties substantial and irrevocable damage that would be difficult, if not impossible, to prove precisely; therefore, it is agreed that this Agreement shall be enforceable by specific performance or other injunctive relief. Nothing in this section shall limit either Party's right to pursue any other remedy, equitable or legal, it may have against the other for breach of this Agreement.

**Section 9.10 Waiver.** The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

**Section 9.11 Attorney Fees.** In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

**Section 9.12 Cooperation.** Operator and City will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date, City will, at the request of District, but without further consideration, sale, transfer, and conveyance, take such other and further action as District may reasonably request in order to vest in Operator and put Operator in possession of the Assets and assure to Operator the benefits thereof more effectively.

**Section 9.13 Authority.** Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated ordinance or resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

**Section 9.14 Severability** The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or

more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

### **Section 9.15 Preamble and Definitions.**

(a) The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein, and all conditions precedent shall be binding on the Parties as if expressly set forth in the terms and conditions of this Agreement.

(b) Definitions. As used herein the following terms shall have the following meanings unless the context otherwise requires, and such meanings shall be equally applicable to both singular and plural forms of the terms herein defined:

“Capital Improvement” means any repair, replacement, improvement, removal and retirement, alteration, extension, and addition to the System (other than any repair, replacement, improvement, removal and retirement, alteration and addition constituting ordinary, day-to-day, or regularly scheduled repair or maintenance of the System).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

“Definitive Agreements” means the following agreements which were executed contemporaneously with the Agreement: (1) A four-party Master Service Agreement between the JMUC, Cities and the District; (2) an Asset Transfer Agreement between the JMUC and the District for conveyance of the JMUC Sewage Treatment Plant to the District; (3) a Sewer System Operation and Cooperation Agreement between Festus and the District pertaining to the operation of the Festus’ sewage collection system; and (4) a System Operation and Cooperation Agreement between Crystal City and the District pertaining to the operation of Crystal City’s sewage collection system.

“Environmental Laws” means all applicable laws concerning or relating to the protection of the environment; or the exposure to, or the storage, recycling, treatment, generation, transportation, production, release, or disposal of Hazardous Materials, each as amended and in effect as of the date hereof and as same may be amended, varied, or modified in the future. The term “Environmental Laws” includes, without limitation, the following and their implementing regulations and any state analogs: CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as

amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq., and the Missouri Clean Water Law (MCWL), Section 644.0010 et seq., Revised Statutes of Missouri (RSMo).

“Hazardous Materials” means any material which is defined or regulated as a hazardous waste, hazardous substance, toxic substance, hazardous chemical substance or mixture, or words of similar import under Environmental Laws, including, but not limited to, “Hazardous Substances” as defined in CERCLA and the regulations promulgated thereunder, and asbestos.

“Service Area” means the Crystal City Boundaries and the Festus Boundaries, as those terms are defined in the Master Agreement.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF FESTUS**

By: \_\_\_\_\_  
Peter Birkes, Chairman

By: *Sandra R. Riebach*

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

*K. J. [Signature]*  
, City Clerk





[ insert Attachment A – Rates ]

**CRYSTAL CITY**  
**SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT**

THIS SYSTEM OPERATING AGREEMENT (“Agreement“) is an intergovernmental agreement entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between **Jefferson County Public Sewer District** (“District” or “Operator”), and **the City of Crystal, Missouri**, a third class municipal corporation formed pursuant to Chapter 77 RSMo. (“City”), (jointly referred to as “Parties”), and provides as follows:

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”) owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein;

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the District and Commission have entered into an Asset Transfer Agreement to transfer the ownership of the Treatment Facility to the District contemporaneously with this Agreement, the Closing of such Asset Transfer Agreement being a condition precedent to the Closing on this Agreement; and

**WHEREAS**, Crystal City owns and operates a sewage collection system within its city limits (“System”); and

**WHEREAS**, Crystal City deems it necessary to the preservation and promotion of the public health, safety and welfare of its citizens and the general public to transfer the operation and maintenance of the City’s sewer system, including all property, equipment and appurtenances of said System, and ultimately to convey and transfer the same, to the Sewer District and for the Sewer District to manage, operate, maintain, and ultimately own said System for the benefit and welfare of the citizen’s and their property;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE 1  
TERMS; EFFECTIVE DATE**

**Section 1.1 Term and Extension Option.**

(a) Term. The term of this Agreement will extend for a period of thirty (30) years from the Effective Date (“Term”). At the expiration or termination of the Term, all other obligations of the Parties hereunder shall terminate unless otherwise agreed.

(b) Term Extension Option. Either Party may provide written notice to the other Party that such Party intends for this Agreement to terminate at the end of the Term not later than five (5) years prior to the end of the Term and at least one (1) year prior to the end of every fifth (5<sup>th</sup>) year thereafter. In the event that neither Party has provided written notice to the other Party that this Agreement shall terminate at the end of the Term, the Term shall be automatically extended for additional successive five (5) year periods (collectively, as appropriate, the “Term”).

**Section 1.2 Effective Date; Binding Effect.** This Agreement and the rights and obligations of each Party hereunder shall become effective on \_\_\_\_\_, 2024 (“Effective Date”).

**Section 1.3 Closing.** The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on \_\_\_\_\_, 2024, or at such other time, date, and place as the Commission and District may mutually agree upon in writing (“Closing Date”)

**ARTICLE II  
REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF  
CITY**

**Section 2.1** City hereby represents and warrants to District as follows:

- (a) Authorization. City has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the City. This Agreement is a legal, valid, and binding obligation of the City.
- (b) No Violation. Neither the execution and delivery of this Agreement by City, the performance by City of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the official policies of the City, or (ii) to the best knowledge of City, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which City is subject.
- (c) Litigation. Except as specifically identified in this section, there is no action, proceeding or investigation pending or to the City's knowledge threatened against or involving City, if determined adversely, could materially and adversely affect the System taken as a whole, and City is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the System taken as a whole.
- (d) No Warranties. The System will be operated by the District "AS IS, WHERE IS" and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of City; provided, however, that City does warrant its title to the System and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (e) Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the System or the Assets; and (ii) the form of each of City's standard form written agreements or contracts which relates to or arises from the System or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.
- (f) Environmental Matters.
  - a. City and the operations of City with respect to the System and the Assets are currently and have been in compliance with all Environmental Laws.
  - b. City and the operations of City with respect to the System are in material compliance with all Environmental Permits necessary for the conduct of

the operations of the System as currently conducted or the ownership, lease, operation or use of the System and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by City through the Closing Date in accordance with all Environmental Laws; and City is not aware of any condition, event or circumstance that might result in noncompliance with any Environmental Permit or prevent or impede, after the Closing Date, the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System.

- c. City has not received from any person any: (i) Environmental Notice or Environmental Claim with respect to the System; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.
  - d. To the knowledge of City, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the time of Closing in connection with the operation or continued operation of the System or the ownership or use of the System in a manner consistent with current operation thereof by City, except for any permit, transfer, registration, or similar fees associated with any required approvals. City has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the System.
  - e. The System has, to City's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.
- (g) Certain Due Diligence Material. Prior to the date of this Agreement, City has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:
- a. The deeds and other instruments (as recorded) by which City acquired the System and all title insurance policies, opinions, abstracts, and surveys in the possession of City with respect to such parcels.
  - b. A listing of all easements or similar instruments under which City is the grantee where the easement or real property right evidenced is utilized in any manner by City for the placement, maintenance, repair, operation, or improvement of the System.

- c. All environmental reports and investigations that City owns, has obtained, or has ordered with respect to the System.
  - d. A complete inventory of all tangible personal property owned or leased by City and used in connection with the System;
  - e. Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the System;
  - f. All certificates of occupancy and other governmental licenses or approvals relating to any portion of the System, including any necessary operating permits and all other Permits;
  - g. Any service records or bills for repairs to any part of the System for the prior three (3) years;
  - h. All warranties, if any, relating to the System; and
  - i. All reports or documentation available to City to support the cost basis of the System.
- (h) Disclosure. No representation or warranty by City in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement knowingly contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.
- (i) Brokers and Agents. No broker, agent or representative of City has any agreement or contract with City entitling such broker, agent or representative to any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

**Section 2.2 Conditions of City.** The obligations of City hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by City in writing) on or prior to the Closing:

- (a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and
- (b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed, and all required governmental authorizations are obtained.

(d)

**ARTICLE III  
REPRESENTATIONS, WARRANTIES AND CONDITIONS PRÉCEDENT OF  
DISTRICT**

**Section 3.1 Representations and Warranties.** District hereby represents and warrants to City as follows:

- (a) **Corporate Organization.** District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.
- (b) **Authorization.** District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.
- (c) **No Violation.** Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.
- (d) The District has reviewed and is satisfied with the condition of the Due Diligence Materials and has no objections to such documents. Further, the District has inspected and reviewed the condition of the sewage collection systems and is satisfied with the condition of the system.

**Section 3.2. Conditions of District.** The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

- (a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;
- (b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed and all County Authorizations are obtained.

**ARTICLE IV  
OPERATION OF THE SYSTEM**

**Section 4.1 The System Generally.**

**(a) Reliance.** The Operator acknowledges that the City, in wastewater collection and treatment services, is providing an essential public service and, in complying with applicable law, will rely on the performance by the Operator of its obligations hereunder.

**(b) Limitation on Operator Rights.** The Operator shall not use the System for any purpose other than the purposes contemplated hereby.

**(c) Curtailments and Shutdowns.** If delivery of wastewater collection and treatment services through the System is temporarily reduced, curtailed, or shut down, the Operator shall promptly advise the City as to the probable nature, reason and duration thereof and the expected effect thereof on the operation of the System and provide routine updates to the City on the status until such time as operations have returned to normal. The Operator shall be in charge of announcements to the public or the media in accordance with the provisions of this Agreement.

**Section 4.2 Operation and Construction.** At all times, the Operator shall operate the System on behalf of City and provide the operations and construction of the System in accordance with this Agreement, including, without limitation, all National Pollutant Discharge Elimination System discharge permits and all other applicable permits currently held by the City or which may hereafter be acquired by the Operator. The City hereby grants to the Operator all rights necessary to perform the construction, improvement, management, operation, and maintenance of the System (and such additional rights and responsibilities as it may be granted and assumed, respectively) and the establishment of policies, programs, and procedures with respect thereto.

**Section 4.3 Rights and Responsibilities of Operator.** Subject only to the limitations imposed in this Agreement, the Operator shall have the full and complete duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with the System, provided that the District shall not unreasonably interfere with any activities or operations of the City within or upon the City's property and its rights-of-way and such operation is conducted at the costs and expense of the Operator. Without limiting the Operator's power or authority under this Agreement, the Operator's specific rights and responsibilities with respect to the operation, maintenance, improvement, and construction of the System shall include the following all at the cost and expense of the Operator:

(a) The right, without obtaining consent or approval of the City, to set rates for any and all sewage collection, treatment, operation, and/or maintenance services in



accordance with applicable law; provided, however, the Operator shall set the rates for the first two years after the Effective Date of this Agreement no higher than the rates specified in Attachment A, attached hereto and made a part hereof for all purposes. Except as specifically provided otherwise in the prior sentence, nothing in this Agreement is intended to impair the District's right to approve final rates and charges to the System's customers;

(b) The right, without obtaining consent or approval of the City, to purchase, acquire, sell, alienate, lease, convey, exchange, option, agree to sell or buy, dispose of, manage, lease or operate all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator, including all property now owned or hereafter acquired by the Operator, whether now or in the future, for such consideration as the Operator may deem appropriate, including for cash, credit, a combination of both, an exchange of property rights, with such acts to contain such terms and conditions as the Operator may deem necessary, proper and/or advisable;

(c) The right, without obtaining consent or approval of the City, to borrow any sum or sums of monies and incur obligations, but only as may be permitted by law, whether secured or unsecured, from any bank, financial institution, corporation, individual or entity, including, but not limited to, borrowings from any affiliate of the Operator, and to guaranty or endorse the debts and obligations of any individual or entity, all to be on such terms and conditions and in such amounts and to contain such rates of interest and repayment terms as the Operator may deem necessary or proper; from time to time make, execute and issue promissory notes and other negotiable or non-negotiable instruments, continuing guaranties or evidences of indebtedness, loan agreements and letters of credit, all to be on such terms and conditions and to contain such rates of interest and repayment terms as the Operator may deem reasonably necessary under the prevailing circumstances; and prepay, in whole or in part, refinance, increase, modify, consolidate or extend any debt, obligation, mortgage, or other security device, on such terms as the Operator may deem reasonably necessary under the prevailing circumstances;

(d) The right, without obtaining consent or approval of the City, to assign, pledge, mortgage, or grant other security interests, but only as may be permitted by law, in or otherwise encumber all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator and execute and bind the Operator on any mortgage, assignment, security agreement, financing statement, pledge or any other document creating such encumbrances to secure the obligations of the Operator or any other individual or entity, with such documents to contain the usual and customary security clauses, all upon such terms and conditions as the Operator may deem necessary or proper;

(e) The right, without obtaining consent or approval of the City, to acquire and enter into any contract of insurance which the Operator deems reasonably necessary and proper for the protection of the Operator and for the conservation of the Operator's assets, or for any purpose convenient or beneficial to the Operator;

(f) The right, without obtaining consent or approval of the City, to employ from time to time on behalf of the Operator individuals on such terms and for such compensation as the Operator shall determine;

(g) The right, without obtaining consent or approval of the City, to make decisions as to accounting principles and elections, whether for book or tax purposes (and such decisions may be different for each purpose);

(h) The right, without obtaining consent or approval of the City, to open checking and savings accounts in banks or similar financial institutions in the name of the Operator, and deposit cash in and withdraw cash from such accounts;

(i) The right, without obtaining consent or approval of the City, to set up or modify record keeping, billing and accounts payable accounting systems;

(j) The right, without obtaining consent or approval of the City, to adjust, arbitrate, compromise, sue or defend, abandon, or otherwise deal with and settle any and all claims in favor of or against the Operator or the System, as the Operator shall deem reasonable and proper;

(k) The right, without obtaining consent or approval of the City, to enter into, make, perform, and carry out all types of contracts, leases, and other agreements, and amend, extend, or modify any contract, lease or agreement at any time entered into by the Operator with the exception of any agreements executed jointly between the parties hereto;

(l) The right, without obtaining consent or approval of the City, to represent its interests in connection with any interactions with industry or regulatory institutions or organizations;

(m) The right, without obtaining consent or approval of the City, to execute, on behalf of and in the name of the Operator, any and all contracts, leases, agreements, instruments, notes, certificates, titles or other documents of any kind or nature as deemed reasonably necessary and proper by the Operator;

(n) The right, without obtaining consent or approval of the City, to enter into joint ventures or intergovernmental agreements and execute any and all acts and agreements in connection therewith, all upon such terms and conditions as the Operator may deem appropriate;

(o) The right, without obtaining consent or approval of the City, to do all acts necessary or desirable to carry out the business for which the Operator is formed in the county of Jefferson or which may facilitate the Operator's exercise of its powers hereunder;

(p) The obligation to operate, maintain, and improve the System in conformity with this Agreement;

(q) The obligation to, at Operator's own cost, adequately maintain the System throughout the Term through routine maintenance and repair so that at the end of the Term, the System shall be and remain in good operating condition, normal wear and tear excepted, and successfully satisfying the District's policies and standards;

(r) The sole responsibility for all right-of-way acquisitions and the obligation to procure all such other rights and approvals necessary or useful for the performance of its obligations hereunder as it relates to this Agreement.

(s) The Operator shall be responsible for the payment of all applicable charges in respect of applications for such rights and approvals.

(t) Reporting; Attendance at Meetings. Upon City's reasonable request, the Operator shall attend relevant meetings of the City. The Operator shall, upon the City's reasonable request, provide periodic progress reports and other information as available in the Operator's ordinary course of business, including but not limited to the following:

- (i) Shutoff Reports;
- (ii) Growth rate of new customers;
- (iii) Results of all regular performance tests;
- (iv) Schedules of all upcoming routine maintenance and repair work;
- (v) Reports containing data, as appropriate, to demonstrate: the quality of the influent sewage and treated effluent; treatment plant efficiency; and the status of operations and maintenance activities;
- (vi) Contact information for Operator's key personnel;
- (vii) All material regulatory notifications to the Operator from the Environmental Protection Agency, Missouri Department of Natural Resources, or any other regulatory agency with oversight of the Operator's responsibilities hereunder;
- (viii) Customer data, including, but not limited to, connection times (length of time from connection request to fulfillment), repair times (length of time from requested repair to fulfillment), payment times (average number of days for bill payment), complaint log (log of all complaints organized by complaint type), yearly customer satisfaction survey (survey to be conducted yearly by independent survey company);

- (ix) Any expansion plans or capital improvement plans;
- (x) Any master plan progress reports
- (xi) .Any expense reports or other documents referencing costs and expenses for the System, including repairs, maintenance, operation, expansion, and improvement costs.

**Section 4.4 Rights and Responsibilities of the City.** As the owner of the System, the City retains only an ownership interest in the System. Without limiting the generality of rights of the Operator described in section 4.3 of the Agreement, the City's specific rights and responsibilities with respect to the System shall include:

(a) the responsibility to provide such staff and technical assistance as City is competent to provide upon the request of the Operator, at such hourly rates or salaries as the Parties may negotiate.

(b) the right to represent its interests, in coordination and cooperation with the Operator, in connection with any interactions with industry or regulatory institutions or organizations;

(c) the right to review and comment on all engineering and design plans developed for the expansion, improvement, and operation of the System by the Operator;

(d) the right (including reasonable audit rights during normal business hours and which do not interfere with the performance of the operations and construction services hereunder) to information relating to operations and construction services conducted under this Agreement by the Operator and any contractors and affiliates;

(e) the right, at its own expense, to monitor the progress, quality, and condition of the System;

(f) the right, at its own expense, to monitor the work performed by the Operator and its contractors and to receive copies of all plans and designs in relation to the System;

(g) the right to: (i) undertake such actions; (ii) receive additional information; (iii) consult with the representatives of the Operator; and (iv) make recommendations to the Operator, in each case as may be reasonably necessary or appropriate to perform the City's responsibilities and obligations under this Agreement and as may otherwise be necessary or appropriate to comply with the City's legal, contractual and fiduciary obligations; provided, however, that notwithstanding anything contained in Section 4.2 hereof, this Section 4.4 shall be subject to and shall not be in limitation of the rights, authority and responsibilities of the Operator under Section 4.2 and Section 4.3 hereof;

(h) the responsibility for the City's legal matters, including its reporting and related compliance with applicable law;

(i) the responsibility to: (i) respond in a timely and adequate manner to all requests of the Operator for action or decision by the City with respect to all matters as to which the Operator shall reasonably request the response of the City in accordance with the provisions of this Agreement; and (ii) provide the Operator with such information, data and assistance as may be necessary or appropriate for the Operator to perform its obligations hereunder;

(j) the responsibility to reasonably assist the Operator as necessary in its applications for the procurement of rights and approvals necessary or useful for the performance of the Operator's obligations hereunder and to actively assist the Operator in expediting the procurement of such rights and approvals in a timely manner, provided that the Operator shall remain responsible for the payment of all applicable charges in respect of applications for rights and approvals;

(k) the responsibility to use its best efforts to obtain and provide to the Operator such information and data as may be reasonably required by the Operator for planning and operating the System;

(l) the responsibility to do all things reasonably requested by the Operator in order to assist the Operator in the collection of the sewer charges and other charges;

(m) the responsibility to provide the Operator with all necessary and reasonable rights of access in connection with the construction of the System; and

(n) the responsibility to terminate, upon the District's request, its water service to any customer who fails to pay any bill of the Operator charged under the District's rates, rules, and regulations. Any disconnection fee or reconnection fee charged by the City related to the termination of water service for non-payment of the Operator's sewer service charges shall belong to the City.

(o) the responsibility to provide the Operator with notices of requests for building permits submitted after the Effective Date; and

(p) the responsibility to locate and mark underground facilities, as requested by the District, pursuant to the Sections 319.010 through 319.050 of the Revised Statutes of Missouri, the "Underground Facility Safety and Damage Prevention Act."

**Section 4.5 Safety.** The Operator shall perform its obligations under this Agreement with due regard for public safety and consistent with this Agreement.

**Section 4.6 Construction of System Capital Improvements; Capital Asset Control.**

(a) **Capital Improvements.** The Operator shall pay for all Capital Improvements under this Agreement, identified within its own discretion, from its own funds. The Operator may self-perform or may hire contractors to perform any such Capital Improvement project, with amounts payable to any of its contractors being the responsibility of the Operator. The Operator shall not cause any liens or encumbrances to be placed on the System. The Operator agrees to timely satisfy and pay any and all contractors performing work on the System. Should a lien or encumbrance be placed on the System, Operator agrees to immediately seek any and all remedies to satisfy and/or remove the lien or encumbrance from the System at the Operator's cost and expense.

(b) **Operator Construction Duties.** The Operator shall administer, coordinate, manage and oversee the construction of Capital Improvements. The System may include one or more treatment plants, a network of forced and gravity sewers to convey sewage to a central location within each drainage basin and a network of sewage pumping stations, gravity mains and force mains to convey the collected sewage to the treatment plant.

**Section 4.7 Technical Assistance.** The Operator may contract for the services of outside consultants, suppliers, manufacturers, or experts, provided that the Operator shall remain responsible for the performance of operations and construction services pursuant to the terms of this Agreement.

**Section 4.8 Other Services.**

(a) **Bill Payments.** The Operator shall timely pay all bills related to the System which are proper, appropriate, and not otherwise disputed and which it has authority to pay and shall assure that, to the extent within the Operator's control, no mechanics' lien or similar encumbrances are filed against any portion of the System.

(b) **Implied Services.** Any services, functions, or responsibilities not specifically described in this Agreement that are required for the proper performance and provision of the operation and construction of the System, shall be deemed to have been granted by the City to the Operator, except to the extent they are rights and responsibilities reserved to the City as set forth in Section 4.4 hereof.

**Section 4.11 Hazardous Materials.** The Operator shall give prior written notice to the City of its intention to handle, transport or dispose of Hazardous Materials. The Operator shall cause such Hazardous Materials to be transported to and disposed of in accordance with applicable law.

**Section 4.12 Connection of Newly Developed Properties to System.** The City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all newly developed properties to apply to the Operator to be registered and connected to the System. In addition, the City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all real estate developers, after installing sewage

collection systems within any real estate development within the city limits to dedicate and transfer ownership of the same to the Operator.

**Section 4.13 Access Rights.** The City shall make available to the Operator and its officers, contractors and suppliers without charge all necessary access rights when required so as to enable the Operator to operate, maintain, repair, and replace the System or any part thereof, and the City will procure, if necessary, the closure of any roads for the purposes of routine maintenance, repair, or replacement, provided that the Operator shall provide to the City notice of maintenance and repairs within a reasonable amount of time before the beginning of the time in question. It is recognized that the Operator may require immediate access in emergency situations.

## **ARTICLE V OWNERSHIP OF THE SYSTEM**

**Section 5.1 Ownership of the System.** (a) Ownership. The System as it exists or existed as of the Closing Date is and shall be owned by the City. All additions to the System received, purchased, or constructed directly or indirectly by the Operator in conjunction or for the use of any part of the System, including, but not limited to, any Capital Improvements, after the Closing Date during the Term shall be owned and the sole and exclusive property of Operator. Operator shall keep such records as are necessary to show and distinguish the portion of the System owned by City and the portion of the System owned by Operator.

(b) Rights/Duties of Operator. Subject only to the limitations imposed in this Agreement, the Operator shall have the duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with, the System. The Operator shall have the exclusive right and obligation to design, procure, construct, operate, and maintain the System and all future wastewater systems which may be installed in the Service Area, and Operator hereby accepts such rights and obligations upon the terms and conditions provided for herein. The Operator shall have the exclusive right to all revenues and benefits resulting from or attributable to the operation and maintenance of the System and all monies collected by or for the account of the Operator or its contractors pursuant to this Agreement shall be the property of the Operator and shall be deposited in such account as the Operator shall determine in its own discretion. For the avoidance of doubt, the Operator has the exclusive right and obligation to provide the operations and construction services to the customers of the System and receive all payments from the customers.

## **ARTICLE VI COMPENSATION**

As compensation to the Operator for providing the operation, maintenance, repair, and capital improvements to the System under this Agreement, and in consideration of Operator providing treatment of sewage generated by the System, the Operator shall be entitled to any and all revenues generated from or dedicated to the operation of the

System. The City authorizes the Operator to send invoices or otherwise bill directly to customers and to determine the time and manner for the collection of payments from customers who use the System. To the extent that any customer sends payment to the City for any invoice or bill sent by the Operator, the City shall promptly forward such payments to the Operator.

## **ARTICLE VII PURCHASE OF SYSTEM**

It is the intent and desire of the Parties that the City will ultimately transfer ownership of its System to the District. To that end, the District shall have the option at its convenience to tender to the City an Asset Transfer Agreement during the term of this Agreement. The Asset Transfer Agreement shall provide for the District to pay the City Ten Dollars for the System and such other terms and conditions as within the District's judgment shall effectuate such transfer in a timely and administratively convenient manner, including, but not limited to, the following:

- a. Deeds and other instruments by which City will transfer all real property constituting any part of the System; and
- b. An assignment of all easements and/or similar instruments under which City will transfer all such rights constituting any part of the System; and
- c. A Bill of Sale transferring all tangible personal property owned by City and used in connection with the System; and
- d. An assignment of all warranties, if any, relating to the System.

It is acknowledged amongst the Parties that the consideration for the transfer of the System has been included in the purchase price of Five Million Dollars (\$5,000,000.00) as set forth in the Asset Transfer Agreement executed amongst the District and the Commission. The Parties agree to negotiate in good faith for the transfer of the System to the District, for no additional compensation beyond the amount provided herein, at a mutually agreeable time, and in the manner provided by law.

## **ARTICLE VIII INDEMNIFICATION**

**Section 8.1** To the extent permitted by law, the District agrees to indemnify and hold harmless City, and its elected officials, officers, agents, servants, and employees, from, against, and with respect to any and all third-party suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against City arising due to any negligence, intentional misconduct, or the violation of any Environmental Laws, of the District or any of its officers, agents, servants, employees in the performance of the Work, or the failure of the District to comply with any applicable environmental laws or other laws in performing the Work, except for those claims



directly caused by the negligence or intentional misconduct of City or their officers, agents, servants, or employees. Nothing in this Section 8.1 is intended by the District to be a waiver of the District's sovereign immunity.

**Section 8.2** To the extent permitted by law, City agrees to indemnify, hold harmless and reimburse District, and its officers, agents, servants, and employees, from, against and for any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against District, arising due to any negligence or intentional misconduct of City or any of its officers, agents, servants or employees or which is assessable against City because of its ownership of the City Wastewater Collection System; but such indemnity shall specifically exclude without limitation those claims directly caused by the negligence or intentional misconduct of (i) District in the performance of Work or (ii) third parties using or accessing the City Wastewater Collection System during the term of this agreement. Nothing in this Section 8.2 is intended by the City to be a waiver of the City's sovereign immunity.

## **Article IX MISCELLANEOUS**

**Section 9.1 Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

**Section 9.2 Fees and Expenses.** Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. City and Operator agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

**Section 9.3 Assignment.** Neither Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Party.

**Section 9.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

**Section 9.5 Notices.** Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

- (a) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019  
Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

**Section 9.6 Entire Agreement.** This Agreement along with the other Definitive Agreements, the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

**Section 9.7 Construction.** The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

**Section 9.8 Choice of Law.** This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

**Section 9.9 Remedies, Injunctive Relief.** The Parties agree that the breach of this Agreement is likely to cause both Parties substantial and irrevocable damage that would be difficult, if not impossible, to prove precisely; therefore, it is agreed that this Agreement shall be enforceable by specific performance or other injunctive relief. Nothing in this section shall limit either Party's right to pursue any other remedy, equitable or legal, it may have against the other for breach of this Agreement.

**Section 9.10 Waiver.** The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

**Section 9.11 Attorney Fees.** In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

**Section 9.12 Cooperation.** Operator and City will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date, City will, at the request of District, but without further consideration, sale, transfer, and conveyance, take such other and further action as District may reasonably request in order to vest in Operator and put Operator in possession of the Assets and assure to Operator the benefits thereof more effectively.

**Section 9.13 Authority.** Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated ordinance or resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

**Section 9.14 Severability** The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith

to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

#### **Section 9.15 Preamble and Definitions.**

(a) The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein, and all conditions precedent shall be binding on the Parties as if expressly set forth in the terms and conditions of this Agreement.

(b) Definitions. As used herein the following terms shall have the following meanings unless the context otherwise requires, and such meanings shall be equally applicable to both singular and plural forms of the terms herein defined:

“Capital Improvement” means any repair, replacement, improvement, removal and retirement, alteration, extension, and addition to the System (other than any repair, replacement, improvement, removal and retirement, alteration and addition constituting ordinary, day-to-day, or regularly scheduled repair or maintenance of the System).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

“Definitive Agreements” means the following agreements which were executed contemporaneously with the Agreement: (1) A four-party Master Service Agreement between the JMUC, Cities and the District; (2) an Asset Transfer Agreement between the JMUC and the District for conveyance of the JMUC Sewage Treatment Plant to the District; (3) a System Operation and Cooperation Agreement between Festus and the District pertaining to the operation of the Festus’ sewage collection system; and (4) a System Operation and Cooperation Agreement between Crystal City and the District pertaining to the operation of Crystal City’s sewage collection system.

“Environmental Laws” means all applicable laws concerning or relating to the protection of the environment; or the exposure to, or the storage, recycling, treatment, generation, transportation, production, release, or disposal of Hazardous Materials, each as amended and in effect as of the date hereof and as same may be amended, varied, or modified in the future. The term “Environmental Laws” includes, without limitation, the following and their implementing regulations and any state analogs: CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the

Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq., and the Missouri Clean Water Law (MCWL), Section 644.0010 et seq., Revised Statutes of Missouri (RSMo).

“Hazardous Materials” means any material which is defined or regulated as a hazardous waste, hazardous substance, toxic substance, hazardous chemical substance or mixture, or words of similar import under Environmental Laws, including, but not limited to, “Hazardous Substances” as defined in CERCLA and the regulations promulgated thereunder, and asbestos.

“Service Area” means the Crystal City Boundaries and the Festus Boundaries, as those terms are defined in the Master Agreement.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF CRYSTAL**

By: \_\_\_\_\_  
Peter Birkes, Chairman

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

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

\_\_\_\_\_  
, City Clerk



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(AREA ABOVE LINE FOR RECORDER'S OFFICE USE ONLY)

TITLE OF THE DOCUMENT: EASEMENT DEED

DATE OF THE DOCUMENT:

GRANTOR'S NAME: Twin City Levee Commission

GRANTOR'S ADDRESS: 130 Mississippi  
Crystal City, MO 63019

GRANTOR'S DEED RECORDING:

GRANTEES' NAME: JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

GRANTEE'S ADDRESS: 4629 Yeager Rd  
Hillsboro, MO 63050

ADDRESS OF PROPERTY: 333 County Road  
Crystal City, MO 63019

COUNTY LOCATOR NUMBERS: 19-3.0-08.0-2-010-006,  
19-3.0-08.0-2-010-007, and  
19-3.0-08.0-2-010-008

MUNICIPALITY: Crystal City, MO

LEGAL DESCRIPTION OF PROPERTY: (see attached)



## **EASEMENT DEED**

THIS EASEMENT DEED, made on the \_\_\_\_ day of January, 2024, by and between the Twin Cities Levee Commission (“Grantor”) and Jefferson County Public Sewer District, a political corporation of the state of Missouri, and a reorganized common sewer district, governed by sections 204.600 to 204.640 RSMo. (“Grantee”).

WHEREAS, Grantor owns six lots of the August Beyer’s Subdivision on which is situated a sewer treatment plant (“Plant Property”) owned by the Festus Crystal City Joint Sewage Commission (“Commission”); and

WHEREAS, Commission desires to convey the sewage treatment plant to Grantee;

WHEREAS, Grantor, Grantee, and Commission have been made aware that there may be restrictions on the Plant Property title, causing the title to not be marketable; and

WHEREAS, it is the desire of Grantor, Grantee, and Commission to grant the Grantee such full and complete access to the Plant Property as is possible without hinderance as if owned in fee simple absolute for the purpose of owning, operating, maintaining, repairing, improving, expanding, constructing and reconstructing the sewage treatment plant and to conduct such other commercial and governmental activities on the Plant Property as is necessary and convenient and as reasonably determined in the sole discretion of Grantee for the treatment of sewage and related purposes, as determined by Grantee, from Festus and Crystal City and other areas in the vicinity of the cities;

WITNESSETH, THAT Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, does by these presents, GRANT, BARGAIN AND SELL, CONVEY and CONFIRM unto Grantee and its successors and assigns, an exclusive easement in gross for commercial purposes, particularly for the purpose of collecting and treating sewage, across the entirety of the Plant Property as follows:

**Lots 3 – 8 of August Beyer’s Subdivision, a subdivision shown by plat on file in the Recorder’s Office of Jefferson County, Missouri, in plat book 3, page 40.**

**Parcel Nos.: 19-3.0-08.0-2-010-006, 19-3.0-08.0-2-010-007, and 19-3.0-08.0-2-010-008.**

Grantor for itself, its heirs, successors, and assigns, does hereby warrant and covenant to Grantee that it is the owner of the described property and has full right and

valid authority to grant this exclusive easement and that the Grantee may quietly enjoy the premises for the purposes stated herein. Grantee shall have full and unconstrained access to and use of the Plant Property without hinderance by the Grantor, with the right to apportion said easement or lease same.

With this easement, Grantor also grants Grantee the right to petition for Grantor for a Quit Claim Deed for the Plant Property, which Grantor shall immediately execute and deliver to Grantee, should it become apparent to Grantor and Grantee that the restrictions on the title indeed did not exist or have been removed. If Grantor and Grantee determine that such restrictions may be removed with a reasonable amount of effort and cost, Grantor and Grantee shall cooperate to have such restrictions removed.

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed by its \_\_\_\_\_, and its seal to be hereto attached, the day and year first written above.

Twin Cities Levee Commission

(SEAL)

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

ATTEST:

\_\_\_\_\_

STATE OF MISSOURI     )  
  )  
COUNTY OF JEFFERSON )     ss.

On this \_\_\_\_ day of January, 2024, before me, the undersigned, a Notary Public in and for said County and State, appeared \_\_\_\_\_, to me personally known, who being by me duly sworn did say that said instrument was signed and sealed on behalf of said Commission and acknowledged said instrument to be the free act and deed of said Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal in said County and State, the day and year in this certificate last above written.

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

My commission expires:

\_\_\_\_\_

**FESTUS**  
**SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT**

THIS SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT (“Agreement”) is an intergovernmental agreement entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between **Jefferson County Public Sewer District** (“District” or “Operator”), and **the City of Festus, Missouri**, a third class municipal corporation formed pursuant to Chapter 77 RSMo. (“City”), (jointly referred to as “Parties”), and provides as follows:

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”) owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein;

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the District and Commission have entered into an Asset Transfer Agreement to transfer the ownership of the Treatment Facility to the District

contemporaneously with this Agreement, the Closing of such Asset Transfer Agreement being a condition precedent to the Closing on this Agreement; and

**WHEREAS**, the Festus owns and operates a sewage collection system within its city limits (“System”); and

**WHEREAS**, Festus deems it necessary to the preservation and promotion of the public health, safety and welfare of its citizens and the general public to transfer the operation and maintenance of the City’s sewer system, including all property, equipment and appurtenances of said System, and ultimately to convey and transfer the same, to the Sewer District and for the Sewer District to manage, operate, maintain, and ultimately own said System for the benefit and welfare of the citizen’s and their property;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE 1**  
**TERMS; EFFECTIVE DATE**

**Section 1.1 Term and Extension Option.**

(a) Term. The term of this Agreement will extend for a period of thirty (30) years from the Effective Date (“Term”). At the expiration or termination of the Term, all other obligations of the Parties hereunder shall terminate unless otherwise agreed.

(b) Term Extension Option. Either Party may provide written notice to the other Party that such Party intends for this Agreement to terminate at the end of the Term not later than five (5) years prior to the end of the Term and at least one (1) year prior to the end of every fifth (5<sup>th</sup>) year thereafter. In the event that neither Party has provided written notice to the other Party that this Agreement shall terminate at the end of the Term, the Term shall be automatically extended for additional successive five (5) year periods (collectively, as appropriate, the “Term”).

**Section 1.2 Effective Date; Binding Effect.** This Agreement and the rights and obligations of each Party hereunder shall become effective on \_\_\_\_\_, 2024 (“Effective Date”).

**Section 1.3 Closing.** The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on \_\_\_\_\_, 2024, or at such other time, date, and place as the Commission and District may mutually agree upon in writing (“Closing Date”).

**ARTICLE II**

## **REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF CITY**

**Section 2.1** City hereby represents and warrants to District as follows:

- (a) Authorization. City has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the City. This Agreement is a legal, valid, and binding obligation of the City.
- (b) No Violation. Neither the execution and delivery of this Agreement by City, the performance by City of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the official policies of the City, or (ii) to the best knowledge of City, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which City is subject.
- (c) Litigation. Except as specifically identified in this section, there is no action, proceeding or investigation pending or to the City's knowledge threatened against or involving City, if determined adversely, could materially and adversely affect the System taken as a whole, and City is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the System taken as a whole.
- (d) No Warranties. The System will be operated by the District "AS IS, WHERE IS" and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of City; provided, however, that City does warrant its title to the System and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (e) Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the System or the Assets; and (ii) the form of each of City's standard form written agreements or contracts which relates to or arises from the System or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.
- (f) Environmental Matters.
  - a. City and the operations of City with respect to the System and the Assets are currently and have been in compliance with all Environmental Laws.

