

**PURCHASE AGREEMENT BETWEEN
THE TOWN OF DYER, INDIANA, THE TOWN OF MUNSTER, INDIANA,
AND THE HAMMOND WATER WORKS DEPARTMENT, HAMMOND, INDIANA**

This AGREEMENT made on the date set forth below, between the HAMMOND WATER WORKS DEPARTMENT, HAMMOND, INDIANA, by its duly authorized Board of Directors (“UTILITY”), the THE TOWN OF MUNSTER, INDIANA, an operator of municipal utilities, including of water works, by its duly authorized Utility Board (“MUNSTER”) and the THE TOWN OF DYER, INDIANA, an operator of municipal utilities, including of water works, by its duly authorized Utility Board (“DYER”), consists of the following terms:

- 001** DYER is a municipal utility, organized and existing under the laws of the State of Indiana;
- 002** DYER needs an adequate supply of potable Lake Michigan water (“Lake Water”) to serve its Town’s residents, businesses and industries;
- 003** DYER has a legal right to purchase Lake Water and is not obligated to purchase water from any other source;
- 004** MUNSTER, a municipal utility, organized and existing under the laws of the State of Indiana, obtains Lake Water from the UTILITY pursuant to a Purchase Agreement Between the Town of Munster, Indiana, and the Hammond Water Works Department, Hammond, Indiana (“the Munster Purchase Agreement”) and has the means to transport that Lake Water;
- 005** The UTILITY anticipates it will be able to supply during normal times all of the Lake Water that DYER should need or desire, as well as most if not all said Lake Water DYER may need during peak demand times based on historical consumption; and

- 006** MUNSTER anticipates it will be able to transport from the UTILITY to DYER all of the Lake Water that DYER should need or desire, as well as all Lake Water DYER may need during peak demand times based on historical consumption;
- 007** DYER is authorized by law to enter into contracts for a term of up to twenty (20) years to purchase Lake Water;
- 008** DYER needs a water purchase agreement that provides an adequate supply of Lake Water to serve its Town's water users, including residential, commercial, and industrial users located within the territorial limits of DYER;
- 009** The UTILITY is a municipal utility organized and existing under the laws of the State of Indiana;
- 010** The UTILITY is authorized by law to enter into contracts for a term of up to twenty (20) years and to resell Lake Water at a point of delivery within its City limits to municipal water users;
- 011** MUNSTER is authorized by law to enter into contracts for a term up to twenty (20) years to transport Lake Water from the UTILITY at a point of delivery within City limits to municipal water users;
- 012** DYER desires to obtain a supply of Lake Water from the UTILITY in order to provide reliable, adequate supplies of Lake Water on an economical and efficient basis for its Town's water users and to obtain transportation of that supply of Lake Water from MUNSTER;
- 013** The UTILITY has determined that it is appropriate to contract with DYER to supply it Lake Water and for DYER to obtain transportation of said Lake Water from MUNSTER; and

014 The Parties expressly acknowledge that DYER and the UTILITY are parties to an existing contract for delivery of Lake Water from the UTILITY transported from the Town of Highland, Indiana.

THEREFORE, the UTILITY, MUNSTER and DYER agree as follows:

ARTICLE I - SERVICE TO BE FURNISHED

101 Purchase and Sale

Subject to any limitation in this Agreement, the UTILITY agrees to furnish to DYER and MUNSTER agrees to deliver to DYER potable Lake Water of the same quality the UTILITY supplies all of its customers. DYER, during the term of this Agreement, obligates itself to purchase Lake Water from the UTILITY to the extent that Lake Water is available for such purpose, at the point of delivery in the City of the UTILITY, in sufficient quantities to provide a normal supply of Lake Water to water users as described in this Agreement. DYER, during the term of this Agreement, further obligates itself to pay MUNSTER to transport Lake Water purchased from UTILITY to DYER as described in this Agreement and at the delivery point mutually agreed upon by all parties as provided in Section 301 of this Agreement.

102 Maintenance and Capacity

- (a) The UTILITY agrees to maintain the capacity to supply the Lake Water to be furnished to DYER as required by, and subject to the limitations of, this Agreement.
- (b) The UTILITY undertakes a definite obligation to sell Lake Water to DYER during the Term as provided in this Agreement. The UTILITY agrees to take reasonable steps to supply the Lake Water to DYER as required under this Agreement to the extent that water is available for such purpose.

(c) MUNSTER undertakes a definite obligation to transport Lake Water to DYER during the Term as provided in this Agreement. MUNSTER agrees to take reasonable steps to transport the Lake Water to DYER as required under this Agreement to the extent that water is available for such purpose.

