

**PURCHASE AGREEMENT BETWEEN THE
CITY OF CHICAGO HEIGHTS, ILLINOIS AND THE
CIVIL CITY OF HAMMOND, INDIANA**

This Agreement is made on the date hereinafter set forth, by and between the CIVIL CITY OF HAMMOND, INDIANA, a municipal corporation, by its duly authorized Board of Public Works and Safety and its Mayor (hereinafter referred to as "HAMMOND") and the CITY OF CHICAGO HEIGHTS, ILLINOIS, a municipal corporation, by its duly authorized City Council and its Mayor (hereinafter referred to as the "CITY") (HAMMOND and the CITY together hereinafter referred to as the "Parties" or alone as a "Party").

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

WHEREAS, the CITY needs an adequate supply of potable Lake Michigan water ("Lake Water") to serve its residents, businesses and industries, as well as other water users herein defined; and

WHEREAS, HAMMOND anticipates it will be able to supply during normal times all the Lake Water that the CITY should need or desire, as well as most if not all said Lake Water the CITY may need during peak demand times; and

WHEREAS, the CITY represents that it has received an allocation of Lake Water by the State of Illinois pursuant to the Level of Lake Michigan Act, as now or hereafter amended or replaced (The "State Water Allocation") Ill. Rev. Stat. CH. 19, 119 *et seq.*; and

EXHIBIT
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WHEREAS, the CITY is authorized by law to enter into contracts for a term of 20 years to buy water; and

WHEREAS, the CITY needs a water purchase agreement which will provide an adequate supply of Lake Water in order to serve its water users. It is agreed and understood that the CITY's water users shall include residential, commercial and industrial consumers located within the territorial city limits of the CITY as well as any authorized water users either named in the "LIST OF AUTHORIZED WATER USERS OUTSIDE OF CITY'S LIMITS" (attached hereto as Exhibit A) or subsequently added with the written consent of HAMMOND ("Authorized Water Users"); and

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

WHEREAS, HAMMOND is a wholesale purchaser of Lake Water under a contract with the Hammond Water Works Department, located in Hammond, Indiana (hereinafter referred to as "UTILITY"). The UTILITY owns and operates a complete water works system providing intake, treatment, and transmission of Lake Water and is a separate municipal entity from HAMMOND; and

WHEREAS, HAMMOND is authorized by law to enter into contracts for a term of twenty (20) years to purchase at wholesale and to resell water at a point of delivery within its city limits to municipal water suppliers located outside the State of Indiana; and

WHEREAS, the CITY desires to obtain a supply of Lake Water from HAMMOND in order to provide reliable, adequate supplies of Lake Water on an economical and efficient basis for the CITY's water users; and

WHEREAS, HAMMOND deems itself able to so deliver and sell Lake Water in amounts herein described to the CITY on the Indiana side of the State Line between Indiana and Illinois from water mains presently in place and used by the UTILITY (referred to herein as the "Point of Delivery"); and

WHEREAS, the CITY and HAMMOND have determined that it is necessary and in their best interests for the CITY to contract with HAMMOND for a supply of Lake Water;

NOW, THEREFORE, the CIVIL CITY OF HAMMOND, INDIANA, and the CITY OF CHICAGO HEIGHTS, ILLINOIS, do agree as follows:

ARTICLE I - SERVICE TO BE FURNISHED

101 Purchase and Sale

Subject to any limitation contained hereafter, HAMMOND agrees to furnish and deliver Lake Water to the CITY and the CITY agrees to purchase Lake Water from HAMMOND under the terms agreed to herein, at the Point of Delivery in the City of Hammond, Indiana. However, the parties agree and understand that while HAMMOND is at the inception of this Agreement the sole source provider of water to the CITY, the CITY may explore other sources of water during the term of this Agreement and that the CITY is not obligated by this Agreement to purchase a minimum amount of water from HAMMOND.

102 Maintenance and Capacity

(a) HAMMOND shall maintain the capacity through its water supply agreement with the UTILITY to supply the Lake Water to be furnished to the CITY from time to time and subject to the limitations under this Agreement.

(b) HAMMOND shall furnish and sell Lake Water to the CITY during the Term as provided in this Agreement. HAMMOND agrees to take reasonable steps to supply the Lake Water to the CITY as required under this Agreement to the extent that water is available to HAMMOND for such purpose.

(c) The CITY acknowledges that it is familiar with the terms and conditions of the supply of Lake Water available to HAMMOND in its purchase agreement with the UTILITY. HAMMOND agrees that it will not take any intentional action to reduce the amount of Lake Water available to HAMMOND for resale to the CITY under this Agreement. The CITY agrees that it will not through any act or omission cause HAMMOND to be in breach of this Agreement.

(d) HAMMOND represents that:

(1) Subject to approval of its Board of Public Works and Safety and Mayor, HAMMOND 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 HAMMOND; and

(3) HAMMOND presently has the right to obtain sufficient Lake Water from the UTILITY for the purpose of reselling same to the CITY in order to furnish the quantities of Lake Water to be furnished from time to time to the CITY under this Agreement.

ARTICLE II - QUANTITIES OF WATER

201 Quantities of Water to be Furnished

HAMMOND agrees to furnish and deliver to the CITY quantities of Lake Water as provided and limited in this Agreement to enable it to supply Lake Water for the CITY.

202 State Water Allocations

(a) The quantities of Lake Water supplied to the CITY by HAMMOND pursuant to Section 201, and the CITY's use of that Lake Water, shall, on an annual basis, not exceed the total of the annual State Water Allocations, including any allowable excess, in effect from time to time for the CITY and for each of the CITY's Authorized Water Users.

(b) The CITY shall keep on file with the UTILITY a current list of the State Water Allocations in effect for the CITY and each of its Authorized Water Users, as applicable. It is agreed and understood that it is the CITY's sole responsibility to ensure that the CITY and all of its Authorized Water Users comply with their respective State Water Allocations as mandated by the State of Illinois.

203 Emergency

(a) If for any reason, including emergency failure or malfunction in the UTILITY'S water distribution system or water supply system, HAMMOND is unable to furnish the quantities of Lake Water to be furnished from time to time to the CITY, then HAMMOND and the UTILITY shall use reasonable due diligence during any such occurrence to provide Lake Water (insofar as practicable) to the CITY; pursuant thereto HAMMOND shall immediately request the UTILITY to

promptly take such actions, including making and expediting repairs or adjustments, as are necessary to restore delivery to the CITY of the Lake Water to be furnished from time to time under this Agreement.

(b) The CITY may purchase additional water from others in any amount and from any source. The CITY shall during the entire term of this Agreement not be obligated to purchase its entire supply of water from HAMMOND. The City may purchase water from sources or suppliers other than HAMMOND, whether or not HAMMOND is able to meet the CITY'S requirements.

(c) The CITY and HAMMOND shall each notify the other as promptly as practicable of all emergencies, failures, malfunctions or other conditions in its respective system that may directly or indirectly affect the other Party's system.