- b. City and the operations of City with respect to the System are in material compliance with all Environmental Permits necessary for the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by City through the Closing Date in accordance with all Environmental Laws; and City is not aware of any condition, event or circumstance that might result in noncompliance with any Environmental Permit or prevent or impede, after the Closing Date, the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System.
  - c. City has not received from any person any: (i) Environmental Notice or Environmental Claim with respect to the System; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.
  - d. To the knowledge of City, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the time of Closing in connection with the operation or continued operation of the System or the ownership or use of the System in a manner consistent with current operation thereof by City, except for any permit, transfer, registration, or similar fees associated with any required approvals. City has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the System.
  - e. The System has, to City's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.
- (g) Certain Due Diligence Material. Prior to the date of this Agreement, City has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:
- a. The deeds and other instruments (as recorded) by which City acquired the System and all title insurance policies, opinions, abstracts, and surveys in the possession of City with respect to such parcels.
  - b. A listing of all easements or similar instruments under which City is the grantee where the easement or real property right evidenced is utilized in

any manner by City for the placement, maintenance, repair, operation, or improvement of the System.

- c. All environmental reports and investigations that City owns, has obtained, or has ordered with respect to the System.
  - d. A complete inventory of all tangible personal property owned or leased by City and used in connection with the System;
  - e. Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the System;
  - f. All certificates of occupancy and other governmental licenses or approvals relating to any portion of the System, including any necessary operating permits and all other Permits;
  - g. Any service records or bills for repairs to any part of the System for the prior three (3) years;
  - h. All warranties, if any, relating to the System; and
  - i. All reports or documentation available to City to support the cost basis of the System.
- (h) Disclosure. No representation or warranty by City in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement knowingly contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.
- (i) Brokers and Agents. No broker, agent or representative of City has any agreement or contract with City entitling such broker, agent or representative to any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

**Section 2.2 Conditions of City.** The obligations of City hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by City in writing) on or prior to the Closing:

- (a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and
- (b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement; and

- (c) All Definitive Agreements are executed, and all required governmental authorizations are obtained.

**ARTICLE III  
REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF  
DISTRICT**

**Section 3.1 Representations and Warranties.** District hereby represents and warrants to City as follows:

- (a) **Corporate Organization.** District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.
- (b) **Authorization.** District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.
- (c) **No Violation.** Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.
- (d) The District has reviewed and is satisfied with the condition of the Due Diligence Materials and has no objections to such documents. Further, the District has inspected and reviewed the condition of the sewage collection systems and is satisfied with the condition of the system.

**Section 3.2. Conditions of District.** The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

- (a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;
- (b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed and all County Authorizations are obtained.



**ARTICLE IV  
OPERATION OF THE SYSTEM**

**Section 4.1 The System Generally.**

**(a) Reliance.** The Operator acknowledges that the City, in wastewater collection and treatment services, is providing an essential public service and, in complying with applicable law, will rely on the performance by the Operator of its obligations hereunder.

**(b) Limitation on Operator Rights.** The Operator shall not use the System for any purpose other than the purposes contemplated hereby.

**(c) Curtailments and Shutdowns.** If delivery of wastewater collection and treatment services through the System is temporarily reduced, curtailed, or shut down, the Operator shall promptly advise the City as to the probable nature, reason and duration thereof and the expected effect thereof on the operation of the System and provide routine updates to the City on the status until such time as operations have returned to normal. The Operator shall be in charge of announcements to the public or the media in accordance with the provisions of this Agreement.

**Section 4.2 Operation and Construction.** At all times, the Operator shall operate the System on behalf of City and provide the operations and construction of the System in accordance with this Agreement, including, without limitation, all National Pollutant Discharge Elimination System discharge permits and all other applicable permits currently held by the City or which may hereafter be acquired by the Operator. The City hereby grants to the Operator all rights necessary to perform the construction, improvement, management, operation, and maintenance of the System (and such additional rights and responsibilities as it may be granted and assumed, respectively) and the establishment of policies, programs, and procedures with respect thereto.

**Section 4.3 Rights and Responsibilities of Operator.** Subject only to the limitations imposed in this Agreement, the Operator shall have the full and complete duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with the System, provided that the District shall not unreasonably interfere with any activities or operations of the City within or upon the City's property and its rights-of-way and such operation is conducted at the costs and expense of the Operator. Without limiting the Operator's power or authority under this Agreement, the Operator's specific rights and responsibilities with respect to the operation, maintenance, improvement, and construction of the System shall include the following all at the cost and expense of the Operator:

(a) The right, without obtaining consent or approval of the City, to set rates for any and all sewage collection, treatment, operation, and/or maintenance services in accordance with applicable law; provided, however, the Operator shall set the rates for the first two years after the Effective Date of this Agreement no higher than the rates specified in Attachment A, attached hereto and made a part hereof for all purposes. Except as specifically provided otherwise in the prior sentence, nothing in this Agreement is intended to impair the District's right to approve final rates and charges to the System's customers;

(b) The right, without obtaining consent or approval of the City, to purchase, acquire, sell, alienate, lease, convey, exchange, option, agree to sell or buy, dispose of, manage, lease or operate all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator, including all property now owned or hereafter acquired by the Operator, whether now or in the future, for such consideration as the Operator may deem appropriate, including for cash, credit, a combination of both, an exchange of property rights, with such acts to contain such terms and conditions as the Operator may deem necessary, proper and/or advisable;

(c) The right, without obtaining consent or approval of the City, to borrow any sum or sums of monies and incur obligations, but only as may be permitted by law, whether secured or unsecured, from any bank, financial institution, corporation, individual or entity, including, but not limited to, borrowings from any affiliate of the Operator, and to guaranty or endorse the debts and obligations of any individual or entity, all to be on such terms and conditions and in such amounts and to contain such rates of interest and repayment terms as the Operator may deem necessary or proper; from time to time make, execute and issue promissory notes and other negotiable or non-negotiable instruments, continuing guaranties or evidences of indebtedness, loan agreements and letters of credit, all to be on such terms and conditions and to contain such rates of interest and repayment terms as the Operator may deem reasonably necessary under the prevailing circumstances; and prepay, in whole or in part, refinance, increase, modify, consolidate or extend any debt, obligation, mortgage, or other security device, on such terms as the Operator may deem reasonably necessary under the prevailing circumstances;

(d) The right, without obtaining consent or approval of the City, to assign, pledge, mortgage, or grant other security interests, but only as may be permitted by law, in or otherwise encumber all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator and execute and bind the Operator on any mortgage, assignment, security agreement, financing statement, pledge or any other document creating such encumbrances to secure the obligations of the Operator or any other individual or entity, with such documents to contain the usual and customary security clauses, all upon such terms and conditions as the Operator may deem necessary or proper;

(e) The right, without obtaining consent or approval of the City, to acquire and enter into any contract of insurance which the Operator deems reasonably necessary

and proper for the protection of the Operator and for the conservation of the Operator's assets, or for any purpose convenient or beneficial to the Operator;

(f) The right, without obtaining consent or approval of the City, to employ from time to time on behalf of the Operator individuals on such terms and for such compensation as the Operator shall determine;

(g) The right, without obtaining consent or approval of the City, to make decisions as to accounting principles and elections, whether for book or tax purposes (and such decisions may be different for each purpose);

(h) The right, without obtaining consent or approval of the City, to open checking and savings accounts in banks or similar financial institutions in the name of the Operator, and deposit cash in and withdraw cash from such accounts;

(i) The right, without obtaining consent or approval of the City, to set up or modify record keeping, billing and accounts payable accounting systems;

(j) The right, without obtaining consent or approval of the City, to adjust, arbitrate, compromise, sue or defend, abandon, or otherwise deal with and settle any and all claims in favor of or against the Operator or the System, as the Operator shall deem reasonable and proper;

(k) The right, without obtaining consent or approval of the City, to enter into, make, perform, and carry out all types of contracts, leases, and other agreements, and amend, extend, or modify any contract, lease or agreement at any time entered into by the Operator with the exception of any agreements executed jointly between the parties hereto;

(l) The right, without obtaining consent or approval of the City, to represent its interests in connection with any interactions with industry or regulatory institutions or organizations;

(m) The right, without obtaining consent or approval of the City, to execute, on behalf of and in the name of the Operator, any and all contracts, leases, agreements, instruments, notes, certificates, titles or other documents of any kind or nature as deemed reasonably necessary and proper by the Operator;

(n) The right, without obtaining consent or approval of the City, to enter into joint ventures or intergovernmental agreements and execute any and all acts and agreements in connection therewith, all upon such terms and conditions as the Operator may deem appropriate;

(o) The right, without obtaining consent or approval of the City, to do all acts necessary or desirable to carry out the business for which the Operator is formed in the

county of Jefferson or which may facilitate the Operator's exercise of its powers hereunder;

(p) The obligation to operate, maintain, and improve the System in conformity with this Agreement;

(q) The obligation to, at Operator's own cost, adequately maintain the System throughout the Term through routine maintenance and repair so that at the end of the Term, the System shall be and remain in good operating condition, normal wear and tear excepted, and successfully satisfying the District's policies and standards;

(r) The sole responsibility for all right-of-way acquisitions and the obligation to procure all such other rights and approvals necessary or useful for the performance of its obligations hereunder as it relates to this Agreement.

(s) The Operator shall be responsible for the payment of all applicable charges in respect of applications for such rights and approvals.

(t) Reporting; Attendance at Meetings. Upon City's reasonable request, the Operator shall attend relevant meetings of the City. The Operator shall, upon the City's reasonable request, provide periodic progress reports and other information as available in the Operator's ordinary course of business, including but not limited to the following:

- (i) Shutoff Reports;
- (ii) Growth rate of new customers;
- (iii) Results of all regular performance tests;
- (iv) Schedules of all upcoming routine maintenance and repair work;
- (v) Reports containing data, as appropriate, to demonstrate: the quality of the influent sewage and treated effluent; treatment plant efficiency; and the status of operations and maintenance activities;
- (vi) Contact information for Operator's key personnel;
- (vii) All material regulatory notifications to the Operator from the Environmental Protection Agency, Missouri Department of Natural Resources, or any other regulatory agency with oversight of the Operator's responsibilities hereunder;
- (viii) Customer data, including, but not limited to, connection times (length of time from connection request to fulfillment), repair times (length of time from requested repair to fulfillment), payment times (average number of days for bill payment), complaint log (log of all complaints organized by

complaint type), yearly customer satisfaction survey (survey to be conducted yearly by independent survey company);

- (ix) Any expansion plans or capital improvement plans;
- (x) Any master plan progress reports
- (xi) .Any expense reports or other documents referencing costs and expenses for the System, including repairs, maintenance, operation, expansion, and improvement costs.

**Section 4.4 Rights and Responsibilities of the City.** As the owner of the System, the City retains only an ownership interest in the System. Without limiting the generality of rights of the Operator described in section 4.3 of the Agreement, the City's specific rights and responsibilities with respect to the System shall include:

(a) the responsibility to provide such staff and technical assistance as City is competent to provide upon the request of the Operator, at such hourly rates or salaries as the Parties may negotiate.

(b) the right to represent its interests, in coordination and cooperation with the Operator, in connection with any interactions with industry or regulatory institutions or organizations;

(c) the right to review and comment on all engineering and design plans developed for the expansion, improvement, and operation of the System by the Operator;

(d) the right (including reasonable audit rights during normal business hours and which do not interfere with the performance of the operations and construction services hereunder) to information relating to operations and construction services conducted under this Agreement by the Operator and any contractors and affiliates;

(e) the right, at its own expense, to monitor the progress, quality, and condition of the System;

(f) the right, at its own expense, to monitor the work performed by the Operator and its contractors and to receive copies of all plans and designs in relation to the System;

(g) the right to: (i) undertake such actions; (ii) receive additional information; (iii) consult with the representatives of the Operator; and (iv) make recommendations to the Operator, in each case as may be reasonably necessary or appropriate to perform the City's responsibilities and obligations under this Agreement and as may otherwise be necessary or appropriate to comply with the City's legal, contractual and fiduciary obligations; provided, however, that notwithstanding anything contained in Section 4.2

hereof, this Section 4.4 shall be subject to and shall not be in limitation of the rights, authority and responsibilities of the Operator under Section 4.2 and Section 4.3 hereof;

(h) the responsibility for the City's legal matters, including its reporting and related compliance with applicable law;

(i) the responsibility to: (i) respond in a timely and adequate manner to all requests of the Operator for action or decision by the City with respect to all matters as to which the Operator shall reasonably request the response of the City in accordance with the provisions of this Agreement; and (ii) provide the Operator with such information, data and assistance as may be necessary or appropriate for the Operator to perform its obligations hereunder;

(j) the responsibility to reasonably assist the Operator as necessary in its applications for the procurement of rights and approvals necessary or useful for the performance of the Operator's obligations hereunder and to actively assist the Operator in expediting the procurement of such rights and approvals in a timely manner, provided that the Operator shall remain responsible for the payment of all applicable charges in respect of applications for rights and approvals;

(k) the responsibility to use its best efforts to obtain and provide to the Operator such information and data as may be reasonably required by the Operator for planning and operating the System;

(l) the responsibility to do all things reasonably requested by the Operator in order to assist the Operator in the collection of the sewer charges and other charges;

(m) the responsibility to provide the Operator with all necessary and reasonable rights of access in connection with the construction of the System; and

(n) the responsibility to terminate, upon the District's request, its water service to any customer who fails to pay any bill of the Operator charged under the District's rates, rules, and regulations. Any disconnection fee or reconnection fee charged by the City related to the termination of water service for non-payment of the Operator's sewer service charges shall belong to the City.

(o) the responsibility to provide the Operator with notices of requests for building permits submitted after the Effective Date; and

(p) the responsibility to locate and mark underground facilities, as requested by the District, pursuant to the Sections 319.010 through 319.050 of the Revised Statutes of Missouri, the "Underground Facility Safety and Damage Prevention Act."

**Section 4.5 Safety.** The Operator shall perform its obligations under this Agreement with due regard for public safety and consistent with this Agreement.

**Section 4.6 Construction of System Capital Improvements; Capital Asset Control.**

(a) Capital Improvements. The Operator shall pay for all Capital Improvements under this Agreement, identified within its own discretion, from its own funds. The Operator may self-perform or may hire contractors to perform any such Capital Improvement project, with amounts payable to any of its contractors being the responsibility of the Operator. The Operator shall not cause any liens or encumbrances to be placed on the System. The Operator agrees to timely satisfy and pay any and all contractors performing work on the System. Should a lien or encumbrance be placed on the System, Operator agrees to immediately seek any and all remedies to satisfy and/or remove the lien or encumbrance from the System at the Operator's cost and expense.

(b) Operator Construction Duties. The Operator shall administer, coordinate, manage and oversee the construction of Capital Improvements. The System may include one or more treatment plants, a network of forced and gravity sewers to convey sewage to a central location within each drainage basin and a network of sewage pumping stations, gravity mains and force mains to convey the collected sewage to the treatment plant.

**Section 4.7 Technical Assistance.** The Operator may contract for the services of outside consultants, suppliers, manufacturers, or experts, provided that the Operator shall remain responsible for the performance of operations and construction services pursuant to the terms of this Agreement.

**Section 4.8 Other Services.**

(a) Bill Payments. The Operator shall timely pay all bills related to the System which are proper, appropriate, and not otherwise disputed and which it has authority to pay and shall assure that, to the extent within the Operator's control, no mechanics' lien or similar encumbrances are filed against any portion of the System.

(b) Implied Services. Any services, functions, or responsibilities not specifically described in this Agreement that are required for the proper performance and provision of the operation and construction of the System, shall be deemed to have been granted by the City to the Operator, except to the extent they are rights and responsibilities reserved to the City as set forth in Section 4.4 hereof.

**Section 4.11 Hazardous Materials.** The Operator shall give prior written notice to the City of its intention to handle, transport or dispose of Hazardous Materials. The Operator shall cause such Hazardous Materials to be transported to and disposed of in accordance with applicable law.

**Section 4.12 Connection of Newly Developed Properties to System.** The City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all

newly developed properties to apply to the Operator to be registered and connected to the System. In addition, the City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all real estate developers, after installing sewage collection systems within any real estate development within the city limits to dedicate and transfer ownership of the same to the Operator.

**Section 4.13 Access Rights.** The City shall make available to the Operator and its officers, contractors and suppliers without charge all necessary access rights when required so as to enable the Operator to operate, maintain, repair, and replace the System or any part thereof, and the City will procure, if necessary, the closure of any roads for the purposes of routine maintenance, repair, or replacement, provided that the Operator shall provide to the City notice of maintenance and repairs within a reasonable amount of time before the beginning of the time in question. It is recognized that the Operator may require immediate access in emergency situations.

## **ARTICLE V OWNERSHIP OF THE SYSTEM**

**Section 5.1 Ownership of the System.** (a) Ownership. The System as it exists or existed as of the Closing Date is and shall be owned by the City. All additions to the System received, purchased, or constructed directly or indirectly by the Operator in conjunction or for the use of any part of the System, including, but not limited to, any Capital Improvements, after the Closing Date during the Term shall be owned and the sole and exclusive property of Operator. Operator shall keep such records as are necessary to show and distinguish the portion of the System owned by City and the portion of the System owned by Operator.

(b) Rights/Duties of Operator. Subject only to the limitations imposed in this Agreement, the Operator shall have the duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with, the System. The Operator shall have the exclusive right and obligation to design, procure, construct, operate, and maintain the System and all future wastewater systems which may be installed in the Service Area, and Operator hereby accepts such rights and obligations upon the terms and conditions provided for herein. The Operator shall have the exclusive right to all revenues and benefits resulting from or attributable to the operation and maintenance of the System and all monies collected by or for the account of the Operator or its contractors pursuant to this Agreement shall be the property of the Operator and shall be deposited in such account as the Operator shall determine in its own discretion. For the avoidance of doubt, the Operator has the exclusive right and obligation to provide the operations and construction services to the customers of the System and receive all payments from the customers.

## **ARTICLE VI COMPENSATION**



As compensation to the Operator for providing the operation, maintenance, repair, and capital improvements to the System under this Agreement, and in consideration of Operator providing treatment of sewage generated by the System, the Operator shall be entitled to any and all revenues generated from or dedicated to the operation of the System. The City authorizes the Operator to send invoices or otherwise bill directly to customers and to determine the time and manner for the collection of payments from customers who use the System. To the extent that any customer sends payment to the City for any invoice or bill sent by the Operator, the City shall promptly forward such payments to the Operator.

## **ARTICLE VII PURCHASE OF SYSTEM**

It is the intent and desire of the Parties that the City will ultimately transfer ownership of its System to the District. To that end, the District shall have the option at its convenience to tender to the City an Asset Transfer Agreement during the term of this Agreement. The Asset Transfer Agreement shall provide for the District to pay the City Ten Dollars for the System and such other terms and conditions as within the District's judgment shall effectuate such transfer in a timely and administratively convenient manner, including, but not limited to, the following:

- a. Deeds and other instruments by which City will transfer all real property constituting any part of the System; and
- b. An assignment of all easements and/or similar instruments under which City will transfer all such rights constituting any part of the System; and
- c. A Bill of Sale transferring all tangible personal property owned by City and used in connection with the System; and
- d. An assignment of all warranties, if any, relating to the System.

It is acknowledged amongst the Parties that the consideration for the transfer of the System has been included in the purchase price of Five Million Dollars (\$5,000,000.00) as set forth in the Asset Transfer Agreement executed amongst the District and the Commission. The Parties agree to negotiate in good faith for the transfer of the System to the District, for no additional compensation beyond the amount provided herein, at a mutually agreeable time, and in the manner provided by law.

## **ARTICLE VIII INDEMNIFICATION**

**Section 8.1** To the extent permitted by law, the District agrees to indemnify and hold harmless City, and its elected officials, officers, agents, servants, and employees, from, against, and with respect to any and all third-party suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted

against City arising due to any negligence, intentional misconduct, or the violation of any Environmental Laws, of the District or any of its officers, agents, servants, employees in the performance of the Work, or the failure of the District to comply with any applicable environmental laws or other laws in performing the Work, except for those claims directly caused by the negligence or intentional misconduct of City or their officers, agents, servants, or employees. Nothing in this Section 8.1 is intended by the District to be a waiver of the District's sovereign immunity.

**Section 8.2** To the extent permitted by law, City agrees to indemnify, hold harmless and reimburse District, and its officers, agents, servants, and employees, from, against and for any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against District, arising due to any negligence or intentional misconduct of City or any of its officers, agents, servants or employees or which is assessable against City because of its ownership of the City Wastewater Collection System; but such indemnity shall specifically exclude without limitation those claims directly caused by the negligence or intentional misconduct of (i) District in the performance of Work or (ii) third parties using or accessing the City Wastewater Collection System during the term of this agreement. Nothing in this Section 8.2 is intended by the City to be a waiver of the City's sovereign immunity.

## **Article IX MISCELLANEOUS**

**Section 9.1 Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

**Section 9.2 Fees and Expenses.** Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. City and Operator agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

**Section 9.3 Assignment.** Neither Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Party.

**Section 9.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

**Section 9.5 Notices.** Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the

following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to City:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

**Section 9.6 Entire Agreement.** This Agreement along with the other Definitive Agreements, the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

**Section 9.7 Construction.** The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to

refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

**Section 9.8 Choice of Law.** This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

**Section 9.9 Remedies, Injunctive Relief.** The Parties agree that the breach of this Agreement is likely to cause both Parties substantial and irrevocable damage that would be difficult, if not impossible, to prove precisely; therefore, it is agreed that this Agreement shall be enforceable by specific performance or other injunctive relief. Nothing in this section shall limit either Party's right to pursue any other remedy, equitable or legal, it may have against the other for breach of this Agreement.

**Section 9.10 Waiver.** The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

**Section 9.11 Attorney Fees.** In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

**Section 9.12 Cooperation.** Operator and City will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date, City will, at the request of District, but without further consideration, sale, transfer, and conveyance, take such other and further action as District may reasonably request in order to vest in Operator and put Operator in possession of the Assets and assure to Operator the benefits thereof more effectively.

**Section 9.13 Authority.** Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated ordinance or resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

**Section 9.14 Severability** The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or

more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

#### **Section 9.15 Preamble and Definitions.**

(a) The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein, and all conditions precedent shall be binding on the Parties as if expressly set forth in the terms and conditions of this Agreement.

(b) Definitions. As used herein the following terms shall have the following meanings unless the context otherwise requires, and such meanings shall be equally applicable to both singular and plural forms of the terms herein defined:

“Capital Improvement” means any repair, replacement, improvement, removal and retirement, alteration, extension, and addition to the System (other than any repair, replacement, improvement, removal and retirement, alteration and addition constituting ordinary, day-to-day, or regularly scheduled repair or maintenance of the System).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

“Definitive Agreements” means the following agreements which were executed contemporaneously with the Agreement: (1) A four-party Master Service Agreement between the JMUC, Cities and the District; (2) an Asset Transfer Agreement between the JMUC and the District for conveyance of the JMUC Sewage Treatment Plant to the District; (3) a Sewer System Operation and Cooperation Agreement between Festus and the District pertaining to the operation of the Festus’ sewage collection system; and (4) a System Operation and Cooperation Agreement between Crystal City and the District pertaining to the operation of Crystal City’s sewage collection system.

“Environmental Laws” means all applicable laws concerning or relating to the protection of the environment; or the exposure to, or the storage, recycling, treatment, generation, transportation, production, release, or disposal of Hazardous Materials, each as amended and in effect as of the date hereof and as same may be amended, varied, or modified in the future. The term “Environmental Laws” includes, without limitation, the following and their implementing regulations and any state analogs: CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as

amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq., and the Missouri Clean Water Law (MCWL), Section 644.0010 et seq., Revised Statutes of Missouri (RSMo).

“Hazardous Materials” means any material which is defined or regulated as a hazardous waste, hazardous substance, toxic substance, hazardous chemical substance or mixture, or words of similar import under Environmental Laws, including, but not limited to, “Hazardous Substances” as defined in CERCLA and the regulations promulgated thereunder, and asbestos.

“Service Area” means the Crystal City Boundaries and the Festus Boundaries, as those terms are defined in the Master Agreement.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF FESTUS**

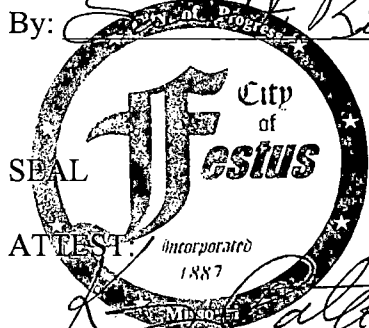
By: \_\_\_\_\_  
Peter Birkes, Chairman

SEAL

ATTEST:

\_\_\_\_\_  
, Secretary

By: *S. F. Richard*



SEAL

ATTEST:

\_\_\_\_\_  
, City Clerk

[ insert Attachment A – Rates ]



**MASTER AGREEMENT**  
**REGARDING SEWAGE COLLECTION AND TREATMENT SYSTEMS**  
**OF FESTUS AND CRYSTAL CITY**

This Master Agreement Regarding Sewage Collection and Treatment (hereinafter the “Agreement”) is made and entered into on this \_\_\_\_\_ day of December, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Crystal City is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by ordinances adopted by Festus and Crystal City pursuant to Sections 70.210 through 70.320, RSMo., and is authorized to enter into agreements pursuant to Section 70.260.2, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus, whose municipal boundaries are set forth in the attached Exhibit “1” (“Festus Boundaries”), owns, maintains, and operates a sewage collection system (“Festus Collection System”) that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City, whose municipal boundaries are set forth in the attached Exhibit “2” (“Crystal City Boundaries”), owns, maintains, and operates a sewage collection system (“Crystal City Collection System”) that collects sewage from various improved properties located within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District’s boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, Festus, Crystal City, the Commission, and the District deem it to be in the best interests of the of the citizens in their respective territories that the District's territory be expanded to include the Festus Boundaries and the Crystal City Boundaries and that the District acquire, maintain, and operate the Treatment Facility and maintain and operate the Festus Collection System and the Crystal City Collection System.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, Festus, Crystal City, the Commission and the District agree as follows:

1. Contemporaneous with the execution of this Agreement, the Commission and District shall enter into an Asset Transfer Agreement, which shall be substantially similar to the Asset Transfer Agreement attached hereto as Exhibit "3" and incorporated herein by reference.
2. Contemporaneous with the execution of this Agreement, Festus and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "4" and incorporated herein by reference.
3. Contemporaneous with the execution of this Agreement, Crystal City and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "5" and incorporated herein by reference. Hereinafter, Exhibits "3", "4", "5", and this Agreement shall be referred to as "Definitive Agreements."
4. District, Festus, Crystal City, and the Commission will cooperate after the Effective Date in fulfilling the terms of the Definitive Agreements. Each Party further agrees that it will cooperate with the others in the orderly transition of the "Assets," as defined in the Asset Transfer Agreement set forth in Exhibit "3". From time to time after the Effective Date, the Parties will, at the request of District, but without further consideration, take such other and further action as District may reasonably request in order to fulfill the terms of the Definitive Agreements.
5. Termination of Commission. After Closing, the Parties shall cause the Commission to be terminated or dissolved at such time as is mutually agreeable to the Parties. Upon termination of the Commission, District shall distribute any future payments to the Cities in accordance with section 1.4 of the Asset Transfer Agreement.
6. Right of First Refusal. Festus and Crystal City shall, operating collectively or individually, have the right of first refusal, should District wish to sell the Treatment Facility, any land transferred subject to this Agreement, and/or the collection system within either or both cities at a later date. To the extent a deed is recorded transferring any real estate to the District, the Parties agreement that such deed shall contain a stipulation on any transfer being subject to a right of first refusal in favor of the cities.
7. Representation on the District's Board of Trustees. Festus and Crystal City acknowledge that seats on the District's Board of Trustees are typically selected by the County Council of Jefferson County, and that the County Council solicits nominations from the District. The District agrees to use all diligent, reasonable, and lawful efforts to nominate and seek the selection of one of the seats on its Board of Trustees is filled by a qualified resident of either the City of Festus or Crystal City, or a representative selected by the mutual agreement of the Parties, provided that nothing herein shall affirmatively obligate the District to file a lawsuit to enjoin enforcement of any duly promulgated law or ordinance to alter the method of appointment to the District's Board of Trustees, or to lobby for a change in state law. If Missouri statutes permit or are amended subsequent to the execution of this Agreement in a manner that would permit the

District to exercise greater control over nominees, or a court of competent jurisdiction determines that the District or an officer of the District has authority to fill vacancies on its Board of Trustees, the District will fill such vacancy with a resident of either the City of Festus or Crystal City, or a resident selected by mutual agreement of the Parties. This section 7 shall be binding upon the District for only so long as the number of customers served within the city limits of Festus and Crystal City exceeds fifteen percent of the total number of customers served by the District. The obligations under this section 7 shall survive the termination of both System Operation and Cooperation Agreements between the District and the Cities due to the acquisition of the Systems of both Cities pursuant to the System Operation and Cooperation Agreements.

8. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

9. Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby.

10. Assignment. No Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Parties.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

12. Notice. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019

Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

(c) If to the Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(d) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

13. Entire Agreement. This Agreement along with the other Definitive Agreements constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

14. Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

15. Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

16. Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and

the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

17. Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

18. Attorney Fees. In the event it becomes necessary for any Party to file a suit to enforce this Agreement or any provision contained herein, and any Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

19. Authority. Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated Ordinance or Resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

20. Preamble. The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein and all conditions precedent shall be binding on the parties as if expressly set forth in the terms and conditions of this Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

*Samuel F. Richards*  
\_\_\_\_\_

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

By: *Samuel F. Richards*

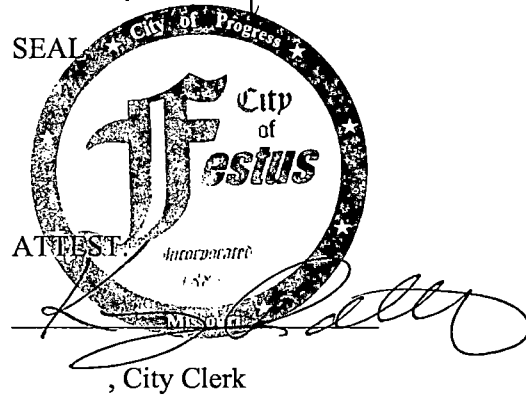
Title: \_\_\_\_\_

Title: *Mayor*

SEAL

SEAL

ATTEST:



\_\_\_\_\_

, Secretary

ATTEST:

\_\_\_\_\_

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_

, Secretary

\_\_\_\_\_

, Secretary

**Exhibit 1**

[ *insert Festus Boundary Map* ]

**Exhibit 2**

[ *insert Crystal City Boundary Map* ]



**Exhibit 3**

[ *insert Asset Transfer Agreement* ]

**Exhibit 4**

[ *insert Festus System Operation and Cooperation Agreement* ]

**Exhibit 5**

[ *insert Crystal City System Operation and Cooperation Agreement* ]

**WATER SHUT OFF AGREEMENT**  
**Jefferson County Public Sewer District of Jefferson County, Missouri**

This Water Shut Off Agreement (“Agreement”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by and between the Jefferson County Public Sewer District (“District”) and the city of Festus (“City”) (hereinafter jointly referred to as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo., and is authorized to enter into agreements pursuant to Section 204.618 RSMo. for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. for the purposes set forth herein; and

**WHEREAS**, the Parties have entered into certain Definitive Agreements dated on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, whereby the City has agreed to transfer ownership and/or control of its sewage treatment system to the District and the District has agreed to receive the ownership and/or control of such sewage treatment system from City; and

**WHEREAS**, Section 393.016, RSMo. authorizes contracts between a public sewer district providing sanitary sewer services and municipalities which provide water service for the termination of water service for the non-payment of sewer bills and which section establishes procedures, immunities, costs, and reimbursement allocations relevant thereto; and

**WHEREAS**, District and City desire to contract with each other pursuant to the provisions of §393.016 RSMo.;

**NOW, THEREFORE**, the Parties agree as follows:

1. All of Section 393.016 RSMo. is by this reference incorporated in and made a part of this contract, the same as if said section were stated herein verbatim. The terms of this Agreement shall be construed to be consistent with the forgoing section, and in the event that any term or condition of this Agreement relating to termination of water service be otherwise construed to be inconsistent with said statute, then such inconsistent term or condition, or part thereof, shall be deemed null and void and the terms and conditions of the statute shall govern.

2. City agrees to terminate water service to any of the City’s customer’s premises upon such customer’s non-payment of the District’s sewer bill for sewer services to said premises, provided, however, that the City shall not have a duty to terminate water service until District shall satisfy any statutory requirements therefore and shall certify to the City in writing that District has satisfied all of its ordinances and statutory requirements for termination of service. The City shall have no duty to verify satisfaction of District’s ordinances and statutory

requirements and shall incur no liability if it fails to require District to certify its satisfaction of its ordinance and statutory requirements. Any terms hereinabove notwithstanding, termination of water service shall be subject to the terms and conditions hereof and subject to the City's ordinances, regulations, and policies relating to the termination of water service.

3. The City, acting in accordance with the terms of this Agreement, shall not be liable for any damages relating to the City's termination of water service, excluding damages caused by its negligence, and District shall hold harmless and indemnify City for all such damages. Further, District shall keep and maintain during the term of this Agreement general liability insurance that provides coverages for all acts and omissions of District and/or City as herein provided in a reasonable sum of not less than \$100,000 and which shall provide that City shall be named an additional insured thereunder. District shall provide proof of such insurance prior to the effective date hereof and at City's request, thereafter.

4. District shall pay to City the sum of \_\_\_\_\_ dollars (\$\_\_\_\_.00) per disconnect request made by District to City pursuant to this Agreement. Such \_\_\_\_\_ (\$\_\_\_\_.00) fee shall be payable before water service is terminated. This fee shall include the City's ordinary services during regular business hours for termination and reconnection, and District agrees to pay to City its additional fees in the event that the circumstances are otherwise.

5. An employee or duly authorized representative of District shall accompany City's employee(s) or representative(s) for purposes of shutting off water service in conformance with the terms of this Agreement. City's duty to terminate or reconnect water service shall be subject to and in the manner as provided by the City's ordinances, regulations, and policies. City is not required to terminate or reconnect water services except during regular business hours and when it has available labor therefore and, in the event that it is requested to and, in its sole discretion does, terminate or reconnect water service beyond its regular business hours, it shall be reimbursed by District for its additional expenses therein incurred.

6. District agrees that it shall provide a written notice to the customer(s) of the termination of water service stating that the termination is the result of the customer's failure to pay sewer charges, and such notice shall further notify its customer(s) that the City is cooperating in the water dis-connect by virtue of the provisions of the state statutes, and that any questions relating to termination of water service or to the terms of this Agreement, shall be directed to the Jefferson County Public Sewer District, 4629 Yeager Rd., Hillsboro, Missouri 63050 (636-797-9900), or such other office or mailing address of District as District shall hereafter maintain. City shall be entitled to review and approve the form of District notice, and any amendment thereof.

7. This Agreement shall be effective \_\_\_\_\_, 20\_\_ and shall be for a term of one year from the effective date. Thereafter it will continue from year to year unless terminated by either of the Parties giving thirty (30) days' written notice to the other Party; provided, however, City's termination and re-connection fee as provided in paragraph 4 herein shall be subject to reasonable increase by City upon sixty (60) days written notice anytime during the term of the Agreement or any extension thereof.

8. The Parties understand and agree that City might incur various expenses to revise its water application form and service agreements, to notify its customers that water service may be disconnected upon failure to satisfy District's sanitary sewer bills, and to agree and approve all of the notices and agreements contemplated hereby, and District has agreed to reimburse to the City for the initial costs and expenses associated therewith within twenty (20) days of receipt of a written notice of such expenses.

IN WITNESS WHEREOF, the parties have set their hands and seals the date below their signature.

CITY OF FESTUS

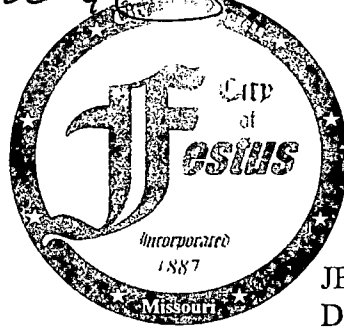
ATTEST:

K. Paley  
Clerk

BY: Samuel F. Richards

Samuel F. Richards Mayor

January 23, 2024  
Date



JEFFERSON COUNTY PUBLIC SEWER DISTRICT

ATTEST:

\_\_\_\_\_  
Manager

BY: \_\_\_\_\_

\_\_\_\_\_, Chairman

\_\_\_\_\_  
Date

RESOLUTION NO.

2024-01

**A RESOLUTION OF THE FESTUS – CRYSTAL CITY SEWER COMMISSION, ASSENTING TO AN EXTENSION OF CERTAIN DATES AND DEADLINES LISTED IN THE LETTER OF INTENT (LOI) WITH THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT, THE CITY OF FESTUS, THE CITY OF CRYSTAL CITY, TO SELL THE WASTEWATER TREATMENT PLANT TO THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT**

WHEREAS, the Festus-Crystal City Sewerage Commission (the “Commission”), is the owner of a wastewater treatment plant (the “Plant”) serving the City of Festus, Missouri (the “Festus”) and the City of Crystal City, Missouri (“Crystal City”); and

WHEREAS, the governing bodies of Festus, Crystal City, and the Commission have approved a letter of intent to enter into an agreement with the Jefferson County Public Sewer District (the “District”) to sell the Plant to the District, and such letter of intent was subsequently amended after approval by each of the Parties’ respective governing bodies; and

WHEREAS, the amended letter of intent provides for an anticipated closing date of December 31, 2023, which may be extended by mutual agreement of the parties; and provides for exclusive negotiations among the parties until December 31, 2023; and

WHEREAS, the Parties continue to negotiate, and anticipate continuing to do so past December 31, 2023;


WHEREAS, the Parties believe that a mutual agreement to extend the closing deadlines and exclusivity period until January 31, 2024 would best facilitate further negotiations.

**NOW, THEREFORE, BE IT RESOLVED BY THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AS FOLLOWS:**


SECTION I. The Board of Commissioners of the Festus-Crystal City Sewer Commission hereby assents to extending the deadline for closing set forth in paragraph 3 of the letter of intent from on or before December 31, 2023 to on or before January 31, 2024, and to extending the exclusive negotiation period in paragraph 13 of the letter of intent from December 31, 2023 to January 31, 2024. Either date may be extended by mutual agreement of the parties.

