

ORDINANCE NO. 2018 - 07

AN ORDINANCE GRANTING DEL-CO WATER COMPANY, INC., AN OHIO NOT-FOR-PROFIT CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR A PERIOD OF NINETY NINE (99) YEARS TO ENTER UPON THE STREETS, AVENUES, ALLEYS, BRIDGES, AND PUBLIC PLACES OF THE VILLAGE OF CENTERBURG, OHIO, AS THE SAME MAY NOW EXIST OR MAY HEREINAFTER BE EXTENDED, AND THEREIN TO LAY, RELAY, EXTEND, MAINTAIN, AND OPERATE A SYSTEM OF PIPES, VALVES, AND OTHER EQUIPMENT AND APPURTENANCES FOR THE DISTRIBUTION OF WATER, AND TO DISTRIBUTE AND SELL WATER TO THE VILLAGE AND TO THE PUBLIC; AND MAKING RULES AND REGULATIONS GOVERNING THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF SAID SYSTEM AND TO DECLARE AN EMERGENCY.

WHEREAS, the Village passed Ordinance 2017-16 on October 2, 2017, and Section VI thereof stated that the Ordinance was void unless accepted by Del-Co Water Company Inc, in writing and filed with the Village Clerk within sixty (60) days from and after its approval ; and

WHEREAS, the Ordinance was not accepted within the aforementioned time period, but the parties continued negotiations and review of documentation; and

WHEREAS, the Village and Del-Co have reached agreement on acceptable documentation and are prepared to proceed.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CENTERBURG, OHIO:

SECTION I. The following definitions shall apply in the interpretation and enforcement of this Ordinance unless the context clearly shows that a different meaning is intended.

“Village,” “the Village,” and “said Village” means the Village of Centerburg, Ohio, both as now constituted and also as the same may exist at any time by annexation or other process, means, or method authorized by law.

“Company,” “the Company,” and “said Company” shall mean and embrace Del-Co Water Company, Inc., its successors and assigns.

“Equipment” shall embrace all of the pipes, mains, conduits, valves, curb boxes, manholes, and all other proper and necessary appliances, devices, construction, and facilities, whether located upon private property or in private ways or in public ways for transmitting, distributing, and supplying water to the Village of Centerburg and its inhabitants.

"Public ways" shall embrace dedicated public streets, alleys, lanes, boulevards, and places open to the public for pedestrian or vehicular traffic as the same may now exist or may hereinafter be extended or constructed.

SECTION II. That an exclusive franchise as to the distribution of water within the Village of Centerburg, with the rights and privileges herein provided, is hereby granted Del-Co Water Company, Inc., for a period of ninety-nine (99) years from and after the acceptance of this Ordinance by the Company as hereinafter provided and the signature and acceptance of the Agreement, to enter upon the streets, avenues, alleys, bridges, public ways, land, and places within the corporate limits of the Village, as the same may now exist or may hereafter be extended or constructed, and therein and thereon to construct, lay, relay, extend, maintain, replace, improve, remove and operate a system of pipes, valves, and other equipment and appurtenances, and to distribute therein and sell therefrom water to the Village and to the inhabitants thereof.

SECTION III. The Company shall comply with all lawful regulations of the Village in force from time to time in regard to excavations and/or construction in public ways; provided however, that the Company shall not have to obtain permits or licenses for the operation, maintenance, repair, replacement or extension of the Company's water distribution system.

All work performed hereunder in and upon public ways shall be done in accordance with the Village's lawful regulations; and before excavations may be made in any public way, the Company shall submit to the Village a plan of the lines proposed, showing where such lines are to be laid, the size of the pipes, and depth at which same are to be laid, the locations and dimensions of stops, branches, manholes, and all other structures or appliances located in the public ways or places appurtenant to or necessary for the proper maintenance and use of such lines, together with such other and further information as the Village may reasonably require in the premises; and such plans in all parts, except as to kind, sizes, and dimensions of pipes and stops, shall be subject to the reasonable regulations of the Village, except for provisions thereof requiring the issuance of licenses and permits and the payment of fees to the Village; and, except in cases of emergency, no openings in the public ways or places may be made until after such approval is given by the Village, which approval shall not be unreasonably withheld.

All trenches and ditches shall be dug, pipes laid, and trenches and ditches closed; and the paving or other public improvement disturbed in the course thereof shall be restored as expeditiously as the same can be done with skillfulness and safety. All such work shall be done so as to interfere as little as possible with public use of and travel over public ways. All service pipes shall be laid to the curbs or, in the absence of curbs, to curb lines, which shall, unless waived by the Company, be at the expense of the customer. All pipes, curb boxes, and construction hereunder shall be laid and installed with reference to and at such reasonable distance below the established grades of public ways through or in which the same shall be placed in accordance with Village regulations.

The mains, pipes, construction, all and singular, of the Company hereafter installed in said public ways shall be laid and placed so as not to interfere in any way with existing conduits, lines, sewers, water pipes, or other public improvement of the Village or the existing pipes, mains and conduits for the transmission or distribution of any utility product or service, whether of the Village or otherwise. There shall be no unnecessary or permanent obstruction of public ways by the Company. Said mains or pipes of the Company shall be laid at such places and at such reasonable depths with regard to established grades in public ways as the Village shall reasonably prescribe.

The Company, at its expense, shall carefully guard and protect all public ways entered and opened hereunder so as to prevent injury to person or property while work therein is being prosecuted by the Company; and as soon as practicable after completion of work and construction therein, all public ways entered and opened hereunder shall be restored to their former condition or usefulness by the Company. The Company, at its expense, shall also do all the refilling, puddling, or tamping, and paving and repaving made necessary by reason of construction, installation, operation, abandonment, or repair of its mains, pipes, or construction in public ways and shall be responsible for all repairs to and maintenance of its water system.

SECTION IV. During the term of the franchise granted by this Ordinance, the Company shall be permitted to charge the same rates, charges, and fees and to apply the same rules, policies, and regulations as are charged and applied to customers located in unincorporated areas served by the Company. The Company may also charge a special rate for certain Centerburg customers as provided in the Agreement for the Sale and Purchase of the Waterworks System of the Village of Centerburg, Ohio.

SECTION V. The rights and privileges of this Ordinance shall inure to the successors and assigns of the Company.

SECTION VI. This Ordinance shall be void unless accepted by the Company in writing and such acceptance filed with the Village Clerk within sixty (60) days from and after its approval by the Village. The date of acceptance by the Company shall constitute the effective date of the franchise granted by this Ordinance.

SECTION VII. This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

SECTION VIII. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reasons that Council has already approved the Agreement with the Company, but the acceptance was delayed more than sixty (60) days due to nominal changes, and the Village and Company have a need to immediately proceed with work to make the connection to the Village Waterworks System..

WHEREFORE, this Ordinance shall take effect and be in force upon the earliest date allowed by law.

