

FILED
May 26, 2023
INDIANA UTILITY
REGULATORY COMMISSION

**VERIFIED DIRECT TESTIMONY
of
KORLON L. KILPATRICK II**

**On
Behalf of
Joint Petitioners**

**CITIZENS REGIONAL WATER RESOURCES, LLC,
CITIZENS WATER, AND CITIZENS WATER OF WESTFIELD, LLC**

Cause No. 45896

Joint Petitioners' Exhibit No. 5

1 **I. INTRODUCTION AND BACKGROUND**

2 **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A1. My name is Korlon L. Kilpatrick. My business address is 2020 North Meridian
4 Street, Indianapolis, Indiana.

5 **Q2. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A2. I am employed by the Board of Directors for Utilities of the Department of Public
7 Utilities of the City of Indianapolis (the “Board of Directors” or “Board”), which
8 does business as Citizens Energy Group (“Citizens Energy Group” or “Citizens”).
9 Citizens Energy Group manages and controls a number of regulated utilities,
10 including Citizens Water (“Citizens Water”), Citizens Water of Westfield, LLC
11 (“Citizens Westfield”), and Citizens Regional Water Resources, LLC (“CRW”)
12 collectively (“Joint Petitioners”). Since September 2013, I have held the position
13 of Director, Regulatory Affairs.

14 **Q3. PLEASE DESCRIBE THE DUTIES AND RESPONSIBILITIES OF YOUR**
15 **PRESENT POSITION.**

16 A3. As Director of Regulatory Affairs, I am responsible for the development,
17 implementation, and administration of Citizens Energy Group’s regulated utilities’
18 rates and charges and Terms and Conditions for Service. I prepare, or supervise
19 the preparation of, rate design testimony for Citizens Energy Group’s regulated
20 utilities. Since 2010, I have been responsible for the preparation of GCA and FAC
21 changes and other miscellaneous rate matters.

1 **Q4. HOW LONG HAVE YOU BEEN EMPLOYED BY CITIZENS ENERGY**
2 **GROUP?**

3 A4. I began my employment with Citizens Energy Group in 2010.

4 **Q5. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

5 A5. I hold a Bachelor of Arts degree with a concentration in Computer Science from
6 Harvard College and a Master of Business Administration degree with a major in
7 Finance from the University of North Carolina at Chapel Hill.

8 **Q6. PLEASE DESCRIBE YOUR PRIOR BUSINESS EXPERIENCE.**

9 A6. I began my employment with Citizens Energy Group in 2010. Prior to joining
10 Citizens Energy Group, I worked for the Indiana Office of Utility Consumer
11 Counselor as a Utility Analyst. In that capacity, my work focused on economic and
12 financial analysis of various regulatory issues including demand-side management
13 / energy efficiency issues (DSM/EE) and cost of equity analysis. I regularly
14 attended Midwest ISO stakeholder committee meetings and served as the Public
15 Consumer Advocate sector representative to their Finance subcommittee. Prior to
16 that, I was part of the senior management team of a start-up business, and prior to
17 that, I worked for several years as a management consultant performing economic
18 and financial analysis for clients in various industries.

19 **Q7. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

20 A7. Yes.

1 **Q8. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
2 **PROCEEDING?**

3 A8. My testimony supports the approvals requested by the Joint Petitioners in the
4 Verified Joint Petition initiating this proceeding. Specifically, my testimony
5 describes the rates, charges and specific terms and conditions of a) the Citizens
6 Water and Citizens Regional Water Resources Water Supply Agreement
7 (“CW/CRW Agreement”), which is identified and included as Attachment KLK-1
8 to my testimony; and b) the Citizens Regional Water Resources and City of
9 Lebanon Utilities (“Lebanon Utilities”) Water Supply Agreement (“CRW/Lebanon
10 Agreement”), which is identified and included as Attachment KLK-2 to my
11 testimony, for which Joint Petitioners seek approval in this proceeding. While the
12 Water Supply Agreements that CRW has entered into with Citizens Water and with
13 Lebanon Utilities are attached to my testimony, Mr. Willman discusses the
14 operational aspects of those agreements in his testimony.

15 **Q9. WHAT HAVE YOU DONE TO PREPARE YOURSELF TO TESTIFY IN**
16 **THIS PROCEEDING?**

17 A9. I have read the Verified Joint Petition and am familiar with its contents. I also have
18 read the direct testimony and attachments Joint Petitioners other witnesses filed in
19 this proceeding. Additionally, I met with and received input from operational
20 personnel to better understand the costs associated with the provision of service
21 contemplated in this proceeding.

1 **II. CITIZENS WATER AND CITIZENS REGIONAL WATER RESOURCES WATER**
2 **SUPPLY AGREEMENT**

3 **Q10. PLEASE DESCRIBE THE RATES AND CHARGES ESTABLISHED IN**
4 **THE PROPOSED CW/CRW AGREEMENT.**

5 A10. The rates and charges CRW will pay under the Proposed CW/CRW Agreement are
6 set forth in Section 3. The charges will be comprised of a volume charge and a
7 service charge as set forth in Citizens Water Rate No. 8 Sale for Resale Customers.
8 CRW also would be responsible for any other applicable charges that might be
9 imposed under Citizens Water's Terms and Conditions.

10 **Q11. ARE THERE ANY ADDITIONAL TERMS AND CONDITIONS**
11 **GOVERNED BY THE CW/CRW AGREEMENT? IF SO, PLEASE**
12 **DESCRIBE THEM.**

13 A11. The CW/CRW Agreement addresses items that include the following:

- 14 • the delivery of water;
- 15 • water quality; and
- 16 • water shortage or diminished supply.

17 Joint Petitioners' witness Jeff Willman discusses the operational aspects of these
18 conditions. However, I provide a summary of each here for convenience.

19 **Q12. PLEASE DESCRIBE THE DELIVERY OF WATER TERMS.**

20 A12. CRW will receive finished water from Citizens Water in two phases. Citizens
21 Water will deliver up to 6 MGD in Phase I and up to 10 MGD in Phase II. Both
22 parties will cooperate in the operation and development of their respective systems
23 in a manner that encourages efficiencies in service and costs to both systems.

1 **Q13. PLEASE DESCRIBE THE WATER QUALITY TERMS.**

2 A13. Both parties agree to comply with all applicable federal, state, and local laws and
3 regulations governing water quality standards. Citizens Water will be responsible
4 for costs associated with compliance up to the delivery points. CRW will be
5 responsible for the costs associated with compliance beyond the delivery points.
6 Additionally, Citizens Water will use reasonable efforts to provide a combined
7 chlorine residual above a concentration level of 0.5 mg/L.

8 **Q14. PLEASE DESCRIBE THE WATER SHORTAGE OR DIMINISHED**
9 **SUPPLY TERMS.**

10 A14. In the event of an extended shortage of water to Citizens Regional Water or if the
11 water available to Citizens Water is diminished over an extended period of time,
12 the water delivered to Citizens Regional Water will be reduced by a proportion no
13 greater than the reduction in the amount of water supplied by Citizens Water to
14 other similarly affected customers.

15 **III. CITIZENS REGIONAL WATER RESOURCES AND LEBANON UTILITIES WATER**
16 **SUPPLY AGREEMENT**

17 **Q15. PLEASE DESCRIBE THE RATES AND CHARGES ESTABLISHED IN**
18 **THE PROPOSED CRW/LEBANON AGREEMENT.**

19 A15. The rates and charges Lebanon Utilities will pay under the Proposed CRW/Lebanon
20 Agreement are set forth in Sections 6 and 7. The charges are comprised of a Fixed
21 Charge, a Variable Rate, and Monthly Minimum Guaranteed Revenue Payment.

1 **Q16. PLEASE DESCRIBE THE FIXED CHARGE.**

2 A16. The Fixed Charge is a Monthly Service Charge. As set forth in Section 7, the
3 monthly charge is \$217,937.00. It recovers the fixed operations and maintenance
4 costs associated with providing finished water to Lebanon Utilities – i.e. expected
5 labor costs and pumping system operations costs – along with depreciation and
6 property taxes. Exhibit B in the CRW/Lebanon Agreement provides a detailed
7 presentation of the included costs.