SECTION II. This Resolution shall be in full force and effect upon its passage by the Commission.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF January, ~~2023~~ 2024

  
Matthew Unrein, Chairman

  
Daniel Turner, Board Member

ATTEST:  
  
Recording Clerk



**RESOLUTION NO.                    2024-02**

**A RESOLUTION OF THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AUTHORIZING AND DIRECTING THE CHAIRMAN TO EXECUTE AN ENGAGEMENT LETTER WITH LASHLY & BAER, P.C. TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE SALE OF THE WASTEWATER TREATMENT PLANT.**

WHEREAS, the City of Festus, Missouri (“Festus”), the City of Crystal City, Missouri (“Crystal City”), and the Festus-Crystal City Sewerage Commission (the “Commission”), are the owners of a wastewater treatment plant (the “Plant”); and

WHEREAS, the Jefferson County Public Sewer District (the “District”) has expressed interest in purchasing the Plant and its associated equipment, real property, and appurtenances; from Festus, Crystal City; and the Commission; and

WHEREAS, the Commission has identified the need to retain a law firm to provide legal services to it related to the sale of the Plant; and

WHEREAS, the Commission finds that it is appropriate and in the best interests of the Commission and the residents served by the Commission to execute the Engagement Letter attached hereto as Exhibit A, in order to retain the law firm of Lashly & Baer, P.C. to provide legal services to it in connection with the sale of the Plant.

**NOW, THEREFORE, BE IT RESOLVED BY THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AS FOLLOWS:**

SECTION I. The Chairman of the Festus-Crystal City Sewer Commission is hereby authorized and directed to execute, for and on behalf of the Commission, an Engagement Letter with Lashly & Baer, P.C. for legal services in connection with the sale of the Plant, the terms, and conditions of which shall be in substantial compliance with the attached Exhibit A, which is incorporated herein by reference.


SECTION II. The Chairman and other board members of the Commission are authorized to take such administrative steps reasonably necessary to comply with the intent of this Resolution.

SECTION III. This Resolution shall be in full force and effect upon its passage by the Commission.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF January, 2024

  
Matthew Unrein, Chairman

  
Daniel Turner, Board Member

ATTEST:  
  
Recording Clerk

**EXHIBIT A**

[ *insert Letter of Engagement* ]

**A RESOLUTION OF THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AUTHORIZING THE CHAIRMAN TO EXECUTE AGREEMENTS WITH THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT, THE CITY OF FESTUS, AND THE CITY OF CRYSTAL CITY TO TRANSFER THE SEWAGE TREATMENT PLANT OWNED AND OPERATED BY THE FESTUS-CRYSTAL CITY SEWAGE COMMISSION FOR THE BENEFIT OF THE CITIES TO THE JEFFERSON PUBLIC SEWER DISTRICT**

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri Commission, is a joint municipal utility commission established by ordinances adopted by the City of Festus (“Festus”) and the City of Crystal City (“Crystal City”) pursuant to Sections 70.210 through 70.320, RSMo, and is authorized to enter into agreements pursuant to Section 70.260.2(4), RSMo, for the purposes set forth herein; and

**WHEREAS**, pursuant to Article VI, Section 16 of the Missouri Constitution and Section 70.220, RSMo, municipalities and political subdivisions of the State of Missouri are empowered to enter into contracts with one another for common services; and

**WHEREAS**, the Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668, RSMo, and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640, RSMo, and is authorized to enter into agreements pursuant to Section 204.618, RSMo for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77, RSMo; and

**WHEREAS**, Crystal City is a third class municipal corporation formed pursuant to Chapter 77, RSMo; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus owns, maintains, and operates a sewage collection system (“Festus Collection System”) that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City owns, maintains, and operates a sewage collection system (“Crystal City Collection System”) that collects sewage from various improved properties located within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District's boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, the Commission finds and determines that it would be in the best interest of the communities served by the Treatment Facility for the Treatment Facility to be sold and conveyed to the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AS FOLLOWS:**

SECTION I. The Board of Commissioners of the Festus-Crystal City Sewer Commission hereby approves the agreements in substantially the forms set forth as Exhibits hereto to effectuate the transfer of the Treatment Facility to the Jefferson County Public Sewer District, and authorizes the Chairman to execute on behalf of the Commission the following agreements:

- (a) a **Master Agreement Regarding Sewage Collection and Treatment Systems of Festus an Crystal City** among the District, the Commission, Festus, and Crystal City, in substantially the form set forth in Exhibit A, attached hereto and incorporated by reference; and
- (b) an **Asset Transfer Agreement** among the District, the Commission, Festus, and Crystal City, in substantially the form set forth in Exhibit B, attached hereto and incorporated by reference.

SECTION II. The Chairman and other board members of the Commission are authorized to take such administrative steps reasonably necessary to comply with the intent of this Resolution, and to take all actions authorized by the agreements authorized by Section I of this Resolution. The Chairman, board members of the Commission, and other officials and agents of the Commission are authorized to execute any documents, including but not limited to easements, lease agreements, transfers of real estates, and other documents or agreements among the Parties reasonably necessary to effectuate the intent of this Resolution.

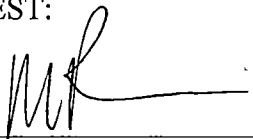
SECTION III. This Resolution shall be in full force and effect upon its passage by the Commission.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF January, 2024

  
\_\_\_\_\_  
Matthew Unrein, Chairman

  
\_\_\_\_\_  
Daniel Turner, Board Member

ATTEST:

  
\_\_\_\_\_  
Recording Clerk

**Exhibit A**

[ *insert Master Agreement* ]

**Exhibit B**

[ *insert Asset Transfer Agreement* ]





**LASHLY & BAER, P.C.**  
ATTORNEYS AT LAW

BRIAN J. MALONE  
Licensed in Missouri  
DIRECT: 314 436.8375  
[bmalone@lashlybaer.com](mailto:bmalone@lashlybaer.com)

MISSOURI  
714 Locust Street  
St. Louis, MO 63101-1699  
TEL: 314 621.2939  
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[www.lashlybaer.com](http://www.lashlybaer.com)

ILLINOIS  
20 East Main Street  
Belleville, IL 62220-1602  
TEL: 618 233.5587  
By Appointment Only

December 14, 2023

Board of Commissioners  
Festus-Crystal City Sewage Commission  
355 County Road  
Crystal City, MO 63019

**Re: Engagement of Lashly & Baer, P.C. as Special Counsel**

Dear Commissioners:

We are pleased that you have chosen Lashly & Baer, P.C. to provide legal services to the Festus-Crystal City Sewage Commission (the "Commission"). We appreciate the opportunity to represent you.

The purpose of this engagement letter is to confirm in writing the scope, terms and conditions of our representation and to request that you acknowledge your agreement by executing this engagement letter in the space provided below. By means of this Agreement, you are engaging the Firm to perform the following services: assist the Commission with matters relating to the sale of the Sewage Treatment Plant operated by the Commission. Subject to our mutual written agreement, you may also engage us to perform additional services in the future.

You represent that you do not know of any related legal matters that would require our legal services under this Agreement. If such matters arise later, you agree that this Agreement does not apply to any related legal matter. Therefore, a separate Agreement for provision of services and payment for those services will be required if you wish to engage Lashly & Baer, P.C. to perform legal services pertaining to such matters.

**Limited Scope of Representation:** The scope of our representation does not include advice or services regarding accounting, tax, personal financial matters or business management, and related non-legal matters and advice. If you wish for us to consult with other professionals retained by you regarding this matter, we will communicate with you in writing to confirm the scope of such consultations prior to initiating same.

**Fees and Billing Statements:** We will submit a bill to you on a monthly basis. Expenses will be separately stated on the bill and our fees will be charged as indicated below. Our billing statements are due and payable upon receipt, and are overdue if not paid by the due date set forth on the statements. We ask that you review each statement promptly when rendered and bring any questions to our attention within thirty (30) days, after which time all statements shall be deemed accurate, fair and reasonable.

You are responsible for payment of all legal fees, expenses, and disbursements, regardless of whether or not any money is recovered on your behalf through a settlement or judgment. Please

December 14, 2023

Page 2

see the "Expenses" and "Late Payment and Failure to Pay" provisions of this Agreement for further information. To the extent we are successful in recovering a settlement or judgment on your behalf, all legal fees, costs and expenses not previously paid by you will be deducted from the gross amount recovered in the settlement or judgment.

We will provide you with a summary statement listing these deductions at the time of any payment to you from a settlement or judgment.

Brian J. Malone, a shareholder with Lashly & Baer, will have primary responsibility for representing the Commission. Other individuals may assist with this matter from time to time or even assume primary responsibility. The use of associates, paralegals, and summer associates results in a direct savings to you, since they can more economically perform tasks which do not require the attention of a shareholder. If you have any questions or concerns regarding delegation of responsibilities and work between attorneys, please contact us to discuss these issues.

Charges for legal services will be billed at a rate of \$205 per hour, with hours to be billed in six minute increments.

It is our policy to describe services performed in a detailed manner so that you may be able to understand fully the services and the charges. If there are any questions relating to the services or the charges, we will be pleased to discuss them with you at the earliest possible time after receipt of the billing statement, since the matters will be freshest in our memory at that time. Accordingly, you agree to notify us in writing or email within 30 days of receiving our billing statement if you dispute any entry for legal services or charges on any billing statement. In the absence of any written objections thereto within 30 days of your receipt of a billing statement, you will be deemed to have accepted and acknowledged the billing statement as correct through the period covered by the billing statement.

In addition, if as a result of our engagement, we are required to produce documents or appear as a witness in connection with any governmental or regulatory examination, audit, investigation or other proceeding or any litigation, arbitration, mediation, or dispute involving you or any related persons, you are responsible for costs and expenses reasonably incurred by us (including professional and staff time at then-scheduled hourly rates and reasonable attorneys' fees and costs incurred by us).

**Expenses:** In the course of rendering services to you, it may be necessary for us to incur expenses for items such as, but not limited to, actual court costs, court reporters and deposition transcripts, investigative expenses and computerized legal research, costs for expert witnesses, substantial document reproduction, external delivery (overnight, special delivery service, express mail, postage) and courier services, photocopying, telephone calls, travel, lodging, meals, and overtime for Firm secretarial and other staff services. The actual expenses incurred will vary depending on the services that we provide to you. Certain expenses may include an adjustment, above cost, to cover our expenses in providing the billed service. However, expenses paid entirely to third parties, such as travel and lodging expenses, will be billed to you as our out-of-pocket costs.


December 14, 2023

Page 3

Expense items incurred on your behalf will be itemized separately and listed on our billing statements as "disbursements." Third-party expenses may be forwarded directly to you for payment. As is customary, expense disbursements may not be current at the time of final billing. Remaining disbursements, if any, will be billed at a later date.

On behalf of Lashly & Baer, we appreciate the opportunity to represent you in this matter. If this letter, and the attached Terms and Conditions, correctly set forth our mutual understanding, please sign and date the enclosed copy of this Agreement and return it to us.

LASHLY & BAER, P.C.

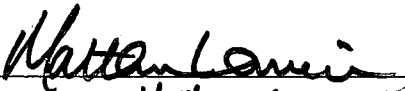
By:   
Brian J. Malone, Shareholder

BJM/lsc

By signing this Agreement, the Festus-Crystal City Sewage Commission confirms that it has read this Agreement, understands its provisions, and agrees to abide by it.

AGREED TO AND ACCEPTED BY:

FESTUS-CRYSTAL CITY SEWAGE COMMISSION

By:   
Printed Name: Matthew Korman  
Title: Commissioner  
Date: 1-19-2024

December 14, 2023

Page 4.

**Lashly & Baer, P.C.**  
**TERMS AND CONDITIONS**

**Late Payment and Failure to Pay:** If you fail to pay our statements in full on or before the due date set forth on the statements, we reserve the right to assess you with a monthly service charge equal to 1% of all fees, expenses and disbursements that are past due. This monthly service charge will be billed to you at the end of each month in which a late payment occurs. In no event will the service charge be greater than that permitted by any applicable law. Failure to pay when due would ultimately result in our withdrawal from your case and other consequences as defined below.

In the event that we are required to file an action or proceeding to collect any late payment or assessed monthly service charge, you will be required to pay for all costs of collection, including without limitation all filing fees, third-party expenses and attorney fees incurred for our efforts in collecting such amounts. If we use our own attorneys or legal assistants to pursue such an action or proceeding, the fees charged shall be calculated on an hourly basis using the applicable hourly rates for the attorneys and legal assistants who perform such work.

In litigation matters in which a money judgment or settlement is rendered in your favor, we reserve the right to a lien on all proceeds thereof to the extent of any unpaid fees, expenses or disbursements as authorized by Section 484.130, Missouri Revised Statutes. Such a lien, if exercised, would operate in addition to, and not to the exclusion of, any other legal means to collect our fees and litigation costs incurred on your behalf. In this regard, we may file a "Notice of Attorney's Lien" and may record the Notice in the court file concerning your matter and/or in the office of the Recorder of Deeds in the County in which you have real estate. We may also assert a lien to any persons or entity holding property or monies on your behalf.

**Responsibilities of Law Firm and Client:** We will provide only legal services, as previously described in the "Scope of Representation" and "Limited Scope of Representation" sections of this Agreement. We will keep you apprised of developments and will consult with you as necessary to ensure the timely, effective, and efficient completion of our work. You acknowledge that we cannot guarantee either the outcome or the timing to complete legal services on your behalf.

You agree to be truthful and cooperative with us, to respond to our inquiries and communications promptly and to provide promptly all information known or available that may be relevant to our engagement. You will provide us with factual information and materials as we require in order to perform the foregoing services. You acknowledge and agree that you remain responsible for making all business or technical decisions and that you are not relying on us for accounting, tax, personal financial matters or business management, and related non-legal matters and advice. You also acknowledge that we are not responsible for investigating the character or credit of persons with whom you may be dealing.

As a matter of our professional responsibility and as long as in our judgment it will not substantively injure your position in this matter, we retain control over decisions affecting our reputation and professionalism. This discretion includes, among other decisions, whether to extend deadlines for opposing counsel; whether to cooperate with opposing counsel in scheduling or

December 14, 2023

Page 5

similar matters; and whether and how matters should be argued in correspondence, pleadings, or to a court or administrative body.

We also reserve the right to continue to represent or to undertake to represent existing or new clients in any matter that is not substantially related to our work on your matters, even if the business interests of such clients in other matters are competitive to you, so long as our representation of such clients and you does not create a conflict of interest under the ethical standards governing attorneys. We will not use or disclose any information that we have acquired about you in our representation of other clients.

We may provide to you newsletters or similar materials regarding general legal developments or matters of current interest. Similarly, we may invite you to attend seminars or symposia where legal topics are discussed. In our experience, such information or events are educational, because a well-informed client will be better able to make decisions about the need for future legal representation. However, it is understood that such communications do not constitute legal advice, and do not create an attorney-client relationship beyond the scope of the representation described herein.

It is your duty to keep us informed of your mailing address and other contact information. If, at any time during the course of this representation, your address becomes unknown or we are otherwise unable to contact you, we shall be permitted to withdraw from this representation by sending you a certified letter to your last known address and by depositing with the Clerk of the Court for the county of your last known residence any property owned by you in our possession, including but not limited to items of personal property, funds, and any portions of the actual client file that belong to you.

**Termination:** You may terminate this representation at any time with or without cause by notifying us in writing of your desire to do so. Upon receipt of the notice to terminate representation, we will cease all legal work on your behalf immediately and will have no duty to inform you of further developments or changes in law which may be relevant to such matter. Further, unless you and the Firm agree in writing to the contrary, we will have no obligation to monitor renewal, notice dates or similar deadlines which may arise from the matter. You will be responsible for paying all legal fees, expenses and disbursements incurred on your behalf in this matter until written notice of termination is received by our Firm.

If you terminate the representation before the conclusion of the matter, we will be entitled to receive from the proceeds of any recovery a reasonable fee for the work we have performed based upon the amount of time required, the complexity of the matter, the time frame within which the work was performed, the responsibility involved, as well as our experience, ability, reputation, and the results obtained. This fee is in addition to any legal fees, expenses and disbursements incurred on your behalf that have not previously been paid by you.

To the extent permitted by rules of professional responsibility and the court, we may terminate our representation at any time if you breach any material term of this Agreement, fail to cooperate or follow our advice on a material matter, if a conflict of interest develops or is discovered, or if there

December 14, 2023

Page 6

exists, at any time, any fact or circumstance that would, in our opinion, render our continuing representation unlawful, unethical, or otherwise inappropriate.

If we elect to terminate our representation, you will timely take all steps reasonably necessary and will cooperate as reasonably required to relieve us of any further obligation to perform legal services, including the execution of any documents necessary to complete our withdrawal from representation. In such case, you agree to pay for all legal services performed and any legal fees, expenses or disbursements incurred on your behalf before the termination of our representation in accordance with the provisions of this Agreement.

**Electronic Data Communication and Storage:** In the interest of facilitating our services to you, we may communicate with you or others by email, facsimile transmission, send data over the Internet, store electronic data via computer software applications hosted remotely on the Internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to your case may be transmitted or stored using these methods. In using these data communication and storage methods, our Firm makes reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws and professional standards. You recognize and accept that we have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors. You consent to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

We advise you to refrain from communicating with us on any device provided by your employer or any computer, smart phone, tablet computer or other device shared with someone else. In addition, when communicating with us, please do not use your work email address or a shared email account. You should utilize only a private email account that is password protected and accessed solely by you.

**File Retention and Destruction:** At the conclusion of this matter, we will retain your legal files, both electronic and paper, for a period of six (6) years after we close our file. At the expiration of the six (6) year period, we will destroy these files unless you notify us in writing that you wish to take possession of them. We reserve the right to charge administrative fees and costs associated with researching, retrieving, copying and delivering such files.

**No Guarantee of Success:** It is expressly acknowledged by you that Lashly & Baer, P.C. has not made any warranties or representations to you, nor have we given you any assurances as to the favorable or successful resolution of your claim or defense of the action referred to above; nor as to the favorable outcome of any legal action that may be filed; nor as to the nature or amount of any awards or distributions of property, attorney fees, costs, or any other aspects of this matter. All of Lashly & Baer's expressions relative to your case are limited only to estimates based upon our experience and judgment and are only our opinion. Such expressions should not be considered as representations, promises, or guarantees of results, which might be obtainable, either by way of a negotiated settlement or in a contested trial.

December 14, 2023

Page 7

**Data Protection:** *You agree that Lashly & Baer, P.C. may collect, use and disclose personal data which you have provided, and you agree to receive marketing material, in accordance with our data protection policy available at [www.lashlybaer.com/legal-disclaimer](http://www.lashlybaer.com/legal-disclaimer).*

**GDPR:** The GDPR and related EU data protection laws apply to organizations worldwide that process personal data of persons in the EU. Protecting your personal data, your confidential information and your privacy is important to us, and we, therefore, apply the same level of protection regardless of your residency. You agree that Lashly & Baer has consent to include your email address in mailing lists for communications updates. We may use your information to send you updates that are tailored to your needs and interests with the most up-to-date legal and regulatory developments, as well as firm-related events, activities and news.

**Client Review of this Agreement:** You have a right to have this Agreement reviewed by another law firm prior to signing it. Likewise, you have the right to review this Agreement outside the presence of Lashly & Baer, P.C. and away from Lashly & Baer's office prior to signing it. You understand that Lashly & Baer, P.C. is not retained until the signed original Agreement is returned to Lashly & Baer, P.C.

## ASSET TRANSFER AGREEMENT

THIS ASSET TRANSFER AGREEMENT (“Agreement”) is entered into this 17<sup>th</sup> day of January, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

### WITNESSETH:

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the Commission has authorized the execution of this Agreement by Resolution No. 23-0445, adopted by its Commissioners on September 23, 2023;



**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I  
TERMS OF SALE**

1.1 Sale of Assets. Commission agrees to sell, transfer, assign, convey, and deliver or cause the same to occur to District, and District agrees to purchase, acquire, and accept from Commission or other designee of the Commission, to the full extent reasonable and legal, all the right, title and interest in and to the Treatment Facility, including but not limited to all land, buildings, fixtures, and equipment thereon or used in the operation of the Treatment Facility (collectively, "Assets"), free and clear of all financial encumbrances, mortgages, pledges, liens, security interests, obligations, and liabilities. The conveyance of the Assets shall include the assignment and assumption of applicable Missouri Department of Natural Resources and Environmental Protection agency licenses and/or permits held by the Commission but only to the extent such interests are assignable.

1.2 No Assumption of Liabilities. District is not assuming any liabilities of Commission in existence prior to the Closing Date unless expressly agreed to herein but is assuming all liabilities regarding the Assets arising on and after the Closing Date. On the Closing Date, District shall assume and agrees to pay, perform, or otherwise discharge the liabilities of the Treatment Facility arising on and after the Closing Date. Commission shall perform or timely otherwise discharge the liabilities of the Treatment Facility arising before the Closing Date. The Parties shall prorate utility expenses and similar charges relating to the Treatment Facility, and Commission shall be liable to the extent such expenses and charges relate to any time before the Closing Date, and the District shall be liable to the extent such expenses and charges relate to any time on and after the Closing Date.

1.3 Payables. Commission shall be responsible for all payables resulting from the operation of the Treatment Facility prior to the Closing Date. District shall be responsible for all payables resulting from the operation of the Treatment Facility following the Closing Date.

1.4 Purchase Price. The purchase price for the sale of the Assets contemplated herein shall be Five Million and 00/100 Dollars (\$5,000,000.00), which shall be paid as follows: One Million and 00/100 Dollars (\$1,000,000.00) on the Closing Date, with Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Festus and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Crystal City and ten equal installment payments of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) each, without interest, with Two Hundred Fifty-Six Thousand and 00/100 Dollars (\$256,000.00) to be paid to Festus and One Hundred

Forty-Four Thousand and 00/100 Dollars (\$144,000.00) to be paid to Crystal City, with the first such payment due and payable on the first anniversary date of the Closing Date and successive payments due and payable on the successive anniversary dates of the Closing Date until fully paid. There shall be no prepayment penalty. To the extent required by art. VI, section 26 of the Missouri Constitution, such payments shall be subject to annual appropriation of funds by District. If District appropriates funds for such payments this Agreement shall remain in force and effect.

1.5 Closing. The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on, \_\_\_\_\_, 2024, or at such other time, date, and place as Festus, Crystal City, the Commission and District may mutually agree upon in writing (“Closing Date”)

**Article II**  
**REPRESENTATIONS AND WARRANTIES OF COMMISSION**

Commission hereby represents and warrants to District as follows:

2.1 Authorization. Commission has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the Commission. This Agreement is a legal, valid, and binding obligation of the Commission.

2.2 No Violation. Neither the execution and delivery of this Agreement by Commission, the performance by Commission of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will: (i) violate any provision of the official policies of the Commission; or (ii) to the best knowledge of Commission, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which Commission is subject.

2.3 Litigation. There is no action, proceeding, or investigation pending or to the Commission’s knowledge threatened against or involving Commission or any of the Assets which, if determined adversely, could materially and adversely affect the Treatment Facility taken as a whole, and Commission is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the Treatment Facility taken as a whole.

2.4 No Warranties. The Assets sold hereunder are being sold “AS IS, WHERE IS” and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of Commission; provided, however, that Commission does warrant its title to the Assets and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED

WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2.5 Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the Treatment Facility or the Assets; and (ii) the form of each of Commission's standard form written agreements or contracts which relates to or arises from the Treatment Facility or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.

2.6 Environmental Matters.

(a) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are currently and have been in compliance with all Environmental Laws.

(b) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are in material compliance with all environmental permits necessary for the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets and all such environmental permits are in full force and effect and shall be maintained in full force and effect by Commission through the Closing Date in accordance with all Environmental Laws; and Commission is not aware of any condition, event or circumstance that might result in noncompliance with any environmental permit or prevent or impede, after the Closing Date, the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets.

(c) Commission has not received from any person any: (i) environmental notice or environmental claim with respect to the Treatment Facility or the Assets; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.

(d) To the knowledge of Commission, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the Closing in connection with the operation or continued operation of the Treatment Facility or the ownership or use of the Assets in a manner consistent with current operation thereof by Commission, except for any permit, transfer, registration, or similar fees associated with any required approvals. Commission has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the Treatment Facility.

(e) The Treatment Facility has, to Commission's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous

Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.

2.7 Certain Due Diligence Material. Prior to the date of this Agreement, Commission has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:

(a) The deeds and other instruments (as recorded) by which Commission acquired the Treatment Facility and all title insurance policies, opinions, abstracts, and surveys in the possession of Commission with respect to such parcels.

(b) A listing of all easements or similar instruments under which Commission is the grantee where the easement or real property right evidenced is utilized in any manner by Commission for the placement, maintenance, repair, operation, or improvement of the Treatment Facility.

(c) All environmental reports and investigations that Commission owns, has obtained, or has ordered with respect to the Treatment Facility or the Assets.

(d) A complete inventory of all tangible personal property owned or leased by Commission and used in connection with the Treatment Facility;

(e) Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the Treatment Facility;

(f) All certificates of occupancy and other governmental licenses or approvals relating to any portion of the Treatment Facility, including any necessary operating permits and all other Permits;

(g) Any service records or bills for repairs to any part of the Treatment Facility for the prior three (3) years;

(h) All warranties, if any, relating to the Treatment Facility; and

(i) All reports or documentation available to Commission to support the cost basis of the Assets.

2.8 Disclosure. No representation or warranty by Commission in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.9 Brokers and Agents. No broker, agent or representative of Commission has any agreement or contract with Commission entitling such broker, agent or representative to

any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF DISTRICT**

District hereby represents and warrants to Commission as follows:

3.1 Corporate Organization. District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.

3.2 Authorization. District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.

3.3 No Violation. Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.

3.4 Title to Assets. Title to and risk of loss, destruction or damage to the Assets shall pass to District on the Closing Date, subject to the rights of the Commission under any easement document.

3.5 Inspection of Assets. District has inspected the Assets and is satisfied with the condition of the Assets subject to the acknowledgments in Section 2.5.

### **Article IV ADDITIONAL COVENANTS**

4.1 Closing Documents.

(a) On the Closing Date, Commission shall deliver or cause to be delivered the following to District:

- (i) If and when possible, a duly executed General Warranty Deed for all real property, including but, not limited to, the Treatment Facility at 355 County Road, Crystal City, MO 63019, County Locator Number Parcel IDs: 19-3.0-08.0-2-010-006, 19-3.0-08.0-2-010-007, and 19-3.0-08.0-2-010-008 . The Parties understand said parcels may have such deed or other restrictions as would prevent them from being transferred. The Parties will negotiate in good faith to transfer District such easement rights

as will provide District with unfettered and unchallengeable access to and control of said parcels. In the event the Parties determine the restrictions have been removed and the parcels may be transferred, the Parties shall cause to be delivered a General Warranty Deed to the District; and

- (ii) Bill of Sale, Easements, General Assignment conveying the Assets to District;
- (iii) Copies of or access to all books and records of Commission with respect to the construction, operation, billings, and permits issued with respect to the Treatment Facility; and
- (iv) Certified resolutions or ordinances of the Commission authorizing this Agreement and the transactions contemplated hereby.

(b) On the Closing Date, District shall deliver the following to Commission: certified resolutions of the Board of Trustees of District authorizing this Agreement and the transactions contemplated hereby.

4.2 Each party is a public entity and carries adequate insurance. Nothing in this Agreement shall constitute or be construed as a waiver of sovereign immunity, official immunity, good faith immunity or any other immunities or defenses available under state law.

4.3 Indemnity. To the extent permitted by law, the Commission agrees to indemnify, defend, and hold harmless District from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with the operation or management of the Treatment Facility prior to the Closing Date, any agreements entered into by Commission that are not expressly identified and assumed herein by District, including, but not limited to, any agreement for the operation, maintenance, repair or improvement of the Treatment Facility, and events or occurrences or based on the condition of the Treatment Facility before the Closing Date. District agrees to indemnify, defend, and hold harmless Commission from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with events or occurrences or based upon the condition of the Treatment Facility arising after the Closing Date.

4.4 Conduct of Business Prior to the Closing. From the date of this Agreement until the Closing, except as otherwise provided in this Agreement or consented to in writing by District (which consent shall not be unreasonably withheld or delayed), Commission shall (i) operate the Treatment Facility in the ordinary course of operations consistent with past practice; and (ii) use reasonable best efforts to maintain and preserve intact the Treatment Facility and its operations and to preserve the rights, franchises, goodwill and relationships of the employees, customers, suppliers, regulators, and others having relationships with the Treatment Facility. Without limiting the foregoing, from the date hereof until Closing, Commission shall:

- (a) maintain the Treatment Facility and the Assets in the ordinary course of operations but, in any event consistent with good utility practices and applicable law, including, but not limited to, maintenance, repair, replacement, or changes to the Assets;
- (b) pay or otherwise satisfy in the ordinary course of operations all of its liabilities and obligations;
- (c) confer with District prior to implementing operational decisions of a material nature;
- (d) respond within five (5) days to reasonable inquiries of District concerning the status of the Treatment Facility, operations, and finances;
- (e) keep in full force and effect, without amendment, assigned contracts and all material rights relating to the Treatment Facility;
- (f) comply with all applicable law and contractual obligations applicable to the operations of the Treatment Facility;
- (g) continue in full force and effect the Treatment Facility's insurance coverage;
- (h) cooperate with District and assist District in identifying the consents, authorizations, orders, approvals, permits, governmental orders, declarations, or filings with, or notices to, all governmental authorities required by District to operate the Treatment Facility and own the Assets from and after the Closing and either transferring existing governmental authorizations of Commission to District, where permissible, or obtaining new governmental authorizations for District;
- (i) upon request from time to time, execute and deliver all documents, make all truthful oaths, testify in any legal or administrative proceedings, and do all other acts that may be reasonably necessary or desirable in the opinion of District to consummate the contemplated transactions, all without further consideration;
- (j) maintain all books and records of Commission relating to the Treatment Facility in the ordinary course of operations;
- (k) unless otherwise agreed to by District, complete all construction work on any new facilities such that no work will be in progress at Closing and pay any and all outstanding invoices related to such work prior to Closing;
- (l) give District prompt notice of any event or condition of any kind learned by Commission between the date of this Agreement and the Closing pertaining to and adversely affecting the Assets, excepting events or conditions affecting the wastewater utility business generally; and

(m) perform all of its obligations under all existing contracts.

4.5 Access to Information and Investigation. From the date of this Agreement until the Closing:

(a) Commission shall, upon reasonable notice and during normal operating hours, (i) afford District full and free access to and the right to inspect the Treatment Facility and Assets, and other documents and data related to the Treatment Facility; (ii) furnish District with such financial, operating, and other data and information related to the Treatment Facility as District may reasonably request.

(b) Without limiting the foregoing, District shall, upon reasonable notice, and at District's sole cost and expense, have the right to enter upon Commission's property to conduct physical inspections and testing of the facilities, surveys, environmental assessments and sampling, site analysis, engineering studies, and other investigations it deems reasonably necessary with respect to the Treatment Facility and the Assets.

(c) Any investigation pursuant to this Section 4.5 shall be conducted in such manner as not to interfere unreasonably with the conduct of the operations of the Treatment Facility or the business of Commission. No investigation by District or other information received by District shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Commission in this Agreement.

4.6 Notice of Certain Events.

(a) From the date of this Agreement until the Closing, Commission shall promptly notify District in writing if it becomes aware of:

- i. any fact, circumstance, event, or action the existence, occurrence or taking of which: (A) has, had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect; or (B) has resulted in, or could reasonably be expected to result in, any representation or warranty made by Commission hereunder not being true and correct;
- ii. any notice or other communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement;
- iii. any notice or other communication from any governmental authority in connection with the transactions contemplated by this Agreement; and
- iv. any action commenced or, to Commission's knowledge, threatened against, relating to, or involving or otherwise affecting the Treatment



Facility that, if pending on the date of this Agreement, would have been required to have been disclosed or that relates to the consummation of the transactions contemplated by this Agreement.

(b) District's receipt of information pursuant to this Section 4.6 shall not operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by Commission in this Agreement and shall not be deemed to amend or supplement the schedules to this Agreement.

4.7 Employees. Prior to the Closing, Commission will either terminate or reassign the employment of all of its employees and independent contractors in connection with the System, at its sole risk and expense. Commission shall bear any and all obligations and liability under the WARN Act resulting from employment losses pursuant to this Section.

4.8 District may, but will not be obligated to, offer employment to any of Commission's former or current employees but will not assume any employee-related liabilities prior to the Closing. In the event District retains any current employees of Commission, District will assume employee-related liabilities arising after the Closing Date.

## **ARTICLE V CONDITIONS PRECEDENT**

5.1 Conditions of Commission. The obligations of Commission hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by Commission in writing) on or prior to the Closing:

(a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and

(b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement.

5.2 Conditions of District. The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

(a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;

(b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement;

(c) Commission shall have delivered to District a General Warranty Deed, Bill of Sale, Assignment of Easements, and General Assignment conveying the Treatment Facility and the Assets to District;

## ARTICLE VI MISCELLANEOUS

6.1 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

6.2 Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. Commission and District agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker, or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

6.3 Assignment. Neither Party shall assign this Agreement or any of its rights and obligations hereunder.

6.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their legal representatives, successors and permitted assigns.

6.5 Notices. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road

Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

(c) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(d) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019  
Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

6.6 Entire Agreement. This Agreement, along with the Definitive Agreements identified in that certain Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City (“Definitive Agreements”), the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and

understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

6.7 Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

6.8 Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

6.9 Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

6.10 Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

6.11 Attorney Fees. In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

6.12 Cooperation. District and Commission will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date Commission will at the request of District, but without further consideration, sale,

transfer, and conveyance, take such other and further action as District may reasonably request in order to more effectively vest in District and put District in possession of the Assets and assure to District the benefits thereof.

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

Samuel F. Richards

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

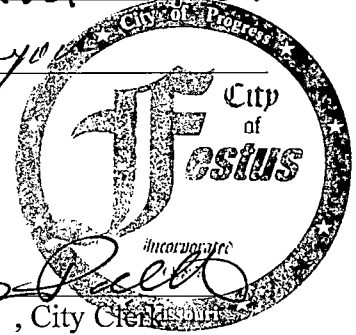
By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Mayor

SEAL

SEAL



ATTEST:  
\_\_\_\_\_  
, Secretary

ATTEST:  
[Signature]  
, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY  
SEWAGE COMMISSION

\_\_\_\_\_

Walter Lanier

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

By: Matthew Unem

Title: \_\_\_\_\_

Title: Commissioner

SEAL

SEAL

ATTEST:  
\_\_\_\_\_  
, Secretary

ATTEST:  
[Signature]  
, Secretary

**MASTER AGREEMENT**  
**REGARDING SEWAGE COLLECTION AND TREATMENT SYSTEMS**  
**OF FESTUS AND CRYSTAL CITY**

This Master Agreement Regarding Sewage Collection and Treatment (hereinafter the “Agreement”) is made and entered into on this \_\_\_\_\_ day of December, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Crystal City is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by ordinances adopted by Festus and Crystal City pursuant to Sections 70.210 through 70.320, RSMo., and is authorized to enter into agreements pursuant to Section 70.260.2, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus, whose municipal boundaries are set forth in the attached Exhibit “1” (“Festus Boundaries”), owns, maintains, and operates a sewage collection system (“Festus Collection System”) that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City, whose municipal boundaries are set forth in the attached Exhibit “2” (“Crystal City Boundaries”), owns, maintains, and operates a sewage collection system (“Crystal City Collection System”) that collects sewage from various improved properties located within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District’s boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, Festus, Crystal City, the Commission, and the District deem it to be in the best interests of the of the citizens in their respective territories that the District's territory be expanded to include the Festus Boundaries and the Crystal City Boundaries and that the District acquire, maintain, and operate the Treatment Facility and maintain and operate the Festus Collection System and the Crystal City Collection System.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, Festus, Crystal City, the Commission and the District agree as follows:

1. Contemporaneous with the execution of this Agreement, the Commission and District shall enter into an Asset Transfer Agreement, which shall be substantially similar to the Asset Transfer Agreement attached hereto as Exhibit "3" and incorporated herein by reference.
2. Contemporaneous with the execution of this Agreement, Festus and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "4" and incorporated herein by reference.
3. Contemporaneous with the execution of this Agreement, Crystal City and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "5" and incorporated herein by reference. Hereinafter, Exhibits "3", "4", "5", and this Agreement shall be referred to as "Definitive Agreements."
4. District, Festus, Crystal City, and the Commission will cooperate after the Effective Date in fulfilling the terms of the Definitive Agreements. Each Party further agrees that it will cooperate with the others in the orderly transition of the "Assets," as defined in the Asset Transfer Agreement set forth in Exhibit "3". From time to time after the Effective Date, the Parties will, at the request of District, but without further consideration, take such other and further action as District may reasonably request in order to fulfill the terms of the Definitive Agreements.
5. Termination of Commission. After Closing, the Parties shall cause the Commission to be terminated or dissolved at such time as is mutually agreeable to the Parties. Upon termination of the Commission, District shall distribute any future payments to the Cities in accordance with section 1.4 of the Asset Transfer Agreement.
6. Right of First Refusal. Festus and Crystal City shall, operating collectively or individually, have the right of first refusal, should District wish to sell the Treatment Facility, any land transferred subject to this Agreement, and/or the collection system within either or both cities at a later date. To the extent a deed is recorded transferring any real estate to the District, the Parties agreement that such deed shall contain a stipulation on any transfer being subject to a right of first refusal in favor of the cities.
7. Representation on the District's Board of Trustees. Festus and Crystal City acknowledge that seats on the District's Board of Trustees are typically selected by the County Council of Jefferson County, and that the County Council solicits nominations from the District. The District agrees to use all diligent, reasonable, and lawful efforts to nominate and seek the selection of one of the seats on its Board of Trustees is filled by a qualified resident of either the City of Festus or Crystal City, or a representative selected by the mutual agreement of the Parties, provided that nothing herein shall affirmatively obligate the District to file a lawsuit to enjoin enforcement of any duly promulgated law or ordinance to alter the method of appointment to the District's Board of Trustees, or to lobby for a change in state law. If Missouri statutes permit or are amended subsequent to the execution of this Agreement in a manner that would permit the

District to exercise greater control over nominees, or a court of competent jurisdiction determines that the District or an officer of the District has authority to fill vacancies on its Board of Trustees, the District will fill such vacancy with a resident of either the City of Festus or Crystal City, or a resident selected by mutual agreement of the Parties. This section 7 shall be binding upon the District for only so long as the number of customers served within the city limits of Festus and Crystal City exceeds fifteen percent of the total number of customers served by the District. The obligations under this section 7 shall survive the termination of both System Operation and Cooperation Agreements between the District and the Cities due to the acquisition of the Systems of both Cities pursuant to the System Operation and Cooperation Agreements.

8. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

9. Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby.

10. Assignment. No Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Parties.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

12. Notice. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019



Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

(c) If to the Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(d) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

13. Entire Agreement. This Agreement along with the other Definitive Agreements constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

14. Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

15. Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

16. Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and

the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

17. Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

18. Attorney Fees. In the event it becomes necessary for any Party to file a suit to enforce this Agreement or any provision contained herein, and any Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

19. Authority. Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated Ordinance or Resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

20. Preamble. The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein and all conditions precedent shall be binding on the parties as if expressly set forth in the terms and conditions of this Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

Samuel F. Richards

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

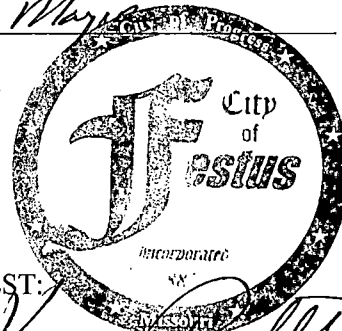
By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Physician

SEAL

SEAL



ATTEST:

ATTEST:

\_\_\_\_\_

[Signature]

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

Matthew Unrain

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

By: Matthew Unrain

Title: \_\_\_\_\_

Title: Commissioner

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_

[Signature]

, Secretary

, Secretary

**Exhibit 1**

[ *insert Festus Boundary Map* ]

**Exhibit 2**

[ *insert Crystal City Boundary Map* ]

**Exhibit 3**

[ *insert Asset Transfer Agreement* ]

**Exhibit 4**

[ *insert Festus System Operation and Cooperation Agreement* ]

**Exhibit 5**

[ *insert Crystal City System Operation and Cooperation Agreement* ]



**CONFLICT WAIVER**

Lashly & Baer, P.C. (“**LB**”) and Brian J. Malone represent the City of Festus, Missouri (“**Festus**”) as general legal counsel and are representing Festus in connection with the sale of the wastewater treatment plant owned by the Festus-Crystal City Sewer Commission (the “**Commission**”), serving Festus and the City of Crystal City, Missouri (“**Crystal City**”), to the Jefferson County Public Sewer District (the “**District**”). Further, LB and Mr. Malone serve as special prosecutor in the Crystal City municipal division, and as special counsel regarding a subpoena served to Crystal City regarding case number 17JE-DR00017 in the Jefferson County Circuit Court.

LB and Mr. Malone have been asked by the Commission to represent its interest in the sale of the wastewater treatment plant to the District and defend it against any lawsuits filed in connection with the sale of the wastewater treatment plant.

It is the judgment of LB and Mr. Malone that LB’s and Mr. Malone’s representation of the Commission in the sale of the wastewater treatment plan to the District will not affect LB’s and Mr. Malone’s ability to serve as general legal counsel for Festus and/or represent Festus in sale of the wastewater treatment plan.

With an opportunity to review with independent legal counsel, Festus consents to LB’s and Mr. Malone’s representation of the Commission in connection with the sale of the wastewater treatment plant to the District and, if necessary, to defend the Commission against any lawsuits filed against it in connection with the sale of the wastewater treatment plant.

With an opportunity to review with independent legal counsel, the Commission agrees that LB and Mr. Malone may represent the Commission in connection with the sale of the wastewater treatment plant to the District while continuing to represent Festus in general legal matters and representing Festus in the sale of the wastewater treatment plan.

**Festus-Crystal City Sewer Commission**

**City of Festus**

\_\_\_\_\_  
Signature

*Samuel F. Richards*  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

*Samuel F. Richards*  
\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

*Mayor*  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

*January 23, 2024*  
\_\_\_\_\_  
Date

## CONFLICT WAIVER

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With an opportunity to review with independent legal counsel, the Commission agrees that LB and Mr. Malone may represent the Commission in connection with the sale of the wastewater treatment plant to the District while continuing to represent Festus in general legal matters and representing Festus in the sale of the wastewater treatment plan.

### Festus-Crystal City Sewer Commission

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

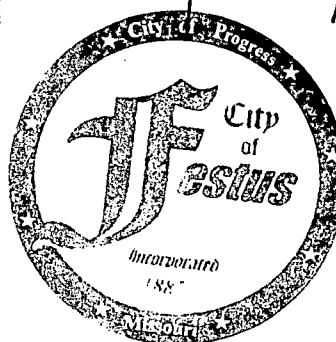
### City of Festus

*Samuel F. Richards*  
\_\_\_\_\_  
Signature

*Samuel F. Richards*  
\_\_\_\_\_  
Name (printed)

*Mayor*  
\_\_\_\_\_  
Title

*January 23, 2024*  
\_\_\_\_\_  
Date



---

(AREA ABOVE LINE FOR RECORDERS OFFICE USE ONLY)

TITLE OF THE DOCUMENT: ASSIGNMENT OF EASEMENT RIGHTS

DATE OF THE DOCUMENT:

ALL GRANTORS' NAMES: CITY OF FESTUS

ALL GRANTORS, ADDRESSES:

GRANTORS' DEED RECORDING:

GRANTEES' NAME: **JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**  
PO Box 632, 4629 Yeager Rd.  
Hillsboro, MO 63051

ADDRESS OF PROPERTY: VARIOUS

COUNTY LOCATOR NUMBER: VARIOUS

MUNICIPALITY: Festus, MO

ASSIGNMENT OF EASEMENT RIGHTS

This Assignment of Easement Rights ("Assignment") is made as of this 15 day of February 15, 2024 by and between the city of Festus ("Assignor") and Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the State of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo. ("Assignee") (jointly referred to hereafter as "Parties").

For and in consideration of certain Definitive Agreements between the Parties, dated February 15, 2024, by and between Assignor and Assignee, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Assignor hereby assigns, grants, conveys, and transfers to Assignee, and Assignee accepts, all right, title, and interest in and to any and all easements, rights-of-way, and permits within the city limits of Festus which were granted to Assignor for sewer purposes.

In Witness Whereof, the parties have caused this Assignment to be executed in person or by their duly authorized representatives as of the day and year first above written.

CITY OF FESTUS

ATTEST:

[Signature]  
Clerk

BY: Samuel F. Richards

Samuel F. Richards, Mayor

02-15-2024  
Date



JEFFERSON COUNTY PUBLIC SEWER DISTRICT

ATTEST:

[Signature]  
Secretary

BY: \_\_\_\_\_

[Signature], Chairman


2-15-2024  
Date

STATE OF MISSOURI )

COUNTY OF JEFFERSON )  
 ) ss.

On this 15<sup>th</sup> day of February, 2024, before me, the undersigned, a Notary Public in and for the said County and State, appeared the above signatories, to me personally known, who being by me duly sworn did say that they are the officials so designated therein and that they have the authority to sign and seal said instrument and that such actions are their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal in said County and State, the day and year in this certificate last above written.

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

My commission expires:

March 14, 2026



## CLOSING AGREEMENT

Pursuant to the Definitive Agreements, as that term is defined in the Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City, the parties (hereinafter “Parties”), Jefferson County Public Sewer District (the “District”), the City of Festus (“Festus”), the City of Crystal City (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), are to set the closing contemplated in said Definitive Agreements (the “Closing”) on a mutually agreed upon date. As such, the Parties hereto agree as follows:

1. Closing shall occur on or before 5:00 pm on February 15, 2024. At Closing, the District shall tender payment of the amounts set forth in Section 1.4 of the Asset Transfer Agreement to Crystal City and Festus in the amounts shown therein. Upon receipt of the payments, Crystal City, Festus and the Commission shall execute or cause to be executed and deliver the Easement Deeds, Bill of Sale, Assignment of Easements and any other closing documents previously agreed upon to the District. Additionally, the parties shall each execute the Definitive Agreement and furnish the other parties with executed copies of the same.
2. Festus shall bill Festus’ sewer customers for sewer services furnished through the date of Closing (February 15, 2024). Additionally, Festus shall include in Festus’ billing to the customers a letter from Festus and the District advising the customers of the transfer of the system to the District. Thereafter, said customers shall be billed by the District for said sewer services.
3. Crystal City shall bill Crystal City’s sewer customers for sewer services furnished for the entire month of February.
4. The Commission shall be responsible for any costs associated with operation, maintenance and repairs of the treatment plant, including but not limited to, any charges by Alliance Water Resources and any utility expenses, through February 29, 2024. Festus and Crystal City shall be responsible for any costs associated with operation, maintenance or repair of their respective collection systems through February 29, 2024. The District shall thereafter be responsible for said costs for the operation of said treatment plant and collection systems, as described in the Definitive Agreements.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

*Peter Birkos*

*Samuel F. Richards*

By: *Peter Birkos*

By: *Samuel F. Richards*

Title: *Chairman*

Title: *Mayor*

SEAL

SEAL

ATTEST:

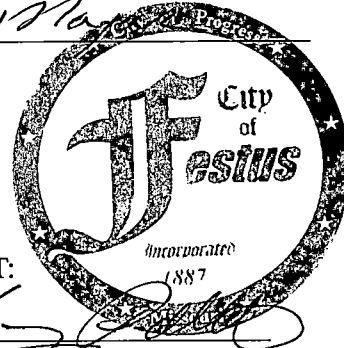
*Ernest [Signature]*

, Secretary

ATTEST:

*[Signature]*

, City Clerk



FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

*[Signature]*

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

By: *Greg Camp*

Title: \_\_\_\_\_

Title: *Acting President*

SEAL

SEAL

ATTEST:

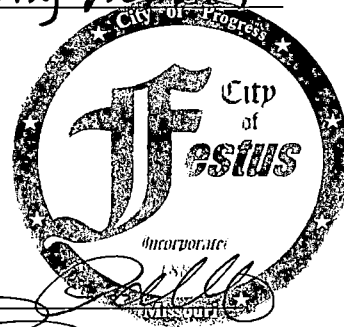
\_\_\_\_\_

, Secretary

ATTEST:

*[Signature]*

, Secretary



## BILL OF SALE

THIS BILL OF SALE, the undersigned, the city of Festus (“Seller”), for and in consideration of the “Definitive Agreements,” dated Feb. 15, 2024, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns (“Buyer”), all of Seller’s right and interest in fixtures and other items of personal property (“Property”) that are owned by the Seller and used in connection with the provision of sewer collection services within the city limits, including but not limited to those identified on Exhibit A, attached hereto and incorporated herein by reference, said fixtures and items of Property unto Buyer forever. It is the understanding of the Parties that Exhibit A may be amended and/or supplemented as necessary to accomplish the purposes of the Definitive Agreements.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an “AS IS” basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

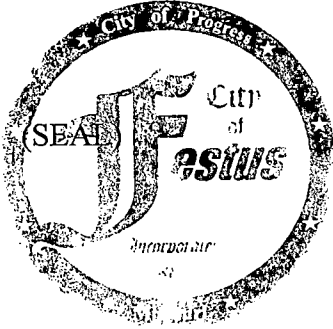
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EXECUTED effective the 15 day of February, 2024.

**SELLER:**

CITY OF FESTUS



By: Samuel F. Richardson  
Mayor

**ATTEST:**

K. S. Dault

AGREED AND ACCEPTED effective the 15 day of Feb, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

By: Peter Birkes  
Peter Birkes, Chairman

**ATTEST:**

Evelyn G. Cross  
Secretary

**BILL OF SALE**

THIS BILL OF SALE, the undersigned, the Festus-Crystal City Sewage Commission (“Seller”), for and in consideration of the “Definitive Agreements,” dated Feb 15, 2024, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns (“Buyer”), all of Seller’s interest in the fixtures and other items of personal property (“Property”) that are located at and/or constitute a portion of the Seller’s sanitary sewage treatment plant located at 355 County Road, Crystal City, MO 63019; to have and to hold, all and singular, said fixtures and items of Property unto Buyer forever.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an “AS IS” basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

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EXECUTED effective the 15 day of February, 2024.

**SELLER:**

FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION



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

**ATTEST:**

\_\_\_\_\_

AGREED AND ACCEPTED effective the 15 day of Feb, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

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

Peter Birkes, Chairman

**ATTEST:**

\_\_\_\_\_  
  
Secretary

## EXHIBIT A - RATE ATTACHMENT

As set forth in the Sewer System Operation and Cooperation Agreement (the "Agreement"), the Operator shall set the rates for the first two years after the Effective Date of the Agreement no higher than the rates specified in Attachment A. During this two-year period, the Operator shall bill customers based on the actual usage determined each month. By way of example, if the customer utilizes 4,000 gallons of water in a given month, that customer's bill shall be calculated as follows:

Base Rate:		\$ 4.77
Usage:	4,000 gallons x \$3.51 per 1,000 =	<u>\$14.04</u>
Customer's Bill:		\$18.81

After the conclusion of this two-year period, the Operator agrees to utilize winter averaging when it bills the residential customers residing in the City. Winter averaging is determined by calculating the average monthly water usage during December, January and February and utilizing that three-month average for the total customer usage for each of the next twelve months. By way of example:

December Usage:	3,000 gallons
January Usage:	4,000 gallons
February Usage:	2,000 gallons
Winter Average:	3,000 gallons per month for the next twelve (12) months

Winter averaging shall not apply to non-residential customers in the City. Winter averaging will not be utilized for customers that do not have winter average data (new customers) or those that are not home during the winter months. The Operator shall give the City sixty (60) days written notice prior to discontinuing the use of winter averaging.

RESOLUTION NO.

2024-01

**A RESOLUTION OF THE FESTUS – CRYSTAL CITY SEWER COMMISSION, ASSENTING TO AN EXTENSION OF CERTAIN DATES AND DEADLINES LISTED IN THE LETTER OF INTENT (LOI) WITH THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT, THE CITY OF FESTUS, THE CITY OF CRYSTAL CITY, TO SELL THE WASTEWATER TREATMENT PLANT TO THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT**

WHEREAS, the Festus-Crystal City Sewerage Commission (the “Commission”), is the owner of a wastewater treatment plant (the “Plant”) serving the City of Festus, Missouri (the “Festus”) and the City of Crystal City, Missouri (“Crystal City”); and

WHEREAS, the governing bodies of Festus, Crystal City, and the Commission have approved a letter of intent to enter into an agreement with the Jefferson County Public Sewer District (the “District”) to sell the Plant to the District, and such letter of intent was subsequently amended after approval by each of the Parties’ respective governing bodies; and

WHEREAS, the amended letter of intent provides for an anticipated closing date of December 31, 2023, which may be extended by mutual agreement of the parties; and provides for exclusive negotiations among the parties until December 31, 2023; and

WHEREAS, the Parties continue to negotiate, and anticipate continuing to do so past December 31, 2023;

WHEREAS, the Parties believe that a mutual agreement to extend the closing deadlines and exclusivity period until January 31, 2024 would best facilitate further negotiations.

**NOW, THEREFORE, BE IT RESOLVED BY THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AS FOLLOWS:**

SECTION I. The Board of Commissioners of the Festus-Crystal City Sewer Commission hereby assents to extending the deadline for closing set forth in paragraph 3 of the letter of intent from on or before December 31, 2023 to on or before January 31, 2024, and to extending the exclusive negotiation period in paragraph 13 of the letter of intent from December 31, 2023 to January 31, 2024. Either date may be extended by mutual agreement of the parties.

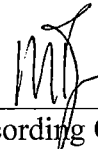
SECTION II. This Resolution shall be in full force and effect upon its passage by the Commission.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF January, ~~2023~~ 2024

  
\_\_\_\_\_  
Matthew Unrein, Chairman

  
\_\_\_\_\_  
Daniel Turner, Board Member

ATTEST:

  
\_\_\_\_\_  
Recording Clerk

**RESOLUTION NO.                    2024-02**

**A RESOLUTION OF THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AUTHORIZING AND DIRECTING THE CHAIRMAN TO EXECUTE AN ENGAGEMENT LETTER WITH LASHLY & BAER, P.C. TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE SALE OF THE WASTEWATER TREATMENT PLANT.**

WHEREAS, the City of Festus, Missouri (“Festus”), the City of Crystal City, Missouri (“Crystal City”), and the Festus-Crystal City Sewerage Commission (the “Commission”), are the owners of a wastewater treatment plant (the “Plant”); and

WHEREAS, the Jefferson County Public Sewer District (the “District”) has expressed interest in purchasing the Plant and its associated equipment, real property, and appurtenances; from Festus, Crystal City; and the Commission; and

WHEREAS, the Commission has identified the need to retain a law firm to provide legal services to it related to the sale of the Plant; and

WHEREAS, the Commission finds that it is appropriate and in the best interests of the Commission and the residents served by the Commission to execute the Engagement Letter attached hereto as Exhibit A, in order to retain the law firm of Lashly & Baer, P.C. to provide legal services to it in connection with the sale of the Plant.

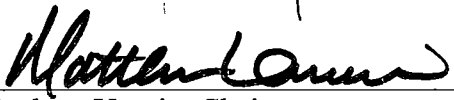
**NOW, THEREFORE, BE IT RESOLVED BY THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AS FOLLOWS:**

SECTION I. The Chairman of the Festus-Crystal City Sewer Commission is hereby authorized and directed to execute, for and on behalf of the Commission, an Engagement Letter with Lashly & Baer, P.C. for legal services in connection with the sale of the Plant, the terms, and conditions of which shall be in substantial compliance with the attached Exhibit A, which is incorporated herein by reference.

SECTION II. The Chairman and other board members of the Commission are authorized to take such administrative steps reasonably necessary to comply with the intent of this Resolution.


SECTION III. This Resolution shall be in full force and effect upon its passage by the Commission.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF January, 2024

  
\_\_\_\_\_  
Matthew Unrein, Chairman

  
\_\_\_\_\_  
Daniel Turner, Board Member

ATTEST:

  
\_\_\_\_\_  
Recording Clerk



**EXHIBIT A**

[ *insert Letter of Engagement* ]

**A RESOLUTION OF THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AUTHORIZING THE CHAIRMAN TO EXECUTE AGREEMENTS WITH THE JEFFERSON COUNTY PUBLIC SEWER DISTRICT, THE CITY OF FESTUS, AND THE CITY OF CRYSTAL CITY TO TRANSFER THE SEWAGE TREATMENT PLANT OWNED AND OPERATED BY THE FESTUS-CRYSTAL CITY SEWAGE COMMISSION FOR THE BENEFIT OF THE CITIES TO THE JEFFERSON PUBLIC SEWER DISTRICT**

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri Commission, is a joint municipal utility commission established by ordinances adopted by the City of Festus (“Festus”) and the City of Crystal City (“Crystal City”) pursuant to Sections 70.210 through 70.320, RSMo, and is authorized to enter into agreements pursuant to Section 70.260.2(4), RSMo, for the purposes set forth herein; and

**WHEREAS**, pursuant to Article VI, Section 16 of the Missouri Constitution and Section 70.220, RSMo, municipalities and political subdivisions of the State of Missouri are empowered to enter into contracts with one another for common services; and

**WHEREAS**, the Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668, RSMo, and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640, RSMo, and is authorized to enter into agreements pursuant to Section 204.618, RSMo for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77, RSMo; and

**WHEREAS**, Crystal City is a third class municipal corporation formed pursuant to Chapter 77, RSMo; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus owns, maintains, and operates a sewage collection system (“Festus Collection System”) that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City owns, maintains, and operates a sewage collection system (“Crystal City Collection System”) that collects sewage from various improved properties located within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District's boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, the Commission finds and determines that it would be in the best interest of the communities served by the Treatment Facility for the Treatment Facility to be sold and conveyed to the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE FESTUS-CRYSTAL CITY SEWER COMMISSION, AS FOLLOWS:**

SECTION I. The Board of Commissioners of the Festus-Crystal City Sewer Commission hereby approves the agreements in substantially the forms set forth as Exhibits hereto to effectuate the transfer of the Treatment Facility to the Jefferson County Public Sewer District, and authorizes the Chairman to execute on behalf of the Commission the following agreements:

- (a) a **Master Agreement Regarding Sewage Collection and Treatment Systems of Festus an Crystal City** among the District, the Commission, Festus, and Crystal City, in substantially the form set forth in Exhibit A, attached hereto and incorporated by reference; and
- (b) an **Asset Transfer Agreement** among the District, the Commission, Festus, and Crystal City, in substantially the form set forth in Exhibit B, attached hereto and incorporated by reference.

SECTION II. The Chairman and other board members of the Commission are authorized to take such administrative steps reasonably necessary to comply with the intent of this Resolution, and to take all actions authorized by the agreements authorized by Section I of this Resolution. The Chairman, board members of the Commission, and other officials and agents of the Commission are authorized to execute any documents, including but not limited to easements, lease agreements, transfers of real estates, and other documents or agreements among the Parties reasonably necessary to effectuate the intent of this Resolution.

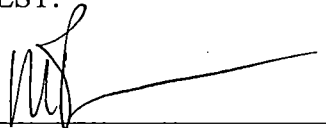
SECTION III. This Resolution shall be in full force and effect upon its passage by the Commission.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF January, 2024

  
\_\_\_\_\_  
Matthew Unrein, Chairman

  
\_\_\_\_\_  
Daniel Turner, Board Member

ATTEST:

  
\_\_\_\_\_  
Recording Clerk

**Exhibit A**

[ *insert Master Agreement* ]

**Exhibit B**

[ *insert Asset Transfer Agreement* ]



**LASHLY & BAER, P.C.**  
ATTORNEYS AT LAW

BRIAN J. MALONE  
Licensed in Missouri  
DIRECT: 314 436.8375  
[bmalone@lashlybaer.com](mailto:bmalone@lashlybaer.com)

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ILLINOIS  
20 East Main Street  
Belleville, IL 62220-1602  
TEL: 618 233.5587  
By Appointment Only

December 14, 2023

Board of Commissioners  
Festus-Crystal City Sewage Commission  
355 County Road  
Crystal City, MO 63019

**Re: Engagement of Lashly & Baer, P.C. as Special Counsel**

Dear Commissioners:

We are pleased that you have chosen Lashly & Baer, P.C. to provide legal services to the Festus-Crystal City Sewage Commission (the "Commission"). We appreciate the opportunity to represent you.

The purpose of this engagement letter is to confirm in writing the scope, terms and conditions of our representation and to request that you acknowledge your agreement by executing this engagement letter in the space provided below. By means of this Agreement, you are engaging the Firm to perform the following services: assist the Commission with matters relating to the sale of the Sewage Treatment Plant operated by the Commission. Subject to our mutual written agreement, you may also engage us to perform additional services in the future.

You represent that you do not know of any related legal matters that would require our legal services under this Agreement. If such matters arise later, you agree that this Agreement does not apply to any related legal matter. Therefore, a separate Agreement for provision of services and payment for those services will be required if you wish to engage Lashly & Baer, P.C. to perform legal services pertaining to such matters.

**Limited Scope of Representation:** The scope of our representation does not include advice or services regarding accounting, tax, personal financial matters or business management, and related non-legal matters and advice. If you wish for us to consult with other professionals retained by you regarding this matter, we will communicate with you in writing to confirm the scope of such consultations prior to initiating same.

**Fees and Billing Statements:** We will submit a bill to you on a monthly basis. Expenses will be separately stated on the bill and our fees will be charged as indicated below. Our billing statements are due and payable upon receipt, and are overdue if not paid by the due date set forth on the statements. We ask that you review each statement promptly when rendered and bring any questions to our attention within thirty (30) days, after which time all statements shall be deemed accurate, fair and reasonable.

You are responsible for payment of all legal fees, expenses, and disbursements, regardless of whether or not any money is recovered on your behalf through a settlement or judgment. Please

December 14, 2023

Page 2

see the "Expenses" and "Late Payment and Failure to Pay" provisions of this Agreement for further information. To the extent we are successful in recovering a settlement or judgment on your behalf, all legal fees, costs and expenses not previously paid by you will be deducted from the gross amount recovered in the settlement or judgment.

We will provide you with a summary statement listing these deductions at the time of any payment to you from a settlement or judgment.

Brian J. Malone, a shareholder with Lashly & Baer, will have primary responsibility for representing the Commission. Other individuals may assist with this matter from time to time or even assume primary responsibility. The use of associates, paralegals, and summer associates results in a direct savings to you, since they can more economically perform tasks which do not require the attention of a shareholder. If you have any questions or concerns regarding delegation of responsibilities and work between attorneys, please contact us to discuss these issues.

Charges for legal services will be billed at a rate of \$205 per hour, with hours to be billed in six minute increments.

It is our policy to describe services performed in a detailed manner so that you may be able to understand fully the services and the charges. If there are any questions relating to the services or the charges, we will be pleased to discuss them with you at the earliest possible time after receipt of the billing statement, since the matters will be freshest in our memory at that time. Accordingly, you agree to notify us in writing or email within 30 days of receiving our billing statement if you dispute any entry for legal services or charges on any billing statement. In the absence of any written objections thereto within 30 days of your receipt of a billing statement, you will be deemed to have accepted and acknowledged the billing statement as correct through the period covered by the billing statement.

In addition, if as a result of our engagement, we are required to produce documents or appear as a witness in connection with any governmental or regulatory examination, audit, investigation or other proceeding or any litigation, arbitration, mediation, or dispute involving you or any related persons, you are responsible for costs and expenses reasonably incurred by us (including professional and staff time at then-scheduled hourly rates and reasonable attorneys' fees and costs incurred by us).

**Expenses:** In the course of rendering services to you, it may be necessary for us to incur expenses for items such as, but not limited to, actual court costs, court reporters and deposition transcripts, investigative expenses and computerized legal research, costs for expert witnesses, substantial document reproduction, external delivery (overnight, special delivery service, express mail, postage) and courier services, photocopying, telephone calls, travel, lodging, meals, and overtime for Firm secretarial and other staff services. The actual expenses incurred will vary depending on the services that we provide to you. Certain expenses may include an adjustment, above cost, to cover our expenses in providing the billed service. However, expenses paid entirely to third parties, such as travel and lodging expenses, will be billed to you as our out-of-pocket costs.




December 14, 2023

Page 3

Expense items incurred on your behalf will be itemized separately and listed on our billing statements as "disbursements." Third-party expenses may be forwarded directly to you for payment. As is customary, expense disbursements may not be current at the time of final billing. Remaining disbursements, if any, will be billed at a later date.

On behalf of Lashly & Baer, we appreciate the opportunity to represent you in this matter. If this letter, and the attached Terms and Conditions, correctly set forth our mutual understanding, please sign and date the enclosed copy of this Agreement and return it to us.

LASHLY & BAER, P.C.


By:   
Brian J. Malone, Shareholder

BJM/lsc

By signing this Agreement, the Festus-Crystal City Sewage Commission confirms that it has read this Agreement, understands its provisions, and agrees to abide by it.

AGREED TO AND ACCEPTED BY:

FESTUS-CRYSTAL CITY SEWAGE COMMISSION

By:   
Printed Name: Matthew Linnin  
Title: Commissioner  
Date: 1-19-2024

**Lashly & Baer, P.C.**  
**TERMS AND CONDITIONS**

**Late Payment and Failure to Pay:** If you fail to pay our statements in full on or before the due date set forth on the statements, we reserve the right to assess you with a monthly service charge equal to 1% of all fees, expenses and disbursements that are past due. This monthly service charge will be billed to you at the end of each month in which a late payment occurs. In no event will the service charge be greater than that permitted by any applicable law. Failure to pay when due would ultimately result in our withdrawal from your case and other consequences as defined below.

In the event that we are required to file an action or proceeding to collect any late payment or assessed monthly service charge, you will be required to pay for all costs of collection, including without limitation all filing fees, third-party expenses and attorney fees incurred for our efforts in collecting such amounts. If we use our own attorneys or legal assistants to pursue such an action or proceeding, the fees charged shall be calculated on an hourly basis using the applicable hourly rates for the attorneys and legal assistants who perform such work.

In litigation matters in which a money judgment or settlement is rendered in your favor, we reserve the right to a lien on all proceeds thereof to the extent of any unpaid fees, expenses or disbursements as authorized by Section 484.130, Missouri Revised Statutes. Such a lien, if exercised, would operate in addition to, and not to the exclusion of, any other legal means to collect our fees and litigation costs incurred on your behalf. In this regard, we may file a "Notice of Attorney's Lien" and may record the Notice in the court file concerning your matter and/or in the office of the Recorder of Deeds in the County in which you have real estate. We may also assert a lien to any persons or entity holding property or monies on your behalf.

**Responsibilities of Law Firm and Client:** We will provide only legal services, as previously described in the "Scope of Representation" and "Limited Scope of Representation" sections of this Agreement. We will keep you apprised of developments and will consult with you as necessary to ensure the timely, effective, and efficient completion of our work. You acknowledge that we cannot guarantee either the outcome or the timing to complete legal services on your behalf.

You agree to be truthful and cooperative with us, to respond to our inquiries and communications promptly and to provide promptly all information known or available that may be relevant to our engagement. You will provide us with factual information and materials as we require in order to perform the foregoing services. You acknowledge and agree that you remain responsible for making all business or technical decisions and that you are not relying on us for accounting, tax, personal financial matters or business management, and related non-legal matters and advice. You also acknowledge that we are not responsible for investigating the character or credit of persons with whom you may be dealing.

As a matter of our professional responsibility and as long as in our judgment it will not substantively injure your position in this matter, we retain control over decisions affecting our reputation and professionalism. This discretion includes, among other decisions, whether to extend deadlines for opposing counsel; whether to cooperate with opposing counsel in scheduling or

December 14, 2023

Page 5

similar matters; and whether and how matters should be argued in correspondence, pleadings, or to a court or administrative body.

We also reserve the right to continue to represent or to undertake to represent existing or new clients in any matter that is not substantially related to our work on your matters, even if the business interests of such clients in other matters are competitive to you, so long as our representation of such clients and you does not create a conflict of interest under the ethical standards governing attorneys. We will not use or disclose any information that we have acquired about you in our representation of other clients.

We may provide to you newsletters or similar materials regarding general legal developments or matters of current interest. Similarly, we may invite you to attend seminars or symposia where legal topics are discussed. In our experience, such information or events are educational, because a well-informed client will be better able to make decisions about the need for future legal representation. However, it is understood that such communications do not constitute legal advice, and do not create an attorney-client relationship beyond the scope of the representation described herein.

It is your duty to keep us informed of your mailing address and other contact information. If, at any time during the course of this representation, your address becomes unknown or we are otherwise unable to contact you, we shall be permitted to withdraw from this representation by sending you a certified letter to your last known address and by depositing with the Clerk of the Court for the county of your last known residence any property owned by you in our possession, including but not limited to items of personal property, funds, and any portions of the actual client file that belong to you.

**Termination:** You may terminate this representation at any time with or without cause by notifying us in writing of your desire to do so. Upon receipt of the notice to terminate representation, we will cease all legal work on your behalf immediately and will have no duty to inform you of further developments or changes in law which may be relevant to such matter. Further, unless you and the Firm agree in writing to the contrary, we will have no obligation to monitor renewal, notice dates or similar deadlines which may arise from the matter. You will be responsible for paying all legal fees, expenses and disbursements incurred on your behalf in this matter until written notice of termination is received by our Firm.

If you terminate the representation before the conclusion of the matter, we will be entitled to receive from the proceeds of any recovery a reasonable fee for the work we have performed based upon the amount of time required, the complexity of the matter, the time frame within which the work was performed, the responsibility involved, as well as our experience, ability, reputation, and the results obtained. This fee is in addition to any legal fees, expenses and disbursements incurred on your behalf that have not previously been paid by you.

To the extent permitted by rules of professional responsibility and the court, we may terminate our representation at any time if you breach any material term of this Agreement, fail to cooperate or follow our advice on a material matter, if a conflict of interest develops or is discovered, or if there

December 14, 2023

Page 6

exists, at any time, any fact or circumstance that would, in our opinion, render our continuing representation unlawful, unethical, or otherwise inappropriate.

If we elect to terminate our representation, you will timely take all steps reasonably necessary and will cooperate as reasonably required to relieve us of any further obligation to perform legal services, including the execution of any documents necessary to complete our withdrawal from representation. In such case, you agree to pay for all legal services performed and any legal fees, expenses or disbursements incurred on your behalf before the termination of our representation in accordance with the provisions of this Agreement.

**Electronic Data Communication and Storage:** In the interest of facilitating our services to you, we may communicate with you or others by email, facsimile transmission, send data over the Internet, store electronic data via computer software applications hosted remotely on the Internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to your case may be transmitted or stored using these methods. In using these data communication and storage methods, our Firm makes reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws and professional standards. You recognize and accept that we have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors. You consent to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

We advise you to refrain from communicating with us on any device provided by your employer or any computer, smart phone, tablet computer or other device shared with someone else. In addition, when communicating with us, please do not use your work email address or a shared email account. You should utilize only a private email account that is password protected and accessed solely by you.

**File Retention and Destruction:** At the conclusion of this matter, we will retain your legal files, both electronic and paper, for a period of six (6) years after we close our file. At the expiration of the six (6) year period, we will destroy these files unless you notify us in writing that you wish to take possession of them. We reserve the right to charge administrative fees and costs associated with researching, retrieving, copying and delivering such files.

**No Guarantee of Success:** It is expressly acknowledged by you that Lashly & Baer, P.C. has not made any warranties or representations to you, nor have we given you any assurances as to the favorable or successful resolution of your claim or defense of the action referred to above; nor as to the favorable outcome of any legal action that may be filed; nor as to the nature or amount of any awards or distributions of property, attorney fees, costs, or any other aspects of this matter. All of Lashly & Baer's expressions relative to your case are limited only to estimates based upon our experience and judgment and are only our opinion. Such expressions should not be considered as representations, promises, or guarantees of results, which might be obtainable, either by way of a negotiated settlement or in a contested trial.

December 14, 2023

Page 7

**Data Protection:** *You agree that Lashly & Baer, P.C. may collect, use and disclose personal data which you have provided, and you agree to receive marketing material, in accordance with our data protection policy available at [www.lashlybaer.com/legal-disclaimer](http://www.lashlybaer.com/legal-disclaimer).*

**GDPR:** The GDPR and related EU data protection laws apply to organizations worldwide that process personal data of persons in the EU. Protecting your personal data, your confidential information and your privacy is important to us, and we, therefore, apply the same level of protection regardless of your residency. You agree that Lashly & Baer has consent to include your email address in mailing lists for communications updates. We may use your information to send you updates that are tailored to your needs and interests with the most up-to-date legal and regulatory developments, as well as firm-related events, activities and news.

**Client Review of this Agreement:** You have a right to have this Agreement reviewed by another law firm prior to signing it. Likewise, you have the right to review this Agreement outside the presence of Lashly & Baer, P.C. and away from Lashly & Baer's office prior to signing it. You understand that Lashly & Baer, P.C. is not retained until the signed original Agreement is returned to Lashly & Baer, P.C.

**ASSET TRANSFER AGREEMENT**

THIS ASSET TRANSFER AGREEMENT (“Agreement”) is entered into this 17<sup>th</sup> day of January, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the Commission has authorized the execution of this Agreement by Resolution No. 23-0445, adopted by its Commissioners on September 23, 2023;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I  
TERMS OF SALE**

1.1 Sale of Assets. Commission agrees to sell, transfer, assign, convey, and deliver or cause the same to occur to District, and District agrees to purchase, acquire, and accept from Commission or other designee of the Commission, to the full extent reasonable and legal, all the right, title and interest in and to the Treatment Facility, including but not limited to all land, buildings, fixtures, and equipment thereon or used in the operation of the Treatment Facility (collectively, "Assets"), free and clear of all financial encumbrances, mortgages, pledges, liens, security interests, obligations, and liabilities. The conveyance of the Assets shall include the assignment and assumption of applicable Missouri Department of Natural Resources and Environmental Protection agency licenses and/or permits held by the Commission but only to the extent such interests are assignable.

1.2 No Assumption of Liabilities. District is not assuming any liabilities of Commission in existence prior to the Closing Date unless expressly agreed to herein but is assuming all liabilities regarding the Assets arising on and after the Closing Date. On the Closing Date, District shall assume and agrees to pay, perform, or otherwise discharge the liabilities of the Treatment Facility arising on and after the Closing Date. Commission shall perform or timely otherwise discharge the liabilities of the Treatment Facility arising before the Closing Date. The Parties shall prorate utility expenses and similar charges relating to the Treatment Facility, and Commission shall be liable to the extent such expenses and charges relate to any time before the Closing Date, and the District shall be liable to the extent such expenses and charges relate to any time on and after the Closing Date.

1.3 Payables. Commission shall be responsible for all payables resulting from the operation of the Treatment Facility prior to the Closing Date. District shall be responsible for all payables resulting from the operation of the Treatment Facility following the Closing Date.

1.4 Purchase Price. The purchase price for the sale of the Assets contemplated herein shall be Five Million and 00/100 Dollars (\$5,000,000.00), which shall be paid as follows: One Million and 00/100 Dollars (\$1,000,000.00) on the Closing Date, with Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Festus and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Crystal City and ten equal installment payments of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) each, without interest, with Two Hundred Fifty-Six Thousand and 00/100 Dollars (\$256,000.00) to be paid to Festus and One Hundred

Forty-Four Thousand and 00/100 Dollars (\$144,000.00) to be paid to Crystal City, with the first such payment due and payable on the first anniversary date of the Closing Date and successive payments due and payable on the successive anniversary dates of the Closing Date until fully paid. There shall be no prepayment penalty. To the extent required by art. VI, section 26 of the Missouri Constitution, such payments shall be subject to annual appropriation of funds by District. If District appropriates funds for such payments this Agreement shall remain in force and effect.

1.5 Closing. The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on, \_\_\_\_\_, 2024, or at such other time, date, and place as Festus, Crystal City, the Commission and District may mutually agree upon in writing (“Closing Date”)

## **Article II REPRESENTATIONS AND WARRANTIES OF COMMISSION**

Commission hereby represents and warrants to District as follows:

2.1 Authorization. Commission has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the Commission. This Agreement is a legal, valid, and binding obligation of the Commission.

2.2 No Violation. Neither the execution and delivery of this Agreement by Commission, the performance by Commission of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will: (i) violate any provision of the official policies of the Commission; or (ii) to the best knowledge of Commission, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which Commission is subject.

