

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended September 30, 2023

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-422

**MIDDLESEX WATER COMPANY**

(Exact name of registrant as specified in its charter)

**New Jersey**  
(State of incorporation)

**22-1114430**  
(IRS employer identification no.)

**485C Route One South, Iselin, New Jersey 08830**  
(Address of principal executive offices, including zip code)

**(732) 634-1500**  
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	MSEX	NASDAQ

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or such shorter period that the registrant was required to submit and post files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of large accelerated filer, accelerated filer, non-accelerated filer, smaller reporting company and emerging growth company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes  No

The number of shares outstanding of each of the registrant's classes of common stock, as of November 9, 2023: Common Stock, No Par Value: 17,806,696 shares outstanding.

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**MIDDLESEX WATER COMPANY**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**  
(Unaudited)  
(In thousands except per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Operating Revenues	\$ 46,715	\$ 47,732	\$ 127,672	\$ 123,611
Operating Expenses:				
Operations and Maintenance	22,581	20,312	64,042	59,007
Depreciation	6,376	5,814	18,546	17,107
Other Taxes	4,936	5,031	14,104	13,543
Total Operating Expenses	33,893	31,157	96,692	89,657
Gain on Sale of Subsidiary	—	—	—	5,232
Operating Income	12,822	16,575	30,980	39,186
Other Income (Expense):				
Allowance for Funds Used During Construction	496	627	2,162	1,553
Other Income (Expense), net	936	1,412	3,124	4,185
Total Other Income, net	1,432	2,039	5,286	5,738
Interest Charges	3,518	2,355	9,364	6,574
Income before Income Taxes	10,736	16,259	26,902	38,350
Income Taxes	746	1,968	1,143	3,092
Net Income	9,990	14,291	25,759	35,258
Preferred Stock Dividend Requirements	30	30	90	90
Earnings Applicable to Common Stock	\$ 9,960	\$ 14,261	\$ 25,669	\$ 35,168
Earnings per share of Common Stock:				
Basic	\$ 0.56	\$ 0.81	\$ 1.45	\$ 2.00
Diluted	\$ 0.56	\$ 0.80	\$ 1.44	\$ 1.99
Average Number of Common Shares Outstanding :				
Basic	17,758	17,628	17,708	17,583
Diluted	17,873	17,743	17,823	17,698

See Notes to Condensed Consolidated Financial Statements.

**MIDDLESEX WATER COMPANY**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(Unaudited)  
(In thousands)

		September 30, 2023	December 31, 2022
<b>ASSETS</b>			
<b>UTILITY PLANT:</b>	Water Production	\$ 299,187	\$ 249,153
	Transmission and Distribution	784,194	735,138
	General	99,933	97,581
	Construction Work in Progress	32,308	53,570
	<b>TOTAL</b>	<b>1,215,622</b>	<b>1,135,442</b>
	Less Accumulated Depreciation	230,124	214,891
	<b>UTILITY PLANT - NET</b>	<b>985,498</b>	<b>920,551</b>
<b>CURRENT ASSETS:</b>	Cash and Cash Equivalents	2,970	3,828
	Accounts Receivable, net of allowance for uncollectible accounts of \$2,055 and \$2,326, respectively	18,990	16,018
	Litigation Settlement Receivable	93,163	—
	Unbilled Revenues	11,316	8,659
	Materials and Supplies (at average cost)	6,405	6,177
	Prepayments	2,918	2,624
	<b>TOTAL CURRENT ASSETS</b>	<b>135,762</b>	<b>37,306</b>
<b>OTHER ASSETS:</b>	Operating Lease Right of Use Asset	3,338	3,826
	Preliminary Survey and Investigation Charges	2,372	2,806
	Regulatory Assets	94,485	90,046
	Non-utility Assets - Net	11,383	11,207
	Employee Benefit Plans	10,527	8,689
	Other	51	19
	<b>TOTAL OTHER ASSETS</b>	<b>122,156</b>	<b>116,593</b>
	<b>TOTAL ASSETS</b>	<b>\$ 1,243,416</b>	<b>\$ 1,074,450</b>
<b>CAPITALIZATION AND LIABILITIES</b>			
<b>CAPITALIZATION:</b>	Common Stock, No Par Value	\$ 243,250	233,054
	Retained Earnings	176,333	167,274
	<b>TOTAL COMMON EQUITY</b>	<b>419,583</b>	<b>400,328</b>
	Preferred Stock	2,084	2,084
	Long-term Debt	354,276	290,280
	<b>TOTAL CAPITALIZATION</b>	<b>775,943</b>	<b>692,692</b>
<b>CURRENT LIABILITIES:</b>	Current Portion of Long-term Debt	7,444	17,462
	Notes Payable	42,250	55,500
	Accounts Payable	28,604	24,847
	Litigation Settlement Payable	27,949	—
	Accrued Taxes	8,143	12,162
	Accrued Interest	2,546	2,535
	Unearned Revenues and Advanced Service Fees	1,459	1,365
	Other	2,908	3,988
	<b>TOTAL CURRENT LIABILITIES</b>	<b>121,303</b>	<b>117,859</b>
<b>COMMITMENTS AND CONTINGENT LIABILITIES (Note 7)</b>			
<b>OTHER LIABILITIES:</b>	Customer Advances for Construction	21,464	21,382
	Lease Obligations	3,221	3,706
	Accumulated Deferred Income Taxes	87,763	77,783
	Regulatory Liabilities	112,815	46,734
	Other	681	919
	<b>TOTAL OTHER LIABILITIES</b>	<b>225,944</b>	<b>150,524</b>
<b>CONTRIBUTIONS IN AID OF CONSTRUCTION</b>		<b>120,226</b>	<b>113,375</b>
	<b>TOTAL CAPITALIZATION AND LIABILITIES</b>	<b>\$ 1,243,416</b>	<b>\$ 1,074,450</b>

See Notes to Consolidated Financial Statements.

**MIDDLESEX WATER COMPANY**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Unaudited)  
(In thousands)

	Nine Months Ended September 30,	
	2023	2022
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net Income	\$ 25,759	\$ 35,258
Adjustments to Reconcile Net Income to		
Net Cash Provided by Operating Activities:		
Depreciation and Amortization	22,106	20,135
Provision for Deferred Income Taxes and Investment Tax Credits	(4,685)	(4,312)
Equity Portion of Allowance for Funds Used During Construction (AFUDC)	(1,300)	(914)
Cash Surrender Value of Life Insurance	(144)	474
Stock Compensation Expense	1,790	1,270
Gain on Sale of Subsidiary	—	(5,232)
Changes in Assets and Liabilities:		
Accounts Receivable	(2,972)	(2,770)
Unbilled Revenues	(2,657)	(3,749)
Materials and Supplies	(228)	(434)
Prepayments	(294)	(789)
Accounts Payable	3,757	4,748
Accrued Taxes	(4,019)	3,964
Accrued Interest	11	188
Employee Benefit Plans	(1,487)	(1,973)
Unearned Revenue and Advanced Service Fees	94	146
Other Assets and Liabilities	4,255	(1,769)
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>39,986</b>	<b>44,241</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Utility Plant Expenditures, Including AFUDC of \$862 in 2023 and \$639 in 2022	(73,074)	(65,939)
Proceeds from Sale of Subsidiary	—	3,122
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(73,074)</b>	<b>(62,817)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Redemption of Long-term Debt	(16,460)	(6,397)
Proceeds from Issuance of Long-term Debt	70,640	2,663
Net Short-term Bank Borrowings	(13,250)	27,500
Deferred Debt Issuance Expense	(123)	(612)
Common Stock Issuance Expense	(10)	(25)
Payment of Grantee Withholding Taxes in Exchange for Restricted Stock	(619)	—
Proceeds from Issuance of Common Stock	9,025	10,064
Payment of Common Dividends	(16,600)	(15,298)
Payment of Preferred Dividends	(90)	(90)
Construction Advances and Contributions-Net	(283)	146
<b>NET CASH PROVIDED BY FINANCING ACTIVITIES</b>	<b>32,230</b>	<b>17,951</b>
<b>NET CHANGES IN CASH AND CASH EQUIVALENTS</b>	<b>(858)</b>	<b>(625)</b>
<b>CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD</b>	<b>3,828</b>	<b>3,533</b>
<b>CASH AND CASH EQUIVALENTS AT END OF PERIOD</b>	<b>\$ 2,970</b>	<b>\$ 2,908</b>
<b>SUPPLEMENTAL DISCLOSURE OF NON-CASH ACTIVITY:</b>		
Utility Plant received as Construction Advances and Contributions	\$ 5,954	\$ 5,705
Non-Cash Consideration for Sale of Subsidiary	\$ —	\$ 2,100
Litigation Settlement Receivable	\$ 93,163	\$ —
Litigation Settlement Payable	\$ 27,949	\$ —
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOWS INFORMATION:</b>		
Cash Paid During the Year for:		
Interest	\$ 9,589	\$ 6,793
Interest Capitalized	\$ 862	\$ 639
Income Taxes	\$ 2,716	\$ 2,125

See Notes to Condensed Consolidated Financial Statements.

**MIDDLESEX WATER COMPANY**  
**CONDENSED CONSOLIDATED STATEMENTS OF CAPITAL STOCK AND LONG-TERM DEBT**  
**(Unaudited)**  
**(In thousands)**

	September 30, 2023	December 31, 2022
<b>Common Stock, No Par Value:</b>		
Shares Authorized - 40,000		
Shares Outstanding - 2023 - 17,771; 2022 - 17,642	\$ 243,250	\$ 233,054
<b>Retained Earnings</b>		
	176,333	167,274
<b>TOTAL COMMON EQUITY</b>	<b>\$ 419,583</b>	<b>\$ 400,328</b>
<b>Cumulative Preferred Stock, No Par Value:</b>		
Shares Authorized - 120		
Shares Outstanding - 20		
<b>Convertible:</b>		
Shares Outstanding, \$7.00 Series - 10	\$ 1,005	\$ 1,005
<b>Nonredeemable:</b>		
Shares Outstanding, \$7.00 Series - 1	79	79
Shares Outstanding, \$4.75 Series - 10	1,000	1,000
<b>TOTAL PREFERRED STOCK</b>	<b>\$ 2,084</b>	<b>\$ 2,084</b>
<b>Long-term Debt:</b>		
First Mortgage Bonds, 0.00%-5.50%, due 2023-2059	\$ 278,374	\$ 252,269
Amortizing Secured Notes, 3.94%-7.05%, due 2028-2046	70,396	44,918
State Revolving Trust Notes, 2.00%-4.03%, due 2025-2044	11,797	9,200
<b>SUBTOTAL LONG-TERM DEBT</b>	<b>360,567</b>	<b>306,387</b>
Add: Premium on Issuance of Long-term Debt	6,577	6,873
Less: Unamortized Debt Expense	(5,424)	(5,518)
Less: Current Portion of Long-term Debt	(7,444)	(17,462)
<b>TOTAL LONG-TERM DEBT</b>	<b>\$ 354,276</b>	<b>\$ 290,280</b>

See Notes to Condensed Consolidated Financial Statements.

**MIDDLESEX WATER COMPANY**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMMON STOCKHOLDERS' EQUITY**  
**(Unaudited)**  
**(In thousands except per share amounts)**

	Common Stock Shares		Common Stock Amount		Retained Earnings		Total
<b>For the Three Months Ended September 30, 2022</b>							
Balance at July 1, 2022	17,604	\$	229,037	\$	156,530	\$	385,567
Net Income	—		—		14,291		14,291
Middlesex Water Company Investment Plan	34		3,025		—		3,025
Restricted Stock Award - Net - Employees	—		361		—		361
Cash Dividends on Common Stock (\$0.2900 per share)	—		—		(5,114)		(5,114)
Cash Dividends on Preferred Stock	—		—		(30)		(30)
Common Stock Expenses	—		—		(25)		(25)
Balance at September 30, 2022	<u>17,638</u>	<u>\$</u>	<u>232,423</u>	<u>\$</u>	<u>165,652</u>	<u>\$</u>	<u>398,075</u>
<b>For the Nine Months Ended September 30, 2022</b>							
Balance at January 1, 2022	17,522	\$	221,919	\$	145,807	\$	367,726
Net Income	—		—		35,258		35,258
Middlesex Water Company Investment Plan	110		10,064		—		10,064
Restricted Stock Award - Net - Employees	3		160		—		160
Stock Award - Board of Directors	3		280		—		280
Cash Dividends on Common Stock (\$0.8700 per share)	—		—		(15,298)		(15,298)
Cash Dividends on Preferred Stock	—		—		(90)		(90)
Common Stock Expenses	—		—		(25)		(25)
Balance at September 30, 2022	<u>17,638</u>	<u>\$</u>	<u>232,423</u>	<u>\$</u>	<u>165,652</u>	<u>\$</u>	<u>398,075</u>
<b>For the Three Months Ended September 30, 2023</b>							
Balance at July 1, 2023	17,729	\$	239,545	\$	171,932	\$	411,477
Net Income	—		—		9,990		9,990
Middlesex Water Company Investment Plan	42		3,281		—		3,281
Restricted Stock Award - Net - Employees	—		424		—		424
Cash Dividends on Common Stock (\$0.3125 per share)	—		—		(5,549)		(5,549)
Cash Dividends on Preferred Stock	—		—		(30)		(30)
Common Stock Expenses	—		—		(10)		(10)
Balance at September 30, 2023	<u>17,771</u>	<u>\$</u>	<u>243,250</u>	<u>\$</u>	<u>176,333</u>	<u>\$</u>	<u>419,583</u>
<b>For the Nine Months Ended September 30, 2023</b>							
Balance at January 1, 2023	17,642	\$	233,054	\$	167,274	\$	400,328
Net Income	—		—		25,759		25,759
Middlesex Water Company Investment Plan	117		9,025		—		9,025
Restricted Stock Award - Net - Employees	7		811		—		811
Stock Award - Board of Directors	5		360		—		360
Cash Dividends on Common Stock (\$0.9375 per share)	—		—		(16,600)		(16,600)
Cash Dividends on Preferred Stock	—		—		(90)		(90)
Common Stock Expenses	—		—		(10)		(10)
Balance at September 30, 2023	<u>17,771</u>	<u>\$</u>	<u>243,250</u>	<u>\$</u>	<u>176,333</u>	<u>\$</u>	<u>419,583</u>

See Notes to Condensed Consolidated Financial Statements.

**MIDDLESEX WATER COMPANY**  
**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**Note 1 – Basis of Presentation and Recent Developments**

Middlesex Water Company (Middlesex or the Company) is the parent company and sole shareholder of Tidewater Utilities, Inc. (Tidewater), Pinelands Water Company (Pinelands Water) and Pinelands Wastewater Company (Pinelands Wastewater) (collectively, Pinelands), Utility Service Affiliates, Inc. (USA), and Utility Service Affiliates (Perth Amboy) Inc. (USA-PA). Southern Shores Water Company, LLC (Southern Shores) and White Marsh Environmental Systems, Inc. (White Marsh) are wholly-owned subsidiaries of Tidewater. The financial statements for Middlesex and its wholly-owned subsidiaries are reported on a consolidated basis. All significant intercompany accounts and transactions have been eliminated.

The consolidated notes within the 2022 Annual Report on Form 10-K/A (the 2022 Form 10-K/A) are applicable to these financial statements and, in the opinion of the Company, the accompanying unaudited condensed consolidated financial statements contain all adjustments necessary (including normal recurring accruals) to present fairly the financial position as of September 30, 2023, the results of operations for the three and nine month periods ended September 30, 2023 and 2022 and cash flows for the nine month periods ended September 30, 2023 and 2022. Information included in the Condensed Consolidated Balance Sheet as of December 31, 2022, has been derived from the Company's December 31, 2022 audited financial statements included in the 2022 Form 10-K/A.

*Recent Developments*

**Middlesex President and Chief Executive Officer Retirement Announcement** - On May 16, 2023, President and Chief Executive Officer, Dennis W. Doll announced a plan to retire upon turning age 65. Mr. Doll's retirement is planned for the later of December 31, 2023 or, the date when a successor is duly named and effectively transitioned into the position. Mr. Doll will remain Chairman of the Middlesex Board of Directors (Board) through the expiration of his current term in May 2024. A search for Mr. Doll's successor is being led by the Compensation Committee of the Board in collaboration with a nationally-recognized executive search firm.

**Regulatory Notice of Non-Compliance** – In September 2021, the New Jersey Department of Environmental Protection (NJDEP) issued a Notice of Non-Compliance (Notice) to Middlesex based on self-reporting by Middlesex that the level of Perfluorooctanoic Acid (PFOA) in water treated at its Park Avenue Wellfield Treatment Plant in South Plainfield, New Jersey exceeded a standard promulgated in a NJDEP regulation that became effective in 2021. Middlesex was required by the regulation to notify its affected customers and complied within the required Notice period in November 2021.

The Notice further required the Company to take any action necessary to comply with the new standard by September 7, 2022. Consequently, in November 2021, the Company implemented an interim solution to meet the Notice requirements, which included putting the Park Avenue Wellfield Treatment Plant in off-line status and obtaining alternate sources of supply. In June 2022, the Company accelerated the in-service date for a portion of the enhanced treatment project based on engineering analysis that allowed a restart of the Park Avenue Wellfield Treatment Plant to ensure continued compliance with all state and federal drinking water standards.

On September 13, 2022, the Company entered into an Administrative Consent Order (ACO) with the NJDEP, which required the Company to take whatever actions necessary to achieve and maintain compliance with applicable regulations. As prescribed in the ACO, the Company was to issue periodic public notifications until the ACO was closed.

In June 2023, the Company completed the permanent construction of the entire Park Avenue Wellfield treatment upgrades and placed the upgrades into operation in full compliance with the NJDEP PFOA standards. The Company received confirmation from the NJDEP that it has complied with all requirements of the ACO and consequently, the ACO has been closed.



The Company had previously initiated a lawsuit against 3M Company (3M), in connection with the Company's claim that 3M introduced perfluoroalkyl substances (commonly known as "PFAS"), which include PFOA, into the Company's water supply at its Park Avenue Wellfield facility.