(d) The CITY and HAMMOND shall each notify and keep the other informed of the name of the individual(s) in charge of operations of its respective system.

ARTICLE III - DELIVERY AND STORAGE

301 Point of Delivery

Lake Water shall be delivered by HAMMOND to the CITY on the Indiana side of the State Line between Illinois and Indiana, from the water mains presently in place and used by the UTILITY.

302 Transmission Facilities

The CITY 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 HAMMOND under the terms of this Agreement shall commence on January 1, 2013.

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 the CITY each respective month and then divided by twenty-four (24) hours for each day. The CITY may exceed the withdrawal rate only with the consent of UTILITY at non-off peak hours, or withdraw Lake Water at off-peak hours each calendar day as authorized by Section 307 without consent. The Parties agree that HAMMOND or the UTILITY shall have the right to restrict the supply of water to the CITY in order to ensure an adequate supply to all purchasers of UTILITY water for public health and fire protection.

305 Pressure

(a) The CITY further agrees to operate its supply system so that normally all water supplied by HAMMOND will pass through ground-storage tanks prior to being pumped to the CITY'S distribution system. No direct pumpage from HAMMOND's or the UTILITY's supply shall be utilized by the CITY 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

HAMMOND or the UTILITY in writing. This paragraph does not apply to emergency situations. It is understood and agreed that an emergency is not defined as a peak demand hour or day. It is further agreed that, under no circumstances shall the operation of the CITY in taking water at the Point of Delivery ever lower the P.S.I. available to the UTILITY'S customers downstream below 30 P.S.I.

(b) The CITY shall 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 HAMMOND is that 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 the CITY. HAMMOND is not required to furnish Lake Water to the CITY at a specific pressure. In the event that the CITY desires to construct additional facilities to carry the Lake Water from the Point of Delivery and/or from some other point or points to and through its own distribution system to serve its customers, all such extensions, pumps, equipment and system shall be furnished, installed, operated and maintained by the CITY. HAMMOND shall not have control, responsibility or any duty to maintain any such equipment or system. The UTILITY and HAMMOND shall in no event be responsible to the CITY or any of its residents or water users, nor shall any right of action arise or exist against the UTILITY and/or HAMMOND in favor of the CITY or any of its residents or water users by reason of the main pressure at the point of delivery of such Lake Water, and the CITY shall hold UTILITY and HAMMOND harmless from and indemnify any and all claims relating to main pressure at the point of

delivery of such lake Water. It is understood and agreed that the CITY 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) HAMMOND shall supply the CITY at the Point of Delivery with Lake Water of a quality commensurate with that furnished by the UTILITY to its own residential customers within Hammond. At a minimum all Lake Water furnished to the CITY at the Point of Delivery shall meet all applicable Lake Water quality standards established by any federal, State of Indiana or local Indiana agency with jurisdiction over HAMMOND or the UTILITY for public Lake Water supply.
- (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), HAMMOND and/or the UTILITY shall after receiving notice take immediate action to correct any such water quality deficiency.
- (c) HAMMOND and the UTILITY shall bear no responsibility for water quality of Lake Water beyond the Point of Delivery.
- (d) The CITY and HAMMOND 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 Environmental Protection Agency and Indiana Department of Environmental Management in either Party's system. Notifications under this Section going to the CITY shall be given directly to the City Council of the CITY; and those going to HAMMOND, to such persons as HAMMOND shall designate in writing.

(e) HAMMOND and the UTILITY shall not be responsible to the CITY or any of its residents or water users, for any pollution that might exist in the Lake Water furnished under this Agreement, or arise in any distribution system of the UTILITY, HAMMOND or the CITY. The facilities to prevent pollution that HAMMOND and the UTILITY now use are, for the purpose of the Agreement, deemed adequate by the Parties. The Parties recognize and acknowledge that (i) the source of water supply is Lake Michigan at the boundary of the City of Hammond, Indiana, with Lake Michigan, (ii) both Parties are familiar with the conditions existing at the source, and (iii) the CITY is familiar with the method employed by HAMMOND and the UTILITY to secure Lake Water, treat it for consumption, and distribute it the UTILITY'S distribution mains.

(f) If the CITY causes any pollution of the water in the system of the UTILITY, the Parties shall immediately investigate the condition, and the CITY 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 the CITY promises and agrees to reimburse and indemnify HAMMOND or the UTILITY directly for such remedial work done and the damages resulting therefrom.

307 Water Storage and Time of Pumpage

(a) The CITY shall provide and maintain at all times during the term of this Agreement water storage of sufficient capacity to store not less than 2 times the daily State Water Allocations from time to time in effect for the CITY and each of its respective Authorized Water Users.

(b) In the event the supply from HAMMOND is, for any reason, not available, and any lack of such storage capacity may develop a strain upon the water system of the UTILITY, the CITY and each of its respective Authorized Water Users shall be required to 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. The off-peak hours in which the CITY shall take water from HAMMOND is further defined as being from 10:00 p.m. to 6:00 a.m. the following day. The pumpage and storage of water and the times within which such pumpage and storage shall be made by the CITY 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 the CITY causes a strain on the water system of HAMMOND and the UTILITY and said strain is due to a lack of adequate storage facilities by the CITY, then the CITY will construct and provide additional storage facilities to relieve the strain on the water system of HAMMOND and the UTILITY. It is further agreed that the reasonable opinion and decision of Engineers employed by UTILITY of the necessity of additional transmission or storage facilities by the CITY to relieve said strain, shall be final, and the CITY hereby promises and agrees to abide by such decision.

308 Territorial Responsibilities

The CITY and the UTILITY shall furnish, install, operate and maintain their respective equipment and systems located within their territorial boundary limits, except as herein otherwise provided, and HAMMOND and the UTILITY shall in no way, or at no time, be obligated to do, or perform any act outside of city limits of HAMMOND except as may be provided in Section 306 herein above set out.

ARTICLE IV - MEASUREMENT

401 Point of Measurement

The UTILITY shall measure the quantity of Lake Water furnished to the CITY under this Agreement during each hour of each day 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.

402 Measuring Devices

(a) The measuring devices, together with a prefabricated steel meter vault to house them, all as described in "Exhibit B" (collectively, the "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 and of transmitting and recording pressures and other required operational information to the CITY and to the UTILITY'S Water Treatment Plant. The Devices shall be in accordance with the standards set by and be subject to the approval of the Indiana Department of Environmental Management. "Exhibit B" shall be a complete set of working drawings prepared and provided by the CITY

subsequent to the execution of this Agreement and subject to the approval of the UTILITY which approval shall not be unreasonably withheld. "Exhibit B" may be amended from time to time by the CITY, only with the prior approval of HAMMOND.