2.3 Litigation. There is no action, proceeding, or investigation pending or to the Commission’s knowledge threatened against or involving Commission or any of the Assets which, if determined adversely, could materially and adversely affect the Treatment Facility taken as a whole, and Commission is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the Treatment Facility taken as a whole.

2.4 No Warranties. The Assets sold hereunder are being sold “AS IS, WHERE IS” and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of Commission; provided, however, that Commission does warrant its title to the Assets and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED



WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2.5 Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the Treatment Facility or the Assets; and (ii) the form of each of Commission's standard form written agreements or contracts which relates to or arises from the Treatment Facility or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.

2.6 Environmental Matters.

(a) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are currently and have been in compliance with all Environmental Laws.

(b) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are in material compliance with all environmental permits necessary for the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets and all such environmental permits are in full force and effect and shall be maintained in full force and effect by Commission through the Closing Date in accordance with all Environmental Laws; and Commission is not aware of any condition, event or circumstance that might result in noncompliance with any environmental permit or prevent or impede, after the Closing Date, the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets.

(c) Commission has not received from any person any: (i) environmental notice or environmental claim with respect to the Treatment Facility or the Assets; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.

(d) To the knowledge of Commission, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the Closing in connection with the operation or continued operation of the Treatment Facility or the ownership or use of the Assets in a manner consistent with current operation thereof by Commission, except for any permit, transfer, registration, or similar fees associated with any required approvals. Commission has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the Treatment Facility.

(e) The Treatment Facility has, to Commission's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous

Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.

2.7 Certain Due Diligence Material. Prior to the date of this Agreement, Commission has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:

(a) The deeds and other instruments (as recorded) by which Commission acquired the Treatment Facility and all title insurance policies, opinions, abstracts, and surveys in the possession of Commission with respect to such parcels.

(b) A listing of all easements or similar instruments under which Commission is the grantee where the easement or real property right evidenced is utilized in any manner by Commission for the placement, maintenance, repair, operation, or improvement of the Treatment Facility.

(c) All environmental reports and investigations that Commission owns, has obtained, or has ordered with respect to the Treatment Facility or the Assets.

(d) A complete inventory of all tangible personal property owned or leased by Commission and used in connection with the Treatment Facility;

(e) Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the Treatment Facility;

(f) All certificates of occupancy and other governmental licenses or approvals relating to any portion of the Treatment Facility, including any necessary operating permits and all other Permits;

(g) Any service records or bills for repairs to any part of the Treatment Facility for the prior three (3) years;

(h) All warranties, if any, relating to the Treatment Facility; and

(i) All reports or documentation available to Commission to support the cost basis of the Assets.

2.8 Disclosure. No representation or warranty by Commission in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.9 Brokers and Agents. No broker, agent or representative of Commission has any agreement or contract with Commission entitling such broker, agent or representative to

any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF DISTRICT**

District hereby represents and warrants to Commission as follows:

3.1 Corporate Organization. District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.

3.2 Authorization. District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.

3.3 No Violation. Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.

3.4 Title to Assets. Title to and risk of loss, destruction or damage to the Assets shall pass to District on the Closing Date, subject to the rights of the Commission under any easement document.

3.5 Inspection of Assets. District has inspected the Assets and is satisfied with the condition of the Assets subject to the acknowledgments in Section 2.5.

### **Article IV ADDITIONAL COVENANTS**

4.1 Closing Documents.

(a) On the Closing Date, Commission shall deliver or cause to be delivered the following to District:

- (i) If and when possible, a duly executed General Warranty Deed for all real property, including but, not limited to, the Treatment Facility at 355 County Road, Crystal City, MO 63019, County Locator Number Parcel IDs: 19-3.0-08.0-2-010-006, 19-3.0-08.0-2-010-007, and 19-3.0-08.0-2-010-008 . The Parties understand said parcels may have such deed or other restrictions as would prevent them from being transferred. The Parties will negotiate in good faith to transfer District such easement rights

as will provide District with unfettered and unchallengeable access to and control of said parcels. In the event the Parties determine the restrictions have been removed and the parcels may be transferred, the Parties shall cause to be delivered a General Warranty Deed to the District; and

- (ii) Bill of Sale, Easements, General Assignment conveying the Assets to District;
- (iii) Copies of or access to all books and records of Commission with respect to the construction, operation, billings, and permits issued with respect to the Treatment Facility; and
- (iv) Certified resolutions or ordinances of the Commission authorizing this Agreement and the transactions contemplated hereby.

(b) On the Closing Date, District shall deliver the following to Commission: certified resolutions of the Board of Trustees of District authorizing this Agreement and the transactions contemplated hereby.

4.2 Each party is a public entity and carries adequate insurance. Nothing in this Agreement shall constitute or be construed as a waiver of sovereign immunity, official immunity, good faith immunity or any other immunities or defenses available under state law.

4.3 Indemnity. To the extent permitted by law, the Commission agrees to indemnify, defend, and hold harmless District from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with the operation or management of the Treatment Facility prior to the Closing Date, any agreements entered into by Commission that are not expressly identified and assumed herein by District, including, but not limited to, any agreement for the operation, maintenance, repair or improvement of the Treatment Facility, and events or occurrences or based on the condition of the Treatment Facility before the Closing Date. District agrees to indemnify, defend, and hold harmless Commission from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with events or occurrences or based upon the condition of the Treatment Facility arising after the Closing Date.

4.4 Conduct of Business Prior to the Closing. From the date of this Agreement until the Closing, except as otherwise provided in this Agreement or consented to in writing by District (which consent shall not be unreasonably withheld or delayed), Commission shall (i) operate the Treatment Facility in the ordinary course of operations consistent with past practice; and (ii) use reasonable best efforts to maintain and preserve intact the Treatment Facility and its operations and to preserve the rights, franchises, goodwill and relationships of the employees, customers, suppliers, regulators, and others having relationships with the Treatment Facility. Without limiting the foregoing, from the date hereof until Closing, Commission shall:

- (a) maintain the Treatment Facility and the Assets in the ordinary course of operations but, in any event consistent with good utility practices and applicable law, including, but not limited to, maintenance, repair, replacement, or changes to the Assets;
- (b) pay or otherwise satisfy in the ordinary course of operations all of its liabilities and obligations;
- (c) confer with District prior to implementing operational decisions of a material nature;
- (d) respond within five (5) days to reasonable inquiries of District concerning the status of the Treatment Facility, operations, and finances;
- (e) keep in full force and effect, without amendment, assigned contracts and all material rights relating to the Treatment Facility;
- (f) comply with all applicable law and contractual obligations applicable to the operations of the Treatment Facility;
- (g) continue in full force and effect the Treatment Facility's insurance coverage;
- (h) cooperate with District and assist District in identifying the consents, authorizations, orders, approvals, permits, governmental orders, declarations, or filings with, or notices to, all governmental authorities required by District to operate the Treatment Facility and own the Assets from and after the Closing and either transferring existing governmental authorizations of Commission to District, where permissible, or obtaining new governmental authorizations for District;
- (i) upon request from time to time, execute and deliver all documents, make all truthful oaths, testify in any legal or administrative proceedings, and do all other acts that may be reasonably necessary or desirable in the opinion of District to consummate the contemplated transactions, all without further consideration;
- (j) maintain all books and records of Commission relating to the Treatment Facility in the ordinary course of operations;
- (k) unless otherwise agreed to by District, complete all construction work on any new facilities such that no work will be in progress at Closing and pay any and all outstanding invoices related to such work prior to Closing;
- (l) give District prompt notice of any event or condition of any kind learned by Commission between the date of this Agreement and the Closing pertaining to and adversely affecting the Assets, excepting events or conditions affecting the wastewater utility business generally; and

(m) perform all of its obligations under all existing contracts.

4.5 Access to Information and Investigation. From the date of this Agreement until the Closing:

(a) Commission shall, upon reasonable notice and during normal operating hours, (i) afford District full and free access to and the right to inspect the Treatment Facility and Assets, and other documents and data related to the Treatment Facility; (ii) furnish District with such financial, operating, and other data and information related to the Treatment Facility as District may reasonably request.

(b) Without limiting the foregoing, District shall, upon reasonable notice, and at District's sole cost and expense, have the right to enter upon Commission's property to conduct physical inspections and testing of the facilities, surveys, environmental assessments and sampling, site analysis, engineering studies, and other investigations it deems reasonably necessary with respect to the Treatment Facility and the Assets.

(c) Any investigation pursuant to this Section 4.5 shall be conducted in such manner as not to interfere unreasonably with the conduct of the operations of the Treatment Facility or the business of Commission. No investigation by District or other information received by District shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Commission in this Agreement.

4.6 Notice of Certain Events.

(a) From the date of this Agreement until the Closing, Commission shall promptly notify District in writing if it becomes aware of:

- i. any fact, circumstance, event, or action the existence, occurrence or taking of which: (A) has, had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect; or (B) has resulted in, or could reasonably be expected to result in, any representation or warranty made by Commission hereunder not being true and correct;
- ii. any notice or other communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement;
- iii. any notice or other communication from any governmental authority in connection with the transactions contemplated by this Agreement; and
- iv. any action commenced or, to Commission's knowledge, threatened against, relating to, or involving or otherwise affecting the Treatment

Facility that, if pending on the date of this Agreement, would have been required to have been disclosed or that relates to the consummation of the transactions contemplated by this Agreement.

(b) District's receipt of information pursuant to this Section 4.6 shall not operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by Commission in this Agreement and shall not be deemed to amend or supplement the schedules to this Agreement.

4.7 Employees. Prior to the Closing, Commission will either terminate or reassign the employment of all of its employees and independent contractors in connection with the System, at its sole risk and expense. Commission shall bear any and all obligations and liability under the WARN Act resulting from employment losses pursuant to this Section.

4.8 District may, but will not be obligated to, offer employment to any of Commission's former or current employees but will not assume any employee-related liabilities prior to the Closing. In the event District retains any current employees of Commission, District will assume employee-related liabilities arising after the Closing Date.

## **ARTICLE V CONDITIONS PRECEDENT**

5.1 Conditions of Commission. The obligations of Commission hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by Commission in writing) on or prior to the Closing:

(a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and

(b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement.

5.2 Conditions of District. The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

(a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;

(b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement;

(c) Commission shall have delivered to District a General Warranty Deed, Bill of Sale, Assignment of Easements, and General Assignment conveying the Treatment Facility and the Assets to District;

**ARTICLE VI  
MISCELLANEOUS**

6.1 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

6.2 Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. Commission and District agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker, or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

6.3 Assignment. Neither Party shall assign this Agreement or any of its rights and obligations hereunder.

6.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their legal representatives, successors and permitted assigns.

6.5 Notices. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address; or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road



Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

(c) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(d) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019  
Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

6.6 Entire Agreement. This Agreement, along with the Definitive Agreements identified in that certain Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City (“Definitive Agreements”), the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and

understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

6.7 Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

6.8 Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

6.9 Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

6.10 Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

6.11 Attorney Fees. In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

6.12 Cooperation. District and Commission will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date Commission will at the request of District, but without further consideration, sale,

transfer, and conveyance, take such other and further action as District may reasonably request in order to more effectively vest in District and put District in possession of the Assets and assure to District the benefits thereof.

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

Samuel F. Richards

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

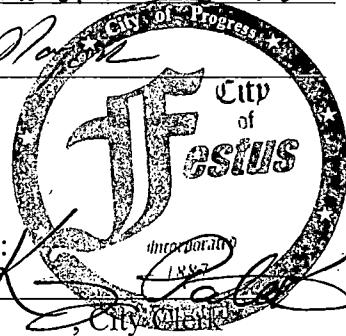
By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Mayor

SEAL

SEAL



ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

[Signature]  
, Secretary

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY  
SEWAGE COMMISSION

\_\_\_\_\_

Matthew Unrein

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

By: Matthew Unrein

Title: \_\_\_\_\_

Title: Commissioner

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

[Signature]  
, Secretary

**MASTER AGREEMENT**  
**REGARDING SEWAGE COLLECTION AND TREATMENT SYSTEMS**  
**OF FESTUS AND CRYSTAL CITY**

This Master Agreement Regarding Sewage Collection and Treatment (hereinafter the “Agreement”) is made and entered into on this \_\_\_\_\_ day of December, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Crystal City is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by ordinances adopted by Festus and Crystal City pursuant to Sections 70.210 through 70.320, RSMo., and is authorized to enter into agreements pursuant to Section 70.260.2, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus, whose municipal boundaries are set forth in the attached Exhibit “1” (“Festus Boundaries”), owns, maintains, and operates a sewage collection system (“Festus Collection System”) that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City, whose municipal boundaries are set forth in the attached Exhibit “2” (“Crystal City Boundaries”), owns, maintains, and operates a sewage collection system (“Crystal City Collection System”) that collects sewage from various improved properties located within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District’s boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, Festus, Crystal City, the Commission, and the District deem it to be in the best interests of the of the citizens in their respective territories that the District's territory be expanded to include the Festus Boundaries and the Crystal City Boundaries and that the District acquire, maintain, and operate the Treatment Facility and maintain and operate the Festus Collection System and the Crystal City Collection System.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, Festus, Crystal City, the Commission and the District agree as follows:

1. Contemporaneous with the execution of this Agreement, the Commission and District shall enter into an Asset Transfer Agreement, which shall be substantially similar to the Asset Transfer Agreement attached hereto as Exhibit "3" and incorporated herein by reference.
2. Contemporaneous with the execution of this Agreement, Festus and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "4" and incorporated herein by reference.
3. Contemporaneous with the execution of this Agreement, Crystal City and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "5" and incorporated herein by reference. Hereinafter, Exhibits "3", "4", "5", and this Agreement shall be referred to as "Definitive Agreements."
4. District, Festus, Crystal City, and the Commission will cooperate after the Effective Date in fulfilling the terms of the Definitive Agreements. Each Party further agrees that it will cooperate with the others in the orderly transition of the "Assets," as defined in the Asset Transfer Agreement set forth in Exhibit "3". From time to time after the Effective Date, the Parties will, at the request of District, but without further consideration, take such other and further action as District may reasonably request in order to fulfill the terms of the Definitive Agreements.
5. Termination of Commission. After Closing, the Parties shall cause the Commission to be terminated or dissolved at such time as is mutually agreeable to the Parties. Upon termination of the Commission, District shall distribute any future payments to the Cities in accordance with section 1.4 of the Asset Transfer Agreement.
6. Right of First Refusal. Festus and Crystal City shall, operating collectively or individually, have the right of first refusal, should District wish to sell the Treatment Facility, any land transferred subject to this Agreement, and/or the collection system within either or both cities at a later date. To the extent a deed is recorded transferring any real estate to the District, the Parties agreement that such deed shall contain a stipulation on any transfer being subject to a right of first refusal in favor of the cities.
7. Representation on the District's Board of Trustees. Festus and Crystal City acknowledge that seats on the District's Board of Trustees are typically selected by the County Council of Jefferson County, and that the County Council solicits nominations from the District. The District agrees to use all diligent, reasonable, and lawful efforts to nominate and seek the selection of one of the seats on its Board of Trustees is filled by a qualified resident of either the City of Festus or Crystal City, or a representative selected by the mutual agreement of the Parties, provided that nothing herein shall affirmatively obligate the District to file a lawsuit to enjoin enforcement of any duly promulgated law or ordinance to alter the method of appointment to the District's Board of Trustees, or to lobby for a change in state law. If Missouri statutes permit or are amended subsequent to the execution of this Agreement in a manner that would permit the

District to exercise greater control over nominees, or a court of competent jurisdiction determines that the District or an officer of the District has authority to fill vacancies on its Board of Trustees, the District will fill such vacancy with a resident of either the City of Festus or Crystal City, or a resident selected by mutual agreement of the Parties. This section 7 shall be binding upon the District for only so long as the number of customers served within the city limits of Festus and Crystal City exceeds fifteen percent of the total number of customers served by the District. The obligations under this section 7 shall survive the termination of both System Operation and Cooperation Agreements between the District and the Cities due to the acquisition of the Systems of both Cities pursuant to the System Operation and Cooperation Agreements.

8. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

9. Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby.

10. Assignment. No Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Parties.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

12. Notice. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019

Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

(c) If to the Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(d) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

13. Entire Agreement. This Agreement along with the other Definitive Agreements constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

14. Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

15. Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

16. Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and

the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

17. Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

18. Attorney Fees. In the event it becomes necessary for any Party to file a suit to enforce this Agreement or any provision contained herein, and any Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

19. Authority. Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated Ordinance or Resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

20. Preamble. The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein and all conditions precedent shall be binding on the parties as if expressly set forth in the terms and conditions of this Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

*Samuel F. Richards*

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

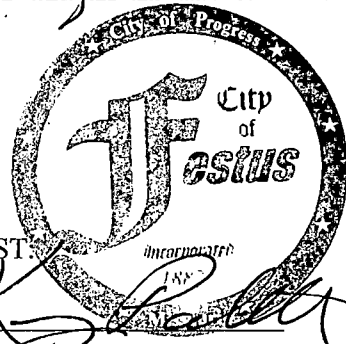
By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Mayor

SEAL

SEAL



ATTEST:

ATTEST:

\_\_\_\_\_

*K. D. [Signature]*

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

*Matthew Unnan*

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

By: Matthew Unnan

Title: \_\_\_\_\_

Title: Commissioner

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_

*[Signature]*

, Secretary

, Secretary

**Exhibit 1**

[ *insert Festus Boundary Map* ]

**Exhibit 2**

[ *insert Crystal City Boundary Map* ]

**Exhibit 3**

[ *insert Asset Transfer Agreement* ]

**Exhibit 4**

[ *insert Festus System Operation and Cooperation Agreement* ]

**Exhibit 5**

[ *insert Crystal City System Operation and Cooperation Agreement* ]

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(AREA ABOVE LINE FOR RECORDERS OFFICE USE ONLY)

TITLE OF THE DOCUMENT: ASSIGNMENT OF EASEMENT RIGHTS

DATE OF THE DOCUMENT:

ALL GRANTORS' NAMES: CITY OF FESTUS

ALL GRANTORS, ADDRESSES:

GRANTORS' DEED RECORDING:

GRANTEES' NAME: **JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**  
PO Box 632, 4629 Yeager Rd.  
Hillsboro, MO 63051

ADDRESS OF PROPERTY: VARIOUS

COUNTY LOCATOR NUMBER: VARIOUS

MUNICIPALITY: Festus, MO

**ASSIGNMENT OF EASEMENT RIGHTS**

This Assignment of Easement Rights ("Assignment") is made as of this 15 day of February, 2024 by and between the city of Festus ("Assignor") and Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the State of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo. ("Assignee") (jointly referred to hereafter as "Parties").

For and in consideration of certain Definitive Agreements between the Parties, dated February 15, 2024, by and between Assignor and Assignee, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Assignor hereby assigns, grants, conveys, and transfers to Assignee, and Assignee accepts, all right, title, and interest in and to any and all easements, rights-of-way, and permits within the city limits of Festus which were granted to Assignor for sewer purposes.

In Witness Whereof, the parties have caused this Assignment to be executed in person or by their duly authorized representatives as of the day and year first above written.

CITY OF FESTUS

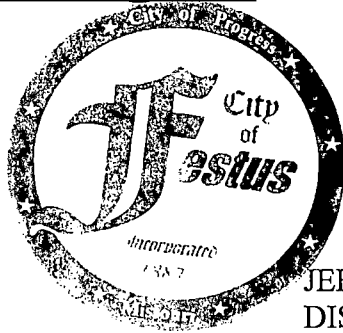
ATTEST:

[Signature]  
Clerk

BY: Samuel F. Richards

Samuel F. Richards Mayor

02-15-2024  
Date



JEFFERSON COUNTY PUBLIC SEWER DISTRICT

ATTEST:

[Signature]  
Secretary

BY: \_\_\_\_\_

[Signature], Chairman

2-15-2024  
Date

STATE OF MISSOURI )



COUNTY OF JEFFERSON )  
 ) SS.

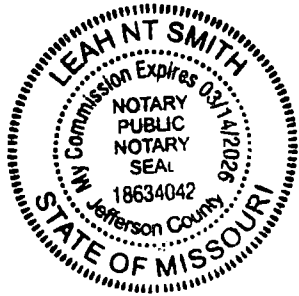
On this 15<sup>th</sup> day of February, 2024 before me, the undersigned, a Notary Public in and for the said County and State, appeared the above signatories, to me personally known, who being by me duly sworn did say that they are the officials so designated therein and that they have the authority to sign and seal said instrument and that such actions are their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal in said County and State, the day and year in this certificate last above written.

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

My commission expires:

March 14, 2026



## CLOSING AGREEMENT

Pursuant to the Definitive Agreements, as that term is defined in the Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City, the parties (hereinafter “Parties”), Jefferson County Public Sewer District (the “District”), the City of Festus (“Festus”), the City of Crystal City (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), are to set the closing contemplated in said Definitive Agreements (the “Closing”) on a mutually agreed upon date. As such, the Parties hereto agree as follows:

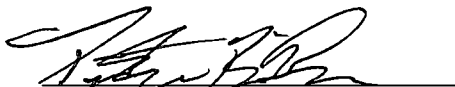
1. Closing shall occur on or before 5:00 pm on February 15, 2024. At Closing, the District shall tender payment of the amounts set forth in Section 1.4 of the Asset Transfer Agreement to Crystal City and Festus in the amounts shown therein. Upon receipt of the payments, Crystal City, Festus and the Commission shall execute or cause to be executed and deliver the Easement Deeds, Bill of Sale, Assignment of Easements and any other closing documents previously agreed upon to the District. Additionally, the parties shall each execute the Definitive Agreement and furnish the other parties with executed copies of the same.
2. Festus shall bill Festus’ sewer customers for sewer services furnished through the date of Closing (February 15, 2024). Additionally, Festus shall include in Festus’ billing to the customers a letter from Festus and the District advising the customers of the transfer of the system to the District. Thereafter, said customers shall be billed by the District for said sewer services.
3. Crystal City shall bill Crystal City’s sewer customers for sewer services furnished for the entire month of February.
4. The Commission shall be responsible for any costs associated with operation, maintenance and repairs of the treatment plant, including but not limited to, any charges by Alliance Water Resources and any utility expenses, through February 29, 2024. Festus and Crystal City shall be responsible for any costs associated with operation, maintenance or repair of their respective collection systems through February 29, 2024. The District shall thereafter be responsible for said costs for the operation of said treatment plant and collection systems, as described in the Definitive Agreements.

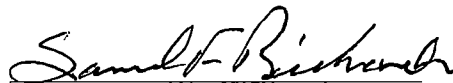
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS





By: Peter Birkes

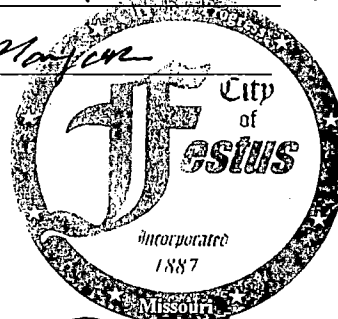
By: Samuel F. Richards

Title: Chairman


Title: Mayor

SEAL

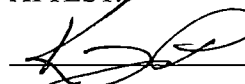
SEAL



ATTEST:

  
, Secretary


ATTEST:

  
, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_



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

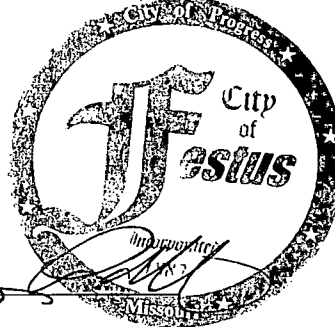
By: Greg Camp

Title: \_\_\_\_\_

Title: Acting President

SEAL

SEAL



ATTEST:

\_\_\_\_\_  
, Secretary

ATTEST:

  
, Secretary

## BILL OF SALE

THIS BILL OF SALE, the undersigned, the city of Festus (“Seller”), for and in consideration of the “Definitive Agreements,” dated Feb. 15, 2024, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns (“Buyer”), all of Seller’s right and interest in fixtures and other items of personal property (“Property”) that are owned by the Seller and used in connection with the provision of sewer collection services within the city limits, including but not limited to those identified on Exhibit A, attached hereto and incorporated herein by reference, said fixtures and items of Property unto Buyer forever. It is the understanding of the Parties that Exhibit A may be amended and/or supplemented as necessary to accomplish the purposes of the Definitive Agreements.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an “AS IS” basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

[INTENTIONALLY LEFT BLANK]

EXECUTED effective the 15 day of February, 2024.

**SELLER:**

CITY OF FESTUS



By: Saul F. Richardson  
Mayor

**ATTEST:**

K. Dault

AGREED AND ACCEPTED effective the 15 day of Feb, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

By: Peter Birkes  
Peter Birkes, Chairman

**ATTEST:**

Evelyn Cross  
Secretary

## BILL OF SALE

THIS BILL OF SALE, the undersigned, the Festus-Crystal City Sewage Commission ("Seller"), for and in consideration of the "Definitive Agreements," dated Feb 15, 2024, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns ("Buyer"), all of Seller's interest in the fixtures and other items of personal property ("Property") that are located at and/or constitute a portion of the Seller's sanitary sewage treatment plant located at 355 County Road, Crystal City, MO 63019; to have and to hold, all and singular, said fixtures and items of Property unto Buyer forever.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an "AS IS" basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

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EXECUTED effective the 15 day of February, 2024.

**SELLER:**

FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION



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

A handwritten signature in black ink, appearing to be 'JG', written over a horizontal line.

**ATTEST:**

A handwritten signature in black ink, appearing to be 'K. D. Patel', written over a horizontal line.

AGREED AND ACCEPTED effective the 15 day of Feb, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

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

A handwritten signature in black ink, appearing to be 'Peter Birkes', written over a horizontal line.  
Peter Birkes, Chairman

**ATTEST:**

A handwritten signature in black ink, appearing to be 'Everett', written over a horizontal line.  
Secretary

**ASSIGNMENT, AMENDMENT AND AGREEMENT TO TERMINATE PROFESSIONAL  
OPERATING SERVICES AND MANAGEMENT AGREEMENT**

This Assignment, Amendment and Agreement to Terminate Professional Operating Services and Management Agreement (hereinafter the "Amendment") is made and entered into on this 24<sup>th</sup> day of January, 2024 ("Effective Date"), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri ("District"), the Festus-Crystal City Sewage Commission ("Commission"), a political subdivision of the State of Missouri, and Alliance Water Resources, Inc. ("Alliance") (hereinafter referred to jointly as "Parties" and generically as "Party").

**WITNESSETH:**

**WHEREAS**, Commission is currently the owner of a wastewater treatment facility and related appurtenances and equipment (the "System");

**WHEREAS**, District entered into a contract with Commission whereby District will acquire the System from Commission, which said transaction is contemplated to close and District to assume ownership and operation of the System on or about January 31, 2024 (the "Closing");

**WHEREAS**, Alliance and Commission executed and entered into a Professional Operating Services and Management Agreement (the "Agreement") dated February 16, 2017, which was amended several times and extended on April 21, 2021; and

**WHEREAS**, the Parties intend, by this Amendment, to assign the Agreement to District, effective upon Closing, to amend certain terms in said Agreement, and to terminate the Agreement effective March 31, 2024, on the terms and conditions stated herein.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the Commission, the District and Alliance agree as follows:

1. **Assignment.** Upon Closing, the Agreement shall be assigned to District. Commission and Alliance consent to said assignment pursuant to Section 16.1 of the Agreement. Following the Assignment, Commission shall continue to pay Alliance the Base Fee in the same amount as set forth in the Memorandum of Agreement dated March 15, 2023 and executed between Commission and Alliance until the Termination Date, such date defined in Section 3 of this Amendment. Commission shall also be responsible for any other costs or fees, including any expenditures that exceed the Repair Limit, as that term is defined in the Agreement, or otherwise, made prior to Closing. District shall be responsible for the cost of any expenditures that exceed the Repair Limit, as that term is defined in the Agreement, or otherwise, and subject to the provisions in Section 2 of this Amendment, incurred after Closing until the Termination Date.

2. **Amendment.** Prior to undertaking any non-emergency activities that would constitute non-routine repairs or capital expenditures and which Alliance, in its good-faith belief, estimates will result in expense of five hundred dollars (\$500) or more ("Project Expense Exceeding \$500") beyond the Base Fee, Alliance shall provide written notice to District, which said notice shall include a detailed description of the proposed Project Expense Exceeding \$500, with a detailed cost estimate. Alliance shall not proceed with said work without the prior written authorization of District. Additionally, District may, in its sole discretion, elect to perform any Project Expense Exceeding \$500 utilizing District's staff, personnel or other contractors.

3. **Termination of Agreement.** On March 31, 2024 ("Termination Date"), the Agreement, and any amendments thereto, shall terminate, be null and void. After the Termination Date Commission and District shall have no further obligation or relationship whatsoever to Alliance in any way pertaining to the operation or maintenance of the System, except to pay any outstanding amounts to Alliance, if any, that



exceed the Repair Limit, as that term is defined in the Agreement. After the Termination Date, Alliance shall have no further obligation to the Commission and District in any way pertaining to the operation or maintenance of the system. Thereafter, Alliance acknowledges and agrees that District shall have responsibility for and be entitled to maintain, operate, repair, modify and/or improve the System utilizing the personnel, staff or contractors of District's choosing, in District's sole and absolute discretion. In consideration of the Termination Payment made by District to Alliance and of the District's willingness to accept an assignment of the Agreement until the Termination Date, Alliance agrees to fully and reasonably cooperate and work with the staff, personnel or contractors hired, selected or retained by the District, in the District's sole and absolute discretion, to provide those services necessary to operate the System and transition operation and maintenance from Alliance to District. Alliance agrees that it will not take any action that will, in any way, hinder, restrict or interfere with District's operation or maintenance of the System, including but not limited to restricting, limiting or interfering with the ability of staff, personnel or contractors from performing what is necessary for the operation or maintenance of the System.

4. Termination Payment. Prior to the Termination Date, District shall pay Alliance the sum of Twenty-Five Thousand Dollars (\$25,000.00). In the event that Alliance fails to cooperate and work with the District in transitioning the operation and maintenance of the System to District's staff, personnel or contractors or takes any actions to hinder, restrict or interfere with the District and the District's staff or personnel in the operation and maintenance of the System after the Termination Date, then District shall be entitled to a refund of the Termination Payment.

5. Conflicts. If there are any conflicts between the terms and conditions of this Amendment and the terms and conditions of the Agreement, or any amendments thereto, then the terms and conditions of this Amendment shall control.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

*[Signatures on Following Page]*

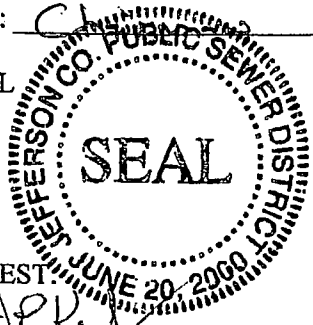
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

*Peter Birkes*

By: PETER Birkes

Title: Chairman

SEAL



ATTEST: *DJ Key*

, Secretary

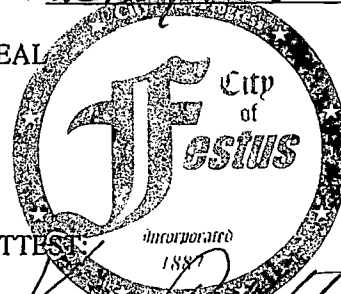
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

*Greg Camp*

By: Greg Camp

Title: Acting President

SEAL



ATTEST: *[Signature]*

, City Clerk

ALLIANCE WATER RESOURCES, INC.

*T. H. Geraghty*

By: TIMOTHY H. GERAGHTY

Title: PRESIDENT

## EXHIBIT A - RATE ATTACHMENT

As set forth in the Sewer System Operation and Cooperation Agreement (the "Agreement"), the Operator shall set the rates for the first two years after the Effective Date of the Agreement no higher than the rates specified in Attachment A. During this two-year period, the Operator shall bill customers based on the actual usage determined each month. By way of example, if the customer utilizes 4,000 gallons of water in a given month, that customer's bill shall be calculated as follows:

Base Rate:		\$ 4.77
Usage:	4,000 gallons x \$3.51 per 1,000 =	<u>\$14.04</u>
Customer's Bill:		\$18.81

After the conclusion of this two-year period, the Operator agrees to utilize winter averaging when it bills the residential customers residing in the City. Winter averaging is determined by calculating the average monthly water usage during December, January and February and utilizing that three-month average for the total customer usage for each of the next twelve months. By way of example:

December Usage:	3,000 gallons
January Usage:	4,000 gallons
February Usage:	2,000 gallons
Winter Average:	3,000 gallons per month for the next twelve (12) months

Winter averaging shall not apply to non-residential customers in the City. Winter averaging will not be utilized for customers that do not have winter average data (new customers) or those that are not home during the winter months. The Operator shall give the City sixty (60) days written notice prior to discontinuing the use of winter averaging.

**MASTER AGREEMENT**  
**REGARDING SEWAGE COLLECTION AND TREATMENT SYSTEMS**  
**OF FESTUS AND CRYSTAL CITY**

This Master Agreement Regarding Sewage Collection and Treatment (hereinafter the “Agreement”) is made and entered into on this 15th day of February , 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Festus is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, Crystal City is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220.1, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by ordinances adopted by Festus and Crystal City pursuant to Sections 70.210 through 70.320, RSMo., and is authorized to enter into agreements pursuant to Section 70.260.2, RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the collection systems owned by Festus and Crystal City; and

**WHEREAS**, Festus, whose municipal boundaries are set forth in the attached Exhibit “1” (“Festus Boundaries”), owns, maintains, and operates a sewage collection system (“Festus Collection System”) that collects sewage from various improved properties located within the Festus Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, Crystal City, whose municipal boundaries are set forth in the attached Exhibit “2” (“Crystal City Boundaries”), owns, maintains, and operates a sewage collection system (“Crystal City Collection System”) that collects sewage from various improved properties located within the Crystal City Boundaries and conveys the sewage collected to the Treatment Facility for treatment;

**WHEREAS**, on October 23, 2023, the County Council of Jefferson County, by Ordinance No. 23-0445, granted the petition of the District and the Cities of Festus and Crystal City to expand the District’s boundaries to include all territory within the Cities of Festus and Crystal City;

**WHEREAS**, Festus, Crystal City, the Commission, and the District deem it to be in the best interests of the of the citizens in their respective territories that the District's territory be expanded to include the Festus Boundaries and the Crystal City Boundaries and that the District acquire, maintain, and operate the Treatment Facility and maintain and operate the Festus Collection System and the Crystal City Collection System.

**NOW THEREFORE, in consideration of the mutual promises contained herein, Festus, Crystal City, the Commission and the District agree as follows:**

1. Contemporaneous with the execution of this Agreement, the Commission and District shall enter into an Asset Transfer Agreement, which shall be substantially similar to the Asset Transfer Agreement attached hereto as Exhibit "3" and incorporated herein by reference.
2. Contemporaneous with the execution of this Agreement, Festus and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "4" and incorporated herein by reference.
3. Contemporaneous with the execution of this Agreement, Crystal City and the District shall enter into a System Operation and Cooperation Agreement, which shall be substantially similar to the System Operation and Cooperation Agreement attached hereto as Exhibit "5" and incorporated herein by reference. Hereinafter, Exhibits "3", "4", "5", and this Agreement shall be referred to as "Definitive Agreements."
4. District, Festus, Crystal City, and the Commission will cooperate after the Effective Date in fulfilling the terms of the Definitive Agreements. Each Party further agrees that it will cooperate with the others in the orderly transition of the "Assets," as defined in the Asset Transfer Agreement set forth in Exhibit "3". From time to time after the Effective Date, the Parties will, at the request of District, but without further consideration, take such other and further action as District may reasonably request in order to fulfill the terms of the Definitive Agreements.
5. Termination of Commission. After Closing, the Parties shall cause the Commission to be terminated or dissolved at such time as is mutually agreeable to the Parties. Upon termination of the Commission, District shall distribute any future payments to the Cities in accordance with section 1.4 of the Asset Transfer Agreement.
6. Right of First Refusal. Festus and Crystal City shall, operating collectively or individually, have the right of first refusal, should District wish to sell the Treatment Facility, any land transferred subject to this Agreement, and/or the collection system within either or both cities at a later date. To the extent a deed is recorded transferring any real estate to the District, the Parties agreement that such deed shall contain a stipulation on any transfer being subject to a right of first refusal in favor of the cities.
7. Representation on the District's Board of Trustees. Festus and Crystal City acknowledge that seats on the District's Board of Trustees are typically selected by the County Council of Jefferson County, and that the County Council solicits nominations from the District. The District agrees to use all diligent, reasonable, and lawful efforts to nominate and seek the selection of one of the seats on its Board of Trustees is filled by a qualified resident of either the City of Festus or Crystal City, or a representative selected by the mutual agreement of the Parties, provided that nothing herein shall affirmatively obligate the District to file a lawsuit to enjoin enforcement of any duly promulgated law or ordinance to alter the method of appointment to the District's Board of Trustees, or to lobby for a change in state law. If Missouri statutes permit or are amended subsequent to the execution of this Agreement in a manner that would permit the

District to exercise greater control over nominees, or a court of competent jurisdiction determines that the District or an officer of the District has authority to fill vacancies on its Board of Trustees, the District will fill such vacancy with a resident of either the City of Festus or Crystal City, or a resident selected by mutual agreement of the Parties. This section 7 shall be binding upon the District for only so long as the number of customers served within the city limits of Festus and Crystal City exceeds fifteen percent of the total number of customers served by the District. The obligations under this section 7 shall survive the termination of both System Operation and Cooperation Agreements between the District and the Cities due to the acquisition of the Systems of both Cities pursuant to the System Operation and Cooperation Agreements.

8. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

9. Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby.

