

STATE OF INDIANA                     )     IN THE LAKE COUNTY \_\_\_\_\_ COURT  
  ) SS:  
COUNTY OF LAKE                    )     CAUSE NO.:

THE TOWN OF MUNSTER,             )  
INDIANA;                                )  
  )  
                    Plaintiff,            )  
  )  
                    v.                     )  
  )  
THE SANITARY DISTRICT OF         )  
HAMMOND, INDIANA;                 )  
  )  
                    Defendant.         )

**COMPLAINT FOR DAMAGES, DECLARATORY JUDGMENT, AND  
SPECIFIC PERFORMANCE**

Plaintiff, the Town of Munster, Indiana (“Munster”) by counsel, for its Complaint for Damages, Declaratory Judgment, and Specific Performance against the Sanitary District of Hammond, Indiana (“HSD”), alleges and states the following:

**INTRODUCTION**

1. This is an action for damages, declaratory judgment, and specific performance arising from the breach of two contracts by the HSD, and for unjust enrichment flowing from the HSD’s decision to charge Munster for HSD projects that either do not benefit Munster at all or provide significant benefits to the City of Hammond, Indiana (“Hammond”) to Munster’s detriment. Munster seeks a judgment awarding it damages in the form of tax revenues wrongfully retained by the HSD, declaratory judgment requiring the HSD to remit such tax revenues to Munster on a going forward basis, specific performance requiring the HSD to allow Munster to

meaningfully participate in determining the HSD's rates, damages from unjust treatment by the HSD, attorney's fees, costs, and all other appropriate relief under the circumstances.

#### **THE PARTIES, JURISDICTION, AND VENUE**

2. Munster is an Indiana municipality. The Munster Clerk-Treasurer's Office is located at 1005 Ridge Road, Munster, Indiana 46321.

3. The HSD is a political subdivision whose boundaries consist, geographically, of the municipalities of Hammond and Munster.

4. The HSD owns and operates a wastewater collection system and wastewater treatment plant in Hammond. The HSD also operates certain wastewater collection facilities in Munster.

5. The HSD also provides wastewater services on a wholesale basis to the Town of Griffith, Indiana and the Town of Highland, Indiana for which it charges and receives contractual user operation and maintenance fees.

6. The HSD's principal office is located at 5143 Columbia Avenue, Hammond, Indiana 46237.

7. Jurisdiction is proper in this Court pursuant to Indiana Trial Rule 4.

8. Preferred venue lies in Lake County pursuant to Indiana Trial Rules 75(A)(1), (4), and (5).

9. Munster and the HSD entered into an agreement pursuant to which they agreed to stipulate to the appointment of a special judge not from Lake County to preside over the disputes outlined in this Complaint. Accordingly, a special judge

from outside of Lake County should be appointed to decide this matter. See **Exhibit E**, Section 5.01.

### **THE HSD**

10. Munster has been a member of the HSD since 1948.

11. During Munster's tenure as a member of the HSD, the HSD had five voting members: one appointed by Munster and four appointed by Hammond.

12. Due to this voting structure, Munster has little to no control over the actions of the HSD and instead serves as a minority member with limited rights and a limited ability to protect its interests.

13. Nonetheless, Munster has always endeavored to be, and has in fact been, a good partner in the operation and administration of the HSD.

### **THE 1994 AGREEMENT**

14. Historically, the responsibility for the maintenance and repair of the sewer collection system within the HSD was loosely divided among the HSD, Hammond, and Munster. Generally, the responsibility for the placement and maintenance of major sewer lines and pump stations for the transmission of combined stormwater and sanitary sewage throughout the district belonged to the HSD, while minor and/or lateral sewer lines and other related facilities had been the responsibility of the respective sewer departments of Hammond and Munster.

15. In approximately 1991, however, Hammond sought to, and did in fact, transfer its sewer department to the HSD in an effort to save Hammond money through common infrastructure and management.

16. At the time, and as evidence of its ongoing effort to be a good partner to Hammond, Munster agreed to the transfer of Hammond's sewer department to the HSD and further agreed to Hammond's request to fund Hammond's sewer department with a tax assessed by the HSD.

17. The HSD, through a 1991 resolution, established a sewer tax to fund Hammond's sewer department that Munster and Hammond both understood was intended to affect only taxable property located within Hammond.

18. Over the course of the next three years, however, Munster learned that the sewer tax was also being charged and collected from taxable property located in Munster, and further that no such tax revenues had been remitted to Munster.

19. In an attempt to remedy this issue, Munster and the HSD entered into an agreement in 1994, retroactive to 1991, which required the HSD to pay to Munster its share of the sewer tax funds that had been and were continuing to be collected on taxable property located in Munster along with any other tax distributions applicable to Munster (the "1994 Agreement").

20. A true and accurate copy of the 1994 Agreement is attached hereto as **Exhibit A**.

21. The 1994 Agreement was authorized by the HSD in Resolution No. 25-1994.

22. A true and accurate copy of Resolution No. 25-1994 is attached hereto as **Exhibit B**.

23. Munster similarly authorized the 1994 Agreement in Resolution 1389.



24. A true and accurate copy of Resolution No. 1389 is attached hereto as **Exhibit C**.

25. The 1994 Agreement is a valid, binding, and enforceable contract between Munster and the HSD.

26. Pursuant to the 1994 Agreement, the parties indicated that it was their “express intention...that the [HSD] pay to Munster that amount of the taxes levied and collected against taxable property within [Munster,] along with any other tax distributions received by [the HSD] applicable to Munster such as license excise tax distributions and financial institution tax distributions...” **Exhibit A**, p.2.

27. The parties further agreed that the 1994 Agreement would remain in force and effect for as long as the HSD continues to budget for and levy taxes for sewer services against taxable property located within the HSD, including taxable property located within Munster. *Id.*

28. To accomplish these goals, Munster and the HSD agreed that

1. Beginning in the year 1991, for taxes assessed in 1990 and collected in 1991, and for each year thereafter, the SANITARY DISTRICT shall remit and pay over to MUNSTER, as such collections are received, MUNSTER's portion of the taxes assessed and collected in connection with the funding of the SANITARY DISTRICT's Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof. MUNSTER's portion of the taxes shall be all taxes, interest and penalties, if any, collected from owners of property in the Town of Munster.

*Id.* ¶ 1.

29. In exchange, Munster agreed to continue to perform sewer maintenance

and repair duties on facilities located within Munster. *Id.* ¶ 2.

30. The HSD also agreed to “deal with the interests of Munster...” relating to the collection and remittance of taxes payable to Munster “...in a fair, equitable, and consistent manner...” and to pay any funds owing to Munster within thirty (30) days following their collection. *Id.* ¶¶ 4, 5.

31. Further, the 1994 Agreement provides that either party has the right to enforce its terms, and that in the event that a legal proceeding is necessary, the prevailing party shall recover its costs and expenses, including reasonable attorney’s fees. *Id.* ¶ 7.