(b) The CITY shall seek and secure approval from the UTILITY prior to making any future improvements, additions, extensions or modifications to the metering devices, as would affect the UTILITY and it is further agreed that the reasonable opinion and decision of the engineers of the UTILITY, in connection with said improvement, or modifications, shall be final and the CITY hereby promises and agrees to abide by such decision.

403 Installation and Maintenance of Devices

(a) At the Point of Delivery of Lake Water, the CITY, if required by UTILITY, will be responsible for the cost and the installation of new meters and/or a new meter vault in the event that the existing devices malfunction, are not serviceable or otherwise become obsolete. Said new meter vault shall contain all necessary valves, check valves, special fittings, special castings, drains, suitable entrance to the same, and any other additional equipment and devices to provide a complete and first class installation. All such meters, valves and other appliances, devices and materials shall be in accordance with the Indiana Department of Environmental Management. All materials or the meter vaults, including the equipment located therein, shall be furnished and installed by the CITY subject to the approval of HAMMOND. After installation, such equipment shall be maintained, both as to repair and replacement, by the UTILITY. The

CITY shall also install such devices as are necessary for HAMMOND to measure water flow and water pressure from its filtration plant by telemetry. The facilities presently used to measure water flow as of the execution of this Agreement are hereby deemed adequate by the Parties.

(b) It is understood, promised and agreed that title to, access to and ownership of all meter vaults, all materials, equipment and meters either in existence at the time of this Agreement or later furnished by the CITY shall pass to, and be vested in the UTILITY, and the lines constructed in the territorial limits of HAMMOND, shall belong to, and become a part of, the system of UTILITY.

(c) The properly authorized officers, agents and representatives of HAMMOND and the UTILITY shall at all times have free access to the meter or meters and all other facilities herein provided for, for the purpose of shutting off the water for failure to pay the water rates or charges in this Agreement provided to be paid by the CITY and for the purpose of reading the registrations of said meter or meters, and to examine, shut off and test the same to ascertain whether or not they are in good condition and repair and to make such repairs upon the same as may be necessary.

(d) The CITY agrees to notify HAMMOND and the UTILITY at least sixty (60) days before performing any installation, repair or replacement of the Devices. Included with said notice shall be detailed plans of the proposed installation, repair or replacement and HAMMOND and/or the UTILITY shall have twenty (20) days after notice to review said plans and specify what, if any, modifications to

the plans must be made by the CITY to have the Devices to conform to the plans and specifications set forth in "Exhibit B".

(e) HAMMOND and/or UTILITY shall have the right during the process of any installation, repair or replacement of the measuring devices or related equipment, to inspect at any time such work and shall promptly notify the CITY of their findings as to the conformance of the work with the plans and specifications for Devices set forth in "Exhibit B".

404 Access to Devices

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

405 Operation, Inspection and Calibration of Devices

The UTILITY will operate the Devices and once every six (6) months inspect and calibrate the accuracy of each of the Devices for the purpose of measuring the supply of Lake Water furnished under this Agreement. Such inspection and calibration shall be done in the presence of an authorized representative of the CITY. The results of any such inspection and calibration shall be immediately provided to the CITY.

406 Readings

The readings made of the Devices for the purpose of billing the CITY shall be made by the UTILITY once every calendar month.

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 the CITY 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 ninety (90) days, then the parties shall compute the water delivered and not metered on a basis of the water readings for the same month of the previous year, and the daily average for such period shall be used as the basis for computing the amount of water delivered and not metered, and the amount to be paid for such unmetered period shall be based upon such computation.

ARTICLE V - WATER RATES

501 Base Rate

For the water furnished and delivered by HAMMOND under this Agreement, the CITY agrees to pay the following Base Rate:

\$2.20 per 1,000 U.S. gallons

502 Rate Modifications

The Base Rate referred to above may be adjusted as follows during the Term of the Agreement:

- (a) The Base Rate may not be modified for a period of two (2) years from the effective date of this Agreement. Thereafter, HAMMOND may, in its sole discretion, modify the Base Rate, except as provided below. It is agreed and understood that, whenever modified, the new Base Rate shall not exceed an amount equal to eighty-eight percent (88%) of the water rate in effect and being charged by the City of Chicago, Illinois,¹ exclusive of any discounts or penalties, on the date that the new Base Rate goes into effect. In addition, if, on the two (2)

¹ The City of Chicago's projected future water rates per 1,000 gallons (through 1/1/15 only) are currently posted under "Know My Water & Sewer Rates" at https://www.cityofchicago.org/city/en/depts/water/provdrs/cust_serv/svcs/know_my_water_sewerrates.html. See attached Ex. C.

year anniversary of the effective date of any Base Rate modification hereunder, the City of Chicago has a lower water rate, exclusive of any discounts or penalties, than on the date of the said previous modification, then the Base Rate hereunder shall be modified on said anniversary date to an amount equal to eighty-eight percent (88%) of the then-existing Chicago water rate, exclusive of any discounts or penalties. HAMMOND or the UTILITY shall give CITY written notice of any increase or decrease in the Rate sixty (60) days prior to the effective date of the modification of the Base Rate.

(b) The Base Rate, whenever modified, shall not be subject to additional adjustment for a period of two (2) years from the effective date of the most recent Base Rate modification. It is agreed and understood that, during the Term of the Agreement, HAMMOND may modify the prevailing Base Rate no more than once in any given two (2) year period.

(c) The CITY agrees that with respect to any future rate adjustments, including, but not limited to, modifications of the Base Rate, in the event any approval is required by law, that the CITY will, without objection, join any petition, rate schedule tariff or other documents or proceedings which may be necessary to be filed with any public body. Further, the CITY agrees to abide by such adjusted rate and to pay same.

503 Surcharge or Tax

No surcharge fee or tax shall be added to the rates provided for in this Agreement by HAMMOND that is not also charged by the UTILITY in its sale of water to HAMMOND's residents; except that, in the event that a tax or other fee is imposed on

HAMMOND and/or the UTILITY by a third-party government authority with respect to its sale of Lake Water under this Agreement, such tax or fee will be added to the Base Rate and charged to the CITY.

504 Customer Charges

The UTILITY and/or HAMMOND shall have no right to determine charges for Lake Water furnished by CITY to its water users.

ARTICLE VI - BILLING

601 Frequency

(a) The UTILITY shall bill the CITY each month for the water used each month and the CITY 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 the CITY at the same current rate charged by the UTILITY to its resident customers. UTILITY shall make distribution of funds received pursuant to contract between UTILITY and HAMMOND.

(b) In the event the UTILITY shall be required to alter, amend or establish a new rules or rules, by order of the Indiana Utility Regulatory Commission of the State of Indiana, or by law, then the existing rules of the UTILITY and such alterations, amendments, or new rules, shall apply and govern the parties hereto.

(c) The CITY agrees to appropriate annually sufficient money to pay for the water furnished by HAMMOND hereunder. The CITY further agrees that it will at all times charge its water users sufficient rates in order to provide adequate funds for the payment of water furnished by HAMMOND.