8 **Q17. PLEASE DESCRIBE THE VARIABLE RATE.**

9 A17. The variable rate is sum of two parts – a Distribution Charge and a Commodity
10 Charge. The Distribution Charge is \$0.3397 per thousand gallons. It recovers the
11 variable operations and maintenance costs associated with providing finished
12 water. Exhibit C in the CRW/Lebanon Agreement provides a detailed presentation
13 of the included costs. The Commodity Charge represents the “tail rate” from the
14 Citizens Water Rate No. 8 Sale for Resale Customers. Water Rate No. 8 is a
15 declining tier rate structure. The “tail rate” represents the rate at the highest tier. It
16 also represents the minimum rate at which all volumes are priced. This rate may
17 be amended from time to time as Citizens Water seeks rate modifications at the
18 Indiana Utility Regulatory Commission (“Commission”).

19 **Q18. PLEASE DESCRIBE THE MONTHLY MINIMUM GUARANTEED**
20 **REVENUE PAYMENT.**

21 A18. The Minimum Monthly Guaranteed Revenue Payment (“MMGRP”) is equal to the
22 sum of the Fixed Charge and the minimum volume multiplied by the Variable Rate.
23 The CRW/Lebanon Agreement envisions different delivery requirements in two

1 different phases. The following table depicts the required and minimum volume
2 requirements by phase:

	Required (MGD)	Minimum (MGD)
Phase I	6.0	0.40
Phase II	10.0	0.80

3 The minimum volume requirement is intended to ensure adequate water quality in
4 the water delivered by CRW. In the event that the amount of monthly metered
5 water volume actually used by Lebanon Utilities in a given month exceeds the
6 minimum volume, the variable charge portion of the MMGRP is replaced by the
7 charge derived by the actual metered volume multiplied by the Variable Rate.

8 **Q19. WITH THE LENGTH OF THE INITIAL TERM, WILL THE PROPOSED**
9 **RATES REMAIN CONSTANT THROUGHOUT THE DURATION OF THE**
10 **CRW/LEBANON AGREEMENT? IF NO, PLEASE EXPLAIN.**

11 A19. No, the proposed rates will not remain constant over the duration of the
12 CRW/Lebanon agreement. First, the Commodity Charge, as stated earlier, is
13 subject to change based on rate modifications by Citizens Water and as approved
14 by the Commission. As envisioned in Section 7 of the CRW/Lebanon Agreement,
15 both the Monthly Service Charge and the Distribution Charge are subject to annual
16 adjustment by the Alternative Regulatory Ratemaking Cost Index, as developed
17 and issued by the Commission. The adjustment will be based on the preceding 12-
18 month annually published index, as of January 31 of the year preceding the
19 adjustment. The Parties agree the foregoing adjustment shall be automatic and not
20 require Commission approval. Additionally, the Parties will conduct a review

1 every two years to assess the costs and make any adjustments as needed. To the
2 extent that the updated charges would result in an increase or decrease from those
3 rates currently in effect of more than 5 percent, the Parties will negotiate in good
4 faith an amendment to the agreement that would adjust the rates to reflect the results
5 of the revised calculation. The Parties would collaborate on any filing made at the
6 Commission seeking approval of the adjusted rates. For administrative efficiency,
7 Joint Petitioners suggest that the 30-Day Filing process be used to make
8 adjustments other than those related to the use of the proposed index. If the Parties
9 are unable to reach a mutual agreement, either Party may initiate a proceeding with
10 the Commission to request the adjustment.

11 **Q20. WHY IS IT NECESSARY TO ADJUST THE MONTHLY SERVICE**
12 **CHARGE AND THE DISTRIBUTION CHARGE?**

13 A20. There are cost elements, such as power, chemical uses, labor, and maintenance
14 equipment, used in the development of the proposed rates that are subject to change
15 over time due to the dynamics of the market. The use of an index and a periodic
16 review allows for adjustment to account for future changes in cost elements subject
17 to these changes.

18 **Q21. ARE THERE ANY ADDITIONAL TERMS AND CONDITIONS**
19 **GOVERNED BY THE CRW/LEBANON AGREEMENT? IF SO, PLEASE**
20 **DESCRIBE THEM.**

21 A21. The CRW/Lebanon Agreement addresses items that include the following:

- 22 • the delivery of water;
- 23 • water quality, and

- 1 • water shortage or diminished supply.

2 As mentioned earlier, Joint Petitioners' witness Jeff Willman discusses the operational
3 aspects of these conditions. However, I provide a summary of each here for convenience.

4 **Q22. PLEASE DESCRIBE THE DELIVERY OF WATER TERMS.**

5 A22. Lebanon Utilities will receive finished water from CRW in two phases. CRW will
6 deliver up to 6 MGD in Phase I and up to 10 MGD in Phase II.

7 **Q23. PLEASE DESCRIBE THE WATER QUALITY TERMS.**

8 A23. Both parties agree to comply with all applicable federal, state, and local laws and
9 regulations governing water quality standards. CRW will be responsible for costs
10 associated with compliance up to the delivery points. Lebanon Utilities will be
11 responsible for the costs associated with compliance beyond the delivery points.
12 Additionally, CRW will use commercially reasonable efforts to provide a combined
13 chlorine residual above a concentration level of 0.5 mg/L.

14 **Q24. PLEASE DESCRIBE THE WATER SHORTAGE OR DIMINISHED
15 SUPPLY TERMS.**

16 A24. In the event of an extended shortage of water to the Lebanon Utilities or if the water
17 available to CRW is diminished over an extended period of time, the water
18 delivered to Lebanon Utilities will be reduced by a proportion no greater than the
19 reduction in the amount of water supplied by CRW to other similarly affected
20 customers.

1 **IV. CONCLUSION**

2 **Q25. WHAT DO YOU RECOMMEND TO THE COMMISSION?**

3 A25. I recommend that the Commission grant the approvals being sought in this
4 proceeding. I also recommend the Commission approve the Citizens Water and
5 Citizens Regional Water Resources Water Supply Agreement and the Citizens
6 Regional Water Resources and City of Lebanon Utilities Water Supply Agreement.

7 **Q26. DOES THAT CONCLUDE YOUR PREPARED DIRECT TESTIMONY IN**
8 **THIS PROCEEDING?**

9 A26. Yes, at this time.

VERIFICATION

The undersigned affirms under the penalties for perjury that the foregoing testimony is true to the best of his knowledge, information and belief.


Korlon L. Kilpatrick II

WATER SUPPLY AGREEMENT

BETWEEN CITIZENS REGIONAL WATER RESOURCES, LLC

and

CITIZENS WATER

This WATER SUPPLY AGREEMENT (the “Agreement”) is made and entered into on the _____ day of _____, 2023 (the “Effective Date”), by and between Citizens Regional Water Resources, LLC (“CRW”) and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities, as trustee, in furtherance of a public charitable trust for the water system d/b/a Citizens Water (“Citizens Water”) (CRW and Citizens Water each a “Party” and collectively the “Parties”):

RECITALS:

WHEREAS, CRW is a public utility regulated by the Indiana Utility Regulatory Commission (“Commission” or “IURC”), engaged in the business of providing treated water in Central Indiana; and

WHEREAS, Citizens Water owns the water system serving the City of Indianapolis, Indiana and other communities in Central Indiana; and

WHEREAS, the Indiana General Assembly established the Indiana Economic Development Corporation (“IEDC”) in Indiana Code Art. 5-28 to carry out economic development activities of the State of Indiana in conformity with the laws enacted by the Indiana General Assembly, and the IEDC is currently developing a project known as the Limitless Exploration/Advanced Pace Lebanon and Research District (“LEAP District”) consisting of approximately 11,000 acres proximate to City of Lebanon (“City”); and

WHEREAS, per the request of IEDC and City of Lebanon Utilities (“Lebanon Utilities”), CRW has agreed to provide water service to Lebanon Utilities, including the LEAP District thereof, pursuant to that certain Water Supply Agreement dated May 25, 2023, by and between CRW and Lebanon Utilities (“Lebanon Water Supply Agreement”); and

WHEREAS, under the Lebanon Water Supply Agreement, CRW has agreed to furnish Lebanon Utilities treated water, subject to certain volume requirements, including that: by Phase I, which is estimated to be on or about January 1, 2026 (“Phase I Delivery Date”), unless CRW provides notice of a revised Phase I Delivery Date, CRW shall deliver up to 6 million gallons per day (“MGD”) to Lebanon Utilities; and that by Phase II, which is estimated to be on or about January 1, 2027 (“Phase II Delivery Date”), unless CRW provides notices of a revised Phase II Delivery Date, CRW shall deliver up to 10 MGD to Lebanon Utilities; and

WHEREAS, CRW needs to purchase water generated by Citizens Water to meet its water supply obligations to Lebanon Utilities and to potentially serve other customers that may connect to the CRW system in the future; and

WHEREAS, Citizens Water is willing to sell treated water to CRW, on a wholesale basis, to serve CRW's customers, including Lebanon Utilities, upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the promises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CRW and Citizens Water agree as follows:

AGREEMENT:

1 Term of Agreement.

1.1. The initial term ("Term") of this Agreement shall commence on the Effective Date and expire at 12:00:00 A.M. on the twenty-fifth anniversary of the Effective Date.

