

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

**2021 INTERLOCAL AGREEMENT
FOR THE OPERATION AND JOINT OWNERSHIP OF
WATER DISTRIBUTION AND WASTEWATER COLLECTION SYSTEMS**

INTRODUCTION

This Interlocal Agreement (“Agreement”) is entered into as of March __, 2021, by and between Brunswick Regional Water and Sewer H2GO, a body politic and corporate organization existing pursuant to NCGS Chapter 130A, Article II, Part 2 (“Sanitary District”) and the Town of Leland, North Carolina, a municipal corporation organized and existing pursuant to NCGS Chapter 160A (“Leland”). The signatories to this Agreement shall be referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, N.C. Gen. Stat. §§ 160A-460 through 160A-466, N.C. Gen. Stat. § 160A-11, N.C. Gen. Stat. §160A-322 and N.C. Gen. Stat. § 130A-55 authorize municipalities and sanitary districts to enter into joint undertakings to own and operate a public enterprise; and,

WHEREAS, N.C. Gen. Stat. § 160A-311(1) defines a public enterprise to include water supply and distribution systems and N.C. Gen. Stat. § 160A-311(2) defines a public enterprise to include wastewater collection, treatment, and disposal systems of all types; and,

WHEREAS, N.C. Gen. Stat. § 160A-274 authorizes governmental units such as the Sanitary District and the Town of Leland to exchange with, lease to, lease from, sell to, or purchase from one another any interest in real or personal property upon such terms and conditions as the governmental units deem wise, with or without consideration; and,

WHEREAS, the Parties desire to enter into an agreement to address the following concerns and objectives:

- A. There is a growing need in northeastern Brunswick County (“Region”) for improved comprehensive planning to address current and future water and wastewater needs.
- B. The Region is one of the fastest growing areas in North Carolina and is expected to continue to experience expanded residential and commercial development for the foreseeable future.
- C. It is beneficial to residents and property owners in the Region for providers to consolidate, through a joint undertaking, the water and wastewater systems and utility funds of the Parties to gain efficiencies in operations, enhance financial sustainability, reduce redundancies and overlaps, and improve customer service.

- D. The Sanitary District is well-positioned to operate and maintain the consolidated water and wastewater systems for both Parties.
- E. There are areas in the Region that are available for both Parties to expand their services jointly and some areas that are better positioned for the Sanitary District to expand separately of Leland.
- F. A long-term agreement is beneficial to effectuate a joint undertaking regarding water and wastewater systems.

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, and intending to be bound thereby, the Parties do hereby undertake, promise, covenant, and agree with each other as follows:

Article I. Definitions

Section 1.01 Defined Terms. When used in this agreement, unless another meaning is clearly indicated by context, the following capitalized term shall have the following meanings.

- a. Area: Leland's Town Boundaries and Joint Undertaking Area.
- b. Assets: The Water and Wastewater Facilities, Water Distribution and Wastewater Collection Systems, Customer Accounts, and Utility Enterprise Funds of the Parties. The Assets also include water supplies, water treatment plants, water storage facilities, pump and transmission stations, wastewater treatment facilities, treatment capacity allocations, operational equipment and vehicles, raw water transmission lines, concentrate discharge lines, treatment effluent outfall lines, telemetry systems, pipes between facilities, properties, offices, and other operational facilities typically owned and operated by water and wastewater utilities in connection with providing water and wastewater services to customers.
- c. Closing: Delivery of the items as described in this Agreement to effect the final transfer of the assets between the Parties, and assumption of Leland's Assets and Liabilities by the Sanitary District.
- d. Closing Date: 11:59 PM on June 30, 2021, more specifically defined in Section 10.01. The Closing Date will signify the point when all terms of transfer are complete. As is more specifically described in Article XI, the Closing may occur at another time or place as long as it is mutually agreed upon by the Parties, and each will use its Commercially Reasonable Efforts to work toward that end.
- e. Commercially Reasonable Efforts: A Party's best efforts in good faith; provided that the Commercially Reasonable Efforts shall not require the expenditure of sums of

money and other resources that are unreasonable under the circumstances or in relation to the significance of the transaction described in this Agreement.

- f. Customer Accounts: The Parties' agreements or arrangements with customers pursuant to which it extends and/or provides water and/or wastewater services.
- g. Date of Hire: The date on which a New Employee becomes a Sanitary District employee and no longer a Leland Employee. The Date of Hire, unless otherwise determined by the consent of both Parties, will occur after the Effective Date, but no later than the Closing Date.
- h. Joint Undertaking Area: The area in which Parties will own Assets jointly and Offer Service and Provide Service to and through New Connections to New Developments as described in this Agreement. The Joint Undertaking Area consists of the areas depicted and described on the map attached as Exhibit 1. The Joint Undertaking Area will be updated by mutual agreement in writing. Any area within the H2GO Wholly Owned Asset Area, as depicted and described on Exhibit 1, that is incorporated into the corporate boundaries of Leland after the Effective Date of this Agreement, shall become part of the Joint Undertaking Area.
- i. Effective Date: The Effective Date shall be the date and time when both governing Boards of the Parties have officially approved and signed the Agreement. The Effective Date is the date identifying when the Parties are bound by the terms of the Agreement. The time provided between Effective Date and Closing Date will allow the Parties to properly transfer Operations, Assets, and Liabilities.
- j. Joint Assets: The Assets jointly owned by the Parties pursuant to the Terms of this Agreement as tenants in common with each Party owning a one-half undivided interest are defined as the Water Distribution and Wastewater Collection Systems that are specifically limited to all water distribution lines, and associated appurtenances and infrastructure, and/or wastewater collection lines, and associated appurtenances and infrastructure that can be extended and/or made available to a New Connection and/or New Development, that are within Leland's Town Boundaries and Joint Undertaking Area. Joint Assets also include all connection points, meters, pump stations, transmission lines, force mains, and gravity lines that are, or by virtue of this Agreement will be, associated with and/or located within Leland's Town Boundaries and Joint Undertaking Area. The Parties acknowledge the Joint Assets do not include Water and Wastewater Facilities.
- k. Leland's Assets to be Transferred: All of Leland's Assets identified in Exhibit 2, with exception of Leland's one-half undivided interest in the Joint Assets.
- l. Leland's Liabilities to be Transferred: The liabilities of Leland identified on Exhibit 3 and Exhibit 4.

- m. Leland's Water and Wastewater Utility Employees: The seven (7) Leland Employees identified on Exhibit 5 that are assigned primarily to Leland's Water and Wastewater Utility as of the Effective Date of this Agreement.
- n. Liquid Assets: Cash on hand or assets that can easily be converted into cash in a short amount of time, including such items as money market instruments and marketable securities related to Leland's Enterprise Fund, Water and Wastewater Facilities, and/or Water Distribution and Wastewater Collection Systems.
- o. New Connections: Any water or sewer service, or new public or private water and sewer line extended from any new or existing Water Distribution or Wastewater Collection System to serve a new structure, building, or use that is not connected or actively receiving water or sewer service at the Effective Date of this Agreement, and is located within Leland's Town Boundaries and/or the Joint Undertaking Area. For purposes of this Agreement, New Connections shall also include any redevelopment, or Provision of Service to any existing structure, building or use that has not received water or sewer services for a period of 365 days.
- p. New Developments: Any new residential, commercial, industrial, civic, institutional, governmental, mixed-use, or other real estate development project, parcels, and properties, whether or not construction has been commenced or completed, within Leland's Town Boundaries and/or within the Joint Undertaking Area occurring on or after the Effective Date.
- q. New Employee: A Leland Water and Wastewater Utility Employee that is hired by the Sanitary District after the Effective Date and pursuant to Article VIII of this Agreement.
- r. Ordinary Course: To operate or conduct in substantially the same manner, in conformance and consistent with policies, practices, and procedures as the Parties were operating and conducting themselves on the Effective Date of this Agreement.
- s. Operation(s): The day-to-day operation and maintenance of Water and Wastewater Facilities and Water Distribution and Wastewater Collection Systems including the expansion of said facilities and systems to serve customers. "Operation(s)" does not include the development and implementation of policies or conditions precedent to Offering Service(s).
- t. Offering Service(s): Offering the Provision of Service(s) to a New Connection and/or New Development.
- u. Provision of Service(s): The delivering and purveyance of water and/or wastewater or sanitary sewer, including the collection or treatment of sewage, to or through any New Connection to any New Development. The Provision of Service(s) is expressly conditioned on the Offering Service(s).