(d) In the event the CITY shall not pay its water bill on time, then to secure prompt payment of the water bills, HAMMOND shall also have the right at any time to require the CITY to pay in advance a sum of money estimated by the Hammond City Controller to be equal to the cost of water required by the CITY for a period of ninety (90) days at the then-prevailing metered rate, which said advance payment the CITY hereby agrees to make upon written demand.

(e) If the CITY 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 the CITY 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, HAMMOND shall deliver by mail to the CITY's City Council Office a notice in writing of its intention to shut off the supply of Lake Water on account of such failure, refusal or neglect, then HAMMOND shall have the right to shut off the supply at the expiration of five (5) days after the giving of such notice, and to terminate this agreement unless within such five (5) days, the CITY shall make good such failure. The shutting off of the supply of Lake Water for any such cause shall not release the CITY from its obligation to make payments of any amount or amounts 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.

ARTICLE VII - TERM AND STANDARD CONDITIONS

701 Term

This Agreement shall expire twenty (20) years from the effective date of this Agreement.

702 Assignment

This Agreement shall be assignable by HAMMOND without the prior written consent of the CITY.

703 Title to Water

Title to all Lake Water supplied under this Agreement shall remain in HAMMOND to the Point of Delivery, and upon passing the Point of Delivery, title to the Lake Water shall pass to the CITY.

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 the CITY at:

Office of the Mayor
The City of Chicago Heights, Illinois
1601 Chicago Road
Chicago Heights, IL 60411;

and to HAMMOND at:

Mayor
Civil City of Hammond
5925 Calumet Avenue
Hammond, IN 46320;

and to the UTILITY at:

CEO, Hammond Water Works Department
6505 Columbia Avenue
Hammond, IN 46320;

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

706 Indemnification

HAMMOND and 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. The CITY agrees to hold harmless and indemnify HAMMOND and the UTILITY against any and all claims for losses, liability or damage, including fees and expenses, arising out of or in connection with the delivery and sale of the Lake Water after it is received by the CITY at the point of delivery, and the CITY 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. The CITY further agrees to hold harmless and indemnify HAMMOND and the UTILITY against all claims for any dispute, loss, damage, or injury sustained, of any kind, nature or description, including attorneys fees and expenses incurred by HAMMOND and/or the UTILITY by reason of any claims

made against HAMMOND and/or the UTILITY by residents or Authorized Users of the CITY, relating to HAMMOND's furnishing Lake Water to the CITY under this Agreement. In the event of any claims arising out of this Agreement between the parties to this Agreement, attorneys fees and costs shall be awarded to the prevailing party.

707 Miscellaneous

(a) This Agreement supersedes all prior negotiations or understandings 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 HAMMOND and the UTILITY referred to herein.

(b) 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.

(c) This Agreement is performed in the State of Indiana and is to be construed under applicable Indiana law which shall apply to its enforcement, construction and interpretation.

(d) The parties stipulate that the sales under this Agreement constitute wholesale sales between an Illinois municipality and an Indiana municipality. By executing this Agreement, neither party acquiesces that the rights and obligations contained within this Agreement are subject to the interpretation,

enforcement or jurisdiction of any administrative agency, including the Indiana Utility Regulatory Commission ("IURC").

(e) This Agreement is further subject to the existing contract between HAMMOND and the UTILITY concerning sale of Lake Water to HAMMOND. All facilities and equipment utilized under this Agreement shall be owned and operated by the UTILITY. A copy of the existing contract between HAMMOND and the UTILITY is attached hereto as Exhibit D.

(f) In the event of need for enforcement or interpretation of any provision in this agreement, the parties agree that the Federal and State Courts located in the State of Indiana shall have exclusive jurisdiction. However, in the event that HAMMOND requests that the CITY cooperate and assist HAMMOND or the UTILITY in any proceeding before the IURC or any other regulatory body, then the CITY agrees to cooperate or assist HAMMOND or the UTILITY as requested.

(g) In the event any statute, either of the United States, the State of Indiana, or any rule is subsequently promulgated by any governmental agency of the United States or the State of Indiana, binding upon HAMMOND and the UTILITY, and solely by reason thereof, HAMMOND and the UTILITY shall not be permitted to deliver water to the CITY, as provided for in this contract, then this contract may be cancelled by HAMMOND without any liability to HAMMOND and the UTILITY.

(h) Further, should any law, rule or regulation be passed and adopted by any governmental agency binding on HAMMOND and the UTILITY as to the grade of water to be furnished, or its distribution, then the CITY agrees that when

HAMMOND 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.

(i) HAMMOND agrees that it will not engage in the direct sale of water to any Authorized Water Users of the CITY, as herein defined, without the prior written consent of the CITY.

(j) In the event that the CITY shall desire, at the expiration of this Agreement, to continue to purchase Lake Water from HAMMOND, it shall twelve (12) months before the expiration of this contract, so notify HAMMOND, and, if HAMMOND desires to continue to sell, and if and only if, the parties hereto agree to the terms and conditions of a new Purchase Agreement, including a new base rate, before the expiration of this Agreement, shall HAMMOND be obligated to continue to supply Lake Water to the CITY or its water users beyond the expiration of this Agreement.

(k) This Agreement is subject to cancellation by HAMMOND in the event the a court of competent jurisdiction or a governmental agency decrees (1) that HAMMOND has no right to contract for, sell, or distribute Lake Water; (2) that limits the amount of Lake Water HAMMOND may use for domestic pumpage or otherwise places a material burden on HAMMOND in connection with withdrawal of water from Lake Michigan; or (3) that limits disposition of water from Lake Michigan to any municipality or user residing outside the corporate limits of the City of Hammond.

(l) The authority of the officials of HAMMOND to execute this Agreement is evidenced by the authority of the Board of Works and Safety of the City of

(m) The authority of the officials of the CITY to execute this Agreement is evidenced by the Resolution adopted by the CITY OF CHICAGO HEIGHTS, ILLINOIS, at a regular meeting of its City Council duly held on the 4th day of February, 2013.

IN WITNESS this Agreement, the CITY and HAMMOND have executed this Agreement as of the 14th day of February, 2013.


CITY COUNCIL MEMBER

APPROVED:


LORI WILCOX, CITY CLERK

CITY OF CHICAGO
HEIGHTS, ILLINOIS

BOARD OF PUBLIC WORKS & SAFETY


_____)

MEMBER)


_____)

MEMBER)



_____)

MEMBER)

ATTEST: 
_____)

CIVIL CITY OF HAMMOND,
INDIANA

APPROVED:


_____)

THOMAS M. McDERMOTT, JR.)

MAYOR)


_____)

ROBERT J. GOLEC, CITY CLERK)

ATTEST)

CIVIL CITY OF HAMMOND,
INDIANA

"EXHIBIT A"

LIST OF AUTHORIZED WATER USERS OUTSIDE OF CITY'S LIMITS

1. Ford Heights;
2. Glenwood;
3. Sauk Village;
4. South Chicago Heights;
5. Thornton.

"EXHIBIT B"

MEASURING DEVICES

Will be furnished at a later date when plans and specifications are furnished by the CITY and approved by the UTILITY.