DATE PASSED Mar. 5, 2018

SIGNATURE ON FILE

PRESIDENT OF COUNCIL

ATTEST

SIGNATURE ON FILE

CLERK OF COUNCIL

SIGNATURE ON FILE

MAYOR

APPROVED AS TO FORM:

DATE APPROVED: _____

SIGNATURE ON FILE

LEGAL COUNSEL

ACCEPTANCE

Accepted this _____ day of _____, 2018.

DEL-CO WATER COMPANY, INC.

By _____
Its _____

Ordinance No. 2017-15 (O-17-06C)
Ordinance No. 2018- (O-18-03A)

**AGREEMENT FOR THE SALE AND PURCHASE OF
THE WATERWORKS SYSTEM OF
THE VILLAGE OF CENTERBURG, OHIO**

EFFECTIVE DATE: _____, 20172018

CLOSING DATE: _____, 20172018

SELLER:

Village of Centerburg
an Ohio municipal corporation
49½ East Main Street
Centerburg, OH 43011-7074

BUYER:

Del-Co Water Company, Inc.
an Ohio not-for-profit corporation
6658 Olentangy River Road
Delaware, OH 43015-9211

Ordinance No. 2017-15 (O-17-06C)
Ordinance No. 2018- (O-18-03A)

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AGREEMENT

THIS AGREEMENT ("Agreement") is entered into effective the _____ day of _____, ~~2017~~2018, by and between the **Village of Centerburg**, an Ohio municipal corporation located in Knox County, Ohio, whose principal address is 49½ East Main Street, Centerburg, Ohio 43011 (hereinafter referred to as "Seller"), and **Del-Co Water Company, Inc.**, an Ohio non-profit corporation having its principal business office at 6658 Olentangy River Road, Delaware, Ohio 43015-9211 (hereinafter referred to as "Buyer"), with Seller and Buyer being sometimes collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Seller is the owner and operator of certain assets and properties constituting a public waterworks system situated in the Village of Centerburg and its environs in Knox County, Ohio, which assets and properties are hereinafter collectively referred to as the "Waterworks System"; and

WHEREAS, Seller desires to discontinue the operation of the Waterworks System, to retain certain assets (hereinafter referred to as the "Excluded Assets"), and to sell certain assets to Buyer (hereinafter referred to as the "Assets") with Buyer thereafter supplying water to the inhabitants of the Village of Centerburg and Seller no longer operating a waterworks system, and Buyer desires to purchase the Assets from Seller on the terms and conditions described herein and to thereafter supply water to the inhabitants of the Village of Centerburg.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements set forth herein, Seller agrees to sell, transfer, assign, and deliver the Assets to Buyer and Buyer agrees to purchase, receive, assume, and pay for, on the terms and conditions described herein, the Assets, all subject to the terms and conditions set forth in this Agreement:

I. THE ASSETS SHALL CONSIST OF THE FOLLOWING.

- 1.01 The general location of the Waterworks System is in the Village of Centerburg, Knox County, Ohio and its environs.
- 1.02 The specific assets and properties of Seller's Waterworks System embraced within the term "Assets" are as follows:
 - A. The real property, whether transferred to Buyer in fee simple or by lease, on which the water tanks or water towers (hereinafter referred to as "water tanks") used in its Waterworks System and which water tanks are part of the Assets are situated, and which real property is, pursuant to the terms of this Agreement, to be conveyed or assigned to Buyer, as well as any easements, licenses, leases, and rights-of-way, recorded and unrecorded, and including easements which arise by prescription or by necessity, which are used or available for the use of Seller on

the effective date of this Agreement and as of the Closing Date (as defined hereinbelow) in its Waterworks System, and which, as soon as practicable, shall be identified and described in an Exhibit A to be attached hereto, which shall be made a part hereof;

- B. Water-tap fees in excess of the aggregate of _____, less the amount paid by Buyer to Seller or on Seller's behalf to pay off Seller's debt pursuant to Section 2.05 hereof, if any, received, or to be received, by Seller on or after the effective date of this Agreement. The water-tap fees received by Seller and which are not pursuant to this division B., part of the Assets, and to be retained by Seller, are hereinafter referred to as the "Retained Fees";
- C. Pre-paid water-tap fees, as of the Closing Date, identified in Exhibit B, updated as of the Closing Date, unless Seller elects to retain such pre-paid water-tap fees and not transfer and pay them to Buyer at Closing, in which event the aggregate amount of such pre-paid water-tap fees not transferred and paid to Buyer at Closing shall be credited against the Retained Fees.
- D. All permits, licenses, certificates and grants of Seller which pertain to the Assets, or are necessary and appropriate for the operation of the Assets, and which, as soon as practicable, shall be described in Exhibit C to be attached hereto, which shall be made a part hereof;
- E. Legible or electronically readable copies of Seller's records, logs, lists, and other documents, written or electronic, used by Seller in the operation of the Waterworks System;
- F. All personal property, fixtures, and equipment, except for the Excluded Assets, which are used by Seller as part of its Waterworks System, and which, as soon as practicable, shall be identified and described in an Exhibit D, to be attached hereto, which shall be made a part hereof;

1.03 The Excluded Assets, which are not included within the Assets of the Waterworks System to be conveyed, assigned and transferred to Buyer pursuant to this Agreement, and which are to be retained by Seller are:

- A. Its water treatment plant used in its Waterworks System;
- B. [RESERVED]
- C. Any reservoirs used in its Waterworks System;
- D. [RESERVED]

E. Any Retained Fees;

F. Any other properties or assets that Buyer may wish to decline, in its sole discretion, and which, as soon as practicable, shall be described in Exhibit E to be attached hereto, which shall be made a part hereof, provided however, that Buyer in any event agrees to accept responsibility for the existing two (2) well heads and not list the well heads on Exhibit E as Excluded Assets.

Notwithstanding anything else in this Section 1.03, and subject to any restrictions on the transfer of property by Seller in conformance Ohio law, Seller and Buyer agree that Buyer shall have the option, at Buyer's sole discretion, of taking fee simple ownership of the existing water plant and other properties associated with these Excluded Assets at Closing and for a period of up to five (5) years following Closing, without paying any consideration beyond what is already required of Buyer under this Agreement other than what is necessary to comply with Ohio law. This option as to these Excluded Assets may be exercised by Buyer upon written notice to Seller without Buyer paying any additional consideration to Seller other than what is necessary to comply with Ohio law; further Buyer reserves the right to release its option upon written request from Seller.

1.04 The inadvertent omission of any asset or property embraced within the term "Assets" from the exhibits described in Section 1.02 or otherwise shall not operate to defeat the conveyance, assignment, or transfer of any part of the Assets to Buyer; and the Parties agree to take such action, prior to, at, or after the Closing, as is required to complete the conveyance, assignment, or transfer of said asset or property to Buyer in accordance with their intent to transfer the entire Waterworks System other than the Excluded Assets to Buyer under the terms of this Agreement.

