

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

This AGREEMENT made on the date hereinafter set forth, by and between the HAMMOND WATER WORKS DEPARTMENT, HAMMOND, INDIANA, by its duly authorized Board of Directors, hereinafter referred to as the “UTILITY” and the DEPARTMENT OF PUBLIC WORKS WATER DIVISION OF THE TOWN OF MUNSTER, INDIANA, a municipal utility, by its duly authorized Board of Directors (hereinafter referred to as (“MUNSTER”) to witness the following agreements.

WHEREAS, MUNSTER is a municipal corporation, organized and existing under and by virtue of the laws of the State of Indiana, and

WHEREAS, MUNSTER needs an adequate supply of potable Lake Michigan water (“Lake Water”) to serve its Town’s residents, businesses and industries; and

WHEREAS, MUNSTER has a legal right to purchase Lake Water and is not obligated to purchase water from any other source; and

WHEREAS, the UTILITY anticipates it will be able to supply during normal times all of the Lake Water that MUNSTER should need or desire, as well as most if not all said Lake Water MUNSTER may need during peak demand times based on historical consumption; and

WHEREAS, MUNSTER is authorized by law to enter into contracts for a term of up to twenty (20) years to purchase Lake Water; and

WHEREAS, MUNSTER needs a water purchase agreement which will provide an adequate supply of Lake Water to serve its Town’s water users, it being understood that water users shall include residential, commercial, and industrial users located within the territorial limits of MUNSTER; and

WHEREAS, the UTILITY is a municipal utility organized and existing under and by virtue of the laws of the State of Indiana; and

WHEREAS, 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; and

WHEREAS, MUNSTER 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

WHEREAS, UTILITY has determined that it is appropriate to contract with MUNSTER to supply it Lake Water;

NOW, THEREFORE, the UTILITY and MUNSTER 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 and deliver potable Lake Water to MUNSTER of the same quality the UTILITY supplies all of its customers, and MUNSTER, during the term of this Agreement, obligates itself to purchase Lake Water exclusively 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 normally supply the Lake Water to water users as described in this Agreement.

102 Maintenance and Capacity

- (a) The UTILITY shall maintain the capacity to supply the Lake Water to be furnished to MUNSTER as required by, and subject to the limitations of, this Agreement.
- (b) The UTILITY undertakes a definite obligation to sell Lake Water to MUNSTER during the Term as provided in this Agreement. The UTILITY agrees to take reasonable steps to supply the Lake Water to MUNSTER as required under this Agreement to the extent that water is available for such purpose.
- (c) MUNSTER acknowledges that it is familiar with the terms and conditions of the supply of Lake Water available to the UTILITY, and the UTILITY agrees that it will not intentionally do any act to reduce the amount of Lake Water available to MUNSTER under this Agreement. MUNSTER agrees that this Agreement is valid and binding upon MUNSTER and further agrees not to commit any acts or omissions that would cause either MUNSTER or the UTILITY to be in breach of said Agreement.
- (d) 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 MUNSTER in order to furnish the quantities of Lake Water to be furnished to MUNSTER under this Agreement.

ARTICLE II - QUANTITIES OF WATER

201 Quantities of Water to be Furnished

The UTILITY agrees to furnish and deliver to MUNSTER quantities of Lake Water as provided in this Agreement to enable it to supply Lake Water to MUNSTER 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 from time to time to MUNSTER, then the UTILITY shall use best efforts and diligently pursue efforts during any such occurrence to provide Lake Water (insofar as practicable) to MUNSTER. 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 MUNSTER on the same basis as its other customers as is practicable under the circumstances.
- (b) MUNSTER and the UTILITY shall each notify the other as promptly as practicable of all emergencies, failures, malfunctions or other conditions in their respective systems which may directly or indirectly affect the other party's system.
- (c) MUNSTER and the UTILITY shall each 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

Lake Water shall be delivered by the UTILITY to MUNSTER through three (3) meter vaults located and described as follows:

- (a) In Hammond, North of the Little Calumet River, in the parkway on the south east corner of Columbia Avenue and River Drive. (Columbia Avenue Vault- 16" meter/16" main).
- (b) In MUNSTER, South of the Little Calumet River, in the parkway on the east side of Calumet Avenue between the river and the entrance road to Hammond Clinic. (Calumet Avenue Vault- 10" meter/12" main).
- (c) In MUNSTER, inside the tank field just south of the Little Calumet River at Van Buren Ave. (Tank Field Vault 16" meter/16" main).