(d) DYER acknowledges that it is familiar with the terms and conditions of the supply of Lake Water available to the UTILITY, and the UTILITY and MUNSTER agree not to take any intentional action to reduce the amount of Lake Water available to DYER under this Agreement. DYER agrees that this Agreement is valid and binding upon DYER and further agrees not to take any intentional action that would cause DYER, MUNSTER or the UTILITY to be in breach of this Agreement.

(e) The UTILITY represents that:

- (1) The UTILITY has the right to enter into and carry out all the terms and conditions of this Agreement during its full term;
- (2) This Agreement is valid and binding upon the UTILITY; and
- (3) The UTILITY presently has the right to obtain sufficient Lake Water for the purpose of selling same to DYER in order to furnish the quantities of Lake Water to be furnished to DYER under this Agreement.

(f) MUNSTER represents that:

- (1) MUNSTER has the right to enter into and carry out all the terms and conditions of this Agreement during its full term;
- (2) This Agreement is valid and binding upon MUNSTER; and

(3) MUNSTER presently has the right to transport sufficient Lake Water for the purpose of delivering same to DYER in order to furnish the quantities of Lake Water to be furnished by UTILITY to DYER under this Agreement.

ARTICLE II - QUANTITIES OF WATER

201 Quantities of Water to be Furnished

The UTILITY agrees to furnish and MUNSTER agrees to deliver to DYER quantities of Lake Water as provided in this Agreement to enable the UTILITY to supply Lake Water to DYER and its water users.

202 Emergency

(a) If for any reason, including emergency failure or malfunction in the UTILITY'S water distribution system or water supply system, the UTILITY is unable to furnish the quantities of Lake Water to be furnished to DYER, the UTILITY agrees to use best efforts and diligently pursue efforts during any such occurrence to provide Lake Water (as far as practicable) to DYER. To the extent any capacity constraints arise as to the availability of Lake Water to the UTILITY that causes the UTILITY to curtail service, the UTILITY agrees to curtail service to DYER on the same basis as its other customers as is practicable under the circumstances.

(b) If for any reason, including emergency failure or malfunction in MUNSTER'S water distribution system, MUNSTER is unable to transport the quantities of Lake Water to be furnished to DYER, MUNSTER agrees to use best efforts and diligently pursue efforts during any such occurrence to ensure delivery of Lake Water (as far as practicable) to DYER. To the extent any transportation constraints arise as to the delivery of Lake Water to MUNSTER that causes MUNSTER to curtail transportation service,

MUNSTER agrees to curtail transportation service to DYER on the same basis as its other customers as is practicable under the circumstances.

(c) The Parties agree that DYER has the right to emergency connections with municipalities other than the UTILITY and HIGHLAND for providing potable water to DYER for emergency use only. Any potable water obtained by DYER from such emergency interconnections may not exceed five percent (5%) of DYER's annual water usage. DYER must provide timely notification to both the UTILITY and HIGHLAND upon each utilization of such emergency interconnections.

(d) MUNSTER, DYER and the UTILITY each agree to notify the others as promptly as practicable of all emergencies, failures, malfunctions or other conditions in their respective systems that may directly or indirectly affect the other parties' systems.

(e) MUNSTER, DYER and the UTILITY each agree to notify and keep the other informed of the name of the individual(s) in charge of operations of their respective systems.

ARTICLE III - DELIVERY AND STORAGE

301 Point of Delivery

(a) The UTILITY must deliver Lake Water to MUNSTER through the UTILITY's meter vaults on the Hammond side of the Little Calumet River.

(b) MUNSTER must transport Lake Water to DYER through MUNSTER's water system to MUNSTER's meter vault on the east side of Calumet Avenue at a point approximately 265' (two hundred and sixty-five feet) north of the boundary line between

MUNSTER and the Town of Dyer. The downstream end of said meter vault is the point of delivery to DYER's water system.

302 Transmission Facilities

(a) DYER must provide, operate, maintain, repair, replace, improve and expand transmission mains, pumps, appurtenance and any other necessary equipment, on its distribution system that it either now has or is in the process of providing, and any other necessary equipment to enable itself to receive and distribute the Lake Water to be furnished under this Agreement

(b) DYER's engineers and authorized designees have the right to inspect MUNSTER's meter vault areas and meter or meters installed said meter vault on reasonable notice at DYER's expense. UTILITY and MUNSTER must maintain their respective water systems, meter vaults, and meters so that they are able to function as required under this Agreement.