32. Despite these promises, however, the HSD has not remitted to Munster the correct amount of tax revenues charged and collected from taxable property located in Munster for over thirty (30) years.

33. The HSD has also failed to remit to Munster the correct amount of other tax distributions received by the HSD applicable to Munster such as license excise tax distributions and financial institution tax distributions during this thirty (30) year period.

34. Following entry into the 1994 Agreement, Munster has attempted, on multiple occasions, to resolve with the HSD its concerns relating to the HSD’s failure to comply with the 1994 Agreement and the HSD’s obligation to properly remit to Munster its share of the collected tax revenues.

35. Generally, the HSD’s response to Munster’s efforts to resolve the issues with the HSD’s compliance with the 1994 Agreement has been to make

representations that it would address such issues and provide Munster with any tax revenues the HSD believed Munster was owed. Despite such representations, however, upon which Munster reasonably relied in forgoing litigation, the HSD has not taken any meaningful steps toward compliance with the 1994 Agreement or to otherwise resolve its breaches of that agreement.

36. The HSD's failure to remit all of the tax revenues owed to Munster has been, and continues to be, a breach of the 1994 Agreement. Such actions have caused significant damages - reaching into the tens of millions of dollars or higher - to Munster.

37. Further, the HSD's failure to remit such tax revenues to Munster has generated a significant windfall to the HSD, which has retained and benefitted from taxes levied upon taxable property located in Munster and other tax revenues applicable to Munster for decades despite having no right to retain or use such monies.

38. The HSD continues to persist in retaining funds due and owing to Munster under the 1994 Agreement and has rebuffed all efforts by Munster to resolve this issue either with respect to past breaches of or ongoing compliance with the 1994 Agreement.

#### **THE COST OF SERVICE AGREEMENT**

39. On January 24, 2017, the HSD signed a Consent Decree with the U.S. Environmental Protection Agency. That Consent Decree and eventual Long Term Control Plan will require significant capital investment by the HSD to ensure

compliance.

40. As part of the HSD's efforts to comply with the Consent Decree, it sought to increase service rates in 2017.

41. On February 6, 2017, Munster passed Resolution 2020.

42. A true and accurate copy of Resolution 2020 is attached hereto as **Exhibit D.**

43. Pursuant to Resolution 2020, Munster agreed to support an initial 49% across-the-board increase of rates charged by the HSD to aid in complying with the Consent Decree, provided that the following conditions were satisfied:

1. **The Proposed Rate Ordinance presented to the Town of Munster is for a duration no longer than 30 months – after such time a new rate based on an engineered cost of service study shall be proposed and be considered for adoption; and,**
2. **The method of the Town's participation is clearly articulated and agreed with regards to the upcoming cost of service study and should include:**
  - a. **Meaningful collaboration on crafting the study scope and work to be bid**
  - b. **An equal voice in the selection of the successful incumbent**
  - c. **The opportunity to have Town of Munster employees or representatives present at project meetings; and,**
3. **The Proposed Rate Ordinance presented to the Town of Munster includes the Multiple Unit Residential Rate for apartment/condominium owners in the District.**

**Exhibit D, p. 2.**

44. Munster approved the 49% across-the-board rate increase in 2017, as did Hammond. Accordingly, the HSD raised rates across-the-board by 49% in 2017 (the "2017 Rate Increase").

45. In June of 2017, Munster, Hammond, and the HSD also entered into an

agreement setting forth terms relating to the completion of an engineered cost of service study (“COSS”) designed to establish new rates (the “COSS Agreement”).

46. A true and accurate copy of the COSS Agreement is attached hereto as **Exhibit E**.

47. Munster, Hammond, and the HSD each took all necessary and appropriate steps to approve the COSS Agreement, rendering it valid, binding, and enforceable.

48. The terms of the COSS Agreement generally match the conditions Munster outlined in its Resolution 2020 concerning approval of the 2017 Rate Increase.

49. Specifically, the parties agreed in the COSS Agreement not to seek another rate increase following the 2017 Rate Increase until the completion of a COSS that fairly distributed and allocated the costs of operation, maintenance, administrative expenses, principle and interest on bonds, and money for a revolving fund among the HSD’s customers classes and customer communities. **Exhibit E**, Section 2.02.

50. The parties further agreed in the COSS Agreement that the HSD “shall invite Munster’s meaningful participation” in the process of preparing the COSS by convening a selection committee appointed by members of HSD and Munster. *Id.*, Section 2.01. Further, that selection committee was to be tasked with preparing a COSS scope comprised of items that each party required to be included, evaluating proposals, selecting the most qualified consultant to complete the work set forth in

the scope, and giving advice and comment on all material process and decisions of the COSS. *Id.*

51. The COSS Agreement also reflects a commitment by the parties to use their best efforts to support and approve increases in rates and charges that will adequately fund the capital and operational requirements of the HSD, while simultaneously acknowledging that rates may also be set and established through other means, such as an Indiana Utility Regulatory Commission proceeding, to the extent necessary. *Id.*, Section 2.03.

52. Despite considerable efforts on the part of Munster to participate on the selection committee and in the preparation of the COSS, however, its efforts were rejected by the HSD. The HSD refused to allow Munster to have any meaningful participation in the preparation of the COSS or to otherwise provide input on any of the issues to be addressed by the selection committee.

53. Instead, the HSD retained NewGen to prepare a COSS, and without acknowledging or accepting input from Munster, directed NewGen to only consider wholesale customer communities, not retail customers like those situated in Munster and Hammond, when determining the allocation of costs and appropriate rates for future service.

54. The HSD intends to seek a rate increase based upon the results of this COSS, despite its failure to include a full analysis of cost causation or otherwise address Munster's concerns relating to future rate increases.

55. If rates are increased pursuant to this intentionally limited COSS, the

HSD would perpetuate the unreasonable and exorbitant rates that Munster residents have paid over the years.

56. For example, though Munster residents only represent approximately 16% of the total flow that is treated by the HSD, Munster funds approximately 44% of the current property-tax supported debt issued by the HSD.

57. The HSD's failure to permit Munster's meaningful participation in the COSS process, resulting in the preparation of a COSS that does not appropriately account for cost causation when establishing future HSD rates, breached the COSS Agreement and harmed Munster.

#### **ADDITIONAL INEQUITABLE TREATMENT BY THE HSD**

58. Munster has made additional significant and disproportionate contributions for projects undertaken by the HSD from which it, and its constituent taxpayers, receive no benefit or are otherwise treated disparately by the HSD.

59. For example, in 2018 and 2019, the HSD spent approximately \$3.1 Million to purchase property for a proposed stormwater holding facility at 173<sup>rd</sup> and Linden/Columbia in Hammond. That project evolved into a neighborhood redevelopment project, which included the purchase of additional property not on the project path, and ultimately the donation of the land to the City of Hammond Redevelopment Commission. None of this benefitted Munster, its constituent taxpayers, or even the HSD itself.