II. PURCHASE PRICE AND SURCHARGE

2.01 As discussed below and in section 10.07, the parties shall determine the purchase price for the Assets two (2) weeks prior to the Closing Date based on the Initial List (as defined hereinbelow) and the following unit prices:

Line Size Category	Buyer Capacity/Tap Fee per Existing Connection	Credit to Village of Centerburg Residents per Existing Connection	Net Difference Payable from Seller to Buyer for Calculating Net Present Value of Assets per Existing Connection
5/8"	\$5,000.00	\$2,703.00	\$2,297.00

¾"	\$8,225.00	\$4,446.00	\$3,779.00
1"	\$12,506.00	\$6,761.00	\$5,745.00
1.5"	\$23,377.00	\$12,637.00	\$10,740.00
2"	\$37,422.00	\$20,230.00	\$17,192.00

- 2.02 The formula for setting the purchase price for the Assets shall be as follows, solving for "C" as the subtotal of existing connections ("Existing Connections") in the table below, and then adding together each "C" subtotal for a given Line Size Category to reach a total price for the Assets:

A	Number of Existing Connections for each Line Size Category
X B	Net Difference Payable from Seller to Buyer for said line size, as taken from table above
C	Subtotal for Line Size Category

For example, where:

607	Equals "A" above for Number of Existing Connections for each Line Size Category
X \$2,297.00	Equals "B" above for Net Difference Payable from Seller to Buyer, then
\$1,394,279	Equals "C" above for Subtotal for Line Size Category

- 2.03 Two (2) weeks prior to the Closing Date, Seller shall deliver to Buyer a current list of all Existing Connections setting forth for each Existing Connection the Line Size Category, address or other location and the billing name and address (the "Initial List"), which Initial List shall be used, subject to adjustments provided for in this Agreement, to calculate the purchase price for the Assets. After the Initial List is prepared Seller shall permit no new connections to the Waterworks System until Buyer takes control on the Closing Date, at which time new connections will be subject to all the terms and conditions and rules and regulations of Buyer for Buyer's existing customers.
- 2.04 The Parties agree and acknowledge that if additional information becomes available on Assets and their condition prior to the Closing Date, then Buyer may adjust any credit given per Existing Connection in Buyer's sole discretion.

- 2.05 At the Closing Date, Buyer will pay to Seller, or the applicable creditors of Seller, an amount sufficient to pay off the then outstanding debt of Seller (if any) on the water treatment plant used in its Waterworks System, which debt, as of the Effective Date is approximately Eighty-Two Thousand Six Hundred Thirty-Nine and 64/100 Dollars (\$82,639.64) based on Village loans known as the Westside Water Loan and Hartford Avenue Loan. Seller will deliver to Buyer at Closing evidence reasonably satisfactory to Buyer's counsel of the current, as of Closing, amount of such debt. The Parties agree and acknowledge that any amount paid by Buyer may be added by Buyer to the principal amount to be collected from Village of Centerburg residents under the Centerburg Surcharge, as discussed in Section 2.07.
- 2.06 Seller agrees and acknowledges that in addition to the credit Buyer is providing for Existing Connections, Buyer is also further discounting its regular capacity/tap fee, e.g., Buyer typically charges for a 5/8" line \$5,200 and not \$5,000 as provided for under this Agreement.
- 2.07 Buyer may take out debt from the United States Department of Agriculture ("USDA") or possibly another governmental or private agency or agencies to finance Seller's repayment through the Centerburg Surcharge (defined below) to Buyer. Buyer also reserves the right to self-finance out of its own cash reserves at the same term and interest rate as would be applicable if Buyer used USDA financing. Regardless, the Parties agree and acknowledge that Buyer will develop a water service surcharge for Village of Centerburg residents that would allow the debt to be paid back on a 40-year term, fully amortized ("Centerburg Surcharge").
1. As of the Effective Date of this Agreement, Buyer anticipates the interest on this debt will be charged at or around 2.25%, plus or minus 75 basis points.
 2. Using the hypothetical example above in section 1.01.B, \$1,394,279 financed over 40 years at 2.25% would mean an estimated monthly payment of \$4,408, which, when divided over a hypothetical 607 existing connections of 5/8" would be \$7.26 per connection, per month.
 3. Buyer would set the Centerburg Surcharge two (2) weeks prior to the Closing Date. The Parties agree and acknowledge that the Centerburg Surcharge at the Closing Date may vary from the example above based on actual interest rates, the actual number of Existing Connections and the sizes of those connections, and Buyer shall have the right to adjust accordingly.

4. Any customer included in the Initial List may choose to pay Buyer the entire reduced tap fee, minus the applicable credit (based on Line Size Category) for the customer's Existing Connection(s), in which case such customer will not be subject to the Centerburg Surcharge, but will instead pay the standard Buyer water rates.
5. In the event that after the Closing Date an Existing Connection subject to the Centerburg Surcharge shall, for any period of time for any reason, fail to pay the Centerburg Surcharge, Buyer shall endeavor to collect from the then customer or the successor customer at such Existing Connection the unpaid Centerburg Surcharge plus interest thereon at the interest rate used in determining the Centerburg Surcharge (an "Unpaid Centerburg Surcharge"). Buyer may adjust, not more frequently than annually, the Centerburg Surcharge to account for Unpaid Centerburg Surcharges reasonably determined to be uncollectible, in order that the purchase price as determined two (2) weeks prior to the Closing Date shall be fully amortized over the 40-year term of the Centerburg Surcharge.

III. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER.

Seller represents, warrants and covenants to Buyer as follows:

- 3.01 Seller is, or will be as of the Closing Date, the owner of the easements, licenses, leases and rights-of-way granted by the instruments described in Exhibit A, free and clear of any and all liens or encumbrances, and, as to recorded easements, licenses, leases and rights-of-way, that all of them have been duly and properly recorded by Seller under the applicable law.
- 3.02 Seller is, or will be as of the Closing Date, the owner of the rights granted in the licenses, certificates, and permits described in Exhibit C, attached hereto and made a part hereof.
- 3.03 Seller is, or will be as of the Closing Date, the owner of all personal property described in Exhibit D, and that said personal property is, or will be as of the Closing Date, free from any security interest, mortgage, or other lien or encumbrance of any nature whatsoever.
- 3.04 All records and documents relating to the operation and maintenance of the Waterworks System furnished to Buyer during due diligence, pursuant to Section 10.01 of this Agreement, or which will be furnished to Buyer on or before the Closing Date were, or will be as of the Closing Date, prepared and maintained in the ordinary course of business and, to the best knowledge of Seller, are, or will be, complete and accurate in all material respects and have been, or will be, filed with the appropriate governmental agency or authority, if required. Seller agrees and acknowledges that, in addition to its own field verification, Buyer will rely upon the completeness and accuracy of this material in setting the purchase price as provided for under Article II.