1.1.1. At least twelve (12) months prior to the expiration of the Effective Date, provided that no material breach has occurred and is continuing, CRW may provide to Citizens Water written notice of CRW's intention to extend the Term for a period of an additional ten (10) years (the "First Extension Term"). During the First Extension Term, the terms and provisions of this Agreement shall continue as set forth herein, subject to the Commission approved wholesale rates and charges then in effect.

1.1.2. At least twelve (12) months prior to the expiration of the First Extension Term, provided that no material breach has occurred and is continuing, CRW may provide to Citizens Water written notice of CRW's intention to extend the First Extension Term for a period of an additional five (5) years (the "Second Extension Term"). During the Second Extension Term, the terms and provisions of this Agreement shall continue as set forth herein, subject to the Commission approved wholesale rates and charges then in effect.

1.2. Thereafter, the Agreement may be renewed or extended upon such terms, and for such period of time, as is agreed to in writing by the Parties. In the absence of renewal or extension, the applicable tariff rate and terms and conditions of service will apply.

1.3. Termination of this Agreement prior to expiration may result from a material breach as set forth in Paragraph 8.

2. Delivery of Water.

2.1 Citizens Water agrees to deliver or make available for delivery to the Delivery Points, as defined herein, and to sell to CRW and CRW agrees to purchase treated water, subject to the timing, volume, pressure, and flow requirements as provided herein. "Delivery Points" shall mean the connections between CRW and Citizens Water's distribution systems located as shown on Exhibit A attached hereto and incorporated herein by this reference.

- 2.2 Citizens Water agrees to employ commercially reasonable efforts to deliver to CRW up to 6 MGD of treated water to the Delivery Points by the Phase I Delivery Date, and up to 10 MGD of treated water to the Delivery Points by the Phase II Delivery Date, which such delivery dates may be adjusted by Citizens Water as needed in the event of certain contingencies, including, but not limited to, Citizens Water not receiving timely and adequate funding to make certain infrastructure improvements within its system to allow it to perform its obligations under this Agreement.
- 2.3 At no time will Citizens Water be required to deliver water at a Delivery Point at an instantaneous rate of more than 4,167 gallons per minute (for 6 MGD) after the Phase I Delivery Date but before the Phase II Delivery Date, and no more than an instantaneous rate of more than 6,944 per minute (for 10 MGD) following the Phase II Delivery Date.
- 2.4 Beginning on the Phase I Delivery Date, Citizens Water shall operate and maintain supply, treatment and pumping facilities within its system sufficient to provide water to CRW which, under normal operating conditions, shall be at a pressure sufficient for CRW's anticipated use; specifically, at the Delivery Points, pressure shall be a minimum of 35 pounds per square inch gauge (35 psig) under normal operating conditions, unless otherwise agreed to by both Parties. The Parties agree that actual pressure to be provided at the Delivery Points is to be determined in Citizens Water's reasonable discretion based on engineering and technical criteria. The Parties further acknowledge that Citizens Water makes no guarantee that the aforementioned pressure can be maintained at all times, and that main breaks, power failures, weather conditions, use of water to fight fires and other emergencies or unusual conditions may prevent Citizens Water from being able to maintain the aforementioned pressure. Citizens Water will use reasonable care and diligence to avoid interruptions and fluctuations in its service in a manner consistent with the treatment of other wholesale customers and communities, but it cannot and does not guarantee that interruptions and fluctuations will not occur.
- 2.5 The Parties will cooperate in the current operation and future development of their respective systems in a manner which encourages efficiencies in service and costs to both Parties' systems, while assuring adequate, safe and reliable service to their respective customers.

3. Compensation to Citizens Water.

CRW shall pay Citizens Water monthly, in accordance with Citizens Water's normal billing procedures, an amount equal to the sum of: (a) a volume charge for the water delivered to CRW by Citizens Water (the "Volume Charge"); (b) a service charge for each of the meters based upon the applicable meter size (the "Service Charge"); and (c) any other applicable charges under Citizens Water's Terms and Conditions and tariffs ("Terms and Conditions"). The Volume Charge shall be the amount of metered water volume actually delivered to CRW, at all delivery points combined, multiplied by Citizens Water's rates as found in its Water Rate No. 8, Sale for Resale Customers, or any successor tariff

for resale service, as approved by the IURC and as may be amended from time to time. The Monthly Service Charge shall be as set forth in Citizens Water's Water Rate No. 8, Sale for Resale Customers, or any successor tariff for resale service as approved by the IURC and as may be amended from time to time.

4. Water Quality.

4.1 The Parties agree with respect to their respective water distribution systems to comply with all applicable federal, state, and local laws and regulations including, but not limited to, U.S. Environmental Protection Agency ("EPA") and Indiana Department of Environmental Management ("IDEM") regulations and standards, including, but not limited to, those regarding the quality and the monitoring of the quality of water, reporting, permitting, corrective action, and notification (collectively the "Water Quality Regulations and Standards"). Citizens Water shall be responsible for costs associated with its compliance with the Water Quality Regulations and Standards up to the Delivery Points. CRW shall be responsible for costs associated with its compliance with the Water Quality Regulations and Standards beyond the Delivery Points. The Parties acknowledge and agree that under this Agreement, Citizens Water's water distribution system is a "Wholesale System," as defined by 327 IAC 8-2-1(103), and the CRW's water distribution system is a "Consecutive System," as defined by 327 IAC 8-2-1(17).

4.2 Citizens Water will use commercially reasonable efforts to provide a combined chlorine residual at the Delivery Points above a concentration of 0.5 mg/L.

5. Water Shortage/Diminished Supply.

Citizens Water will, at all times, endeavor to operate and maintain its system in an efficient manner. In the event of an extended shortage of water available for CRW at the Delivery Points, or if the supply of water available to Citizens Water at the Delivery Points is otherwise diminished over an extended period of time, the amount of water delivered to CRW shall be reduced or diminished by a ratio or proportion no greater than that applied to such reduction or diminution in the amounts supplied by Citizens Water to other similar affected customers.

6. Regulatory Matters.

6.1 This Agreement is subject to the pertinent laws, regulations and rules of the State of Indiana, but not including Indiana's choice of law provisions, and its administrative agencies, and where permits, certificates or approvals may be required for operations or otherwise to effectuate this Agreement, the Parties agree to work together in good faith to assist each other to secure such permits, certificates or approvals as the case may be. Each Party shall be responsible for its own costs associated with regulatory matters unless otherwise expressly agreed.

6.2 To the extent required now or in the future, the Parties will cooperate in good faith to obtain the approval of the IURC for this Agreement.

7. Indemnification.

CRW shall protect, defend, indemnify, and save harmless Citizens Water from and against all liabilities, obligations, claims, damages, penalties, causes of action, cost and expenses imposed upon or incurred by or asserted against Citizens Water by reason of CRW's: (a) failure to comply with any Water Quality Regulations and Standards or the monitoring of water quality after delivery of treated water to the Delivery Points; (b) receipt of an insufficient supply of treated water or insufficient water pressure from Citizens Water related to main breaks, power failures, weather conditions, use of treated water to fight fires, and other emergency events or conditions beyond the control of Citizens Water; or (c) use or resale of treated water obtained by CRW at the Delivery Points.