- v. Records: All records, regardless of the medium, in Parties' possession or that are reasonably available to the Parties related to their Water and Wastewater Facilities and Water Distribution and Wastewater Collections Systems, Accounts, Parties' Water and Wastewater Utility Employees, and/or other Assets or Liabilities.
- w. Sanitary District's Assets to be Transferred: A one-half undivided interest in the Joint Assets.
- x. Town Boundaries: Leland's corporate boundaries as depicted on Exhibit 1 as of the Effective Date.
- y. Utility Enterprise Fund: A fiscal and accounting entity with a self-balancing set of accounts recording cash and other resources, together with all related liabilities and residual equities or balances, and changes therein, for the purposes of carrying on stated programs, activities, and objectives of a governmental entity for the purveyance and/or provision of Water and Wastewater Facilities and Water Distribution and Wastewater Collection Systems.
- z. Water and Wastewater Facilities ("Facilities"): Water and Wastewater Facilities are water supplies, water treatment plants, water storage facilities, water boost pumps, wastewater treatment facilities, treatment capacity allocations, operational equipment and vehicles, raw water transmission lines, concentrate discharge lines, treatment effluent outfall lines, telemetry systems, customer accounts, properties, offices, and other operational facilities typically owned and operated by water and wastewater utilities in connection with providing water and wastewater services to customers, regardless of their location, whether inside or outside of Leland's Town Boundaries and Joint Undertaking Area.
- aa. Water Distribution and Wastewater Collection Systems ("System(s)"): Water Distribution and Wastewater Collection Systems are the water distribution lines, meter boxes or vaults, wastewater (sewer) pipes, manholes, cleanouts, and sewage pump stations that can be extended an/or made available to a New Connection and/or New Development, and all other water and wastewater infrastructure available for New Connection not included in the definition of Water and Wastewater Facilities that are involved in the Operations and purveyance of water and wastewater services.
- bb. Wholly Own(ed): One hundred percent (100%) ownership of Assets including property, Systems, and/or Facilities, with all retained ownership rights thereof, including but not limited to sole discretionary rights to Operate, maintain, convey, divide, expand, and improve said Assets.

Section 1.02 Grammatical Variations. Grammatical variations of the terms defined in this Agreement shall have the same or substantially similar meaning to such defined term.

Section 1.03 Undefined Terms. Undefined terms shall have their plain and ordinary meaning, the meaning given by their immediate context, or the meaning prescribed by an

applicable statute. This Agreement shall be construed in the manner to effectuate the intent of the Parties. In no event shall any word, term, or phrase be assigned a meaning that is inconsistent with the purpose, context, and scope of this Agreement.

Article II. Purpose and Interlocal Agreement Requirements

Section 2.01 Purpose of Agreement. The purpose of this Agreement is to allow the Parties and their current and future citizens to enjoy the benefits of consolidation in the provision of water and wastewater services, including the cost saving benefits, avoiding the duplication of services, and otherwise accomplishing the objectives set out in the Recitals, which are referred to and incorporated into the terms of this Agreement.

Section 2.02 Term. The Term of this Agreement shall be forty (40) years, as allowed by N.C. Gen. Stat. § 160A-322, commencing on the Effective Date. The Term may be renewed for a period to be determined by the consent of the governing boards of the Parties prior to or at the time of renewal. The Parties agree that this Term is reasonable for the purposes of this Agreement.

Section 2.03 Operation. The Sanitary District shall be solely responsible for the Operation and Provision of Services. The Sanitary District has the right to develop and implement policies or conditions for the Provision of Service(s). Leland will have no day-to-day obligation or authority, however, will cooperate with the Sanitary District's efforts, in the Operations of the Joint Assets.

Section 2.04 Financing. Except as otherwise indicated herein, each Party shall be responsible for financing its separate obligations under this Agreement, to the extent such financing is necessary. Should the joint ownership of any Joint Asset affect the Sanitary District's ability to finance projects, Leland agrees to support the Sanitary District's efforts to secure financing. Leland agrees to execute, approve, or sign any documentation necessary in the Ordinary Course of business that will assist the Sanitary District's attempts to receive financing for any Facilities or Systems, whether inside or outside of Leland's Town Boundaries or Joint Undertaking Area, provided that the said cooperation does not result in Leland incurring any financial obligations. This responsibility to support the Sanitary District shall not require Leland to relinquish its exclusive right to Offer Service, through the Sanitary District and through the Joint Assets, water and wastewater services to New Developments, parcels, and properties in its Town Boundaries and/or in the Joint Undertaking Area, except as otherwise required by law.

Section 2.05 Method for Amending. This Agreement may be amended by mutual consent of the Parties as evidenced by a majority vote of the Parties' respective elected body. Any Amendment must be written, duly adopted, and signed by both Parties.

Section 2.06 Method for Terminating. This Agreement may only be terminated in accordance with the provisions of Article XII. Termination herein.

Article III. Ownership, Conveyances, Assumptions, Due Diligence, and Operations

Section 3.01 Ownership.

- a. **Joint Assets.** The Parties will jointly own the Joint Assets, as tenants in common, with each party owning a one-half undivided interest. The Parties represent and warrant that they will use the Joint Assets to continue the provision of services to existing Customer Accounts and to extend and/or make available to New Developments seeking a New Connection, on conditions mutually agreed upon by the Parties and adopted by the Parties' respective governing bodies. This will be achieved in accordance with Section 3.02, below.
- b. **Assets Wholly Owned by the Sanitary District.** The Sanitary District shall wholly own and Operate the Facilities and Systems that are outside of the Area.
- c. **Assets Wholly Owned by the Sanitary District that are Inside the Area.** The Sanitary District shall wholly own and Operate all Facilities located within the Area. The Parties acknowledge the Facilities do not include Joint Assets.
- d. **Customer Accounts and Revenues.** All Customer Accounts and revenues shall be solely owned and managed by the Sanitary District.
- e. **Deed and Dedications.** The owner of a New Development within Leland Town Boundaries or Joint Undertaking Area, upon completion and certification of utility improvements, shall be required to file and record a Deed and Dedication for any new water and/or sewer infrastructure and facilities it constructs naming the Sanitary District as the owner of such Facilities and/or Systems. The Parties, by operation of this Agreement, shall own the Systems in these areas as Joint Assets.
- f. **Joint Assets with System Extensions.** The Parties acknowledge and affirm that all new Joint Assets established with the extensions of Systems to and within New Developments, that are part of the Systems will be jointly owned as described in Section 3.01(a).

Section 3.02 Conveyance of Assets and Assumption of Liabilities. Leland shall convey to the Sanitary District all of Leland's Assets and Liabilities to be transferred as defined in Article 1, Section 1.01(k) and (l) above. The Sanitary District shall convey to Leland all of the Sanitary District's Assets to be transferred to Leland as defined in Article 1, Section 1.01(w) above.

- a. **Leland's Assets to be Transferred.** Leland shall convey all of Leland's Assets and Customer Accounts to the Sanitary District on or prior to the Closing Date (except for the one-half undivided interest that Leland will retain in the jointly owned System which is more specifically defined in Section 3.01). Exhibit 2 is a complete list of Leland's Assets to be conveyed to the Sanitary District on the Closing Date. Leland represents that Exhibit 2 includes a complete list of all Leland's Facilities and Systems, Assets, and Customer Accounts. Leland further represents and warrants that, to the

best of its knowledge, information, and belief, Leland's Facilities and Leland's Systems to be conveyed are in good working order.

- b. Sanitary District's Assets to be Transferred. The Sanitary District shall convey to Leland a one-half undivided interest in the System that is within Leland's Town Boundaries and/or Joint Undertaking Area. This does not include any assets that have been defined as the Facilities.
- c. Leland's Liabilities. The Sanitary District shall assume Leland's Liabilities on or before the Closing Date. Exhibit 3 and Exhibit 4 include a complete list of Leland's Liabilities to be assumed by the Sanitary District. To the extent any of Leland's Liabilities cannot be transferred, the Sanitary District shall refinance or otherwise satisfy said liability(ies) associated with financed water and wastewater projects.
- d. Leland's Water and Wastewater Projects. A complete list of water and wastewater projects, with project budgets, that Leland has committed to build or has begun to build to connect to and become an integral part of the Facilities and Systems which it is transferring to the Sanitary District is attached as Exhibit 4. The Sanitary District shall be required to timely complete and pay for the projects listed in Exhibit 4. This includes all relevant existing contracts and agreements with vendors and engineers which are identified in Exhibit 4 to be assigned/transferred.
- e. Limitations Caused by Treatment Capacities. The Sanitary District shall not be required to extend the Joint Assets beyond its treatment capacities allocated within Brunswick County's treatment plant(s) and the Sanitary District's treatment plant(s). The Sanitary District shall update and expand its Facilities to meet the demand of the Region. However, the Sanitary District shall not be responsible to extend the Systems beyond its treatment capacities, in a manner that may cause health or safety concerns for the Region.

Section 3.03 Due Diligence. The Parties final acceptance of Parties' Assets and Liabilities is conditioned upon Parties' Facilities and Systems being (a) in good working order, (b) compatible with being combined and jointly owned, and (c) otherwise objectively suitable for being Operated by the Sanitary District. The need for routine maintenance and repair due to Parties' Facilities and Systems being in a condition commensurate with their age and prior normal use shall not, itself, give rise to or support a determination that the Facilities and Systems are not (a) in good working order, (b) compatible as combined Facilities and Systems, or (c) otherwise objectively suitable for being accepted by the Parties. If any contractual legal impediment to Parties' Assets or Liabilities is discovered, the Parties will cooperate to overcome these impediments.

Prior to accepting transfer of Assets and Liabilities, the Parties shall have the right to conduct initial and continued diligence for a period of 60 days after the Effective Date. The Parties may conduct this examination with reasonable advance notice and in a reasonable fashion on more than one occasion, at reasonable intervals. The Parties will actively cooperate with one another to facilitate this due diligence. If a Party does not accept the other Party's Assets, said Party will

provide a brief written explanation of the basis for its concerns sufficient to allow the other Party to clearly understand the refusal of the Assets. If the other Party decides to address the concerns, the Parties shall negotiate, in good faith, a written schedule. If the concerns are satisfactorily addressed by the deadline set within the written schedule, then the Parties shall move forward to Closing. If the concerns are not addressed, the non-accepting Party may, in its sole discretion, elect to move forward to Closing or terminate the Agreement.