302 Transmission Facilities

MUNSTER shall 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 insure itself that it can receive and distribute the Lake Water to be furnished from time to time under this Agreement.

303 Commencement of Delivery

The delivery of Lake Water by the UTILITY to MUNSTER under the terms of this Agreement shall commence effective as of January 1, 2021.

304 Rate of Withdrawal

The Lake Water to be furnished from time to time under this Agreement shall be withdrawn at the point of delivery on an hourly even flow basis. The actual volume of water shall be mathematically determined by an establishment of the average daily usage by MUNSTER each respective month and then divided by 24 hours for each day. MUNSTER may exceed the withdrawal rate only with the consent of the UTILITY during peak hours. Said consent may not be unreasonably withheld by the UTILITY subject to the discretion of the UTILITY'S Chief Executive Operator and/or Board President. MUNSTER 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.

305 Pressure

(a) MUNSTER further agrees to operate its supply system so that normally all water supplied by the UTILITY will pass through ground-storage tanks prior to being pumped to MUNSTER's distribution system. No direct pumpage from the UTILITY'S supply shall be utilized by MUNSTER at any time except at such times when it is necessary to take the tanks out of service for maintenance, repairs and painting and then only after receiving the approval of the UTILITY in writing. This paragraph does not apply to emergency situations. An emergency is not defined as a peak demand hour or day. Provided, however, the operation of MUNSTER in taking water at the Point of Delivery shall in no event ever lower the P.S.I. available to the UTILITY'S customers downstream below 30 P.S.I.

(b) MUNSTER shall, and it hereby agrees to, accept Lake Water at the point of delivery at the pressure that exists in the main of the UTILITY at such point. The intent

of the UTILITY is to maintain pressure satisfactory for its own Lake Water users in the immediate area of the point of delivery, these pressures therefore being available for the service to MUNSTER. The UTILITY is not required hereby to furnish Lake Water to MUNSTER at a specific pressure; however, the UTILITY shall 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. In the event that MUNSTER desires to construct additional facilities to carry the Lake Water from the point or points of delivery to and through its own distribution system to serve its water users, all such extensions, pumps, equipment and system shall be furnished, installed, operated and maintained by MUNSTER. UTILITY shall have no control over such equipment, system and the repairing and maintenance thereof, nor shall it be in any event responsible for such equipment. The UTILITY shall in no event be responsible for any loss caused by reason of the main pressure at the point of delivery of such Lake Water. It is understood and agreed that MUNSTER shall take the Lake Water at the point of delivery “as is” and as defined in Section 304 and Section 307 herein.

306 Water Quality

(a) The UTILITY shall supply MUNSTER at the point of delivery with Lake Water of a quality commensurate with that furnished to its own customers within the UTILITY. At a minimum, all Lake Water furnished to MUNSTER at the point of delivery shall meet all applicable water quality standards established by any Federal, State of Indiana, or local agency as shall have jurisdiction over the UTILITY for public water supplies.

- (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 shall take immediate action to correct any such water quality deficiency.
- (c) The UTILITY shall bear no responsibility for water quality of Lake Water beyond the point of delivery, except to the extent the water delivered at the point of delivery does not meet water quality standards.
- (d) MUNSTER and the UTILITY shall each immediately notify the other as promptly as practicable of any failure of Lake Water to meet the water quality standards set by the E.P.A. and Indiana Department of Environmental Management (“IDEM”) in either party’s system. Notifications under this Section going to MUNSTER shall be given directly to the President of the Munster Town Council and the Munster Town Manager and those going to the UTILITY, to such persons as the UTILITY shall designate in writing.
- (e) The UTILITY shall not be responsible for any water quality problems that in the future may be determined to be detrimental, adverse or contrary to present day standards. The facilities to prevent pollution that the UTILITY now uses are, for the purpose of the Agreement, deemed by the parties hereto adequate. It is recognized by the parties that the source of water supply is Lake Michigan at the boundary of the City of the UTILITY, with said lake, and both parties are familiar with the conditions existing at said point, and MUNSTER is familiar with the method employed by the UTILITY to secure Lake Water and treat the same for consumption and then distribute the same to its distribution mains, and this Agreement is made with reference thereto.

