

SCOPE OF WORK NO. 5  
TO THE MASTER SERVICES AGREEMENT BETWEEN  
UTILITY SERVICE CO., INC.  
AND  
TOWN OF MUNSTER, IN

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**CONTRACT FOR SERVICES – 1,000,000 GALLON PEDISPHERE –  
FISHER AND WHITE OAK STREET TANK**

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1. **Effective Date.** The Effective Date for this Scope of Work No. 5 ("SOW5") shall be \_\_\_\_\_, 20\_\_\_\_ .
2. **Term.** The Owner agrees to engage the Company to provide the professional service needed to maintain its 1,000,000 gallon water storage tank located at 1631 Fisher Street, Munster, Indiana 46321 (hereinafter "tank"). This SOW5 shall commence on the Effective Date and shall continue in full force and effect for one year. This SOW5 will automatically renew for four (4) successive one-year terms for a maximum term of five (5) years, unless terminated earlier as defined in Section 10 herein. For purposes of this SOW5, "Contract Year" shall mean the 12-month period which commences on the first day of the month when the SOW5 is executed by the Owner and each successive 12-month period thereafter (hereinafter, "Contract Year" or collectively, "Contract Years").
3. **Company's Engagement and Responsibilities.** The Owner agrees to engage the Company to provide the professional services needed to maintain its **1,000,000** gallon water storage tank located at **1631 Fisher Street, Munster, IN 46321** (hereinafter, "the Tank"). This SOW5 outlines the Company's responsibility for the upfront renovation (hereinafter, the "Upfront Renovation") of the Tank and the care and maintenance of the Tank thereafter. The services (collectively, "the Services") that the Company will provide include the following:
  - a. The Tank shall receive an Upfront Renovation, which will include: **exterior renovation, interior wet renovation, interior dry renovation and repairs prior to the end of Contract Year 2.** The Tank shall receive **visual inspections** prior to the end of Contract **Years 1, 3, and 4.** The Tank shall receive a **washout inspection** prior to the end of Contract **Year 5.**
  - b. The Company will annually inspect the Tank. The Tank will be inspected to ensure that the structure is in a sound, watertight condition. The Company will provide a written inspection report to the Owner following each inspection.
  - c. During the washout inspection, after the Tank is drained by the Owner, the Company will clean the interior of the Tank and perform a condition assessment on the Tank (hereinafter "Washout Inspection"). During the washout Inspection, the Tank will be cleaned to remove all mud, silt, and other accumulations from the interior of the Tank. After a Washout Inspection is completed, the interior of the Tank will be thoroughly inspected and disinfected prior to returning the Tank to service; however,

the Owner is responsible for draining and filling the Tank and conducting any required testing of the water before returning the Tank to service.

d. The Upfront Renovation described in Section 3(a) above is subject to a warranty. For a period of three (3) years from the earlier of the substantial completion of the Upfront Renovation or the return of the Tank to service, the Company warrants that the work provided in the Upfront Renovation will be free from defects in material and workmanship. As the Owner's exclusive remedy under this warranty, the Company shall, at its option, repair or replace any defective material or workmanship at no cost to the Owner. The warranty on the repaired or replaced defective material or workmanship is limited to the remainder of the original three-year warranty term. Notwithstanding the foregoing, the warranty will expire upon the earlier of: (i) the expiration of the three-year warranty term or (ii) the expiration or termination of this SOW5.

e. The Company will install a lock on the roof hatch of the Tank; however, the provision of such lock does not guarantee the Tank's security during the term of the SOW5. For the avoidance of doubt, security of the Tank and the site where the Tank is located (hereinafter, "Tank Site") are the responsibility of the Owner.

f. When the Tank is taken out of service, the Company will furnish pressure relief valves, if requested by the Owner, so that the Owner can install the valves in its water system while the Tank is being serviced. The Owner assumes all risk and liability for the installation and use of the pressure relief valves.

g. The Company will furnish the Owner with current certificates of insurance, which will summarize the Company's insurance coverage.

4. **Price/Annual Fees.** For the performance of the Services required by Section 3, the Owner shall pay the Company an Annual Fee (hereinafter, "Annual Fee") for each Contract Year of the SOW5. The Annual Fee for Contract **Year 1** shall be **\$769.00**. The Annual Fee for Contract **Year 2** shall be **\$584,705.00**. The Annual Fee for Contract **Year 3** shall be **\$825.00**. The Annual Fee for Contract **Year 4** shall be **\$854.00**. The Annual Fee for Contract **Year 5** shall be **\$3,536.00**. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this SOW5.

5. **Payment Terms.** The Annual Fee for Contract **Year 1**, plus all applicable taxes, shall be due and payable **upon completion of the visual inspection in Contract Year 1. Each subsequent Annual Fee, plus all applicable taxes, shall be due and payable upon completion of the Company's service in each Contract Year.** If the Annual Fee, plus all applicable taxes, are not paid within one hundred twenty (120) days of the date of invoice, the Company may terminate or suspend Services under this SOW1 without notice.

