

SANITARY SEWER SERVICE AND WATER UTILITY AGREEMENT

This Sanitary Sewer Service Water Utility Agreement ("Agreement") is entered into by and between the Damon Run Conservancy District ("District") and the Porter County Board of Parks and Recreation ("Park").

WHEREAS, the District has a sanitary sewer and water utility infrastructure system ("District's System") by and through the City of Portage and Indiana American Water Company respectively which system renders utility services in and around certain property owned and operated by the Park commonly known as Sunset Hill Park ("Sunset Hill");

WHEREAS, the Park desires to connect to and utilize the District's System for Sunset Hill, including potential expansions of the Sunset Hill with the District as the exclusive provider of sanitary sewer and water service to the Sunset Hill;

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which the Park will receive sanitary sewer and water utility services from the District and establish the respective responsibilities of the parties for maintenance of the District's System.

NOW THEREFORE, in consideration of the terms of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Incorporation of Recitals. The parties agree that the above and foregoing recitals are true and correct and are hereby incorporated into and made a part of this Agreement.
2. Effective Date and Term. The Effective Date of this Agreement shall be the last party signs this Agreement. The term of this Agreement shall be perpetual and neither party may terminate this unless and until all bonds or similar financing issued by, under or through the District related to its infrastructure and the debt associated therewith are paid in full and said bonds and/or financing is discharged and released as an obligation of the District which bonding and/or financing is to be satisfied on or about December 31, 2030.
3. Provision of Sanitary and Water Service. Upon completion of the infrastructure contemplated herein and at all times thereafter, the District shall provide sanitary sewer and water utility service to the Project. At all times throughout the term of this Agreement, the Park agrees that the District shall be the exclusive provider of water and sewer service for the Property.
4. Grant of Easement. The Park and the Porter County Parks Foundation, Inc. have granted certain Utility Easements at Sunset Hill which easements were recorded in the Porter County Recorder's Office as Document No. 2011-016206 and 2011-016207 respectively.
5. Extension of Water Lateral. By and through Porter Regional Hospital, LLC, the District has caused the installation of the water service lateral to Sunset Hill. Any and all extensions of or connections thereto shall be completed by the Park at its sole cost and expense.

6. Annexation Into District Not Required. In lieu of annexing the Property into the District, the Park agrees to pay for use of the District's system as set forth herein and as otherwise consistent with the June 19, 2013 Order issued by the Indiana Utility Regulatory Commission in Cause No. 44146. It is the intent of the parties that the Park pay on equal footing with and proportionate to homeowners in the District and predicated on an equivalent dwelling unit ("EDU") factor and an average single family residential district tax bill. To accomplish this purpose, the Park's monthly water and sewer service bill shall each include a Monthly User Fee that is comprised of an Operation and Maintenance Component and a Debt Service Component. The Operation and Maintenance Component of the Park's water and sewer service bills shall be equivalent to the tariffed monthly User Fee for a single EDU for Residential customers multiplied by the Park's EDU consumption as described below. The Debt Service Component of the Park's monthly user fee shall be the District's tariffed monthly user fee for Outside District Boundary customers, minus the Operation and Maintenance Component, multiplied by the Park's EDU consumption as defined below. The Park's EDU consumption shall be based on actual flow figures determined through the Park's water meter, and shall be adjusted annually based on the twelve (12) month average flow recorded by the Park's water meter with one (1) EDU being equal to 310 gallons of water per day for a single family dwelling unit.

By way of example only, the Debt Service Portion of the Park's water and sewer bills shall be calculated as follows:

Sewer:	Park EDUs x	Debt Service portion of monthly Sewer user fee	= Debt Service component of monthly Sewer user fee payment
Water:	Park EDUs x	Debt Service portion of monthly Water user fee	= Debt Service component of monthly Water user fee payment

Based on a Park EDU factor of five (5), which may change annually based on actual consumption, the debt service component of the Park bill would be:

Sewer:	5 x \$64.13 ⁽¹⁾	=	\$ 320.65
Water:	5 x \$145.69 ⁽²⁾	=	<u>728.45</u>
	Monthly Total		\$1,049.10
	Times 12 months	x 12	
	Annual Total		<u>\$12,589.20</u>

(1)Sewer user fee of \$76.13 - \$12.00 Operation & Maintenance component = \$64.13.

(2)Water user fee of \$157.69 - \$12.00 Operation & Maintenance component = \$145.69.

On an annual basis, the District will perform a true-up calculation for the Debt Service Component of the Park's Monthly User Fee. The true-up calculation will be based on the total actual User Fees paid by the Park for the Debt Service Component during the previous twelve month period compared to the Outside District customers' EDU count multiplied by the District's average single

family residential tax bill for the year. If the true-up calculation results in a difference between the actual payments made by the Park and the EDU residential tax bill calculation, the Park will either (i) receive a credit from the District equal to the amount the Park's actual payments exceed the EDU residential tax bill calculation; or (ii) pay the District, within 30 days of receipt of invoice, the amount by which the Park's actual payments are less than the EDU residential tax bill calculation.