8. Default and Remedies.

Either Party retains all remedies available to it in law and equity for the material breach of this Water Supply Agreement by the other Party, subject to a reasonable opportunity to cure any such breach after receiving written notice of the breach from the aggrieved Party.

9. Amendment.

This Agreement may be amended or modified only in writing signed by the Parties.

10. Notices.

Any notices, requests, demands, or other communications provided for by this Agreement shall be sufficient if in writing and if (a) delivered by hand to the other Party; (b) sent by facsimile communication with appropriate confirmation of delivery; (c) sent by registered or certified United States Mail, return receipt requested, with all postage prepaid; or (d) sent by recognized commercial express courier services, with all delivery charges prepaid; and addressed as follows:

If to Citizens Water:

To Senior Vice President & General Counsel, 2020 N. Meridian St.
Indianapolis, Indiana 46202

If to CRW:

To Highest Officer Found, 2020 N. Meridian St.
Indianapolis, IN 46202

The Parties may change the address indicated above by providing written notice in accordance with this Paragraph.

11. Binding Agreement/Assignment.

This Agreement is subject to Citizens Water's Terms and Conditions, including Water Rate No. 8, and shall be binding upon the Parties and their respective successors and assigns. To the extent there is a conflict between this Agreement and the Terms and Conditions, the

provision providing the greater right or remedy to Citizens Water shall govern. CRW may not, without the written consent of Citizens Water, assign this Agreement to any assignee.

12. Non-Waiver.

The delay or failure by either Party to exercise or enforce any right under this Agreement shall not constitute or be deemed a waiver of such right or any other right under this Agreement. No waiver by either Party of any breach of this Agreement by the other Party shall constitute or be deemed a waiver of any subsequent breach.

13. No Third Party Beneficiaries or Rights.

Nothing in this Agreement shall be construed as creating any legal, equitable, or beneficial interest or any right or entitlement that inures to the benefit of any person or entity not a party of this Agreement or to vest in any such third party any interest with respect to the enforcement of this Agreement. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part hereof to create in the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a claim or suit for any alleged injuries or damages arising out of or related to this Agreement or any Party's alleged breach of any provision hereof.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction or an administrative body with jurisdiction to be invalid, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

15. Survival

The provisions of this Agreement that by their nature extend beyond the termination or expiration of this Agreement will survive termination or expiration of this Agreement.

16. Entire Agreement.

This Agreement constitutes the entire understanding between the Parties and supersedes all prior proposals and communications, whether oral or written, with respect to the subject matter hereof.

17. Headings.

The titles and headings of the sections and paragraphs hereof are for convenience only and shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof.

18. Counterparts.

Each Party and signatory hereto has the authority to enter into the Agreement and at all times has full authority to bind his or her respective Party to perform this Agreement. This Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned certify that they are duly authorized and empowered to execute this Water Supply Agreement and thus bind the entity in whose behalf each signs as of the Effective Date.

[signature page follows]

“CITIZENS WATER”

By: _____

Title: _____

“CRW”

By: _____

Title: _____

EXHIBIT A

WATER SUPPLY AGREEMENT

**BETWEEN CITIZENS REGIONAL WATER RESOURCES, LLC
and
CITY OF LEBANON UTILITIES**

This WATER SUPPLY AGREEMENT (the “Agreement”) is made and entered into on the 25 day of May, 2023 (the “Effective Date”), by and between Citizens Regional Water Resources, LLC (“CRW”) and CITY OF LEBANON UTILITIES (“Lebanon”) (CRW and Lebanon each a “Party” and collectively the “Parties”):

RECITALS:

WHEREAS, CRW is or at relevant times will be a public utility regulated by the Indiana Utility Regulatory Commission (“Commission” or “IURC”), engaged in the business of providing treated water in Central Indiana; and

WHEREAS, Lebanon is a municipal utility which, among other activities, provides public water supply to its residents, and expects its water demand to continually increase, due to economic development and growth in and around its community, such that it will require additional water to continue to supply its customers with water; and

WHEREAS, the Indiana General Assembly established the Indiana Economic Development Corporation (“IEDC”) in Indiana Code Art. 5-28 to carry out economic development activities of the State of Indiana in conformity with the laws enacted by the Indiana General Assembly, and the IEDC is currently developing a project known as the Limitless Exploration/Advanced Pace Lebanon and Research District (“LEAP District”) consisting of approximately 11,000 acres within and around the corporate limits of the City of Lebanon; and

WHEREAS, Lebanon and IEDC have requested that CRW provide wholesale water service to Lebanon and the LEAP District, to multiple metered connection points to Lebanon’s water system located at agreed locations, as more particularly described in this Agreement; and

WHEREAS, the IEDC, in order to promote the orderly economic growth and development of the LEAP District, is willing to provide funding support for construction of the water supply pipelines and other infrastructure necessary to deliver up to 10 million gallons per day (MGD) of treated water from CRW to Lebanon as set forth herein; and

WHEREAS, CRW is willing to sell treated water to Lebanon, on a wholesale basis, to serve Lebanon’s customers including within the LEAP District, upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the promises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CRW and Lebanon agree as follows:

AGREEMENT:

1. Term of Agreement

- 1.1. The initial term ("Term") of this Agreement shall commence on the Effective Date and expire at 12:00:00 A.M. on the twenty-fifth anniversary of the Effective Date.
 - 1.1.1. At least twelve (12) months prior to the expiration of the Effective Date, provided that no Default (as defined below) has occurred and is continuing, Lebanon may provide to CRW written notice of Lebanon's intention to extend the Term for a period of an additional ten (10) years (the "First Extension Term"). During the First Extension Term, the terms and provisions of this Agreement shall continue as set forth herein, subject to the Commission approved wholesale rates and charges then in effect.
 - 1.1.2. At least twelve (12) months prior to the expiration of the First Extension Term, provided that no Default (as defined below) has occurred and is continuing, Lebanon may provide to CRW written notice of Lebanon's intention to extend the First Extension Term for a period of an additional five (5) years (the "Second Extension Term"). During the Second Extension Term, the terms and provisions of this Agreement shall continue as set forth herein, subject to the Commission approved wholesale rates and charges then in effect.
- 1.2. Thereafter, the Agreement may be renewed or extended upon such terms, and for such period of time, as is agreed to in writing by the Parties. In the absence of renewal or extension, the applicable tariff rate and terms and conditions of service (if any) will apply as between CRW and Lebanon.
- 1.3. Termination of this Agreement prior to expiration may result from events of Default as set forth below (Section 12). Termination may also result from change in ownership if the City of Lebanon sells or otherwise transfers control or ownership of its municipal water utility to any other entity not affiliated with the City of Lebanon. Such will also be treated as a Default of Lebanon for purposes of Section 12, below.

2. Scope of Agreement

- 2.1 CRW agrees to design, secure permitting and any necessary real estate interests for, and to construct, operate, maintain, repair and, as needed, replace, water supply infrastructure (collectively, the "Supply Infrastructure") to connection points as described more particularly in the attached Exhibit A ("Delivery Points"). Such Supply Infrastructure shall enable CRW to comply with volume requirements in this Agreement, and includes installation of any necessary hydrants, valves, fittings, gaskets, meters, meter vaults, mains, pump stations, tanks, booster stations and the like, which shall at all times remain property of CRW. Funding for the Supply

Infrastructure is the subject of separate agreements between Indiana Finance Authority (“IFA”), IEDC and CRW. For the avoidance of doubt, the Parties agree that CRW’s obligations under this Agreement are contingent upon IFA and IEDC providing the necessary financing and loan guarantees to CRW for the Supply Infrastructure and on IFA and IEDC agreeing to provide any necessary financing and guarantees to Lebanon for the Distribution Infrastructure (as defined below), the Wastewater Expansion (as defined below) and the Fixed Charge (as defined below) payment to CRW.