Section 3.04 Operational Transfer. Prior to the Closing Date, following the completion of the Parties' due diligence, the Parties will cooperate to enable the transfer of Assets and the assumption of Liabilities, as outlined in this Agreement. Such cooperation will include, but is not limited to:

- a. Transfer of Operations of Leland's Facilities and Systems to the Sanitary District and interconnection of Leland's Facilities and Systems with the Sanitary District's Facilities and Systems.
- b. Transfer Leland's Customer Accounts to the Sanitary District, including the provision of all necessary and appropriate notices to customers.
- c. Transfer and assumption of Leland's Liabilities by the Sanitary District.
- d. Sanitary District's employment of Leland's Water and Wastewater Utility Employees.
- e. Obtaining all necessary consents to effectuate the transfers and assumptions, or refinancing and satisfaction of loans.

Section 3.05 Operational Transfer's Effect on Customers. During the Term of the Agreement, the Sanitary District will Operate the Facilities and Systems in the Area and continue to serve the customers therein without disruption of service to non-delinquent Customer Accounts.

Section 3.06 Cooperation with the Operational Transfer. The Parties will use Commercially Reasonable Efforts to cooperate with one another to establish the Sanitary District as the Operator of water and sewer services through the Joint Assets.

Section 3.07 Required Connections. The Parties agree, pursuant to N.C. Gen. Stat. § 160A-317, and, to the extent allowed by applicable law, that the Parties will require owners of developed properties in their respective corporate limits and within 200 feet of the Joint Assets to connect to the Joint Assets. To the extent allowed by law, the Parties shall require such owners to (1) construct Facilities and Systems to the Sanitary District's standards to interconnect to the Joint Assets; (2) allow the Facilities and Systems to be inspected; and (3) deed and dedicate the Facilities and Systems to the Sanitary District.

Section 3.08 No Separate Water or Wastewater Systems or Providers. Leland will not acquire, own, construct, or operate any publicly offered Facilities or Systems for New Development, or contract with or obtain water and sewer services for this purpose from any provider other than the Sanitary District, whether inside or outside of the Area for the term of this

Agreement. Properties owned by the Parties in the Area will be allowed to receive or maintain service from other utility providers until such time service through the Joint Assets or Sanitary District becomes available.

Section 3.09 Cooperation after the Effective Date. The Parties will use Commercially Reasonable Efforts to cooperate to resolve Facility and/or System issues, customer issues, and other matters related to the Assets and Liabilities, with Leland being responsible for matters that arose prior to the Effective Date, the Sanitary District being responsible for matters that arise on and after the Closing Date, and the Parties working together during the transition for those matters that occur between the Effective Date and the Closing Date. Any books and records relating to the Assets or the Liabilities, including historical information, held by the Parties after the Effective Date shall be maintained in accordance with and for the period provided in that Party's standard recordkeeping policies and procedures, and as required by applicable record retention laws and regulations, and shall be available for inspection and copying by the other Party during regular business hours, upon reasonable notice, at no expense to the other party other than a reasonable charge to cover the out-of-pocket cost of any unusual duplication expenses.

The Parties will cooperate with the exchange of Records as needed during the Term of the Agreement. The Parties agree that they will not request any document that is not necessary or will create an undue burden on the other Party.

Section 3.10 Services to Leland Properties. To the extent permitted by law, Water and/or Wastewater Service(s) shall be provided to Leland properties at the lowest possible cost.

Article IV. Additional Covenants of the Parties

Section 4.01 Mutual Covenants of the Parties. Following the Effective Date of this Agreement, the Parties agree that the Offering of Services or the Provision of Services within the Area shall only be upon the conditions mutually agreed upon by the Parties. Until final transfer of the Operations and Assets, the Parties agree they will carry on their business in the Ordinary Course and, to the extent consistent in all material respects with such business and within their ability to do so, agree that they will use Commercially Reasonable Efforts to require the following:

- a) Preserve intact their present business organization, and preserve their relationships with customers, employees, creditors, correspondents, suppliers, and others having business relationships with it.
- b) Maintain all properties and equipment in customary repair, order, and condition. Ordinary wear and tear excepted.
- c) Maintain their books of Customer Accounts and Records in the usual, regular, and ordinary manner in accordance with applicable law and sound business practices applied on a consistent basis.
- d) Perform their agreements and comply with their obligations under all contracts and agreements to which they are a party and give prompt written notice to the other Party

of any claim or receipt of notice from any other party thereto of any alleged material default or noncompliance thereunder.

- e) Not change their existing business practices, procedures, guidelines, or policies in any material respect except as may be required by law or as otherwise provided in this Agreement.
- f) Continue to maintain in force all insurance policies they maintain and not cancel, terminate, fail to renew, or modify any such policy, or allow any such policy to be cancelled or terminated, unless the cancelled or terminated policy is replaced with a bond or policy providing coverage, or unless the policy as modified provides coverage, that is substantially equivalent to the policy that is replaced or modified, including coverage for periods that would have been covered by the cancelled or terminated policy.
- g) Not mortgage, pledge, or subject any of the Joint Assets to, or permit any of their Assets to become or, except for any liens connected with the Liabilities, remain subject to, any lien.
- h) Promptly notify the other Party of any actual or, to the knowledge of the Party, threatened litigation by or against the Party, related to its Water and Wastewater System, or any other person whom the Party is obligated to defend or indemnify, together with a description of the circumstances surrounding any such actual or threatened litigation, its then-present status, and management's evaluation of such claim or litigation.

Section 4.02 The Sanitary District's Covenants. The Sanitary District agrees that, following the Effective Date of this Agreement, the Offering of Services or the Provision of Services within the Area shall only be upon the conditions mutually agreed upon by the Parties.

Section 4.03 Leland's Covenants. Leland agrees that, following the Effective Date of this Agreement, it will require the following:

- a. Leland's Facilities and Systems Operations Prior to Transfer. In connection with the operations of Leland's Facilities and Systems, Leland agrees that, and until final transfer of the operations and Assets, Leland will carry on its business in the Ordinary Course and, to the extent consistent in all material respects with such business and within its ability to do so, Leland agrees that it will use Commercially Reasonable Efforts to:
 - i. Not increase the compensation or benefits of, or pay any bonus, severance, or other special or additional compensation to, any of its Water and Wastewater Utility Employees; provided, that Leland may, prior to the Closing Date, review and make routine increases in the compensation of its Water and Wastewater Utility Employees, provided that, the times and amounts of those reviews and increases are consistent with Leland's past practices with respect to salary increases and its

salary administration and review policies and procedures in effect prior to the Effective Date of this Agreement.

- ii. Except as required by law or this Agreement, not (A) enter into, become bound by, amend, or modify any oral or written employment contract with its Water and Wastewater Utility Employees which is not immediately terminable by it without cost or other liability on no more than 30 days' notice; or (B) adopt, enter into, or become bound by any new or additional employee benefit plan, or modify, amend, or renew any existing employee benefit plan (except for renewals of existing group employee insurance policies in the Ordinary Course).
- b. Consent. With respect to each Liability, Asset, and Project, Leland will use Commercially Reasonable Efforts to obtain and deliver to the Sanitary District, on or prior to the Closing Date, such written consent of the other contracting party(ies), together with such other certificates or documentation as is reasonably requested by the Sanitary District, each in a form and containing such terms as shall be reasonably acceptable to the Sanitary District.
- c. Access and Continued Due Diligence. The Parties agrees that, following the Effective Date of this Agreement, and subject to applicable laws and contractual requirements and assertions of attorney-client or attorney work product privileges, it will provide the other Party and its employees, accountants, legal counsel, environmental or other consultants, or other representatives and agents access to all books, records, files, and other information (whether maintained electronically or otherwise), and to all properties and Facilities, Water and Wastewater Utility Employees, accountants, legal counsel, environmental or other consultants, or other representatives or agents, as the Parties shall reasonably consider to be necessary or appropriate for the purpose of conducting ongoing reviews and investigations of the Parties' Assets and Leland's Liabilities and the combining of the Parties' Facilities and Systems, for purposes of determining the accuracy of the Parties' representations and warranties in this Agreement and compliance with its covenants in this Agreement, and for other necessary reasons related to this Agreement. Any investigations or reviews conducted by or on behalf of the Parties as described above shall be performed in such a manner as will not interfere unreasonably with the Parties' normal operations or with its relationships with its customers or employees and shall be conducted in accordance with procedures established by the Parties, each acting reasonably.
- d. Rates, Incentives, and SDFs. Leland agrees to make no changes to its rates, SDFs, and agrees to make no additional incentive agreements using such rates or fees, after the Effective Date of this Agreement.
- e. Preparation for Transfer. As promptly as possible following the Effective Date of this Agreement, the Parties will cooperate with one another, and take such actions as the Parties shall reasonably request and/or need to prepare for and permit the transfer of Assets, Liabilities, and ownership interests as outlined in this Agreement.