10. Assignment. No Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Parties.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

12. Notice. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019

Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

(c) If to the Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(d) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

13. Entire Agreement. This Agreement along with the other Definitive Agreements constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

14. Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

15. Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

16. Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and

the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

17. Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

18. Attorney Fees. In the event it becomes necessary for any Party to file a suit to enforce this Agreement or any provision contained herein, and any Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

19. Authority. Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated Ordinance or Resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

20. Preamble. The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein and all conditions precedent shall be binding on the parties as if expressly set forth in the terms and conditions of this Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

*Samuel F. Richards*

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

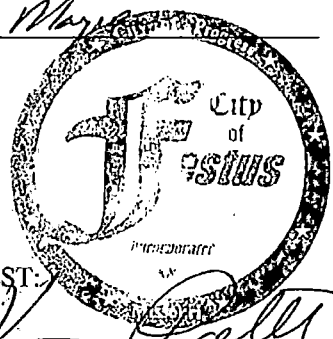
By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Mayor

SEAL

SEAL



ATTEST:  
\_\_\_\_\_

ATTEST: *[Signature]*

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

*Matthew Unrain*

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

By: Matthew Unrain

Title: \_\_\_\_\_

Title: Commissioner

SEAL

SEAL

ATTEST:  
\_\_\_\_\_

ATTEST: *[Signature]*

, Secretary

, Secretary

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_


\_\_\_\_\_

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

 \_\_\_\_\_

\_\_\_\_\_

By: Mike Osher

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

Title: Mayor

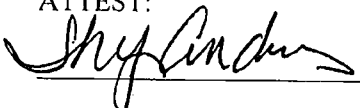
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ATTEST:

ATTEST:

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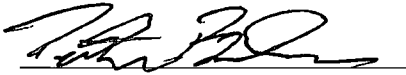
, Secretary

, Secretary

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS



\_\_\_\_\_

By: Peter Birkes

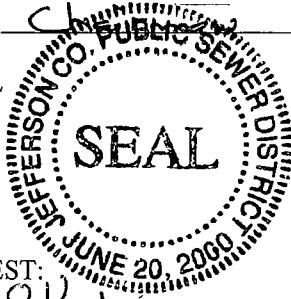
By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL



ATTEST:  


ATTEST:  
\_\_\_\_\_

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:  
\_\_\_\_\_

ATTEST:  
\_\_\_\_\_

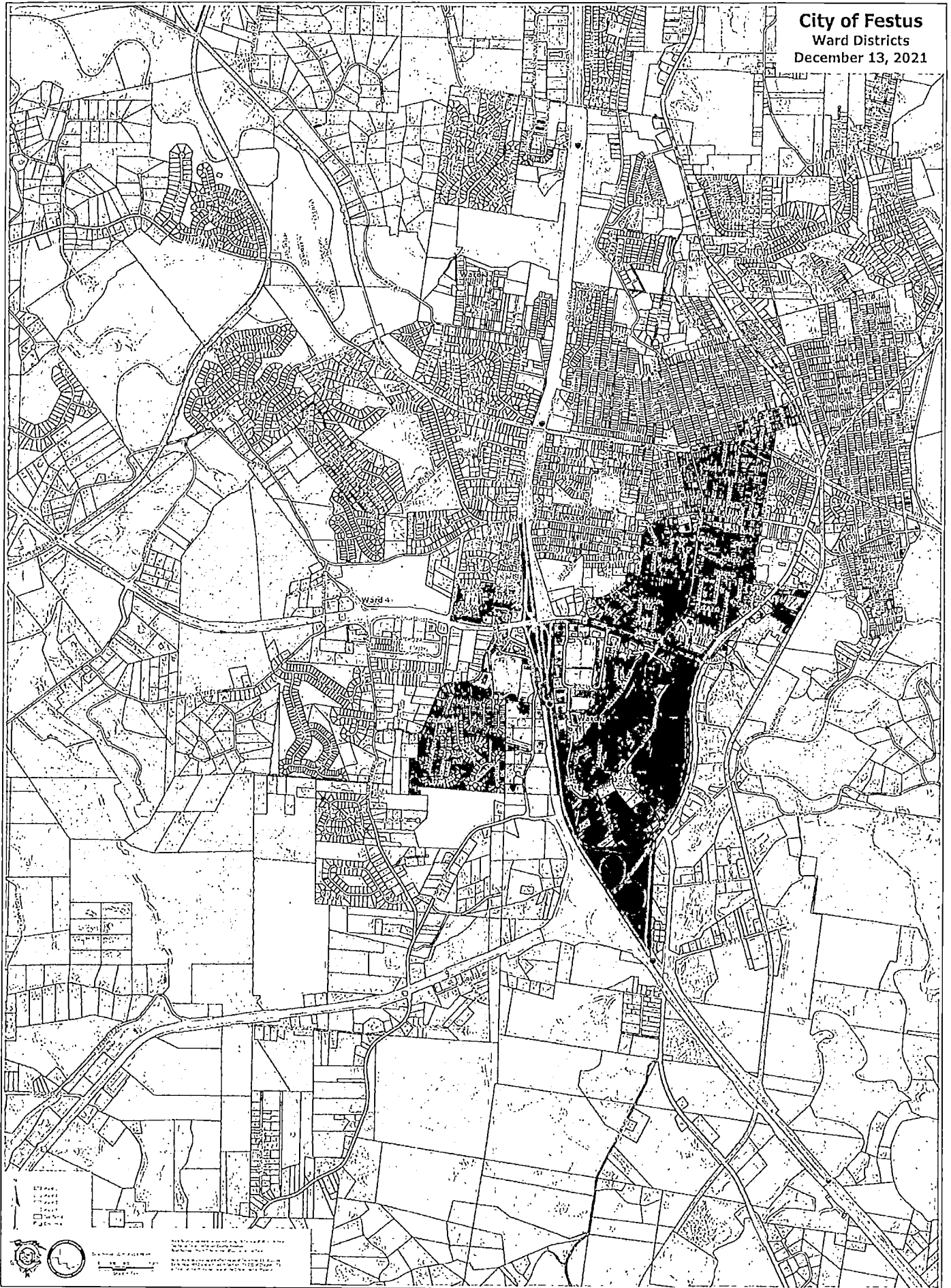
, Secretary

, Secretary

**Exhibit 1**

[ *insert Festus Boundary Map* ]





**City of Festus**  
Ward Districts  
December 13, 2021












**Exhibit 2**

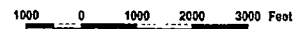
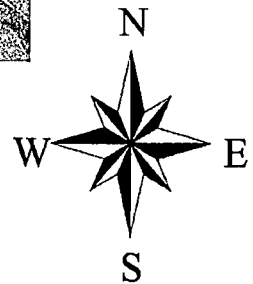
[ *insert Crystal City Boundary Map* ]

# LEGEND

-  PARCEL
-  RAILROADS
-  STREAMS
-  CITY LIMITS

## ZONING

-  ZONING-C1
-  ZONING-C2
-  ZONING-C4
-  ZONING-M1
-  ZONING-M2
-  ZONING-RA
-  ZONING-RC
-  ZONING-RS1
-  ZONING-RS2



# Crystal City Zoning Map

NOTICE  
THIS MAP WAS COMPILED FROM VARIOUS  
SOURCES. GOVERO LAND SERVICES MAKES  
NO WARRANTIES OR REPRESENTATIONS,  
EXPRESSED OR IMPLIED, IN FACT OR IN LAW,  
INCLUDING WITHOUT LIMITATION WARRANTIES  
OR MERCHANTABILITY AND FITNESS FOR A  
PARTICULAR PURPOSE.

copyright August 2009  
GOVERO LAND SERVICES, INC.  
5923 Old State Road  
Imperial, Missouri  
636-464-9380  
Rev/iss: August 13, 2009

**Exhibit 3**

[ *insert Asset Transfer Agreement* ]



**ASSET TRANSFER AGREEMENT**

THIS ASSET TRANSFER AGREEMENT (“Agreement”) is entered into this 17<sup>th</sup> day of January, 2024 (“Effective Date”), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri (“District”), the City of Festus, a political subdivision of the State of Missouri (“Festus”), the City of Crystal City, a political subdivision of the State of Missouri (“Crystal City”) and the Festus-Crystal City Sewage Commission (“Commission”), a political subdivision of the State of Missouri (hereinafter referred to jointly as “Parties” and generically as “Party”).

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Commission owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the Commission has authorized the execution of this Agreement by Resolution No. 23-0445, adopted by its Commissioners on September 23, 2023;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I  
TERMS OF SALE**

1.1 Sale of Assets. Commission agrees to sell, transfer, assign, convey, and deliver or cause the same to occur to District, and District agrees to purchase, acquire, and accept from Commission or other designee of the Commission, to the full extent reasonable and legal, all the right, title and interest in and to the Treatment Facility, including but not limited to all land, buildings, fixtures, and equipment thereon or used in the operation of the Treatment Facility (collectively, "Assets"), free and clear of all financial encumbrances, mortgages, pledges, liens, security interests, obligations, and liabilities. The conveyance of the Assets shall include the assignment and assumption of applicable Missouri Department of Natural Resources and Environmental Protection agency licenses and/or permits held by the Commission but only to the extent such interests are assignable.

1.2 No Assumption of Liabilities. District is not assuming any liabilities of Commission in existence prior to the Closing Date unless expressly agreed to herein but is assuming all liabilities regarding the Assets arising on and after the Closing Date. On the Closing Date, District shall assume and agrees to pay, perform, or otherwise discharge the liabilities of the Treatment Facility arising on and after the Closing Date. Commission shall perform or timely otherwise discharge the liabilities of the Treatment Facility arising before the Closing Date. The Parties shall prorate utility expenses and similar charges relating to the Treatment Facility, and Commission shall be liable to the extent such expenses and charges relate to any time before the Closing Date, and the District shall be liable to the extent such expenses and charges relate to any time on and after the Closing Date.

1.3 Payables. Commission shall be responsible for all payables resulting from the operation of the Treatment Facility prior to the Closing Date. District shall be responsible for all payables resulting from the operation of the Treatment Facility following the Closing Date.

1.4 Purchase Price. The purchase price for the sale of the Assets contemplated herein shall be Five Million and 00/100 Dollars (\$5,000,000.00), which shall be paid as follows: One Million and 00/100 Dollars (\$1,000,000.00) on the Closing Date, with Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Festus and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be paid to Crystal City and ten equal installment payments of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) each, without interest, with Two Hundred Fifty-Six Thousand and 00/100 Dollars (\$256,000.00) to be paid to Festus and One Hundred

Forty-Four Thousand and 00/100 Dollars (\$144,000.00) to be paid to Crystal City, with the first such payment due and payable on the first anniversary date of the Closing Date and successive payments due and payable on the successive anniversary dates of the Closing Date until fully paid. There shall be no prepayment penalty. To the extent required by art. VI, section 26 of the Missouri Constitution, such payments shall be subject to annual appropriation of funds by District. If District appropriates funds for such payments this Agreement shall remain in force and effect.

1.5 Closing. The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on, 15th February, 2024, or at such other time, date, and place as Festus, Crystal City, the Commission and District may mutually agree upon in writing (“Closing Date”)

## **Article II REPRESENTATIONS AND WARRANTIES OF COMMISSION**

Commission hereby represents and warrants to District as follows:

2.1 Authorization. Commission has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the Commission. This Agreement is a legal, valid, and binding obligation of the Commission.

2.2 No Violation. Neither the execution and delivery of this Agreement by Commission, the performance by Commission of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will: (i) violate any provision of the official policies of the Commission; or (ii) to the best knowledge of Commission, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which Commission is subject.

2.3 Litigation. There is no action, proceeding, or investigation pending or to the Commission’s knowledge threatened against or involving Commission or any of the Assets which, if determined adversely, could materially and adversely affect the Treatment Facility taken as a whole, and Commission is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the Treatment Facility taken as a whole.

2.4 No Warranties. The Assets sold hereunder are being sold “AS IS, WHERE IS” and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of Commission; provided, however, that Commission does warrant its title to the Assets and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED

WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2.5 Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the Treatment Facility or the Assets; and (ii) the form of each of Commission's standard form written agreements or contracts which relates to or arises from the Treatment Facility or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.

2.6 Environmental Matters.

(a) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are currently and have been in compliance with all Environmental Laws.

(b) Commission and the operations of Commission with respect to the Treatment Facility and the Assets are in material compliance with all environmental permits necessary for the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets and all such environmental permits are in full force and effect and shall be maintained in full force and effect by Commission through the Closing Date in accordance with all Environmental Laws; and Commission is not aware of any condition, event or circumstance that might result in noncompliance with any environmental permit or prevent or impede, after the Closing Date, the conduct of the operations of the Treatment Facility as currently conducted or the ownership, lease, operation or use of the Assets.

(c) Commission has not received from any person any: (i) environmental notice or environmental claim with respect to the Treatment Facility or the Assets; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.

(d) To the knowledge of Commission, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the Closing in connection with the operation or continued operation of the Treatment Facility or the ownership or use of the Assets in a manner consistent with current operation thereof by Commission, except for any permit, transfer, registration, or similar fees associated with any required approvals. Commission has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the Treatment Facility.

(e) The Treatment Facility has, to Commission's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous

Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.

2.7 Certain Due Diligence Material. Prior to the date of this Agreement, Commission has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:

(a) The deeds and other instruments (as recorded) by which Commission acquired the Treatment Facility and all title insurance policies, opinions, abstracts, and surveys in the possession of Commission with respect to such parcels.

(b) A listing of all easements or similar instruments under which Commission is the grantee where the easement or real property right evidenced is utilized in any manner by Commission for the placement, maintenance, repair, operation, or improvement of the Treatment Facility.

(c) All environmental reports and investigations that Commission owns, has obtained, or has ordered with respect to the Treatment Facility or the Assets.

(d) A complete inventory of all tangible personal property owned or leased by Commission and used in connection with the Treatment Facility;

(e) Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the Treatment Facility;

(f) All certificates of occupancy and other governmental licenses or approvals relating to any portion of the Treatment Facility, including any necessary operating permits and all other Permits;

(g) Any service records or bills for repairs to any part of the Treatment Facility for the prior three (3) years;

(h) All warranties, if any, relating to the Treatment Facility; and

(i) All reports or documentation available to Commission to support the cost basis of the Assets.

2.8 Disclosure. No representation or warranty by Commission in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.9 Brokers and Agents. No broker, agent or representative of Commission has any agreement or contract with Commission entitling such broker, agent or representative to

any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF DISTRICT**

District hereby represents and warrants to Commission as follows:

3.1 Corporate Organization. District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.

3.2 Authorization. District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.

3.3 No Violation. Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.

3.4 Title to Assets. Title to and risk of loss, destruction or damage to the Assets shall pass to District on the Closing Date, subject to the rights of the Commission under any easement document.

3.5 Inspection of Assets. District has inspected the Assets and is satisfied with the condition of the Assets subject to the acknowledgments in Section 2.5.

### **Article IV ADDITIONAL COVENANTS**

4.1 Closing Documents.

(a) On the Closing Date, Commission shall deliver or cause to be delivered the following to District:

- (i) If and when possible, a duly executed General Warranty Deed for all real property, including but, not limited to, the Treatment Facility at 355 County Road, Crystal City, MO 63019, County Locator Number Parcel IDs: 19-3.0-08.0-2-010-006, 19-3.0-08.0-2-010-007, and 19-3.0-08.0-2-010-008 . The Parties understand said parcels may have such deed or other restrictions as would prevent them from being transferred. The Parties will negotiate in good faith to transfer District such easement rights

as will provide District with unfettered and unchallengeable access to and control of said parcels. In the event the Parties determine the restrictions have been removed and the parcels may be transferred, the Parties shall cause to be delivered a General Warranty Deed to the District; and

- (ii) Bill of Sale, Easements, General Assignment conveying the Assets to District;
- (iii) Copies of or access to all books and records of Commission with respect to the construction, operation, billings, and permits issued with respect to the Treatment Facility; and
- (iv) Certified resolutions or ordinances of the Commission authorizing this Agreement and the transactions contemplated hereby.

(b) On the Closing Date, District shall deliver the following to Commission: certified resolutions of the Board of Trustees of District authorizing this Agreement and the transactions contemplated hereby.

4.2 Each party is a public entity and carries adequate insurance. Nothing in this Agreement shall constitute or be construed as a waiver of sovereign immunity, official immunity, good faith immunity or any other immunities or defenses available under state law.

4.3 Indemnity. To the extent permitted by law, the Commission agrees to indemnify, defend, and hold harmless District from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with the operation or management of the Treatment Facility prior to the Closing Date, any agreements entered into by Commission that are not expressly identified and assumed herein by District, including, but not limited to, any agreement for the operation, maintenance, repair or improvement of the Treatment Facility, and events or occurrences or based on the condition of the Treatment Facility before the Closing Date. District agrees to indemnify, defend, and hold harmless Commission from and against any and all claims, damages, actions, judgments, costs, and expenses (including without limitation, reasonable attorneys' fees, and court costs) of whatsoever nature arising out of or in connection with events or occurrences or based upon the condition of the Treatment Facility arising after the Closing Date.

4.4 Conduct of Business Prior to the Closing. From the date of this Agreement until the Closing, except as otherwise provided in this Agreement or consented to in writing by District (which consent shall not be unreasonably withheld or delayed), Commission shall (i) operate the Treatment Facility in the ordinary course of operations consistent with past practice; and (ii) use reasonable best efforts to maintain and preserve intact the Treatment Facility and its operations and to preserve the rights, franchises, goodwill and relationships of the employees, customers, suppliers, regulators, and others having relationships with the Treatment Facility. Without limiting the foregoing, from the date hereof until Closing, Commission shall:

- (a) maintain the Treatment Facility and the Assets in the ordinary course of operations but, in any event consistent with good utility practices and applicable law, including, but not limited to, maintenance, repair, replacement, or changes to the Assets;
- (b) pay or otherwise satisfy in the ordinary course of operations all of its liabilities and obligations;
- (c) confer with District prior to implementing operational decisions of a material nature;
- (d) respond within five (5) days to reasonable inquiries of District concerning the status of the Treatment Facility, operations, and finances;
- (e) keep in full force and effect, without amendment, assigned contracts and all material rights relating to the Treatment Facility;
- (f) comply with all applicable law and contractual obligations applicable to the operations of the Treatment Facility;
- (g) continue in full force and effect the Treatment Facility's insurance coverage;
- (h) cooperate with District and assist District in identifying the consents, authorizations, orders, approvals, permits, governmental orders, declarations, or filings with, or notices to, all governmental authorities required by District to operate the Treatment Facility and own the Assets from and after the Closing and either transferring existing governmental authorizations of Commission to District, where permissible, or obtaining new governmental authorizations for District;
- (i) upon request from time to time, execute and deliver all documents, make all truthful oaths, testify in any legal or administrative proceedings, and do all other acts that may be reasonably necessary or desirable in the opinion of District to consummate the contemplated transactions, all without further consideration;
- (j) maintain all books and records of Commission relating to the Treatment Facility in the ordinary course of operations;
- (k) unless otherwise agreed to by District, complete all construction work on any new facilities such that no work will be in progress at Closing and pay any and all outstanding invoices related to such work prior to Closing;
- (l) give District prompt notice of any event or condition of any kind learned by Commission between the date of this Agreement and the Closing pertaining to and adversely affecting the Assets, excepting events or conditions affecting the wastewater utility business generally; and



(m) perform all of its obligations under all existing contracts.

4.5 Access to Information and Investigation. From the date of this Agreement until the Closing:

(a) Commission shall, upon reasonable notice and during normal operating hours, (i) afford District full and free access to and the right to inspect the Treatment Facility and Assets, and other documents and data related to the Treatment Facility; (ii) furnish District with such financial, operating, and other data and information related to the Treatment Facility as District may reasonably request.

(b) Without limiting the foregoing, District shall, upon reasonable notice, and at District's sole cost and expense, have the right to enter upon Commission's property to conduct physical inspections and testing of the facilities, surveys, environmental assessments and sampling, site analysis, engineering studies, and other investigations it deems reasonably necessary with respect to the Treatment Facility and the Assets.

(c) Any investigation pursuant to this Section 4.5 shall be conducted in such manner as not to interfere unreasonably with the conduct of the operations of the Treatment Facility or the business of Commission. No investigation by District or other information received by District shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Commission in this Agreement.

4.6 Notice of Certain Events.

(a) From the date of this Agreement until the Closing, Commission shall promptly notify District in writing if it becomes aware of:

- i. any fact, circumstance, event, or action the existence, occurrence or taking of which: (A) has, had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect; or (B) has resulted in, or could reasonably be expected to result in, any representation or warranty made by Commission hereunder not being true and correct;
- ii. any notice or other communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement;
- iii. any notice or other communication from any governmental authority in connection with the transactions contemplated by this Agreement; and
- iv. any action commenced or, to Commission's knowledge, threatened against, relating to, or involving or otherwise affecting the Treatment

Facility that, if pending on the date of this Agreement, would have been required to have been disclosed or that relates to the consummation of the transactions contemplated by this Agreement.

(b) District's receipt of information pursuant to this Section 4.6 shall not operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by Commission in this Agreement and shall not be deemed to amend or supplement the schedules to this Agreement.

4.7 Employees. Prior to the Closing, Commission will either terminate or reassign the employment of all of its employees and independent contractors in connection with the System, at its sole risk and expense. Commission shall bear any and all obligations and liability under the WARN Act resulting from employment losses pursuant to this Section.

4.8 District may, but will not be obligated to, offer employment to any of Commission's former or current employees but will not assume any employee-related liabilities prior to the Closing. In the event District retains any current employees of Commission, District will assume employee-related liabilities arising after the Closing Date.

## **ARTICLE V CONDITIONS PRECEDENT**

5.1 Conditions of Commission. The obligations of Commission hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by Commission in writing) on or prior to the Closing:

(a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and

(b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement.

5.2 Conditions of District. The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

(a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;

(b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement;

(c) Commission shall have delivered to District a General Warranty Deed, Bill of Sale, Assignment of Easements, and General Assignment conveying the Treatment Facility and the Assets to District;

## **ARTICLE VI MISCELLANEOUS**

6.1 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

6.2 Fees and Expenses. Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. Commission and District agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker, or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

6.3 Assignment. Neither Party shall assign this Agreement or any of its rights and obligations hereunder.

6.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their legal representatives, successors and permitted assigns.

6.5 Notices. Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to Commission:

Matthew Unrein  
Public Works Director  
355 County Road  
Crystal City, MO 63019  
Phone: 636-937-6646 Ext. 103

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road

Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

(c) If to Festus:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(d) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019  
Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

6.6 Entire Agreement. This Agreement, along with the Definitive Agreements identified in that certain Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City (“Definitive Agreements”), the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and

understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

6.7 Construction. The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

6.8 Choice of Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

6.9 Severability. The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

6.10 Waiver. The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

6.11 Attorney Fees. In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

6.12 Cooperation. District and Commission will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date Commission will at the request of District, but without further consideration, sale,

transfer, and conveyance, take such other and further action as District may reasonably request in order to more effectively vest in District and put District in possession of the Assets and assure to District the benefits thereof.

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

Samuel F. Richards

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

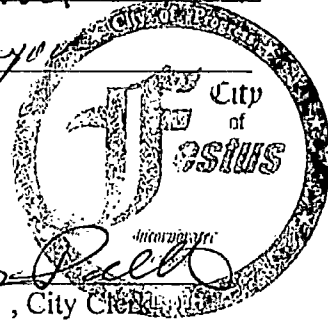
By: Samuel F. Richards

Title: \_\_\_\_\_

Title: Mayor

SEAL

SEAL



ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

[Signature]  
, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY  
SEWAGE COMMISSION

\_\_\_\_\_

Matthew Unrem

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

By: Matthew Unrem

Title: \_\_\_\_\_

Title: Commissioner

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

[Signature]  
, Secretary

transfer, and conveyance, take such other and further action as District may reasonably request in order to more effectively vest in District and put District in possession of the Assets and assure to District the benefits thereof.

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

\_\_\_\_\_  
, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY  
SEWAGE COMMISSION

Mike Osher  
\_\_\_\_\_

\_\_\_\_\_

By: Mike Osher

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

Title: Mayor

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

Key Andrews  
\_\_\_\_\_  
, Secretary

\_\_\_\_\_  
, Secretary

transfer, and conveyance, take such other and further action as District may reasonably request in order to more effectively vest in District and put District in possession of the Assets and assure to District the benefits thereof.

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

*Robert Birkes*

By: *Robert Birkes*

Title: *Chairman*

SEAL

ATTEST: *John E. Key*  
\_\_\_\_\_  
, Secretary



FOR:  
CITY OF FESTUS

\_\_\_\_\_

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

Title: \_\_\_\_\_

SEAL

ATTEST: \_\_\_\_\_  
, City Clerk

FOR:  
CITY OF CRYSTAL CITY

\_\_\_\_\_

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

Title: \_\_\_\_\_

SEAL

ATTEST: \_\_\_\_\_  
, Secretary

FOR:  
FESTUS-CRYSTAL CITY  
SEWAGE COMMISSION

\_\_\_\_\_

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

Title: \_\_\_\_\_

SEAL

ATTEST: \_\_\_\_\_  
, Secretary



**Exhibit 4**

[ *insert Festus System Operation and Cooperation Agreement* ]

**FESTUS**  
**SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT**

THIS SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT (“Agreement”) is an intergovernmental agreement entered into this 15th day of February, 2024, by and between **Jefferson County Public Sewer District** (“District” or “Operator”), and **the City of Festus, Missouri**; a third class municipal corporation formed pursuant to Chapter 77 RSMo. (“City”), (jointly referred to as “Parties”), and provides as follows:

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”) owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein;

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the District and Commission have entered into an Asset Transfer Agreement to transfer the ownership of the Treatment Facility to the District

contemporaneously with this Agreement, the Closing of such Asset Transfer Agreement being a condition precedent to the Closing on this Agreement; and

**WHEREAS**, the Festus owns and operates a sewage collection system within its city limits (“System”); and

**WHEREAS**, Festus deems it necessary to the preservation and promotion of the public health, safety and welfare of its citizens and the general public to transfer the operation and maintenance of the City’s sewer system, including all property, equipment and appurtenances of said System, and ultimately to convey and transfer the same, to the Sewer District and for the Sewer District to manage, operate, maintain, and ultimately own said System for the benefit and welfare of the citizen’s and their property;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## **ARTICLE 1 TERMS; EFFECTIVE DATE**

### **Section 1.1 Term and Extension Option.**

(a) Term. The term of this Agreement will extend for a period of thirty (30) years from the Effective Date (“Term”). At the expiration or termination of the Term, all other obligations of the Parties hereunder shall terminate unless otherwise agreed.

(b) Term Extension Option. Either Party may provide written notice to the other Party that such Party intends for this Agreement to terminate at the end of the Term not later than five (5) years prior to the end of the Term and at least one (1) year prior to the end of every fifth (5<sup>th</sup>) year thereafter. In the event that neither Party has provided written notice to the other Party that this Agreement shall terminate at the end of the Term, the Term shall be automatically extended for additional successive five (5) year periods (collectively, as appropriate, the “Term”).

**Section 1.2 Effective Date; Binding Effect.** This Agreement and the rights and obligations of each Party hereunder shall become effective on February 15, 2024 (“Effective Date”).

**Section 1.3 Closing.** The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on February 15, 2024, or at such other time, date, and place as the Commission and District may mutually agree upon in writing (“Closing Date”).

## **ARTICLE II**

## REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF CITY

**Section 2.1** City hereby represents and warrants to District as follows:

- (a) Authorization. City has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the City. This Agreement is a legal, valid, and binding obligation of the City.
- (b) No Violation. Neither the execution and delivery of this Agreement by City, the performance by City of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the official policies of the City, or (ii) to the best knowledge of City, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which City is subject.
- (c) Litigation. Except as specifically identified in this section, there is no action, proceeding or investigation pending or to the City's knowledge threatened against or involving City, if determined adversely, could materially and adversely affect the System taken as a whole, and City is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the System taken as a whole.
- (d) No Warranties. The System will be operated by the District "AS IS, WHERE IS" and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of City; provided, however, that City does warrant its title to the System and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (e) Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the System or the Assets; and (ii) the form of each of City's standard form written agreements or contracts which relates to or arises from the System or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.
- (f) Environmental Matters.
  - a. City and the operations of City with respect to the System and the Assets are currently and have been in compliance with all Environmental Laws.

- b. City and the operations of City with respect to the System are in material compliance with all Environmental Permits necessary for the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by City through the Closing Date in accordance with all Environmental Laws; and City is not aware of any condition, event or circumstance that might result in noncompliance with any Environmental Permit or prevent or impede, after the Closing Date, the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System.
  - c. City has not received from any person any: (i) Environmental Notice or Environmental Claim with respect to the System; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.
  - d. To the knowledge of City, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the time of Closing in connection with the operation or continued operation of the System or the ownership or use of the System in a manner consistent with current operation thereof by City, except for any permit, transfer, registration, or similar fees associated with any required approvals. City has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the System.
  - e. The System has, to City's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.
- (g) Certain Due Diligence Material. Prior to the date of this Agreement, City has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:
- a. The deeds and other instruments (as recorded) by which City acquired the System and all title insurance policies, opinions, abstracts, and surveys in the possession of City with respect to such parcels.
  - b. A listing of all easements or similar instruments under which City is the grantee where the easement or real property right evidenced is utilized in

any manner by City for the placement, maintenance, repair, operation, or improvement of the System.

- c. All environmental reports and investigations that City owns, has obtained, or has ordered with respect to the System.
  - d. A complete inventory of all tangible personal property owned or leased by City and used in connection with the System;
  - e. Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the System;
  - f. All certificates of occupancy and other governmental licenses or approvals relating to any portion of the System, including any necessary operating permits and all other Permits;
  - g. Any service records or bills for repairs to any part of the System for the prior three (3) years;
  - h. All warranties, if any, relating to the System; and
  - i. All reports or documentation available to City to support the cost basis of the System.
- (h) Disclosure. No representation or warranty by City in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement knowingly contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.
- (i) Brokers and Agents. No broker, agent or representative of City has any agreement or contract with City entitling such broker, agent or representative to any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

**Section 2.2 Conditions of City.** The obligations of City hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by City in writing) on or prior to the Closing:

- (a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and
- (b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement; and

- (c) All Definitive Agreements are executed, and all required governmental authorizations are obtained.

**ARTICLE III**  
**REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF**  
**DISTRICT**

**Section 3.1 Representations and Warranties.** District hereby represents and warrants to City as follows:

- (a) **Corporate Organization.** District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.
- (b) **Authorization.** District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.
- (c) **No Violation.** Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.
- (d) The District has reviewed and is satisfied with the condition of the Due Diligence Materials and has no objections to such documents. Further, the District has inspected and reviewed the condition of the sewage collection systems and is satisfied with the condition of the system.

**Section 3.2. Conditions of District.** The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

- (a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;
- (b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed and all County Authorizations are obtained.

**ARTICLE IV  
OPERATION OF THE SYSTEM**

**Section 4.1 The System Generally.**

**(a) Reliance.** The Operator acknowledges that the City, in wastewater collection and treatment services, is providing an essential public service and, in complying with applicable law, will rely on the performance by the Operator of its obligations hereunder.

**(b) Limitation on Operator Rights.** The Operator shall not use the System for any purpose other than the purposes contemplated hereby.

**(c) Curtailments and Shutdowns.** If delivery of wastewater collection and treatment services through the System is temporarily reduced, curtailed, or shut down, the Operator shall promptly advise the City as to the probable nature, reason and duration thereof and the expected effect thereof on the operation of the System and provide routine updates to the City on the status until such time as operations have returned to normal. The Operator shall be in charge of announcements to the public or the media in accordance with the provisions of this Agreement.

**Section 4.2 Operation and Construction.** At all times, the Operator shall operate the System on behalf of City and provide the operations and construction of the System in accordance with this Agreement, including, without limitation, all National Pollutant Discharge Elimination System discharge permits and all other applicable permits currently held by the City or which may hereafter be acquired by the Operator. The City hereby grants to the Operator all rights necessary to perform the construction, improvement, management, operation, and maintenance of the System (and such additional rights and responsibilities as it may be granted and assumed, respectively) and the establishment of policies, programs, and procedures with respect thereto.

**Section 4.3 Rights and Responsibilities of Operator.** Subject only to the limitations imposed in this Agreement, the Operator shall have the full and complete duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with the System, provided that the District shall not unreasonably interfere with any activities or operations of the City within or upon the City's property and its rights-of-way and such operation is conducted at the costs and expense of the Operator. Without limiting the Operator's power or authority under this Agreement, the Operator's specific rights and responsibilities with respect to the operation, maintenance, improvement, and construction of the System shall include the following all at the cost and expense of the Operator:



(a) The right, without obtaining consent or approval of the City, to set rates for any and all sewage collection, treatment, operation, and/or maintenance services in accordance with applicable law; provided, however, the Operator shall set the rates for the first two years after the Effective Date of this Agreement no higher than the rates specified in Attachment A, attached hereto and made a part hereof for all purposes. Except as specifically provided otherwise in the prior sentence, nothing in this Agreement is intended to impair the District's right to approve final rates and charges to the System's customers;

(b) The right, without obtaining consent or approval of the City, to purchase, acquire, sell, alienate, lease, convey, exchange, option, agree to sell or buy, dispose of, manage, lease or operate all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator, including all property now owned or hereafter acquired by the Operator, whether now or in the future, for such consideration as the Operator may deem appropriate, including for cash, credit, a combination of both, an exchange of property rights, with such acts to contain such terms and conditions as the Operator may deem necessary, proper and/or advisable;

(c) The right, without obtaining consent or approval of the City, to borrow any sum or sums of monies and incur obligations, but only as may be permitted by law, whether secured or unsecured, from any bank, financial institution, corporation, individual or entity, including, but not limited to, borrowings from any affiliate of the Operator, and to guaranty or endorse the debts and obligations of any individual or entity, all to be on such terms and conditions and in such amounts and to contain such rates of interest and repayment terms as the Operator may deem necessary or proper; from time to time make, execute and issue promissory notes and other negotiable or non-negotiable instruments, continuing guaranties or evidences of indebtedness, loan agreements and letters of credit, all to be on such terms and conditions and to contain such rates of interest and repayment terms as the Operator may deem reasonably necessary under the prevailing circumstances; and prepay, in whole or in part, refinance, increase, modify, consolidate or extend any debt, obligation, mortgage, or other security device, on such terms as the Operator may deem reasonably necessary under the prevailing circumstances;

(d) The right, without obtaining consent or approval of the City, to assign, pledge, mortgage, or grant other security interests, but only as may be permitted by law, in or otherwise encumber all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator and execute and bind the Operator on any mortgage, assignment, security agreement, financing statement, pledge or any other document creating such encumbrances to secure the obligations of the Operator or any other individual or entity, with such documents to contain the usual and customary security clauses, all upon such terms and conditions as the Operator may deem necessary or proper;

(e) The right, without obtaining consent or approval of the City, to acquire and enter into any contract of insurance which the Operator deems reasonably necessary

and proper for the protection of the Operator and for the conservation of the Operator's assets, or for any purpose convenient or beneficial to the Operator;

(f) The right, without obtaining consent or approval of the City, to employ from time to time on behalf of the Operator individuals on such terms and for such compensation as the Operator shall determine;

(g) The right, without obtaining consent or approval of the City, to make decisions as to accounting principles and elections, whether for book or tax purposes (and such decisions may be different for each purpose);

(h) The right, without obtaining consent or approval of the City, to open checking and savings accounts in banks or similar financial institutions in the name of the Operator, and deposit cash in and withdraw cash from such accounts;

(i) The right, without obtaining consent or approval of the City, to set up or modify record keeping, billing and accounts payable accounting systems;

(j) The right, without obtaining consent or approval of the City, to adjust, arbitrate, compromise, sue or defend, abandon, or otherwise deal with and settle any and all claims in favor of or against the Operator or the System, as the Operator shall deem reasonable and proper;

(k) The right, without obtaining consent or approval of the City, to enter into, make, perform, and carry out all types of contracts, leases, and other agreements, and amend, extend, or modify any contract, lease or agreement at any time entered into by the Operator with the exception of any agreements executed jointly between the parties hereto;

(l) The right, without obtaining consent or approval of the City, to represent its interests in connection with any interactions with industry or regulatory institutions or organizations;

(m) The right, without obtaining consent or approval of the City, to execute, on behalf of and in the name of the Operator, any and all contracts, leases, agreements, instruments, notes, certificates, titles or other documents of any kind or nature as deemed reasonably necessary and proper by the Operator;

(n) The right, without obtaining consent or approval of the City, to enter into joint ventures or intergovernmental agreements and execute any and all acts and agreements in connection therewith, all upon such terms and conditions as the Operator may deem appropriate;

(o) The right, without obtaining consent or approval of the City, to do all acts necessary or desirable to carry out the business for which the Operator is formed in the

county of Jefferson or which may facilitate the Operator's exercise of its powers hereunder;

(p) The obligation to operate, maintain, and improve the System in conformity with this Agreement;

(q) The obligation to, at Operator's own cost, adequately maintain the System throughout the Term through routine maintenance and repair so that at the end of the Term, the System shall be and remain in good operating condition, normal wear and tear excepted, and successfully satisfying the District's policies and standards;

(r) The sole responsibility for all right-of-way acquisitions and the obligation to procure all such other rights and approvals necessary or useful for the performance of its obligations hereunder as it relates to this Agreement.

(s) The Operator shall be responsible for the payment of all applicable charges in respect of applications for such rights and approvals.

(t) Reporting; Attendance at Meetings. Upon City's reasonable request, the Operator shall attend relevant meetings of the City. The Operator shall, upon the City's reasonable request, provide periodic progress reports and other information as available in the Operator's ordinary course of business, including but not limited to the following:

- (i) Shutoff Reports;
- (ii) Growth rate of new customers;
- (iii) Results of all regular performance tests;
- (iv) Schedules of all upcoming routine maintenance and repair work;
- (v) Reports containing data, as appropriate, to demonstrate: the quality of the influent sewage and treated effluent; treatment plant efficiency; and the status of operations and maintenance activities;
- (vi) Contact information for Operator's key personnel;
- (vii) All material regulatory notifications to the Operator from the Environmental Protection Agency, Missouri Department of Natural Resources, or any other regulatory agency with oversight of the Operator's responsibilities hereunder;
- (viii) Customer data, including, but not limited to, connection times (length of time from connection request to fulfillment), repair times (length of time from requested repair to fulfillment), payment times (average number of days for bill payment), complaint log (log of all complaints organized by

complaint type), yearly customer satisfaction survey (survey to be conducted yearly by independent survey company);

- (ix) Any expansion plans or capital improvement plans;
- (x) Any master plan progress reports
- (xi) Any expense reports or other documents referencing costs and expenses for the System, including repairs, maintenance, operation, expansion, and improvement costs.