- 2.2 Lebanon agrees it is responsible for developing and operating the infrastructure improvements downstream of the Delivery Points, which shall at all times remain property of Lebanon, including but not limited to new booster station(s), ground storage tanks, chlorine injection systems, and control equipment at the Delivery Points (collectively, the “Distribution Infrastructure”), to the extent needed, in order to utilize the water to be delivered by CRW at the Delivery Points and distributed throughout the City of Lebanon including the LEAP District as determined by Lebanon and in conformity with this Agreement. The responsibility described in this Section 2.2 includes the responsibility for obtaining property rights, permits and other permissions needed to develop the Distribution Infrastructure and to otherwise comply with Lebanon’s requirements in this Agreement. Funding for the Distribution Infrastructure and Wastewater Expansion (the latter being the expansion of Lebanon’s current wastewater treatment facility to a sufficient capacity, as determined by Lebanon) is the subject of separate agreements between IFA, IEDC and Lebanon. For the avoidance of doubt, the Parties agree that Lebanon’s obligations under this Agreement are contingent upon IFA and IEDC providing the necessary financing and loan guarantees to Lebanon for the Distribution Infrastructure and Wastewater Expansion and Lebanon entering into an agreement with IFA and IEDC related to the Fixed Charge (as defined below) payment to CRW.
- 2.3 Beginning on the Phase I Delivery Date, as defined below, Lebanon agrees to make a monthly minimum guaranteed revenue payment (or pay for higher monthly purchase, if the cost of actual monthly usage exceeds the minimum monthly guaranteed amount) as is set forth below, with such minimum monthly payment increasing over time as provided in this Agreement or as subsequently agreed by the Parties in writing.

3. Conditions of Service

- 3.1 Lebanon will provide to CRW design documents for the Distribution Infrastructure, referenced in Section 2.2, above, as soon as reasonably practicable in advance of its construction; provided, however, that no approvals or consents from CRW will be required for Lebanon to commence or complete construction of its Distribution Infrastructure. CRW will provide to Lebanon the design documents for the Supply Infrastructure and related controls referenced in Section 2.1 above, as soon as reasonably practicable in advance of its construction. provided, however, that no

approvals or consents from Lebanon will be required for CRW to commence or complete construction of the Supply Infrastructure or other related improvements.

- 3.2 Lebanon agrees that all water purchased hereunder shall be solely for its own use or resale to its retail customers located within its applicable territorial boundaries in Boone County, Indiana, including to customers in the LEAP District, and further agrees that none of the water purchased under this Agreement will be sold by Lebanon to wholesale customers for resale or otherwise used for resale by or to any other public water supply utility, without CRW's written consent.
- 3.3 The Parties acknowledge that Lebanon's purchase of water contemplated in this Agreement represents for Lebanon another source of water in addition to that which it currently produces and provides for its customers. Lebanon is not precluded from developing other water supply sources or from reselling treated or raw water from those other sources to other potential water customers, provided such actions do not prevent Lebanon from complying with its obligations under this Agreement.
- 3.4 CRW shall have the right at any time to construct and install other main extensions and other appurtenant facilities off of the Supply Infrastructure identified in Section 2.1 and off of extensions thereof, within the territories it serves (as discussed more fully below, in Section 4.4), or otherwise use the Supply Infrastructure for its own purposes; provided, however, that such construction and use does not prevent CRW from being able to comply with its obligations under this Agreement. Lebanon shall not be entitled to any payment or credit by reason of the connection of such other main extensions or connections for service therefrom.
- 3.5 The Parties will cooperate in the future development of their respective systems identified above in a manner which encourages efficiencies in service and costs to both Parties' systems, while assuring adequate, safe and reliable service to their respective customers.

4. Ownership and Responsibility

- 4.1 The Supply Infrastructure shall at all times be owned, operated and maintained by CRW.
- 4.2 The Distribution Infrastructure, including but not limited to all mains and associated facilities installed downstream of the meter vaults at the Delivery Points shall at all times be owned, operated and maintained by Lebanon.
- 4.3 Lebanon acknowledges that it accepts full responsibility for liabilities after water passes the meters at the Delivery Points and enters the mains owned by Lebanon. Lebanon will protect, indemnify and save harmless CRW (and its representatives, successors, assigns, affiliates, subsidiaries, trustees, officers and directors) from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses including reasonable attorneys' fees imposed upon or

incurred by or asserted against CRW by reason of Lebanon's: (a) failure to comply with any regulations or standards regarding quality of water after delivery of water at the Delivery Points; and/or (b) insufficiency of pressure or supply related to main breaks, power failures, weather conditions, use of water to fight fires and other emergencies or unusual conditions beyond the control of CRW.

- 4.4 The Parties agree to work toward establishment of a water service territory for Lebanon (pursuant to IC 8-1.5-6) within the relevant portions of Boone County (including Center Township and the LEAP District), and toward corresponding clarifications of service territory in favor of CRW and, where applicable, its affiliates, and to cooperate in good faith toward approval of such agreed territories by the IURC, as needed.

5. Timing Expectations and Volume/Pressure Requirements

- 5.1 *Pressure Requirements:* Beginning on the Phase I Delivery Date, as defined below, CRW shall operate and maintain supply, treatment and pumping facilities within its system sufficient to provide water to Lebanon which, under normal operating conditions, shall be at a pressure sufficient for Lebanon's anticipated use; specifically, at the Delivery Points, pressure shall be a minimum of 35 pounds per square inch gauge (35 psig) under normal operating conditions, subject to revision as needed to comply with the Agreement. The Parties agree that actual pressure to be provided at the Delivery Points is to be determined in CRW's reasonable discretion based on engineering and technical criteria. The Parties further acknowledge that CRW makes no guarantee that the aforementioned pressure can be maintained at all times, and that main breaks, power failures, weather conditions, use of water to fight fires and other emergencies or unusual conditions may prevent CRW from being able to maintain the aforementioned pressure. CRW will use reasonable care and diligence to avoid interruptions and fluctuations in its service in a manner consistent with the treatment of other wholesale customers and communities, but it cannot and does not guarantee that interruptions and fluctuations will not occur.
- 5.2 *Delivery Date(s):* Beginning on the Phase I Delivery Date, as defined below, CRW shall furnish treated water to Lebanon at one or more of the Delivery Points consistent with the Supply Infrastructure completed to that point. Lebanon, as of the Phase I Delivery Date, shall begin purchasing treated water from CRW, as is set forth below. The "Phase I Delivery Date" shall be the date on which CRW notifies Lebanon that the Supply Infrastructure and corresponding meter installation at one or more of the Delivery Points, consistent with the Supply Infrastructure completed to that point, are completed and CRW is ready to provide the treated water to Lebanon. The Phase I Delivery Date is currently estimated to be on or about January 1, 2026. For purposes of this Agreement, the Phase I Delivery Date is assumed to begin at 12:00:00 A.M. on January 1, 2026, and end at 11:59 P.M. that day, unless CRW provides written notice of a revised Phase I Delivery Date. The subsequent Phase II Delivery Date shall follow after the Phase

I Delivery Date as is set forth in Figure 5.3, below, unless CRW provides written notice of revised Phase II Delivery Date.

- 5.3 *Volume Requirements:* The following volume requirements will apply to CRW at the Delivery Points, collectively (i.e., not to any individual Delivery Point, necessarily), as of the noted Phase I and Phase II Delivery Dates unless otherwise agreed in writing by the Parties.

Figure 5.3

Delivery Dates (each effective 12:00 A.M.)	Volume Capacity Required at Delivery Point
By the Effective Date	0
By January 1, 2026 (Phase I)	Up to 6.0 MGD
By January 1, 2027 (Phase II)	Up to 10.0 MGD

At no time will CRW be required to deliver water at a Delivery Point at an instantaneous rate of more than 4,167 gallons per minute (for 6 MGD) after Phase I Delivery Date but before Phase II Delivery Date, and no more than 6,944 gallons per minute (for 10 MGD) following Phase II Delivery Date. CRW will give Lebanon notice in advance of the Phase II Delivery Date, if CRW believes that it will be able to provide water at the volume and pressure required more than 30 days prior to the above-listed respective Delivery Date.