60. Likewise, Munster's vactor truck waste is charged a treatment rate of \$47.50 per ton. Yet, Hammond, through its Sewer Department, pays only \$1 per ton

or \$0 per the 2022 Yearly Sewer Department Summary. Again, there is no appropriate justification for this unequal and unjust treatment, which benefits Hammond to Munster's detriment.

61. These actions and other similar actions, which remain ongoing, harm Munster to the benefit of the HSD and/or Hammond and violate the rules and standards which govern the operation of the HSD.

### **COUNT I – BREACH OF THE 1994 AGREEMENT**

62. Munster incorporates by reference, as if fully restated herein, the foregoing allegations.

63. The 1994 Agreement is a valid, binding, and enforceable contract between Munster and the HSD.

64. Munster has fully performed all obligations owed by it under the 1994 Agreement.

65. The HSD breached the 1994 Agreement by failing to remit to Munster all tax revenues charged and collected from taxable property located in Munster and other tax distributions applicable to Munster, such as license excise tax distributions and financial institution tax distributions.

66. Munster has been, and will continue to be, damaged as a result of the HSD's breach of the 1994 Agreement.

WHEREFORE, the Town of Munster, Indiana respectfully requests a judgment against the Sanitary District of Hammond, Indiana, in an amount sufficient to compensate Munster for its losses, including but not limited to



compensatory damages, attorney's fees, interest, the cost of this action, and for all other appropriate relief.

**COUNT II – DECLARATORY JUDGMENT**  
**CONCERNING THE 1994 AGREEMENT**

67. Munster incorporates by reference, as if fully restated herein, the foregoing allegations.

68. An actual, present and existing controversy has arisen between Munster and the HSD regarding the interpretation and application of the 1994 Agreement.

69. Specifically, the HSD contends that its calculation of how much, if any, tax revenue collected from taxable property located in Munster or other tax distributions is correct. As a result, the HSD takes the position that it owes Munster considerably less than Munster believes it is owed, or nothing, under the 1994 Agreement on a going forward basis.

70. Munster, on the other hand, contends that the HSD must remit to Munster the *entire* amount of the tax revenues due and owing to it on an ongoing basis pursuant to the terms of the 1994 Agreement. Munster specifically disagrees with the HSD's calculation of tax amounts owed to Munster and the HSD's plans to continue calculating and/or remitting them to Munster in accordance with the HSD's calculation.

71. As a result, there is a present controversy as to the parties' rights and obligations under the 1994 Agreement.

72. This dispute is ripe for determination by the Court pursuant to the powers granted to it under Ind. Code § 34-14-1 *et. seq.*

73. This dispute and present controversy affects the legal rights, status, and relationship of the parties on a going forward basis. Specifically, separate and aside from whether the HSD breached the 1994 Agreement in past tax years, there is an ongoing dispute concerning the parties' future rights and relationship with respect to the application of the 1994 Agreement for all future tax years.

74. A declaration from the Court clarifying the parties' rights under the 1994 Agreement will resolve the disputes and clarify the obligations of the parties' relating to the amount of tax revenues due and owing to Munster in future tax years.

WHEREFORE, the Town of Munster, Indiana respectfully requests that the Court enter an order declaring that

- a. Munster's interpretation of the 1994 Agreement provisions regarding tax revenues collected by the HSD from taxable property located in Munster and other tax distributions applicable to Munster is correct;
- b. The 1994 Agreement requires the HSD to remit and pay over to Munster, as such collections are received, Munster's portion of the taxes assessed and collected by the HSD from owners of property in Munster and other tax distributions applicable to Munster such as license tax distributions and financial institution tax distributions;
- c. The HSD's calculation of the tax revenues due and owing to Munster must properly account for all such tax revenues due and owing to Munster under the 1994 Agreement and must not result in the retention of such amounts by the HSD;

- d. The HSD's obligation to remit such tax revenues to Munster is ongoing unless and until the conditions set forth in the 1994 Agreement relating to the termination of that obligation are fully satisfied;
- e. Munster be awarded its costs and expenses, including reasonable attorney fees, associated with its efforts to enforce the terms of the 1994 Agreement; and
- f. Any other appropriate relief.

### **COUNT III - BREACH OF THE COSS AGREEMENT**

75. Munster incorporates by reference, as if fully restated herein, the foregoing allegations.

76. The COSS Agreement is a valid, binding, and enforceable contract between Munster, Hammond, and the HSD.

77. Munster has fully performed all obligations owed by it under the COSS Agreement.

78. The HSD breached the COSS Agreement by failing to permit Munster to have meaningful participation in the selection committee and creation of the COSS, resulting in the preparation of a COSS that does not appropriately account for cost causation when establishing future HSD rates.

79. Munster has been harmed by the HSD's breach of the COSS Agreement.

80. Munster will continue to be harmed by the HSD's breach of the COSS Agreement unless the Court orders specific performance of its terms by the HSD. Specifically, the HSD's breach of the COSS Agreement resulted in the creation of a

COSS that proposes inequitable, unfair, and harmful rate increases that are not based upon proper rate-making procedures.

81. Munster has no adequate remedy at law concerning the HSD's breach of the COSS Agreement other than specific performance.

WHEREFORE, the Town of Munster, Indiana respectfully requests that the Court enter an order requiring the HSD to specifically comply with the COSS Agreement by allowing Munster to meaningfully participate in the process of preparing an independent COSS that will serve as the basis of future contractual user O&M rates with Griffith, Highland, Hammond, and Munster. To achieve meaningful participation as required by the COSS Agreement, the Court should order the HSD to:

- a. Convene a new selection committee comprised of staff and representatives and/or board members of Hammond, the HSD, and Munster.
- b. Direct the committee members to
  - i. Prepare a cost of service study scope comprised of items that each party, including Munster, requires without exception;
  - ii. Seek and evaluate new proposals for a COSS;
  - iii. Select the most qualified consultant to complete the work set forth in the new scope; and
  - iv. Give advice and comment on all material processes and decisions of the study.

- c. Obtain and review a new COSS based upon the foregoing consistent with the terms of the COSS Agreement.

#### **COUNT IV – UNJUST ENRICHMENT**

82. Munster incorporates by reference, as if fully restated herein, the foregoing allegations.

83. Munster expressly or impliedly rendered a measurable benefit to the HSD through the HSD's collection and retention of taxes levied upon taxable property in Munster.

84. Munster expressly or impliedly rendered a measurable benefit to the HSD through the HSD's collection and retention of tax distributions applicable to Munster such as license excise tax distributions and financial institution tax distributions.

85. Munster also expressly or impliedly rendered measurable benefits to the HSD through the significant and disproportionate contributions made by Munster for projects undertaken by the HSD from which Munster receives no benefit or is otherwise treated disparately by the HSD.

86. The HSD expressly or impliedly requested these benefits.

87. Munster reasonably expected that the HSD would timely pay to it all tax revenues charged and collected by it from owners of property in Munster and other tax revenues that were otherwise applicable to Munster.

