

SANFORD LAW OFFICE, PLLC
Jo Anne Sanford, Attorney at Law

November 21, 2018

Ms. M. Lynn Jarvis, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

Via Electronic Filing

Re: Amendment to Utility Asset Purchase Agreement between Pace Utilities Group, Inc. (W-1046, Sub 5) and Carolina Water Service, Inc. of North Carolina (W-354, Sub 361)

Dear Ms. Jarvis:

Attached please find for filing an amendment to the Utility Asset Purchase Agreement (“APA”) between Pace Utilities Group (“Pace,” the seller) and Carolina Water Service, Inc., of North Carolina (“CWSNC” or “Company,” the purchaser). The original APA, effective August 6, 2018, was contained as Exhibit 4 to the Application for Transfer of Public Utility Franchise and for Approval of Rates (“Application”), which was filed by Pace and CWSNC on September 13, 2018.

The Application reflects the intention of the parties to convey both the water and the wastewater utilities assets; this amendment to the APA, executed by the parties on November 19, 2018, confirms that intention.

The Company wishes to provide the Commission and the parties with a forecast of the remaining tasks. First, the Company and the Public Staff have agreed to propose a set of rates different than those contained in the Application; therefore, the Application will be revised to reflect that agreement. Then the Company will submit a Proposed Order to the Public Staff for its review. Upon agreement to the terms of the Proposed Order, the Company will file same with the Commission for its consideration and approval. CWSNC seeks to accomplish these filings and agreements very soon, as it concludes its due diligence regarding the purchase.

As always, thank you and your staff for your assistance; please feel free to contact me if there are any questions or suggestions.

Sincerely,

Electronically Submitted

/s/Jo Anne Sanford
Attorney for Carolina Water Service,
Inc. of North Carolina

cc: Parties of Record

CERTIFICATE OF SERVICE

On behalf of Carolina Water Service, Inc. of North Carolina, I hereby certify that I have today served a copy of the Amendment to Utilities Asset Purchase Agreement in Docket Nos. W-354, Sub 361 and W-1046, Sub 5, on all parties of record in this proceeding, in accordance with North Carolina Utilities Commission Rule R1-39, either by United States mail, first class postage pre-paid; by hand delivery; or by means of electronic delivery upon agreement of the receiving party.

This the 21st day of November 2018.

Electronically Submitted

/s/Jo Anne Sanford

State Bar No. 6831

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**Attorney for Carolina Water Services,
Inc. of North Carolina**

AMENDMENT TO UTILITY ASSET PURCHASE AGREEMENT

THIS AMENDMENT TO UTILITY ASSET PURCHASE AGREEMENT (this “**Amendment**”) is entered into as of November 19th, 2018 (the “**Effective Date**”), by and between PACE UTILITIES GROUP, INC., a North Carolina corporation (the “**Seller**”), and CAROLINA WATER SERVICE, INC. OF NORTH CAROLINA, a North Carolina corporation (the “**Purchaser**”).

WITNESSETH:

WHEREAS, Seller and Purchaser entered into that certain Utility Asset Purchase Agreement with an Effective Date of August 6, 2018 (the “**Agreement**”; capitalized but undefined words contained herein having the meanings ascribed to them in the Agreement);

WHEREAS, Seller and Purchaser desire to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the premises and the mutual agreements of the parties set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement as follows:

1. Utility System. The definition of “Utility System” in Article I of the Agreement is hereby amended to mean “(1) the Fee Parcels, (2) the Easements, and (3) the Personal Property, used to provide water and wastewater utility service in the Service Area.”

2. Personal Property. Section 2.02(A)(4) is hereby deleted in its entirety and replaced with the following:

The Personal Property, including, but not limited to, all water supply and distribution facilities, all wastewater collection pipes and facilities, all manholes, pumps, tanks, plants, transmission mains, distribution mains, generators, supply pipes, valves, meters, meter boxes, service connections, equipment, parts, tools, chemicals, and all other physical facilities, equipment, appurtenances and property installations used in the operation of the Utility System, and third party warranties that relate to the Personal Property or completed or in progress construction.

Exhibit E attached to the Agreement is hereby deleted in its entirety and replaced with Exhibit E attached hereto. Section 1(b) of the Bill of Sale and Assignment attached to the Agreement as Exhibit G is hereby deleted in its entirety and replaced with the following:

(b) all of Grantor’s right, title and interest in and to the Personal Property as described in the Purchase Agreement, including, but not limited to, all water supply and distribution facilities, all wastewater collection pipes and facilities, all manholes, pumps, tanks, plants, transmission mains, distribution mains, generators, supply pipes, valves, meters, meter boxes, service connections, equipment, parts, tools, chemicals, and all other physical facilities, equipment, appurtenances and property installations

used in the operation of the Utility System (as defined in the Purchase Agreement), and third party warranties that relate to the Personal Property or completed or in progress construction.

3. Assumed Obligations. The first sentence of Section 2.05 is hereby deleted in its entirety and replaced with the following:

With the sole exception of Buyer's agreement to provide water and wastewater service to individual customers through the Utility System following the Closing, Buyer shall not assume and shall not be liable for any debt, liabilities, or contractual obligations of Seller or any other party of any nature whatsoever.

4. Effect. Upon the execution of this Amendment by Seller and Purchaser, this Amendment shall be deemed a modification of the Agreement. However, except as expressly modified hereby, all of the terms and conditions of the Agreement shall remain unaltered and in full force and effect.

5. Miscellaneous. This Amendment may be executed in counterparts, each of which shall constitute an original. The parties may sign this Amendment by telefaxed or PDF copies, and any such telefaxed or PDF copy shall be deemed to be an original, and no objection shall be made to the introduction into evidence of any telefaxed or PDF copy on grounds related to the copy not being an original.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

SELLER:

PACE UTILITIES GROUP, INC., a North Carolina corporation

By: 
Name: Brian S. Pace
Title: President

BUYER:

CAROLINA WATER SERVICE, INC. OF
NORTH CAROLINA, a North Carolina corporation

By: 
Name: Matthew Klein
Title: President

EXHIBIT E

Personal Property

All water supply and distribution facilities, all wastewater collection pipes and facilities, all manholes, pumps, tanks, plants, transmission mains, distribution mains, generators, supply pipes, valves, meters, meter boxes, service connections, equipment, parts, tools, chemicals, and all other physical facilities, equipment, appurtenances and property installations used in the operation of the Utility System, and third party warranties that relate to the Personal Property or completed or in progress construction.