303 Commencement of Delivery

The delivery of Lake Water by the UTILITY to MUNSTER and from MUNSTER to DYER under the terms of this Agreement commences on January 1, 2022.

304 Rate of Withdrawal

(a) The Lake Water to be furnished under this Agreement is to be withdrawn at the point of delivery on an hourly even flow basis. The actual volume of water is mathematically determined by an establishment of the average daily usage by DYER each respective month and then divided by 24 hours for each day. DYER may exceed the withdrawal rate only with the consent of MUNSTER during peak hours. MUNSTER may not unreasonably withhold this consent, subject to the discretion of MUNSTER's Chief

Executive Operator or Board President. DYER may exceed the withdrawal rate during off-peak hours each calendar day as authorized by Section 307 without consent. Peak and off-peak hours are defined in Section 307.

(b) MUNSTER agrees to reserve a capacity of 3.4 mgd for use by DYER and to have the capacity to deliver 3.4 mgd to DYER under the terms of this Agreement. DYER's rate of water withdrawal may not exceed 3.4 mgd.

305 Pressure

(a) DYER agrees to accept Lake Water at the point of delivery at the pressure that exists in the main of MUNSTER at that point and as furnished by UTILITY to MUNSTER. The intent of the UTILITY and MUNSTER is to maintain pressure satisfactory for their own Lake Water users in the immediate area of the point of delivery, these pressures therefore being available for the service to DYER. The UTILITY and MUNSTER are not required to furnish Lake Water to DYER at a specific pressure; however, the UTILITY and MUNSTER agree to use reasonable efforts to maintain pressure at the point of delivery between 30 P.S.I. and 50 P.S.I, during Lake Water withdrawal by MUNSTER and transportation to DYER. If DYER desires to construct additional facilities to carry the Lake Water from a point of delivery through its own distribution system to serve its water users, DYER itself must furnish, install, operate, and maintain all such extensions, pumps, equipment and system. UTILITY and MUNSTER have no control over such equipment, system, or the repairing and maintenance of them, nor are they in any event responsible for that equipment. The UTILITY and MUNSTER are not responsible for any loss caused by reason of the main pressure at the point of delivery to DYER of the Lake Water. DYER agrees to accept the

Lake Water at the point of delivery from MUNSTER “as is” and as defined in Sections 304 and 307 of this Agreement.

306 Water Quality

(a) The UTILITY agrees to supply to DYER and MUNSTER agrees to transport to DYER at the point of delivery Lake Water of a quality commensurate with that furnished to their own customers within the UTILITY and MUNSTER. At a minimum, all Lake Water furnished from the UTILITY to DYER by MUNSTER at the point of delivery must meet all applicable water quality standards established by any Federal, State of Indiana, or local agency that has jurisdiction over the UTILITY for public water supplies, including the Environmental Protection Agency (EPA) and the Indiana Department of Environmental Management (IDEM).

(b) In the event that the Lake Water fails to meet the minimum water quality standards at point of delivery established by Section 306(a), the UTILITY agrees to take immediate action to correct any such water quality deficiency.

(c) The UTILITY bears no responsibility for water quality of Lake Water beyond the point of delivery to MUNSTER, except to the extent the water delivered at the point of delivery to MUNSTER does not meet water quality standards.

(d) DYER, MUNSTER and the UTILITY each agree to notify the others immediately of any failure of Lake Water to meet the water quality standards established by Section 306(a) in either party’s system. Notifications under this Section going to DYER go directly to Clerk-Treasurer of the Town of Dyer, those to MUNSTER go directly to the Superintendent of the Department of Water Works of the Town of MUNSTER, and those to the UTILITY go to persons the UTILITY designates in writing.

(e) The UTILITY is not responsible for any water quality problems that in the future may be determined to be detrimental, adverse, or contrary to present-day standards. For purposes of this Agreement, the Parties deem the facilities to prevent pollution that the UTILITY now uses to be adequate. The Parties agree that the source of water supply is Lake Michigan at the boundary of the City of the UTILITY, with that lake, and all Parties are familiar with the conditions existing at that point. Furthermore, DYER is familiar with the method by which the UTILITY obtains and treats Lake Water for consumption and distributes the Lake Water to its distribution mains.

(f) If DYER causes any pollution of the water in the system of the UTILITY or MUNSTER, the Parties agree to conduct an immediate investigation, and DYER agrees to remedy and remove any such condition immediately. If the UTILITY or MUNSTER performs any work or is required to perform any work on their respective systems in remedying Dyer-caused pollution in it, DYER agrees to reimburse and indemnify the UTILITY or MUNSTER for all such remedial work and any resulting damages.