**Section 4.4 Rights and Responsibilities of the City.** As the owner of the System, the City retains only an ownership interest in the System. Without limiting the generality of rights of the Operator described in section 4.3 of the Agreement, the City's specific rights and responsibilities with respect to the System shall include:

(a) the responsibility to provide such staff and technical assistance as City is competent to provide upon the request of the Operator, at such hourly rates or salaries as the Parties may negotiate.

(b) the right to represent its interests, in coordination and cooperation with the Operator, in connection with any interactions with industry or regulatory institutions or organizations;

(c) the right to review and comment on all engineering and design plans developed for the expansion, improvement, and operation of the System by the Operator;

(d) the right (including reasonable audit rights during normal business hours and which do not interfere with the performance of the operations and construction services hereunder) to information relating to operations and construction services conducted under this Agreement by the Operator and any contractors and affiliates;

(e) the right, at its own expense, to monitor the progress, quality, and condition of the System;

(f) the right, at its own expense, to monitor the work performed by the Operator and its contractors and to receive copies of all plans and designs in relation to the System;

(g) the right to: (i) undertake such actions; (ii) receive additional information; (iii) consult with the representatives of the Operator; and (iv) make recommendations to the Operator, in each case as may be reasonably necessary or appropriate to perform the City's responsibilities and obligations under this Agreement and as may otherwise be necessary or appropriate to comply with the City's legal, contractual and fiduciary obligations; provided, however, that notwithstanding anything contained in Section 4.2

hereof, this Section 4.4 shall be subject to and shall not be in limitation of the rights, authority and responsibilities of the Operator under Section 4.2 and Section 4.3 hereof;

(h) the responsibility for the City's legal matters, including its reporting and related compliance with applicable law;

(i) the responsibility to: (i) respond in a timely and adequate manner to all requests of the Operator for action or decision by the City with respect to all matters as to which the Operator shall reasonably request the response of the City in accordance with the provisions of this Agreement; and (ii) provide the Operator with such information, data and assistance as may be necessary or appropriate for the Operator to perform its obligations hereunder;

(j) the responsibility to reasonably assist the Operator as necessary in its applications for the procurement of rights and approvals necessary or useful for the performance of the Operator's obligations hereunder and to actively assist the Operator in expediting the procurement of such rights and approvals in a timely manner, provided that the Operator shall remain responsible for the payment of all applicable charges in respect of applications for rights and approvals;

(k) the responsibility to use its best efforts to obtain and provide to the Operator such information and data as may be reasonably required by the Operator for planning and operating the System;

(l) the responsibility to do all things reasonably requested by the Operator in order to assist the Operator in the collection of the sewer charges and other charges;

(m) the responsibility to provide the Operator with all necessary and reasonable rights of access in connection with the construction of the System; and

(n) the responsibility to terminate, upon the District's request, its water service to any customer who fails to pay any bill of the Operator charged under the District's rates, rules, and regulations. Any disconnection fee or reconnection fee charged by the City related to the termination of water service for non-payment of the Operator's sewer service charges shall belong to the City.

(o) the responsibility to provide the Operator with notices of requests for building permits submitted after the Effective Date; and

(p) the responsibility to locate and mark underground facilities, as requested by the District, pursuant to the Sections 319.010 through 319.050 of the Revised Statutes of Missouri, the "Underground Facility Safety and Damage Prevention Act."

**Section 4.5 Safety.** The Operator shall perform its obligations under this Agreement with due regard for public safety and consistent with this Agreement.

#### **Section 4.6 Construction of System Capital Improvements; Capital Asset Control.**

(a) **Capital Improvements.** The Operator shall pay for all Capital Improvements under this Agreement, identified within its own discretion, from its own funds. The Operator may self-perform or may hire contractors to perform any such Capital Improvement project, with amounts payable to any of its contractors being the responsibility of the Operator. The Operator shall not cause any liens or encumbrances to be placed on the System. The Operator agrees to timely satisfy and pay any and all contractors performing work on the System. Should a lien or encumbrance be placed on the System, Operator agrees to immediately seek any and all remedies to satisfy and/or remove the lien or encumbrance from the System at the Operator's cost and expense.

(b) **Operator Construction Duties.** The Operator shall administer, coordinate, manage and oversee the construction of Capital Improvements. The System may include one or more treatment plants, a network of forced and gravity sewers to convey sewage to a central location within each drainage basin and a network of sewage pumping stations, gravity mains and force mains to convey the collected sewage to the treatment plant.

**Section 4.7 Technical Assistance.** The Operator may contract for the services of outside consultants, suppliers, manufacturers, or experts, provided that the Operator shall remain responsible for the performance of operations and construction services pursuant to the terms of this Agreement.

#### **Section 4.8 Other Services.**

(a) **Bill Payments.** The Operator shall timely pay all bills related to the System which are proper, appropriate, and not otherwise disputed and which it has authority to pay and shall assure that, to the extent within the Operator's control, no mechanics' lien or similar encumbrances are filed against any portion of the System.

(b) **Implied Services.** Any services, functions, or responsibilities not specifically described in this Agreement that are required for the proper performance and provision of the operation and construction of the System, shall be deemed to have been granted by the City to the Operator, except to the extent they are rights and responsibilities reserved to the City as set forth in Section 4.4 hereof.

**Section 4.11 Hazardous Materials.** The Operator shall give prior written notice to the City of its intention to handle, transport or dispose of Hazardous Materials. The Operator shall cause such Hazardous Materials to be transported to and disposed of in accordance with applicable law.

**Section 4.12 Connection of Newly Developed Properties to System.** The City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all

newly developed properties to apply to the Operator to be registered and connected to the System. In addition, the City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all real estate developers, after installing sewage collection systems within any real estate development within the city limits to dedicate and transfer ownership of the same to the Operator.

**Section 4.13 Access Rights.** The City shall make available to the Operator and its officers, contractors and suppliers without charge all necessary access rights when required so as to enable the Operator to operate, maintain, repair, and replace the System or any part thereof, and the City will procure, if necessary, the closure of any roads for the purposes of routine maintenance, repair, or replacement, provided that the Operator shall provide to the City notice of maintenance and repairs within a reasonable amount of time before the beginning of the time in question. It is recognized that the Operator may require immediate access in emergency situations.

## **ARTICLE V OWNERSHIP OF THE SYSTEM**

**Section 5.1 Ownership of the System.** (a) Ownership. The System as it exists or existed as of the Closing Date is and shall be owned by the City. All additions to the System received, purchased, or constructed directly or indirectly by the Operator in conjunction or for the use of any part of the System, including, but not limited to, any Capital Improvements, after the Closing Date during the Term shall be owned and the sole and exclusive property of Operator. Operator shall keep such records as are necessary to show and distinguish the portion of the System owned by City and the portion of the System owned by Operator.

(b) Rights/Duties of Operator. Subject only to the limitations imposed in this Agreement, the Operator shall have the duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with, the System. The Operator shall have the exclusive right and obligation to design, procure, construct, operate, and maintain the System and all future wastewater systems which may be installed in the Service Area, and Operator hereby accepts such rights and obligations upon the terms and conditions provided for herein. The Operator shall have the exclusive right to all revenues and benefits resulting from or attributable to the operation and maintenance of the System and all monies collected by or for the account of the Operator or its contractors pursuant to this Agreement shall be the property of the Operator and shall be deposited in such account as the Operator shall determine in its own discretion. For the avoidance of doubt, the Operator has the exclusive right and obligation to provide the operations and construction services to the customers of the System and receive all payments from the customers.

## **ARTICLE VI COMPENSATION**

As compensation to the Operator for providing the operation, maintenance, repair, and capital improvements to the System under this Agreement, and in consideration of Operator providing treatment of sewage generated by the System, the Operator shall be entitled to any and all revenues generated from or dedicated to the operation of the System. The City authorizes the Operator to send invoices or otherwise bill directly to customers and to determine the time and manner for the collection of payments from customers who use the System. To the extent that any customer sends payment to the City for any invoice or bill sent by the Operator, the City shall promptly forward such payments to the Operator.

## **ARTICLE VII PURCHASE OF SYSTEM**

It is the intent and desire of the Parties that the City will ultimately transfer ownership of its System to the District. To that end, the District shall have the option at its convenience to tender to the City an Asset Transfer Agreement during the term of this Agreement. The Asset Transfer Agreement shall provide for the District to pay the City Ten Dollars for the System and such other terms and conditions as within the District's judgment shall effectuate such transfer in a timely and administratively convenient manner, including, but not limited to, the following:

- a. Deeds and other instruments by which City will transfer all real property constituting any part of the System; and
- b. An assignment of all easements and/or similar instruments under which City will transfer all such rights constituting any part of the System; and
- c. A Bill of Sale transferring all tangible personal property owned by City and used in connection with the System; and
- d. An assignment of all warranties, if any, relating to the System.

It is acknowledged amongst the Parties that the consideration for the transfer of the System has been included in the purchase price of Five Million Dollars (\$5,000,000.00) as set forth in the Asset Transfer Agreement executed amongst the District and the Commission. The Parties agree to negotiate in good faith for the transfer of the System to the District, for no additional compensation beyond the amount provided herein, at a mutually agreeable time, and in the manner provided by law.

## **ARTICLE VIII INDEMNIFICATION**

**Section 8.1** To the extent permitted by law, the District agrees to indemnify and hold harmless City, and its elected officials, officers, agents, servants, and employees, from, against, and with respect to any and all third-party suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted



against City arising due to any negligence, intentional misconduct, or the violation of any Environmental Laws, of the District or any of its officers, agents, servants, employees in the performance of the Work, or the failure of the District to comply with any applicable environmental laws or other laws in performing the Work, except for those claims directly caused by the negligence or intentional misconduct of City or their officers, agents, servants, or employees. Nothing in this Section 8.1 is intended by the District to be a waiver of the District's sovereign immunity.

**Section 8.2** To the extent permitted by law, City agrees to indemnify, hold harmless and reimburse District, and its officers, agents, servants, and employees, from, against and for any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against District, arising due to any negligence or intentional misconduct of City or any of its officers, agents, servants or employees or which is assessable against City because of its ownership of the City Wastewater Collection System; but such indemnity shall specifically exclude without limitation those claims directly caused by the negligence or intentional misconduct of (i) District in the performance of Work or (ii) third parties using or accessing the City Wastewater Collection System during the term of this agreement. Nothing in this Section 8.2 is intended by the City to be a waiver of the City's sovereign immunity.

## **Article IX MISCELLANEOUS**

**Section 9.1 Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

**Section 9.2 Fees and Expenses.** Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. City and Operator agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

**Section 9.3 Assignment.** Neither Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Party.

**Section 9.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

**Section 9.5 Notices.** Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the

following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

(a) If to City:

Greg Camp  
City Administrator  
711 W Main  
Festus, MO 63028  
Phone: 636-937-4694, ext. 307

With a copy to:

Brian Malone  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101-1699  
Phone: 314 621.2939

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

**Section 9.6 Entire Agreement.** This Agreement along with the other Definitive Agreements, the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

**Section 9.7 Construction.** The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to

refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

**Section 9.8 Choice of Law.** This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

**Section 9.9 Remedies, Injunctive Relief.** The Parties agree that the breach of this Agreement is likely to cause both Parties substantial and irrevocable damage that would be difficult, if not impossible, to prove precisely; therefore, it is agreed that this Agreement shall be enforceable by specific performance or other injunctive relief. Nothing in this section shall limit either Party's right to pursue any other remedy, equitable or legal, it may have against the other for breach of this Agreement.

**Section 9.10 Waiver.** The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

**Section 9.11 Attorney Fees.** In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

**Section 9.12 Cooperation.** Operator and City will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date, City will, at the request of District, but without further consideration, sale, transfer, and conveyance, take such other and further action as District may reasonably request in order to vest in Operator and put Operator in possession of the Assets and assure to Operator the benefits thereof more effectively.

**Section 9.13 Authority.** Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated ordinance or resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

**Section 9.14 Severability** The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or

more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

#### **Section 9.15 Preamble and Definitions.**

(a) The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein, and all conditions precedent shall be binding on the Parties as if expressly set forth in the terms and conditions of this Agreement.

(b) Definitions. As used herein the following terms shall have the following meanings unless the context otherwise requires, and such meanings shall be equally applicable to both singular and plural forms of the terms herein defined:

“Capital Improvement” means any repair, replacement, improvement, removal and retirement, alteration, extension, and addition to the System (other than any repair, replacement, improvement, removal and retirement, alteration and addition constituting ordinary, day-to-day, or regularly scheduled repair or maintenance of the System).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

“Definitive Agreements” means the following agreements which were executed contemporaneously with the Agreement: (1) A four-party Master Service Agreement between the JMUC, Cities and the District; (2) an Asset Transfer Agreement between the JMUC and the District for conveyance of the JMUC Sewage Treatment Plant to the District; (3) a Sewer System Operation and Cooperation Agreement between Festus and the District pertaining to the operation of the Festus’ sewage collection system; and (4) a System Operation and Cooperation Agreement between Crystal City and the District pertaining to the operation of Crystal City’s sewage collection system.

“Environmental Laws” means all applicable laws concerning or relating to the protection of the environment; or the exposure to, or the storage, recycling, treatment, generation, transportation, production, release, or disposal of Hazardous Materials, each as amended and in effect as of the date hereof and as same may be amended, varied, or modified in the future. The term “Environmental Laws” includes, without limitation, the following and their implementing regulations and any state analogs: CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as

amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq., and the Missouri Clean Water Law (MCWL), Section 644.0010 et seq., Revised Statutes of Missouri (RSMo).

“Hazardous Materials” means any material which is defined or regulated as a hazardous waste, hazardous substance, toxic substance, hazardous chemical substance or mixture, or words of similar import under Environmental Laws, including, but not limited to, “Hazardous Substances” as defined in CERCLA and the regulations promulgated thereunder, and asbestos.

“Service Area” means the Crystal City Boundaries and the Festus Boundaries, as those terms are defined in the Master Agreement.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF FESTUS**

By: \_\_\_\_\_  
Peter Birkes, Chairman

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

SEAL

SEAL

ATTEST:

ATTEST:

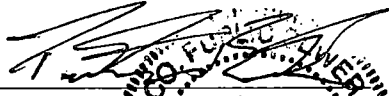
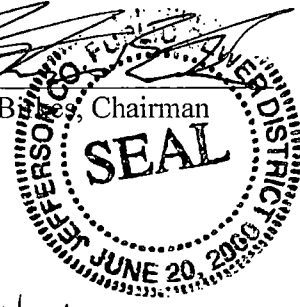
\_\_\_\_\_  
, Secretary

  
  
, City Clerk

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF FESTUS**

By:   
Peter Blum, Chairman  


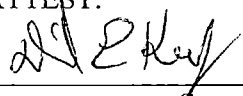
By: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

  
\_\_\_\_\_  
, Secretary

\_\_\_\_\_  
, City Clerk

[ *insert Attachment A - Rates* ]



## ATTACHMENT A

Inflation Factor            3%

Fiscal Year	2024		2025	
	Base Rate Min. Charge	Usage Rate Charge per 1,000 Gallons	Base Rate Min. Charge	Usage Rate Charge per 1,000 Gallons
5/8" - 3/4"	4.77	3.51	4.91	3.62
1 Inch	5.28	3.51	5.44	3.62
1-1/2 Inch	6.14	3.51	6.32	3.62
2 Inch	7.16	3.51	7.37	3.62
3 Inch	9.88	3.51	10.18	3.62
4 Inch	12.95	3.51	13.34	3.62
6 Inch	21.47	3.51	22.11	3.62
8 Inch	31.69	3.51	32.64	3.62

*Information for rates was developed from the Carl Brown rate study - 2022-2 No Cost Increase*

**EXHIBIT A - RATE ATTACHMENT**

As set forth in the Sewer System Operation and Cooperation Agreement (the "Agreement"), the Operator shall set the rates for the first two years after the Effective Date of the Agreement no higher than the rates specified in Attachment A. During this two-year period, the Operator shall bill customers based on the actual usage determined each month. By way of example, if the customer utilizes 4,000 gallons of water in a given month, that customer's bill shall be calculated as follows:

Base Rate:		\$ 4.77
Usage:	4,000 gallons x \$3.51 per 1,000 =	<u>\$14.04</u>
Customer's Bill:		\$18.81

After the conclusion of this two-year period, the Operator agrees to utilize winter averaging when it bills the residential customers residing in the City. Winter averaging is determined by calculating the average monthly water usage during December, January and February and utilizing that three-month average for the total customer usage for each of the next twelve months. By way of example:

December Usage:	3,000 gallons
January Usage:	4,000 gallons
February Usage:	2,000 gallons
Winter Average:	3,000 gallons per month for the next twelve (12) months

Winter averaging shall not apply to non-residential customers in the City. Winter averaging will not be utilized for customers that do not have winter average data (new customers) or those that are not home during the winter months. The Operator shall give the City sixty (60) days written notice prior to discontinuing the use of winter averaging.

**Exhibit 5**

[ *insert Crystal City System Operation and Cooperation Agreement* ]

**CRYSTAL CITY**  
**SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT**

THIS SYSTEM OPERATING AGREEMENT (“Agreement“) is an intergovernmental agreement entered into this 15<sup>th</sup> day of February, 2024, by and between **Jefferson County Public Sewer District** (“District” or “Operator”), and **the City of Crystal, Missouri**, a third class municipal corporation formed pursuant to Chapter 77 RSMo. (“City”), (jointly referred to as “Parties”), and provides as follows:

**WITNESSETH:**

**WHEREAS**, the District is a public sewer district, originally organized pursuant to Sections 249.430 to 249.668 RSMo. and reorganized as a common sewer district pursuant to the provisions of Sections 204.600 to 204.640 RSMo. and is authorized to enter into agreements pursuant to Section 204.618 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Festus (“Festus”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the city of Crystal City (“Crystal City”) is a third class municipal corporation formed pursuant to Chapter 77 RSMo. and is authorized to enter into agreements pursuant to Section 70.220(1) RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein; and

**WHEREAS**, the Festus-Crystal City Sewage Commission (“Commission”) owns, maintains, and operates a sewage treatment facility and associated appurtenances (“Treatment Facility”), which provides sewage treatment services for sewage collected and conveyed to the Treatment Facility by the sewage collection systems owned by Festus and Crystal City; and

**WHEREAS**, the Commission is a joint municipal utility commission established by Festus and Crystal City pursuant to Sections 70.210 through 70.320 RSMo. and is authorized to enter into agreements pursuant to Section 70.260.2 RSMo. and Section 16 of Article VI of the Missouri Constitution for the purposes set forth herein;

**WHEREAS**, the Parties desire for the Commission to transfer ownership of the Treatment Facility to the District and the District to receive ownership from the Commission;

**WHEREAS**, the District and Commission have entered into an Asset Transfer Agreement to transfer the ownership of the Treatment Facility to the District contemporaneously with this Agreement, the Closing of such Asset Transfer Agreement being a condition precedent to the Closing on this Agreement; and

**WHEREAS**, Crystal City owns and operates a sewage collection system within its city limits (“System”); and

**WHEREAS**, Crystal City deems it necessary to the preservation and promotion of the public health, safety and welfare of its citizens and the general public to transfer the operation and maintenance of the City’s sewer system, including all property, equipment and appurtenances of said System, and ultimately to convey and transfer the same, to the Sewer District and for the Sewer District to manage, operate, maintain, and ultimately own said System for the benefit and welfare of the citizen’s and their property;

**NOW THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I  
TERMS; EFFECTIVE DATE**

**Section 1.1 Term and Extension Option.**

(a) Term. The term of this Agreement will extend for a period of thirty (30) years from the Effective Date (“Term”). At the expiration or termination of the Term, all other obligations of the Parties hereunder shall terminate unless otherwise agreed.

(b) Term Extension Option. Either Party may provide written notice to the other Party that such Party intends for this Agreement to terminate at the end of the Term not later than five (5) years prior to the end of the Term and at least one (1) year prior to the end of every fifth (5<sup>th</sup>) year thereafter. In the event that neither Party has provided written notice to the other Party that this Agreement shall terminate at the end of the Term, the Term shall be automatically extended for additional successive five (5) year periods (collectively, as appropriate, the “Term”).

**Section 1.2 Effective Date; Binding Effect.** This Agreement and the rights and obligations of each Party hereunder shall become effective on February 15, 2024 (“Effective Date”).

**Section 1.3 Closing.** The consummation of the transactions contemplated by this Agreement (“Closing”) shall take place at the offices of the District at 10:00 a.m. on February 15, 2024, or at such other time, date, and place as the Commission and District may mutually agree upon in writing (“Closing Date”).

**ARTICLE II  
REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF  
CITY**

**Section 2.1** City hereby represents and warrants to District as follows:

- (a) Authorization. City has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by the City. This Agreement is a legal, valid, and binding obligation of the City.
- (b) No Violation. Neither the execution and delivery of this Agreement by City, the performance by City of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the official policies of the City, or (ii) to the best knowledge of City, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which City is subject.
- (c) Litigation. Except as specifically identified in this section, there is no action, proceeding or investigation pending or to the City's knowledge threatened against or involving City, if determined adversely, could materially and adversely affect the System taken as a whole, and City is not in violation of any order, judgment, injunction, or decree outstanding against it the effect of which would be materially adverse to the System taken as a whole.
- (d) No Warranties. The System will be operated by the District "AS IS, WHERE IS" and no warranties of any kind or character, express or implied, including any warranty of quality or any warranty of merchantability of fitness for a particular purpose, are being given by or on behalf of City; provided, however, that City does warrant its title to the System and its right and authority to sell and transfer the same to District. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (e) Contracts and Commitments. Prior to the date of this Agreement, District has been supplied with a true and correct copy of: (i) each unique material written agreement, contract or commitment which relates to or arises from the System or the Assets; and (ii) the form of each of City's standard form written agreements or contracts which relates to or arises from the System or the Assets, and a list of the names, billing addresses and service addresses of each counterparty to a standard form written agreement or contract, together with all amendments, waivers or other changes thereto.
- (f) Environmental Matters.
  - a. City and the operations of City with respect to the System and the Assets are currently and have been in compliance with all Environmental Laws.
  - b. City and the operations of City with respect to the System are in material compliance with all Environmental Permits necessary for the conduct of

the operations of the System as currently conducted or the ownership, lease, operation or use of the System and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by City through the Closing Date in accordance with all Environmental Laws; and City is not aware of any condition, event or circumstance that might result in noncompliance with any Environmental Permit or prevent or impede, after the Closing Date, the conduct of the operations of the System as currently conducted or the ownership, lease, operation or use of the System.

- c. City has not received from any person any: (i) Environmental Notice or Environmental Claim with respect to the System; or (ii) written request for information pursuant to Environmental Laws, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing.
  - d. To the knowledge of City, no expenditure will be required at the time of Closing in order for District to comply with any Environmental Laws in effect at the time of Closing in connection with the operation or continued operation of the System or the ownership or use of the System in a manner consistent with current operation thereof by City, except for any permit, transfer, registration, or similar fees associated with any required approvals. City has no knowledge and makes no representations as to what might be required under any subsequent permit issued to the District in connection with the operation of the System.
  - e. The System has, to City's knowledge, never been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on or in any other list, schedule, law, inventory of record of hazardous or solid waste sites maintained by any governmental authority.
- (g) Certain Due Diligence Material. Prior to the date of this Agreement, City has (to the extent it has them in its possession) supplied District true, correct, and complete copies of the following:
- a. The deeds and other instruments (as recorded) by which City acquired the System and all title insurance policies, opinions, abstracts, and surveys in the possession of City with respect to such parcels.
  - b. A listing of all easements or similar instruments under which City is the grantee where the easement or real property right evidenced is utilized in any manner by City for the placement, maintenance, repair, operation, or improvement of the System.

- c. All environmental reports and investigations that City owns, has obtained, or has ordered with respect to the System.
  - d. A complete inventory of all tangible personal property owned or leased by City and used in connection with the System;
  - e. Any reports or other correspondence related to the condition of property utilized in respect of the business carried on by the System;
  - f. All certificates of occupancy and other governmental licenses or approvals relating to any portion of the System, including any necessary operating permits and all other Permits;
  - g. Any service records or bills for repairs to any part of the System for the prior three (3) years;
  - h. All warranties, if any, relating to the System; and
  - i. All reports or documentation available to City to support the cost basis of the System.
- (h) Disclosure. No representation or warranty by City in this Agreement or any certificate or other document furnished or to be furnished to District pursuant to this Agreement knowingly contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.
- (i) Brokers and Agents. No broker, agent or representative of City has any agreement or contract with City entitling such broker, agent or representative to any commission or payment by reason of the transfer of the assets which are the subject of this Agreement.

**Section 2.2 Conditions of City.** The obligations of City hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by City in writing) on or prior to the Closing:

- (a) the representations, covenants, and warranties of District shall be true, correct, and fulfilled, as appropriate; and
- (b) District shall have delivered to Commission a certified copy of a resolution of the Board of Trustees of District duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed, and all required governmental authorizations are obtained.



(d)

**ARTICLE III  
REPRESENTATIONS, WARRANTIES AND CONDITIONS PRECEDENT OF  
DISTRICT**

**Section 3.1 Representations and Warranties.** District hereby represents and warrants to City as follows:

- (a) **Corporate Organization.** District is a political corporation of the State of Missouri, duly organized under the provisions of Sections 249.430 to 249.668 RSMo. and reorganized pursuant to Sections 204.600 to 204.640 RSMo., with all requisite power and authority to own and operate its properties.
- (b) **Authorization.** District has the necessary power and authority to enter into this Agreement, and this Agreement has been duly authorized by its Board of Trustees. This Agreement is a legal, valid, and binding obligation of District.
- (c) **No Violation.** Neither the execution and delivery of this Agreement by District, the performance by District of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of District, or (ii) to the best knowledge of District, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which District is subject.
- (d) The District has reviewed and is satisfied with the condition of the Due Diligence Materials and has no objections to such documents. Further, the District has inspected and reviewed the condition of the sewage collection systems and is satisfied with the condition of the system.

**Section 3.2. Conditions of District.** The obligations of District hereunder are subject to satisfaction of each of the following conditions (all or any of which may be waived in whole or in part by District in writing) on or prior to the Closing Date:

- (a) the representations, covenants, warranties of Commission shall be true, correct, and fulfilled, as appropriate;
- (b) Commission shall have delivered to District a certified copy of a resolution of the Commission duly authorizing the execution, delivery, and performance of this Agreement; and
- (c) All Definitive Agreements are executed and all County Authorizations are obtained.

**ARTICLE IV  
OPERATION OF THE SYSTEM**

**Section 4.1 The System Generally.**

(a) **Reliance.** The Operator acknowledges that the City, in wastewater collection and treatment services, is providing an essential public service and, in complying with applicable law, will rely on the performance by the Operator of its obligations hereunder.

(b) **Limitation on Operator Rights.** The Operator shall not use the System for any purpose other than the purposes contemplated hereby.

(c) **Curtailments and Shutdowns.** If delivery of wastewater collection and treatment services through the System is temporarily reduced, curtailed, or shut down, the Operator shall promptly advise the City as to the probable nature, reason and duration thereof and the expected effect thereof on the operation of the System and provide routine updates to the City on the status until such time as operations have returned to normal. The Operator shall be in charge of announcements to the public or the media in accordance with the provisions of this Agreement.

**Section 4.2 Operation and Construction.** At all times, the Operator shall operate the System on behalf of City and provide the operations and construction of the System in accordance with this Agreement, including, without limitation, all National Pollutant Discharge Elimination System discharge permits and all other applicable permits currently held by the City or which may hereafter be acquired by the Operator. The City hereby grants to the Operator all rights necessary to perform the construction, improvement, management, operation, and maintenance of the System (and such additional rights and responsibilities as it may be granted and assumed, respectively) and the establishment of policies, programs, and procedures with respect thereto.

**Section 4.3 Rights and Responsibilities of Operator.** Subject only to the limitations imposed in this Agreement, the Operator shall have the full and complete duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with the System, provided that the District shall not unreasonably interfere with any activities or operations of the City within or upon the City's property and its rights-of-way and such operation is conducted at the costs and expense of the Operator. Without limiting the Operator's power or authority under this Agreement, the Operator's specific rights and responsibilities with respect to the operation, maintenance, improvement, and construction of the System shall include the following all at the cost and expense of the Operator:

(a) The right, without obtaining consent or approval of the City, to set rates for any and all sewage collection, treatment, operation, and/or maintenance services in

accordance with applicable law; provided, however, the Operator shall set the rates for the first two years after the Effective Date of this Agreement no higher than the rates specified in Attachment A, attached hereto and made a part hereof for all purposes. Except as specifically provided otherwise in the prior sentence, nothing in this Agreement is intended to impair the District's right to approve final rates and charges to the System's customers;

(b) The right, without obtaining consent or approval of the City, to purchase, acquire, sell, alienate, lease, convey, exchange, option, agree to sell or buy, dispose of, manage, lease or operate all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator, including all property now owned or hereafter acquired by the Operator, whether now or in the future, for such consideration as the Operator may deem appropriate, including for cash, credit, a combination of both, an exchange of property rights, with such acts to contain such terms and conditions as the Operator may deem necessary, proper and/or advisable;

(c) The right, without obtaining consent or approval of the City, to borrow any sum or sums of monies and incur obligations, but only as may be permitted by law, whether secured or unsecured, from any bank, financial institution, corporation, individual or entity, including, but not limited to, borrowings from any affiliate of the Operator, and to guaranty or endorse the debts and obligations of any individual or entity, all to be on such terms and conditions and in such amounts and to contain such rates of interest and repayment terms as the Operator may deem necessary or proper; from time to time make, execute and issue promissory notes and other negotiable or non-negotiable instruments, continuing guaranties or evidences of indebtedness, loan agreements and letters of credit, all to be on such terms and conditions and to contain such rates of interest and repayment terms as the Operator may deem reasonably necessary under the prevailing circumstances; and prepay, in whole or in part, refinance, increase, modify, consolidate or extend any debt, obligation, mortgage, or other security device, on such terms as the Operator may deem reasonably necessary under the prevailing circumstances;

(d) The right, without obtaining consent or approval of the City, to assign, pledge, mortgage, or grant other security interests, but only as may be permitted by law, in or otherwise encumber all or any portion of the immovable or movable (whether corporeal or incorporeal) property of the Operator and execute and bind the Operator on any mortgage, assignment, security agreement, financing statement, pledge or any other document creating such encumbrances to secure the obligations of the Operator or any other individual or entity, with such documents to contain the usual and customary security clauses, all upon such terms and conditions as the Operator may deem necessary or proper;

(e) The right, without obtaining consent or approval of the City, to acquire and enter into any contract of insurance which the Operator deems reasonably necessary and proper for the protection of the Operator and for the conservation of the Operator's assets, or for any purpose convenient or beneficial to the Operator;

(f) The right, without obtaining consent or approval of the City, to employ from time to time on behalf of the Operator individuals on such terms and for such compensation as the Operator shall determine;

(g) The right, without obtaining consent or approval of the City, to make decisions as to accounting principles and elections, whether for book or tax purposes (and such decisions may be different for each purpose);

(h) The right, without obtaining consent or approval of the City, to open checking and savings accounts in banks or similar financial institutions in the name of the Operator, and deposit cash in and withdraw cash from such accounts;

(i) The right, without obtaining consent or approval of the City, to set up or modify record keeping, billing and accounts payable accounting systems;

(j) The right, without obtaining consent or approval of the City, to adjust, arbitrate, compromise, sue or defend, abandon, or otherwise deal with and settle any and all claims in favor of or against the Operator or the System, as the Operator shall deem reasonable and proper;

(k) The right, without obtaining consent or approval of the City, to enter into, make, perform, and carry out all types of contracts, leases, and other agreements, and amend, extend, or modify any contract, lease or agreement at any time entered into by the Operator with the exception of any agreements executed jointly between the parties hereto;

(l) The right, without obtaining consent or approval of the City, to represent its interests in connection with any interactions with industry or regulatory institutions or organizations;

(m) The right, without obtaining consent or approval of the City, to execute, on behalf of and in the name of the Operator, any and all contracts, leases, agreements, instruments, notes, certificates, titles or other documents of any kind or nature as deemed reasonably necessary and proper by the Operator;

(n) The right, without obtaining consent or approval of the City, to enter into joint ventures or intergovernmental agreements and execute any and all acts and agreements in connection therewith, all upon such terms and conditions as the Operator may deem appropriate;

(o) The right, without obtaining consent or approval of the City, to do all acts necessary or desirable to carry out the business for which the Operator is formed in the county of Jefferson or which may facilitate the Operator's exercise of its powers hereunder;

(p) The obligation to operate, maintain, and improve the System in conformity with this Agreement;

(q) The obligation to, at Operator's own cost, adequately maintain the System throughout the Term through routine maintenance and repair so that at the end of the Term, the System shall be and remain in good operating condition, normal wear and tear excepted, and successfully satisfying the District's policies and standards;

(r) The sole responsibility for all right-of-way acquisitions and the obligation to procure all such other rights and approvals necessary or useful for the performance of its obligations hereunder as it relates to this Agreement.

(s) The Operator shall be responsible for the payment of all applicable charges in respect of applications for such rights and approvals.

(t) Reporting; Attendance at Meetings. Upon City's reasonable request, the Operator shall attend relevant meetings of the City. The Operator shall, upon the City's reasonable request, provide periodic progress reports and other information as available in the Operator's ordinary course of business, including but not limited to the following:

- (i) Shutoff Reports;
- (ii) Growth rate of new customers;
- (iii) Results of all regular performance tests;
- (iv) Schedules of all upcoming routine maintenance and repair work;
- (v) Reports containing data, as appropriate, to demonstrate: the quality of the influent sewage and treated effluent; treatment plant efficiency; and the status of operations and maintenance activities;
- (vi) Contact information for Operator's key personnel;
- (vii) All material regulatory notifications to the Operator from the Environmental Protection Agency, Missouri Department of Natural Resources, or any other regulatory agency with oversight of the Operator's responsibilities hereunder;
- (viii) Customer data, including, but not limited to, connection times (length of time from connection request to fulfillment), repair times (length of time from requested repair to fulfillment), payment times (average number of days for bill payment), complaint log (log of all complaints organized by complaint type), yearly customer satisfaction survey (survey to be conducted yearly by independent survey company);

- (ix) Any expansion plans or capital improvement plans;
- (x) Any master plan progress reports
- (xi) Any expense reports or other documents referencing costs and expenses for the System, including repairs, maintenance, operation, expansion, and improvement costs.

**Section 4.4 Rights and Responsibilities of the City.** As the owner of the System, the City retains only an ownership interest in the System. Without limiting the generality of rights of the Operator described in section 4.3 of the Agreement, the City's specific rights and responsibilities with respect to the System shall include:

(a) the responsibility to provide such staff and technical assistance as City is competent to provide upon the request of the Operator, at such hourly rates or salaries as the Parties may negotiate.

(b) the right to represent its interests, in coordination and cooperation with the Operator, in connection with any interactions with industry or regulatory institutions or organizations;

(c) the right to review and comment on all engineering and design plans developed for the expansion, improvement, and operation of the System by the Operator;

(d) the right (including reasonable audit rights during normal business hours and which do not interfere with the performance of the operations and construction services hereunder) to information relating to operations and construction services conducted under this Agreement by the Operator and any contractors and affiliates;

(e) the right, at its own expense, to monitor the progress, quality, and condition of the System;

(f) the right, at its own expense, to monitor the work performed by the Operator and its contractors and to receive copies of all plans and designs in relation to the System;

(g) the right to: (i) undertake such actions; (ii) receive additional information; (iii) consult with the representatives of the Operator; and (iv) make recommendations to the Operator, in each case as may be reasonably necessary or appropriate to perform the City's responsibilities and obligations under this Agreement and as may otherwise be necessary or appropriate to comply with the City's legal, contractual and fiduciary obligations; provided, however, that notwithstanding anything contained in Section 4.2 hereof, this Section 4.4 shall be subject to and shall not be in limitation of the rights, authority and responsibilities of the Operator under Section 4.2 and Section 4.3 hereof;

(h) the responsibility for the City's legal matters, including its reporting and related compliance with applicable law;

(i) the responsibility to: (i) respond in a timely and adequate manner to all requests of the Operator for action or decision by the City with respect to all matters as to which the Operator shall reasonably request the response of the City in accordance with the provisions of this Agreement; and (ii) provide the Operator with such information, data and assistance as may be necessary or appropriate for the Operator to perform its obligations hereunder;

(j) the responsibility to reasonably assist the Operator as necessary in its applications for the procurement of rights and approvals necessary or useful for the performance of the Operator's obligations hereunder and to actively assist the Operator in expediting the procurement of such rights and approvals in a timely manner, provided that the Operator shall remain responsible for the payment of all applicable charges in respect of applications for rights and approvals;

(k) the responsibility to use its best efforts to obtain and provide to the Operator such information and data as may be reasonably required by the Operator for planning and operating the System;

(l) the responsibility to do all things reasonably requested by the Operator in order to assist the Operator in the collection of the sewer charges and other charges;

(m) the responsibility to provide the Operator with all necessary and reasonable rights of access in connection with the construction of the System; and

(n) the responsibility to terminate, upon the District's request, its water service to any customer who fails to pay any bill of the Operator charged under the District's rates, rules, and regulations. Any disconnection fee or reconnection fee charged by the City related to the termination of water service for non-payment of the Operator's sewer service charges shall belong to the City.

(o) the responsibility to provide the Operator with notices of requests for building permits submitted after the Effective Date; and

(p) the responsibility to locate and mark underground facilities, as requested by the District, pursuant to the Sections 319.010 through 319.050 of the Revised Statutes of Missouri, the "Underground Facility Safety and Damage Prevention Act."

**Section 4.5 Safety.** The Operator shall perform its obligations under this Agreement with due regard for public safety and consistent with this Agreement.

**Section 4.6 Construction of System Capital Improvements; Capital Asset Control.**

(a) Capital Improvements. The Operator shall pay for all Capital Improvements under this Agreement, identified within its own discretion, from its own funds. The Operator may self-perform or may hire contractors to perform any such Capital Improvement project, with amounts payable to any of its contractors being the responsibility of the Operator. The Operator shall not cause any liens or encumbrances to be placed on the System. The Operator agrees to timely satisfy and pay any and all contractors performing work on the System. Should a lien or encumbrance be placed on the System, Operator agrees to immediately seek any and all remedies to satisfy and/or remove the lien or encumbrance from the System at the Operator's cost and expense.