88. Munster reasonably expected that the HSD would treat Munster fairly and not expect Munster to make significant and disproportionate contributions for

projects undertaken by the HSD from which it receives no benefit or is otherwise treated disparately by the HSD.

89. Allowing the HSD to retain these tax receipts and other benefits would be unjust.

WHEREFORE, the Town of Munster, Indiana respectfully requests a judgment against the Sanitary District of Hammond, Indiana, in an amount sufficient to compensate Munster for its losses, including but not limited to compensatory damages, attorney's fees, interest, the cost of this action, and for all other appropriate relief

Respectfully submitted,

/s/ Alex E. Gude

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*Attorneys for Plaintiff, the Town of Munster,  
Indiana*

Lake Superior Court, Civil Division 7

Lake County, Indiana

THIS AGREEMENT signed this 15th day of March, 1994, to be effective as of the 1st day of January, 1991, between the SANITARY DISTRICT OF THE CITY OF HAMMOND, INDIANA, ("Sanitary District") and the CIVIL TOWN OF MUNSTER, INDIANA, ("Munster").

WHEREAS, the SANITARY DISTRICT is, among other things, a special taxing district whose boundaries consist, geographically, of the municipalities of the City of Hammond and the Town of Munster; and

WHEREAS, the SANITARY DISTRICT operates a wastewater treatment plant located in the City of Hammond and provides for and maintains a portion of the sewage collection system in the SANITARY DISTRICT consisting of sanitary and combined sewers, and pumping stations, all pursuant to I.C. 36-9-25; and

WHEREAS, historically, the responsibility for the maintenance and repair of the sewer collection system within the SANITARY DISTRICT has been loosely divided among the SANITARY DISTRICT, the Civil City of Hammond ("Hammond") through its Sewer Department, and MUNSTER through its Sewer Department. Generally, but not exclusively, the responsibility for placement and maintenance of major sewer lines and pump stations for the transmission of combined storm water and sanitary sewage throughout the district has belonged to the SANITARY DISTRICT. Generally, the responsibility for placement and maintenance of minor and/or lateral sewer lines as well as catch basins, manholes and storm water pumping facilities, has been the responsibility of the respective sewer departments of HAMMOND and MUNSTER; and

WHEREAS, in July and August of 1990, the SANITARY DISTRICT advertised for a public hearing for its 1991 budget, which budget included the proposed creation of a tax rate and levy designed to generate funding for it to operate the Sewer Department in HAMMOND which operation theretofore had been performed by the executive department of HAMMOND through its Sewer Department. The proposed budget was \$1,500,000. The original budget presented to the Indiana State Board of Tax Commissioners contemplated that this entire fund be assessed only against taxable property located within the City of Hammond and not district-wide so as to include the Town of Munster. Ultimately, however, the tax levy as calculated and approved by the State Board of Tax Commissioners was assessed against all taxable real estate located within the taxing district of the SANITARY DISTRICT; and

WHEREAS, it is the express intention of SANITARY DISTRICT to assume only the maintenance and repair duties and responsibilities heretofore performed by the Sewer Department of HAMMOND, and the SANITARY DISTRICT does not intend to replace, supplement or assume the maintenance and repair duties and responsibilities now performed by the Sewer Department of MUNSTER; and

EXHIBIT A



WHEREAS, the assessed valuation of taxable property for the year 1990 in Hammond was \$292,491,659 and in Munster was \$121,440,180. It is the express intention of the parties that the SANITARY DISTRICT pay to MUNSTER that amount of the taxes levied and collected against taxable property within the Town of Munster, along with any other tax distributions received by SANITARY DISTRICT applicable to MUNSTER such as license excise tax distributions and financial institution tax distributions, in exchange for and in consideration of MUNSTER's continued performance of the sewer maintenance and repair duties and responsibility now performed by the Sewer Department of MUNSTER on sewers and facilities located in the Town of Munster; and

WHEREAS, it is the express intention of the parties that this Agreement remain in force and effect for as long as the SANITARY DISTRICT continues to budget for and levy taxes for the above described sewer work against taxable property located within the SANITARY DISTRICT including that taxable property located within the Town of Munster.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. Beginning in the year 1991, for taxes assessed in 1990 and collected in 1991, and for each year thereafter, the SANITARY DISTRICT shall remit and pay over to MUNSTER, as such collections are received, MUNSTER's portion of the taxes assessed and collected in connection with the funding of the SANITARY DISTRICT's Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof. MUNSTER's portion of the taxes shall be all taxes, interest and penalties, if any, collected from owners of property in the Town of Munster.

2. MUNSTER shall continue to have the right and responsibility to service, maintain, repair, reconstruct, replace, and rehabilitate local, minor and lateral sewer lines, catch basins, manholes, pumping stations, other storm water and sanitary sewer facilities and combined sewers in the Town of Munster for which it has had traditional responsibility. It is expressly agreed and understood that these duties shall not be undertaken, assumed or performed by the SANITARY DISTRICT without the prior express written consent of MUNSTER. The SANITARY DISTRICT shall continue to have the right and responsibility to service those sewer lines, catch basins, manholes, pumping stations and other storm water and sanitary sewer facilities in the district for which it has had and will continue to have traditional responsibility.



3. MUNSTER, in its municipal discretion, shall have the right to determine the application and use of said funds so long as their expenditure as public funds is in accordance with the laws of the State of Indiana applicable thereto.

4. The SANITARY DISTRICT shall deal with the interests of MUNSTER in connection with the funding of said Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof, in a fair, equitable and consistent manner in accordance with the terms, agreements and expressed intent set forth herein.


5. All funds which are payable to MUNSTER shall be paid and transferred to it by the SANITARY DISTRICT within thirty (30) days following its collection.

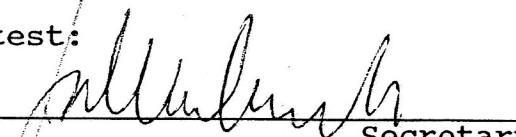
6. The SANITARY DISTRICT reserves the right to issue tax anticipation warrants from year to year as to that portion of the collections which are to be retained by it, and MUNSTER reserves the right, at its sole election, to request that the SANITARY DISTRICT issue tax anticipation warrants from year to year as to that portion of the collections belonging to MUNSTER. The costs of proceedings, including legal, bond counsel and the like, shall be borne by the party, or if both, the parties issuing the tax anticipation warrants, and if both, in their proportions of the issuance.

7. Either party shall have the right to enforce the terms of this Agreement, and in the event of a proceeding to enforce, the prevailing party shall also recover its costs and expenses, including reasonable attorney fees.

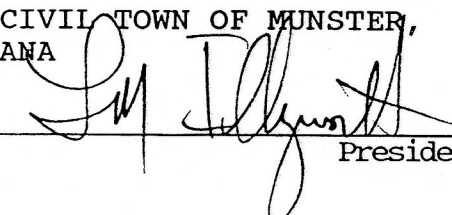
All of which is Agreed this 15 day of March, 1994, to be effective the 1st day of January, 1991.