Article V. Planned Growth and Development

Section 5.01 Leland's Exclusive Right to Offer Services within the Area. During the Term of this Agreement, Leland shall have the exclusive right to Offer, with cooperation of the Sanitary District and through the Joint Assets, water and wastewater services to New Developments in the Area on conditions mutually agreed upon by the Parties. When the Parties have agreed to make water and wastewater services available to a New Development, consistent with this Agreement, the Parties shall allow interconnection of each New Development served by a New Connection into the Joint Assets subject to the Sanitary District's normal requirements for the establishment of Customer Accounts. In no event shall the provision of water and sewer services in the Area be provided by the Sanitary District, separate from Leland.

Section 5.02 Annexation of Properties Owned by the Parties. All Properties owned by the Parties that are within the Area shall be annexed into the corporate boundaries of both Leland and the Sanitary District.

Section 5.03 Annexation Pursuant to N.C. Gen. Stat. § 130A-70.1. The Sanitary District will annex areas of Leland, eligible under N.C. Gen. Stat. § 130A-70.1, which are not currently within the Sanitary District's corporate boundary, within 90 days of the Effective Date of this Agreement.

Section 5.04 Annexation Pursuant to N.C. Gen. Stat. § 130A-69. The Sanitary District shall initiate the annexation process of areas of Leland eligible under N.C. Gen. Stat. § 130A-69, which are not currently within the Sanitary District's corporate boundary, and follow the statutory process to request an election as soon as reasonably practicable or by other means allowable by law, after the Closing Date of this Agreement.

Section 5.05 Eligibility for Service. Commencing on the Effective Date of this Agreement, the Parties agree that only properties located within the corporate boundaries of both Parties will be eligible for the Offering of Service and/or Provision of Service in the Area through the Joint Assets, unless otherwise mutually agreed upon by the Parties.

Section 5.06 The Sanitary District May Independently Expand in Areas Excluded from the Area. The Sanitary District may offer water and/or wastewater services in any area that is outside of the Area without regard to the provisions of this Agreement.

Article VI. Agreements with other Municipalities. The Parties envision that the Sanitary District may enter into agreements similar to this Agreement with other municipalities in the Region. The Sanitary District will cooperate with Leland to ensure that any such agreements do not contravene or interfere with this Agreement and are consistent with any agreements between or among Leland and such municipalities.

Article VII. Defense of this Agreement. The Parties agree to participate and cooperate in defending any legal proceeding challenging the validity or applicability of any terms of this Agreement and will seek to intervene in any action, if appropriate, to make such defense. The Sanitary District shall be responsible for retaining counsel and paying the legal fees and expenses

of counsel to oppose any such legal proceeding, and counsel employed by the Sanitary District shall, unless otherwise agreed, be the lead counsel. Leland may employ separate counsel, if it wishes to do so, at its own expense.

Article VIII. Leland Water and Wastewater Utility Employees

Section 8.01 Hiring of Leland's Water and Wastewater Utility Employees. The Sanitary District shall extend an offer of employment, prior to the Closing Date, to Leland's Water and Wastewater Utility Employees. Any Leland Water and Wastewater Utility Employee who accepts such an offer shall be a "New Employee." Any employment so offered to a Leland Water and Wastewater Utility Employee shall be at a compensation rate equal to or greater than the Employee's current compensation rate, and all existing accrued time off and sick balances shall be transferred and honored by the Sanitary District. Any New Employee shall be employed on an "at-will" basis, and nothing in this Agreement shall be deemed to constitute an employment agreement with any New Employee or to obligate the Sanitary District to employ any New Employee for any specific period or in any specific position or to restrict the Sanitary District's right to terminate the employment of any New Employee at any time and for any reason satisfactory to it, in accordance with the Sanitary District's policies and procedures.

Section 8.02 New Employee Benefits. Any New Employee shall become entitled to receive employee benefits and to participate in benefit plans on whatever bases shall be specified by the Sanitary District in its offer of employment to such New Employee. However, notwithstanding anything contained herein to the contrary, Leland shall be responsible for any medical, dental, life, or other insurance claim by a New Employee which would have been payable under the terms of Leland's insurance or other benefit plan sponsored by Leland if the date of service or other event on which the claim is based occurs on or prior to the New Employee Date of Hire by the Sanitary District. The Sanitary District shall be responsible for any such claims which are based on a date of service or event that occurs on or after the Date of Hire and which are payable under the terms of the Sanitary District's benefit plans applicable to the New Employee.

Section 8.03 Non-Assumed Employees; Termination Costs. Leland shall be solely responsible for the management, reassignment, relocation, or termination of any of its employees that do not become New Employees, and Leland shall pay all costs, including, without limitation, separation pay and accrued time off pay, associated with termination of any of the employees it terminates as a result of not operating a Water or Wastewater System because of this Agreement, in accordance with Leland's policies and procedures.

Section 8.04 Leland's Water and Wastewater Utility Employee Liabilities. Leland shall retain all liabilities and obligations, including, without limitation, the liability and obligation for all wages, salaries, accrued time off pay, unemployment, welfare benefits, and retirement benefits, for any claims made or incurred by any Leland employee prior to the Date of Hire. The Sanitary District shall not, at any time, assume any liability for the benefits of any New Employee under any of Leland's benefit plans. Leland shall be responsible for providing any Leland Employee, and such Leland Employee's "qualified beneficiaries" within the meaning of Section 4980B(g)(1) of the Federal Revenue Code, whose "qualifying event," within the meaning of Section

4980B(f)(3) of the Federal Revenue Code occurs on or prior to the Date of Hire, with the continuation of group health coverage required by Section 4980B(f) of the Federal Revenue Code under the terms of the health plan maintained by Leland.

Section 8.05 No Third-Party Beneficiaries. Nothing in this Agreement is intended, nor shall it be construed, to confer any rights or benefits upon any person other than the Parties, including any rights to be employed or respecting the terms and duration of employment.

Section 8.06 Status of Employees Prior to Date of Hire. No Leland Water and Wastewater Utility Employee shall become a New Employee until after the Effective Date. Notwithstanding any Leland Employee's assignment to the Sanitary District as part of the activities described in Section 3.04, Leland shall remain the employer of all such employees until their Date of Hire and, should this Agreement be terminated prior to Closing, the provisions of Section 12.02 shall apply.

Article IX. Indemnification

Section 9.01 Indemnification by the Sanitary District. The Sanitary District shall indemnify Leland against, and hold it harmless from, all civil or criminal liability, damages, awards, settlement payments, costs, fines, charges, citations, notices of violations, penalties, and expenses, including court costs and attorneys' fees and expenses ("Damages"), relating to any claims against Leland which arise out of, result from, or are based upon (a) the operations or business transactions of the Sanitary District, or the failure by the Sanitary District to perform, pay, discharge, or satisfy any of the Liabilities in any material respect, after the Closing Date or for any activity that was the responsibility of the Sanitary District after the Effective Date, (b) any fact, condition or circumstance that constitutes a breach by the Sanitary District of, or any inaccuracy, incompleteness, or inadequacy in, any of its representations or warranties under or in connection with this Agreement, or (c) any failure of the Sanitary District to perform any of its covenants, agreements, or obligations under or in connection with this Agreement.

Section 9.02 Indemnification by Leland. Leland shall indemnify the Sanitary District against, and hold it harmless from, all Damages relating to any claims against the Sanitary District which arise out of, result from, or are based upon (a) the operations or business transactions of Leland, or the failure by Leland to perform, pay, discharge, or satisfy any of the Liabilities in any material respect, prior to the Closing Date (except for any activity that was the responsibility of the Sanitary District that occurred before the Closing Date), (b) Leland's relationship with any of its employees prior to their Date of Hire by the Sanitary District, (c) the failure of Leland to comply with any statute or regulation of any federal, state, or local government or agency in connection with its operations of its Facilities and/or Systems, prior to the Closing Date, except for any Liabilities identified in Exhibit 3 and Exhibit 4, (d) any fact, condition, or circumstance that constitutes a breach by Leland of, or any inaccuracy, incompleteness or inadequacy in, any of its representations or warranties under or in connection with this Agreement, or (e) any failure of Leland to perform any of its covenants, agreements, or obligations under or in connection with this Agreement.

Section 9.03 Notices. Promptly after the service of process by any third person in any litigation or proceeding, or the receipt of any claim or demand in respect of which a Party may have any claim for indemnification under this Agreement, or as soon as reasonably practicable after such Party shall have acquired notice of any other matter with respect to which indemnity may be sought under this Agreement, such Party will notify the indemnifying Party thereof. The indemnifying Party shall have the right within ten (10) business days of receipt of such notice to assume the defense, settlement, or compromise (as to settlements or compromise only with the prior written consent of the indemnified Party, which shall not be withheld, conditioned, or delayed unreasonably) of any such litigation, proceeding, claim, demand, or other matter at its own expense, including the retention of counsel reasonably satisfactory to the indemnified Party, and the indemnified Party shall cooperate with the indemnifying Party as provided in Section 9.04 below. In such event, the indemnified Party shall have the right, upon prompt written notice to the indemnifying Party, to retain separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the indemnified Party's own expense. If the indemnifying Party does not notify the indemnified Party that it will assume the defense, settlement, or compromise of any such litigation, proceeding, claim, demand, or other matter within ten (10) business days upon receipt of notice thereof, the indemnified Party shall have the full and sole right to defend, settle, or compromise such litigation, proceeding, claim, demand, or other matter, and its reasonable expenses of such defense and any Damages shall be reimbursed by the indemnifying Party.