6. **Changes or Delays to Services.** For purposes of this Section 6, "Unreasonable Delay" shall mean the Owner's delay in releasing the Tank or making the Tank available to the Company for the performance of any of the Services described herein for a period of twenty-four (24) months following the Company's written request for release or access to the Tank. The Company shall send the Owner an additional notice letter requesting access to the Tank at the eighteen (18) month mark. In the event of Unreasonable Delay, the Company reserves the right to recover its reasonable costs related to the Unreasonable Delay, and the Owner agrees to negotiate

with the Company in good faith to determine the amount of its reasonable costs caused by such Unreasonable Delay. Furthermore, the Owner hereby agrees that the Company can replace a Washout Inspection of the Tank with a visual inspection, remotely operated vehicle inspection ("ROV Inspection"), or unmanned aerial vehicle inspection ("UAV Inspection") without requiring the modification of this SOW5.

- 7. Structure of Tank and Tank Site Conditions.** The Company is accepting this Tank to maintain pursuant to the requirements of this SOW5 based upon its existing structure and components as of the Effective Date (defined hereinafter). ***Any modifications to the Tank, including antenna installations, shall be communicated to and reviewed by the Company, prior to installation and may warrant an increase in the Annual Fees.*** In addition, changes in the condition of the Tank Site and/or any adjoining properties (e.g., construction of a mall next to the Tank Site which significantly increases the risk of overspray claims, etc.) following the Effective Date, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this SOW5. *The Owner agrees to have all antenna equipment removed from the Tank and site prior to the Upfront Renovation.*

- 8. Environmental, Health, Safety, Labor, or Industry Requirements.** The Owner hereby agrees that the promulgation of, enactment of, or modification to any environmental, health, safety, or labor laws, regulations, orders, or ordinances (e.g., EPA or OSHA regulations or standards) following the Effective Date of this SOW5, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this SOW5. Furthermore, modifications to industry requirement(s) including, but not limited to, standard(s) or other guidance documents issued by the American Water Works Association, National Sanitary Foundation, and the Association for Materials Protection and Performance, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this SOW5. Said equitable adjustment of the Annual Fees in this SOW5 will reasonably reflect the increased cost of the Services with newly negotiated Annual Fee(s).

The work performed under this Contract is subject to prevailing wages, and the workers who are performing work under this Contract are to be paid no less than the prevailing hourly rate of wages as set by the appropriate authority. Any future work performed by workers under this Contract will be subject to the wage determination of the appropriate authority which is in effect when the work is performed. However, the Owner and the Company hereby agree that if the prevailing wage rates for any job or trade classification increases by more than 5% per annum from the effective date of this Contract to the date in which any future work is to be performed under this Contract, then the Company reserves the right to re-negotiate the annual fee(s) with the Owner. If the Company and the Owner cannot agree on re-negotiated annual fee(s), then: (1) the Company will not be obligated to perform the work and (2) the Company will not be obligated to return past annual fee(s) received by the Company.

- 9. Excluded Items.** This SOW5 does NOT include the cost for and/or liability on the part of the Company for: (i) containment of the Tank at any time during the term of the SOW5, except for the initial renovation; (ii) disposal of any hazardous waste materials; (iii) resolution of operational problems or structural damage due to cold weather; (iv) repair of structural damage due to antenna installations or other attachments for which the Tank was not originally designed; (v) resolution of operational problems or repair of

structural damage or site damage caused by physical conditions below the surface of the ground; (vi) negligent acts of Owner's employees, agents or contractors; (vii) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves; (viii) repairs to the foundation of the Tank; (ix) any latent defects or inaccessible areas of the Tank or its components (including, but not limited to, (a) corrosion from the underside of the floor plates, and (b) inaccessible areas of the Tank such as the area between the bottom of the roof plate and the top of the roof rafter); (x) the maintenance, repair or replacement of any electrical components (to include any lighting, such as aviation lights); (xi) the maintenance, repair or replacement of fill lines, insulation, and/or frost jackets; (xii) the maintenance, repair, or replacement of piping of any kind below ground level;; and (xiii) other conditions which are beyond the Owner's and Company's control, including, but not limited to: acts of God and acts of terrorism. Acts of God include, but are not limited to, any damage to the Tank or Tank Site which is caused by seismic activity, hurricanes, and/or tornadoes. Acts of terrorism include, but are not limited to, any damage to the Tank or Tank Site which results from an unauthorized entry of any kind to the Tank or Tank Site.