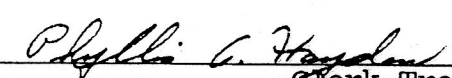
SANITARY DISTRICT OF THE  
CITY OF HAMMOND, INDIANA

By:   
President

Attest:   
Secretary

THE CIVIL TOWN OF MUNSTER,  
INDIANA

By:   
President

  
Clerk-Treasurer

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT  
BETWEEN THE SANITARY DISTRICT OF THE CITY OF HAMMOND,  
INDIANA, AND THE TOWN OF MUNSTER, INDIANA

WHEREAS, the Board of Sanitary Commissioners of the Sanitary District of the City of Hammond, Indiana, desire to memorialize its understanding for the division and distribution of taxes collected by the funding of the Sanitary District's Sewer Maintenance Fund, Fund No. 608, which understanding has been reduced to a written agreement, a copy of which is attached and incorporated by reference.

NOW THEREFORE BE IT RESOLVED by the Board of Sanitary Commissioners of the Sanitary District of the City of Hammond, Indiana, that the president of the Board of Sanitary Commissioners is now hereby authorized and directed to execute the attached agreement on behalf of the Hammond Sanitary District.

ADOPTED THIS 15<sup>th</sup> day of March, 1994, in regular meeting assembled.

[Signature] President  
Charles V. Pettersen Vice President  
Russell M. L. [Signature] Member  
Terrance M. [Signature] Member  
Stanley Prost [Signature] Member

ATTEST:

[Signature]  
Secretary

# A G R E E M E N T

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WHEREAS, the SANITARY DISTRICT is, among other things, a special taxing district whose boundaries consist, geographically, of the municipalities of the City of Hammond and the Town of Munster; and

WHEREAS, the SANITARY DISTRICT operates a wastewater treatment plant located in the City of Hammond and provides for and maintains a portion of the sewage collection system in the SANITARY DISTRICT consisting of sanitary and combined sewers, and pumping stations, all pursuant to I.C. 36-9-25; and

WHEREAS, historically, the responsibility for the maintenance and repair of the sewer collection system within the SANITARY DISTRICT has been loosely divided among the SANITARY DISTRICT, the Civil City of Hammond ("Hammond") through its Sewer Department, and MUNSTER through its Sewer Department. Generally, but not exclusively, the responsibility for placement and maintenance of major sewer lines and pump stations for the transmission of combined storm water and sanitary sewage throughout the district has belonged to the SANITARY DISTRICT. Generally, the responsibility for placement and maintenance of minor and/or lateral sewer lines as well as catch basins, manholes and storm water pumping facilities, has been the responsibility of the respective sewer departments of HAMMOND and MUNSTER; and

WHEREAS, in July and August of 1990, the SANITARY DISTRICT advertised for a public hearing for its 1991 budget, which budget included the proposed creation of a tax rate and levy designed to generate funding for it to operate the Sewer Department in HAMMOND which operation theretofore had been performed by the executive department of HAMMOND through its Sewer Department. The proposed budget was \$1,500,000. The original budget presented to the Indiana State Board of Tax Commissioners contemplated that this entire fund be assessed only against taxable property located within the City of Hammond and not district-wide so as to include the Town of Munster. Ultimately, however, the tax levy as calculated and approved by the State Board of Tax Commissioners was assessed against all taxable real estate located within the taxing district of the SANITARY DISTRICT; and

WHEREAS, it is the express intention of SANITARY DISTRICT to assume only the maintenance and repair duties and responsibilities heretofore performed by the Sewer Department of HAMMOND, and the SANITARY DISTRICT does not intend to replace, supplement or assume the maintenance and repair duties and responsibilities now performed by the Sewer Department of MUNSTER; and



WHEREAS, the assessed valuation of taxable property for the year 1990 in Hammond was \$292,491,659 and in Munster was \$121,440,180. It is the express intention of the parties that the SANITARY DISTRICT pay to MUNSTER that amount of the taxes levied and collected against taxable property within the Town of Munster, along with any other tax distributions received by SANITARY DISTRICT applicable to MUNSTER such as license excise tax distributions and financial institution tax distributions, in exchange for and in consideration of MUNSTER's continued performance of the sewer maintenance and repair duties and responsibility now performed by the Sewer Department of MUNSTER on sewers and facilities located in the Town of Munster; and

WHEREAS, it is the express intention of the parties that this Agreement remain in force and effect for as long as the SANITARY DISTRICT continues to budget for and levy taxes for the above described sewer work against taxable property located within the SANITARY DISTRICT including that taxable property located within the Town of Munster.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. Beginning in the year 1991, for taxes assessed in 1990 and collected in 1991, and for each year thereafter, the SANITARY DISTRICT shall remit and pay over to MUNSTER, as such collections are received, MUNSTER's portion of the taxes assessed and collected in connection with the funding of the SANITARY DISTRICT's Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof. MUNSTER's portion of the taxes shall be all taxes, interest and penalties, if any, collected from owners of property in the Town of Munster.

2. MUNSTER shall continue to have the right and responsibility to service, maintain, repair, reconstruct, replace, and rehabilitate local, minor and lateral sewer lines, catch basins, manholes, pumping stations, other storm water and sanitary sewer facilities and combined sewers in the Town of Munster for which it has had traditional responsibility. It is expressly agreed and understood that these duties shall not be undertaken, assumed or performed by the SANITARY DISTRICT without the prior express written consent of MUNSTER. The SANITARY DISTRICT shall continue to have the right and responsibility to service those sewer lines, catch basins, manholes, pumping stations and other storm water and sanitary sewer facilities in the district for which it has had and will continue to have traditional responsibility.

3. MUNSTER, in its municipal discretion, shall have the right to determine the application and use of said funds so long as their expenditure as public funds is in accordance with the laws of the State of Indiana applicable thereto.

4. The SANITARY DISTRICT shall deal with the interests of MUNSTER in connection with the funding of said Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof, in a fair, equitable and consistent manner in accordance with the terms, agreements and expressed intent set forth herein.


5. All funds which are payable to MUNSTER shall be paid and transferred to it by the SANITARY DISTRICT within thirty (30) days following its collection.

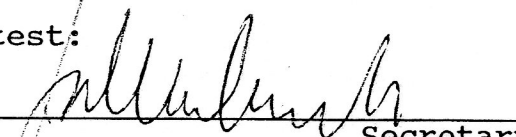
6. The SANITARY DISTRICT reserves the right to issue tax anticipation warrants from year to year as to that portion of the collections which are to be retained by it, and MUNSTER reserves the right, at its sole election, to request that the SANITARY DISTRICT issue tax anticipation warrants from year to year as to that portion of the collections belonging to MUNSTER. The costs of proceedings, including legal, bond counsel and the like, shall be borne by the party, or if both, the parties issuing the tax anticipation warrants, and if both, in their proportions of the issuance.

7. Either party shall have the right to enforce the terms of this Agreement, and in the event of a proceeding to enforce, the prevailing party shall also recover its costs and expenses, including reasonable attorney fees.