- 3.05 Seller possesses, or will possess as of the Closing Date, all permits, certificates, and franchises, necessary and proper to the operation of Assets as part of Buyer's waterworks system. To the best of Seller's knowledge, Seller does not possess any licenses, easements, leases or rights-of-way, other than as identified in Exhibit A, and Seller is not aware any additional licenses, easements, leases or rights-of-way that would be necessary for Buyer's operation of the Assets.
- 3.06 To the best of its knowledge, the personal property, fixtures and equipment to be identified and described in Exhibit D are, and will be as of the Closing Date, not defective, operational and suitable for the purpose intended, which is to be part of the water distribution system for the Village of Centerburg, Ohio.
- 3.07 The pre-paid watertap fees identified as to watertap location (by subdivision and lot number or street address), payor, date of payment and amount of payment in Exhibit B, to be attached hereto and to be updated as of the Closing Date, constitute, and will constitute as of the Closing Date, all the pre-paid, in part or in whole, watertap fees or other developer or customer credits against watertap fees of its Waterworks System.
- 3.08 Except as otherwise specifically disclosed in writing by Seller to Buyer, Seller has received no written notices of any potential or actual charge or claim of any violations or operating issues experienced with the Waterworks System in the last five years.
- 3.09 The Village of Centerburg staff and its agents will work in a good faith effort to aid Buyer in the efforts to on-board Seller's current customers at its Existing Connections as Buyer's members and to educate Buyer's staff on the Assets.
- 3.10 During the term of this Agreement, and then during and after the Closing Date for so long as the Buyer is providing water to the Village of Centerburg, any of Buyer's staff shall not be subject to the Village's income tax unless that individual staff member of Buyer resides within the Village of Centerburg's municipal limits at that time.

IIIA. REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER.

Buyer represents, warrants and covenants to Seller as follows:

- 3.01A Buyer will use its best efforts to complete the installation of all of Buyer's meters and transition work to assume responsibility for Seller's Waterworks System within twelve (12) months of Closing, without being subject to any penalty.
- 3.02A Buyer shall assume and fulfill the obligations of Seller arising after the Closing Date under the rights-of-way, easements, leases, contracts, permits, licenses, and other agreements set forth in Exhibits A and C and shall indemnify, defend, and hold harmless Seller against all claims, actions, demands, losses, or liabilities arising from the ownership or the operation of the Assets or arising under or relating to any right-of-way,

easement, contract, permit, lease, license, certificate, or other agreement assigned to and/or assumed by Buyer and accruing from and after the Closing Date, including but not limited to, the maintenance, repair, replacement, expansion, refurbishing, removal, construction, or any other costs or fees associated with the wells, water tower or other equipment being leased, assigned or transferred from Seller to Buyer.

3.03A [RESERVED]

3.04A Buyer is duly authorized, licensed and permitted by the Ohio Environmental Protection Agency to operate a water system for household, agricultural, industrial and commercial purposes in the State of Ohio. Buyer is organized and operating under the laws of the State of Ohio as a not-for-profit corporation.

3.05A [RESERVED]

3.06A Buyer and its agents will work in a good faith effort to aid Seller in the efforts to on-board Seller's current customers at its Existing Connections as Buyer's members and to communicate with the Village of Centerburg staff and its agents during the transition.

3.07A Buyer will coordinate with Seller transition of the Assets, so that Seller can ensure that Seller's final billing to customers is accurate.

3.08A To the extent that Buyer requires the assistance of Seller's personnel for billing or meter reading or other services after transition of the waterworks system, Buyer will reimburse Seller for the full expense (wages and benefits) of said Seller's personnel. Any services provided by Seller to Buyer will be set forth in an Agreement signed by Buyer and Seller's Village Administrator in advance of the providing of any such services.

3.09A Buyer, without additional compensation for the Buyer, will allow Seller, the Knox County Sheriff's Office and the Central Ohio Joint Fire District to maintain communications equipment attached to the water tower, so long as their use and occupancy does not materially and adversely interfere with Buyer's operation of the Assets. The parties agree and acknowledge that Buyer will use a radio network to operate the Assets as part of Buyer's overall system. Other public or private entities shall be considered on a case-by-case by Buyer based on prevailing market rents and terms. Seller or any entity referred by Seller to Buyer wanting to occupy space on the water tower shall sign an agreement with Buyer in substantially the same form attached as Exhibit A-1, License for Space and Premise Access.

IV. TRANSACTIONS PRIOR TO THE CLOSING DATE.

4.01 To the extent that assignment of any right of Seller under leases, licenses, easements, rights-of-way, permits, licenses, franchises, or any other conveyance, agreement, or proceeding shall require the consent of any other party thereto (a "Consent"), Seller shall

obtain the Consent. Buyer shall cooperate with and assist Seller, before and after the Closing Date, in obtaining such Consents in such manner as Seller may reasonably request. Seller shall not agree to any payment or agree to or modify any arrangement that will result in the obligation of Buyer to make future payments in excess of the amount theretofore payable without prior written consent of Buyer.

- 4.02 From and after the date hereof, to and including the Closing Date, Seller will not take any action that would cause any of the representations contained in Article III hereof not to be true and correct in all material respects as of the Closing Date, or abandon any right-of-way, license, lease or easement described, or to be described, in Exhibit A without the prior written consent of Buyer.
- 4.03 From and after the date hereof, to and including the Closing Date, Seller shall continue to operate and maintain, and make normal and customary repairs and replacements of or to the Assets of the Waterworks System in the ordinary course of business and will not make any material changes or concessions or encumber the Assets without the prior written consent of Buyer.

V. CONDITIONS TO OBLIGATIONS OF BUYER TO CLOSE.

The obligations of Buyer are subject to the following conditions:

- 5.01 The representations and warranties of Seller contained in Article III hereof shall, in all material respects, be true and correct as of the Closing Date with the same force and effect as though they had been made on the Closing Date.
- 5.02 There is delivered to Buyer on the Closing Date the favorable opinion of counsel for Seller, dated as of the Closing Date, in form reasonably satisfactory to Buyer's counsel, to the effect that all municipal and other proceedings required to be taken by Seller to authorize it to execute, deliver, and carry out this Agreement and to convey, assign or transfer the Assets to Buyer have been duly and properly taken.
- 5.03 Seller shall have performed all agreements and covenants required by this Agreement to be performed by it on or before the Closing Date.

VI. CONDITIONS TO OBLIGATIONS OF SELLER TO CLOSE.

The obligations of Seller are subject to the following conditions:

- 6.01 There is delivered to Seller on the Closing Date the favorable opinion of counsel for Buyer, dated as of the Closing Date, in form reasonably satisfactory to Seller's counsel, to the effect that (a) Buyer is a corporation duly incorporated, validly existing, and in good standing under the laws of the State of Ohio and has full power and authority to consummate the transactions contemplated by this Agreement and to accept conveyance, assignment or transfer to it of the Assets; and (b) that all corporate and other proceedings required to be taken by Buyer to authorize it to execute, deliver, and carry out the provisions of this Agreement have been duly and properly taken.
- 6.02 Buyer shall have performed all agreements and covenants required by this Agreement to be performed by it on or before the Closing Date.