On August 29, 2023, Middlesex and 3M executed a settlement agreement (the Settlement Agreement) to resolve the lawsuit. The Settlement Agreement provides that:

- 3M will pay Middlesex \$93.2 million in two installments, one payment of \$23.3 million in December 2023 and one payment of \$69.9 million in July 2024. Middlesex is obligated to pay 30% of the proceeds received to its lawyers as legal fees, or \$27.9 million in total;
- Middlesex anticipates its receipt of the Settlement Agreement payments will have the effect of mitigating future increases in customer rates, the determination of which are based, in part, on Middlesex's investments in utility infrastructure. For additional details, see "Item 1. Business – Regulation - Regulation of Rates and Services" in Middlesex's 2022 Form 10-K;
- Middlesex, by nature of its status as a U.S. water purveyor impacted by PFAS, was automatically included in a Multi-District Litigation Settlement before the United States District Court for the District of South Carolina in which 3M and other companies (Non-3M Companies) are participants. Middlesex agreed as part of this settlement to remain a member of the plaintiff class in order to be eligible to obtain future additional compensation from 3M and the Non-3M Companies for the remediation of its water treatment facilities; and
- Middlesex and 3M agreed to enter into a joint mediation, scheduled for November 2023, to resolve two PFOA-related class action lawsuits against Middlesex seeking restitution for medical, water replacement and other claimed related costs. Both Middlesex and 3M are defendants in these lawsuits. These lawsuits remain in the early stages of the legal process and their ultimate resolution cannot be predicted at this time.

It is the Company's intent that any financial benefit which may result from the Settlement Agreement, net of any litigation costs to Middlesex, will ultimately inure to the benefit of the Middlesex customers in the form of mitigating future customer rate increases. As such, the anticipated net Settlement Agreement proceeds of \$65.2 million have been recorded as a Regulatory Liability in the Company's September 30, 2023 Consolidated Balance Sheet.

In January 2022, the Company filed a petition with the New Jersey Board of Public Utilities (NJBPU) seeking to establish a regulatory asset and deferred accounting treatment until its next base rate setting proceeding for all costs associated with the interim solution to comply with the Notice. The Company is currently awaiting a decision on this matter from the NJBPU.

**Coronavirus (COVID-19) Pandemic** – On May 11, 2023, the United States Department of Health and Human Services declared the end of the COVID-19 Pandemic nationwide health emergency. While the Company's operations and capital construction program have not been materially disrupted to date from the pandemic, the COVID-19 impact on economic conditions nationally continues to be uncertain and could affect the Company's results of operations, financial condition and liquidity in the future. In New Jersey, the declared COVID-19 State of Emergency ended in March 2022. In Delaware, the declared COVID-19 State of Emergency Order ended in July 2021.

The NJBPU has approved the tracking of COVID-19 related incremental costs for potential recovery in customer rates in future rate proceedings. In May 2023, Middlesex filed a petition to defer consideration of rate recovery of COVID-19 related incremental costs incurred until its next base rate case. The Company has increased its allowance for doubtful accounts for expected higher accounts receivable write-offs due to the financial impact of COVID-19 on customers. We will continue to monitor the effects of COVID-19 and evaluate its impact on the Company's results of operations, financial condition and liquidity.

There is no new adopted or proposed accounting guidance that the Company is aware of that could have a material impact on the Company's financial statements.

## **Note 2 – Rate and Regulatory Matters**

**Middlesex** – In May 2023, Middlesex filed a petition with the NJBPU seeking permission to increase annual base water revenues by approximately \$34 million. The request was necessitated predominantly by capital infrastructure investments Middlesex has made, or has committed to make, to upgrade or replace utility assets to support continued regulatory compliance and overall quality of service. We cannot predict when and whether the NJBPU will ultimately approve, deny, or reduce the amount of the request. Under New Jersey statute, the NJBPU must render a decision within nine months of filing a base rate change petition.

Replacement of Middlesex and Middlesex customer-owned lead service lines is required by the New Jersey Lead Service Line Replacement Law. In May 2023, Middlesex filed a petition seeking NJBPU approval of Middlesex's proposed cost recovery of its Lead Service Line Replacement Plan and cost recovery of project costs associated with replacing Middlesex customer-owned lead service lines. Under this legislation, these costs would be recovered through future customer surcharges. Middlesex currently estimates that replacement of Middlesex and Middlesex customer-owned lead service lines will be approximately \$46 million to \$77 million over a nine-year period. A decision in this matter is expected in the fourth quarter of 2023. We cannot predict if the NJBPU will ultimately approve, deny, or amend this petition.

In May 2023, Middlesex filed a petition with the NJBPU seeking approval of a Distribution System Improvement Charge (DSIC) Foundation Filing, which is a prerequisite to implementing a DSIC rate that allows water utilities to recover investments in, and generate a return on, qualifying capital improvements to their water distribution system made between base rate proceedings. This petition was approved by the NJBPU in October 2023 and will result in future rate increases for future DSIC qualifying projects.

In September 2022, the NJBPU approved Middlesex's Emergency Relief Motion to reset its Purchased Water Adjustment Clause (PWAC) tariff rate to recover additional costs of \$2.7 million for the purchase of treated water from a non-affiliated water utility. A PWAC is a rate mechanism that allows for recovery of increased purchased water costs between base rate case filings. The increase, effective October 1, 2022, was on an interim basis and subject to refund with interest, pending final resolution of this matter, which the NJBPU provided in August 2023. In connection with the full recovery of the \$2.7 million of additional costs, Middlesex reset its PWAC rate to zero in October 2023.

**Pinelands** – On April 12, 2023, Pinelands Water and Pinelands Wastewater concluded their base rate case matters when the NJBPU approved a combined \$1.0 million increase in annual base rates, effective April 15, 2023. The requests were necessitated by capital infrastructure investments the companies have made as well as increased operations and maintenance costs.

**Twin Lakes Utilities, Inc. (Twin Lakes)** – Twin Lakes provides water services to approximately 115 residential customers in Shohola, Pennsylvania. Pursuant to the Pennsylvania Public Utility Code, Twin Lakes filed a petition requesting the Pennsylvania Public Utilities Commission (PAPUC) to order the acquisition of Twin Lakes by a capable public utility. The PAPUC assigned an Administrative Law Judge (ALJ) to adjudicate the matter and submit a recommended decision (Recommended Decision) to the PAPUC. As part of this legal proceeding the PAPUC also issued an Order in January 2021 appointing a large Pennsylvania based investor-owned water utility as the receiver (the Receiver Utility) of the Twin Lakes system until the petition is fully adjudicated by the PAPUC. In November 2021, the PAPUC issued an Order affirming the ALJ's Recommended Decision, ordering the Receiver Utility to acquire the Twin Lakes water system and for Middlesex, the parent company of Twin Lakes, to submit \$1.7 million into an escrow account within 30 days. Twin Lakes immediately filed a Petition For Review (PFR) with the Commonwealth Court of Pennsylvania (the Commonwealth Court) seeking reversal and vacation of the escrow requirement on the grounds that it violates the Pennsylvania Public Utility Code as well as the United States Constitution. In addition, Twin Lakes filed an emergency petition for stay of the PAPUC Order pending the Commonwealth Court's review of the merits arguments contained in Twin Lakes' PFR. In December 2021, the Commonwealth Court granted Twin Lakes' emergency petition, pending its review. In August 2022, the Commonwealth Court issued an opinion upholding PAPUC's November 2021 Order in its entirety. In September 2022, Twin Lakes filed a Petition For Allowance of Appeal (Appeal Petition) to the Supreme Court of Pennsylvania seeking reversal of the Commonwealth Court's decision to uphold the escrow requirement on the grounds that the Commonwealth Court erred in failing to address Twin Lakes' claims that because the \$1.7 million escrow requirement placed on Middlesex violated Middlesex's constitutional rights, Middlesex's refusal to submit this escrow payment would jeopardize the relief Twin Lakes was otherwise entitled to in the appointment of the Receiver Utility. In March 2023, the Supreme Court of Pennsylvania issued a decision denying Twin Lakes' Appeal Petition without addressing this claim on the merits. As a result of the Pennsylvania Courts' failure to address Twin Lakes' claim, Middlesex has subsequently filed a Complaint with the United States District Court for the Middle District of Pennsylvania to address the issue of whether the PAPUC's Order violated Middlesex's rights under the United States Constitution. We are currently awaiting the Court's decision.

The financial results, total assets and financial obligations of Twin Lakes are not material to Middlesex.

### **Note 3 – Capitalization**

**Common Stock** – During the nine months ended September 30, 2023 and 2022, there were 118,501 common shares (approximately \$9.0 million) and 110,614 common shares (approximately \$10.0 million) respectively, issued under the Middlesex Water Company Investment Plan (the Investment Plan).

In April 2023, Middlesex received approval from the NJBPU to issue and sell up to 1.0 million shares of its common stock, without par value, through December 31, 2025. Sales of additional shares of common stock are part of the Company's comprehensive financing plan to fund its multi-year utility plant infrastructure investment program. As described below in "Long-term Debt", the NJBPU also approved the debt funding component of the financing plan.

In March 2023, the Company began offering shares of its common stock for purchase at a 3% discount to participants in the Investment Plan. The discount offering will continue until 200,000 shares are purchased at the discounted price or December 1, 2023, whichever event occurs first. The discount applies to all common stock purchases made under the Investment Plan, whether by optional cash payment or by dividend reinvestment.

In May 2023, Middlesex received approval from the NJBPU to increase the number of authorized shares under the Investment Plan by 0.7 million shares.

**Long-term Debt** – Subject to regulatory approval, the Company periodically issues long-term debt to fund its investments in utility plant. To the extent possible and fiscally prudent, the Company finances qualifying capital projects under State Revolving Fund (SRF) loan programs in New Jersey and Delaware. These government programs provide financing at interest rates typically below rates available in the broader financial markets. A portion of the borrowings under the New Jersey SRF is interest-free.

Under the New Jersey SRF program, borrowers first enter into a construction loan agreement with the New Jersey Infrastructure Bank (NJIB) at a below market interest rate. When construction on the qualifying project is substantially complete, NJIB will coordinate the conversion of the construction loan into a long-term securitized loan with a portion of the principal balance having a stated interest rate of zero percent (0%) and a portion of the principal balance at a market interest rate at the time of closing using the credit rating of the State of New Jersey.

Although the Company has no current projects in the NJIB loan program, it is seeking to have several projects added to the qualified list in order to borrow under the NJIB loan program.

In April 2023, Middlesex received approval from the NJBPU to borrow up to \$300.0 million from the New Jersey SRF Program, the New Jersey Economic Development Authority, private placement and other financial institutions as needed through December 31, 2025. The Company expects to issue debt securities in a series of one or more transaction offerings over a multi-year period to help fund Middlesex's multi-year capital construction program.

In March 2023, Middlesex closed on a \$40.0 million, 5.24% private placement of First Mortgage Bonds (FMBs) with a 2043 maturity date designated as Series 2023A. Proceeds were used to reduce the Company's outstanding balances under its bank lines of credit.

In May 2023, Tidewater closed on a \$20.0 million loan from CoBank, ACB (CoBank) with an interest rate of 5.71% and a 2033 maturity date and fully drew all funds by June 30, 2023. Proceeds from the loan were used to pay off Tidewater's outstanding balances under its bank lines of credit and for other general corporate purposes.

In April 2023, Tidewater closed on three Delaware Public Service Commission (DEPSC)-approved Delaware SRF loans totaling \$10.2 million, all at interest rates of 2.0% with maturity dates in 2043 and 2044. These loans are for the construction, relocation, improvement, and/or interconnection of transmission mains. Tidewater has drawn a total of \$1.5 million through September 30, 2023 and expects that the requisitions will continue through mid-2025.

In December 2021, Tidewater closed on a DEPSC-approved \$5.0 million Delaware SRF loan at an interest rate of 2.0%. The loan was for construction of a one million gallon elevated storage tank. Through September 30, 2023, Tidewater has drawn a total of \$4.2 million and expects that the requisitions will continue through the first quarter of 2024. The final maturity date on the loan is 2044.

Under the Delaware SRF Program, borrowers submit reimbursement requisitions during the construction period. As the proceeds are received from the requisitions, Tidewater records a corresponding debt obligation amount.

In July 2023, Pinelands Water and Pinelands Wastewater closed on \$3.9 million and \$3.6 million CoBank amortizing mortgage type loans, respectively, with an interest rate of 6.17% and a final maturity date of 2043 for each loan. Proceeds were used to pay off outstanding intercompany loans with Middlesex and for ongoing capital projects.

**Fair Value of Financial Instruments** – The following methods and assumptions were used by the Company in estimating its fair value disclosure for financial instruments for which it is practicable to estimate that value. The carrying amounts reflected in the condensed consolidated balance sheets for cash and cash equivalents, accounts receivable, accounts payable and notes payable approximate their respective fair values due to the short-term maturities of these instruments. The fair value of FMBs in the table below issued by Middlesex is based on quoted market prices for similar publicly traded issues. Under the fair value hierarchy, the fair value of cash and cash equivalents is classified as a Level 1 measurement and the fair value of notes payable and the FMBs in the table below are classified as Level 2 measurements. The carrying amount and fair value of the FMBs were as follows:

	(Thousands of Dollars)			
	September 30, 2023		December 31, 2022	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
FMBs	\$ 133,374	\$ 123,235	\$ 147,269	\$ 138,756

It was not practicable to estimate the fair value on our outstanding long-term debt for which there is no quoted market price and there is not an active trading market. For details, including carrying value, interest rates and due dates on these series of long-term debt, please refer to those series noted as “Amortizing Secured Notes” and “State Revolving Trust Notes” on the Condensed Consolidated Statements of Capital Stock and Long-Term Debt). The carrying amount of these instruments was \$227.2 million and \$159.1 million at September 30, 2023 and December 31, 2022, respectively. Customer advances for construction have carrying amounts of \$21.5 million and \$21.4 million at September 30, 2023 and December 31, 2022, respectively. Their relative fair values cannot be accurately estimated since future refund payments depend on several variables, including new customer connections, customer consumption levels and future rate increases.

Substantially all of the utility plant of the Company is subject to the lien of its mortgage, which includes debt service and capital ratio covenants. The Company is in compliance with all of its mortgage covenants and restrictions.

#### Note 4 – Earnings Per Share

Basic earnings per share (EPS) are computed on the basis of the weighted average number of shares outstanding during the period presented. Diluted EPS assumes the conversion of the Convertible Preferred Stock \$7.00 Series.

	(In Thousands Except per Share Amounts)			
	Three Months Ended September 30, 2023		2022	
<b>Basic:</b>	Income	Shares	Income	Shares
Net Income	\$ 9,990	17,758	\$ 14,291	17,628
Preferred Dividend	(30)		(30)	
Earnings Applicable to Common Stock	\$ 9,960	17,758	\$ 14,261	17,628
<b>Basic EPS</b>	\$ 0.56		\$ 0.81	
<b>Diluted:</b>				
Earnings Applicable to Common Stock	\$ 9,960	17,758	\$ 14,261	17,628
\$7.00 Series Preferred Dividend	17	115	17	115
Adjusted Earnings Applicable to Common Stock	\$ 9,977	17,873	\$ 14,278	17,743
<b>Diluted EPS</b>	\$ 0.56		\$ 0.80	

	(In Thousands Except per Share Amounts)			
	Nine Months Ended September 30, 2023		2022	
<b>Basic:</b>	Income	Shares	Income	Shares
Net Income	\$ 25,759	17,708	\$ 35,258	17,583
Preferred Dividend	(90)		(90)	
Earnings Applicable to Common Stock	\$ 25,669	17,708	\$ 35,168	17,583
<b>Basic EPS</b>	\$ 1.45		\$ 2.00	
<b>Diluted:</b>				
Earnings Applicable to Common Stock	\$ 25,669	17,708	\$ 35,168	17,583
\$7.00 Series Preferred Dividend	51	115	51	115
Adjusted Earnings Applicable to Common Stock	\$ 25,720	17,823	\$ 35,219	17,698
<b>Diluted EPS</b>	\$ 1.44		\$ 1.99	

## Note 5 – Business Segment Data

The Company has identified two reportable segments. One is the regulated business of collecting, treating and distributing water on a retail and wholesale basis to residential, commercial, industrial and fire protection customers in parts of New Jersey and Delaware. This segment also includes regulated wastewater systems in New Jersey and Delaware. The Company is subject to regulations as to its rates, services and other matters by New Jersey and Delaware with respect to utility services within these states. The other segment is primarily comprised of non-regulated contract services for the operation and maintenance of municipal and private water and wastewater systems in New Jersey and Delaware. Inter-segment transactions relating to operational costs are treated as pass-through expenses. Finance charges on inter-segment loan activities are based on interest rates that are below what would normally be charged by a third-party lender.

Operations by Segments:	(In Thousands)			
	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
<b>Revenues:</b>				
Regulated	\$ 43,763	\$ 44,861	\$ 118,625	\$ 115,222
Non – Regulated	3,251	3,431	9,649	9,316
Inter-segment Elimination	(299)	(560)	(602)	(927)
<b>Consolidated Revenues</b>	<b>\$ 46,715</b>	<b>\$ 47,732</b>	<b>\$ 127,672</b>	<b>\$ 123,611</b>
<b>Operating Income:</b>				
Regulated	\$ 12,008	\$ 15,750	\$ 28,543	\$ 36,793
Non – Regulated	814	825	2,437	2,393
<b>Consolidated Operating Income</b>	<b>\$ 12,822</b>	<b>\$ 16,575</b>	<b>\$ 30,980</b>	<b>\$ 39,186</b>
<b>Net Income:</b>				
Regulated	\$ 9,384	\$ 13,683	\$ 24,017	\$ 33,496
Non – Regulated	606	608	1,742	1,762
<b>Consolidated Net Income</b>	<b>\$ 9,990</b>	<b>\$ 14,291</b>	<b>\$ 25,759</b>	<b>\$ 35,258</b>
<b>Capital Expenditures:</b>				
Regulated	\$ 22,415	\$ 26,588	\$ 72,994	\$ 65,722
Non – Regulated	24	8	80	217
<b>Total Capital Expenditures</b>	<b>\$ 22,439</b>	<b>\$ 26,596</b>	<b>\$ 73,074</b>	<b>\$ 65,939</b>

Assets:	As of	As of
	September 30, 2023	December 31, 2022
Regulated	\$ 1,241,123	\$ 1,079,180
Non – Regulated	7,382	6,999
Inter-segment Elimination	(5,089)	(11,729)
<b>Consolidated Assets</b>	<b>\$ 1,243,416</b>	<b>\$ 1,074,450</b>

## Note 6 – Short-term Borrowings

The Company maintains lines of credit aggregating \$140.0 million.