307 Water Storage and Time of Pumpage

(a) DYER is responsible during the term of this Agreement for having water storage and other waterworks facilities adequate to meet the requirements of DYER for a full twenty-four (24) hour period. This storage and other waterworks facilities amount is based upon the average gallon per day usage of DYER for the preceding calendar year.

(b) The water storage capacity and other waterworks facilities of DYER must be adequate to meet the requirements of DYER based on average gallons per day determined by the previous year's monthly average for the respective month; in the event the supply from the UTILITY or MUNSTER is, for any reason, not available, DYER

agrees to utilize its water storage capacity for supply at its peak flow periods that impose the least strain on the water system of the UTILITY and MUNSTER. Peak hours for the purposes of this Agreement are from 6:00 a.m to 10:00 p.m. local time on a given calendar day. Conversely, off-peak hours are defined as being from 10:00 p.m. on a given calendar day to 6:00 a.m. local time the following day. This pumpage and storage of water and the times which DYER pumps and stores water through properly designed facilities of DYER of adequate capacity are subject to the approval of the UTILITY and MUNSTER.

(c) The Parties agree that in the event the consumption by DYER, by reason of lack of adequate storage facilities, causes a strain on the water system of the UTILITY or MUNSTER, DYER must construct and provide additional storage, or other waterworks facilities to relieve the strain on the water system of the UTILITY or MUNSTER. The UTILITY agrees to give adequate notice of such strain on its water system due to deficient storage capabilities of DYER and to allow DYER a reasonable period of time within which to plan, design, permit, and construct such additional transmission, waterworks or storage facilities as required by UTILITY. MUNSTER agrees to give adequate notice of said strain on its water system due to deficient storage capabilities of DYER and to allow DYER a reasonable period of time within which to plan, design, permit, and construct such additional transmission, waterworks or storage facilities as required by MUNSTER. In no event, may such a period of time exceed two (2) years from the date of notice given by either the UTILITY or MUNSTER to DYER. The Parties further agree that the reasonable opinion and decision of Engineers employed by UTILITY and MUNSTER regarding the necessity of additional transmission, waterworks

facilities or storage facilities by DYER to relieve said strain is final; provided, however, for such strain to be determined, DYER's usage must exceed its current peak hourly usage at least 4 times during a calendar year. DYER agrees to abide by such decision and to provide the additional transmission, waterworks facilities or storage facilities as required.

308 Territorial Responsibilities

(a) DYER, MUNSTER and the UTILITY agree to furnish, install, operate and maintain their respective equipment and systems located within their territorial boundary limits, and the UTILITY and MUNSTER are not obligated to do, or perform any act outside of city limits of the UTILITY or MUNSTER.

(b) DYER may not, without receiving the UTILITY'S prior written approval, sell water, either on a retail or wholesale basis, or provide water to any Lake Water users outside DYER's territorial town limits. However, DYER may provide Lake Water to up to ten residential users outside its town limits without first seeking the UTILITY'S prior written approval. DYER may add water users within its town limits without permission from or approval by the UTILITY except that the addition of any new industrial user that would exceed 10% of DYER's average daily usage requires written permission by the UTILITY, which the UTILITY may not unreasonably withhold. In evaluating such new users, the UTILITY may request information to determine the feasibility of providing service. During the term of this Agreement, DYER may not sell water to any other towns, cities, or villages without the written consent of the UTILITY.

ARTICLE IV - MEASUREMENT

401 Point of Measurement

MUNSTER agrees to measure the quantity of Lake Water furnished to DYER under this Agreement no less frequently than monthly at the Point of Delivery from MUNSTER to DYER. The unit of measurement is gallons of water, U.S. Standard Liquid Measure or any other unit of volume to which the Parties agree in writing. The Parties acknowledge that DYER's consumption is recorded as consumption of MUNSTER by UTILITY under the MUNSTER Purchase Agreement.

402 Devices

The following devices are being used to provide water service under this Agreement:

- (a) The measuring devices, which include one (1) 16" diameter Krohne Waterflux 3000 electromagnetic flow meter (collectively the "Measuring Device"), must be used at the point of delivery to control, measure, and record the quantity of Lake Water furnished under the Agreement. When possible and to the extent feasible, flow rate and volume totalizer data from the Measuring Devices, as well as recorded pressures and other required operational information must be transmitted by telemetry to MUNSTER and to DYER for automatic data logging.
- (b) The backflow prevention devices, which include a CLA-VAL Model 50-01BDPVKC pressure relief and pressure sustaining and check valve (collectively, the "Backflow Device"), must be used at the point of delivery into the Dyer ground storage tank to prevent pollution of water in the MUNSTER system.
- (c) The Measuring Devices referenced in Paragraph 402(a) and the Backflow Devices referenced in this Paragraph 402(b) are collectively termed the "Devices," and must be in

accordance with the standards set by and be subject to the approval of IDEM. DYER may change Devices only with prior written approval of MUNSTER.