VII. CONDITIONS TO OBLIGATIONS OF BOTH BUYER AND SELLER TO CLOSE.

Each of the following conditions shall exist as of the Closing Date:

A. A period of thirty (30) days shall have passed after the journalization of the legislative action by Seller authorizing the execution of the Agreement and the transactions contemplated within this Agreement (hereinafter referred to as the "Legislative Action"), without the filing of a referendum petition with respect to the Legislative Action (hereinafter referred to as a "Petition") unless the Legislative Action has been authorized by the electorate of the Village of Centerburg at an election by initiative petition or as otherwise authorized by law, or if such a Petition was filed there is either (1) a final, nonappealable order of the Board of Elections of Knox County, Ohio or a court of competent jurisdiction providing that there shall not be a referendum election pertaining to the Legislative Action, or (2) certification of a referendum election upholding the Legislative Action. If the Legislative Action is taken in accordance with an election in which the electorate of the Village of Centerburg authorizes the Legislative Action, this condition A. shall be the certification of the results of the election authorizing the Legislative Action.

B. No action or proceeding shall be pending or threatened against Seller or Buyer in any court of law or by any administrative or governmental agency on the Closing Date, wherein an unfavorable judgment, decree, or order could prevent, make unlawful, or materially affect consummation of the transaction contemplated by this Agreement or materially impair Buyer's utilization of the Assets in the normal and usual course of its business.

VIII. CLOSING.

- 8.01 The closing or consummation of the transaction contemplated by this Agreement (hereinbefore and hereinafter the "Closing") will take place at the offices of Buyer or Buyer's attorney at a time and date as is mutually agreeable to the Parties not less than thirty (30) days of the receipt by Seller of the final approval required to permit or authorize Seller to consummate this Agreement but, unless extended by mutual agreement of the Parties, not later than August 1, 2018. In the absence of such agreement, the Closing will take place at 10:00 a.m. local time on September 30, 2018 if the conditions of Article VII hereof have been met. The date on which the Closing occurs shall be the "Closing Date."
- 8.02 At the Closing, subject to the terms and conditions of this Agreement, Seller will deliver to Buyer (a) such titles, bills of sale, assignments, and other instruments of transfer, conveyance and assignment as may be required or appropriate to grant, transfer, assign, and convey to Buyer, effective as of the Closing Date, all of Seller's right, title and interest in the Assets; (b) the opinion of counsel for Seller required by Section 5.02 hereof; (c) the documents described in Article X of this Agreement; (d) updated Exhibits as required by this Agreement; and (e) any and all customer deposits and records pertaining thereto.
- 8.03 At the Closing, subject to the terms and conditions of this Agreement, Buyer will deliver to Seller the opinion of counsel for Buyer required by Section 6.01 hereof.

IX. DEPOSITS, TAXES, ETC.

- 9.01 Seller agrees to be responsible for returning all customer deposits as part of the transition of the Assets. None of the deposits held by Seller will be transferred to Buyer, and Buyer shall have no responsibility to customers for said deposits.
- 9.02 It is not anticipated that any excise, sales, or use taxes will be due and payable with regard to the transfer of the Assets pursuant to this Agreement. However, if and to the extent any such taxes are required to be paid, the same shall be paid by Buyer. Buyer shall also pay all fees for recording any assignments or other instruments of conveyance relating to the transfer, conveyance and assignment to Buyer of the Assets.
- 9.03 Any and all ad valorem taxes levied and assessed against the Assets for the calendar year preceding Closing Date and any prior years shall be paid by Seller when due and payable. Buyer shall be responsible for all taxes for the calendar year beginning January 1, 2017 (year of Closing Date); provided, however, Seller shall pay Buyer for the portion of such taxes levied and assessed against the Assets for the period during 2017 (year of Closing Date) prior to Closing Date, based on the assessment for the prior year, unless as of the Closing Date the assessment for the year of Closing shall be known, in which case such assessment shall be used.

- 9.04 Seller shall be responsible for all expenses of the Waterworks System prior to the Closing Date. Seller shall read the water meters on its Waterworks System before the Closing Date as close to the Closing Date as practical, shall bill its customers from such meter readings, and shall retain all income from such meter readings and billings. At the Closing, or as soon as practicable after the Closing Date, Seller shall provide to Buyer its last, the final, meter reading for each water meter on its Waterworks System. Buyer shall bill for and retain all income from its billings after the Closing Date, including for water service between Seller's final meter readings and the Closing Date. Except as otherwise provided in this Agreement, Buyer shall be responsible for the expenses of the Assets from and after the Closing Date.
- 9.05 Buyer shall not be liable for, and does not assume, any liability for the operation of the Waterworks System prior to the Closing Date.

X. MISCELLANEOUS AGREEMENTS.

- 10.01 Seller agrees to furnish Buyer, at or before the Closing Date, Seller's maps and construction and operating engineering files on all properties and assets covered by this Agreement, and, in addition thereto, the following documents:
- A. A complete list of all existing customers of the Waterworks System indicating, where applicable, those who are tenants or lessees rather than owners of the real property served, and the names and addresses of said tenants, landlords, or property owners, and indicating also those customers from whom Seller has obtained a deposit and the amount thereof.
 - B. A list of all existing water meters, their sizes and locations, along with an "as built meter location card" for each.
 - C. If not reflected on existing maps of the Waterworks System, maps of all lines, valves, hydrants, water tanks, water stations, and other appurtenances to the Waterworks System.
 - D. A list of any known lead service lines, goosenecks or other issues related to lead that will assist Buyer in meeting the lead and copper rule. This may include providing the year a building was constructed and/or connected to the Waterworks System.
- 10.02 Seller shall assist and cooperate with Buyer in obtaining: (i) customers' signatures on Buyer's standard water user's agreement; (ii) authorizations to release, after the Closing Date, customer water usage information to Seller if Buyer requests such authorizations; and (iii) any easements required by Buyer, in Buyer's sole discretion, for the continued operation, without interruption, of Buyer's new water distribution system, which system after the Closing shall utilize, within the Village of Centerburg, the Assets and water

from Buyer's water treatment plants (hereinafter together referred to as "Buyer's System") and agrees that any existing customer who refuses to sign such an agreement or to grant any necessary easement may, in accordance with applicable law and Buyer's rules and regulations, be removed by Buyer from Buyer's System. Should it become necessary, and at Buyer's request, both prior to and after the Closing Date, Seller shall exercise its powers of eminent domain to quiet title to the Assets which are classified as real property and to obtain easements and rights-of-way that are necessary and proper to the operation of the water distribution system of Seller, as existing on the Closing Date, being conveyed to Buyer as part of the Assets.

Seller and its Existing Connection customers will not get any credit for the present worth value of the Waterworks System if they do not meet all their obligations, including, by way of example rather than limitation, executing and delivering recordable easements on Buyer's standard form, Buyer's standard water user's agreement, and installing thermal expansion tanks.