	(Millions)			Maximum	Credit Type	Renewal Date
	As of September 30, 2023					
	Outstanding	Available				
Bank of America	\$ 4.0	\$ 56.0	\$ 60.0	Uncommitted	January 25, 2024	
PNC Bank	35.3	\$ 32.7	68.0	Committed	July 31, 2025	
CoBank	3.0	9.0	12.0	Committed	May 20, 2026	
	<u>\$ 42.3</u>	<u>\$ 97.7</u>	<u>\$ 140.0</u>			

The interest rates are set for borrowings under the Bank of America and PNC Bank lines of credit using the Bloomberg Short-Term Bank Yield Index and the Secured Overnight Financing Rate (SOFR), respectively, and then adding a specific financial institution credit spread. The interest rate for borrowings under the CoBank line of credit are set weekly using CoBank's internal cost of funds index that is similar to the SOFR and adding a credit spread. There is no requirement for a compensating balance under any of the established lines of credit.

The weighted average interest rate on the outstanding borrowings at September 30, 2023 under these credit lines is 6.51%.

The weighted average daily amounts of borrowings outstanding under these credit lines and the weighted average interest rates on those amounts were as follows:

	(In Thousands)			
	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2023	2022	2023	2022
Average Daily Amounts Outstanding	\$ 25,015	\$ 33,750	\$ 32,860	\$ 22,648
Weighted Average Interest Rates	6.37%	3.34%	5.89%	2.48%

The maturity dates for the \$42.3 million outstanding as of September 30, 2023 were in October 2023 and continue through December 2023 and were or are expected to be extended at the discretion of the Company.

## Note 7 – Commitments and Contingent Liabilities

**Water Supply** – Middlesex has an agreement with the New Jersey Water Supply Authority (NJWSA) for the purchase of untreated water through November 30, 2023, which provides for an average purchase of 27 million gallons a day (mgd). The agreement renewal process is underway and a new agreement is expected to be in place prior to the expiration date of the existing agreement. Middlesex does not expect the agreement terms and conditions to vary. Pricing is set annually by the NJWSA through a public rate making process. The agreement has provisions for additional pricing in the event Middlesex overdrafts or exceeds certain monthly and annual thresholds.

Middlesex has an agreement with a non-affiliated regulated water utility for the purchase of treated water. This agreement, which expires February 27, 2026, provides for the minimum purchase of 3 mgd of treated water with provisions for additional purchases.

Tidewater contracts with the City of Dover, Delaware to purchase 15 million gallons of treated water annually.

Purchased water costs are shown below:

	(In Thousands)			
	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2023	2022	2023	2022
Treated	\$ 1,607	\$ 936	\$ 4,353	\$ 2,467
Untreated	812	835	2,352	2,384
<b>Total Costs</b>	<b>\$ 2,419</b>	<b>\$ 1,771</b>	<b>\$ 6,705</b>	<b>\$ 4,851</b>

**Leases** – The Company determines if an arrangement is a lease at inception. Generally, a lease agreement exists if the Company determines that the arrangement gives the Company control over the use of an identified asset and obtains substantially all of the benefits from the identified asset.

The Company has entered into an operating lease of office space for administrative purposes, expiring in 2030. The Company has not entered into any finance leases. The exercise of a lease renewal option for the Company’s administrative offices is solely at the discretion of the Company.

The right-of-use (ROU) asset recorded represents the Company’s right to use an underlying asset for the lease term and lease liability represents the Company’s obligation to make lease payments arising from the lease. Lease ROU assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. The Company’s operating lease does not provide an implicit discount rate and as such the Company used an estimated incremental borrowing rate (4.03%) based on the information available at the commencement date in determining the present value of lease payments.

Given the impacts of accounting for regulated operations, and the resulting recognition of expense at the amounts recovered in customer rates, expenditures for operating leases are consistent with lease expense and were \$0.2 million for each of the three months ended September 30, 2023 and 2022, respectively, and \$0.6 million for each of the nine months ended September 30, 2023 and 2022, respectively.

Information related to operating lease ROU assets and lease liabilities is as follows:

	(In Millions)	
	September 30, 2023	December 31, 2022
ROU Asset at Lease Inception	\$ 7.3	\$ 7.3
Accumulated Amortization	(4.0)	(3.5)
<b>Current ROU Asset</b>	<b>\$ 3.3</b>	<b>\$ 3.8</b>



The Company's future minimum operating lease commitments as of September 30, 2023 are as follows:

	(In Millions)
2023	\$ 0.2
2024	0.8
2025	0.8
2026	0.9
2027	0.9
Thereafter	1.8
Total Lease Payments	<u>\$ 5.4</u>
Imputed Interest	(1.6)
Present Value of Lease Payments	<u>3.8</u>
Less Current Portion*	(0.6)
Non-Current Lease Liability	<u>\$ 3.2</u>
*Included in Other Current Liabilities	

**Construction** – The Company has forecasted to spend approximately \$96 million for its construction program in 2023. The Company has entered into several construction contracts that, in the aggregate, obligate expenditure of an estimated \$8 million in the future. The actual amount and timing of capital expenditures is dependent on the need for upgrade or replacement of existing infrastructure, customer growth, residential new home construction and sales, project scheduling, supply chain issues and continued refinement of project scope and costs. With continued upward pressure on mortgage interest rates, as well as other financial market uncertainties, there is no assurance that projected customer growth and residential new home construction and sales will occur.

**PFOA Matter** – In November 2021, the Company was served with two PFOA-related class action lawsuits seeking restitution for medical, water replacement and other related costs and economic damages. These lawsuits are in the early stages of the legal process and their ultimate resolution cannot be predicted at this time. For further discussion of this matter, see *Note 1 - Regulatory Notice of Non-Compliance*.

**Contingencies** – Based on our operations in the heavily-regulated water and wastewater industries, the Company is routinely involved in disputes, claims, lawsuits and other regulatory and legal matters, including responsibility for fines and penalties relative to regulatory compliance. At this time, Management does not believe the final resolution of any such matters, whether asserted or unasserted, will have a material adverse effect on the Company's financial position, results of operations or cash flows. In addition, the Company maintains business insurance coverage that may mitigate the effect of any current or future loss contingencies.

**Change in Control Agreements** – The Company has Change in Control Agreements with its executive officers that provide compensation and benefits in the event of termination of employment under certain conditions in connection with a change in control of the Company.

#### **Note 8 – Employee Benefit Plans**

**Pension Benefits** – The Company's defined benefit pension plan (Pension Plan) covers all active employees hired prior to April 1, 2007. Employees hired after March 31, 2007 are not eligible to participate in this plan, but do participate in a defined contribution plan that provides for a potential annual contribution in an amount at the discretion of the Company, based upon a percentage of the participants' annual paid compensation. For each of the nine month periods ended September 30, 2023 and 2022, the Company did not make cash contributions to the Pension Plan. The Company expects to make cash contributions of approximately \$1.9 million over the remainder of the current year. The Company also maintains an unfunded supplemental retirement benefit plan for certain active and retired Company officers and currently pays \$0.5 million in annual benefits to the retired participants.

**Other Postretirement Benefits** – The Company’s retirement plan other than pensions (Other Benefits Plan) covers substantially all currently eligible retired employees. Employees hired after March 31, 2007 are not eligible to participate in this plan. Coverage includes healthcare and life insurance. For each of the nine month periods ended September 30, 2023 and 2022, the Company did not make cash contributions to its Other Benefits Plan. The Company expects to make additional Other Benefits Plan cash contributions of \$0.9 million over the remainder of the current year.

The following tables set forth information relating to the Company’s periodic costs (benefit) for its employee retirement benefit plans:

	(In Thousands)			
	Pension Benefits		Other Benefits	
	Three Months Ended September 30,			
	2023	2022	2023	2022
Service Cost	\$ 388	\$ 591	\$ 98	\$ 200
Interest Cost	1,067	761	402	331
Expected Return on Assets	(1,466)	(1,760)	(771)	(887)
Amortization of Unrecognized Losses	164	418	(48)	—
Net Periodic Benefit Cost (Benefit)*	\$ 153	\$ 10	\$ (319)	\$ (356)

	(In Thousands)			
	Pension Benefits		Other Benefits	
	Nine Months Ended September 30,			
	2023	2022	2023	2022
Service Cost	\$ 1,163	\$ 1,772	\$ 293	\$ 599
Interest Cost	3,202	2,282	1,206	994
Expected Return on Assets	(4,399)	(5,281)	(2,312)	(2,660)
Amortization of Unrecognized Losses	493	1,255	(143)	—
Net Periodic Benefit Cost (Benefit)*	\$ 459	\$ 28	\$ (956)	\$ (1,067)

\*Service cost is included Operations and Maintenance expense on the consolidated statements of income; all other amounts are included in Other Income (Expense), net.

#### Note 9 – Revenue Recognition from Contracts with Customers

The Company’s revenues are primarily generated from regulated tariff-based sales of water and wastewater services and non-regulated operation and maintenance contracts for services on water and wastewater systems owned by others. Revenue from contracts with customers is recognized when control of a promised good or service is transferred to customers at an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods and services.

The Company’s regulated revenue from contracts with customers results from tariff-based sales from the provision of water and wastewater services to residential, industrial, commercial, fire-protection and wholesale customers. Residential customers are billed quarterly while most industrial, commercial, fire-protection and wholesale customers are billed monthly. Payments by customers are due between 15 and 30 days after the invoice date. Revenue is recognized as the water and wastewater services are delivered to customers as well as from accrual of unbilled revenues estimated from the last meter reading date to the end of the accounting period utilizing factors such as historical customer data, regional weather indicators and general economic conditions in the relevant service territories. Unearned Revenues and Advance Service Fees include fixed service charge billings in advance to Tidewater customers recognized as service is provided to the customer.

Non-regulated service contract revenues consist of base service fees, as well as fees for additional billable services provided to customers. Fees are billed monthly and are due within 30 days after the invoice date. The Company considers the amounts billed to represent the value of these services provided to customers. These contracts expire at various times through June 2032 and contain remaining performance obligations for which the Company expects to recognize revenue in the future. These contracts also contain termination provisions.

Substantially all of the amounts included in operating revenues and accounts receivable are from contracts with customers. The Company records its allowance for doubtful accounts based on historical write-offs combined with an evaluation of current economic conditions within its service territories.

The Company's contracts do not contain any significant financing components.

The Company's operating revenues are comprised of the following:

	(In Thousands)			
	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
<b>Regulated Tariff Sales</b>				
Residential	\$ 25,070	\$ 25,108	\$ 66,726	\$ 65,767
Commercial	6,926	7,167	18,553	16,796
Industrial	3,396	3,208	9,041	8,504
Fire Protection	3,203	3,248	9,453	9,541
Wholesale	4,958	5,644	14,479	13,905
<b>Non-Regulated Contract Operations</b>	3,137	3,321	9,309	8,986
<b>Total Revenue from Contracts with Customers</b>	\$ 46,690	\$ 47,696	\$ 127,561	\$ 123,499
Other Regulated Revenues	210	486	373	709
Other Non-Regulated Revenues	114	110	340	330
Inter-segment Elimination	(299)	(560)	(602)	(927)
<b>Total Revenue</b>	\$ 46,715	\$ 47,732	\$ 127,672	\$ 123,611

## Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis should be read in conjunction with the unaudited condensed consolidated financial statements of Middlesex Water Company (Middlesex or the Company) included elsewhere herein and with the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2022, including Amendment No. 1 to such Annual Report on Form 10-K.

### Forward-Looking Statements

Certain statements contained in this periodic report and in the documents incorporated by reference constitute “forward-looking statements” within the meaning of Section 21E of the Securities Exchange Act of 1934 and Section 27A of the Securities Act of 1933. The Company intends that these statements be covered by the safe harbors created under those laws. They include, but are not limited to statements as to:

- expected financial condition, performance, prospects and earnings of the Company;
- strategic plans for growth;
- the amount and timing of rate increases and other regulatory matters, including the recovery of certain costs recorded as regulatory assets;
- the Company’s expected liquidity needs during the upcoming fiscal year and beyond and the sources and availability of funds to meet its liquidity needs;
- expected customer rates, consumption volumes, service fees, revenues, margins, expenses and operating results;
- financial projections;
- the expected amount of cash contributions to fund the Company’s retirement benefit plans, anticipated discount rates and rates of return on plan assets;
- the ability of the Company to pay dividends;
- the Company’s compliance with environmental laws and regulations and estimations of the materiality of any related costs;
- the safety and reliability of the Company’s equipment, facilities and operations;
- the Company’s plans to renew municipal franchises and consents in the territories it serves;
- trends; and
- the availability and quality of our water supply.

These forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results to differ materially from future results expressed or implied by the forward-looking statements. Important factors that could cause actual results to differ materially from anticipated results and outcomes include, but are not limited to:

- effects of general economic conditions;
- increases in competition for growth in non-franchised markets to be potentially served by the Company;
- ability of the Company to adequately control selected operating expenses which are necessary to maintain safe and proper utility services, and which may be beyond the Company’s control;
- availability of adequate supplies of quality water;
- actions taken by government regulators, including decisions on rate increase requests;
- new or modified water quality standards and compliance with related legal and regulatory requirements;
- weather variations and other natural phenomena impacting utility operations;
- financial and operating risks associated with acquisitions and/or privatizations;
- acts of war or terrorism;
- cyber-attacks;
- changes in the pace of new housing development;
- availability and cost of capital resources;
- timely availability of materials and supplies for operations and critical infrastructure projects;
- effectiveness of internal control over financial reporting;
- impact of the Novel Coronavirus (COVID-19) pandemic; and
- other factors discussed elsewhere in this report.

Many of these factors are beyond the Company's ability to control or predict. Given these uncertainties, readers are cautioned not to place undue reliance on any forward-looking statements, which only speak to the Company's understanding as of the date of this report. The Company does not undertake any obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date of this report or to reflect the occurrence of unanticipated events, except as may be required under applicable securities laws.

For an additional discussion of factors that may affect the Company's business and results of operations, see Item 1A. - Risk Factors in the Company's Annual Report on Form 10-K/A for the fiscal year ended December 31, 2022.

## Overview

Middlesex Water Company (Middlesex or the Company) has operated as a water utility in New Jersey since 1897 and in Delaware through our wholly-owned subsidiary, Tidewater Utilities, Inc. (Tidewater), since 1992. We are in the business of collecting, treating and distributing water for domestic, commercial, municipal, industrial and fire protection purposes. We operate water and wastewater systems under contract for governmental entities and private entities primarily in New Jersey and Delaware and provide regulated wastewater services in New Jersey. We are regulated by state public utility commissions as to rates charged to customers for water and wastewater services, as to the quality of water and wastewater service we provide and as to certain other matters in the states in which our regulated subsidiaries operate. Only our Utility Service Affiliates, Inc. (USA), Utility Service Affiliates (Perth Amboy), Inc. (USA-PA) and White Marsh Environmental Services, Inc. (White Marsh) subsidiaries are not regulated public utilities as related to rates and services quality. All municipal or commercial entities whose utility operations are managed by these entities however, are subject to environmental regulation at the federal and state levels.

Our principal New Jersey water utility system (the Middlesex System) provides water services to approximately 60,000 retail customers, primarily in central New Jersey. The Middlesex System also provides water sales under contract to municipalities in central New Jersey with a total population of over 0.2 million. Our Bayview subsidiary provides water services in Downe Township, New Jersey. Our other New Jersey subsidiaries, Pinelands Water Company (Pinelands Water) and Pinelands Wastewater Company (Pinelands Wastewater) (collectively, Pinelands) provide water and wastewater services to approximately 2,500 customers in Southampton Township, New Jersey.

Our Delaware subsidiaries, Tidewater and Southern Shores Water Company, LLC, provide water services to approximately 59,000 retail customers in New Castle, Kent and Sussex Counties, Delaware. Tidewater's subsidiary, White Marsh, services approximately 4,500 customers in Kent and Sussex Counties through various operations and maintenance contracts.

USA-PA operates the water and wastewater systems for the City of Perth Amboy, New Jersey (Perth Amboy) under a 10-year operations and maintenance contract expiring in 2028. In addition to performing day-to-day operations, USA-PA is also responsible for emergency response and management of capital projects funded by Perth Amboy.

USA operates the Borough of Avalon, New Jersey's (Avalon) water utility, sewer utility and storm water system under a ten-year operations and maintenance contract expiring in 2032. USA also operates the Borough of Highland Park, New Jersey's (Highland Park) water and wastewater systems under a 10-year operations and maintenance contract expiring in 2030. In addition to performing day-to-day service operations, USA is responsible for emergency response and management of capital projects funded by Avalon and Highland Park.

Under a marketing agreement with HomeServe USA Corp. (HomeServe) expiring in 2031, USA offers residential customers in New Jersey and Delaware water and wastewater related services and home maintenance programs. HomeServe is a leading national provider of such home maintenance service programs. USA receives a service fee for the billing, cash collection and other administrative matters associated with HomeServe's service contracts. USA also provides unregulated water and wastewater services under contract with several New Jersey municipalities.

## **Recent Developments**

**Middlesex Base Water Rate Increase Request** - In May 2023, Middlesex filed a petition with the New Jersey Board of Public Utilities (NJBPU) seeking permission to increase annual base water revenues by approximately \$34 million. The request was necessitated predominantly by capital infrastructure investments Middlesex has made, or has committed to make, to ensure proper maintenance, development and improvement of its utility assets to support continued regulatory compliance and overall quality of service. We cannot predict when and whether the NJBPU will ultimately approve, deny, or reduce the amount of the request. Under New Jersey statute, the NJBPU must render a decision within nine months of filing a base rate change petition.

**Middlesex President and Chief Executive Officer Retirement Announcement** – In May 2023, President and Chief Executive Officer (CEO), Dennis W. Doll announced a plan to retire upon turning age 65. Mr. Doll's retirement is planned for the later of December 31, 2023 or, the date when a successor is duly named and effectively transitioned into the position. Mr. Doll will remain Chairman of the Middlesex Board of Directors (Board) through the expiration of his current term in May 2024. A search for Mr. Doll's successor is being led by the Compensation Committee of the Board in collaboration with a nationally-recognized executive search firm.

**Pinelands' Base Rate Increases Approved** - On April 12, 2023, Pinelands Water and Pinelands Wastewater concluded their base rate case matters when the NJBPU approved a combined \$1.0 million increase in annual base rates, effective April 15, 2023. The requests were necessitated by capital infrastructure investments the companies have made as well as increased operations and maintenance costs.

## **Financings**

**Middlesex** - In April 2023, Middlesex received approval from the NJBPU to issue and sell up to 1.0 million shares of its common stock, without par value, through December 31, 2025. Additionally, in April 2023, Middlesex received approval from the NJBPU to borrow up to \$300.0 million from the New Jersey State Revolving Fund (SRF) Program, the New Jersey Economic Development Authority, private placement and other financial institutions as needed through December 31, 2025. The Company expects to issue equity and debt securities in a series of transaction offerings over a multi-year period to help fund Middlesex's multi-year capital construction program.