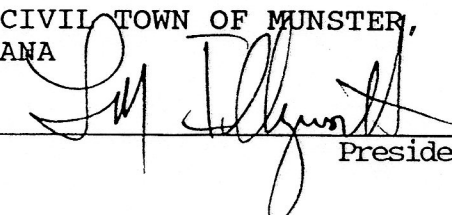
All of which is Agreed this 15 day of March, 1994, to be effective the 1st day of January, 1991.

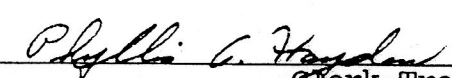
SANITARY DISTRICT OF THE  
CITY OF HAMMOND, INDIANA

By:   
President

Attest:   
Secretary

THE CIVIL TOWN OF MUNSTER,  
INDIANA

By:   
President

  
Clerk-Treasurer

RESOLUTION 1389

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE  
SANITARY DISTRICT OF THE CITY OF HAMMOND INDIANA, AND THE TOWN OF  
MUNSTER, INDIANA, CONCERNING DIVISION AND DISTRIBUTION OF CERTAIN  
TAXES AS COLLECTED.**

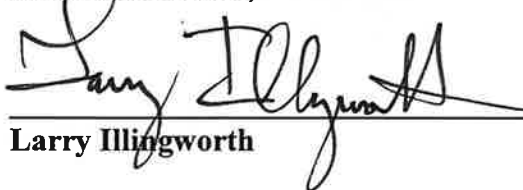
**WHEREAS**, the Town Council of the Town of Munster, Indiana desires to memorialize its understanding for the division and distribution of taxes collected by the funding of the Sanitary District of Hammond, Indiana's Sewer Maintenance Fund, Fund No. 608 beginning January 1, 1991, which understanding has been reduced to a written agreement (the "Agreement"), a copy of which written agreement is attached hereto and made a part thereof.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Munster, Indiana, that the Agreement for division and distribution of certain taxes as collected, as more particularly set forth in the Agreement, as attached hereto and made a part thereof, is approved, and

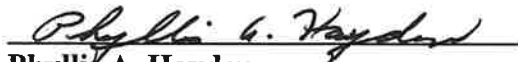
**BE IT FURTHER RESOLVED** that the President of the Town Council is authorized and directed to execute the Agreement on behalf of the Town of Munster, Indiana.

**ADOPTED** this 18th day of April, 1994, by a vote of 7 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF MUNSTER,  
LAKE COUNTY, INDIANA**

  
\_\_\_\_\_  
Larry Illingworth President

**ATTEST:**

  
\_\_\_\_\_  
Phyllis A. Hayden  
Clerk Treasurer

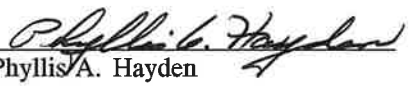
STATE OF INDIANA )

COUNTY OF LAKE )

**CERTIFICATE**

I, PHYLLIS A. HAYDEN, do hereby certify that I am the duly elected, qualified and acting Clerk-Treasurer of the Incorporated Town of Munster, Lake County, Indiana, and keeper of the records and seal of said Town.

That the above and foregoing is a full, true and correct copy of RESOLUTION NO. 1389 - A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE SANITARY DISTRICT OF THE CITY OF HAMMOND INDIANA, AND THE TOWN OF MUNSTER, INDIANA, CONCERNING DIVISION AND DISTRIBUTION OF CERTAIN TAXES AS COLLECTED, passed and adopted by the Munster Town Council of said Incorporated Town, Lake County, Indiana, on April 18, 1994.

  
Phyllis A. Hayden  
Clerk-Treasurer  
October 17, 1994

(SEAL)

# A G R E E M E N T

THIS AGREEMENT signed this 15th day of March, 1994, to be effective as of the 1st day of January, 1991, between the SANITARY DISTRICT OF THE CITY OF HAMMOND, INDIANA, ("Sanitary District") and the CIVIL TOWN OF MUNSTER, INDIANA, ("Munster").

WHEREAS, the SANITARY DISTRICT is, among other things, a special taxing district whose boundaries consist, geographically, of the municipalities of the City of Hammond and the Town of Munster; and

WHEREAS, the SANITARY DISTRICT operates a wastewater treatment plant located in the City of Hammond and provides for and maintains a portion of the sewage collection system in the SANITARY DISTRICT consisting of sanitary and combined sewers, and pumping stations, all pursuant to I.C. 36-9-25; and

WHEREAS, historically, the responsibility for the maintenance and repair of the sewer collection system within the SANITARY DISTRICT has been loosely divided among the SANITARY DISTRICT, the Civil City of Hammond ("Hammond") through its Sewer Department, and MUNSTER through its Sewer Department. Generally, but not exclusively, the responsibility for placement and maintenance of major sewer lines and pump stations for the transmission of combined storm water and sanitary sewage throughout the district has belonged to the SANITARY DISTRICT. Generally, the responsibility for placement and maintenance of minor and/or lateral sewer lines as well as catch basins, manholes and storm water pumping facilities, has been the responsibility of the respective sewer departments of HAMMOND and MUNSTER; and

WHEREAS, in July and August of 1990, the SANITARY DISTRICT advertised for a public hearing for its 1991 budget, which budget included the proposed creation of a tax rate and levy designed to generate funding for it to operate the Sewer Department in HAMMOND which operation theretofore had been performed by the executive department of HAMMOND through its Sewer Department. The proposed budget was \$1,500,000. The original budget presented to the Indiana State Board of Tax Commissioners contemplated that this entire fund be assessed only against taxable property located within the City of Hammond and not district-wide so as to include the Town of Munster. Ultimately, however, the tax levy as calculated and approved by the State Board of Tax Commissioners was assessed against all taxable real estate located within the taxing district of the SANITARY DISTRICT; and

WHEREAS, it is the express intention of SANITARY DISTRICT to assume only the maintenance and repair duties and responsibilities heretofore performed by the Sewer Department of HAMMOND, and the SANITARY DISTRICT does not intend to replace, supplement or assume the maintenance and repair duties and responsibilities now performed by the Sewer Department of MUNSTER; and



WHEREAS, the assessed valuation of taxable property for the year 1990 in Hammond was \$292,491,659 and in Munster was \$121,440,180. It is the express intention of the parties that the SANITARY DISTRICT pay to MUNSTER that amount of the taxes levied and collected against taxable property within the Town of Munster, along with any other tax distributions received by SANITARY DISTRICT applicable to MUNSTER such as license excise tax distributions and financial institution tax distributions, in exchange for and in consideration of MUNSTER's continued performance of the sewer maintenance and repair duties and responsibility now performed by the Sewer Department of MUNSTER on sewers and facilities located in the Town of Munster; and

WHEREAS, it is the express intention of the parties that this Agreement remain in force and effect for as long as the SANITARY DISTRICT continues to budget for and levy taxes for the above described sewer work against taxable property located within the SANITARY DISTRICT including that taxable property located within the Town of Munster.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. Beginning in the year 1991, for taxes assessed in 1990 and collected in 1991, and for each year thereafter, the SANITARY DISTRICT shall remit and pay over to MUNSTER, as such collections are received, MUNSTER's portion of the taxes assessed and collected in connection with the funding of the SANITARY DISTRICT's Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof. MUNSTER's portion of the taxes shall be all taxes, interest and penalties, if any, collected from owners of property in the Town of Munster.