- 10.03 At the Closing, Seller shall deliver to Buyer a franchise, in the form attached hereto as Exhibit F, granting Buyer the irrevocable right, without further cost or expense, to use the streets, alleys, and public property of Seller for the purpose of owning, operating, maintaining, repairing, or replacing Buyer's System and for any extensions, improvements, or expansions thereof. The Parties agree that the franchise shall permit Buyer, on an exclusive basis, to operate Buyer's System within the Village of Centerburg without having to obtain licenses or permits from Seller for its operation, maintenance, repair, replacement or extension of Buyer's System within the Village of Centerburg.
- 10.04 Buyer shall assume and fulfill the obligations of Seller arising after the Closing Date under the rights-of-way, easements, leases, contracts, permits, licenses, and other agreements set forth in Exhibits A and C and shall indemnify, defend, and hold harmless Seller against all claims, actions, demands, losses, or liabilities arising from the ownership or the operation of Buyer's System or arising under or relating to any right-of-way, easement, contract, permit, lease, license, certificate, or other agreement assigned to and/or assumed by Buyer and accruing from and after the Closing Date, including but not limited to, the maintenance, repair, replacement, expansion, refurbishing, removal, demolition, construction, or any other costs or fees associated with the Assets. The Parties acknowledge that by executing this Agreement, Seller is effectively assigning all rights to any water fees to Buyer in exchange for Buyer's commitment herein such that Seller shall accumulate no funds from operation of the Assets, and thus, Buyer is assuming all costs and expenses associated with the Assets.
- 10.05 Buyer will construct a transmission line of sufficient size and capacity to connect to the Assets and serve the Village of Centerburg. It is anticipated that this connection will fill the existing elevated tank, and provide pressure and flow similar to that experienced in the Village of Centerburg at the time of full execution of this Agreement. After Buyer constructs said transmission line, Buyer will make a connection to the existing elevated tank of the Assets. At the Closing Date, Buyer will remove the connection to the existing

water supply plant, and open a connection from the new transmission line. Within a reasonable time after the Closing Date, Buyer shall, at Buyer's sole cost, construct such other additional facilities as may be required to connect Buyer's System to Buyer's existing waterworks system. Buyer shall at Buyer's sole cost within a reasonable time after the Closing Date, make such changes in the existing metering system as are required to conform such system to Buyer's standards; the Parties agree and acknowledge that Buyer intends to relocate the point of metering to outside meter crocks. As soon as practicable after the effective date of this Agreement Buyer shall, if needed and at Seller's sole cost, construct service lines, where necessary, to the buildings' outer walls and install meters to provide water service to Seller's existing municipal facilities. Buyer, for such work to Seller's existing municipal facilities, shall bill Seller, upon completion of such work, Buyer's actual costs for materials, labor and equipment rental and, if such work is done with Buyer's labor or equipment, the labor rates and equipment use rates which reflects Buyer's actual costs. The Parties agree and acknowledge that Buyer will own and maintain the water distribution mains, and the private service from the main to the customer's meter. The private service from the customer's meter to the customer's premises shall be owned and maintained by the customer at the customer's cost. From the Closing Date forward, Buyer shall be wholly responsible for the Assets, including compliance with all laws and regulations administered and enforced by the U.S. and Ohio EPA and other regulatory agencies. Buyer shall have the right but not the obligation to install metering equipment and outside meter crocks, and to the extent it exercises those rights, Buyer shall take reasonable steps to limit the disruption of Seller's streets and customer property.

- 10.06 Buyer agrees that existing multi-family structures having safe plumbing systems will be or remain connected to the Buyer's System "as is," provided that all new multi-family structures and all existing structures converted to multi-family use or substantially altered or renovated will be metered in conformity with Buyer's then existing rules, regulations, policies and user agreements.
- 10.07 Except as otherwise provided for in this Agreement for things such as the Centerburg Surcharge (previously defined), Buyer intends to accord Seller's existing customers the same rights and privileges as Buyer's other customers, subject to the following:
- A. All the initial customers that are included and subject to this Agreement shall be provided by the Seller to Buyer on a customer list (the "Initial List").
 - B. Any existing connections that are not included on the Initial List will be subject to Buyer's connection/tap fees and other fees, regardless of whether a current physical connection exists, and they will be considered a new connection per Section 10.07.C below, or be subject to disconnection until compliance is achieved.

- C. Any customer added after the Closing Date shall be subject to all regular rules and regulations of Buyer's membership, including paying the entire then-current connection/tap fee and the standard rates for water service, except for the provisions of this Agreement pertaining to the Retained Fees and the Centerburg Surcharge, and provided further that Buyer shall give the developer or the customer, as the case may be, credit against Buyer's tap fee due and payable by such developer or customer in accordance with any applicable pre-payments or credits set forth on Exhibit B, which Exhibit B shall be updated by Seller to be current, complete and accurate as of the Closing Date.
- D. All connections to the Assets identified and included in the time leading up to Closing Date will each pay a one-time \$10 membership fee and become members of Buyer. Each customer will be subject to all the terms and conditions, rules and regulations of Buyer.
- E. All customers shall install thermal expansion tanks within their premises.

- 10.08 Subsequent to the Closing Date, Buyer shall provide to Seller, without charge to Seller, customer water usage information within the Village of Centerburg reasonably necessary to Seller in order for it to bill its sanitary sewer customers within the Village of Centerburg; provided, however, this provision for the providing of water usage information to Seller without cost to Seller shall not require Buyer to adopt any systems or procedures unique to Buyer's System from the rest of Buyer's waterworks system, for the purpose of providing such water usage information to Seller; and provided further, however, that in the future should at any time counsel for Buyer determine that applicable laws prohibit Buyer from providing such information to Seller without authorization of the customer, it shall be Seller's obligation, at Seller's cost and expense, to obtain customer authorizations and without a customer's authorization Buyer shall not be obligated to provide customer water usage information on a customer of Buyer to Seller pursuant to this Section 10.08.
- 10.09 Seller covenants and agrees to and with Buyer, so long as Seller is authorized by applicable law so to do, to execute and deliver all such other and further instruments of conveyance, assignment, or transfer and all such notices, releases, acquittances, or other documents and to do all such other acts and things as may be necessary to more fully convey and assign to Buyer all of Seller's right, title and interest to the Assets in accordance with this Agreement.
- 10.10 Buyer and Seller each represent and warrant to the other that it has not incurred any liability for brokerage or finder's fees or commissions in connection with the transactions contemplated by this Agreement.