In March 2023, Middlesex closed on a \$40.0 million, 5.24% private placement of First Mortgage Bonds (FMBs) with a 2043 maturity date designated as Series 2023A. Proceeds were used to reduce the Company's outstanding balances under its bank lines of credit.

In May 2023, Middlesex received approval from the NJBPU to increase the number of authorized shares under the Middlesex Water Company Investment Plan (the Investment Plan) by 0.7 million shares.

**Tidewater** - In April 2023, Tidewater closed on three Delaware Public Service Commission (DEPSC)-approved SRF loans totaling \$10.2 million, all at interest rates of 2.0% with maturity dates in 2043 and 2044. These loans are for the construction, relocation, improvement, and/or interconnection of transmission mains. Tidewater has drawn a total of \$1.5 million through September 30, 2023 and expects that the requisitions will continue through mid-2025.

In May 2023, Tidewater closed on a \$20.0 million loan from CoBank, ACB (CoBank) with an interest rate of 5.71% and a 2033 maturity date. Proceeds from the loan were used to pay off Tidewater's outstanding balances under its bank lines of credit and for other general corporate purposes.

**Pinelands** - In July 2023, Pinelands Water and Pinelands Wastewater closed on \$3.9 million and \$3.6 million CoBank amortizing mortgage type loans, respectively, with an interest rate of 6.17% and a final maturity date of 2043 for each loan. Proceeds from the loans were used to pay off outstanding intercompany loans with Middlesex and for ongoing capital projects.

**Capital Construction Program** - The Company's multi-year capital construction program encompasses numerous projects designed to upgrade and replace utility infrastructure as well as enhance the integrity and reliability of assets to maintain and improve service for the current and future generations of water and wastewater customers. The Company plans to invest approximately \$23 million in the last quarter of 2023 in connection with projects that include, but are not limited to:

- Completion of construction of a facility to provide an enhanced treatment process at the Company's largest wellfield located in South Plainfield, New Jersey to comply with new state water quality regulations related to perfluoroalkyl substances (PFAS), and integrate surge protection to mitigate spikes in water pressures along with enhancements to corrosion control and chlorination processes;
- Replacement of approximately 24,000 linear feet of cast iron 6" water main in the Borough of Carteret and the Port Reading section of Woodbridge, New Jersey;
- Replacement of Company and customer owned lead and galvanized steel service lines;
- Interconnecting Tidewater's Angola and Meadows Districts which will provide redundant capacity and storage for both districts; and
- Various water main replacements and improvements.

The actual amount and timing of capital expenditures is dependent on project scheduling and refinement of engineering estimates for certain capital projects.

**Regulatory Notice of Non-Compliance** – In September 2021, the New Jersey Department of Environmental Protection (NJDEP) issued a Notice of Non-Compliance (Notice) to Middlesex based on self-reporting by Middlesex that the level of Perfluorooctanoic Acid (PFOA) in water treated at its Park Avenue Wellfield Treatment Plant in South Plainfield, New Jersey exceeded a standard promulgated in a NJDEP regulation that became effective in 2021. Middlesex was required by the regulation to notify its affected customers and complied within the required Notice period in November 2021.

The Notice further required the Company to take any action necessary to comply with the new standard by September 7, 2022. Consequently, in November 2021, the Company implemented an interim solution to meet the Notice requirements, which included putting the Park Avenue Wellfield Treatment Plant in off-line status and obtaining alternate sources of supply. In June 2022, the Company accelerated the in-service date for a portion of the enhanced treatment project based on engineering analysis that allowed a restart of the Park Avenue Wellfield Treatment Plant to ensure continued compliance with all state and federal drinking water standards.

On September 13, 2022, the Company entered into an Administrative Consent Order (ACO) with the NJDEP, which required the Company to take whatever actions necessary to achieve and maintain compliance with applicable regulations. As prescribed in the ACO, the Company was to issue periodic public notifications until the ACO was closed.

In June 2023, the Company completed the permanent construction of the entire Park Avenue Wellfield treatment upgrades and placed the upgrades into operation in full compliance with the NJDEP PFOA standards. The Company received confirmation from the NJDEP that it has complied with all requirements of the ACO and consequently, the ACO has been closed.

The Company had previously initiated a lawsuit against 3M Company (3M), seeking to hold 3M accountable for the Company's claim that 3M introduced perfluoroalkyl substances (commonly known as "PFAS"), which include PFOA, into the Company's water supply at its Park Avenue Wellfield facility.

On August 29, 2023, Middlesex and 3M executed a settlement agreement (the Settlement Agreement) to resolve Middlesex's lawsuit against 3M. The Settlement Agreement provides that:

- 3M will pay Middlesex \$93.2 million in two installments, one payment of \$23.3 million in December 2023 (\$23.3 million) and one payment of \$69.9 million in July 2024. Middlesex is obligated to pay 30% of the proceeds received to its lawyers as legal fees, or \$27.9 million in total;
- Middlesex anticipates its receipt of the Settlement Proceeds will have the effect of mitigating future increases in customer rates, the determination of which are based, in part, on Middlesex's investments in utility infrastructure. For additional details, see "Item 1. Business – Regulation - Regulation of Rates and Services" in Middlesex's 2022 Form 10-K;
- Middlesex, by nature of its status as a U.S. water purveyor impacted by PFAS, was automatically included in a Multi-District Litigation Settlement before the United States District Court for the District of South Carolina in which 3M and other companies (Non-3M Companies) are participants. Middlesex agreed as part of this settlement to remain a member of the plaintiff class in order to be eligible to obtain future additional compensation from 3M and the Non-3M Companies for the remediation of its water treatment facilities; and
- Middlesex and 3M agreed to enter into a joint mediation, scheduled for November 2023, to resolve two PFOA-related class action lawsuits against Middlesex seeking restitution for medical, water replacement and other claimed related costs. Both Middlesex and 3M are defendants in these lawsuits. These lawsuits remain in the early stages of the legal process and their ultimate resolution cannot be predicted at this time.

It is the Company's intent that any financial benefit which may result from the Settlement Agreement, net of any litigation costs to Middlesex, will ultimately inure to the benefit of the Middlesex customers in the form of mitigating future customer rate increases. As such, the anticipated net Settlement Agreement proceeds of \$65.2 million have been recorded as a Regulatory Liability in the Company's September 30, 2023 Consolidated Balance Sheet.

## **Outlook**

Our ability to increase operating income and net income is based significantly on four factors: weather, adequate and timely rate relief, effective cost management and customer growth. These factors are discussed in the Results of Operations section below. Unfavorable weather patterns may occur at any time, which can result in lower customer demand for water.

Our investments in system infrastructure continue to grow significantly and our operating costs continue to increase in 2023 in a variety of categories. These factors led Middlesex to file for a base rate increase in May 2023. Tidewater has not yet determined the need to file for a base rate increase but continues to monitor its requirements for a rate filing in 2023.

Overall, organic residential customer growth continues in our Tidewater system but is impacted by the current and evolving macroeconomic market conditions relative to residential housing. Builders and developers in our Delaware service territory are experiencing longer home sales closing cycles due to supply chain constraints, which may be further affected by inflationary trends and the federal government's ongoing efforts to mitigate inflation through increases in interest rates.

The Company has projected to spend approximately \$277 million for the 2023-2025 capital investment program, including approximately \$18 million for PFAS-related treatment upgrades, \$9 million for Lead and Copper Rule compliance in the Middlesex System, \$34 million on the RENEW Program, which is our ongoing initiative to replace water mains in the Middlesex System and \$4 million for construction of elevated storage tanks in our Tidewater and Middlesex Systems.



Our strategy for profitable growth is focused on the following key areas:

- Invest in projects, products and services that complement our core water and wastewater competencies;
- Timely and adequate recovery of infrastructure investments and other costs to maintain service quality;
- Prudent acquisitions of investor and municipally-owned water and wastewater utilities; and
- Operation of municipal and industrial water and wastewater systems on a contract basis which meet our risk profile.

The calendar year 2023 is a period of significant transition for the Company based on the items noted above and elsewhere in this document, including the transition of the CEO and other elements of the Company's succession plan, various rate case and other regulatory proceedings and various construction and financing initiatives. The timing and extent of these matters, both individually and collectively, may impact financial results in 2023. No such items however, are expected to have a material adverse effect on revenues or earnings.

### Operating Results by Segment

The discussion of the Company's operating results is on a consolidated basis and includes significant factors by subsidiary. The Company has two operating segments, Regulated and Non-Regulated. The operations of the Regulated segment are subject to regulations promulgated by state public utility commissions as to rates and level of service. Rates and level of service in the Non-Regulated segment are subject to the terms of individually-negotiated and executed contracts with municipal, industrial and other clients. Both segments are subject to federal and state environmental, water and wastewater quality and other associated legal and regulatory requirements.

The segments in the tables included below consist of the following companies: Regulated-Middlesex, Tidewater, Pinelands and Southern Shores; Non-Regulated-USA, USA-PA, and White Marsh.

### Results of Operations – Three Months Ended September 30, 2023

	(In Thousands)					
	2023			2022		
	Regulated	Non-Regulated	Total	Regulated	Non-Regulated	Total
Revenues	\$ 43,578	\$ 3,137	\$ 46,715	\$ 44,411	\$ 3,321	\$ 47,732
Operations and maintenance expenses	20,376	2,205	22,581	17,935	2,377	20,312
Depreciation expense	6,311	65	6,376	5,754	60	5,814
Other taxes	4,883	53	4,936	4,972	59	5,031
<b>Operating income</b>	<b>\$ 12,008</b>	<b>\$ 814</b>	<b>\$ 12,822</b>	<b>\$ 15,750</b>	<b>\$ 825</b>	<b>\$ 16,575</b>
Other income, net	1,354	78	1,432	1,967	72	2,039
Interest expense	3,518	—	3,518	2,355	—	2,355
Income taxes	460	286	746	1,679	289	1,968
<b>Net income</b>	<b>\$ 9,384</b>	<b>\$ 606</b>	<b>\$ 9,990</b>	<b>\$ 13,683</b>	<b>\$ 608</b>	<b>\$ 14,291</b>

### Operating Revenues

Operating revenues for the three months ended September 30, 2023 decreased \$1.0 million from the same period in 2022 due to the following factors:

- Middlesex System revenues decreased \$0.2 million due to lower customer demand offset somewhat by the implementation of the final phase of the 2021 base rate case increase on January 1, 2023;

- Tidewater System revenues decreased \$0.7 million due to lower customer demand and lower revenue from a 2022 DEPSC-ordered rate reduction partially offset by an increase in customers; and
- All other revenue categories decreased \$0.1 million.

#### *Operation and Maintenance Expense*

Operation and maintenance expenses for the three months ended September 30, 2023 increased \$2.3 million from the same period in 2022 due to the following factors:

- Higher purchased water costs and water treatment costs in our Middlesex system resulted in increased production costs of \$1.4 million;
- Outside service costs rose by \$0.4 million primarily due to production instrumentation calibration activities; and
- All other operation and maintenance expense categories increased \$0.5 million.

#### *Depreciation*

Depreciation expense for the three months ended September 30, 2023 increased \$0.6 million from the same period in 2022 due to a higher level of utility plant in service.

#### *Other Taxes*

Other taxes for the three months ended September 30, 2023 decreased \$0.1 million from the same period in 2022 primarily due to lower revenue related taxes on decreased revenues in our Middlesex System.

#### *Other Income, net*

Other Income, net for the three months ended September 30, 2023 decreased \$0.6 million from the same period in 2022 due primarily to lower actuarially-determined retirement benefit plans non-service benefit and lower Allowance for Funds Used During Construction (AFUDC) resulting from a lower level of capital projects in progress.

#### *Interest Charges*

Interest charges for the three months ended September 30, 2023 increased \$1.2 million from the same period in 2022 due to higher average debt outstanding and an increase in average borrowing rates.

#### *Income Taxes*

Income taxes for the three months ended September 30, 2023 decreased by \$1.2 million from the same period in 2022, primarily due to greater income tax benefits associated with increased repair expenditures on tangible property in the Middlesex System and lower pre-tax income.

#### *Net Income and Earnings Per Share*

Net income for the three months ended September 30, 2023 decreased \$4.3 million as compared with the same period in 2022. Basic earnings per share were \$0.56 and \$0.81 for the three months ended September 30, 2023 and 2022, respectively. Diluted earnings per share were \$0.56 and \$0.80 for the three months ended September 30, 2023 and 2022, respectively.

## Results of Operations – Nine Months Ended September 30, 2023

(In Thousands)  
Nine Months Ended September 30,

	2023			2022		
	Regulated	Non-Regulated	Total	Regulated	Non-Regulated	Total
Revenues	\$ 118,363	\$ 9,309	\$ 127,672	\$ 114,625	\$ 8,986	\$ 123,611
Operations and maintenance expenses	57,548	6,494	64,042	52,780	6,227	59,007
Depreciation expense	18,350	196	18,546	16,925	182	17,107
Other taxes	13,922	182	14,104	13,359	184	13,543
Gain on Sale of Subsidiary	—	—	—	5,232	—	5,232
<b>Operating income</b>	<b>28,543</b>	<b>2,437</b>	<b>30,980</b>	<b>36,793</b>	<b>2,393</b>	<b>39,186</b>
Other income, net	5,126	160	5,286	5,531	207	5,738
Interest expense (benefit)	9,364	—	9,364	6,575	(1)	6,574
Income taxes	288	855	1,143	2,253	839	3,092
<b>Net income</b>	<b>\$ 24,017</b>	<b>\$ 1,742</b>	<b>\$ 25,759</b>	<b>\$ 33,496</b>	<b>\$ 1,762</b>	<b>\$ 35,258</b>

### Operating Revenues

Operating revenues for the nine months ended September 30, 2023 increased \$4.1 million from the same period in 2022 due to the following factors:

- Middlesex System revenues increased \$4.9 million due to the implementation of the final phase of the 2021 base rate case increase on January 1, 2023 offset somewhat by lower customer demand;
- Tidewater System revenues decreased \$1.2 million due to lower new connection fees and lower revenue from a 2022 DEPSC-ordered rate reduction partially offset by an increase in customers; and
- Non-regulated revenues increased \$0.3 million due to higher supplemental contract services; and
- Pinelands revenue increased \$0.1 million due to the implementation of a base rate increase effective April 15, 2023.

### Operation and Maintenance Expense

Operation and maintenance expenses for the nine months ended September 30, 2023 increased \$5.0 million from the same period in 2022 due to the following factors:

- Higher purchased water costs and water treatment costs in our Middlesex system resulted in increased production costs of \$3.4 million;
- Labor costs also increased by \$0.7 million due to wage increases;
- Outside service costs rose by \$0.7 million primarily due to production instrumentation calibration activities;
- Business insurance costs increased \$0.4 million due to higher policy premiums;
- Lower weather-related main break activity in our Middlesex system during the winter months resulted in \$0.8 million of decreased non-labor costs;
- Non-regulated operation and maintenance expense increased \$0.3 million due to higher supplemental contract services; and
- All other operation and maintenance expense categories increased \$0.3 million.

### Depreciation

Depreciation expense for the nine months ended September 30, 2023 increased \$1.4 million from the same period in 2022 due to a higher level of utility plant in service.

### *Other Taxes*

Other taxes for the nine months ended September 30, 2023 increased \$0.6 million from the same period in 2022 primarily due to higher revenue related taxes on increased revenues in our Middlesex System.

### *Gain on Sale of Subsidiary*

Middlesex recognized a \$5.2 million gain on the sale of its regulated Delaware wastewater subsidiary in January 2022.

### *Other Income, net*

Other Income, net for the nine months ended September 30, 2023 decreased \$0.5 million from the same period in 2022 primarily due to lower actuarially-determined retirement benefit plans non-service benefit partially offset by higher AFUDC resulting from a lower level of capital projects in progress.

### *Interest Charges*

Interest charges for the nine months ended September 30, 2023 increased \$2.8 million from the same period in 2022 due to higher average debt outstanding and an increase in average borrowing rates.

### *Income Taxes*

Income taxes for the nine months ended September 30, 2023 decreased by \$1.9 million from the same period in 2022, primarily due to greater income tax benefits associated with increased repair expenditures on tangible property in the Middlesex System and lower pretax income due to gain on the sale of a subsidiary in 2022.

### *Net Income and Earnings Per Share*

Net income for the nine months ended September 30, 2023 decreased \$9.5 million as compared with the same period in 2022. Basic earnings per share were \$1.45 and \$2.00 for the nine months ended September 30, 2023 and 2022, respectively. Diluted earnings per share were \$1.44 and \$1.99 for the nine months ended September 30, 2023 and 2022, respectively.

## **Liquidity and Capital Resources**

### *Operating Cash Flows*

Cash flows from operations are largely based on four factors: weather, adequate and timely rate increases, effective cost management and customer growth. The effect of those factors on net income is discussed in "Results of Operations."

For the nine months ended September 30, 2023, cash flows from operating activities decreased \$4.3 million to \$40.0 million. The decrease in cash flows from operating activities primarily resulted from lower net income and higher interest and tax payments.

### *Investing Cash Flows*

For the nine months ended September 30, 2023, cash flows used in investing activities increased \$10.3 million to \$73.1 million due to increased utility plant expenditures in 2023 and cash received in January 2022 from the sale of Middlesex's regulated wastewater subsidiary.

For further discussion on the Company's future capital expenditures and expected funding sources, see "Capital Expenditures and Commitments" below.

## *Financing Cash Flows*

For the nine months ended September 30, 2023, cash flows from financing activities increased \$14.3 million to \$32.2 million. The increase in cash flows provided by financing activities is due to an increase in net borrowings partially offset by increased common stock dividend payments and lower proceeds from the issuance of common stock under the Investment Plan.

## *Capital Expenditures and Commitments*

To fund our capital program, we use internally generated funds, short-term and long-term debt borrowings, proceeds from sales of common stock under the Investment Plan and proceeds from sales offerings to the public of our common stock. See below for a more detailed discussion regarding the funding of our capital program.

The capital investment program for 2023 is currently estimated to be approximately \$96 million. Through September 30, 2023, we have expended \$73.1 million and expect to incur approximately \$23 million for capital projects for the remainder of 2023.

We currently project that we may expend approximately \$181 million for capital projects in 2024 and 2025. The actual amount and timing of capital expenditures is dependent on the need for replacement of existing infrastructure, customer growth, residential new home construction and sales, project scheduling and continued refinement of project scope and costs.