Service

Know My Water & Sewer Rates

Water and Sewer Rates Voted on and approved by the Mayor and Chicago City Council of Chicago

English

Español

□ □

□ □

Water

Effect.Date	% Increase	Water per 1,000 Cu.Ft.	Water per 1,000 Gallons
1/1/12	25%	\$18.75	\$2.51
1/1/13	15%	\$21.56	\$2.89
1/1/14	15%	\$24.80	\$3.32
1/1/15	15%	\$28.52	\$3.82

Sewer

Effect. Date	% of Water Bill
1/1/12	89%
1/1/13	92%
1/1/14	96%
1/1/15	100%

Historical Water Rates

The water rates are for Chicago and Suburban customers.

Effect.Date	% Increase	Water per 1,000 Cu.Ft.	Water per 1,000 Gallons
1/1/10	14%	\$15.00	\$2.01
1/1/09	15%	\$13.16	\$1.76
1/1/08	15%	\$11.44	\$1.53

Effect. Date	Gross % Increase	Water per 1,000 Cu.Ft.	Water per 1,000 Gallons	Net per 1,000 Cu.Ft.	Net Per 1,000 Gallons	Rate Discount*	PCT % Increase N/A
1/1/07	0%	\$9.95	\$1.33	**	**	**	0%

EXHIBIT
C

1/1/06	0%	\$9.95	\$1.33	**	**	**	0%
1/1/05	3%	\$9.95	\$1.33	\$9.71	\$1.30	\$0.24	3%
1/1/04	3%	\$9.66	\$1.29	\$9.42	\$1.26	\$0.24	3%
1/1/03	4%	\$9.38	\$1.25	\$9.16	\$1.22	\$0.23	4%
1/1/02	4%	\$9.02	\$1.20	\$8.80	\$1.17	\$0.23	4%

* Reflects 2.5% Discount Rate for payment that was made within 21 days.

** The Discount Rate was eliminated January 1, 2006.

Historical Sewer Rates

The Sewer service rate is added as a separate line item to the water bill for customers within the Chicago Service Area. The Sewer rate is a percentage of the gross water bill. The following reflects the Sewer service rate history.

Effect. Date	% of Water Bill
1/1/10	86%
1/1/09	85%
1/1/08	84%
1/1/07	83%
1/1/06	83%
1/1/05	83%
1/1/04	83%
1/1/03	83%
1/1/02	83%
1/1/01	83%
1/1/00	83%
1/1/96	81%

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

**AGREEMENT FOR THE SALE OF WATER
TO THE CIVIL CITY OF HAMMOND
BY THE HAMMOND WATER WORKS DEPARTMENT**

THIS AGREEMENT made on the date hereinafter set forth by and between the HAMMOND WATER WORKS DEPARTMENT of the City of Hammond, Lake County, Indiana, a separate municipal utility, by its duly authorized Board of Directors (hereinafter referred to as "UTILITY"), and the CIVIL CITY OF HAMMOND, INDIANA, a municipal corporation, by its duly authorized Mayor and Board of Public Works and Safety acting in their official capacity (hereinafter referred to as "HAMMOND"), (The UTILITY and HAMMOND together hereinafter referred to as the "Parties" or alone as a "Party.").

WHEREAS, the UTILITY owns, operates and maintains a complete water works system, including a filtration plant, pumping station, storage and transmission facilities and furnishes treated water to the residents, businesses and industries located within the corporate limits of Hammond, Indiana and, by contract only, beyond the corporate limits; and

WHEREAS, HAMMOND desires to purchase Lake Michigan water ("Lake Water") from the UTILITY for resale to Illinois customers, including the CITY OF CHICAGO HEIGHTS, ILLINOIS, hereinafter referred to as "CHICAGO HEIGHTS" and its approved customers as described herein; and

WHEREAS, the UTILITY has surveyed the problem and deems itself able to

**EXHIBIT
D**

deliver and sell Lake Water to HAMMOND on the Indiana side of the state line between Indiana and Illinois from the water main presently in place and used by the UTILITY to presently service CHICAGO HEIGHTS (the "Point of Delivery"); and

WHEREAS, the parties hereto are desirous of selling and purchasing Lake Water, respectively, and therefore said UTILITY and HAMMOND enter into the following Agreement for the sale and purchase of water.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, to be observed and performed by the parties hereto, and for other good and valuable consideration, the UTILITY and HAMMOND mutually agree as follows:

(1) Purchase and Sale

The UTILITY agrees to furnish and deliver Lake Water to HAMMOND and HAMMOND agrees to purchase Lake Water from the UTILITY at the Point of Delivery to the extent that Lake Water is available to the UTILITY for such purpose at the meter vault on the Indiana side of the state line at the Point of Delivery in HAMMOND. Said delivery of Lake Water shall be in sufficient quantities to meet the demand for Lake Water by CHICAGO HEIGHTS contemplated and described in the Water Purchase Agreement between the CITY OF CHICAGO HEIGHTS, ILLINOIS, and the CIVIL HAMMOND OF HAMMOND, INDIANA, dated the _____ day of February, 2013, hereinafter referred to as the "CHICAGO HEIGHTS CONTRACT". HAMMOND agrees also to require that CHICAGO HEIGHTS agree to purchase Lake Water consistent in all respects with the terms and conditions of this Agreement. Any use of the phrase, "HAMMOND shall require," places an obligation on HAMMOND to require CHICAGO HEIGHTS and/or CHICAGO HEIGHTS Authorized Water Users to agree to the listed item, unless

otherwise noted.

(2) Commencement of Delivery

The delivery of Lake Water by the UTILITY under the terms of this Agreement shall commence on January 1, 2013.

(3) 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 CHICAGO HEIGHTS each respective month and then divided by twenty-four (24) hours for each day. It is agreed that CHICAGO HEIGHTS may exceed the withdrawal rate with consent of the UTILITY at non-off peak hours, or withdraw Lake Water at off-peak hours each calendar day as authorized by Section 4 without consent.

(4) Point of Delivery, Storage and Time of Pumpage

- (A) Lake Water shall be delivered by HAMMOND to CHICAGO HEIGHTS on the Indiana side of the State Line between Illinois and Indiana, from the water mains presently in place and used by the UTILITY. Said location is designated as the "Point of Delivery" of the Lake Water under the terms of this Contract.
- (B) HAMMOND shall require that the water storage capacity of CHICAGO HEIGHTS and all of its Authorized Water Users (as defined in the CHICAGO HEIGHTS CONTRACT) shall be sufficient to meet at least two (2) times the daily State Water Allocation granted to each respective

community by the State of Illinois. HAMMOND will further require CHICAGO HEIGHTS to keep on file with the UTILITY a current list of the State Water Allocations of CHICAGO HEIGHTS and all of its Authorized Water Users.