- 10.11 Buyer and Seller shall each pay its own legal, accounting and other professional fees in connection with the Agreement and this transaction.
- 10.12 Buyer hereby indemnifies and holds harmless and shall defend Seller from any claim, damage, loss, liability, or expense resulting from any breach or non-fulfillment of any of Buyer's representations, warranties, covenants, or agreements set forth in this Agreement and for injury to or death of any person or persons or damage to or loss of any third party property relating to Buyer's operation of Buyer's System, including omissions and failure to act. Seller hereby indemnifies and holds harmless and shall defend Buyer from any claim, damage, loss, liability, or expense resulting from: (i) any breach or non-fulfillment of any of Seller's representations, warranties, covenants, or agreements set forth in this Agreement, including any claim, damage, loss, liability, or expense (including reasonable attorneys' fees); (ii) any involuntary relocation of existing water lines or facilities by Seller within one of Seller's public road right-of-ways (*provided, however*, that for state and county public road right-of-ways within Seller's municipal boundaries, Seller shall not be required to reimburse Buyer for Buyer's actual costs in Buyer's involuntary relocation of existing water lines and facilities in such state and county public road right-of-ways); and (iii) from Seller's operation of the Waterworks System.
- 10.13 Buyer agrees to indemnify, defend, reimburse, and hold harmless Seller from and against any and all "Environmental Damages" arising in any manner whatsoever out of any "Environmental Requirements" pertaining to Buyer's System and the activities thereon occurring at any time on or after the Closing Date. Seller agrees to indemnify, defend, and hold harmless Buyer from and against any and all "Environmental Damages" arising in any manner whatsoever out of any "Environmental Requirements" pertaining to the Waterworks System and the activities thereon occurring at any time prior to the Closing Date. For the purposes of this section, (i) "Environmental Damages" means all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), costs, and expenses of investigation and defense of any claim, whether or not such claim is eventually defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, including, without limitation, the costs of environmental remediation, court costs, and reasonable fees incurred for the services of attorneys, consultants, experts, and laboratories; and (ii) "Environmental Requirements" means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, and the states and political subdivisions thereof, pertaining to health or the environment, and all principles of common law relating to duties to protect and not unduly disturb human health or environmental quality.
- 10.14 Except for Buyer's employees who may, in the future, be located in a future facility, leased or owned, of Buyer within the Village of Centerburg, Buyer and Seller agree that such employees shall not, solely on the basis of their rendering services on Buyer's System, be considered to be employed within the Village of Centerburg.

- 10.15 Unless prior to Closing Buyer elects pursuant to Section 1.03 of this Agreement to take fee simple ownership, at the Closing Seller shall deliver to Buyer duly authorized, executed and notarized 99-year Ground Leases, providing for an annual rental of One Dollar (\$1.00) for each parcel of real property which Ground Leases lease to Buyer the parcels of real property on which the water tank(s) to be transferred and conveyed by Seller to Buyer pursuant to this Agreement, sit, and such additional real property as reasonably necessary for Buyer's use, operation, maintenance and repair of the water tank(s). The leases shall be in substantially similar form to the form attached hereto as Exhibit G.
- 10.16 [RESERVED]
- 10.17 Buyer shall use its good faith best efforts to provide water service for reasonable growth within the municipal limits of the Village of Centerburg.
- 10.18 All notices, claims, certificates, requests, demands, and other communications hereunder must be in writing and will be deemed to have been duly given if delivered by hand or mailed (registered or certified mail, postage prepaid, return receipt requested) or transmitted by facsimile transmission or electronic mail transmission by equipment which generates a receipt for such transmission, as follows:
- If to Seller by mail: Village of Centerburg
 Municipal Building
 49½ East Main Street
 Centerburg, OH 43011-7074
 Attention: Mayor
- If to Buyer by mail: Del-Co Water Company, Inc.
 6658 Olentangy River Road
 Delaware, OH 43015-9211
 Attention: General Manager
- Notice sent by mail shall be deemed given upon deposit, postage prepaid, in the United States mail, and notice sent by other means shall be deemed given upon the recipient's receipt of the notice.
- 10.19 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; provided, however, Buyer shall not assign its rights or obligations hereunder without the prior written consent of Seller.
- 10.20 The Parties agree that all provisions of this Agreement shall, to the extent not clearly inapplicable, survive the Closing.

10.21 This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio, and any litigation with respect to this Agreement shall be only in the Court of Common Pleas of Delaware County, Ohio.

10.22 All of the terms and conditions of the Parties' agreement and understanding on the subject matter are set forth in this Agreement, and this Agreement may not be amended, altered, or supplemented except by written agreement between the Parties. The exhibits referenced in and attached, or to be attached, to this Agreement in accordance with this Agreement are deemed to be, for all purposes, part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple counterparts on the dates below written, each of which shall be evidence of one and the same Agreement. It shall not be necessary for both Parties to sign the same counterpart to this Agreement in order to make this Agreement effective.

SELLER: VILLAGE OF CENTERBURG, an Ohio
municipal corporation

By _____
Name: David Beck, Mayor

BUYER: DEL-CO WATER COMPANY,
INC., an Ohio not-for-profit corporation

By _____
Timothy McNamara, President

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EXHIBIT A
REAL PROPERTY EASEMENTS, LICENSES,
LEASES AND RIGHTS-OF-WAY

[to be completed by Seller prior to execution by
Buyer and updated by Seller as of the Closing Date]

EXHIBIT A-1
LICENSE FOR SPACE AND PREMISES ACCESS

[to be completed by Buyer prior to execution by
Buyer and Seller prior to Closing Date if Seller wants to
occupy tower for communications purposes]

LICENSE FOR SPACE AND PREMISES ACCESS

This License for space and premises access (the "License") is entered into this _____ by and between _____ (the "Licensee") and Del-Co Water Company, Inc., 6658 Olentangy River Road, Delaware, Ohio 43015 (the "Owner" or "DEL-CO").

WHEREAS, Licensee requires inside space for control panel(s), tank top space for equipment ("Licensee's Equipment"), including electrical power and access for its personnel; and

WHEREAS, DEL-CO owns and operates certain water tanks that are ideal locations for the placement of Licensee's Equipment; and

WHEREAS, DEL-CO wants to provide space and access.

NOW, THEREFORE, with the intent to be legally bound, the parties hereby agree as follows:

1. **License Grant:** For the Term of this License, DEL-CO grants to _____ the following:

- a) Use of Inside Space at the Premises (as said term is defined below), for _____, more or less;
- b) Use of Tank Top Space _____;
- c) Use of Conduit or Duct Space, for the connection cables between the control panel and the Antennas;
- d) Electrical power, continuous and not to exceed 5 amperes per control panel (the nominal, expected continuous usage is 1-2 amperes); and subject to line power provided by electric utility servicing the location(s); and
- e) Access to the Inside Space, Tank Top Space, and Conduit Space, as further limited

below.

The parties intend that this document be construed as a license, and not as a lease of real estate or equipment. Owner shall not record this instrument with government agencies except where required by law, and shall not represent to third parties that it is the owner of the equipment. All equipment contemplated under this License shall remain the property of Licensee at all times.

2. **Term; Renewal:** The term of this License comprises an initial term beginning _____, and subsequent renewal terms. The initial term of the License shall be one year (the "Term"). After the initial Term, the license will automatically renew in one year increments unless either party terminates the agreement per item _____.

3. **The Premises:** Licensee's Equipment shall be mounted both inside building(s) and on the roof tops of Owner's building(s) located at the tank with mailing address _____, also referred to as (the "Premises").

4. Installation, Maintenance, and Operation of Equipment:

4.1 The Equipment shall operate within the allowed frequencies, power output limitations, and all other limitations prescribed by law and shall be modified if needed to not negatively affect any DEL-CO equipment.