To pay for our capital program for the remainder of 2023, we plan on utilizing some or all of the following:

- Internally generated funds;
- Short-term borrowings, as needed, through \$140 million of bank lines of credit established with multiple financial institutions. As of September 30, 2023, there was \$97.8 million of available credit under these lines (for further discussion on Company lines of credit, see *Note 6 – Short Term Borrowings*);
- Proceeds from long-term borrowing arrangements, including loans from private placement, CoBank and the Delaware SRF Program, which provides cost-effective financing for projects that meet certain water quality-related and/or system improvement criteria (for further discussion on long-term borrowings, see *Recent Developments – Financings above*); and
- Proceeds from sales of common stock under the Investment Plan.

In March 2023, the Company began offering shares of its common stock for purchase at a 3% discount to participants in the Investment Plan. The discount offering will continue until 200,000 shares are purchased at the discounted price or December 1, 2023, whichever event occurs first.

In April 2023, Middlesex received approval from the NJBPU to borrow up to \$300.0 million from the New Jersey SRF Program, the New Jersey Economic Development Authority, private placement and other financial institutions as needed through December 31, 2025. The Company expects to issue debt securities in a series of one or more transaction offerings over a multi-year period to help fund Middlesex's multi-year capital construction program.

In May 2023, Middlesex received approval from the NJBPU to increase the number of authorized shares under the Investment Plan by 0.7 million shares.

In order to fully fund the ongoing investment program in our utility plant infrastructure and maintain a balanced capital structure consistent with regulators' expectations for a regulated water utility, Middlesex may offer for sale additional shares of its common stock. The amount, the timing and the sales method of the common stock is dependent on the timing of the construction expenditures, the level of additional debt financing and financial market conditions. As approved by the NJBPU, the Company is authorized to issue and sell up to 1.0 million shares of its common stock in one or more transactions through December 31, 2025.

**Recent Accounting Pronouncements** – See Note 1 of the Notes to Unaudited Condensed Consolidated Financial Statements for a discussion of recent accounting pronouncements and guidance.

### **Item 3. Quantitative and Qualitative Disclosures of Market Risk**

We are exposed to market risk associated with changes in interest rates and commodity prices. The Company is subject to the risk of fluctuating interest rates in the normal course of business. Our policy is to manage interest rates through the use of fixed rate long-term debt and, to a lesser extent, short-term debt. The Company's interest rate risk related to existing fixed rate, long-term debt is not material due to the term of the majority of our First Mortgage Bonds, which have final maturity dates ranging from 2023 to 2059. Over the next twelve months, approximately \$7.4 million of the current portion of existing long-term debt instruments will mature. Applying a hypothetical change in the rate of interest charged by 10% on those borrowings, would not have a material effect on our earnings.

Our risks associated with price increases for chemicals, electricity and other commodities are reduced through contractual arrangements and the ability to recover price increases through rates charged to the Company's regulated utility customers. Non-performance by these commodity suppliers could have a material adverse impact on our results of operations, financial position and cash flows.

We are exposed to credit risk for both our Regulated and Non-Regulated business segments. Our Regulated operations serve residential, commercial, industrial and municipal customers while our Non-Regulated operations engage in business activities with developers, government entities and other customers. Our primary credit risk is exposure to customer default on contractual obligations and the associated loss that may be incurred due to the non-payment of customer accounts receivable balances. Our credit risk is managed through established credit and collection policies which are in compliance with applicable regulatory requirements and involve monitoring of customer exposure and the use of credit risk mitigation measures such as letters of credit or prepayment arrangements. Our credit portfolio is diversified with no significant customer or industry concentrations. In addition, our Regulated businesses are generally able to recover all prudently incurred costs including uncollectible customer accounts receivable expenses and collection costs through customers' rates.

The Company's retirement benefit plan assets are subject to fluctuating market prices of debt and equity securities. Changes to the Company's retirement benefit plan asset values can impact the Company's retirement benefit plan expense, funded status and future minimum funding requirements. Risk is mitigated by our ability to recover retirement benefit plan costs through rates for regulated utility services charged to our customers.

#### **Item 4. Controls and Procedures**

##### *Disclosure Controls and Procedures*

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in Company reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in Company reports filed under the Exchange Act is accumulated and communicated to management, including the Company's Chief Executive Officer and Chief Financial Officer as appropriate, to allow timely decisions regarding disclosure.

As required by Rule 13a-15 under the Exchange Act, an evaluation of the effectiveness of the design and operation of the Company's disclosure controls and procedures was conducted by the Company's Chief Executive Officer along with the Company's Chief Financial Officer for the quarter ended September 30, 2023. Based upon that evaluation, the Company's Chief Executive Officer and the Company's Chief Financial Officer concluded that no changes in internal control over financial reporting occurred during the quarter ended September 30, 2023 that has materially affected, or are reasonably likely to materially affect, internal control over financial reporting and that our disclosure controls and procedures were not effective as of September 30, 2023 due to the material weakness described below. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis.

In 2023, the Company's independent registered public accounting firm, Baker Tilly US, LLP (Baker Tilly), conducted a routine internal quality review of its integrated audit of the Company's 2022 consolidated financial statements and internal control over financial reporting as of December 31, 2022. As a result of this review, Baker Tilly re-examined the Company's information technology general controls (ITGCs) in the areas of user access and change management over certain information technology (IT) systems that support the Company's financial reporting processes. Certain of those controls were found to be deficient because of a lack of sufficient IT control processes designed to prevent or detect unauthorized changes in applications and data in selected IT environments. It has therefore been concluded that automated and manual process controls dependent on ITGCs were not effective. These ineffective controls create a possibility that material misstatements in financial reporting processes and financial statement accounts in our consolidated financial statements will not be prevented or detected on a timely basis and, therefore, based on the assessment, management has concluded that they represent a material weakness in our internal control over financial reporting and that the Company's internal control over financial reporting was not effective as of September 30, 2023.

Notwithstanding the newly identified material weakness referred to above, Management, including our Principal Executive Officer and Principal Financial Officer, believe that the financial statements contained in this Quarterly Report on Form 10-Q for the quarter ended September 30, 2023 fairly present, in all material respects, the financial condition, results of operations and cash flows of the Company for all periods presented in accordance with accounting principles generally accepted in the United States of America.

We are committed to remediating the material weakness in a timely manner. Our remediation process includes, but is not limited to, enhancements to our ITGCs and automated auditing features of our IT systems as well increased monitoring of IT system changes made through certain user accounts.

While the Audit Committee of our Board of Directors and Company Management will closely monitor the remediation efforts, until the remediation efforts discussed in this section, including any additional remediation efforts that our Management identifies as necessary, are complete, tested and determined effective, we will not be able to conclude that the material weakness has been remediated.

## PART II. OTHER INFORMATION

### Item 1. Legal Proceedings

The following information updates and amends the information provided in the Company's Annual Report on Form 10-K for the year ended December 31, 2022 in Part I, Item 3—Legal Proceedings. Capitalized terms used but not otherwise defined herein have the meanings set forth in the Company's Form 10-K.

### PFOA Regulatory Notice of Non-Compliance

*Vera et al. v. Middlesex Water Company* – On March 21, 2023, the United States District Court for the District of New Jersey issued an order remanding the case back to the Superior Court of New Jersey. Discovery is underway in this matter. On August 29, 2023 the Company executed a settlement agreement with 3M Company to resolve a lawsuit related to perfluoroalkyl substances. For additional information see “Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations – Regulatory Notice of Non-Compliance.”

### Item 1A. Risk Factors

The information about risk factors does not differ materially from those set forth in Part I, Item 1A. of the Company's Annual Report on Form 10-K/A for the year ended December 31, 2022 (filed November 8, 2023).

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

### Item 3. Defaults Upon Senior Securities

None.

### Item 4. Mine Safety Disclosures

Not applicable.

### Item 5. Other Information

(a) None.

(b) None.

(c) *Insider Trading Arrangements and Policies* - During the three months ended September 30, 2023, no director or officer of the Company adopted or terminated a “Rule 10b5-1 trading arrangement” or “non-Rule 10b5-1 trading arrangement,” as each term is defined in Item 408(a) of Regulation S-K.



**Item 6. Exhibits**

- 10.17(c) [Promissory Note and Supplement, dated May 11, 2023, between Tidewater Utilities, Inc. and CoBank, ACB; Amendments to Combination Water Utility Real Estate Mortgage and Security Agreement, effective May 11, 2023, between Tidewater Utilities, Inc. and CoBank, ACB.](#)
- 10.17(d) [Sixth Amendment to Promissory Note and Supplement, dated as of May 11, 2023, between Tidewater Utilities, Inc. and CoBank, ACB.](#)
- 10.53 [Multiple Advance Term Promissory Note, dated May 22, 2023, between Pinelands Water Company and CoBank, ACB.](#)
- 10.54 [Multiple Advance Term Promissory Note, dated May 22, 2023, between Pinelands Wastewater Company and CoBank, ACB.](#)
- 10.55\* [Settlement Agreement, dated as of August 28, 2023 between Middlesex Water Company and 3M Company.](#)
- 31.1 [Section 302 Certification by Dennis W. Doll pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934.](#)
- 31.2 [Section 302 Certification by A. Bruce O'Connor pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934.](#)
- 32.1 [Section 906 Certification by Dennis W. Doll pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 32.2 [Section 906 Certification by A. Bruce O'Connor pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 101.INS XBRL Instance Document
- 101.SCH XBRL Schema Document
- 101.CAL XBRL Calculation Linkbase Document
- 101.LAB XBRL Labels Linkbase Document
- 101.PRE XBRL Presentation Linkbase Document
- 101.DEF XBRL Definition Linkbase Document
- 104 Cover Page Interactive Data File – the cover page interactive data file does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document

\* Certain portions of this exhibit that constitute confidential information have been omitted in accordance with Regulation S-K, Item 601(b)(10)(iv) because it is both (i) not material and (ii) is the type of information the Company treats as private and confidential.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

MIDDLESEX WATER COMPANY

By: /s/A. Bruce O'Connor  
A. Bruce O'Connor  
Senior Vice President, Treasurer and  
Chief Financial Officer  
(Principal Financial Officer)

Date: November 9, 2023

**PROMISSORY NOTE AND SUPPLEMENT**  
(Multiple Advance Term Loan)

**THIS PROMISSORY NOTE AND SUPPLEMENT** (this "Promissory Note and Supplement") is entered into as of May 11, 2023 between **TIDEWATER UTILITIES, INC.**, a Delaware corporation (the "Company"), and **CoBANK, ACB**, a federally chartered instrumentality of the United States ("CoBank"), and supplements that certain Master Loan Agreement dated as of May 23, 2003, as amended by the Amendment dated as of September 28, 2004, the Second Amendment to Master Loan Agreement dated as of August 22, 2005 and the Third Amendment to Master Loan Agreement dated as December 1, 2015 (as further amended or restated from time to time, the "MLA"). Capitalized terms used herein and not defined herein shall have the meanings given to those terms in the MLA.

**SECTION 1. The Commitment.** On the terms and conditions set forth in the MLA and this Promissory Note and Supplement, CoBank agrees to make loans (each, a "Loan") to the Company from time to time during the period set forth below in an aggregate principal amount not to exceed \$20,000,000 (the "Commitment"). Under the Commitment, amounts borrowed and later repaid may not be reborrowed.

**SECTION 2. Purpose.** The purpose of the Commitment is to: (A) refinance the outstanding principal balance of the loans made by CoBank to the Company from time to time under that certain Promissory Note and Supplement (Revolving Term Loan Supplement) dated as of March 19, 2009 and number RX0024T6, as amended by a First Amendment to Promissory Note and Supplement dated as of August 31, 2011, a Second Amendment to Promissory Note and Supplement dated as of October 15, 2014, a Third Amendment to Promissory Note and Supplement dated as of March 7, 2017, a Fourth Amendment to Promissory Note and Supplement dated as of August 19, 2020, an Omnibus Amendment to Promissory Notes and Supplements dated as of December 6, 2022 and a Sixth Amendment to Promissory Note and Supplement dated as of the date hereof (the "Revolving Term Loan"); (B) refinance debt of the Company to Middlesex Water Company ("Middlesex Water") that was incurred to finance capital expenditures; and (C) finance additional capital expenditures.

**SECTION 3. Term of Commitment.** The term of the Commitment shall be from the date hereof up to and including December 20, 2023, or such later date as CoBank may, in its sole discretion, authorize in writing.

**SECTION 4. Availability.** Notwithstanding Section 2 of the MLA: (A) Loans will be made available upon written request in form and content prescribed by CoBank (the "Request for Loan"); (B) Loans to be made for the purpose of refinancing the Revolving Term Loan will be made by CoBank retaining the proceeds of the Loans and applying them against the unpaid principal balance of the Revolving Term Loan; and (C) Loans to be made for the purpose of refinancing the Company's existing indebtedness owed to Middlesex Water will be made by wire transfer of immediately available funds directly to Middlesex Water.

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## SECTION 5. Interest.

(A) **Rate Options.** The Company agrees to pay interest on the unpaid balance of the Loans in accordance with one or more of the following interest rate options, as selected by the Company:

(1) **Weekly Variable Rate Option.** At a rate per annum equal to the rate of interest established by CoBank for the Company in CoBank's sole and absolute discretion on the first Business Day of each week (the "Variable Rate Option"). The rate of interest so established by CoBank shall be effective from and including the first Business Day of each week to and excluding the first Business Day of the next week. Each change in the rate shall be applicable to all balances subject to this option, without the necessity of notice provided to the Company, and information about the Company's then current rate shall be made available upon telephonic request.

(2) **Quoted Rate Option.** At a fixed rate per annum to be quoted by CoBank in its sole discretion in each instance (the "Quoted Fixed Rate Option"). Under this option, rates may be fixed on such balances and for such periods (each, a "Quoted Fixed Rate Period") as may be agreeable to CoBank in its sole discretion in each instance, provided that: (a) rates may not be fixed for Quoted Fixed Rate Periods of less than one year; (b) rates may only be fixed on balances of not less than \$100,000.00; and (c) the maximum number of balances that may be subject to this option at any one time shall be five (5).

(B) **Elections.** Subject to the limitations set forth above, the Company: (1) shall select the applicable rate option(s) at the time it requests a Loan; (2) may, on any Business Day, elect to convert balances bearing interest at the Variable Rate Option to the Quoted Fixed Rate Option; and (3) may, on the last day of any Quoted Fixed Rate Period, elect to refix the rate under the Quoted Fixed Rate Option or convert the balance to the Variable Rate Option. In the absence of an election provided for herein, the Company shall be deemed to have elected the Variable Rate Option. All elections provided for herein may be made telephonically, in writing, or, if agreed to in a separate agreement, electronically, and must be received by 12:00 noon Company's local time on the applicable day. Any election made telephonically, shall be promptly confirmed in writing if so requested by CoBank. Notwithstanding the foregoing, while a Default or Event of Default exists the Company may not fix rates under the Quoted Fixed Rate Option.

(C) **Calculation and Payment.** Interest shall be calculated on the actual number of days the Loans are outstanding on the basis of a year consisting of 360 days. In calculating interest, the date each Loan is made shall be included and the date each Loan is repaid shall, if received before 3:00 P.M. Mountain time, be excluded. Interest shall be: (1) calculated monthly in arrears as of the last day of each calendar month and on the final maturity date of the Loans; and (2) due and payable on the 20<sup>th</sup> day of the following calendar month and on the final maturity date of the Loans.

**SECTION 6. Commitment Fee.** The Company agrees to pay to CoBank a commitment fee on the average daily unused portion of the Commitment at the rate of 0.15% per annum (calculated on an actual/360 day basis). Fees shall be: (A) calculated monthly in arrears as of the last day of each calendar month and on the date the Commitment expires or is terminated; and (B)

shall be due and payable on the 20<sup>th</sup> day of the following calendar month and on the date the Commitment expires or is terminated. Such fee shall be payable for each calendar month (or portion thereof) occurring during the original or any extended term of the Commitment.

**SECTION 7. Promissory Note.** The Company promises to repay the Loans to CoBank or order on March 20, 2033. In addition to the above, the Company promises to pay to CoBank or order interest on the unpaid principal balance of the Loans at the times and in accordance with the provisions set forth above. If any date on which principal or interest is due is not a Business Day, then such payment shall be due and payable on the next Business Day and, in the case of principal, interest shall continue to accrue on the amount thereof.

**SECTION 8. Prepayment.** Subject to Section 10.01 of the MLA, the Company may, on three Business Days' prior written notice, prepay all or any portion of the Loans. Unless otherwise agreed, all prepayments will be applied to such balances, fixed or variable, as CoBank shall specify.

**SECTION 9. Security.** The Company's obligations hereunder and, to the extent related hereto, the MLA, shall be secured as provided in Section 2.04 of the MLA.

**SECTION 10. Conditions Precedent.** In addition to the conditions precedent set forth in the MLA, CoBank's obligation to make:

(A) **Initial Loan.** The initial Loan to the Company hereunder is subject to the conditions precedent that CoBank shall have received each of the following (which in the case of instruments or documents, must be originals, duly executed, and in form and content acceptable to CoBank): (A) an amendment to the Mortgage (the "Mortgage Amendment"); (B) such evidence as CoBank shall require that the Mortgage Amendment has been recorded in all places where the Mortgage has been recorded; and (C) a lien search conducted in the office of the Delaware Secretary of State showing that there are no Liens on any property of the Company other than Liens in favor of CoBank and Liens permitted under Section 6.01 of the MLA.

(B) **Each Loan.** Each Loan to the Company (including the initial Loan) is subject to the condition precedent that CoBank receive a duly completed and executed Request for Loan.

**SECTION 11. Representations and Warranties.** In addition to the representations and warranties set forth in the MLA, the Company represents and warrants to CoBank that Appendix B to the Mortgage (as amended) sets forth all real property and interests in real property of the Company as of the date hereof, including without limitation, all real property on or under which the Company has a well, water treatment plant, or water storage facility.

**SECTION 12. Counterparts and Electronic Delivery.** This Promissory Note and Supplement may be executed in counterparts (and by different parties in different counterparts), each of which shall constitute an original, and all of which when taken together shall constitute a single agreement. In addition, this Promissory Note and Supplement may be delivered by electronic means.

*Signature page on next page*

**IN WITNESS WHEREOF**, the parties have caused this Promissory Note and Supplement to be executed by their duly authorized officers as of the date shown above.