2. MUNSTER shall continue to have the right and responsibility to service, maintain, repair, reconstruct, replace, and rehabilitate local, minor and lateral sewer lines, catch basins, manholes, pumping stations, other storm water and sanitary sewer facilities and combined sewers in the Town of Munster for which it has had traditional responsibility. It is expressly agreed and understood that these duties shall not be undertaken, assumed or performed by the SANITARY DISTRICT without the prior express written consent of MUNSTER. The SANITARY DISTRICT shall continue to have the right and responsibility to service those sewer lines, catch basins, manholes, pumping stations and other storm water and sanitary sewer facilities in the district for which it has had and will continue to have traditional responsibility.

3. MUNSTER, in its municipal discretion, shall have the right to determine the application and use of said funds so long as their expenditure as public funds is in accordance with the laws of the State of Indiana applicable thereto.

4. The SANITARY DISTRICT shall deal with the interests of MUNSTER in connection with the funding of said Sewer Maintenance Fund, Fund No. 608, or any successor thereto, or any modification or addition thereof, in a fair, equitable and consistent manner in accordance with the terms, agreements and expressed intent set forth herein.


5. All funds which are payable to MUNSTER shall be paid and transferred to it by the SANITARY DISTRICT within thirty (30) days following its collection.

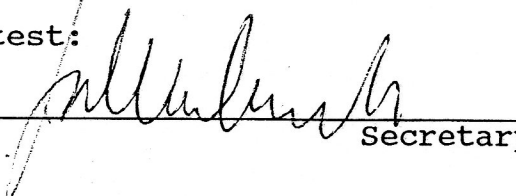
6. The SANITARY DISTRICT reserves the right to issue tax anticipation warrants from year to year as to that portion of the collections which are to be retained by it, and MUNSTER reserves the right, at its sole election, to request that the SANITARY DISTRICT issue tax anticipation warrants from year to year as to that portion of the collections belonging to MUNSTER. The costs of proceedings, including legal, bond counsel and the like, shall be borne by the party, or if both, the parties issuing the tax anticipation warrants, and if both, in their proportions of the issuance.

7. Either party shall have the right to enforce the terms of this Agreement, and in the event of a proceeding to enforce, the prevailing party shall also recover its costs and expenses, including reasonable attorney fees.

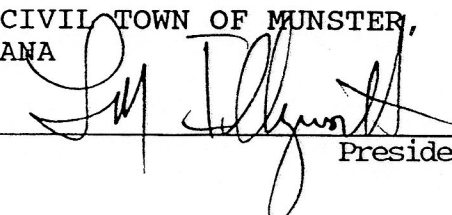
All of which is Agreed this 15 day of March, 1994, to be effective the 1st day of January, 1991.

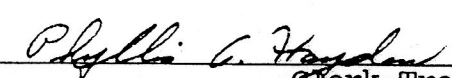
SANITARY DISTRICT OF THE  
CITY OF HAMMOND, INDIANA

By:   
President

Attest:   
Secretary

THE CIVIL TOWN OF MUNSTER,  
INDIANA

By:   
President

  
Clerk-Treasurer



**A RESOLUTION REGARDING THE TOWN OF MUNSTER'S COMMITMENT TO THE  
EFFECTIVE OPERATION OF THE HAMMOND SANITARY DISTRICT**

**WHEREAS**, The Hammond Sanitary District is comprised of the Civil City of Hammond and the Town of Munster; and,

**WHEREAS**, The Town of Munster represents 16% of the total flow that is treated by the District; and,

**WHEREAS**, The Town of Munster funds 44% of the of current property-tax supported debt issued by the District; and,

**WHEREAS**, The Town of Munster residents represent 33% of the combined Hammond and Munster residential revenues received by the District; and,

**WHEREAS**, Future debt obligations will be supported by revenues of the District; and,

**WHEREAS**, The District and Town of Munster entered into an agreement on the 15<sup>th</sup> day of March 1994 with the expressed intention of both parties that all taxes levied and collected against taxable property within the Town of Munster along with any other tax distributions, including license excise tax distributions and financial institution tax distribution be paid to Munster from the District; and,

**WHEREAS**, The Town of Munster has not received the excise, financial institution tax nor commercial vehicle tax distributions from the District; and,

**WHEREAS**, Ordinance 1649 considered by Council to create the commercial class of users and adopted on November 10, 2014 included condominiums within the commercial class; and,

**WHEREAS**, This classification was found to be improper because residents of condominiums own their residences and are not party to a commercial enterprise; and,

**WHEREAS**, The Town of Munster adopted Resolution 2006 on December 14<sup>th</sup> 2015 which requested that the District modify its rate ordinance to exclude "apartments/condominiums" from the commercial classes, designate condominiums as residential, and charge each unit for water consumed and for an administrative fee,

**WHEREAS**, The District subsequently declined to entertain adoption of the Resolution; and,

**WHEREAS**, The Town of Munster has been and intends to continue to be a willing and productive partner in adequate funding of the District; and,

**WHEREAS**, In a letter dated January 23<sup>rd</sup>, 2017, the District offered to have the Town of Munster participate in an upcoming cost of service study, including with respect to the selection of the cost of service firm; and,

**WHEREAS**, The District signed a Consent Decree with the United States Environmental Protection Agency on January 24, 2017; and,

**EXHIBIT D**

**WHEREAS**, The Consent Decree and eventual Long Term Control Plan will require significant capital investment to ensure compliance; and,

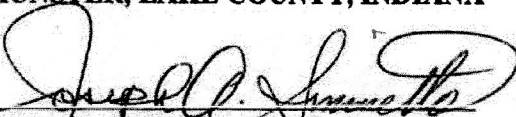
**WHEREAS**, The District wishes to enact an across-the-board rate increase of 49% to ensure that there are appropriate funds to comply with the Consent Decree;

**THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Munster, Lake County, Indiana, that all of the above prefatory **WHEREAS** paragraphs are incorporated in this resolution by reference and that the Town of Munster will support such a rate increase under the following conditions:

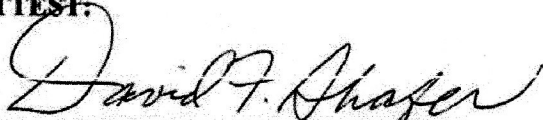
1. The Proposed Rate Ordinance presented to the Town of Munster is for a duration no longer than 30 months – after such time a new rate based on an engineered cost of service study shall be proposed and be considered for adoption; and,
2. The method of the Town's participation is clearly articulated and agreed with regards to the upcoming cost of service study and should include:
  - a. Meaningful collaboration on crafting the study scope and work to be bid
  - b. An equal voice in the selection of the successful incumbent
  - c. The opportunity to have Town of Munster employees or representatives present at project meetings; and,
3. The Proposed Rate Ordinance presented to the Town of Munster includes the Multiple Unit Residential Rate for apartment/condominium owners in the District.