(f) If MUNSTER causes any pollution of the water in the system of the UTILITY, the same shall be immediately investigated by the parties hereto, and MUNSTER shall immediately remedy and remove any such condition. In the remedying of such condition, should any work be done, or be required to be done, by the UTILITY on its own system, then MUNSTER promises and agrees to reimburse and indemnify the UTILITY for such remedial work done and the damages resulting therefrom.

307 Water Storage and Time of Pumpage

(a) MUNSTER shall be responsible for there being provided and maintained at all times during the term of this Agreement water storage by MUNSTER which shall be adequate to meet the requirements of MUNSTER for a full twenty-four (24) hour period. Said storage amount is to be based upon the average gallon per day usage of MUNSTER for the preceding calendar year.

(b) The water storage capacity of MUNSTER shall be adequate to meet the requirements of MUNSTER based on average gallons per day based on the previous year's monthly average for the respective month; in the event the supply from the UTILITY is, for any reason, not available, MUNSTER shall utilize its water storage capacity for supply at its peak flow periods which will impose the least strain on the water system of the UTILITY. 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 such pumpage and storage shall be made by MUNSTER through properly designed facilities of MUNSTER of adequate capacity are subject to the approval of the UTILITY.

(c) It is further understood and agreed by the parties hereto, that in the event the consumption by MUNSTER, by reason of lack of adequate storage facilities, causes a strain on the water system of the UTILITY, then MUNSTER will construct and provide additional storage facilities to relieve the strain on the water system of the UTILITY. The UTILITY agrees that it will give adequate notice of said strain on its water system due to MUNSTER's deficient storage capabilities and will allow MUNSTER a reasonable period of time within which to plan, design, permit and construct such additional transmission and storage facilities as required by UTILITY. In no event, shall said period of time exceed two (2) years from the date of the notice by the UTILITY to MUNSTER. It is further agreed that the reasonable opinion and decision of Engineers employed by UTILITY regarding the necessity of additional transmission or storage facilities by MUNSTER to relieve said strain shall be final; provided, however, that in order for such strain to be determined, MUNSTER's usage must exceed its current peak hourly usage at least 4 times during a calendar year. MUNSTER hereby promises and agrees to abide by such decision and to provide the additional transmission or storage facilities as specified and required.

308 Territorial Responsibilities

(a) MUNSTER and the UTILITY shall furnish, install, operate and maintain their respective equipment and systems located within their territorial boundary limits, and the UTILITY shall in no way or at no time, be obligated to do, or perform any act outside of city limits of the UTILITY.

(b) MUNSTER shall 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 MUNSTER's Territorial Town Limit. MUNSTER 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(s) that would exceed 10% of MUNSTER's average daily usage would require written permission by UTILITY. Such permission shall not be unreasonably withheld. In evaluating such new user(s), UTILITY may request information to determine the feasibility to provide service. During the term of this Agreement, MUNSTER shall not sell water to any other towns, cities, or villages without the written consent of the UTILITY.

ARTICLE IV - MEASUREMENT

401 Point of Measurement

The UTILITY shall measure the quantity of Lake Water furnished to MUNSTER under this Agreement on a monthly basis at the Point of Delivery. The unit of measurement shall be gallons of water, U.S. Standard Liquid Measure or such other unit of measurement as the parties may agree in writing. UTILITY agrees that if it becomes capable of continuous measurement at the Point of Delivery, it will utilize continuous measurement and will share such data with MUNSTER as soon as is feasible, or by June 1, 2023, whichever is earlier.

402 Devices

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

- (a) The measuring devices, which include two (2) 16" Turbo Meters and one (1) 10" Turbo-Meter, specifications for which are described in "Exhibit A" (collectively the "Measuring Devices"), shall be used at the point of delivery for the purpose of controlling, measuring, and recording 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 shall be transmitted by telemetry to MUNSTER and to the UTILITY'S Water Treatment Plant for automatic data logging.