**CoBANK,ACB**

**TIDEWATER UTILITIES, INC.**

By: /s/ Jared A. Greene  
Name: Jared A. Greene  
Title: Assistant Corporate Secretary

By: /s/ Robert J. Capko  
Name: Robert J. Capko  
Title: Treasurer

Signature page to Promissory Note and Supplement (Multiple Advance Term Loan) (RX0024T1 I)

Tax Parcel No.: See Attached List of Parcel Numbers

Prepared by/Return to:  
Richards, Layton & Finger, P.A.  
P.O. Box 551  
Wilmington, DE 19899

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**AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

BY

**TIDEWATER UTILITIES, INC.**  
1100 South Little Creek Road  
Dover, DE 19901

IN FAVOR OF

**COBANK,ACB**  
6340 South Fiddlers Green Circle  
Greenwood Village, Colorado 80111

THE MORTGAGE GRANTS A SECURITY INTEREST BY A TRANSMITTING UTILITY

THE MORTGAGE CONTAINS AFTER ACQUIRED PROPERTY PROVISIONS AND SUCH AFTER ACQUIRED PROPERTY IS SECURED BY  
THE MORTGAGE

THIS AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT MAY BE FILED AS A  
FINANCING STATEMENT AND MAY BE RECORDED IN THE REAL PROPERTY RECORDS

THIS AMENDMENT INCREASES THE AMOUNT THAT MAY BE SECURED BY THE MORTGAGE AND ADDS NEW DEBT TO THE DEBT  
SECURED BY THE MORTGAGE

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Sussex County

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**LIST OF TAX PARCEL NUMBERS**

**Sussex County**

3-34.13.00-543.1  
2-34.11.20-91.00  
2-34-11.16-4.00  
2-34.11.00-64.1  
3-31-3.00-232.00  
3-34-12.00-377.00  
4-32-7.00-32.02  
1-33-10.00-83.01

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## AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT

**THIS AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT** (this "Amendment") is entered into as of May 11, 2023, between **TIDEWATER UTILITIES, INC.**, a Delaware corporation (the "Company"), and **CoBANK, ACB**, a federally chartered instrumentality of the United States ("CoBank").

### RECITALS

WHEREAS, CoBank and the Company are parties to that certain Master Loan Agreement dated as of May 23, 2003 and various amendments thereto (as amended, the "MLA");

WHEREAS, in connection with the MLA, CoBank is the mortgagee under the Combination Water Utility Mortgage and Security Agreement between the Company and CoBank dated as of May 23, 2003 and recorded in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware ("Recorder's Office") in Mortgage Book 5554, Page 159, as amended by an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of September 28, 2004 and recorded in the Recorder's Office in Mortgage Book 7095, Page 72, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated April 22, 2005 and recorded in the Recorder's Office in Mortgage Book 7967, Page 314, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of March 19, 2009 and recorded in the Recorder's Office in Mortgage Book 10940, Page 216, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of October 15, 2014 and recorded in the Recorder's Office in Mortgage Book 14517, Page 186, and an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of March 29, 2021 and recorded in the Recorder's Office in Mortgage Book 19639, Page 216 (collectively, as amended, the "Mortgage");

WHEREAS, pursuant to the MLA, CoBank made various loans to the Company evidenced by the notes described on Appendix A to the Mortgage;

WHEREAS, pursuant to the MLA, CoBank has agreed to extend \$20,000,000 in additional loans to the Company to be evidenced by that certain Promissory Note and Supplement (Multiple Advance Term Loan) dated as of May 11, 2023;

WHEREAS, in connection therewith, the parties desire to amend the existing Mortgage as set forth herein to give notice of the increase in the secured obligations of the Company; and

WHEREAS, the Mortgage, as amended hereby, remains in full force and effect and the lien and security interest and the priority of such lien and security interest granted thereunder continues (without interruption) thereunder. Except as amended hereby, the Mortgage shall otherwise remain unchanged. Capitalized terms used but not defined herein shall have the meanings assigned to such terms or defined by reference in the Mortgage.

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NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. Recitals.** The recitals set forth above constitute an integral part of this Amendment, are true and correct, and such recitals and the Mortgage are incorporated herein by this reference with the same force and effect as if fully set forth herein.

**SECTION 2. Amendment.** Appendix A is hereby amended and restated as provided in Appendix A hereto.

**SECTION 3. Ratification.** The Company hereby confirms and ratifies the Mortgage, and confirms and agrees that the Mortgaged Property shall secure all of the Company's obligations under the Credit Agreements, including, without limitation, those shown on Appendix A hereto.

*Signature pages follow*

IN WITNESS WHEREOF, TIDEWATER UTILITIES, INC., as Mortgagor, has caused this Amendment to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written..

**TIDEWATER UTILITIES, INC., Mortgagor**

Signed, sealed and delivered in the presence of:

/s/ Jay L. Kooper  
\_\_\_\_\_  
Witness

By: /s/ Robert J. Capko \_\_\_\_\_ (SEAL)  
Name: Robert J. Capko  
Title Treasurer

Attest:  
By: /s/ Jay L. Kooper \_\_\_\_\_  
Name: Jay L. Kooper  
Title General Counsel and Secretary

STATE OF New Jersey)

COUNTY OF Middlesex)

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of May, 2023, by Robert J. Capko, as Treasurer of Tidewater Utilities, Inc., a Delaware corporation, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year in first above written.

/s/ Tracy L. Tyrell \_\_\_\_\_ (SEAL)  
Notary Public  
Name: Tracy L. Tyrell  
My commission expires: 3/16/2027

Signature page to Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement

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Document# 2023000017001 BK: 21755 PG: 255

Recorder of Deeds, Alexandra Reed Baker On 5/17/2023 at 9:54:35 AM Sussex County, DE

Doc Surcharge Paid

IN WITNESS WHEREOF, CoBANK, ACB, as Mortgagee, has caused this Amendment to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

Signed, sealed and delivered in the presence of:

**CoBANK, ACB., Mortgagee**

/s/ Daphne Satriano  
Witness

By: /s/ Jared A. Greene (SEAL)  
Name: Jared A. Greene  
Title Assistant Corporate Secretary

STATE OF Colorado)

COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2023, by Jared A. Greene, as Assistant Corporate Secretary of CoBank, ACB, , a federally chartered instrumentality of the United States, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year in first above written.

/s/ Megan Moloznik (SEAL)  
Notary Public  
Name: Megan Moloznik  
My commission expires: 2/21/2026

Signature page to Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement

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**APPENDIX A - - CERTAIN OBLIGATIONS; ETC.**

1. The "Credit Agreement" referred to in Section 1.01 of the Mortgage includes but is not limited to the following:
    - (A) Master Loan Agreement dated as of May 23, 2003 and numbered RX0024;
    - (B) Promissory Note and Supplement dated as of May 23, 2003 and numbered RX0024T1 in the principal amount of \$3,187,241.75;
    - (C) Promissory Note and Supplement dated as of May 23, 2003 and numbered RX0024T2 in the principal amount of \$10,500,000;
    - (D) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T3 in the principal amount of \$7,000,000;
    - (E) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T4 in the principal amount of \$7,000,000;
    - (F) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T5 in the principal amount of \$7,000,000;
    - (G) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T6 in the principal amount of \$10,000,000;
    - (H) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T7 in the principal amount of \$7,000,000;
    - (I) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T8 in the principal amount of \$15,000,000;
    - (J) Promissory Note and Supplement dated as of October 15, 2014, and numbered RX0024T9 in the principal amount of \$15,000,000;
    - (K) Promissory Note and Supplement dated as of March 29, 2021, and numbered RX0024T1 O in the principal amount of \$20,000,000;
    - (L) Promissory Note and Supplement dated as of May 11, 2023, and numbered RX0024T1 1 in the principal amount of \$20,000,000; and
    - (M) All amendments to and restatements of any of the foregoing.
  
  2. The "Maximum Debt Limit" is: \$122,000,000.00 plus: (1) all accrued interest, prepayment premiums, fees and other charges owing to the Mortgagee; and (2) other sums as provided in Section 6.09 of the Mortgage.
-

Tax Parcel No.: See Attached List of Parcel Numbers

Prepared by/Return to:  
Richards, Layton & Finger, P.A.  
P.O. Box 551  
Wilmington, DE 19899

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**AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

BY

**TIDEWATER UTILITIES, INC.**  
1100 South Little Creek Road Dover, DE 19901

IN FAVOR OF

**COBANK,ACB**  
6340 South Fiddlers Green Circle Greenwood Village, Colorado 80111

THE MORTGAGE GRANTS A SECURITY INTEREST BY A TRANSMITTING UTILITY

THE MORTGAGE CONTAINS AFTER ACQUIRED PROPERTY PROVISIONS AND SUCH AFTER ACQUIRED PROPERTY IS SECURED BY  
THE MORTGAGE

THIS AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT MAY BE FILED AS A  
FINANCING STATEMENT AND MAY BE RECORDED IN THE REAL PROPERTY RECORDS

THIS AMENDMENT INCREASES THE AMOUNT THAT MAY BE SECURED BY THE MORTGAGE AND ADDS NEW DEBT TO THE DEBT  
SECURED BY THE MORTGAGE

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Kent County

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**LIST OF TAX PARCEL NUMBERS**

**Kent County**

NM 00-094.15-04-33.00-000  
NM 00-095.09-01-04.01-000  
ED 00-086.16-01-01.02-000  
ED-00-056.20-02-53.00-000  
SM-00-120.00-01-09.01-000  
SM-00-118.00-01-24.01-000  
WD-00-092.02-01-05.01-000  
NM-00-095.09-01-34.01-000  
ED-00-066.04-01-04.01-000  
ED-05-057.00-01-12.00-000  
LC-03-046.00-01-07.23-000  
DC-00-028.01-02-39.00-000  
DC-00-028.03-07-30.00-000

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**AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

**THIS AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT** (this "Amendment") is entered into as of May 11, 2023, between **TIDEWATER UTILITIES, INC.**, a Delaware corporation (the "Company"), and **CoBANK, ACB**, a federally chartered instrumentality of the United States ("CoBank").

**RECITALS**

WHEREAS, CoBank and the Company are parties to that certain Master Loan Agreement dated as of May 23, 2003 and various amendments thereto (as amended, the "MLA");

WHEREAS, in connection with the MLA, CoBank is the mortgagee under the Combination Water Utility Mortgage and Security Agreement from the Company to CoBank dated as of May 23, 2003 and recorded in the Office of the Recorder of Deeds in and for Kent County, State of Delaware ("Recorder's Office") in Mortgage Book 1787, Page 183, as amended by an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of September 28, 2004 and recorded in the Recorder's Office in Mortgage Book 654, Page 50, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated April 22, 2005 and recorded in the Recorder's Office in Document No. 2005-24464 {RE, Volume 2289, Page 172}, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of March 19, 2009 and recorded in the Recorder's Office in Document No. 143809 (RE, Volume 4874, Page 42), an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of October 15, 2014 and recorded in the Recorder's Office in Document No. 263382 (RE, Volume 7379, Page 155), and an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of March 29, 2021 and recorded in the Recorder's Office in Document No. 413433 (RE, Volume 10938, Page 312) (collectively, as amended, the "Mortgage");

WHEREAS, pursuant to the MLA, CoBank made various loans to the Company evidenced by the notes described on Appendix A to the Mortgage;

WHEREAS, pursuant to the MLA, CoBank has agreed to extend \$20,000,000 in additional loans to the Company to be evidenced by that certain Promissory Note and Supplement (Multiple Advance Term Loan) dated as of May 11, 2023;

WHEREAS, in connection therewith, the parties desire to amend the existing Mortgage as set forth herein to give notice of the increase in the secured obligations of the Company; and

WHEREAS, the Mortgage, as amended hereby, remains in full force and effect and the lien and security interest and the priority of such lien and security interest granted thereunder continues (without interruption) thereunder. Except as amended hereby, the Mortgage shall otherwise remain unchanged. Capitalized terms used but not defined herein shall have the meanings assigned to such terms or defined by reference in the Mortgage.

---



NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. Recitals.** The recitals set forth above constitute an integral part of this Amendment, are true and correct, and such recitals and the Mortgage are incorporated herein by this reference with the same force and effect as if fully set forth herein.

**SECTION 2. Amendment.** Appendix A is hereby amended and restated as provided in Appendix A hereto.

**SECTION 3. Ratification.** The Company hereby confirms and ratifies the Mortgage, and confirms and agrees that the Mortgaged Property shall secure all of the Company's obligations under the Credit Agreements, including, without limitation, those shown on Appendix A hereto.

*Signature pages follow*

Checklist Documents

IN WITNESS WHEREOF, TIDEWATER UTILITIES, INC., as Mortgagor, has caused this Amendment to be signed in its name and its corporate seal to be hereunto affixed by its officers thereunto duly authorized, all as of the day and year first above written.

Signed, sealed and delivered in the presence of:

**TIDEWATER UTILITIES, INC., Mortgagor**

/s/ Jay L. Kooper  
Witness

By: /s/ Robert J. Capko  
Name: Robert J. Capko  
Title Treasurer

Attest:  
By: /s/ Jay L. Kooper  
Name: Jay L. Kooper  
Title General Counsel and Secretary

STATE OF New Jersey)

COUNTY OF Middlesex)

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of May, 2023, by Robert J. Capko, as Treasurer of Tidewater Utilities, Inc., a Delaware corporation, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year in first above written.

/s/ Tracy L. Tyrell (SEAL)  
Notary Public  
Name: Tracy L. Tyrell  
My commission expires: 3/16/2027

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**IN WITNESS WHEREOF, CoBANK, ACB,** as Mortgagee, has caused this Amendment to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

**CoBANK, ACB., Mortgagee**

Signed, sealed and delivered in the presence of:

/s/ Daphne Satriano  
Witness

By: /s/ Jared A. Greene (SEAL)  
Name: Jared A. Greene  
Title Assistant Corporate Secretary

STATE OF Colorado)

COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2023, by Jared A. Greene, as Assistant Corporate Secretary of CoBank, ACB, , a federally chartered instrumentality of the United States, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year in first above written.

/s/ Megan Moloznik (SEAL)  
Notary Public  
Name: Megan Moloznik  
My commission expires: 2/21/2026

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**APPENDIX A - - CERTAIN OBLIGATIONS; ETC.**

1. The "Credit Agreement" referred to in Section 1.01 of the Mortgage includes but is not limited to the following:
    - (A) Master Loan Agreement dated as of May 23, 2003 and numbered RX0024;
    - (B) Promissory Note and Supplement dated as of May 23, 2003 and numbered RX0024T1 in the principal amount of \$3,187,241.75;
    - (C) Promissory Note and Supplement dated as of May 23, 2003 and numbered RX0024T2 in the principal amount of \$10,500,000;
    - (D) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T3 in the principal amount of \$7,000,000;
    - (E) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T4 in the principal amount of \$7,000,000;
    - (F) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T5 in the principal amount of \$7,000,000;
    - (G) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T6 in the principal amount of \$10,000,000;
    - (H)** Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T7 in the principal amount of \$7,000,000;
    - (I) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T8 in the principal amount of \$15,000,000;
    - (J) Promissory Note and Supplement dated as of October 15, 2014, and numbered RX0024T9 in the principal amount of \$15,000,000;
    - (K) Promissory Note and Supplement dated as of March 29, 2021, and numbered RX0024T10 in the principal amount of \$20,000,000;
    - (L) Promissory Note and Supplement dated as of May 11, 2023, and numbered RX0024T11 in the principal amount of \$20,000,000; and
    - (M) All amendments to and restatements of any of the foregoing.
  
  2. The "Maximum Debt Limit" is: \$122,000,000.00 plus: (1) all accrued interest, prepayment premiums, fees and other charges owing to the Mortgagee; and (2) other sums as provided in Section 6.09 of the Mortgage.
-

Tax Parcel No.: See Attached List of Parcel Numbers

Prepared by/Return to:  
Richards, Layton & Finger, P.A.

P.O. Box 551  
Wilmington, DE 19899

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**AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

BY

**TIDEWATER UTILITIES, INC.**

1100 South Little Creek Road  
Dover, DE 19901

IN FAVOR OF

**COBANK,ACB**

6340 South Fiddlers Green Circle  
Greenwood Village, Colorado 80111

THE MORTGAGE GRANTS A SECURITY INTEREST BY A TRANSMITTING UTILITY

THE MORTGAGE CONTAINS AFTER ACQUIRED PROPERTY PROVISIONS AND SUCH AFTER ACQUIRED PROPERTY IS SECURED BY  
THE MORTGAGE

THIS AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT MAY BE FILED AS A  
FINANCING STATEMENT AND MAY BE RECORDED IN THE REAL PROPERTY RECORDS

THIS AMENDMENT INCREASES THE AMOUNT THAT MAY BE SECURED BY THE MORTGAGE AND ADDS NEW DEBT TO THE DEBT  
SECURED BY THE MORTGAGE

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New Castle County

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**LIST OF TAX PARCEL NUMBERS**

**New Castle County**

13-019.10-106

13-019.10-051

13-007.40-098

13-011.00-122

13-013.20-180

11-057.00-014

13-018.00-239

13-012.00-106

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**AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

**THIS AMENDMENT TO COMBINATION WATER UTILITY REAL ESTATE MORTGAGE AND SECURITY AGREEMENT** (this "Amendment") is entered into as of May 11, 2023, between **TIDEWATER UTILITIES, INC.**, a Delaware corporation (the "Company"), and **CoBANK, ACB**, a federally chartered instrumentality of the United States ("CoBank").

**RECITALS**

WHEREAS, CoBank and the Company are parties to that certain Master Loan Agreement dated as of May 23, 2003 and various amendments thereto (as amended, the "MLA");

WHEREAS, in connection with the MLA, CoBank is the mortgagee under the Combination Water Utility Mortgage and Security Agreement from the Company to CoBank dated as of May 23, 2003 and recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware ("Recorder's Office") in Instrument No: 20030523-0063462, as amended by an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of September 28, 2004 and recorded in the Recorder's Office in Instrument No: 20041005-0108857, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated April 22, 2005 and recorded in the Recorder's Office in Instrument No: 20050819-0083497, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of March 19, 2009 and recorded in the Recorder's Office in Instrument No: 20090323-0016391, an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of October 15, 2014 and recorded in the Recorder's Office in Instrument No: 20141008-0045081, and an Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement dated as of March 29, 2021 and recorded in the Recorder's Office in Instrument No: 20210405-0039622 (collectively, as amended, the "Mortgage");

WHEREAS, pursuant to the MLA, CoBank made various loans to the Company evidenced by the notes described on Appendix A to the Mortgage;

WHEREAS, pursuant to the MLA, CoBank has agreed to extend \$20,000,000 in additional loans to the Company to be evidenced by that certain Promissory Note and Supplement (Multiple Advance Term Loan) dated as of May 11, 2023;

WHEREAS, in connection therewith, the parties desire to amend the existing Mortgage as set forth herein to give notice of the increase in the secured obligations of the Company; and

WHEREAS, the Mortgage, as amended hereby, remains in full force and effect and the lien and security interest and the priority of such lien and security interest granted thereunder continues (without interruption) thereunder. Except as amended hereby, the Mortgage shall otherwise remain unchanged. Capitalized terms used but not defined herein shall have the meanings assigned to such terms or defined by reference in the Mortgage.