Section 9.04 Cooperation. Each Party shall give prompt notice to the other of any facts coming to its attention that may give rise to a claim for indemnification. Each Party shall cooperate with the other in any investigation, or in the defense of any litigation, proceeding, claim, demand, or other matter that might give rise to a claim for indemnification. Such cooperation shall include providing witnesses, files, documents, and records that each Party is uniquely able to provide.

Article X. Breach

Section 10.01 Remedies for Breach. If either Party (a) shall breach, or if there shall be any inaccuracy, incompleteness, or inadequacy in, any of its representations or warranties under or in connection with this Agreement, or (b) shall fail to perform any of its covenants, agreements, or obligations under or in connection with this Agreement, then that Party shall have breached this Agreement. In the event of a Party's breach of this Agreement and that Party's failure or inability to cure that breach within five (5) days after being provided with written notice of such breach, the other Party shall be entitled to pursue any legal or equitable remedy against the breaching Party in any court of competent jurisdiction. If the breach cannot be cured within five (5) days, the breaching Party shall be provided a reasonable period of time to cure the breach.

Section 10.02 Injunction for Breach. The Parties agree that any breach of this Agreement may cause irreparable harm to the non-breaching Party for which there may not be an adequate remedy at law. Accordingly, in the event of an actual or threatened breach hereof, the non-breaching Party shall be entitled to a temporary restraining order, a preliminary injunction, and a permanent injunction to address such breach or threatened breach. Such injunctive relief may include a preliminary or permanent mandatory injunction. The injunctive relief addressed in this Section shall be in addition to any other remedies afforded a Party in equity or at law.

Section 10.03 Mediation. The Parties agree to mediate any disputes that arise under this Agreement at the earliest reasonable time. The initial mediation shall take place no later than sixty days (60) after the filing of any civil action.

Section 10.04 Loss of Ownership Rights as a Result of a Substantial Breach. As a result of a Substantial Breach by either Party, the breaching Party shall immediately lose its ownership rights to the Joint Assets and the capacity agreements and sewer allocations related to the Joint Assets and the Area. . A Substantial Breach is any intentional and uncured breach by a Party that prevents the other Party from exercising its rights that are the primary purpose of this Agreement. For example, if Leland intentionally and Substantially Breaches the Agreement to the extent that the Sanitary District is unable to maintain, operate, extend, and/or receive financing for, the Facilities and/or Systems, then Leland will immediately lose its ownership rights and exclusive rights to offer water and sewer services in the Joint Assets and associated capacity agreements and sewer allocations and the Sanitary District will be able to independently, as the sole owner of the Joint Assets, maintain, operate, extend, or receive financing for the Facilities and/or Systems. If the Sanitary District intentionally and Substantially Breaches the Agreement to the extent that Leland is unable to offer, through the Joint Assets, water and wastewater services to New Developments in its Town Boundaries and/or in the Joint Undertaking Area, upon conditions of Offering Services, then the Sanitary District will immediately lose its ownership rights in the Joint Assets and associated capacity agreements and sewer allocations. Upon the Sanitary Districts Substantial Breach, Leland will immediately become the sole owner of the Joint Assets and associated capacity agreements and sewer allocations. As a result of a Substantial Breach, either Party may seek recourse by the Brunswick County Courts for a final determination of their ownership rights, but Parties must first attempt to resolve the issue through mediation, and the ownership rights shall remain owned by the non-breaching Party until such determination or new agreement is reached.

It shall be a Substantial Breach for a Party to formally declare, without a good faith basis for doing so, that the other Party has committed a Substantial Breach. In the event a Party declares a Substantial Breach has occurred (the “Declaring Party”) and it is ultimately adjudicated that a Substantial Breach has not occurred, the Declaring Party shall, by virtue of this Agreement, be deemed to have committed a Substantial Breach of this Agreement.

Article XI. Closing

Section 11.01 Closing. The Parties acknowledge they have mutually designated June 30, 2021 at 11:59 PM, as the effective date and time of the Closing, unless another time or place is mutually agreed upon by the Parties, and each will use its Commercially Reasonable Efforts to work toward that end. The Closing may occur at any time that is mutually convenient to the Parties but must occur before the Closing Date. The Parties specifically agree that time is of the essence for all purposes with respect to this Agreement and the transactions contemplated hereby.

Section 11.02 Leland’s Closing Deliveries. At or prior to Closing, Leland shall deliver to the Sanitary District the following:

- a. An Assignment of Ownership Rights in Assets.
- b. An Assignment and Assumption Agreement for Liabilities and such other documents and consents as the Sanitary District reasonably requests as necessary and appropriate for the Sanitary District's assumption of Leland's Liabilities.
- c. A certificate signed by Leland's Mayor and Finance Director, certifying that Leland's representations and warranties in this Agreement are true and correct in all material respects as of the Closing Date, and that its covenants to be performed on or before the Closing Date have been performed in all respects.
- d. Copies of resolutions of Leland's Town Council, certified by the Town Clerk, authorizing the execution of this Agreement and the transactions contemplated hereby, and a certificate of the Town Clerk as to the authority of the Mayor and Finance Officer executing this Agreement and all instruments, certificates, and documents required to be executed and delivered by Leland at the Closing.
- e. Copies of any required approval of the Local Government Commission or any other agency required to approve the Agreement on behalf of Leland.
- f. North Carolina warranty deed transferring title to the Facilities from Leland to the Sanitary District, along with such other instruments of transfer as shall be necessary or desirable to effect Leland's conveyance to the Sanitary District of good and marketable title to the Facilities in fee simple.
- g. Standard North Carolina title insurance company approved lien waivers with respect to the Real Property, and appropriate certifications of the non-foreign status of Leland.
- h. Leland's Records.
- i. Leland's Liquid Assets.
- j. Any keys, tools, instruments, or other items needed, or currently used, to gain access to or operate Leland's Facilities and/or Systems.
- k. Such other certificates, documents, instruments, and papers as the Sanitary District or its counsel reasonably may request and Leland reasonably capable of providing.

Section 11.03 The Sanitary District's Closing Deliveries. At or prior to Closing, the Sanitary District shall deliver to Leland the following:

- a. An Assignment of Ownership Rights in Assets.

- b. An Assignment and Assumption Agreement for Liabilities and such other documents as Leland reasonably requests for the Sanitary District's assumption of, and Leland's release from, Leland's Accounts and Liabilities.
- c. A certificate signed by the Sanitary District's Chairman or Executive Director, and Finance Director, certifying that the Sanitary District's representations and warranties in this Agreement are true and correct in all material respects as of the Closing Date, and that its covenants to be performed on or before the Closing Date have been performed in all respects.
- d. Copies of resolutions of the Sanitary District's Board of Commissioners, certified by its Clerk, authorizing the execution of this Agreement and the transactions contemplated hereby, and a certificate of the Clerk as to the authority of the officials executing this Agreement and all instruments, certificates, and documents required to be executed and delivered by the Sanitary District at the Closing.
- e. Copies of any required approval of the Local Government Commission or any other agency required to approve the Agreement on behalf of the Sanitary District.
- f. Such other certificates, documents, instruments, and papers as Leland or its counsel reasonably may request.

Section 11.04 Leland's Conditions for Closing. Leland's obligation to accept and transfer Assets and transfer the Liabilities to the Sanitary District is contingent upon and subject to the fulfillment of the following conditions in all material respects:

- a. Commission Approval. The Sanitary District's Board of Commissioners shall have approved the execution and delivery of this Agreement and the performance of the obligations contemplated herein, and the Sanitary District shall have taken all other requisite actions and steps, and secured any other approvals, necessary to authorize and consummate this Agreement and the transactions contemplated hereby.
- b. Regulatory Approvals. The Parties shall have received all regulatory approvals which are required by law or otherwise to consummate the transactions contemplated by this Agreement including, without limitation, any required approval of the North Carolina Local Government Commission, and any required publication and/or public notice requirements shall have been fulfilled, and any required waiting period shall have expired.
- c. Representations, Warranties, and Covenants. Each of the Sanitary District's representations and warranties set forth in this Agreement shall have been true and correct in all material respects as of the Effective Date and shall remain true and correct in all material respects as of the Closing Date, and all material covenants to be performed by the Sanitary District on or before the Closing Date shall have been performed by it in all material respects.

- d. Closing Actions and Deliveries. The Sanitary District shall have taken the actions, and delivered the items described in Section 11.03, including all required approvals for the conveyance of the Assets and the transfers of the Liabilities.