10. **Termination.** This SOW5 is an annual contract that shall automatically renew on an annual basis for four (4) successive Contract Years for a maximum term of five (5) Contract Years so long as: (i) the Owner pays each Annual Fee to the Company in accordance with the terms herein and (ii) does not terminate the SOW5 pursuant to the terms of this Section. This SOW5 is subject to termination by the Owner only at the end of the then-current Contract Year if written notice of intent to terminate is received by the Company at least ninety (90) days prior to the first day of the upcoming Contract Year. If the notice of intent to terminate is not received at least ninety (90) days prior to the first day of the upcoming Contract Year, this SOW5 shall renew for an additional Contract Year and expire at the end of the upcoming Contract Year. In such an event, the Owner agrees that it shall be responsible to pay the Annual Fee for the upcoming Contract Year. The notice of intent to terminate must be sent by certified mail, with return receipt requested, to Utility Service Co., Inc., Attention: Customer Service, Post Office Box 1350, Perry, Georgia 31069, and signed by three (3) authorized voting officials of the Owner's governing body (e.g., commission or council). Notice of intent to terminate cannot be delivered electronically or verbally (e.g., email, text, phone call, etc).
11. **Visual Inspection Disclaimer.** This SOW5 is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the Tank has been drained and is made available to the Company, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company re-negotiate the Annual Fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, corrosion of the roof plates or rafters, corrosion in areas inaccessible to maintain, damage to the roof of the Tank which is not clearly discoverable during the visual inspection, etc.).

**12. Excessive Inflation.** In the event that the aggregate of the Annual Inflation Rates (defined hereinbelow) established for two (2) consecutive calendar years during the term of this SOW5 exceeds 12% in total, the Owner and the Company agree to renegotiate the Annual Fees and increase the Annual Fees throughout the remaining term of this SOW5 to compensate the Company for the excessive inflation. For purposes of this provision, the Annual Inflation Rate for each calendar year shall be established by the *Engineering News Report – Construction Cost Index* (“ENR-CCI”). In the event that the ENR-CCI index is discontinued, the Owner and the Company will negotiate and agree to an alternative index or methodology to address the excessive inflation. For illustrative purposes, if a SOW is executed in 2022, the first equitable adjustment could not be made until both the 2023 inflation rate and the 2024 inflation rate have been established. If the annual inflation rates for 2023 and 2024 are 7.0% and 5.1%, respectively, the Owner and the Company agree to renegotiate the current year’s Annual Fee as well as the remaining Annual Fees for the remainder of the term of the SOW to address the excessive inflation.

The SOW5 is executed and effective as of the date last signed by the parties below.

OWNER

Town of Munster

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

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

COMPANY

Utility Service Co., Inc.

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

Name: Jonathan Cato

Title: Chief Operating Officer

Date: January 5, 2023

## **Upfront Renovation Specifications**

### **Year 2**

#### **Exterior Blast**

1. All exterior surfaces shall be abrasive blast cleaned to a "Commercial" finish, removing all existing paint, rust, dirt, mill scale, and foreign matter by the recommended methods outlined in the Society for Protective Coatings Specification, SSPC-SP No.6.
2. After abrasive cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
3. A containment system shall be utilized to meet the emission control requirements of a Class 4A System, as specified in SSPC-Guide 6 (CON), Guide for Containing Debris Generated During Paint Removal Operations, dated December 1, 1997.
4. One (1) full primer coat of Tnemec Series 94 or equivalent zinc coating shall be applied to 100% of exterior surfaces at manufacturer's recommended coating thickness.
5. One (1) full intermediate coat of Tnemec Series N69 epoxy or equivalent coating shall be applied to 100% of exterior surfaces at manufacturer's recommended coating thickness.
6. One (1) full finish coat of Tnemec Series 72 urethane or equivalent coating shall be applied to 100% of exterior surfaces at manufacturer's recommended coating thickness.

#### **Interior**

1. The complete interior (100%) shall be abrasive blast cleaned to SSPC-SP No. 10 "Near White" finish.
2. After abrasive cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
3. A high build epoxy liner manufactured by the Tnemec Company shall be applied as follows:
  - a. Primer Coat: One [1] complete coat of Tnemec Series N140 Epoxy or equivalent shall be applied to achieve a dry film thickness of 3 to 5 mils.
  - b. Finish Coat: One [1] complete finish coat of Tnemec Series N140 Epoxy or equivalent shall be applied to achieve a dry film thickness of 4 to 6 mils.
  - c. Contrasting Color: Each coat of epoxy paint shall be of contrasting color.
  - d. Stripe Coat: One additional coat of epoxy shall be applied by brush and roller to all weld seams.
4. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
5. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
6. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
7. The Tank shall be sealed and made ready for service.

### **Interior Dry**

1. The complete dry interior (100%) shall be abrasive blast cleaned to SSPC-SP No. 6.
2. After abrasive cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
3. One (1) full primer coat of a Tnemec Series coating shall be applied to the complete interior dry surfaces (100%) at the manufacturer's recommended thickness.
4. One (1) full finish coat of a Tnemec Series coating shall be applied to the complete interior dry surfaces (100%) at the manufacturer's recommended thickness.
5. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
6. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.

### **Repairs**

1. Remove the cathodic protection system
2. Install new interior ladder