---

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. Recitals.** The recitals set forth above constitute an integral part of this Amendment, are true and correct, and such recitals and the Mortgage are incorporated herein by this reference with the same force and effect as if fully set forth herein.

**SECTION 2. Amendment.** Appendix A is hereby amended and restated as provided in Appendix A hereto.

**SECTION 3. Ratification.** The Company hereby confirms and ratifies the Mortgage, and confirms and agrees that the Mortgaged Property shall secure all of the Company's obligations under the Credit Agreements, including, without limitation, those shown on Appendix A hereto.

*Signature pages follow*



IN WITNESS WHEREOF, TIDEWATER UTILITIES, INC., as Mortgagor, has caused this Amendment to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

**TIDEWATER UTILITIES, INC., Mortgagor**

Signed, sealed and delivered in the presence of:

/s/ Jay L. Kooper  
Witness

By: /s/ Robert J. Capko (SEAL)  
Name: Robert J. Capko  
Title Treasurer

Attest:  
By: /s/ Jay L. Kooper  
Name: Jay L. Kooper  
Title General Counsel and Secretary

STATE OF New Jersey)

COUNTY OF Middlesex)

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of May, 2023, by Robert J. Capko, as Treasurer of Tidewater Utilities, Inc., a Delaware corporation, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year in first above written.

/s/ Tracy L. Tyrell (SEAL)  
Notary Public  
Name: Tracy L. Tyrell  
My commission expires: 3/16/2027

Signature page to Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement



**IN WITNESS WHEREOF, CoBANK, ACB,** as Mortgagee, has caused this Amendment to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

Signed, sealed and delivered in the presence of:

**CoBANK, ACB., Mortgagee**

/s/ Daphne Satriano  
Witness

By: /s/ Jared A. Greene (SEAL)  
Name: Jared A. Greene  
Title Assistant Corporate Secretary

STATE OF Colorado)

COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2023, by Jared A. Greene, as Assistant Corporate Secretary of CoBank, ACB., a federally chartered instrumentality of the United States, on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year in first above written.

/s/ Megan Moloznik (SEAL)  
Notary Public  
Name: Megan Moloznik  
My commission expires: 2/21/2026

Signature page to Amendment to Combination Water Utility Real Estate Mortgage and Security Agreement

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**APPENDIX A - - CERTAIN OBLIGATIONS; ETC.**

1. The "Credit Agreement" referred to in Section 1.01 of the Mortgage includes but is not limited to the following:
    - (A) Master Loan Agreement dated as of May 23, 2003 and numbered RX0024;
    - (B) Promissory Note and Supplement dated as of May 23, 2003 and numbered RX0024T1 in the principal amount of \$3,187,241.75;
    - (C) Promissory Note and Supplement dated as of May 23, 2003 and numbered RX0024T2 in the principal amount of \$10,500,000;
    - (D) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T3 in the principal amount of \$7,000,000;
    - (E) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T4 in the principal amount of \$7,000,000;
    - (F) Promissory Note and Supplement dated as of August 22, 2005, and numbered RX0024T5 in the principal amount of \$7,000,000;
    - (G) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T6 in the principal amount of \$10,000,000;
    - (H) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T7 in the principal amount of \$7,000,000;
    - (I) Promissory Note and Supplement dated as of March 19, 2009, and numbered RX0024T8 in the principal amount of \$15,000,000;
    - (J) Promissory Note and Supplement dated as of October 15, 2014, and numbered RX0024T9 in the principal amount of \$15,000,000;
    - (K) Promissory Note and Supplement dated as of March 29, 2021, and numbered RX0024T10 in the principal amount of \$20,000,000;
    - (L) Promissory Note and Supplement dated as of May 11, 2023, and numbered RX0024T11 in the principal amount of \$20,000,000; and
    - (M) All amendments to and restatements of any of the foregoing.
  
  2. The "Maximum Debt Limit" is: \$122,000,000.00 plus: (1) all accrued interest, prepayment premiums, fees and other charges owing to the Mortgagee; and (2) other sums as provided in Section 6.09 of the Mortgage.
-

**SIXTH AMENDMENT TO PROMISSORY NOTE AND SUPPLEMENT**  
(Revolving Term Loan)

THIS SIXTH AMENDMENT TO PROMISSORY NOTE AND SUPPLEMENT (this "Amendment"), is entered into as of May 11, 2023, between **TIDEWATER UTILITIES, INC.**, a Delaware corporation (the "Company"), and **CoBANK, ACB**, a federally chartered instrumentality of the United States ("CoBank").

**BACKGROUND**

The Company and CoBank are parties to a Promissory Note and Supplement (Revolving Term Loan Supplement) dated as of March 19, 2009, and number RX0024T6, as amended by a First Amendment to Promissory Note and Supplement dated as of August 31, 2011, a Second Amendment to Promissory Note and Supplement dated as of October 15, 2014, a Third Amendment to Promissory Note and Supplement dated as of March 7, 2017, a Fourth Amendment to Promissory Note and Supplement dated as of August 19, 2020 and an Omnibus Amendment to Promissory Notes and Supplements dated as of December 6, 2022 (collectively, the "Supplement"). The parties now desire to amend the Supplement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. Defined Terms.** All capitalized terms used herein and not defined herein shall have the meanings given to those terms in the Supplement or in the "MLA" (as defined in the Supplement).

**SECTION 2. Amendments.** Section 3 of the Supplement is hereby amended and restated to read as follows:

**SECTION 3. Term.** The term of the Commitment shall be from the date hereof, up to and including May 20, 2026, or such later date as CoBank may, in its sole discretion, authorize in writing.

**SECTION 3. Representations and Warranties.** To induce CoBank to enter into this Amendment, the Company represents and warrants that: (A) except for such as have been obtained, are in full force and effect, and are not subject to appeal, no consent, permission, authorization, order or license of any governmental authority or of any party to any agreement to which the Company is a party or by which it or any of its property may be bound or affected, is necessary in connection with the execution, delivery, performance or enforcement of this Amendment; (B) the Company is in compliance with all of the terms of the Loan Documents, and no Default or Event of Default exists; and (C) this Amendment has been duly authorized, executed and delivered by the Company, and creates legal, valid, and binding obligations of the Company which are enforceable in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the rights of creditors generally. Without limiting (B) above, the Company represents and warrants that it is in compliance with all notice provisions of the Loan Documents, including, without limitation, the requirement to notify CoBank of the commencement of material litigation and of certain environmental matters.

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**SECTION 4. Confirmation.** Except as amended by this Amendment, the Supplement shall remain in full force and effect as written.

**SECTION 5. Counterparts and Electronic Delivery.** This Amendment may be executed in counterparts (and by different parties in different counterparts), each of which shall constitute an original, and all of which when taken together shall constitute a single agreement. In addition, this Amendment may be delivered by electronic means.

*Signature page on next page*

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers as of the date shown above.

**CoBANK,ACB**

**TIDEWATER UTILITIES, INC.**

By: /s/ Jared A. Greene  
Name: Jared A. Greene  
Title: Assistant Corporate Secretary

By: /s/ Robert J. Capko  
Name: Robert J. Capko  
Title: Treasurer

Signature page to Sixth Amendment to Promissory Note and Supplement (Revolving Term Loan) (RX0024T6F)

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**MULTIPLE ADVANCE TERM PROMISSORY NOTE**

**THIS MULTIPLE ADVANCE TERM PROMISSORY NOTE** (this "**Promissory Note**") to the Credit Agreement dated May 22, 2023 (such agreement, as may be amended, hereinafter referred to as the "**Credit Agreement**"), is entered into as of May 22, 2023 between **COBANK, ACB**, a federally-chartered instrumentality of the United States ("**Lender**") and **PINELANDS WATER COMPANY**, Iselin, New Jersey, a corporation (together with its permitted successors and assigns, the "**Borrower**"). Capitalized terms not otherwise defined in this Promissory Note will have the meanings set forth in the Credit Agreement.

**SECTION 1. MULTIPLE ADVANCE TERM COMMITMENT.** On the terms and conditions set forth in the Credit Agreement and this Promissory Note, Lender agrees to make loans to the Borrower from time to time during the period set forth below in an aggregate principal amount not to exceed a\$3,900,000.00 (the "**Commitment**"). Under the Commitment, amounts borrowed and later repaid may not be re-borrowed.

**SECTION 2. PURPOSE** The purpose of the Commitment is to finance capital expenditures and closing costs, and refinance intercompany debt and payables.

**SECTION 3. TERM.** The term of the Commitment will be from the date hereof, up to 12:00 p.m. Denver, Colorado time on October 20, 2023, or on such later date as Lender may, in its sole discretion, authorize in writing (the "**Term Expiration Date**").

**SECTION 4. LIMITS ON ADVANCES, AVAILABILITY, ETC.** The loans will be made available as provided in Article 2 of the Credit Agreement.

**SECTION 5. INTEREST.** The Borrower agrees to pay interest on the unpaid balance of the loan(s) in accordance with the following interest rate option(s):

**(A) Weekly Quoted Variable Rate.** At a rate per annum equal at all times to the rate of interest established by Lender on the first Business Day of each week. The rate established by Lender will be effective until the first Business Day of the next week. Each change in the rate will be applicable to all balances subject to this option and information about the then current rate will be made available upon telephonic request.

**(B) Quoted Rate.** At a fixed rate per annum to be quoted by Lender in its sole discretion in each instance. Under this option, rates may be fixed on such balances and for such periods, as may be agreeable to Lender in its sole discretion in each instance, provided that: (1) the minimum fixed period will be 365 days; (2) amounts may be fixed in an amount not less than \$100,000.00; and (3) the maximum number of fixes in place at any one time will be five.

The Borrower will select the applicable rate option at the time it requests a loan hereunder and may, subject to the limitations set forth above, elect to convert balances bearing interest at the variable rate option to one of the fixed rate options. If the Borrower fails to elect an interest rate option, interest will accrue at the variable interest rate option. Upon the expiration of any fixed rate period, interest will

automatically accrue at the variable rate option unless the amount fixed is repaid or fixed for an additional period in accordance with the terms hereof. Notwithstanding the foregoing, rates may not be fixed for periods expiring after the maturity date of the loans and rates may not be fixed in such a manner as to cause the Borrower to have to break any fixed rate balance in order to pay any installment of principal. All elections provided for herein will be made telephonically or in writing and must be received by 12:00

p.m. Denver, Colorado time. Interest will be calculated on the actual number of days each loan is outstanding on the basis of a year consisting of 360 days and will be payable monthly in arrears by the 20th day of the following month or on such other day as Lender will require in a written notice to the Borrower ("**Interest Payment Date**").

**SECTION 6. PROMISSORY NOTE.** The Borrower promises to repay the unpaid principal balance of the loans in 228 consecutive, monthly installments, payable on the 20th day of each month, with the first installment due on May 20, 2024, and the last installment due on April 20, 2043. The amount of each installment will be the same principal amount that would be required to be repaid if the loan(s) were scheduled to be repaid in level payments of principal and interest and such schedule was calculated utilizing the rate of interest in effect on the Term Expiration Date. Principal due on the first payment date will constitute a month's amortization, regardless of any partial month's interest due in accordance with the provisions set forth herein.

In addition to the above, the Borrower promises to pay interest on the unpaid principal balance of the loans at the times and in accordance with the provisions set forth herein.

**SECTION 7. PREPAYMENT.** Subject to the broken funding surcharge provision of the Credit Agreement, the Borrower may, on one Business Day's prior written notice, prepay all or any portion of the loan(s). Unless otherwise agreed by Lender, all prepayments will be applied to principal installments in the inverse order of their maturity and to such balances, fixed or variable, as Lender will specify.

**SECTION 8. SECURITY.** The Borrower's obligations hereunder and, to the extent related hereto, under the Credit Agreement, will be secured as provided in Section 2.3 of the Credit Agreement.

**SECTION 9. FEES.**

**(A) Commitment Fee.** In consideration of the Commitment, the Borrower agrees to pay to Lender a commitment fee on the average daily unused available portion of the Commitment at the rate of 0.150% per annum (calculated on a 360-day basis), payable monthly in arrears by the 20th day following each month. Such fee will be payable for each month (or portion thereof) occurring during the original or any extended term of the Commitment.

**SIGNATURE PAGE FOLLOWS**



**PINELANDS WATER COMPANY**  
Iselin, New Jersey  
**Promissory Note No. 00148003T01**

**SIGNATURE PAGE TO PROMISSORY NOTE**

**IN WITNESS WHEREOF**, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

**PINELANDS WATER COMPANY**

By: /s/ Robert J. Capko  
Name: Robert J. Capko  
Title: Controller

**PINELANDS WATER COMPANY**

Iselin, New Jersey

**Promissory Note No.** 00148003T01

**SIGNATURE PAGE TO PROMISSORY NOTE**

**IN WITNESS WHEREOF**, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

**COBANK,ACB**

By: /s/ Christen Spencer  
Name: Christen Spencer  
Title: Assistant Corporate Secretary

Loan No. 00147994T01

**MULTIPLE ADVANCE TERM PROMISSORY NOTE**

**THIS MULTIPLE ADVANCE TERM PROMISSORY NOTE** (this "**Promissory Note**") to the Credit Agreement dated May 22, 2023. (such agreement, as may be amended, hereinafter referred to as the "**Credit Agreement**"), is entered into as of May 22, 2023. between **COBANK, ACB**, a federally-chartered instrumentality of the United States ("**Lender**") and **PINELANDS WASTEWATER COMPANY**, Iselin, New Jersey, a corporation (together with its permitted successors and assigns, the "**Borrower**"). Capitalized terms not otherwise defined in this Promissory Note will have the meanings set forth in the Credit Agreement.

**SECTION 1. MULTIPLE ADVANCE TERM COMMITMENT.** On the terms and conditions set forth in the Credit Agreement and this Promissory Note, Lender agrees to make loans to the Borrower from time to time during the period set forth below in an aggregate principal amount not to exceed \$3,600,000.00 (the "**Commitment**"). Under the Commitment, amounts borrowed and later repaid may not be re-borrowed.

**SECTION 2. PURPOSE.** The purpose of the Commitment is to finance capital expenditures and closing costs, and refinance intercompany debt and payables.

**SECTION 3. TERM.** The term of the Commitment will be from the date hereof, up to 12:00 p.m. Denver, Colorado time on October 20, 2023, or on such later date as Lender may, in its sole discretion, authorize in writing (the "**Term Expiration Date**").

**SECTION 4. LIMITS ON ADVANCES, AVAILABILITY, ETC.** The loans will be made available as provided in Article 2 of the Credit Agreement.

**SECTION 5. INTEREST.** The Borrower agrees to pay interest on the unpaid balance of the loan(s) in accordance with the following interest rate option(s):

**(A) Weekly Quoted Variable Rate.** At a rate per annum equal at all times to the rate of interest established by Lender on the first Business Day of each week. The rate established by Lender will be effective until the first Business Day of the next week. Each change in the rate will be applicable to all balances subject to this option and information about the then current rate will be made available upon telephonic request.

**(B) Quoted Rate.** At a fixed rate per annum to be quoted by Lender in its sole discretion in each instance. Under this option, rates may be fixed on such balances and for such periods, as may be agreeable to Lender in its sole discretion in each instance, provided that: (1) the minimum fixed period will be 365 days; (2) amounts may be fixed in an amount not less than \$100,000.00; and (3) the maximum number of fixes in place at any one time will be five.

The Borrower will select the applicable rate option at the time it requests a loan hereunder and may, subject to the limitations set forth above, elect to convert balances bearing interest at the variable rate option to one of the fixed rate options. If the Borrower fails to elect an interest rate option, interest will accrue at the variable interest rate option. Upon the expiration of any fixed rate period, interest will

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**PINELANDS WASTEWATER COMPANY**

Iselin, New Jersey

**Promissory Note No.** 00147994T01

automatically accrue at the variable rate option unless the amount fixed is repaid or fixed for an additional period in accordance with the terms hereof. Notwithstanding the foregoing, rates may not be fixed for periods expiring after the maturity date of the loans and rates may not be fixed in such a manner as to cause the Borrower to have to break any fixed rate balance in order to pay any installment of principal. All elections provided for herein will be made telephonically or in writing and must be received by 12:00 p.m. Denver, Colorado time. Interest will be calculated on the actual number of days each loan is outstanding on the basis of a year consisting of 360 days and will be payable monthly in arrears by the 20th day of the following month or on such other day as Lender will require in a written notice to the Borrower ("**Interest Payment Date**").

**SECTION 6. PROMISSORY NOTE.** The Borrower promises to repay the unpaid principal balance of the loans in 228 consecutive, monthly installments, payable on the 20th day of each month, with the first installment due on May 20, 2024, and the last installment due on April 20, 2043. The amount of each installment will be the same principal amount that would be required to be repaid if the loan(s) were scheduled to be repaid in level payments of principal and interest and such schedule was calculated utilizing the rate of interest in effect on the Term Expiration Date. Principal due on the first payment date will constitute a month's amortization, regardless of any partial month's interest due in accordance with the provisions set forth herein.

In addition to the above, the Borrower promises to pay interest on the unpaid principal balance of the loans at the times and in accordance with the provisions set forth herein.

**SECTION 7. PREPAYMENT.** Subject to the broken funding surcharge provision of the Credit Agreement, the Borrower may, on one Business Day's prior written notice, prepay all or any portion of the loan(s). Unless otherwise agreed by Lender, all prepayments will be applied to principal installments in the inverse order of their maturity and to such balances, fixed or variable, as Lender will specify.

**SECTION 8. SECURITY.** The Borrower's obligations hereunder and, to the extent related hereto, under the Credit Agreement, will be secured as provided in Section 2.3 of the Credit Agreement.

**SECTION 9. FEES.**

**(A) Commitment Fee.** In consideration of the Commitment, the Borrower agrees to pay to Lender a commitment fee on the average daily unused available portion of the Commitment at the rate of 0.150% per annum (calculated on a 360-day basis), payable monthly in arrears by the 20th day following each month. Such fee will be payable for each month (or portion thereof) occurring during the original or any extended term of the Commitment.