403 Installation and Maintenance of Devices

(a) The Parties agree that the Devices, including the meter vault and all equipment and appurtenances at the point of delivery of Lake Water described in paragraph 301(b), have been or will be furnished and installed by DYER at the expense of DYER during the current construction project.

(b) The Parties agree that after completion of the installation described above, title to, access to, and ownership of the Devices, including said meter vault and all equipment and appurtenances, vested in MUNSTER, and the lines constructed in the territorial limits of MUNSTER became a part of the system of MUNSTER.

(c) MUNSTER agrees to maintain the meter vault and equipment described in paragraph 301(b) continuously, both as to repairs and replacements, at the expense of MUNSTER.

(e) If DYER changes the Devices with MUNSTER's consent as provided in Section 402(c), DYER agrees to pay for any additional or upgraded equipment.

404 Access to Devices

Authorized representatives of DYER and MUNSTER may have access at all reasonable times to the Devices for examination and inspection.

405 Inspection, Testing, and Calibration of Devices

MUNSTER agrees to inspect and perform meter volumetric accuracy testing and signal calibration of the Measuring Devices once every six (6) months to ensure accurate measurement of the supply of Lake Water furnished under this Agreement, and DYER

agrees to reimburse MUNSTER for the cost of all labor and materials incurred to conduct said testing and signal calibration. MUNSTER agrees to provide DYER with three (3) days' written notice of the date and time that MUNSTER will perform the inspection, testing and calibration of the Measuring Devices. MUNSTER agrees that DYER and its agents may be present during MUNSTER's inspection, testing and calibration of the Measuring Devices. MUNSTER further agrees to operate the Backflow Devices once every year to inspect the Backflow Devices for accuracy and to meet IDEM standards. An authorized representative of DYER may be present for such inspections. MUNSTER agrees to provide DYER immediately with the results of any such inspection, testing, and calibration. For purposes of this section, written notice may occur by email or any other means of writing.

406 Readings

MUNSTER agrees to conduct monthly readings of the Measuring Devices for the purpose of billing DYER, reconciled as necessary to correct for any data gaps or errors. MUNSTER further agrees to log flow rate and volume totalizer readings from the Measuring Devices electronically and automatically on a continuous basis.

407 Estimates

The amount of water purchased and sold is determined by the meter readings installed at the point of delivery, and DYER agrees to pay for water as shown by those readings. In the event that any of those meters falls out of repair for a period of seven (7) days, then the Parties agree to compute the water delivered and not metered on a basis of the

average of water readings for the same period of the three previous years, which then serves as the basis for the billable consumption for that period.

ARTICLE V - WATER RATES

501 Wholesale Rates

(a) For the cost of the water furnished by the UTILITY under this Agreement, DYER agrees to pay a single flat wholesale rate for all the water so furnished by the UTILITY.

The following flat rate schedule applies, which reflects the schedule approved by Hammond Common Council as the wholesale rate for sales by UTILITY under this contract and other contracts with Indiana wholesale customers:

- January 1 through December 31, 2021— \$.95 / 1,000 Gals
- January 1 through December 31, 2022— \$1.05 / 1,000 Gals
- January 1 through December 31, 2023— \$1.10 / 1,000 Gals
- January 1 through December 31, 2024— \$1.15 / 1,000 Gals
- January 1 through December 31, 2025— \$1.25 / 1,000 Gals
- January 1 through December 31, 2026— \$1.35 / 1,000 Gals
- January 1 through December 31, 2027— \$1.45 / 1,000 Gals
- January 1 through December 31, 2028— \$1.55 / 1,000 Gals
- January 1 through December 31, 2029— \$1.60 / 1,000 Gals
- January 1 through December 31, 2030— \$1.60 / 1,000 Gals

(b) DYER agrees to pay MUNSTER a transport fee for the transportation of the Lake Water under this Agreement. MUNSTER and DYER agree to review this transport fee and establish a numerically specific transport fee and methodology at least thirty (30) days after the execution of this Agreement but no later than ninety (90) days after that date.