(b) Operator Construction Duties. The Operator shall administer, coordinate, manage and oversee the construction of Capital Improvements. The System may include one or more treatment plants, a network of forced and gravity sewers to convey sewage to a central location within each drainage basin and a network of sewage pumping stations, gravity mains and force mains to convey the collected sewage to the treatment plant.

**Section 4.7 Technical Assistance.** The Operator may contract for the services of outside consultants, suppliers, manufacturers, or experts, provided that the Operator shall remain responsible for the performance of operations and construction services pursuant to the terms of this Agreement.

**Section 4.8 Other Services.**

(a) Bill Payments. The Operator shall timely pay all bills related to the System which are proper, appropriate, and not otherwise disputed and which it has authority to pay and shall assure that, to the extent within the Operator's control, no mechanics' lien or similar encumbrances are filed against any portion of the System.

(b) Implied Services. Any services, functions, or responsibilities not specifically described in this Agreement that are required for the proper performance and provision of the operation and construction of the System, shall be deemed to have been granted by the City to the Operator, except to the extent they are rights and responsibilities reserved to the City as set forth in Section 4.4 hereof.

**Section 4.11 Hazardous Materials.** The Operator shall give prior written notice to the City of its intention to handle, transport or dispose of Hazardous Materials. The Operator shall cause such Hazardous Materials to be transported to and disposed of in accordance with applicable law.

**Section 4.12 Connection of Newly Developed Properties to System.** The City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all newly developed properties to apply to the Operator to be registered and connected to the System. In addition, the City shall, in consultation with the Operator, amend or enact ordinances, if necessary, to require all real estate developers, after installing sewage



collection systems within any real estate development within the city limits to dedicate and transfer ownership of the same to the Operator.

**Section 4.13 Access Rights.** The City shall make available to the Operator and its officers, contractors and suppliers without charge all necessary access rights when required so as to enable the Operator to operate, maintain, repair, and replace the System or any part thereof, and the City will procure, if necessary, the closure of any roads for the purposes of routine maintenance, repair, or replacement, provided that the Operator shall provide to the City notice of maintenance and repairs within a reasonable amount of time before the beginning of the time in question. It is recognized that the Operator may require immediate access in emergency situations.

## **ARTICLE V OWNERSHIP OF THE SYSTEM**

**Section 5.1 Ownership of the System.** (a) Ownership. The System as it exists or existed as of the Closing Date is and shall be owned by the City. All additions to the System received, purchased, or constructed directly or indirectly by the Operator in conjunction or for the use of any part of the System, including, but not limited to, any Capital Improvements, after the Closing Date during the Term shall be owned and the sole and exclusive property of Operator. Operator shall keep such records as are necessary to show and distinguish the portion of the System owned by City and the portion of the System owned by Operator.

(b) Rights/Duties of Operator. Subject only to the limitations imposed in this Agreement, the Operator shall have the duty and right to manage and control, and, within its discretion, shall make all decisions and take any necessary or appropriate action in connection with, the System. The Operator shall have the exclusive right and obligation to design, procure, construct, operate, and maintain the System and all future wastewater systems which may be installed in the Service Area, and Operator hereby accepts such rights and obligations upon the terms and conditions provided for herein. The Operator shall have the exclusive right to all revenues and benefits resulting from or attributable to the operation and maintenance of the System and all monies collected by or for the account of the Operator or its contractors pursuant to this Agreement shall be the property of the Operator and shall be deposited in such account as the Operator shall determine in its own discretion. For the avoidance of doubt, the Operator has the exclusive right and obligation to provide the operations and construction services to the customers of the System and receive all payments from the customers.

## **ARTICLE VI COMPENSATION**

As compensation to the Operator for providing the operation, maintenance, repair, and capital improvements to the System under this Agreement, and in consideration of Operator providing treatment of sewage generated by the System, the Operator shall be entitled to any and all revenues generated from or dedicated to the operation of the

System. The City authorizes the Operator to send invoices or otherwise bill directly to customers and to determine the time and manner for the collection of payments from customers who use the System. To the extent that any customer sends payment to the City for any invoice or bill sent by the Operator, the City shall promptly forward such payments to the Operator.

## **ARTICLE VII PURCHASE OF SYSTEM**

It is the intent and desire of the Parties that the City will ultimately transfer ownership of its System to the District. To that end, the District shall have the option at its convenience to tender to the City an Asset Transfer Agreement during the term of this Agreement. The Asset Transfer Agreement shall provide for the District to pay the City Ten Dollars for the System and such other terms and conditions as within the District's judgment shall effectuate such transfer in a timely and administratively convenient manner, including, but not limited to, the following:

- a. Deeds and other instruments by which City will transfer all real property constituting any part of the System; and
- b. An assignment of all easements and/or similar instruments under which City will transfer all such rights constituting any part of the System; and
- c. A Bill of Sale transferring all tangible personal property owned by City and used in connection with the System; and
- d. An assignment of all warranties, if any, relating to the System.

It is acknowledged amongst the Parties that the consideration for the transfer of the System has been included in the purchase price of Five Million Dollars (\$5,000,000.00) as set forth in the Asset Transfer Agreement executed amongst the District and the Commission. The Parties agree to negotiate in good faith for the transfer of the System to the District, for no additional compensation beyond the amount provided herein, at a mutually agreeable time, and in the manner provided by law.

## **ARTICLE VIII INDEMNIFICATION**

**Section 8.1** To the extent permitted by law, the District agrees to indemnify and hold harmless City, and its elected officials, officers, agents, servants, and employees, from, against, and with respect to any and all third-party suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against City arising due to any negligence, intentional misconduct, or the violation of any Environmental Laws, of the District or any of its officers, agents, servants, employees in the performance of the Work, or the failure of the District to comply with any applicable environmental laws or other laws in performing the Work, except for those claims

directly caused by the negligence or intentional misconduct of City or their officers, agents, servants, or employees. Nothing in this Section 8.1 is intended by the District to be a waiver of the District's sovereign immunity.

**Section 8.2** To the extent permitted by law, City agrees to indemnify, hold harmless and reimburse District, and its officers, agents, servants, and employees, from, against and for any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incurred by or asserted against District, arising due to any negligence or intentional misconduct of City or any of its officers, agents, servants or employees or which is assessable against City because of its ownership of the City Wastewater Collection System; but such indemnity shall specifically exclude without limitation those claims directly caused by the negligence or intentional misconduct of (i) District in the performance of Work or (ii) third parties using or accessing the City Wastewater Collection System during the term of this agreement. Nothing in this Section 8.2 is intended by the City to be a waiver of the City's sovereign immunity.

## **Article IX MISCELLANEOUS**

**Section 9.1 Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

**Section 9.2 Fees and Expenses.** Except as otherwise provided herein, the Parties hereto shall bear their own costs and expenses incurred in connection herewith and with the transactions contemplated hereby. City and Operator agree to indemnify and hold the other harmless from any claim (together with costs and expenses, including attorneys' fees, incurred in connection with such claims) for compensation by any person, firm or corporation claiming to have been requested, authorized, or employed to act as lender, broker or agent in connection with the subject matter of this Agreement or negotiations leading thereto.

**Section 9.3 Assignment.** Neither Party shall assign this Agreement or any of its rights and obligations hereunder without the written consent of the other Party.

**Section 9.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns.

**Section 9.5 Notices.** Any notice, demand or request required or permitted to be given under any provision of this Agreement shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address or in such other manner as either party may request by notice in writing to the other party:

- (a) If to Crystal City:

Jason Eisenbeis  
City Administrator  
130 Mississippi Ave  
Crystal City, MO 63019  
Phone : (636) 937-4614

With a copy to:

Brandon T. Moonier  
Thurman, Howald, Weber, Senkel & Norrick, LLC  
One Thurman Court – 301 Main Street  
Hillsboro, MO 63050  
Phone: (636) 789-2601 Ext. 140

(b) If to District:

Jefferson County Public Sewer District  
Attn: Douglas Bjornstad, P.E  
District Engineer  
4632 Yeager Road  
Hillsboro, MO 63050

With a copy to:

Joseph C. Blanner  
McCarthy, Leonard & Kaemmerer, LC  
825 Maryville Centre Drive, Ste 300  
Town and County, MO 63017

**Section 9.6 Entire Agreement.** This Agreement along with the other Definitive Agreements, the terms and conditions of which are incorporated herein by reference, constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations, and discussions. No amendment, alteration, modification, or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the Parties hereto.

**Section 9.7 Construction.** The captions and headings of this Agreement are for convenience and reference only and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

**Section 9.8 Choice of Law.** This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.

**Section 9.9 Remedies, Injunctive Relief.** The Parties agree that the breach of this Agreement is likely to cause both Parties substantial and irrevocable damage that would be difficult, if not impossible, to prove precisely; therefore, it is agreed that this Agreement shall be enforceable by specific performance or other injunctive relief. Nothing in this section shall limit either Party's right to pursue any other remedy, equitable or legal, it may have against the other for breach of this Agreement.

**Section 9.10 Waiver.** The failure in one or more instances of a Party to insist upon performance of any of the terms, conditions, and covenants set forth in this Agreement, or the failure of a Party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions, and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.

**Section 9.11 Attorney Fees.** In the event it becomes necessary for either Party to file a suit to enforce this Agreement or any provision contained herein, and either Party prevails in such action, then such prevailing Party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney fees and court costs incurred in such suit.

**Section 9.12 Cooperation.** Operator and City will cooperate before, on, and after the Closing Date in furnishing such information and other assistance in connection with the acquisition by District of the Assets. Each Party further agrees that it will cooperate with the other in the orderly transition of the Assets. From time to time after the Closing Date, City will, at the request of District, but without further consideration, sale, transfer, and conveyance, take such other and further action as District may reasonably request in order to vest in Operator and put Operator in possession of the Assets and assure to Operator the benefits thereof more effectively.

**Section 9.13 Authority.** Each Party agrees, when requested by the other Party, to furnish to the requesting Party a certified copy of the minutes of its Board and any associated ordinance or resolution signifying the approval of this Agreement and demonstrating the authority of officer(s) to execute and deliver the same, or where applicable, other documentation of the delegation of authority to the Party's officer(s) to approve, execute and deliver this Agreement.

**Section 9.14 Severability** The Definitive Agreements and each of them are the result of extensive negotiations among the Parties, and the terms thereof are interdependent. If the Parties fail to execute all of the Definitive Agreements or fail to fulfill the terms of one or more of the Definitive Agreements, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the agreements or provisions hereof. The invalidity or unenforceability of any provision of this Agreement or any of the Definitive Agreements may affect the interdependency of the terms of the Definitive Agreements. In the event any provision hereof or any of the Definitive Agreements is rendered invalid or unenforceable, the Parties shall negotiate in good faith

to remedy the invalidity or unenforceability of such provision. If the Parties are unable to negotiate an acceptable remedy, then this Agreement and the other Definitive Agreements shall be void and no Party shall be bound by any of the Definitive Agreements or provisions hereof.

#### **Section 9.15 Preamble and Definitions.**

(a) The Preamble to this Agreement is incorporated hereinto by reference and made a part hereof for all purposes. All definitions expressed therein, and all conditions precedent shall be binding on the Parties as if expressly set forth in the terms and conditions of this Agreement.

(b) Definitions. As used herein the following terms shall have the following meanings unless the context otherwise requires, and such meanings shall be equally applicable to both singular and plural forms of the terms herein defined:

“Capital Improvement” means any repair, replacement, improvement, removal and retirement, alteration, extension, and addition to the System (other than any repair, replacement, improvement, removal and retirement, alteration and addition constituting ordinary, day-to-day, or regularly scheduled repair or maintenance of the System).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

“Definitive Agreements” means the following agreements which were executed contemporaneously with the Agreement: (1) A four-party Master Service Agreement between the JMUC, Cities and the District; (2) an Asset Transfer Agreement between the JMUC and the District for conveyance of the JMUC Sewage Treatment Plant to the District; (3) a System Operation and Cooperation Agreement between Festus and the District pertaining to the operation of the Festus’ sewage collection system; and (4) a System Operation and Cooperation Agreement between Crystal City and the District pertaining to the operation of Crystal City’s sewage collection system.

“Environmental Laws” means all applicable laws concerning or relating to the protection of the environment; or the exposure to, or the storage, recycling, treatment, generation, transportation, production, release, or disposal of Hazardous Materials, each as amended and in effect as of the date hereof and as same may be amended, varied, or modified in the future. The term “Environmental Laws” includes, without limitation, the following and their implementing regulations and any state analogs: CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the

Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq., and the Missouri Clean Water Law (MCWL), Section 644.0010 et seq., Revised Statutes of Missouri (RSMo).

“Hazardous Materials” means any material which is defined or regulated as a hazardous waste, hazardous substance, toxic substance, hazardous chemical substance or mixture, or words of similar import under Environmental Laws, including, but not limited to, “Hazardous Substances” as defined in CERCLA and the regulations promulgated thereunder, and asbestos.

“Service Area” means the Crystal City Boundaries and the Festus Boundaries, as those terms are defined in the Master Agreement.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF CRYSTAL**

By: \_\_\_\_\_  
Peter Birkes, Chairman

By: W. H. O'Neil

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
, Secretary

Shirley Anderson  
, City Clerk



In Witness Whereof, the Parties hereto have executed this Agreement as of the date first above written.

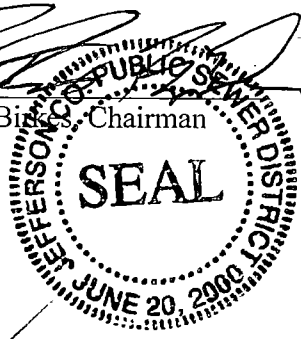
**JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT**

**CITY OF CRYSTAL**

By:   
Peter Bink, Chairman

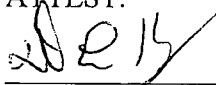
By: \_\_\_\_\_

SEAL



SEAL

ATTEST:

  
\_\_\_\_\_  
, Secretary

ATTEST:

\_\_\_\_\_  
, City Clerk

[ insert Attachment A – Rates ]

## ATTACHMENT A

Inflation Factor            3%

Fiscal Year	2024		2025	
	Base Rate Min. Charge	Usage Rate Charge per 1,000 Gallons	Base Rate Min. Charge	Usage Rate Charge per 1,000 Gallons
5/8" - 3/4"	4.77	3.51	4.91	3.62
1 Inch	5.28	3.51	5.44	3.62
1-1/2 Inch	6.14	3.51	6.32	3.62
2 Inch	7.16	3.51	7.37	3.62
3 Inch	9.88	3.51	10.18	3.62
4 Inch	12.95	3.51	13.34	3.62
6 Inch	21.47	3.51	22.11	3.62
8 Inch	31.69	3.51	32.64	3.62

*Information for rates was developed from the Carl Brown rate study - 2022-2 No Cost Increase*

### EXHIBIT A - RATE ATTACHMENT

As set forth in the Sewer System Operation and Cooperation Agreement (the "Agreement"), the Operator shall set the rates for the first two years after the Effective Date of the Agreement no higher than the rates specified in Attachment A. During this two-year period, the Operator shall bill customers based on the actual usage determined each month. By way of example, if the customer utilizes 4,000 gallons of water in a given month, that customer's bill shall be calculated as follows:

Base Rate:		\$ 4.77
Usage:	4,000 gallons x \$3.51 per 1,000 =	<u>\$14.04</u>
Customer's Bill:		\$18.81

After the conclusion of this two-year period, the Operator agrees to utilize winter averaging when it bills the residential customers residing in the City. Winter averaging is determined by calculating the average monthly water usage during December, January and February and utilizing that three-month average for the total customer usage for each of the next twelve months. By way of example:

December Usage:	3,000 gallons
January Usage:	4,000 gallons
February Usage:	2,000 gallons
Winter Average:	3,000 gallons per month for the next twelve (12) months

Winter averaging shall not apply to non-residential customers in the City. Winter averaging will not be utilized for customers that do not have winter average data (new customers) or those that are not home during the winter months. The Operator shall give the City sixty (60) days written notice prior to discontinuing the use of winter averaging.

## CLOSING AGREEMENT

Pursuant to the Definitive Agreements, as that term is defined in the Master Agreement Regarding Sewage Collection and Treatment Systems of Festus and Crystal City, the parties (hereinafter "Parties"), Jefferson County Public Sewer District (the "District"), the City of Festus ("Festus"), the City of Crystal City ("Crystal City") and the Festus-Crystal City Sewage Commission ("Commission"), are to set the closing contemplated in said Definitive Agreements (the "Closing") on a mutually agreed upon date. As such, the Parties hereto agree as follows:

1. Closing shall occur on or before 5:00 pm on February 15, 2024. At Closing, the District shall tender payment of the amounts set forth in Section 1.4 of the Asset Transfer Agreement to Crystal City and Festus in the amounts shown therein. Upon receipt of the payments, Crystal City, Festus and the Commission shall execute or cause to be executed and deliver the Easement Deeds, Bill of Sale, Assignment of Easements and any other closing documents previously agreed upon to the District. Additionally, the parties shall each execute the Definitive Agreement and furnish the other parties with executed copies of the same.
2. Festus shall bill Festus' sewer customers for sewer services furnished through the date of Closing (February 15, 2024). Additionally, Festus shall include in Festus' billing to the customers a letter from Festus and the District advising the customers of the transfer of the system to the District. Thereafter, said customers shall be billed by the District for said sewer services.
3. Crystal City shall bill Crystal City's sewer customers for sewer services furnished for the entire month of February. Additionally, the District shall pay for a mailer to Crystal City customers advising the customers of the transfer of the system to the District to be mailed prior to the mailing of the February Crystal City sewer bill.
4. The Commission shall be responsible for any costs associated with operation, maintenance and repairs of the treatment plant, including but not limited to, any charges by Alliance Water Resources and any utility expenses, through February 29, 2024. Festus and Crystal City shall be responsible for any costs associated with operation, maintenance or repair of their respective collection systems through February 29, 2024. The District shall thereafter be responsible for said costs for the operation of said treatment plant and collection systems, as described in the Definitive Agreements.
5. Crystal City and any of its affiliated political subdivision entities (i.e. the Crystal City Park, Crystal City Library...) shall not be charged for sewer services for any buildings or facilities utilized for municipal related purposes. In exchange, Crystal City shall not charge the District for water services utilized for the operation of the treatment plant or any pump stations located in Crystal City.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

\_\_\_\_\_

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

  
\_\_\_\_\_

\_\_\_\_\_

By: Mike Osher

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

Title: Mayor

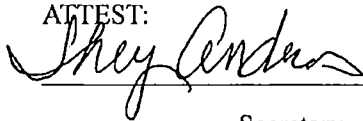
Title: \_\_\_\_\_

SEAL

SEAL

ATTEST:

ATTEST:

  
\_\_\_\_\_

\_\_\_\_\_

, Secretary

, Secretary

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

FOR:  
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

FOR:  
CITY OF FESTUS

*Peter Birkas*

*Samuel F. Richards*

By: *Peter Birkas*

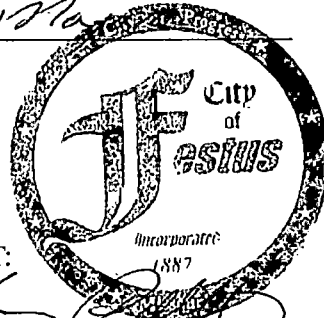
By: *Samuel F. Richards*

Title: *Chairman*

Title: *Mayor*

SEAL

SEAL



ATTEST:  
*Ernest [Signature]*

ATTEST:  
*Ky [Signature]*

, Secretary

, City Clerk

FOR:  
CITY OF CRYSTAL CITY

FOR:  
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

\_\_\_\_\_

*Greg Camp*

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

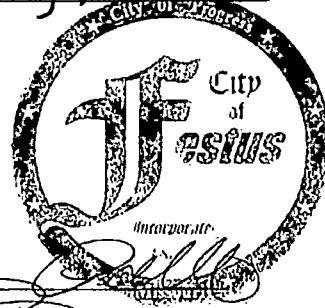
By: *Greg Camp*

Title: \_\_\_\_\_

Title: *Acting President*

SEAL

SEAL



ATTEST:  
\_\_\_\_\_

ATTEST:  
*Ky [Signature]*

, Secretary

, Secretary

## BILL OF SALE

THIS BILL OF SALE, the undersigned, the Festus-Crystal City Sewage Commission ("Seller"), for and in consideration of the "Definitive Agreements," dated Feb 15, 202~~4~~, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns ("Buyer"), all of Seller's interest in the fixtures and other items of personal property ("Property") that are located at and/or constitute a portion of the Seller's sanitary sewage treatment plant located at 355 County Road, Crystal City, MO 63019; to have and to hold, all and singular, said fixtures and items of Property unto Buyer forever.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an "AS IS" basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

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EXECUTED effective the 15 day of February, 2024.

**SELLER:**

FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION



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

**ATTEST:**

\_\_\_\_\_

AGREED AND ACCEPTED effective the 15 day of Feb, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

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

Peter Birkes, Chairman

**ATTEST:**

\_\_\_\_\_  
  
Secretary

## BILL OF SALE

THIS BILL OF SALE, the undersigned, the city of Festus ("Seller"), for and in consideration of the "Definitive Agreements," dated Feb. 15, 2024, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns ("Buyer"), all of Seller's right and interest in fixtures and other items of personal property ("Property") that are owned by the Seller and used in connection with the provision of sewer collection services within the city limits, including but not limited to those identified on Exhibit A, attached hereto and incorporated herein by reference, said fixtures and items of Property unto Buyer forever. It is the understanding of the Parties that Exhibit A may be amended and/or supplemented as necessary to accomplish the purposes of the Definitive Agreements.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an "AS IS" basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

[INTENTIONALLY LEFT BLANK]

EXECUTED effective the 15 day of February, 2024.

**SELLER:**

CITY OF FESTUS



By: Samuel F. Richardson  
Mayor

**ATTEST:**

K. S. Dault

AGREED AND ACCEPTED effective the 15 day of Feb, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

By: Peter Birkes  
Peter Birkes, Chairman

**ATTEST:**

Evelyn G. Cross  
Secretary

## BILL OF SALE

THIS BILL OF SALE, the undersigned, the city of Crystal City ("Seller"), for and in consideration of the "Definitive Agreements," dated February 15, 2024, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, does GRANT, BARGAIN, SELL, TRANSFER, DELIVER AND CONVEY unto Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the state of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo., its successors and assigns ("Buyer"), all of Seller's right and interest in fixtures and other items of personal property ("Property") that are owned by the Seller and used in connection with the provision of sewer collection services within the city limits, including but not limited to those identified on Exhibit A, attached hereto and incorporated herein by reference, said fixtures and items of Property unto Buyer forever. It is the understanding of the Parties that Exhibit A may be amended and/or supplemented as necessary to accomplish the purposes of the Definitive Agreements.

The Seller further agrees that Seller will execute and deliver any and all conveyances, deeds, assignments, bills of sale, certificates, instruments of transfer, and other documents which may be necessary or appropriate to fully effectuate the terms hereof, and to vest in Buyer, its successors and assigns, title in and to each and all of the Property.

Except as provided for in the Definitive Agreements, Seller and Buyer expressly agree that the above-described Property is being sold by Seller and purchased by Buyer on an "AS IS" basis only. Buyer received the opportunity to examine the Property and all aspects of the condition of the Property to determine if it was satisfactory to Buyer. Buyer has determined that the Property is acceptable to it. Subject to the foregoing, Seller specifically disclaims any and all warranties and representations, express or implied, as to the state of the Property, its condition, quality, quantity, characters size, description or suitability or fitness for any use or purpose, whether existing or contemplated, except as specifically set forth in this document. SELLER CONVEYS THE PROPERTY AND BUYER ACCEPTS THE PROPERTY WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL, AND SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, MERCHANTABILITY OR HABITABILITY OF THE PROPERTY OR OTHERWISE.

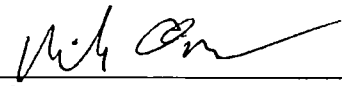
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EXECUTED effective the 15<sup>th</sup> day of February, 2024.

**SELLER:**

CITY OF CRYSTAL CITY

(SEAL)

By:   
Mayor

ATTEST:



AGREED AND ACCEPTED effective the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

(SEAL)

By: \_\_\_\_\_  
Peter Birkes, Chairman

ATTEST:


\_\_\_\_\_  
Secretary

EXECUTED effective the 15<sup>th</sup> day of February, 2024.

**SELLER:**

CITY OF CRYSTAL CITY

(SEAL)

By:   
Mayor


**ATTEST:**



AGREED AND ACCEPTED effective the 15 day of February, 2024.

**BUYER:**

JEFFERSON COUNTY PUBLIC SEWER  
DISTRICT

By:   
Peter Birkes, Chairman.



  
Secretary

copy

**ACKNOWLEDGMENT OF PAYMENT**

I, Mike Osher, on behalf of the City of Crystal City, hereby acknowledge receipt of a cashier's check totaling \$500,000.00 from Jefferson County Public Sewer District (the "District") which is paid pursuant to the Definitive Agreements between the District, the City of Festus, the City of Crystal City and Festus-Crystal City Sewage Commission.

Mike Osher

By: Mike Osher

Title: Mayor

Dated:

2/15/2024

---

(AREA ABOVE LINE FOR RECORDERS OFFICE USE ONLY)

TITLE OF THE DOCUMENT: ASSIGNMENT OF EASEMENT RIGHTS

DATE OF THE DOCUMENT:

ALL GRANTORS' NAMES: CITY OF CRYSTAL CITY

ALL GRANTORS, ADDRESSES:

GRANTORS' DEED RECORDING:

GRANTEES' NAME: JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT  
4629 Yeager Rd.  
Hillsboro, MO 63051

ADDRESS OF PROPERTY: VARIOUS

COUNTY LOCATOR NUMBER: VARIOUS

MUNICIPALITY: Crystal City, MO



**ASSIGNMENT OF EASEMENT RIGHTS**

This Assignment of Easement Rights ("Assignment") is made as of this 15<sup>th</sup> day of February, 20<sup>24</sup> by and between the city of Crystal City ("Assignor") and Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the State of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo. ("Assignee") (jointly referred to hereafter as "Parties").

For and in consideration of certain Definitive Agreements between the Parties, dated February 15, 20<sup>24</sup>, by and between Assignor and Assignee, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Assignor hereby assigns, grants, conveys, and transfers to Assignee, and Assignee accepts, all right, title, and interest in and to any and all easements, rights-of-way, and permits within the city limits of Crystal City which were granted to Assignor for sewer purposes.

In Witness Whereof, the parties have caused this Assignment to be executed in person or by their duly authorized representatives as of the day and year first above written.

CITY OF CRYSTAL CITY

ATTEST:

*Shay Andrews*  
Clerk

BY: *Mike Osher*

*Mike Osher*, Mayor

*2/15/2024*  
Date

JEFFERSON COUNTY PUBLIC SEWER DISTRICT

ATTEST:

\_\_\_\_\_  
Secretary

BY: \_\_\_\_\_

\_\_\_\_\_, Chairman

\_\_\_\_\_  
Date

STATE OF MISSOURI )

**ASSIGNMENT OF EASEMENT RIGHTS**

This Assignment of Easement Rights ("Assignment") is made as of this 15th day of February, 2024 by and between the city of Crystal City ("Assignor") and Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the State of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo. ("Assignee") (jointly referred to hereafter as "Parties").

For and in consideration of certain Definitive Agreements between the Parties, dated February 15, 2024, by and between Assignor and Assignee, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Assignor hereby assigns, grants, conveys, and transfers to Assignee, and Assignee accepts, all right, title, and interest in and to any and all easements, rights-of-way, and permits within the city limits of Crystal City which were granted to Assignor for sewer purposes.

In Witness Whereof, the parties have caused this Assignment to be executed in person or by their duly authorized representatives as of the day and year first above-written.

CITY OF CRYSTAL CITY

ATTEST:

*Shey Andrews*  
Clerk

BY: *Mike Osher*

*Mike Osher*, Mayor

*2/15/2024*  
Date



JEFFERSON COUNTY PUBLIC SEWER DISTRICT

ATTEST: *[Signature]*  
Secretary

BY: *[Signature]*

*[Signature]*, Chairman

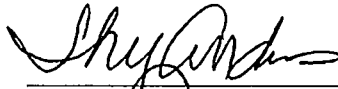
*2/15/2024*  
Date

STATE OF MISSOURI     )

COUNTY OF JEFFERSON )  
 ) ss.

On this 15<sup>th</sup> day of February, 2024, before me, the undersigned, a Notary Public in and for the said County and State, appeared the above signatories, to me personally known, who being by me duly sworn did say that they are the officials so designated therein and that they have the authority to sign and seal said instrument and that such actions are their free act and deed.

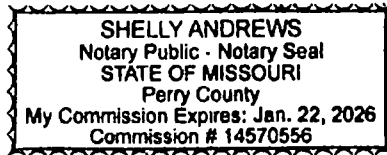
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal in said County and State, the day and year in this certificate last above written.



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

My commission expires:

1-22-26



---

(AREA ABOVE LINE FOR RECORDERS OFFICE USE ONLY)

TITLE OF THE DOCUMENT: ASSIGNMENT OF EASEMENT RIGHTS

DATE OF THE DOCUMENT:

ALL GRANTORS' NAMES: CITY OF FESTUS

ALL GRANTORS, ADDRESSES:

GRANTORS' DEED RECORDING:

GRANTEES' NAME: JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT  
PO Box 632, 4629 Yeager Rd.  
Hillsboro, MO 63051

ADDRESS OF PROPERTY: VARIOUS

COUNTY LOCATOR NUMBER: VARIOUS

MUNICIPALITY: Festus, MO

**ASSIGNMENT OF EASEMENT RIGHTS**

This Assignment of Easement Rights ("Assignment") is made as of this 15 day of February 15, 2024 by and between the city of Festus ("Assignor") and Jefferson County Public Sewer District, 4629 Yaeger Road, Hillsboro, MO 63050, a political subdivision of the State of Missouri, and a reorganized common sewer district, governed by Sections 204.600 to 204.640 RSMo. ("Assignee") (jointly referred to hereafter as "Parties").

For and in consideration of certain Definitive Agreements between the Parties, dated February 15, 2024, by and between Assignor and Assignee, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Assignor hereby assigns, grants, conveys, and transfers to Assignee, and Assignee accepts, all right, title, and interest in and to any and all easements, rights-of-way, and permits within the city limits of Festus which were granted to Assignor for sewer purposes.

In Witness Whereof, the parties have caused this Assignment to be executed in person or by their duly authorized representatives as of the day and year first above written.

CITY OF FESTUS

ATTEST:

[Signature]  
Clerk

BY: Samuel F. Richards

Samuel F. Richards, Mayor

02-15-2024  
Date



JEFFERSON COUNTY PUBLIC SEWER DISTRICT

ATTEST:

[Signature]  
Secretary

BY: \_\_\_\_\_

[Signature], Chairman

2-15-2024  
Date

STATE OF MISSOURI )

COUNTY OF JEFFERSON )  
 ) ss.

On this 15<sup>th</sup> day of February, 2024, before me, the undersigned, a Notary Public in and for the said County and State, appeared the above signatories, to me personally known, who being by me duly sworn did say that they are the officials so designated therein and that they have the authority to sign and seal said instrument and that such actions are their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal in said County and State, the day and year in this certificate last above written.

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

My commission expires:

March 14, 2026



**ASSIGNMENT, AMENDMENT AND AGREEMENT TO TERMINATE PROFESSIONAL  
OPERATING SERVICES AND MANAGEMENT AGREEMENT**

This Assignment, Amendment and Agreement to Terminate Professional Operating Services and Management Agreement (hereinafter the "Amendment") is made and entered into on this 24 th day of January, 2024 ("Effective Date"), by and between Jefferson County Public Sewer District, a political subdivision and body corporate of the State of Missouri ("District"), the Festus-Crystal City Sewage Commission ("Commission"), a political subdivision of the State of Missouri, and Alliance Water Resources, Inc. ("Alliance") (hereinafter referred to jointly as "Parties" and generically as "Party").

**WITNESSETH:**

**WHEREAS**, Commission is currently the owner of a wastewater treatment facility and related appurtenances and equipment (the "System");

**WHEREAS**, District entered into a contract with Commission whereby District will acquire the System from Commission, which said transaction is contemplated to close and District to assume ownership and operation of the System on or about January 31, 2024 (the "Closing");

**WHEREAS**, Alliance and Commission executed and entered into a Professional Operating Services and Management Agreement (the "Agreement") dated February 16, 2017, which was amended several times and extended on April 21, 2021; and

**WHEREAS**, the Parties intend, by this Amendment, to assign the Agreement to District, effective upon Closing, to amend certain terms in said Agreement, and to terminate the Agreement effective March 31, 2024, on the terms and conditions stated herein.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the Commission, the District and Alliance agree as follows:

1. **Assignment**. Upon Closing, the Agreement shall be assigned to District. Commission and Alliance consent to said assignment pursuant to Section 16.1 of the Agreement. Following the Assignment, Commission shall continue to pay Alliance the Base Fee in the same amount as set forth in the Memorandum of Agreement dated March 15, 2023 and executed between Commission and Alliance until the Termination Date, such date defined in Section 3 of this Amendment. Commission shall also be responsible for any other costs or fees, including any expenditures that exceed the Repair Limit, as that term is defined in the Agreement, or otherwise, made prior to Closing. District shall be responsible for the cost of any expenditures that exceed the Repair Limit, as that term is defined in the Agreement, or otherwise, and subject to the provisions in Section 2 of this Amendment, incurred after Closing until the Termination Date.
2. **Amendment**. Prior to undertaking any non-emergency activities that would constitute non-routine repairs or capital expenditures and which Alliance, in its good-faith belief, estimates will result in expense of five hundred dollars (\$500) or more ("Project Expense Exceeding \$500") beyond the Base Fee, Alliance shall provide written notice to District, which said notice shall include a detailed description of the proposed Project Expense Exceeding \$500, with a detailed cost estimate. Alliance shall not proceed with said work without the prior written authorization of District. Additionally, District may, in its sole discretion, elect to perform any Project Expense Exceeding \$500 utilizing District's staff, personnel or other contractors.
3. **Termination of Agreement**. On March 31, 2024 ("Termination Date"), the Agreement, and any amendments thereto, shall terminate, be null and void. After the Termination Date Commission and District shall have no further obligation or relationship whatsoever to Alliance in any way pertaining to the operation or maintenance of the System, except to pay any outstanding amounts to Alliance, if any, that

exceed the Repair Limit, as that term is defined in the Agreement. After the Termination Date, Alliance shall have no further obligation to the Commission and District in any way pertaining to the operation or maintenance of the system. Thereafter, Alliance acknowledges and agrees that District shall have responsibility for and be entitled to maintain, operate, repair, modify and/or improve the System utilizing the personnel, staff or contractors of District's choosing, in District's sole and absolute discretion. In consideration of the Termination Payment made by District to Alliance and of the District's willingness to accept an assignment of the Agreement until the Termination Date, Alliance agrees to fully and reasonably cooperate and work with the staff, personnel or contractors hired, selected or retained by the District, in the District's sole and absolute discretion, to provide those services necessary to operate the System and transition operation and maintenance from Alliance to District. Alliance agrees that it will not take any action that will, in any way, hinder, restrict or interfere with District's operation or maintenance of the System, including but not limited to restricting, limiting or interfering with the ability of staff, personnel or contractors from performing what is necessary for the operation or maintenance of the System.

4. Termination Payment. Prior to the Termination Date, District shall pay Alliance the sum of Twenty-Five Thousand Dollars (\$25,000.00). In the event that Alliance fails to cooperate and work with the District in transitioning the operation and maintenance of the System to District's staff, personnel or contractors or takes any actions to hinder, restrict or interfere with the District and the District's staff or personnel in the operation and maintenance of the System after the Termination Date, then District shall be entitled to a refund of the Termination Payment.

5. Conflicts. If there are any conflicts between the terms and conditions of this Amendment and the terms and conditions of the Agreement, or any amendments thereto, then the terms and conditions of this Amendment shall control.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

*[Signatures on Following Page]*



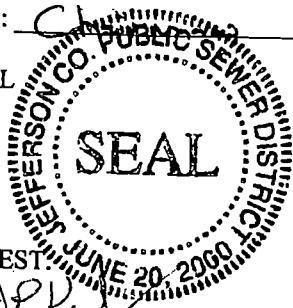
JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

[Signature]

By: PETER Birkes

Title: Chairman

SEAL



ATTEST: [Signature]

, Secretary

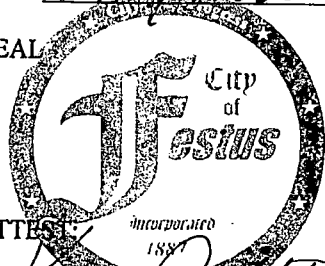
FESTUS-CRYSTAL CITY SEWAGE  
COMMISSION

[Signature]

By: Greg Camp

Title: Acting President

SEAL



ATTEST: [Signature]

, City Clerk

ALLIANCE WATER RESOURCES, INC.

[Signature]

By: TIMOTHY H. GERAGHTY

Title: PRESIDENT

**JEFFERSON COUNTY PUBLIC SEWER DISTRICT, FESTUS,  
CRYSTAL CITY, FESTUS-CRYSTAL CITY SEWAGE COMMISSION  
CLOSING DOCUMENTS**

1. MASTER AGREEMENT REGARDING SEWAGE COLLECTION AND TREATMENT SYSTEMS OF FESTUS AND CRYSTAL CITY

Exhibit 1 – Festus Boundaries

Exhibit 2 – Crystal City Boundaries

Exhibit 3 – Asset Transfer Agreement

Exhibit 4 – Festus Sewer System Operation and Cooperation Agreement

Exhibit 5 - Crystal City Sewer System Operation and Cooperation Agreement

2. ASSET TRANSFER AGREEMENT

None

3. FESTUS SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT

Attachment A - Rate Caps

Rate Attachment

4. CRYSTAL CITY SEWER SYSTEM OPERATION AND COOPERATION AGREEMENT

Attachment A - Rate Caps

Rate Attachment

5. CLOSING AGREEMENT

6. BILL OF SALE – JMUC

7. BILL OF SALE – FESTUS

8. BILL OF SALE – CRYSTAL CITY

9. ASSIGNMENT OF EASEMENTS – CRYSTAL CITY

10. ASSIGNMENT OF EASEMENTS - FESTUS