(b) No backflow prevention devices ("Backflow Devices") are currently used at the Columbia Ave. Vault or Calumet Ave. Vault. UTILITY may decide in the future in its sole discretion to install Backflow Devices at the point of delivery for the purpose of preventing pollution of water in the system of the UTILITY.

(c) The Measuring Devices referred to in Paragraph 402(a) and any Backflow Devices later installed referred to in this Paragraph 402(b) shall be collectively referred to as the "Devices," and shall be in accordance with the standards set by and be subject to the approval of IDEM. "Exhibit A" may be amended from time to time by MUNSTER, only with the prior written approval of the UTILITY.

403 Installation and Maintenance of Devices

(a) It is understood and agreed by the parties hereto that the Devices and telemetry described herein, including the meter vault and all equipment and appurtenances, have been furnished and installed, at the point of delivery of Lake Water, by MUNSTER at the expense of MUNSTER during the term of the previous Agreement.

(b) It is further understood and agreed by the parties hereto that after said installation was completed during the term of the previous Agreement, title to, access to and ownership of the Devices and telemetry described herein, including the meter vaults and all equipment and appurtenances, vested in the UTILITY, except that MUNSTER retains ownership of the meters in the Calumet Avenue Vault and Van Buren Vault. Further, the

lines constructed in the territorial limits of the UTILITY became a part of the system of the UTILITY.

(c) Equipment owned by the UTILITY shall be maintained on an ongoing basis, both as to repairs and replacements, by the UTILITY at the expense of UTILITY.

(d) Equipment owned by MUNSTER, as described on Exhibit B, shall be maintained on an ongoing basis, both as to repairs and replacements, by MUNSTER at the expense of MUNSTER, except that UTILITY shall repair or replace the actuator valves in the Calumet Ave. Vault and the Van Buren Avenue Vault and Man Way structure.

(e) If MUNSTER amends Exhibit A with the UTILITY's consent as provided in Section 402(c), MUNSTER shall pay for any additional or upgraded equipment.

404 Access to Devices

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

405 Inspection, Testing, and Calibration of Devices

The UTILITY will inspect and perform meter volumetric accuracy testing and signal calibration of the Measuring Devices once every six (6) months for the purpose of ensuring accurate measurement of the supply of Lake Water furnished under this Agreement. The UTILITY agrees to provide three (3) days' written notice of the date and time the UTILITY will perform the inspection, testing, calibration, and the UTILITY agrees that MUNSTER and its agents may be present during the UTILITY's inspection, testing, and calibration of the Devices. In the event any Backflow Devices are installed, the UTILITY will operate the them once every year to inspect them for accuracy and to meet IDEM standards. Such inspection shall be done in the presence of an authorized

representative of MUNSTER. The results of any such inspection, testing, and calibration shall be immediately provided to MUNSTER. For purposes of this section, written notice may be provided by email or any other means of writing.

406 Readings

The readings made of the Devices for the purpose of billing MUNSTER shall be made by the UTILITY on a monthly basis, reconciled as necessary to correct for any data gaps/errors. Beginning on June 1, 2023, or sooner if feasible, flow rate and volume totalizer readings from the Measuring Devices shall be logged electronically and automatically on a continuous basis by the UTILITY.

407 Estimates

The amount of water purchased and sold shall be determined by the meter readings installed at the point of delivery, as aforesaid, and MUNSTER shall pay for water as shown by such readings. In the event that such meter or meters shall become out of repair for a period of seven (7) days, then the parties shall 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 shall serve as the basis for the billable consumption for said period.

ARTICLE V - WATER RATES

501 Wholesale Rates

For the cost of the water furnished by the UTILITY under this Agreement, MUNSTER agrees to pay a single flat wholesale rate for all the water so furnished and delivered. The following flat rate schedule shall apply, 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

502 Rate Modifications

(a) The parties agree and understand that the rates will be adjusted according to the above schedule throughout the term of the Agreement.

(b) The parties agree and understand 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) MUNSTER agrees that, in the event the UTILITY does request modification of its rates and charges from any governing body from which it may or is required to seek approval, MUNSTER will not 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) UTILITY agrees that, in the event MUNSTER challenges any requested modification of UTILITY'S rates and charges from any governing body from which it may or is required to seek approval, MUNSTER shall 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,

UTILITY is not conceding the relevance or significance of any such arguments.