Section 11.05 The Sanitary District's Conditions for Closing. The Sanitary District's obligation to accept and transfer Assets and assume the Liabilities from Leland is contingent upon and subject to the fulfillment of the following conditions in all material respects:

- a. Council Approval. Leland's Council shall have approved the execution and delivery of this Agreement and the performance of the obligations contemplated herein, and Leland shall have taken all other requisite actions and steps, and secured any other approvals, necessary to authorize and consummate this Agreement and the transactions contemplated hereby.
- b. Regulatory Approvals. The Parties shall have received all regulatory approvals which are required by law or otherwise to consummate the transactions contemplated by this Agreement including, without limitation, any required approval of the North Carolina Local Government Commission, and any required publication and/or public notice requirements shall have been fulfilled, and any required waiting period shall have expired.
- c. Representations, Warranties, and Covenants. Each of Leland's representations and warranties set forth in this Agreement shall have been true and correct in all material respects as of the Effective Date and shall remain true and correct in all material respects as of the Closing Date, and all material covenants to be performed by Leland on or before the Closing Date shall have been performed by it in all material respects.
- d. Closing Actions and Deliveries. Leland shall have taken the actions and delivered the items described in Section 11.02, including all required approvals for the conveyance of the Assets and the transfers of the Liabilities.

Article XII. Termination

Section 12.01 Termination This Agreement shall be terminated only as follows: (a) it fails to become effective on the Closing Date of June 30, 2021, or a different Closing Date agreed to by both Parties; (b) by a signed, written agreement of both Parties to this Agreement; (c) when its Term expires; (d) upon one Party obtaining a final ruling from a court of competent jurisdiction, as to which all non-extraordinary appeal rights have been exhausted, expired, or effectively waived, that a change in law, the other Party's material breach, or a court order results in frustration of an essential purpose of this Agreement; or (e) this Agreement is declared invalid or void by a court of competent jurisdiction in a final ruling as to which all non-extraordinary appeal rights have been exhausted, expired, or effectively waived.

Section 12.02 Effect of Pre-Closing Termination. In the event this Agreement is terminated prior to Closing, the Assets and Liabilities shall not be transferred, any Assets and Liabilities tentatively transferred prior to the Closing Date shall be returned, and the Parties shall

cooperate to take any other steps reasonably necessary to restore the situation that existed between them prior to entry into this Agreement. The Agreement otherwise shall be of no further force or effect and the Parties shall be released from all further obligations hereunder.

Section 12.03 Facilities Ownership Following Post-Closing Termination. Upon termination of this Agreement after the Closing, the Sanitary District shall, except as otherwise provided below, continue to Provide Services to customers within Leland's Town Boundaries and the Joint Undertaking Area. The Joint Assets will continue to be jointly owned by the Parties. The Sanitary District's wholly owned Assets, including those Facilities that were formerly owned by Leland, will remain the Assets of the Sanitary District. The Parties will be required to determine a new agreement for the Provision of Services to the customers that are serviced by the Joint Assets. The termination of this Agreement shall not affect any similar or other agreements that the Sanitary District has entered subsequent to the Closing Date of this Agreement.

In the event this Agreement is terminated prior to the end of the Term due to no fault of Parties, the Parties agree that Leland shall have the exclusive right to Offer Services and the Sanitary District will have the exclusive right to Provide Services by and through the Joint Assets to New Developments in the Area on the terms Parties the deem appropriate.

Article XIII. Renewal. At or prior to the time of renewal, the governing Boards of Leland and the Sanitary District may renew the Agreement by consent for a period that they determine appropriate.

Article XIV. General Provisions

Section 14.01 Governing Law. This Agreement shall be governed by North Carolina law.

Section 14.02 Notices.

- a. Writing Required. Any communication required or permitted by this Agreement must be in writing except as expressly provided otherwise in this Agreement.
- b. Clerk and Attorney. All notices must be sent both to a Parties' Clerks and Attorneys.

Section 14.03 Required Approvals and Additional Documentation. The Parties shall cooperate reasonably to obtain any approvals required or appropriate to effectuate this Agreement. Each Party shall execute, and if necessary, file or record, any additional agreements or papers as may be reasonably necessary or desirable to effectuate and further evidence the terms and conditions of this Agreement.

Section 14.04 Cooperation. The Parties covenant and agree that they will each cooperate in good faith to carry this Agreement into effect and to achieve the purposes set out herein. If reasonably necessary, the Parties will jointly seek enabling local legislation to effectuate the terms of this Agreement.

Section 14.05 Severability and Reform. If any provision of this Agreement shall be determined to be invalid or unenforceable, that determination shall be stricken from this Agreement without affecting any other provision of this Agreement and, if feasible, the Parties, through their respective counsel, will cooperate to substitute a valid and enforceable provision that reasonably approximates the intent of the Parties in adopting the stricken provision. In the event the Parties are unable to reach an agreement as to an acceptable substitute valid and enforceable provision, the Parties will adhere to Section 10.03. If a resolution is not reached after adhering to Section 10.03, the Parties will follow Article XII.

Section 14.06 Entire Agreement and Amendments. This Agreement constitutes the entire, fully integrated Agreement between the Parties concerning its subject matter. No Party has relied upon any other representations, oral or written, as a basis for entering into this Agreement. This Agreement shall not be changed, amended, or modified except in writing and signed by both Parties and duly adopted by each Party's elected body.

Section 14.07 Survival. Any provision of this Agreement which can reasonably be construed to survive the expiration or termination of this Agreement shall survive such expiration or termination and shall not relieve either Party of its obligations to observe, keep, and perform those surviving provisions.

Section 14.08 Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

Section 14.09 Non-Liability of Officers and Agents. No officer, agent, or employee of either Party shall be subject to any liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent, or employee from the performance of any official duty provided by law. The officials and employees of each Party shall not be deemed agents or employees of any other person in connection with this agreement.

Section 14.10 No Third-Party Rights and Prohibited Assignments. This Agreement is not intended to provide, and shall not be deemed to afford, any non-Party to this Agreement any interest or rights, including third-party beneficiary rights, in connection with any provision contained herein or contemplated hereby. Except as provided herein, neither Party may assign its rights or obligations under this Agreement without the agreement of the other Party; provided, neither merger nor consolidation with another municipality or other entity that assumes a Party's rights or obligations, nor a Party's delegation of duties to an agent while retaining obligations, shall be considered a prohibited assignment hereunder.

Section 14.11 Disclaimer of Representations and Warranties. Each Party understands and agrees that, except as expressly set forth herein, no Party to this Agreement or any agreement or document contemplated by this Agreement, makes any representation or warranty, express or implied, regarding this Agreement or the Assets.

Section 14.12 Exhibits and Schedules. All Exhibits and any schedules referred to herein shall constitute a part of this Agreement.

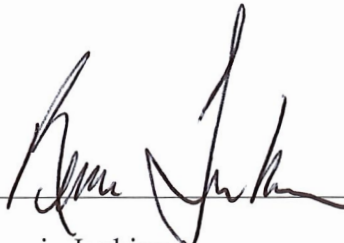

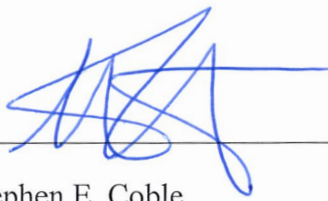

Section 14.13 Headings. The headings contained in this Agreement are inserted for convenience only and shall not affect the meaning of this Agreement or any of its provisions.

Section 14.4 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

[SIGNATURE PAGES FOLLOW]

EXECUTION

IN WITNESS WHEREOF, the Sanitary District has caused this Agreement to be executed by its duly authorized officers.

<p>Brunswick Regional Water and Sewer H2GO, a body politic and corporate organized and existing pursuant to G.S. Chapter 130A, Article II, Part 2</p> <p>By:  _____ Ronnie Jenkins Chairman, Board of Commissioners</p> <p>Date: <u>3-19-2021</u></p>	<p>This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.</p> <p>By:  _____ Scott Hook Finance Officer</p> <p>Date: <u>03-19-2021</u></p>
<p>Approved as to Form:</p> <p>By:  _____ Stephen E. Coble Sanitary District Attorney</p> <p>Date: <u>3-19-2021</u></p>	<p>Ronnie Jenkins, Scott Hook, and Stephen E. Coble personally appeared before me and subscribed the foregoing document in my presence. Witness my hand and my notarial seal,</p> <p>By:  _____ Teresa Long Clerk to the H2GO Board Notary Public</p> <p>Date: <u>3-19-2021</u></p>

[DISTRICT SIGNATURE PAGES TO INTERLOCAL AGREEMENT]

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

I, Teresa Long, Clerk to the Board of Brunswick Regional Water and Sewer H2GO and a Notary Public in and for said County and State, do hereby certify that on the 19th day of March, 2021, before me personally appeared Ron Jenkins, Scott Hook, and Stephen E. Coble, with whom I am personally acquainted, who, being by me duly sworn, says that each is, respectively, Chairman of the Board of Commissioners, Finance Director, and Attorney for Brunswick Regional Water and Sewer H2GO, the Sanitary District described in and which executed the foregoing instrument; that each knows the common seal of said Sanitary District; that the seal affixed to the foregoing instrument is said common seal; that the name of the Sanitary District was subscribed thereto by the said Chairman and Finance Director; that the said Chairman and Finance Director subscribed their names thereto and the said common seal was affixed, all by authority of the governing body of said Sanitary District; and that the said instrument is the act and deed of said Sanitary District.

Date: 3-19-2021

Teresa H. Long

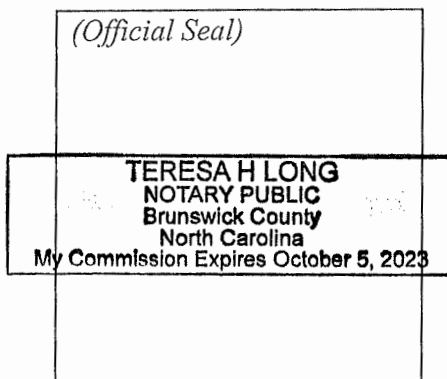
Signature of Notary Public

Teresa H. Long

Notary's printed or typed name

My commission expires: 10-05-2023

(Official Seal)



Notary seal or stamp must appear within this box.