- 5.4 The Delivery Date timeline described herein assumes: no determination or finding of adverse environmental conditions in the pathway of the Supply Infrastructure; the timely receipt of all necessary authorizations, including, as needed, those of the IURC, IEDC and/or IFA; the timely receipt of all permits, approvals and funding (including bond issuance or other debt financing); and the ability to procure required materials, real estate, supplies and services in a timely manner (collectively, the "Assumptions"). Any deviations from or delays in the Assumptions shall advance the Delivery Dates by an equal amount of time corresponding to such deviations or delays.

6. Compensation to CRW

- 6.1 *Subject to Commission Approved Rates and Charges.* The rates and charges and payment terms described in this Agreement are subject to replacement by Commission approved standard rates, charges, terms and conditions which are set forth in a filed tariff, if any, as amended from time to time. Lebanon agrees that CRW retains the ability in its sole discretion to seek approval of such a tariff from the Commission; Lebanon is not waiving its right to intervene in any such action.
- 6.2 *Monthly Minimum Guaranteed Revenue Payment ("MMGRP").* Upon the Phase I Delivery Date and when CRW makes available water supply to Lebanon of up to 6.0 MGD, Lebanon will guarantee a minimum monthly purchase corresponding to

an average daily flow of 0.40 million gallons per day (0.40 MGD) from CRW thereafter as the MMGRP until the next Delivery Date.

6.2.1 Upon the Phase II Delivery Date and when CRW increases available water supply to Lebanon to up to 10.0 MGD, Lebanon will guarantee a MMGRP corresponding to an average daily flow of 0.80 million gallons per day (0.80 MGD).

6.2.2 In the event the amount of monthly metered water volume actually used by Lebanon in a given month exceeds the volume and cost of the applicable MMGRP, that month's MMGRP shall be replaced by the cost of actual usage based on the applicable rates and charges outlined in Section 6.

6.2.3 The Parties agree that the aforementioned MMGRP purchase volumes and costs are intended to ensure adequate water quality in the treated water delivered by CRW to Lebanon.

6.3 *Payment Terms.* CRW shall report actual metered monthly usage (or estimate thereof, if necessary) to Lebanon. CRW will invoice Lebanon on a monthly basis on CRW's regular billing cycle and, depending on the applicable Delivery Date, the first and final invoice may be for partial months. Lebanon shall pay each invoice from CRW within thirty (30) days. Payments over thirty (30) days late shall be subject to the addition of eight percent (8%) annual interest, at the rate of 0.667 percent (0.667%) per month.

6.4 *Subject to Distribution Infrastructure and Wastewater Expansion Funding and IEDC Fixed Charge Agreement.* The payment of the MMGRP by Lebanon to CRW and Lebanon's obligations described herein, as well as CRW's obligations described herein, assume the timely receipt of the necessary financing and loan guarantees to Lebanon for the construction of its Distribution Infrastructure and Wastewater Expansion and Lebanon entering into an agreement with IFA and IEDC related to the Fixed Charge (as defined below) payment to CRW.

7. Service Rates and Charges.

7.1 Initial Rates and Charge Amounts:

7.1.1 Fixed Charge (as detailed in attached Exhibit B)

- Monthly Service Charge: \$217,937/Month

7.1.2 Variable Charges (as detailed in attached Exhibit C)

- Commodity Charge: Citizens Water Tariff Rate No. 8 (on file with the IURC, as amended from time to time)
- Distribution Charge: \$0.3397/Mgal (1000 gallons)

7.2 Upon the occurrence of the Phase I Delivery Date, the applicable monthly Fixed Charge and Variable Charges (collectively, the “Wholesale Water Purchase Charge”) (whether based on MMGRP or on actual usage) shall be based upon the then existing and approved wholesale volume rate schedule as described above in Section 7.1 and as amended from time to time, consistent with the terms set forth below.

7.2.1 Upon the occurrence of the Phase I Delivery Date, CRW will provide to Lebanon a revised calculation of the revenue requirements used to derive the Wholesale Water Purchase Charge. To the extent that the updated revenue requirement calculation would result in an increase or decrease in the Wholesale Water Purchase Charge set forth in Section 7.1 of more than 5%, CRW and Lebanon shall negotiate in good faith an amendment to this Agreement that would adjust the Wholesale Water Purchase Charge to reflect the results of the revised calculation. To the extent that the parties are unable to reach a mutual agreement, either CRW or Lebanon may initiate a proceeding with the IURC to request the adjustment. The Party initiating the proceeding shall bear the burden of proof and each Party shall independently bear its own costs in connection with the proceeding. Such adjustment shall take effect on the date of the IURC’s approval thereof.

7.2.2 Beginning on the first January 1 following the occurrence of the Phase I delivery date and on January 1 of each following year during the term of this Agreement, the Parties agree that the Monthly Service Charge and the Distribution Charge shall be increased in the amount of the preceding 12-month annually published Alternative Regulatory Ratemaking Cost Index, as developed and issued by the IURC , as of January 31 of the year preceding the adjustment. The Parties agree the foregoing adjustment shall be automatic and not require IURC approval.

7.2.3 Beginning on the second anniversary of the Phase I Delivery Date and occurring every two years thereafter, CRW will provide to Lebanon a revised calculation of the revenue requirements used to derive the Wholesale Water Purchase Charge. In addition to changes in operating costs, taxes, depreciation, and other expenses, the revised revenue requirement calculation shall take into account any new connections to CRW’s system and revenues derived therefrom. To the extent that the updated revenue requirement would result in an increase or decrease in the Wholesale Water Purchase Charge from those currently in effect of more than 5%, CRW and Lebanon shall negotiate in good faith an amendment to this Agreement that would adjust the Wholesale Water Purchase Charge to reflect the results of the revised calculation. To the extent that the Parties are unable to reach a mutual agreement, either CRW or Lebanon may initiate a proceeding with the IURC to request the adjustment. The party initiating the proceeding shall bear the burden of proof and each Party shall independently bear its own costs in connection with the proceeding. Such adjustment shall take effect on the date of the IURC’s approval thereof.

- 7.3 In addition to any proceedings that might be initiated pursuant to Sections 7.2.1 or 7.2.3, CRW acknowledges Lebanon's ability to file a complaint with the IURC as a customer of CRW.
- 7.4 In addition to the foregoing process, and consistent with Section 6.1, above, Lebanon acknowledges CRW's ability to file a general rate case and adjust the rates of all customers, including Lebanon, to the extent CRW in the future serves multiple customers.

8. Water Quality.

- 8.1 CRW agrees to employ commercially reasonable efforts to comply with all U.S. Environmental Protection Agency (USEPA) and Indiana Department of Environmental Management (IDEM) regulations or standards regarding quality of water at the Delivery Points. CRW shall use commercially reasonable efforts to provide a combined chlorine (chloramine) residual at the Delivery Points above 0.5 mg/l.
- 8.2 CRW shall provide results from water quality testing at the Delivery Points in accordance with all applicable USEPA and IDEM regulations. Lebanon may from time to time request that CRW, at Lebanon's expense, provide additional data relating to the water transferred into Lebanon's system to the extent requested or required by an Indiana or federal regulatory agency.
- 8.3 Both parties will provide each other SCADA data access for the Delivery Points, including, but not as a limitation, for data related to flow, pressure, chlorine residual and tank levels.
- 8.4 Lebanon shall bear responsibility for water quality beyond the Delivery Points, and for any additional costs associated with such responsibility, including boosting the total chlorine residual downstream of the Delivery Points.
- 8.5 CRW shall bear responsibility for water quality before the Delivery Points, and for all costs associated with such responsibility.
- 8.6 CRW will protect, indemnify and save harmless Lebanon (and its representatives, successors, assigns, affiliates, subsidiaries, trustees, officers and directors) from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses including reasonable attorneys' fees imposed upon or incurred by or asserted against Lebanon by reason of CRW's failure to comply with any regulations or standards regarding quality of water before delivery of water at the Delivery Points.

9. Water Shortage/Diminished Supply.

CRW will, at all times, endeavor to operate and maintain its system in an efficient manner. In the event of an extended shortage of water available for Lebanon at the Delivery Points, or if the supply of water available to CRW at the Delivery Points is otherwise diminished over an extended period of time, the amount of water delivered to Lebanon shall be reduced or diminished by a ratio or proportion no greater than that applied to such reduction or diminution in the amounts supplied by CRW to other similarly affected customers.