UTILITY retains all defenses to this and any other argument raised by MUNSTER regarding modification of UTILITY's residential rates.

(e) UTILITY agrees that, in the event MUNSTER challenges any requested modification of UTILITY'S rates and charges from any governing body from which it may or is required to seek approval, UTILITY shall not defend any increase by offering arguments or evidence concerning the rates and charges for water sold by MUNSTER to its residential customers.

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

503 MUNSTER Customer Charges

The UTILITY shall have no right to determine charges for Lake Water furnished by MUNSTER to its water users.

ARTICLE VI - BILLING

601 Frequency

(a) The UTILITY shall bill MUNSTER each month for the water used each month and MUNSTER promises to pay such statement in full without discount within thirty (30) days after the receipt of such bill. Late Charges shall be assessed against MUNSTER at the same current rate charged by the UTILITY to its residential customers.

(b) MUNSTER agrees to appropriate annually sufficient money or so much thereof, as may be necessary, to provide sufficient funds for the payment of the water furnished by the UTILITY hereunder. MUNSTER further agrees that it will at all times charge its

resident water consumers sufficient rates in order to provide adequate funds for the payment of water furnished by the UTILITY.

(c) In the event MUNSTER shall not pay its water bill on time two (2) times in any rolling three (3) month period, then to secure prompt payment of the water bills, the UTILITY shall also have the right at any time to require MUNSTER to pay in advance a sum of money estimated by the UTILITY to be equal to the cost of water required by MUNSTER for a period of ninety (90) days at the then prevailing metered rate, which said advance payment MUNSTER hereby agrees to make upon written demand.

(d) If MUNSTER shall refuse, neglect, or fail to pay promptly the water bills rendered for the Lake Water supplied it hereunder within the time or times prescribed herein, or if MUNSTER shall fail to comply with or perform any of the conditions or obligations on its part to be complied with or to be performed hereunder, and if after such failure the UTILITY shall deliver by mail to the Munster Town Council notice in writing of its intention to shut off the supply of Lake Water on account of such failure, refusal, or neglect, then the UTILITY shall have 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 such sixty (60) days, MUNSTER shall pay its outstanding water bills in full. The shutting off of the supply of Lake Water for any such cause shall not release MUNSTER from its obligation to make payments of any amount due or to become due in accordance with the terms hereof.

602 Basis

Bills shall be based on readings of the Devices at the point of delivery. The readings may also be adjusted as provided for in Section 407.

603 Form

- (a) Each bill shall 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 shall specify the basic charge per unit of Lake Water furnished and such adjustments, if any, as are applicable.

604 MUNSTER's Customers

MUNSTER will be responsible for billing and collecting payments from its Lake Water users in whatever billing cycle that MUNSTER deems appropriate.

ARTICLE VII - TERM AND STANDARD CONDITIONS

701 Term

- (a) This Agreement shall have an initial term of ten (10) years commencing on the effective date of this Agreement, January 1, 2021.
- (b) In the event that MUNSTER shall desire to continue to purchase Lake Water from the UTILITY beyond the expiration of this Agreement, that is, ten (10) years from the date this Agreement takes effect, then MUNSTER may provide notice to UTILITY of its intent to renew and its choice of one of the following renewal options:
 - (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 such increased wholesale rate based on 69.6% of the residential rate would take 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.
- (c) MUNSTER must notify the UTILITY 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 paragraph 701(a) and identify which renewal option in paragraph 701(b) it is exercising.
- (d) The parties agree that if, at the end of the expiration of the initial non-renewed contract term or after an elected renewal period or 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 any continuing month-to-month service provided as a public health accommodation for a reasonable time to facilitate MUNSTER's transition to another supplier will be provided at 125% of the Hammond residential rate then in effect. MUNSTER agrees to provide UTILITY twelve (12) months' written notice (prior to the expiration of the applicable contract term) of MUNSTER's transition plans and how long month-to-month service is expected to be required, if at all.

702 Assignment

This Agreement shall not be assigned or transferred by either party without the written consent of the other.