7. Compliance with District Ordinances and Regulations. Except as otherwise provided in this Agreement, the Park shall be charged and shall pay all usual and customary allocation fees, tap fees, and other charges in accordance with the District's rules, regulations, use and rate ordinances and the Act, each as amended from time to time.

8. Utility Service Charges. The Park agrees to pay during the term of this Agreement the charges and fees assessed by the District and contained herein. The Park shall be billed in accordance with the then current rates and charges of the District pursuant to its ordinances and that by entering into this Agreement, the Park agrees to abide by and otherwise conform its activities to the District's sewer, water and use ordinances, rules, resolutions in effect and which may from time to time be amended by the District. The District's sewer and water rate ordinances as well as its use ordinances are incorporated into this Agreement by reference and are made a part of this Agreement as though fully set forth herein. The Park agrees that it will meet and consult with the District prior to filing a protest of any rate or use amendments.

9. Connection Fee and District Expenses. Notwithstanding anything to the contrary in this Agreement, the District agrees to waive the District connection and tap fee. The Park shall be required to pay all connection, allocation and tap fees required by the City of Portage and/or Indiana American Water Company in accordance with the District's agreements with the City of Portage and/or Indiana American Water Company.

10. Severability. The invalidity of any provision of this Agreement shall not impair the validity of any other provision. If any provision of this Agreement is determined by a Court of competent jurisdiction to be unenforceable, that provision shall be deemed severable and the Agreement may be enforced with that provision severed or modified by the Court.

11. Amendments, Agreement, Elections, Waivers and Consents. Any and all amendments and other agreements with respect to this Agreement shall be made by an instrument or instruments in writing signed by and on behalf of both parties and no such amendment or other agreement shall be effective unless and until so made. Any and all elections, waivers and consents with respect to this Agreement shall be made or given by an instrument or instruments in writing, and no such election, waiver or consent shall be effective unless and until so made or given by such an instrument in writing.

12. Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon and enforceable against the parties to this Agreement and their respective successors and assigns, but this Agreement shall not be assignable by either party without the prior written consent of the other.

13. Entire Agreement and Proper Authority. This Agreement, along with the Exhibits hereto, constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and supersedes all negotiations, representations, warranties, offers, contracts and communications prior to the date hereof. Each person signing this Agreement represents and warrants that he/she is duly authorized to execute and deliver this Agreement and bind the party for whom they are signing.

14. Counterparts, Facsimile, Electronic Signature. This Agreement and any amendments, changes or modifications, may be signed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. A facsimile or a scanned electronic signature shall be deemed an original signature for all purposes.

15. Notices. Any notices required hereunder shall be in writing, signed by the party serving the same, deposited in the registered or certified U.S. mail, return receipt requested, postage prepaid, or sent by overnight carrier, fee prepaid, and shall be deemed delivered on the second business day after such deposit or on the first business day after being sent by such overnight carrier to the following:

District: Damon Run Conservancy District
 c/o Board of Directors
 P.O. Box 472
 Valparaiso, Indiana 46384

Park: Porter County Board of Parks and Recreation
 C/o Superintendent
 155 Indiana Avenue, Suite 304
 Valparaiso, Indiana 46383

or to such other address as any party may furnish the other in writing.

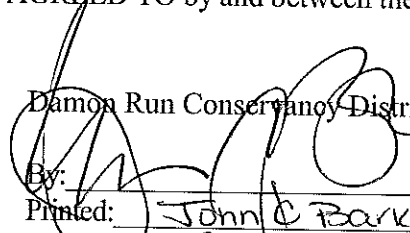
16. Further Assurances. Promptly upon request from time to time of either party, the other party shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged or deliver, to or at the direction of such party, all further acts, transfers, assignments, powers and other documents and instruments as may be so requested to give effect to the transactions contemplated hereby, including, but not limited to supporting petitions, application or requests to any reasonably necessary governing body or agency, municipality, political subdivision or agency thereof.

17. Jurisdiction, Default and Attorney's Fees. This Agreement shall be interpreted under the laws of the State of Indiana, without regard to any conflict of laws provision. Any action to enforce any provision of the Agreement shall be filed in the State courts of Porter County, Indiana. Each party retains all rights and remedies, at law or in equity, regarding this Agreement. The court shall award to the prevailing party its court costs and attorneys' fees incurred in enforcing this Agreement. For purposes of this Agreement, a prevailing party shall include, without limitation, a party who


brings an action against the other party by reason of the other party's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.

ALL OF WHICH HAVING BEEN AGREED TO by and between these parties on the date first set forth above.

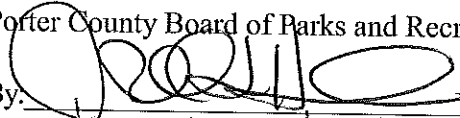
District:
4-8, 2014.

Damon Run Conservancy District
By: 
Printed: John C Barco
Title: Chairman


ATTEST:

By: 
Printed: Jennifer Beauchamp
Title: Treasurer

Park:
April 15, 2014.

Porter County Board of Parks and Recreation
By: 
Printed: RICHARD L. HUDSON
Title: BOARD PRESIDENT

ATTEST:

By: 
Printed: David L. Hellenbeck
Title: Attorney