- (C) HAMMOND shall require that the pumpage, storage of Lake Water, and the times when such pumpage and storage shall be made by CHICAGO HEIGHTS and all of its Authorized Water Users shall be through properly designed facilities of adequate capacity and subject to the approval of the UTILITY.
- (D) Further, HAMMOND agrees to require that CHICAGO HEIGHTS and all of its Authorized Water Users utilize their water storage capacity for supply at its peak flow periods so as to cause the least strain on the water system of the UTILITY. The off-peak hours during which CHICAGO HEIGHTS and its Authorized Water Users shall take maximum water flow from the UTILITY'S system is further defined as being from 10:00 P.M. to 6:00 A.M. the following day.
- (E) HAMMOND shall require that, if a lack of adequate storage by CHICAGO HEIGHTS or any of its Authorized Water Users facilities causes a strain on the water system of the UTILITY, then the offending community must construct and provide additional storage facilities to relieve the strain on the water system of the UTILITY. The reasonable opinion and decision of the Engineers employed by the UTILITY of the necessity of additional

transmission or storage facilities by the offending community to relieve said strain, shall be final, and HAMMOND shall require that CHICAGO HEIGHTS and all of its Authorized Water Users agree to abide by such decision.

(5) Emergency

That if for any reason, including an emergency failure or malfunction in the UTILITY'S water distribution system or water supply system, HAMMOND is unable to furnish in full the quantities of Lake Water to be furnished to CHICAGO HEIGHTS and its Authorized Water Users, then the UTILITY shall use reasonable due diligence to so operate its water system during any such occurrence so as to provide Lake Water insofar as practicable to HAMMOND'S customers, as well as the UTILITY'S customers. The UTILITY shall promptly take such actions, including making and expediting repairs or adjustments, as are reasonably necessary to restore delivery to HAMMOND'S customers, as well as the UTILITY'S customers.

(6) Equipment

- (A) At the Point of Delivery of Lake Water to HAMMOND there are meters installed and a meter vault pursuant to the CHICAGO HEIGHTS CONTRACT. Said meter vaults contain all necessary valves, check valves, special fittings, special castings, drains, suitable entrance to the same, and any other additional equipment and devices to provide a complete and first class installation. All such meters, valves, and other appliances, devices and materials are in accordance with the standard set,

and subject to the approval of, the Indiana Department of Environmental Management. All specifications for the meter vaults and the equipment located therein, are in accordance with the CHICAGO HEIGHTS CONTRACT and are subject to the approval of the UTILITY. Such equipment shall be maintained, both as to repairs and replacements, subject to the approval of the UTILITY.

- (B) It is understood, promised and agreed that title to, and ownership of said meter vaults and all related materials, equipment and meters shall pass to, and be vested in, the UTILITY, and the lines constructed in the territorial limits of HAMMOND shall belong to, and become a part of the UTILITY's system.
- (C) HAMMOND shall require CHICAGO HEIGHTS to seek and secure approval from the UTILITY prior to making any future improvements, additions, extensions or modifications to the present metering devices, as would affect said UTILITY, and that the reasonable opinion and decision of the Engineers of the UTILITY, in connection with said improvement, or modification, shall be final and the CHICAGO HEIGHTS shall be required to abide by such decision.

(7) Pumpage Limitation

HAMMOND further agrees to require that CHICAGO HEIGHTS operate its system so that, except for emergencies, all Lake Water supplied by HAMMOND will pass through ground-storage tanks prior to being pumped to CHICAGO HEIGHTS' distribution system.

No direct pumpage from the UTILITY'S supply shall be utilized by CHICAGO HEIGHTS, at any time, unless it is necessary to take the storage tanks out of service for maintenance, repairs and painting. Even in those circumstances, direct pumpage is only allowed 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.

(8) Water Quality

- (A) The UTILITY shall furnish the grade of Lake Water that the UTILITY furnishes to its own patrons. The UTILITY shall not be responsible to HAMMOND, CHICAGO HEIGHTS or any of CHICAGO HEIGHTS' water users, for any pollution that might exist in the water, or arise in any distribution system of the UTILITY, CHICAGO HEIGHTS, CHICAGO HEIGHTS' water users or any of HAMMOND'S CUSTOMERS. The facilities to prevent pollution that the UTILITY now uses are, for the purpose of this contract, deemed by the parties hereto to be adequate. It is recognized by the parties hereto that the source of water supply is Lake Michigan at the boundary of the City of Hammond, Lake County, Indiana, with said lake, and both contracting parties are familiar with the conditions existing at said point. HAMMOND hereby represents that CHICAGO HEIGHTS and all of CHICAGO HEIGHTS' water users are familiar with the method employed by the UTILITY to secure said water and treat the same for consumption, and then distribute the same to its distribution mains, and

this Agreement is made with reference thereto.

- (B) It is agreed that if HAMMOND, CHICAGO HEIGHTS or any of CHICAGO HEIGHTS' water users causes any pollution of the Lake Water in the system of the UTILITY, the same shall be immediately remedied and removed by the party causing such pollution. 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 HAMMOND, CHICAGO HEIGHTS or any of CHICAGO HEIGHTS' water users responsible for the contamination of the UTILITY's system, shall be required to promise and agree to reimburse and indemnify the UTILITY for such pollution and the damages resulting therefrom. HAMMOND shall require such reimbursement and indemnification to be a condition of the CHICAGO HEIGHTS CONTRACT.
- (C) Further, should any law, rule or regulation be passed and adopted by any governmental agency, modifying in any way the grade of water required to be furnished by the UTILITY, then HAMMOND agrees that when the UTILITY delivers Lake Water in compliance with such law, rule or regulation, that it has completed its obligation with respect to water quality under the terms of this Agreement.

(9) Water Pressure

- (A) HAMMOND 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 UTILITY is not required hereby to furnish Lake Water to HAMMOND at

a specific pressure and shall not be responsible to HAMMOND, CHICAGO HEIGHTS, or any of CHICAGO HEIGHTS' customers for any claim related to inadequate water pressure at the Point of Delivery. HAMMOND, CHICAGO HEIGHTS, and/or CHICAGO HEIGHTS' customers shall be required to hold the UTILITY harmless from and indemnify any and all claims related to water main pressure at the point of delivery made by HAMMOND, CHICAGO HEIGHTS, or any of CHICAGO HEIGHTS' customers. It is understood and agreed that HAMMOND and CHICAGO HEIGHTS shall take the Lake Water at the Point or Points of Delivery "as is", and at the rate and pressure as hereinafter defined.

- (B) HAMMOND shall also require that its customers, including CHICAGO HEIGHTS, in taking Lake Water from 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.