703 Title to Water

Title to all Lake Water supplied under this Agreement shall remain with the UTILITY to the point of delivery and, upon passing the point of delivery, title to the Lake Water shall pass to MUNSTER.

704 Amendment

This Agreement may be amended only by a written agreement between the parties hereto.

705 Notices

All notices under this Agreement shall be in writing either delivered or mailed, certified mail return receipt requested, to MUNSTER at:

Munster Town Council
1005 Ridge Road
Munster, IN 46321

Munster Town Manager
1005 Ridge Road
Munster, IN 46321

and to the UTILITY at:

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

or at such other address as such party may by written notice designate and shall be deemed given when so delivered.

706 Indemnification

The UTILITY shall not be responsible in damages to person or property for any failure to supply water or for interruption of the Lake Water supply furnished hereunder.

MUNSTER agrees to hold harmless and indemnify the UTILITY against any and 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 at the point of delivery, and MUNSTER 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. MUNSTER further agrees to hold harmless and indemnify the UTILITY against all claims for any loss, damage, or injury sustained, of any kind, nature, or description, including attorneys' fees and expenses incurred by the UTILITY by reason of any claims made against the UTILITY by MUNSTER, or by any person whomsoever, for any loss that might occur by virtue of furnishing Lake Water to MUNSTER under this Agreement, including claims of loss related to water quality or pressurization. However, UTILITY agrees that any water it does provide MUNSTER shall be potable and of substantially the same quality UTILITY provides all of its customers.

707 Force Majeure

Neither party shall be liable in damages to the other for any acts, omission or circumstances occasioned by or in consequence of 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 which have been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated or otherwise not within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome. Such causes or contingencies

affecting the performance of this Agreement by either party, however, shall 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 shall such causes or contingencies affecting the performance of this Agreement relieve MUNSTER 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 2007 Purchase Agreement Between the Town of Munster, Indiana and the Hammond Water Works Department, Hammond, Indiana, and is the whole agreement of the parties. There are no other oral or written agreements concerning the subject of this Agreement other than the agreement between the UTILITY referred to herein. The provisions of this Agreement shall be interpreted when possible in a manner to sustain their legality and enforceability. The unenforceability of any provision of this Agreement in a specific situation shall not affect the enforceability of that provision in another situation or the remaining provisions of this Agreement. If any part of this Agreement shall be held invalid for any reason, the remainder of this Agreement shall remain valid to the maximum extent possible. This Agreement is to be performed in the State of Indiana and is to be construed under applicable Indiana law which shall apply 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 by reason thereof, the UTILITY shall not be permitted to deliver water to MUNSTER, as provided for in accordance with the terms of this Agreement, then this Agreement may be canceled by the UTILITY without any liability to MUNSTER.

(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 MUNSTER agrees that when the UTILITY delivers water in compliance with such law, rule or regulation, that is has completed the obligation on its part to be performed under this Agreement.

(d) This Agreement is further subject to cancellation by the UTILITY in the event 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 understand and agree that MUNSTER 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. UTILITY shall not interfere with any such efforts and shall cooperate as required with respect to any such efforts by MUNSTER. Nothing in this paragraph shall modify the exclusivity clause set forth in Paragraph 101.

(f) This Agreement shall be binding on the assigns, successors, purchasers, agents, general successors, boards, councils and all other persons, firms, or corporations who 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 Water Works given by the attached Resolution adopted at a regular meeting held on _____, 2021.

(h) 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 and the UTILITY have executed this Agreement as of the _____ day of _____, 2021.

THE TOWN OF MUNSTER, INDIANA

HAMMOND WATER WORKS
DEPARTMENT

By:

_____, TOWN BOARD
PRESIDENT

By:

SHARON DANIELS, PRESIDENT

_____, TOWN CLERK

PAUL WALKER, SECRETARY

“EXHIBIT A”

DEVICES

Measuring Devices are two (2) 16” Turbo Meters and one (1) 10” Turbo Meter, specifications for which are attached.

**“EXHIBIT B”
EQUIPMENT OWNED BY MUNSTER**

10” Turbo Meter in Calumet Avenue Vault

16” Turbo Meter in Van Buren Vault