[DISTRICT SIGNATURE PAGES TO INTERLOCAL AGREEMENT]

IN WITNESS WHEREOF, Leland has caused this Agreement to be executed by its duly authorized officers.

<p>The Town of Leland, North Carolina, a municipal corporation organized and existing pursuant to G.S. Chapter 160A</p> <p>By: <u>Brenda Bozeman</u> Brenda Bozeman Mayor Date: <u>March 19, 2021</u></p>	<p>This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.</p> <p>By: <u>Carly Hagg</u> Carly Hagg Finance Director Town of Leland, North Carolina Date: <u>March 19, 2021</u></p>
<p>Approved as to Form:</p> <p>By: <u>Brian E. Edes</u> Brian E. Edes Town Attorney Date: <u>3/19/21</u></p>	<p>Brenda Bozeman, Carly Hagg, and Brian E. Edes personally appeared before me and subscribed the foregoing document in my presence. Witness my hand and my notarial seal,</p> <p>By: <u>Sabrina Reinhardt</u> Sabrena Reinhardt Town Clerk Notary Public Date: <u>3/19/2021</u></p>

[LELAND SIGNATURE PAGES TO INTERLOCAL AGREEMENT]

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

I, Sabrena Reinhardt, Clerk for the Town of Leland and a Notary Public in and for said County and State, do hereby certify that on the 19 day of March, 2021, before me personally appeared Brenda Bozeman, Carly Hagg, and Brian E .Edes, with whom I am personally acquainted, who, being by me duly sworn, says that each is, respectively, Mayor, Finance Director, and Special Town Attorney of the Town of Leland, North Carolina, the municipal corporation described in and which executed the foregoing instrument; that each knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor and Finance Director; that the said Mayor and Finance Director subscribed their names thereto and the said common seal was affixed, all by authority of the governing body of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

Date:

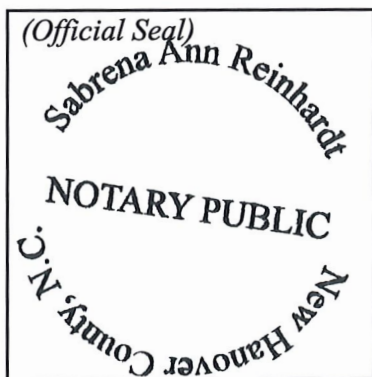
Sabrena Ann Reinhardt

Signature of Notary Public

Sabrena Ann Reinhardt

Notary's printed or typed name

My commission expires: 9-10-2022



Notary seal or stamp must appear within this box.

[LELAND SIGNATURE PAGES TO INTERLOCAL AGREEMENT

Schedule of Exhibits

Exhibit 1 – Development Area Map

Exhibit 2 – Schedule of Assets to be Transferred

Exhibit 3 – Schedule of Liabilities to be Transferred

Exhibit 4 – Schedule of Projects and Agreements

Exhibit 5 – Personnel

Exhibit 1 – Joint Undertaking Map

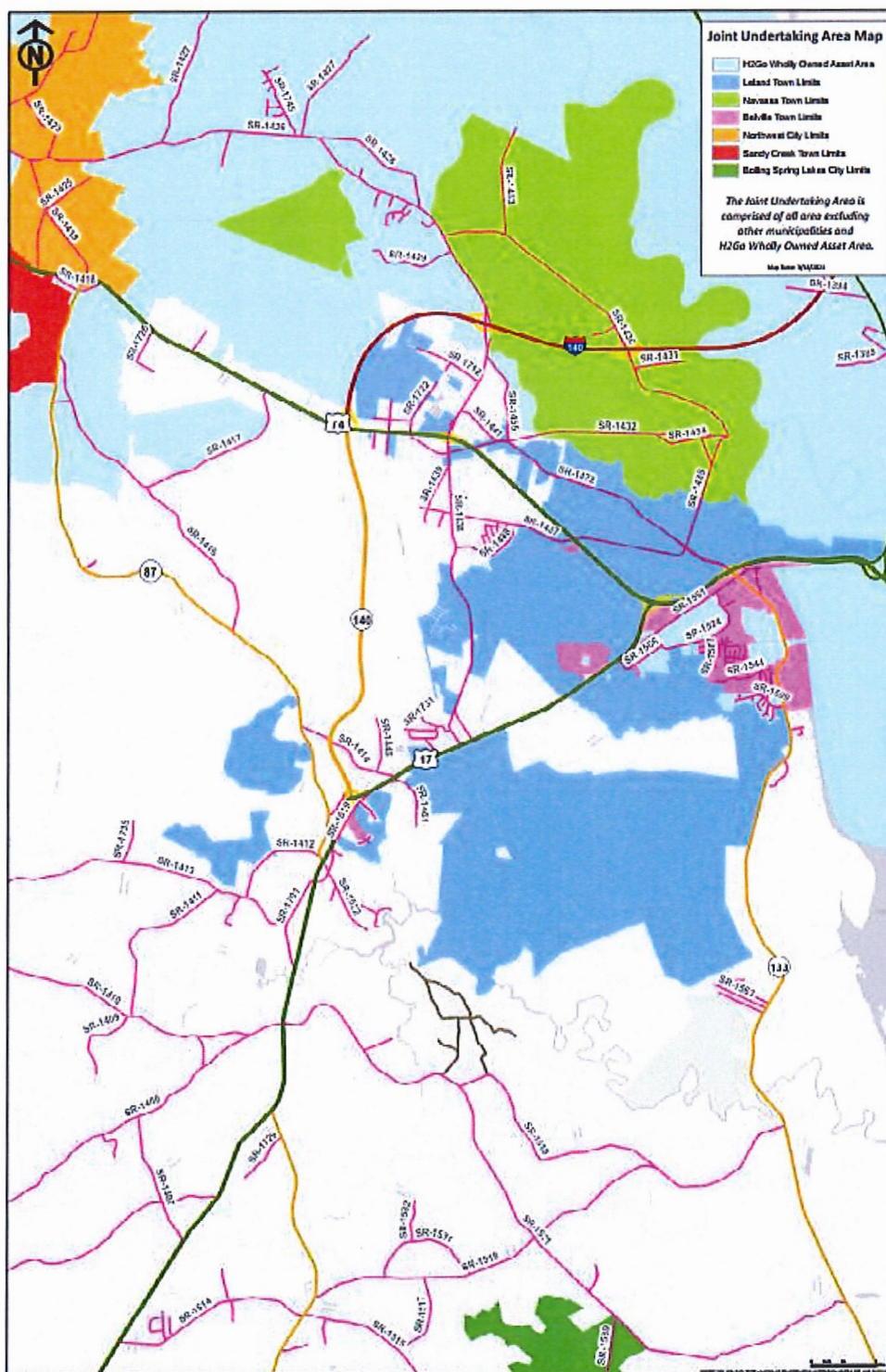


Exhibit 2 – Schedule of Assets to be Transferred

ASSETS TRANSFERRED BY LELAND

1. The rights associated with all easements and utility encroachments conveyed to the Town of Leland for all water and sewer utility infrastructure.
2. One-half (1/2) interest in all water transmission lines, water distribution pipes, fire hydrants, valves, service taps, meters, registers, remote meter reading equipment, and appurtenances to the overall water distribution system.
3. The 750,000-gallon elevated water tank located on parcel 0580000728, including an easement of 2.21 acres of land, recorded in Book 3758, Page 0445 of the Brunswick County Register of Deeds.
4. The booster pump and vault situated on parcel 05800007, located at 22 Kay Todd Road and associated easements.
5. One-half (1/2) interest in all wastewater collection sewers, manholes, lift stations, pump stations, force mains, valves, air release valves, service taps, service laterals, clean-outs, and other appurtenances to the overall wastewater collection and transmission system.
6. Lift Station #1 real property rights in property identified as parcel 0470004605, by easements recorded in Map Book 122 Page 61 of the Brunswick County Register of Deeds.
7. Lift Station #2 real property rights in property located at 1005 Cornerstone Drive, behind 1304 Grandiflora Drive on Parcel 0370005539 by easements recorded in Map Book 0019 Page 172, Map Book 20 Page 394, and Map Book 27 Page 131 of the Brunswick County Register of Deeds.
8. Lift Station #3 real property rights in property located at 8900 Timber Lane by deed and/or easement recorded in Map Book 0031, Page 0352 of the Brunswick County Register of Deeds.
9. Lift Station #4 real property rights in property located at 1165 Willow Pond Lane by deed and/or easement recorded in Book 1360, Page 1265 of the Brunswick County Register of Deeds.
10. Lift Station #5 real property rights in property located at 8691 Orchard Loop Road by deed and/or easement recorded in Book 1560, Page 207 of the Brunswick County Register of Deeds.
11. Lift Station #6 real property rights in property located at 1231 Greensview Circle by deed and/or easement recorded in Book 2979, Page 0935 of the Brunswick County Register of Deeds.