(10) CHICAGO HEIGHTS's Distribution System

HAMMOND shall require that CHICAGO HEIGHTS furnish, install, operate, repair and/or maintain all distribution lines, pumps, storage facilities, and all other necessary equipment on the distribution system that it now has, and all other necessary equipment, to assure itself that it can receive and distribute the water furnished under the CHICAGO HEIGHTS CONTACT.

(11) Territorial Responsibilities

The UTILITY shall furnish, install, operate and maintain its equipment and system

located only within the city limits of Hammond, Indiana, and HAMMOND or the UTILITY shall not be obligated to perform any act outside said city limits or the State of Indiana, related to their performance under the terms of this Agreement.

(12) Limitation on Resale of Water

HAMMOND shall not, without receiving the UTILITY'S written approval, sell Lake Water to any customers other than those referenced in the CHICAGO HEIGHTS CONTRACT and all other contracts between HAMMOND and Illinois communities in existence on the date of this Agreement.

(13) Water Rates

(A) For the Lake Water furnished by the UTILITY to HAMMOND hereunder, HAMMOND agrees to pay the total rate of \$0.575 per 1,000 U.S. gallons during the term of this Agreement, unless modified as noted below. Said total rate is comprised of a Base Rate of \$0.46 per 1,000 gallons of Lake Water plus a Reimbursement Fee equal to \$0.115 per 1,000 gallons of Lake Water. The Reimbursement Fee is the result of the Request for Modification made by HAMMOND requesting that the UTILITY modify its system to meet the increased demand contemplated by the sale of water to CHICAGO HEIGHTS and its current and potential Authorized Water Users. (Said Request for Modification is attached hereto as "Exhibit A.")

(B) The UTILITY may increase its Reimbursement Fee rate during the term of this Agreement but not for the first two (2) years of this Agreement. Once modified, the Reimbursement Fee rate shall not be subject to additional

modification for a period of two (2) years thereafter.

- (C) It is further agreed that if, in the event that a tax or other fee is imposed on HAMMOND and/or the UTILITY with respect to the sale of Lake Water under the CHICAGO HEIGHTS CONTRACT, such tax or fee will be added by the UTILITY to the Base Rate hereunder and charged to HAMMOND.
- (D) Also, if at any time there is an increase to the UTILITY'S rate charged for Lake Water furnished to single family residential customers located within the city limits of Hammond, Indiana, then the Base Rate for all Lake Water sold to HAMMOND hereunder shall be increased to the new rate to said single family residential customer.

(14) Measurement and Billing

- (A) The amount of water purchased and sold shall be determined by the readings of meters installed at the Points of Delivery, as aforesaid, and HAMMOND shall pay for the amount of water shown by such readings pursuant to Paragraph 13(A). In the event that such meter or meters shall become out of repair for a period of time, then the parties shall compute the water delivered and not metered on a basis of the water readings for the same month of the previous year and the daily average for such period shall be used as the basis for computing the amount of water delivered and not metered, and the amount to be paid for such unmetered period shall be based upon such computation.
- (B) The UTILITY will bill CHICAGO HEIGHTS for its monthly water usage. All

payments by CHICAGO HEIGHTS shall be to the UTILITY.

(15) Term and renewal

- (A) This contract shall continue in force and effect for twenty (20) years from the date of commencement.
- (B) In the event that HAMMOND shall desire, at the expiration of this contract to continue to purchase water from the UTILITY, it shall, six (6) months before the expiration of this contract, so notify the UTILITY, and if both parties agree that it would be in their respective best interests to renew the contract, then the contract shall be renewed for an additional period of twenty (20) years at rates terms and conditions to be agreed upon at that time.

(16) 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. HAMMOND shall require that CHICAGO HEIGHTS and all of its customers agree to hold harmless and indemnify HAMMOND and/or the UTILITY against any and all claims for losses, liability or damage, including fees and expenses, arising out of or in connection with the delivery and sale of the Lake Water after it is received by CHICAGO HEIGHTS at the Point of Delivery. CHICAGO HEIGHTS and all of its customers shall assume 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. HAMMOND shall also require that CHICAGO HEIGHTS agree to hold harmless and indemnify HAMMOND and/or the UTILITY against

all claims for any dispute, loss, damage, or injury sustained, of any kind, nature or description, including attorneys' fees and expenses incurred by HAMMOND and/or the UTILITY by reason of any claims made against HAMMOND and/or the UTILITY by residents or Authorized Users of CHICAGO HEIGHTS, relating to HAMMOND's furnishing Lake Water to CHICAGO HEIGHTS under the CHICAGO HEIGHTS CONTRACT. In the CHICAGO HEIGHTS CONTRACT, HAMMOND shall require that if there are ever any claims arising out of that Agreement wherein CHICAGO HEIGHTS, HAMMOND and/or the UTILITY are parties to the dispute, that attorneys' fees and costs shall be awarded to the prevailing party or parties.

(17) Notices

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

Office of the Mayor
The City of Chicago Heights, Illinois
1601 Chicago Road
Chicago Heights, IL 60411;

to HAMMOND at:

Mayor,
Civil City of Hammond
5925 Calumet Avenue
Hammond, IN 46320;

and, to the UTILITY at:

CEO, Hammond Water Works Department
6505 Columbia Avenue
Hammond, IN 46320;

or at such other address as such party by written notice may designate and shall be

deemed given when so delivered.

(18) Miscellaneous Provisions

- (A) This Agreement supersedes all prior negotiations or understandings 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 HAMMOND and CHICAGO HEIGHTS referred to herein as the CHICAGO HEIGHTS CONTRACT. 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 any other 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, either of the United States, the State of Indiana, or any rule is promulgated by any governmental agency of the United States or of the State of Indiana, binding upon HAMMOND and/or the UTILITY,

and by reason thereof HAMMOND and/or the UTILITY shall not be permitted to deliver water to CHICAGO HEIGHTS or any of CHICAGO HEIGHTS' customers, as provided for in this contract, then this contract may be cancelled by HAMMOND or the UTILITY without any liability to CHICAGO HEIGHTS or any of CHICAGO HEIGHTS' customers.

- (C) This Agreement is subject to cancellation by HAMMOND or the UTILITY in the event that any Court of competent jurisdiction decrees that HAMMOND and/or the UTILITY has no right to contract for, sell, disperse, distribute or otherwise limits the amount of Lake Water that HAMMOND or the UTILITY may deliver to any municipality or user residing outside of the corporate limits of Hammond, Indiana or the State of Indiana.
- (D) HAMMOND shall require that CHICAGO HEIGHTS and all of its customers agree to not commit any intentional acts or omissions that would cause HAMMOND to be in breach of this Agreement.
- (E) HAMMOND shall not permit CHICAGO HEIGHTS or any of its customers to resell water, either on a retail or wholesale basis, to any users outside their territorial limits without receiving the prior written approval of HAMMOND or the UTILITY.
- (F) HAMMOND designates the engineering staff of the UTILITY as the engineers to make final decisions relative to any engineering questions or problems arising either under this contract or any of the contracts between HAMMOND and its Illinois customers.