10. IURC Approval/Mutual Cooperation.

- 10.1 This Agreement is subject to and contingent upon IURC approval. This Agreement is subject to CRW's rates, rules and regulations as are on file and approved by the IURC from time to time, which shall be binding upon the Parties hereto and their respective successors and assigns.
- 10.2 This Agreement is subject to the pertinent laws, regulations and rules of the State of Indiana, but not including Indiana's choice of law provisions, and its administrative agencies, and where permits, certificates or approvals may be required for operations or otherwise to effectuate this Agreement, the Parties agree to work together in good faith to assist each other as the case may be. Each Party shall be responsible for its own costs associated with regulatory matters unless otherwise expressly agreed.
- 10.3 To the extent required now or in the future, the Parties will cooperate in good faith to obtain the approval of the IURC for this Agreement. To the extent required for either Party to obtain financing for any capital improvement contemplated by this Agreement, the Parties will cooperate in good faith consistent with the understandings memorialized herein.

11. Governing Law.

- 11.1 CRW and Lebanon agree to comply with all applicable provisions of the Safe Drinking Water Act as amended and regulations formulated pursuant thereto, and the laws of the State of Indiana. In particular, Lebanon shall, in the operation of its water distribution system, comply with all applicable laws, rules and regulations, at its sole cost. By way of illustration, and by no means limitation, Lebanon agrees to comply with the following. These following terms are agreed by the Parties to be mutually acceptable minimum system operation guidelines that are intended to avoid adverse impacts on either system, and represent mutually acceptable terms.
 - 11.1.1 Booster Pump Installations. Subject to Section 3.1, above, CRW recommends that booster pumps should be designed to maintain a suction main pressure at or above 35 psi under normal operating conditions and should be equipped with pressure sensing controls to provide shut down when the main pressure drops below 35 psi. Requirements for backflow

prevention devices, metering or flow detection will be considered at such time.

- 11.1.2 Backflow Prevention. The Parties agree to mutually cooperate in good faith to avoid backflow whether by appropriate meter vault valve(s), remote controlled valve(s), or otherwise, consistent with the requirements of Indiana law.

12. Default and Remedies.

- 12.1 *Default of Lebanon*. Any of the following (12.1.1 – 12.1.2) shall be deemed an event of Default by Lebanon.
- 12.1.1 Failure of Lebanon to pay for any water supplied by CRW under this Agreement (either actual usage, or MMGRP, as applicable) when such payment becomes due; and/or
- 12.1.2 Failure to perform or observe any other term, covenant or condition of this Agreement to be performed or observed by Lebanon which, if curable, continues for more than thirty (30) days after notice thereof is given to Lebanon. If cure is not reasonably possible within thirty (30) days, then the applicable cure period shall be the amount of time reasonably required to cure. If not curable, a failure to perform or observe any other term, covenant or condition of this Agreement to be performed or observed by Lebanon shall be immediately actionable by CRW.
- 12.1.3 Upon the occurrence of any event of Default by Lebanon, CRW shall have the right to terminate this Agreement at any time upon the date specified in a notice to Lebanon, and the right to seek all damages and/or other relief including injunctive relief available under applicable law and this Agreement including but not limited to those remedies prescribed in any applicable rules as filed with the IURC. All such rights and remedies shall be cumulative and non-exclusive. All remedies for breach by Lebanon shall be available to CRW, including those available to recover delinquent payments under this Agreement, to the extent such remedies are not explicitly prohibited by law.
- 12.1.4 In the event of non-payment such that CRW is required to apply effort to obtain payment for water to be supplied hereunder, or other payments due hereunder, and prevails on such claim for payment whether or not litigation is commenced, then CRW shall be entitled to recover its reasonable attorneys' fees incurred in that effort.
- 12.1.5 In the event Lebanon fails to meet its payment obligations as required by this Agreement, Lebanon shall not be liable for consequential damages of CRW.

12.1.6 Regardless, it is specifically agreed by the Parties that none of Lebanon's officers, directors, employees, affiliates, agents, representatives or managers shall have personal liability with regard to any provision of this Agreement, or any liability arising from or in connection with this Agreement in the event of a breach or Default by Lebanon of any of its obligations.

12.1.7 CRW hereby acknowledges and agrees that the obligation and liabilities of Lebanon are payable only from the water revenues and assets of the water utility of Lebanon as defined for purposes of this Agreement, and no other assets or revenues owned by or available to Lebanon with respect to any other business, system or division owned by or affiliated with Lebanon shall be a source of payment or satisfaction of any remedy hereunder.

12.2 *Default by CRW.* Any of the following (12.2.1 – 12.2.2) shall be deemed an event of Default by CRW.

12.2.1 Failure of CRW to consistently supply potable water meeting the minimum quality requirements for human consumption prescribed by the USEPA and IDEM regulations or standards regarding quality of water at the Delivery Points, if such failure continues for thirty (30) days after notice thereof is given to CRW, or if cure is not reasonably possible within thirty (30) days, then the applicable cure period shall be the amount of time reasonably required to cure.

12.2.2 Failure to perform or observe any other term, covenant or condition of this Agreement to be performed or observed by CRW which, if curable, continues for more than thirty (30) days after notice thereof is given to CRW. If cure is not reasonably possible within thirty (30) days, then the applicable cure period shall be the amount of time reasonably required to cure. If not curable, a failure to perform or observe any other term, covenant or condition of this Agreement to be performed or observed by CRW shall be immediately actionable by Lebanon.

12.2.3 In the event CRW fails to supply the daily volume of water at the minimum pressure as required by this Agreement, CRW shall not be liable for consequential damages of Lebanon.

12.2.4 In the event of a breach by CRW and Lebanon is required to apply effort to obtain compliance with CRW's obligations hereunder, and prevails on such claim for compliance whether or not litigation is commenced, then Lebanon shall be entitled to recover its reasonable attorneys' fees incurred in that effort.

- 12.2.5 Regardless, it is specifically agreed by the Parties that none of CRW's officers, directors, employees, trustees, owners, affiliates, agents, representatives or managers shall have personal liability with regard to any provision of this Agreement, or any liability arising from or in connection with this Agreement, or any liability arising from or in connection with this Agreement in the event of a breach or Default by CRW of any of its obligations.
- 12.2.6 Lebanon hereby acknowledges and agrees that the obligations and liabilities of CRW are payable only from the revenues and assets of CRW, as defined for purposes of this Agreement, and no other assets or revenues owned by or available to CRW with respect to any other business, system or division owned by or affiliated with CRW shall be a source of payment or satisfaction of any remedy hereunder.
- 12.3 *Venue.* Unless filed before an administrative agency (for which the applicable venue shall be Marion County or whichever county in the State of Indiana within which that agency sits), if filed in court, as applicable and appropriate, any formal action pursued in connection with enforcement of this Agreement shall be filed within Boone County, Indiana, to the extent possible. To the extent personal jurisdiction concepts are applicable to any action filed by the Parties to enforce this Agreement, each Party expressly consents to personal jurisdiction over it within Boone County, Indiana.
- 12.4 *Force Majeure.* Neither Party shall be liable for any delay or failure of performance of any term of this Agreement (except for proportionate obligations to pay money) to the extent such delay or failure of performance is caused by or results from catastrophic events reasonably beyond the control of such Party (such as, but not limited to, natural disasters, pandemics, acts of terrorism, war or orders of governmental bodies not resulting from the actions of the affected Party). A Party whose performance is excused under this paragraph will give notice of suspension of performance and use commercially reasonable efforts to resume performance as soon as reasonably practicable. Excuse from any covered performance shall not commence until such notice is provided. Until resumption of performance by the Party asserting *force majeure*, the other Party shall not have any obligation to perform under this Agreement (except for any applicable proportionate obligation to pay). A Party asserting *force majeure* whose performance is excused under this paragraph will give notice of its resumption of performance, and such notice shall end any period of excuse from performance for both Parties.