12. Lift Station #7 real property rights in property located at 117-K Village Road by deed and/or easement recorded in Book 1214, Page 0082 of the Brunswick County Register of Deeds.

13. Lift Station #8 real property rights in property located at 2000 Royal Palm Way by deed and/or easement recorded in Map Book 0029, Page 0410 of the Brunswick County Register of Deeds.

14. Lift Station #9 real property rights in property located at 125 Rampart Drive by deed and/or easement recorded in Book 1609, Page 685 of the Brunswick County Register of Deeds.

15. Lift Station #10 real property rights in property located at 164 Old Fayetteville Road by deed and/or easement recorded in Book 1687, Page 685 of the Brunswick County Register of Deeds.

16. Lift Station #11 real property rights in property located at 1501 Olde Waterford Way by deed and/or easement recorded in Map Book 0033, Page 0087 of the Brunswick County Register of Deeds.

17. Lift Station #12 real property rights in property located at 114 Fairview Drive by deed and/or easement recorded in Book 1214, Page 0082 of the Brunswick County Register of Deeds.

18. Lift Station #13 real property rights in property located at 100 Live Oak Drive by deed and/or easement recorded in Book 0026, Page 0381 of the Brunswick County Register of Deeds.

19. Lift Station #14 relocation real property rights in property located along SR 1435 South Navassa Road on a 0.16-acre parcel identified as part of tax parcel 030PC00104.

20. Lift Station #16 real property rights in property located at 151 Forest Hills Drive by deed and/or easement recorded in Book 1662, Page 0400 of the Brunswick County Register of Deeds.

21. Lift Station #17 real property rights in property located at 2035 Pine Harvest Drive by deed and/or easement recorded in Book 1955, Page 0598 of the Brunswick County Register of Deeds.

22. Lift Station #18 real property rights in property located at 1700 Low Country Boulevard by deed and/or easement recorded in Book 3587, Page 0868 of the Brunswick County Register of Deeds.

23. Lift Station #19 real property rights in property located at 2015 Annsdale Drive by deed and/or easement recorded in Book 3587, Page 0686 of the Brunswick County Register of Deeds.

24. Lift Station #20 real property rights in property located at 5000 Rice Gate Way by deed and/or easement recorded in Book 3587, Page 0686 of the Brunswick County Register of Deeds.

25. Lift Station #21 real property rights in property located at 1010 Stony Woods Lane by deed and/or easement recorded in Map Book 39, Page 29 of the Brunswick County Register of Deeds.

26. Lift Station #22 real property rights in property located at 2092 Wind Lake Way by deed and/or easement recorded in Book 2969, Page 0974 of the Brunswick County Register of Deeds.

27. Lift Station #23 real property rights in property located at 1238 Sleepy Oak Lane by deed and/or easement recorded in Book 3587, Page 0868 of the Brunswick County Register of Deeds.

28. Lift Station #24 real property rights in property located at 1211 Cape Fear National Drive by deed and/or easement recorded in Book 3587, Page 0868 of the Brunswick County Register of Deeds.

29. Lift Station #25 real property rights in property located at 2401 Shelmore Way by deed and/or easement recorded in Book 3862, Page 0576 of the Brunswick County Register of Deeds.

30. Lift Station #26 real property rights in property located at 3101 Smeades Drive by deed and/or easement recorded in Book 3893, Page 0568 of the Brunswick County Register of Deeds.

31. Lift Station #27 real property rights in property located at 3060 Broadhaven Drive, pending dedication.

32. Lift Station #28 real property rights in property located at 2059 Southern Pines Drive, pending dedication.

33. Lift Station #29 real property rights in property located at 7120 Pungo Lake Court, pending dedication.

34. Lift Station #30 real property rights in property located at 996 Kay Todd Road, pending dedication.

35. Lift Station #31 real property rights in property located at 2797 Southern Magnolia Drive, pending dedication.

36. Lift Station #33 real property rights in property located at 1874 Brunswick Village Boulevard by deed and/or easement recorded in Book 116, Page 8 of the Brunswick County Register of Deeds.

37. IBIS Lift Station real property rights in property located on parcel 0460004004, by easements recorded in Map Book 123 Page 34 of the Brunswick County Register of Deeds, pending dedication.

38. Bishops Ridge Lift Station real property rights in property located on parcel 05700055, following final design, permitting, construction, dedication, and acceptance.

39. Old Town Creek Road Lift Station real property rights in a 1.1-acre parcel, identified as parcel 0570001905, located at 287 Old Town Creek Road, recorded in Deed Book 4308 Page 219.

40. An approximate 59% portion of real property identified as parcel 216OB02001 located at 107 Woodland Drive.

41. Allocation in the Brunswick County Northeast Wastewater Treatment Plant for which Leland has paid to date.

42. Fixed Assets included on the Fixed Assets Listing Report dated 3/4/2021 and Miscellaneous Hand Tools.

43. Cash on hand in Leland's checking account ending in #3428, and any activity within the accounts until the time the cash is transferred.

Exhibit 3 – Schedule of Liabilities to be Transferred

LIABILITIES TRANSFERRED BY LELAND

1. BB&T installment financing on a note for Hwy 17 Corridor Force Main and Lift Station 10 Upgrades
2. BB&T installment financing on a note for Hwy 17 Sewer Expansion II Phase 1
3. BB&T installment financing on a note for Regional Lift Station #33
4. Remaining payments on four (4) schedules of charges to Brunswick County for Sewer Treatment Plant allocation, transmission, and other infrastructure to be paid through June 30, 2040
5. Pending litigation 18-CVS-1722 with Plantation Building of Wilmington, Inc including all costs and attorney fees incurred by Leland in defending said civil action.
6. Potential litigation with Bill Clark Homes of Wilmington, LLC identified in a tolling agreement
7. Obligations set forth in a Development and Economic Development Agreement for Hawthorne at Waterside, LLC related to system development fees

Exhibit 4 – Schedule of Projects and Agreements

LELAND SCHEDULE OF PROJECTS

1. Lift Station #1 Relocation
2. Regional Pump Station #33 and Force Main Extension
3. Highway 17 Sewer Expansion II, Phase 2
4. Lift Station #14 Relocation (Future)
 - a. In 2017, the Town identified a need to relocate Lift Station #14, a sanitary sewer lift station located at 161 South Navassa Road, away from Sturgeon Creek to prevent contamination entering the creek from potential sewer overflows, and to create additional usable space for the future Sturgeon Creek Park. Since then, the Town explored several options for a suitable relocation site and determined that the most opportune site was located on a vacant piece of property adjacent to South Navassa Road. The Town acquired this 0.16-acre property (Parcel 030PC00105) in January 2020 for the relocation of the lift station. Project shall be completed by December 31, 2025 by the Sanitary District.

LELAND SCHEDULE OF AGREEMENTS

1. C.M. Mitchell Construction Company, Inc. for Magnolia Lift Station #1 Relocation
2. Cape Fear Engineering, Inc. for Construction Administration/Construction Observation and Construction Materials Testing for Rehabilitation and Replacement of Lift Station #1
3. Black Dog Fence Company for Lift Station #1 Relocation – Fence
4. Funston Construction Company, LLC for Regional Pump Station #33 and Force Main Extension
5. Hanover Design Services, PA for Construction Phase Project Management for Major Sanitary Sewer Pump Station #33 (Hewett Burton Site)
6. Civil Works Contracting, LLC for Leland Highway 17 Sewer Expansion II, Phase 2
7. WithersRavenel for Construction Administration and Construction Observation Service for Leland Highway 17 Sewer Expansion II, Phases I and II
8. North Carolina 811, Inc. for Membership in Notification Center
9. Southern Corrosion, Inc. for Water Tank Maintenance Service
10. SouthData/OSG for Print and Mail Fulfillment Services
11. Mission Communications, LLC for Supervisory Control and Data Acquisition (SCADA) Telecommunication Services
12. Master Meter, Inc. for MlinX DB Reading Software Support
13. North Brunswick Sanitary District for Treatment of Glendale Sewer

Exhibit 5 – Personnel

Employee No.	Position	Class	Salary	Vacation Balance	Sick Balance	PTO Balance	Vacation Accrual Rate (Per Pay Period)	Sick Accrual Rate (Per Pay Period)
836	Public Utilities Superintendent	Exempt	\$62,799.36	170.76	768.73	-	3.6923	3.696

Employee No.	Position	Class	Rate	Vacation Balance	Sick Balance	PTO Balance	Vacation Accrual Rate (Per Hour Worked)	Sick Accrual Rate (Per Hour Worked)
945	Public Utilities Supervisor	Non-Exempt	\$ 26.01	29.36	109.04	-	0.0269	0.0462
790	Sr. Utilities Maintenance Worker	Non-Exempt	\$ 20.33	219.94	327.08	-	0.0385	0.0462
826	Sr. Utilities Maintenance Worker	Non-Exempt	\$ 20.33	53.83	258.85	1.00	0.0385	0.0462
938	Utilities Maintenance Worker	Non-Exempt	\$ 19.14	25.36	58.90	5.00	0.0269	0.0462
922	Utilities Maintenance Worker	Non-Exempt	\$ 19.35	69.69	67.48	4.50	0.0269	0.0462
932	Billing & Collections Admin	Non-Exempt	\$ 19.45	36.11	47.02	-	0.0269	0.0462