(G) This Agreement may be amended only upon mutual agreement of both parties in writing.

(H) The authority of the officials of HAMMOND to execute this Agreement is evidenced by the authority of the Board of Public Works and Safety of HAMMOND of Hammond given by the attached Resolution adopted at a regular meeting held on the 7th day of ~~January~~ ^{FEBRUARY}, 2013

(I) The authority of the officials of the HAMMOND WATER WORKS DEPARTMENT of the City of Hammond, Indiana to execute this Agreement is evidenced by the Resolution adopted by the Board of Directors of said department, at a regular meeting of said Board of Directors duly held on the 13th day of ~~January~~ ^{FEBRUARY}, 2013.

IN WITNESS of this Agreement, the HAMMOND WATER WORKS DEPARTMENT of the City of Hammond, Indiana and the CIVIL CITY OF HAMMOND, INDIANA have executed this Agreement as of the 13th day of ~~January~~ ^{FEBRUARY}, 2013.

BOARD OF DIRECTORS, HAMMOND
WATER WORKS DEPARTMENT

BY: Sharon M. Daniels
SHARON DANIELS, PRESIDENT

ATTEST:

Sam A Walker

BOARD OF DIRECTORS,
HAMMOND WATER WORKS
DEPARTMENT

PAUL WALKER, SECRETARY)

BOARD OF PUBLIC WORKS & SAFETY)


MEMBER)


MEMBER)


MEMBER)

ATTEST: 

CIVIL CITY OF HAMMOND,
INDIANA

APPROVED:)


THOMAS M. McDERMOTT, JR.,
MAYOR)


ROBERT J. GOLEC, CITY CLERK)

ATTEST

CIVIL CITY OF HAMMOND,
INDIANA

**FIRST AMENDMENT TO THE
2018 AGREEMENT BETWEEN THE
CITY OF CHICAGO HEIGHTS, ILLINOIS AND THE
CIVIL CITY OF HAMMOND, INDIANA**

This First Amendment to the 2018 Agreement Between the City of Chicago Heights, Illinois, and the Civil City of Hammond, Indiana ("First Amendment to the 2018 Agreement"), effective as of the date the last party signs below, is entered into by and between the CIVIL CITY OF HAMMOND, INDIANA, a municipal corporation, by its duly authorized Board of Public Works and Safety and its Mayor (hereinafter referred to as "HAMMOND") and the CITY OF CHICAGO HEIGHTS, ILLINOIS, a municipal corporation, by its duly authorized City Council and its Mayor (hereinafter referred to as the "CITY") (HAMMOND and the CITY together hereinafter referred to as the "Parties" or each alone as a "Party.").

RECITALS

WHEREAS, the Parties entered into an agreement effective February 14, 2013, entitled "PURCHASE AGREEMENT BETWEEN THE CITY OF CHICAGO HEIGHTS, ILLINOIS AND THE CIVIL CITY OF HAMMOND, INDIANA" ("2013 Agreement");

WHEREAS, the Parties entered into an amendment of the 2013 Agreement effective **September 5, 2018**, entitled "[2018] AGREEMENT BETWEEN THE CITY OF CHICAGO HEIGHTS, ILLINOIS AND THE CIVIL CITY OF HAMMOND, INDIANA" ("2018 Agreement");

WHEREAS, the 2013 Agreement as amended and the 2018 Agreement remain in full force and effect as of the effective date of this First Amendment to the 2018 Agreement;

WHEREAS, unless otherwise specifically defined herein, capitalized terms used in this amendment shall have the meanings ascribed to them in the 2013 and 2018 Agreements.

WHEREAS, as contemplated in the 2018 Agreement, CITY has provided HAMMOND notice of intent to purchase for distribution at a future date an amount of Additional Water Quantity;

WHEREAS, the Parties desire to make certain changes to the 2018 Agreement;

Now therefore, HAMMOND and the CITY agree as follows:

FIRST AMENDMENT

1. Paragraph 4 of the 2018 Agreement is amended to read as follows:

*EXHIBIT
A-3*

The Parties desire the term of the Agreement to be extended to twenty-five years after the date the CITY begins distributing Additional Water Quantity to an Additional Authorized Water User. Because such date is uncertain but expected to occur in 2022, the Parties agree that their Agreement shall expire December 31, 2047, contingent upon CITY'S purchase of some amount of Additional Water Quantity in or before 2022. However, if CITY fails to purchase some amount of Additional Water Quantity in or before 2022, the term of the Agreement is unchanged by this amendment, meaning the Parties' Agreement shall expire February 14, 2038, as provided in Paragraph 4 of the 2018 Agreement.

2. Paragraph 11 of the 2018 Agreement is amended to read as follows:

The rate for the Additional Water Quantity supplied under Paragraph 7 of the 2018 Agreement shall be \$2.05 per one-thousand gallons ("AWQ Base Rate"). Beginning January 1, 2023, the AWQ Base Rate shall be adjusted annually by increasing the AWQ Base Rate by the increase in the Consumer Price Index – For All Urban Consumers (CPI-U) for the preceding 12-month period ("Adjusted AWQ Base Rate"), provided, however that the amount of the annual increase shall not be less than 1 percent (1%) and shall not be more than 3 percent (3%) irrespective of the actual change in the CPI-U. Each annual increase thereafter in the Adjusted AWQ Base Rate shall be cumulative of the preceding annual increase. If and when HAMMOND begins selling Increased AWQ to CITY as provided in Paragraph 9 of the 2018 Agreement, the rate for any Increased AWQ shall be the Adjusted AWQ Base Rate then in effect and shall be subject to further increase as provided in this paragraph.

3. Except as specifically set forth in this First Amendment to the 2018 Agreement, all terms, conditions, and provisions of the 2013 Agreement as amended and the 2018 Agreement remain unmodified and in full force and effect.

4. This First Amendment to the 2018 Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute the same instrument.

[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS this Agreement, the CITY and HAMMOND have executed this First Amendment to the 2018 Agreement as of the _____ day of _____, 2019.

_____)	
CITY COUNCIL MEMBER)	
)	
)	CITY OF CHICAGO
)	HEIGHTS, ILLINOIS
)	

CITY COUNCIL MEMBER

APPROVED:

_____)	
DAVID A. GONZALEZ, MAYOR)	
)	
)	CITY OF CHICAGO
)	HEIGHTS, ILLINOIS
)	

LORI WILCOX, CITY CLERK

BOARD OF PUBLIC WORKS & SAFETY

MEMBER

MEMBER

MEMBER

ATTEST:

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CIVIL CITY OF HAMMOND,
INDIANA

APPROVED:

THOMAS M. McDERMOTT, JR.
MAYOR

ROBERT J. GOLEC, CITY CLERK

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CIVIL CITY OF HAMMOND,
INDIANA

EXHIBIT C

List of current City Municipal Customers:

South Chicago Heights

Glenwood

Thornton

Ford Heights