502 Rate Modifications

- (a) The Parties agree that the rates adjust according to the above schedule throughout the term of the Agreement.
- (b) The Parties agree that, at any time during the initial term of this Agreement or any renewal period, the UTILITY may deem it necessary to request a modification of the UTILITY's rates and charges for service to residential customers of the UTILITY.
- (c) If the UTILITY does request modification of its rates and charges from any governing body from which it may or is required to seek approval, DYER agrees not to challenge any increase by arguing that proceeds from wholesale water sales by the City of Hammond should be allocated as revenue of the UTILITY.
- (d) If DYER challenges any requested modification of UTILITY'S rates and charges from any governing body from which it may or is required to seek approval, the UTILITY agrees that DYER be permitted to argue that any increases to residential customers of the UTILITY should be limited to the amount necessary to fund the portion of any service or facility improvements used by or that provide benefit to UTILITY's residential customers. By making this agreement, the UTILITY is not conceding the relevance or significance of any such arguments. The UTILITY retains all defenses to this and any other argument raised by DYER regarding modification of UTILITY's residential rates.
- (e) If DYER challenges any requested modification of UTILITY'S rates and charges from any governing body from which it may or is required to seek approval, the UTILITY agrees not to defend any increase by offering arguments or evidence concerning the rates and charges for water sold by DYER to its residential customers.

(f) This Agreement does not specify any procedure by which UTILITY must seek approval of rate modifications.

503 Dyer Customer Charges

Neither the UTILITY nor MUNSTER have any right to determine charges for Lake Water furnished by DYER to its water users or to any entity identified on Exhibit A.

ARTICLE VI - BILLING

601 Frequency

(a) MUNSTER agrees to submit a consolidated bill to DYER each month for the water used each month by DYER and transported by MUNSTER to DYER. DYER agrees to pay MUNSTER each statement in full without discount within thirty (30) days after the receipt of each bill. DYER agrees to pay a late charge of 1% of the unpaid billing for each thirty (30) day period (including partial periods) from the date payment is due under this subsection to the date on which MUNSTER receives payment.

(b) The Parties acknowledge that DYER's consumption is billed by UTILITY to MUNSTER on a monthly basis under the Munster Purchase Agreement.

(c) DYER agrees to appropriate annually sufficient money to provide funds for the payment of Lake Water furnished by the UTILITY and of transportation by MUNSTER. DYER further agrees that it will at all times charge its resident water consumers sufficient rates to provide adequate funds for the payment of Lake Water furnished by the UTILITY and delivered by MUNSTER.

(d) If DYER fails to pay its water bill on time twice in any rolling three (3) month period, MUNSTER has the right at any time to require DYER to pay in advance a sum of money estimated by MUNSTER to be equal to the cost of water required by DYER for a

period of ninety (90) days at the then-prevailing metered rate, to secure prompt payment of water bills. DYER agrees to make such an advance upon MUNSTER'S written demand.

(e) If DYER refuses, neglects, or fails to pay within the time specified in this Section the water bills rendered for the Lake Water supplied, or if DYER fails to comply with or perform any of the conditions or obligations imposed on it by this Agreement, and if after such failure MUNSTER delivers on behalf of itself and the UTILITY by mail to the Clerk-Treasurer of the Town of Dyer written notice of the UTILITY's intention to shut off the supply of Lake Water on account of such failure, refusal, or neglect, then MUNSTER and the UTILITY has the right to shut off the supply at the expiration of sixty (60) days after the giving of such notice, and to terminate this agreement unless within the same sixty (60) days, DYER pay its outstanding water bills in full to MUNSTER. The shutting off of the supply of Lake Water for any such cause does not release DYER from its obligation to make payments to MUNSTER as specified in this Agreement.

602 Basis

MUNSTER agrees to base its bills on readings of the Devices at the point of delivery between MUNSTER and DYER. The readings may also be adjusted as provided for in Section 407.

603 Form

(a) Each bill must indicate the total amount of Lake Water delivered as evidenced by the readings of the Devices at the beginning and end of each billing period.

(b) Each bill must specify the basic charge per unit of Lake Water furnished and any applicable adjustments.

(c) Each bill must indicate the transportation fee per unit of Lake Water transported and any applicable adjustments.

604 DYER's Customers

DYER remains responsible for billing and collecting payments from its Lake Water users in whatever billing cycle that DYER deems appropriate.

ARTICLE VII - TERM AND STANDARD CONDITIONS

701 Term

(a) This Agreement has an initial term of ten (10) years commencing on the effective date of this Agreement, January 1, 2021.

(b) If DYER desires to continue to purchase Lake Water from the UTILITY transported by MUNSTER beyond the expiration of this Agreement, DYER may provide notice to UTILITY and MUNSTER of its desire to renew.