**RESOLVED AND ADOPTED**, by the Town Council of the Town of Munster, Lake County, Indiana, this 6<sup>th</sup> day of February, 2017 by a vote of 3 in favor and 1 opposed.

**TOWN COUNCIL OF THE TOWN OF  
MUNSTER, LAKE COUNTY, INDIANA**

  
Joseph A. Simonetto, President

**ATTEST:**



David F. Shafer, Clerk-Treasurer



STATE OF INDIANA )

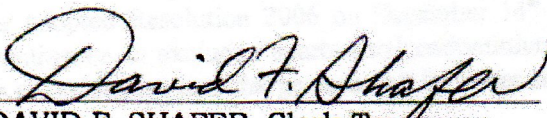
COUNTY OF LAKE )

SS:

**CERTIFICATE**

I, DAVID F. SHAFER, do hereby certify that I am the duly elected, qualified and acting Clerk-Treasurer of the Incorporated Town of Munster, Lake County, Indiana, and keeper of the records and seal of said Town.

I further certify that the above and foregoing is a full, true, and correct copy of RESOLUTION 2020, A RESOLUTION REGARDING THE TOWN OF MUNSTER'S COMMITMENT TO THE EFFECTIVVE OPERATION OF THE HAMMOND SANITARY DISTRICT, resolved and adopted by the Munster Town Council of said Incorporated Town, Lake County, Indiana, by a vote of four in favor and none opposed on the 6<sup>th</sup> of February, 2017.

  
DAVID F. SHAFER, Clerk-Treasurer  
February 7, 2017

(SEAL)

## **Hammond Sanitary District and Town of Munster**

### **Agreement**

This Agreement ("Agreement") is made as of this 5<sup>th</sup> day of June 2017, by the Hammond Sanitary District (the "District"), the City of Hammond, Indiana ("Hammond"), and the Town of Munster, Indiana ("Munster") (the District, Hammond and Munster each individually a "Party" herein and collectively, the "Parties") and is made pursuant to IC 36-9-25.

This Agreement represents the good faith intentions of the Parties to perform the obligations set forth herein.

#### **Article I. Approval**

Section 1.01 Approval. The respective fiscal bodies of the District, Hammond, and Munster shall approve this Agreement after its execution by the executive authorities of each Party.

Section 1.02 Resolution. This agreement shall be contingent upon the passage of the resolution which is attached hereto and made a part hereof as Exhibit A by The District.

#### **Article II. Principles of Agreement**

Section 2.01 Cost of Service Study. In connection with the independent cost of service study contemplated herein and to be agreed to among the District, Griffith and Highland, which will be the basis of establishing future contractual user O&M rates with those communities and the Parties; the District shall invite Munster's meaningful participation by convening a selection committee ("Committee"). The Committee shall be comprised of staff, and representatives and/or board members of the Parties. Committee members shall be appointed by the District and the Town of Munster. The Committee shall:

- a) Prepare a cost of service study scope comprised of items that each party requires without exception; and,
- b) Evaluate proposals; and,
- c) Select the most qualified consultant to complete the work set forth in the scope; and,
- d) Give advice and comment on all material processes and decisions of the study.

#### **EXHIBIT E**

Section 2.02 Initial Rate Increase. The Parties acknowledge and agree that it is their intent that following approval of the 2017 Rate Increase, the District



shall not seek an additional rate increase until such time as the cost of service study has been completed. Any subsequent rate increase shall distribute and allocate the cost of operation, maintenance, administrative expenses, principal and interest on bonds, and money for a revolving fund, among the District's customer classes and customer communities as dictated by the results of the cost of service study. The 2017 Rate Ordinance shall include the Multiple Unit Residential Rate for apartment and condominium owners in the District.

**Section 2.03 Future Rate Increases.** The Parties agree that each shall use its best efforts to support and approve increases in rates and charges that will adequately fund the capital and operational requirements of the District. The Parties acknowledge and agree that their collective preference is to accomplish such rate increases by approval at the local level to avoid the delays and expenses associated with seeking approval of rates and charges by the Commission. This preference does not preclude the use of any available alternative mechanism to set rates, such as inviting the Indiana Utility Regulatory Commission to intervene if necessary

### **Article III. Amendment**

**Section 3.01 Amendment.** The Parties may, by written agreement signed by each Party, amend, modify and supplement this Agreement.

### **Article IV. General Provisions**

**Section 4.01 Assignment.** No Party may assign this agreement or any of its rights, interests, obligations or duties hereunder, whether by operation of law or otherwise, without the express written consent of all Parties to this Agreement.

**Section 4.02 Severability.** Should any part of this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or against public policy, said offending section shall be void and of no effect, and shall not render any other section herein, nor this Agreement as whole, invalid. Those rights, interests, obligations, and duties hereunder, which by their nature should survive, shall remain in effect after termination, suspension, or expiration hereof.

**Section 4.03 Enforcement.** The Parties shall have all powers in law and equity to administer the terms of this Agreement.

**Section 4.04 Waiver.** The failure of any Party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

**Section 4.05 Third Parties.** This Agreement is entered into solely between, and is intended to be enforced only by, the Parties.

**Article V. Governing Law and Stipulation of Venue**

Section 5.01 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Indiana. In the event of a dispute among the Parties or between any two of them resulting in a filing in court, the Parties stipulate to seek the appointment of a special judge not from Lake County to preside over the case.



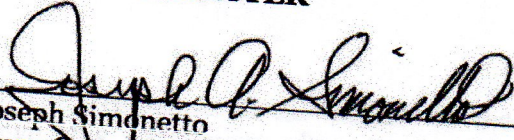
# HAMMOND SANITARY DISTRICT

# CITY OF HAMMOND

Marty Wielgos  
District Manager

Thomas M. McDermott, Jr.  
Mayor

## TOWN OF MUNSTER

  
Joseph Simonetto  
Town Council President

## Section II. Principles of Agreement

Section 2.01 One of Parties Study is concerned with the independent one- service study contemplated herein and to be agreed to among the District, Grays and Highland, which will be the basis of establishing future contractual user rates with those communities and the Parties; the District shall invite Munster's meaningful participation by convening a selection committee ("Committee"). The Committee shall be composed of staff and representatives as follows: board members of the Parties' respective municipalities shall be represented by the District and the Town of Munster. The Committee shall:

- Prepare a list of all the study scope comprised of issues that each party requires resolution and;
- by facilitate proposals; and
- and at the same parallel operation to complete the work set forth in the scope and
- all the above and comment on all material processes and decisions of the study.

Section 2.02 Initial Joint Meeting - The Parties acknowledge and agree that it is their intent that following approval of this agreement between the District