**SIGNATURE PAGE FOLLOWS**

**PINELANDS WASTEWATER COMPANY**

Iselin, New Jersey

**Promissory Note No.** 00147994T01

**SIGNATURE PAGE TO PROMISSORY NOTE**

**IN WITNESS WHEREOF**, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

**PINELANDS WATER COMPANY**

By: /s/ Robert J. Capko

Name: Robert J. Capko

Title: Controller

**PINELANDS WASTEWATER COMPANY**

Iselin, New Jersey

**Promissory Note No.** 00147994TOI

**SIGNATURE PAGE TO PROMISSORY NOTE**

**IN WITNESS WHEREOF**, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

**COBANK,ACB**

By: /s/ Christen Spencer

Name: Christen Spencer

Title: Assistant Corporate Secretary

**CERTAIN INFORMATION IDENTIFIED IN THIS DOCUMENT, MARKED BY [\*], HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE OF INFORMATION THE REGISTRANT TREATS AS PRIVATE AND CONFIDENTIAL**

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT is entered into as of the 28<sup>th</sup> day of August 2023, by and between Plaintiff MWC (as defined below) and Defendant 3M (as defined below).

**RECITALS**

WHEREAS, MWC has asserted claims against 3M in the Action (as defined below) in connection with 3M's manufacture, sale and discharge of PFAS (as defined below) and products containing PFAS;

WHEREAS, MWC's claims in the Action allege in substance that PFAS from products manufactured or sold by 3M have contaminated groundwater wells used by MWC to supply water to its Park Avenue Water Treatment Plant in South Plainfield, New Jersey (the "Park Avenue Plant");

WHEREAS, [\*];

WHEREAS, 3M denies and continues to deny any wrongdoing in connection with all claims and allegations of wrongdoing alleged by MWC in the Action, and specifically denies and disputes the purported scientific, medical, factual, and other bases for MWC's claims and allegations;

WHEREAS, the Parties desire to settle MWC's claims against 3M in the Action on the terms and conditions stated herein;

WHEREAS, this Agreement is being executed in parallel with the Settlement Agreement Between Public Water Systems and 3M Company ("Class Settlement Agreement") (see [www.PFASwatersettlement.com](http://www.PFASwatersettlement.com)) in the AFFF MDL, pursuant to which MWC will remain a Class

Member and be allocated its share of the Settlement Funds, including any additional claim MWC may submit with respect to the CJO Plant, and 3M will receive a payment credit for the full amount of 3M's payments to MWC under this Agreement; and

WHEREAS, in consideration of the promises and the mutual covenants hereinafter set forth, the Parties, acting by and through counsel, have entered into this Agreement.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, IT IS HEREBY AGREED by the Parties as follows:

**1. DEFINITIONS**

For purposes of this Agreement, the following terms shall have the meanings set forth below:

"3M" means 3M Company.

"3M PFAS" means, solely for the purposes of this agreement, any PFAS or PFAS- containing item or substance manufactured, sold, or disposed of by a Released Party or any PFAS or PFAS-containing item or substance derived, emanating, or originating from any PFAS or PFAS- containing item or substance manufactured, sold, or disposed of by a Released Party.

"AFFF MDL" means *In re: Aqueous Film-Forming Forming Foams Products Liability Litigation*, MDL No. 2:18-mn-2873-RMG, Hon. Richard M. Gergel presiding.

"Action" means the civil action *Middlesex Water Company v. 3M Company*, No. 2:18-cv- 15366 (D.N.J.).

"Agreement" means this Settlement Agreement.

"Class Member" shall have the same meaning as set forth in the Class Settlement Agreement.



“Court” means the United States District Court for the District of New Jersey. “Effective Date” means the date on which this Agreement is executed by both Parties. “Parties” means 3M and MWC.

“Party” means 3M or MWC.

“PFAS” means, solely for purposes of this Agreement, any per- or poly-fluoroalkyl substance that contains at least one fully fluorinated methyl or methylene carbon atom (without any hydrogen, chlorine, bromine, or iodine atom attached to it). It is the intention of this Agreement that the definition of “PFAS” be as broad, expansive, and inclusive as possible.

“Released Claims” means all claims that are released in Paragraph 5 of this Agreement. “Released Parties” means 3M and its respective past, present or future administrators, advisors, affiliated business entities, affiliates, agents, assigns, attorneys, constituent corporations or entities (including constituents of constituents) absorbed by 3M in a consolidation or merger, counsel, customers (only to the extent they used or released 3M PFAS), directors, divisions, employee benefit plans, employee benefit plan participants or beneficiaries, employees, executors, heirs, insurers, managers, members, officers, owners, parents, partners, partnerships, predecessors, principals, resulting corporation or entity, servants, shareholders, subrogees, subsidiaries, successors, trustees, trusts, and any other representatives, individually or in their corporate or personal capacity, and anyone acting on their behalf, including in a representative or derivative capacity. It is the intention of this Agreement that the definition of Released Parties be as broad, expansive, and inclusive as possible.

“Settlement” means the settlement described in this Agreement.

“Settlement Funds” shall have the same meaning as set forth in the Class Settlement Agreement.

“MWC” means the Middlesex Water Company, a corporation organized and existing under the laws of the state of New Jersey.

## 2. PAYMENT BY 3M PURSUANT TO THIS AGREEMENT

a. In consideration of all the promises, covenants, representations, and warranties set forth in this Agreement, including without limitation the dismissal of the claims asserted in the Action and the release of the Released Claims against the Released Parties, 3M shall pay MWC the total amount of Ninety-Three Million One Hundred Sixty-Two Thousand Six Hundred Twenty and 00/100 Dollars (\$93,162,620.00). 3M shall make an initial payment of Twenty-Three Million Two Hundred Ninety Thousand Six Hundred Fifty-Five and 00/100 Dollars (\$23,290,655.00) to MWC by December 15, 2023. 3M shall make a second payment of Sixty-Nine Million Eight Hundred Seventy-One Thousand Nine Hundred Sixty-Five and 00/100 Dollars (\$69,871,965.00) to MWC by July 15, 2024.

b. MWC will remain a Class Member and be allocated its share of the Settlement Funds, including any additional claim MWC may submit with respect to the CJO Plant. MWC’s submission of any claim for Settlement Funds, including with respect to the CJO, shall not result in any additional payment by 3M.

c. The total amount of all payments described in Paragraph 2.a of this Agreement shall be credited against 3M’s payments due under the Class Settlement Agreement pursuant to Paragraphs 6.7.2, 6.8.6, and Exhibit K therein. The precise timing of the credit shall be determined by 3M, which shall apply the credit in a manner that generally is equitable with respect to Phase One and Phase Two payments. 3M shall exercise its discretion reasonably and in good faith in consultation with Class Counsel. However, nothing in this Paragraph shall release 3M of its obligations under Paragraph 2.a of this Agreement in the event that the Class Settlement

Agreement is terminated for any reason.

d. No amounts paid pursuant to this Settlement are in relation to the violation of any civil or criminal law or the investigation or inquiry by any government or governmental entity into the potential violation of any civil or criminal law, within the meaning of Section 162(f)(1) of the Internal Revenue Code of 1986, as amended, and section 1.162-21(a) of the Treasury Regulations thereunder. All amounts paid pursuant to this Settlement are intended for restitution or remediation (including treatment) of PFAS contamination. If a determination were made that a portion of such amounts are in relation to a violation or potential violation of law, that portion constitutes restitution or remediation within the meaning of Section 162(f)(2)(A) of the Internal Revenue Code of 1986, as amended and section 1.162-21(a) of the Treasury Regulations thereunder. MWC shall bear its own costs, including all legal expenses and attorneys' fees. All legal expenses and attorneys' fees of MWC will be paid from amounts paid for restitution or remediation. No portion of any amount paid under this Agreement constitutes the payment of a fine, penalty, or punitive damages, the disgorgement of profits, reimbursement for litigation or investigation costs or attorneys' fees or costs, or an amount paid in settlement of any claim for any of the foregoing; and if a determination were made to the contrary, the amounts paid would qualify under the exceptions in paragraphs (2) and (3) of Section 162(f).

### **3. CONFIDENTIALITY AND NONDISPARAGEMENT**

a. Unless earlier disclosure is required under any applicable laws and/or regulations, the terms of the Settlement shall be maintained as strictly confidential by the Parties to the fullest extent permitted by law. Such laws and/or regulations include filings with the United States Securities & Exchange Commission (SEC) where in the sole judgement of the filing party, disclosure of any or all settlement terms is necessary to ensure compliance. The Parties understand

and agree that MWC and 3M are authorized to disclose the Settlement terms and this Agreement to the Parties' financial or legal representatives to the extent necessary for the rendering of financial or legal services to the Parties, as well as any insurers, but only upon agreement by such representatives or insurers to honor the provisions of this Paragraph 3.

b. The consideration being paid for the confidentiality required by the foregoing subparagraphs is One Hundred Dollars and Zero Cents (\$100.00), which is included in the first payment made by 3M under Paragraph 2.a of this Agreement.

c. The Parties will cooperate in good faith on communication issues related to the Settlement, and each Party will provide any planned press release or public statement concerning the Settlement or any aspect of it to the other for review not less than forty-eight (48) hours before publication. Each Party agrees not to disparage the other Party or its business or environmental practices in any public forum, including media and public meetings. Each Party further agrees not to incite or induce the media or any other entity or individual to disparage the other Party or its business or environmental practices.

#### **4. TERMINATING MWC'S CLAIMS AGAINST 3M**

Within fourteen (14) days after the Effective Date, MWC shall provide 3M a signed stipulation of dismissal with prejudice of all claims against 3M in the Action, as well as any cross-claims or third party claims in [\*] actions ("Stipulation"). 3M may file the Stipulation at its reasonable discretion. Each Party shall bear its own costs and attorneys' fees, with the exception on what is set forth in Paragraph 9, below.

#### **5. RELEASE BY MWC**

MWC hereby releases and forever discharges each of the Released Parties from any and all past, present, or future claims, crossclaims, third-party claims, losses, damages (whether

compensatory, statutory, punitive, or otherwise), attorneys' fees, costs, and expenses, whether asserted or not, accrued or not, known or unknown, legal or equitable, monetary or injunctive or declaratory, that have arisen or may arise at any time in the future, out of, or relate in any way to, the presence of any AFFF, any PFAS product, any PFAS, and any 3M PFAS, including in or around or associated with MWC, and without limitation in, around or from any water or property owned, operated, or used by MWC, MWC's public water system, or from disposal or arranging for disposal that may in any way be attributable to 3M. It is the intention of this Agreement that this release of the Released Parties be as broad, expansive and inclusive as possible.

#### **6. COVENANT NOT TO SUE**

MWC shall not commence, prosecute, or cause to be commenced or prosecuted any action or other proceedings against any of the Released Parties based upon the Released Claims.

#### **7. NO ADMISSION OF WRONGDOING OR LIABILITY**

a. Nothing in this Agreement, or in any order of dismissal entered in the Action pursuant to this Agreement, constitutes an admission or concession of any liability or wrongdoing by the Released Parties or an admission or concession by the Released Parties that there is any validity to any claim or allegation in the Action. The Released Parties have not admitted or conceded any liability or wrongdoing, acknowledged any validity to the claims or allegations in the Action, or acknowledged any weakness in 3M's defenses in the Action. The Released Parties denied and continue to deny any wrongdoing alleged in connection with the manufacture, sale, or disposal of 3M PFAS, and specifically deny and dispute the scientific, medical, factual, and other bases alleged to support MWC's claims. Nothing contained in this Agreement or any documents filed in connection with it is intended to be nor shall be interpreted by anyone as in any way suggesting anything to the contrary in this Action or in any other action.

b. Neither this Agreement nor any information or materials related to the Settlement or Settlement negotiations shall be offered or received in evidence against any of the Parties for any purpose in any proceeding other than in such proceedings as may be necessary to consummate or enforce this Agreement or to assert its effect in connection with a defense of res judicata, collateral estoppel, release, or other theory of claim preclusion, issue preclusion, or similar defense.

**8. RATE INCREASES**

MWC represents and warrants that (i) this Settlement has fully compensated it for PFAS allegedly attributable to 3M and (ii) future additions, modifications, or improvements to its Public Water System due to PFAS will be the sole responsibility of MWC and not the Released Parties. MWC shall not assert that any future rate increase request was caused by the Released Parties' development, manufacture, formulation, distribution, sale, transportation, storage, loading, mixing, application, or use of PFAS or any product manufactured with or containing PFAS. MWC reserves the right to change its rates for any reason, so long as MWC does not attribute the change to the Released Parties.

**9. MEDIATION OF [\*] ACTIONS.**

- a. The Parties agree to joint mediation of the claims brought by plaintiffs in [\*].
- b. If the Parties reach a joint agreement to settle plaintiffs' claims in the [\*] actions, and net of insurance that may be reasonably available to MWC, MWC agrees to pay or cause to be paid [\*]. 3M agrees to pay or

cause to be paid [\*].

c. The provisions of Paragraph 9.b above shall apply only if both 3M and MWC agree to the terms of a joint settlement agreement with the plaintiffs in the [\*] actions, resulting in a release with prejudice of plaintiffs' claims against both 3M and MWC. However, nothing in this Agreement shall be construed to require 3M and/or MWC to agree to any settlement of the [\*] actions.

d. In addition to the amounts set forth in Paragraphs 2.a and 9.b above, 3M shall pay [\*] of attorney's fees incurred by or on behalf of MWC for the services of [\*] in connection with the [\*] actions, up to a maximum payment by 3M of [\*].

#### **10. REPRESENTATIONS AND WARRANTIES**

a. The Parties represent and warrant they are voluntarily entering into this Agreement as a result of arms-length negotiations among their counsel; that in executing this Agreement, they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently-selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof. Each Party acknowledges that it has not been influenced to any extent whatsoever in executing this Agreement by any promise, representation, statement, or omission by the other Party, except those expressly stated in this Agreement. Each Party assumes the risk of mistakes as to facts or law.

b. Each Party represents and warrants that it has carefully read the contents of this Agreement, and that this Agreement is signed freely by each individual executing this Agreement

on behalf of the Party. Each Party further represents and warrants that it has made such investigation of the facts, law, and other matters pertaining to the Settlement and this Agreement as it deems necessary.

- c. MWC represents and warrants that it has not assigned, transferred, or conveyed any portion of the Released Claims to any other person or entity.
- d. MWC represents and warrants that it will not object to or opt-out of the Class Settlement Agreement.
- e. Each Party represents and warrants that its execution, delivery and performance of this Agreement does not violate the terms, conditions or provisions of any charter, by laws or other organizational document of the Party.
- f. Each Party represents and warrants that it has obtained all necessary corporate or governmental approvals to permit the undersigned representatives of each Party to bind the Party by executing this Agreement.

#### **11. MISCELLANEOUS**

- a. Class Membership. Notwithstanding anything in this Agreement, MWC remains a Class Member for purposes of the Class Settlement Agreement. Neither 3M's payment obligations nor the credit it receives toward its payments due under the Class Settlement Agreement will change regardless of MWC's ultimate allocation pursuant to the Class Settlement Agreement.
- b. Construction. The Parties acknowledge that this Agreement was jointly drafted, and they agree that if any of its terms are ambiguous, then the rule of construction construing the ambiguity against the drafting party shall not be employed in the interpretation of this Agreement.
- c. Governing Law. The Agreement shall be governed by and construed pursuant to the law of the State of South Carolina, without regard to any otherwise applicable principles of



conflicts of law or choice-of-law rules (whether of the State of New Jersey or any other jurisdiction) that would result in the application of the substantive or procedural rules or law of any other jurisdiction.

d. Jurisdiction and Venue. The AFFF MDL shall be the exclusive jurisdiction and venue for all proceedings in connection with the Agreement or arising as a result of any matter relating to this Settlement or addressed in the Agreement.

e. Reasonable Extensions. The Settling Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Agreement.

f. Amendment. This Agreement may be amended only by a writing executed by all Parties hereto.

g. Severability. In the event that any provision of this Agreement is declared or deemed to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

h. Waiver. The provisions of this Agreement may be waived only by written agreement signed by the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior to, subsequent to, or contemporaneous with this Agreement.

i. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective agents, employees, representatives, successors, and assigns.

j. Third-Party Beneficiaries. This Agreement does not create any third-party beneficiaries except the Released Parties.

k. Execution. This Agreement may be executed in counterparts and, upon the

Effective Date, shall be binding upon the Parties executing this or any counterpart.

FOR PLAINTIFF MIDDLESEX WATER COMPANY:

/s/ Jay L. Kooper

Signature

Jay L. Kooper

Name

Vice President, General Counsel and Secretary

Title

Executed: August 29, 2023

FOR DEFENDANT 3M COMPANY:

/s/Steven F. Reich

Signature

Steven F. Reich Executive Vice President 3M Company  
3M Center, 0220-09W-15

St. Paul, Minnesota 55144-1000 Executed: August 29, 2023

**SECTION 302 CERTIFICATION PURSUANT TO RULES 13a-14  
AND 15d-14 OF THE SECURITIES EXCHANGE ACT OF 1934**

I, Dennis W. Doll, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Middlesex Water Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any changes in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Dennis W. Doll  
Dennis W. Doll  
Chief Executive Officer

Date: November 9, 2023

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**SECTION 302 CERTIFICATION PURSUANT TO RULES 13a-14  
AND 15d-14 OF THE SECURITIES EXCHANGE ACT OF 1934**

I, A. Bruce O'Connor, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Middlesex Water Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any changes in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ A. Bruce O'Connor  
A. Bruce O'Connor  
Chief Financial Officer

Date: November 9, 2023

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**SECTION 906 CERTIFICATION PURSUANT TO 18 U.S.C. §1350**

I, Dennis W. Doll, hereby certify that, to the best of my knowledge, the periodic report being filed herewith containing financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) and that information contained in said periodic report fairly presents, in all material respects, the financial condition and results of operations of Middlesex Water Company for the period covered by said periodic report.

/s/ Dennis W. Doll  
Dennis W. Doll  
Chief Executive Officer

Date: November 9, 2023

A signed original of this written statement required by Section 906 has been provided to Middlesex Water Company and will be retained by Middlesex Water Company and furnished to the Securities and Exchange Commission or its staff upon request.

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**SECTION 906 CERTIFICATION PURSUANT TO 18 U.S.C. §1350**

I, A. Bruce O'Connor, hereby certify that, to the best of my knowledge, the periodic report being filed herewith containing financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) and that information contained in said periodic report fairly presents, in all material respects, the financial condition and results of operations of Middlesex Water Company for the period covered by said periodic report.

/s/ A. Bruce O'Connor

A. Bruce O'Connor  
Chief Financial Officer

Date: November 9, 2023

A signed original of this written statement required by Section 906 has been provided to Middlesex Water Company and will be retained by Middlesex Water Company and furnished to the Securities and Exchange Commission or its staff upon request.

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