13 Notices.

Any notice given pursuant to this Agreement and any applicable amendment hereof, unless otherwise agreed in writing by the parties, must be in writing and shall be effective when delivered personally or by a reputable delivery service to the address set forth below or such other address as a Party may designate for itself in accordance with this Section:

If to CRW:

Citizens Regional Water Resources,
LLC
ATTN: President
2150 Dr. Martin Luther King Jr. St.
Indianapolis, IN 46202

Copy to:

Citizens Energy Group
Legal Department
2020 N Meridian Street
Indianapolis, IN 46202

If to Lebanon:

Ed Basquill, GM
401 S. Meridian St.
Lebanon, IN 46052

Copy to:

Jeff Jacob
Hackman Hulett LLP
1620 West Oak St.
Suite #200
Zionsville, IN 46077

14 Representation of Counsel.

The Parties acknowledge that each has been represented by counsel in this matter, and, for purposes of the rule of contract interpretation that construes a document against its drafter, the Parties agree that neither Party nor its counsel shall be considered the drafter hereof.

15 Binding Agreement/Assignment.

The Parties acknowledge that the provisions contained within this Agreement are binding upon and inure to the benefit of the Parties hereto, and upon the Parties' respective successors and assigns. Neither Party shall assign this Agreement without the prior written consent of the other Party, but such consent shall not be unreasonably withheld.

16 Non-Waiver.

The delay or failure by either Party to exercise or enforce any right under this Agreement shall not constitute or be deemed a waiver of such right or any other right under this Agreement. No waiver by either Party of any breach of this Agreement by the other Party shall constitute or be deemed a waiver of any subsequent breach.

17 No Third Party Rights.

Except as otherwise expressly provided in this Agreement, this Agreement and any amendments hereto shall not be construed to create any legal, equitable or beneficial interest in any third party or to vest in any third party any interest with respect to the enforcement of this Agreement.

18 Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction or an administrative body with jurisdiction to be invalid, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

19 Survival.

The provisions of this Agreement that by their nature extend beyond the termination or expiration of this Agreement will survive termination or expiration of this Agreement.

20 Entire Agreement.

This Agreement constitutes the entire understanding between the Parties and supersedes all prior proposals and communications, whether oral or written, with respect to the subject matter hereof.

21 Headings.

The titles and headings of the sections and paragraphs hereof are for convenience only and shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof.

22 Authority and Counterparts.

Each Party and signatory hereto has the authority to enter into the Agreement and at all times has full authority to bind his or her respective Party to perform this Agreement. Except as otherwise may be provided in Sections 2.1 2.2, 5.6. 5.7 and 10, no further approval or consent by any other person or authority is required. This Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned certify that they are duly authorized and empowered to execute this Water Supply Agreement and thus bind the entity in whose behalf each signs as of the Effective Date.

[signature page follows]

“CRW”

Citizens Regional Water Resources, LLC

By: 

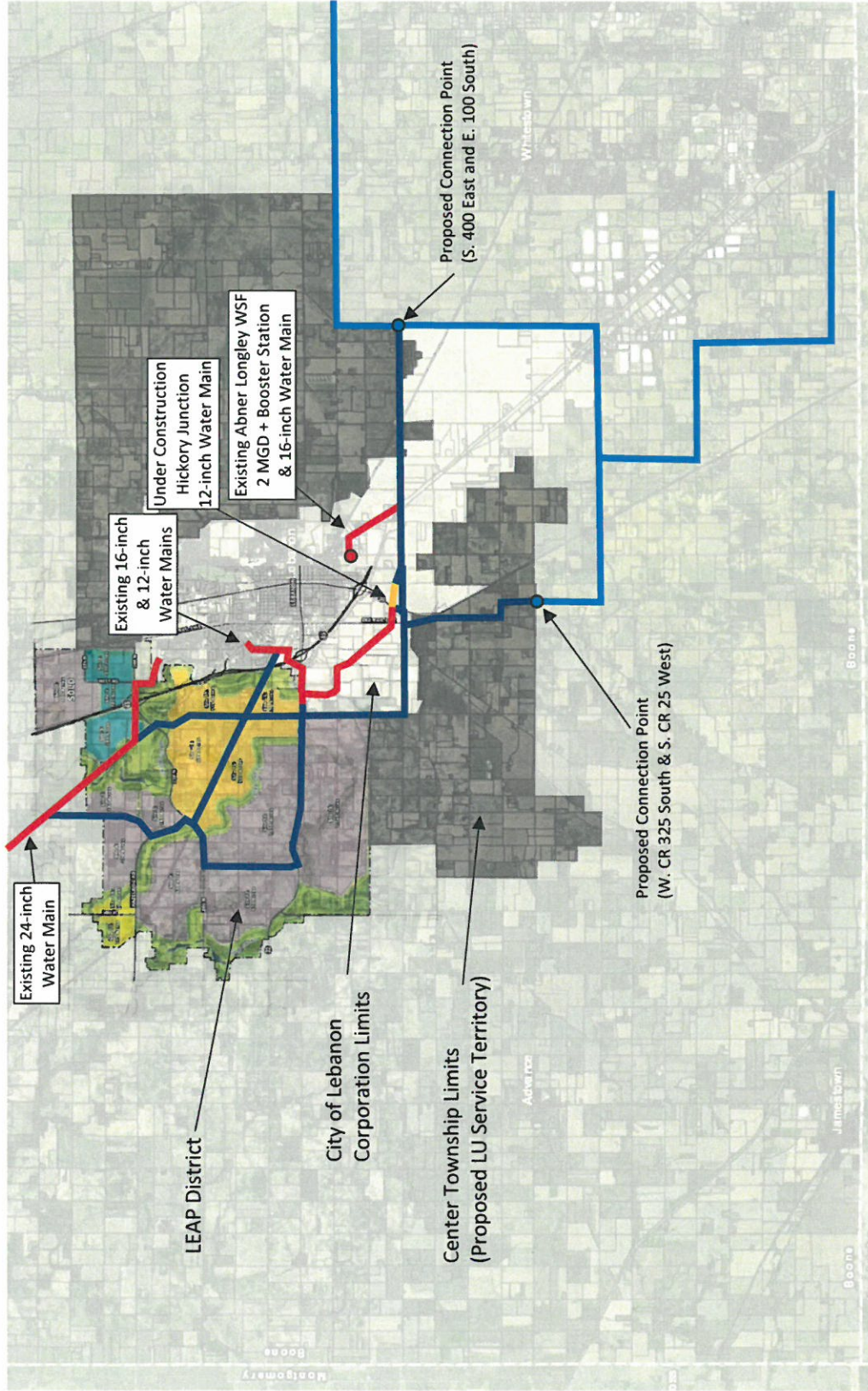
Title: President

“LEBANON”

City of Lebanon Utilities

By: 

Title: General Manager



SCHEMATIC OF ANTICIPATED CONNECTIONS BETWEEN THE LEBANON UTILITIES WATER SYSTEM & THE CITIZENS ENERGY GROUP WATER SYSTEM

*Water mains and their alignments shown on both the Lebanon Utilities and CEG sides of the Proposed Connection Points are conceptual in nature

EXHIBIT A

EXHIBIT B**CALCULATION OF MONTHLY SERVICE CHARGE**

The estimated revenue requirements to be recovered via a fixed charge and the calculation of the initial Monthly Service Charge are detailed below.

<u>Revenue Requirement</u>	<u>Estimated Year 1</u>	<u>Estimated Year 2</u>	<u>Initial Rate (Average)</u>
Labor	\$364,500	364,500	\$364,500
Administrative Overhead	357,347	357,347	357,347
Incidental Electric Power	54,000	54,000	54,000
Meter Charges	15,438	15,438	15,438
Insurance	148,000	148,000	148,000
Purchased Water Differential	44,203	44,203	44,203
Depreciation	739,500	1,280,000	1,009,750
Property Taxes	344,000	900,000	622,000
Sub-Total			2,615,238
Divide by 12 Months			12
Initial Monthly Service Charge			<u>\$217,937</u>

EXHIBIT C
CALCULATION OF DISTRIBUTION CHARGE

The estimated variable costs to be recovered via a volumetric distribution charge exclusive of the commodity cost of water are detailed below.

<u>Cost</u>	Rate per Mgal
Chemical Boosting	\$0.0390
Pumping Electrical Costs	<u>0.3007</u>
Initial Distribution Charge (per 1,000 gallons)	<u><u>\$0.3397</u></u>