(c) DYER must notify the UTILITY and MUNSTER of its desire to renew this Agreement between eighteen (18) months and twelve (12) months before the expiration of the initial term set forth in Section 701(a). DYER agrees that its ability to renew this agreement depends on MUNSTER's decision whether or not to renew the Munster Purchase Agreement and that DYER is bound by the terms of renewal that MUNSTER selects with respect to its purchase of water from UTILITY, specifically:

(i) One ten (10) year option, with the new wholesale rate set at 69.6% of the existing Hammond residential rate at the time of renewal. This new wholesale rate is subject to increase based on any increase of the Hammond residential rate. Any

increased wholesale rate based on 69.6% of the residential rate takes effect twelve (12) months after the increased residential rate became effective for the

UTILITY's residential customers; or

(ii) One two (2) year option, with pricing set at \$1.75 per 1,000 US gallons of water.

(d) The Parties agree that if, at (1) the end of the expiration of the initial non-renewed term or (2) after an elected renewal period or (3) upon not being notified of the desire to be renewed, the Parties have not entered into a separate agreement for the sale of treated water, then UTILITY has no remaining contractual obligation to serve, and MUNSTER has no contractual obligation to transport, Lake Water to DYER, and any continuing month-to-month service provided as a public health accommodation for a reasonable time to facilitate DYER's transition to another supplier is provided at 125% of the Hammond residential rate then in effect and subject to the same transportation fee set out in Section 501(b). DYER agrees to provide UTILITY and MUNSTER twelve (12) months' written notice (before the expiration of the applicable contract term) of DYER's transition plans and how long it expects month-to-month service to be required, if at all.

702 Assignment

This Agreement may not be assigned or transferred by any Party without the written consent of all other Parties.

703 Title to Water

Title to all Lake Water supplied under this Agreement remains with the UTILITY to the point of delivery to MUNSTER. Upon passing the point of delivery from MUNSTER to DYER, title to the Lake Water passes to DYER.

70.4 Amendment

This Agreement may be amended only by a written agreement signed by all Parties.

705 Notices

All notices under this Agreement must be in writing either hand-delivered or mailed, certified mail return receipt requested, to DYER at:

Clerk-Treasurer
Town of Dyer
One Town Square
Dyer, IN 46311

to MUNSTER at:

Department of Water Works of the Town of Highland
3333 Ridge Road
Highland, IN 46322
ATTN: Superintendent

and to the UTILITY at:

Chief Executive Operator
Hammond Water Works Department
6505 Columbia Avenue
Hammond, IN 46320

or at any other address as the Party to receive notice designates in a writing delivered under the terms of this Section, and is deemed given when delivered.

706 Indemnification

(a) The UTILITY is not responsible in damages to person or property for any failure to supply water or for interruption of the Lake Water supply furnished under this

Agreement. DYER agrees to hold harmless and indemnify the UTILITY against all claims for losses, liability, or damage, including attorneys' fees and expenses, arising out of or in connection with the delivery and sale of the Lake Water after it is received by MUNSTER from UTILITY at the point of delivery, and DYER hereby assumes all risks of loss, damage, or injury to person or property, in the distribution of the Lake Water after received at the point of delivery by MUNSTER from UTILITY. DYER further agrees to hold harmless and indemnify the UTILITY against all claims for any loss, damage, or injury sustained, including attorneys' fees and expenses incurred by the UTILITY by reason of any claims made against the UTILITY by DYER, or by any person, for any loss that might occur by virtue of furnishing Lake Water to DYER under this Agreement, including claims of loss related to water quality or pressurization. However, UTILITY agrees that any water it does provide DYER must be potable and of substantially the same quality UTILITY provides all of its customers.

(b) DYER also agrees to hold harmless and indemnify MUNSTER against all claims for losses, liability, or damage, including attorneys' fees and expenses, arising out of or in connection with the transportation of the Lake Water after it is received by DYER at the point of delivery from MUNSTER, and DYER hereby assumes all risks of loss, damage, or injury to person or property, in the distribution of said Lake Water after received at the point of delivery from MUNSTER. DYER further agrees to hold harmless and indemnify MUNSTER against all claims for any loss, damage, or injury sustained, including attorneys' fees and expenses incurred by MUNSTER by reason of any claims made against MUNSTER by DYER, or by any person, for any loss that might occur by virtue

of transporting Lake Water to DYER under this Agreement, including claims of loss related to water quality or pressurization.

707 Force Majeure

No Party is liable for damages to the others that result from any acts of God, strikes, lockouts, acts of the public enemy, wars, blockages, insurrections, riots, pandemics, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests, and restraints of rulers and peoples, civil disturbances, explosions, breakage or accident to machinery or lines of pipe causing, loss or failure of water supply, the binding order of any court or governmental authority that has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind enumerated here or otherwise not within the control of the Party claiming suspension and which that Party by the exercise of due diligence is unable to prevent or overcome. Such causes or contingencies affecting the performance of this Agreement by any party, however, do not relieve it of liability in the event of its concurring negligence or in the event of its failure to use due diligence to remedy the situation and remove the cause in an adequate manner and with all reasonable dispatch, nor do such causes or contingencies affecting the performance of this Agreement relieve DYER from its obligation to make payments of amounts due for water passing through the metering point.

708 Miscellaneous

(a) This Agreement supersedes all prior negotiations or understandings, including the 1992 Purchase Agreement Between the Department of Water Works of the Town of Munster, Indiana, the Hammond Water Works Department, Hammond, Indiana, and the Town of Dyer, Indiana and is the whole agreement of the parties. No other oral or written

agreements exist concerning the subject of this Agreement other than the agreement between the UTILITY and MUNSTER referenced in this document. The provisions of this Agreement are interpreted when possible in a manner to sustain their legality and enforceability. The unenforceability of any provision of this Agreement in a specific situation does not affect the enforceability of that provision in another situation or the remaining provisions of this Agreement. If any part of this Agreement is held invalid for any reason, the remainder of this Agreement remains valid to the maximum extent possible. This Agreement is to be performed in the State of Indiana, and Indiana law which applies to its enforcement, construction, and interpretation. In the event the need for enforcement of any provision in this agreement or its interpretation arises, the parties agree to submit to the jurisdiction of the Federal and State Courts located in the State of Indiana having jurisdiction.

(b) In the event any statute is enacted, rule promulgated, or ruling issued by any governmental agency of the United States or the State of Indiana, that is binding upon the UTILITY, and does not permit the UTILITY to furnish water to DYER, as provided under this Agreement, then the UTILITY may cancel this Agreement without any liability to DYER.

(c) Further, should any law, rule, or regulation be passed and adopted by any governmental agency binding on UTILITY as to the grade of water to be furnished, or its distribution, then DYER agrees that when the UTILITY furnishes Lake Water in compliance with such law, rule or regulation, that is has completed its obligation under this Agreement.

(d) This Agreement is further subject to cancellation by the UTILITY in the event that any court of competent jurisdiction decrees that the UTILITY has no right to contract for, sell, distribute, or otherwise limits the amount of Lake Water the UTILITY may use for domestic pumpage or places a burden on the UTILITY in connection with withdrawal of water from Lake Michigan or distribution to any municipality or user residing outside the limits of the City of the UTILITY.

(e) The Parties agree that DYER may prepare to obtain water from a new provider, the provision of which would occur at the end of either the initial term or any extended term. The UTILITY agrees not interfere with any such efforts and to cooperate as required with respect to any such efforts by DYER. Nothing in this paragraph modifies the exclusivity clause set forth in Paragraph 101.

(f) This Agreement is binding on the assigns, successors, purchasers, agents, general successors, boards, councils and all other persons, firms, or corporations that may follow in the interest of the parties.

(g) The authority of the officials of the UTILITY to execute this Agreement is evidenced by Resolution of the Board of Directors of the UTILITY given by the attached Resolution adopted at a regular meeting held on _____, 2021.

(h) The authority of the officials of DYER to execute this Agreement is evidenced by the Resolution adopted by the Town of Dyer, at a regular meeting of its Town Council duly held on the ____ day of _____, 2021.

(j) The authority of the officials of MUNSTER to execute this Agreement is evidenced by the Resolution adopted by the Department of Water Works of the Town of

Munster at a regular meeting of its Board of Directors duly held on the ____ day of _____, 2021.

IN WITNESS this Agreement, MUNSTER, DYER, and the UTILITY have executed this Agreement as of the ____ day of _____, 2021.

UTILITY BOARD OF
THE TOWN OF DYER, INDIANA

HAMMOND WATER WORKS
DEPARTMENT

By:

By:

FRANK JACHIM, PRESIDENT

SHARON DANIELS, PRESIDENT

ED TILTON, SECRETARY

PAUL WALKER, SECRETARY

DEPARTMENT OF WATER WORKS OF
THE TOWN OF MUNSTER, INDIANA

By:

_____, PRESIDENT

_____, SECRETARY