4.2 The installation, operation, and maintenance of Licensee's Wireless Equipment shall not damage the Premises, or interfere with the Premises or the operation of DEL-CO's business operations at the Premises, or other service providers already on or in the Premises. Furthermore, Licensee shall use its best efforts to blend the placement and appearance of the Licensee's Equipment with its surroundings, so as not to draw attention to its presence.

5. Ingress, Egress, and Access:

5.1 Subject to Licensee providing notice to DEL-CO security, Licensee, its employees, agents and contractors, shall, during the term of the License, and any extension thereto, have the right of ingress and egress to the Premises for the purpose of testing, maintenance and repair on a 24 hour-per-day and 7 day-per-week basis.

Owner shall make available to Licensee access to all areas where its equipment is located. Site access can be provided via keys, electronic access cards, combinations, lockboxes, on-site staff (security guard), on-call maintenance staff and the like to all places where Licensee's Wireless Equipment is placed.

5.2 In case of an emergency, Licensee may call Owner representatives as listed below:

First call) _____ at _____, and

Second call) _____
(name) (telephone)
_____ at _____
(name) (telephone)

5.3 DEL-CO facilities must be repaired, maintained, and rehabilitated on an occasional basis. This includes painting of the elevated tanks. DEL-CO commits to working with Licensee to the extent possible to limit the effect on Licensee's Equipment. However, DEL-CO reserves the right to require removal of Licensee's Equipment and withhold access for a period of time necessary for work to be completed. Whenever possible, reasonable notice will be provided to Licensee of any impending work that affects their operation or equipment.

5.4 Licensee shall follow all OSHA and standard safety procedures at all times when working at DEL-CO facilities. Licensee agrees to indemnify DEL-CO for any accidents, injuries, or damage, except for circumstances of gross negligence by DEL-CO, its employees or agents.

5.5 Licensee shall not interfere with, damage, or modify DEL-CO equipment at the Premises. Licensee shall compensate DEL-CO for any required work to repair, replace, or modify its equipment resultant of Licensee's use of the Premises.

6. **Termination:** The parties may terminate this license agreement should at any time for convenience or for cause. Either party will provide written notice of their intent to terminate, and provide reasonable time for the Licensee's Equipment to be removed from the Premises, which shall not be less than sixty (60) days.

7. **Insurance:** Licensee shall continuously maintain insurance coverage and provide Owner with current certificate of insurance listing Owner as additional insured. The amount of general liability insurance shall be no less than one million dollars (\$1,000,000) for each occurrence, and three hundred thousand dollars (\$300,000) for each occurrence of damage to premises.

8. **Cooperation:** The parties agree to cooperate in good faith and to seek to resolve issues that may arise under this License.

Licensee:

Owner: Del-Co Water Company, Inc.

Address: ### street rd.
City, ST zip

Address: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Date: _____

Title: _____

Date: _____

EXHIBIT B
PRE-PAID WATER TAP FEES

[to be completed by Seller prior to execution by
Buyer and updated by Seller as of the Closing Date]

EXHIBIT C
LICENSES, PERMITS, CERTIFICATES AND GRANTS

[to be completed by Seller prior to execution by
Buyer and updated by Seller as of the Closing Date]

EXHIBIT D
PERSONAL PROPERTY, FIXTURES AND EQUIPMENT

[to be completed by Seller prior to execution by
Buyer and updated by Seller as of the Closing Date]

EXHIBIT E
DECLINED ASSETS

[to be completed as soon as practicable
and attached hereto]

EXHIBIT F

Village of Centerburg Ordinance Nos. 2017-15 and 2017-16 (attached)

ORDINANCE NO. _____

~~AN ORDINANCE GRANTING DEL CO WATER COMPANY, INC., AN OHIO NOT FOR PROFIT CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR A PERIOD OF NINETY NINE (99) YEARS TO ENTER UPON THE STREETS, AVENUES, ALLEYS, BRIDGES, AND PUBLIC PLACES OF THE VILLAGE OF CENTERBURG, OHIO, AS THE SAME MAY NOW EXIST OR MAY HEREINAFTER BE EXTENDED, AND THEREIN TO LAY, RELAY, EXTEND, MAINTAIN, AND OPERATE A SYSTEM OF PIPES, VALVES, AND OTHER EQUIPMENT AND APPURTENANCES FOR THE DISTRIBUTION OF WATER, AND TO DISTRIBUTE AND SELL WATER TO THE VILLAGE AND TO THE PUBLIC; AND MAKING RULES AND REGULATIONS GOVERNING THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF SAID SYSTEM.~~

~~BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CENTERBURG, OHIO:~~

~~SECTION I. The following definitions shall apply in the interpretation and enforcement of this Ordinance unless the context clearly shows that a different meaning is intended.~~

~~“Village,” “the Village,” and “said Village” means the Village of Centerburg, Ohio, both as now constituted and also as the same may exist at any time by annexation or other process, means, or method authorized by law.~~

~~“Company,” “the Company,” and “said Company” shall mean and embrace Del Co Water Company, Inc., its successors and assigns.~~

~~“Equipment” shall embrace all of the pipes, mains, conduits, valves, curb boxes, manholes, and all other proper and necessary appliances, devices, construction, and facilities, whether located upon private property or in private ways or in public ways for transmitting, distributing, and supplying water to the Village of Centerburg and its inhabitants.~~

~~“Public ways” shall embrace dedicated public streets, alleys, lanes, boulevards, and places open to the public for pedestrian or vehicular traffic as the same may now exist or may hereinafter be extended or constructed.~~

~~SECTION II. That an exclusive franchise as to the distribution of water within the Village of Centerburg, with the rights and privileges herein provided, is hereby granted Del Co Water Company, Inc., for a period of ninety-nine (99) years from and after the acceptance of this Ordinance by the Company as hereinafter provided and the signature and acceptance of the Agreement, to enter upon the streets, avenues, alleys, bridges, public ways, land, and places within the corporate limits of the Village, as the same may now exist or may hereafter be~~

extended or constructed, and therein and thereon to construct, lay, relay, extend, maintain, replace, improve, remove and operate a system of pipes, valves, and other equipment and appurtenances, and to distribute therein and sell therefrom water to the Village and to the inhabitants thereof.

~~SECTION III.~~ The Company shall comply with all lawful regulations of the Village in force from time to time in regard to excavations and/or construction in public ways; provided however, that the Company shall not have to obtain permits or licenses for the operation, maintenance, repair, replacement or extension of the Company's water distribution system.

—All work performed hereunder in and upon public ways shall be done in accordance with the Village's lawful regulations; and before excavations may be made in any public way, the Company shall submit to the Village a plan of the lines proposed, showing where such lines are to be laid, the size of the pipes, and depth at which same are to be laid, the locations and dimensions of stops, branches, manholes, and all other structures or appliances located in the public ways or places appurtenant to or necessary for the proper maintenance and use of such lines, together with such other and further information as the Village may reasonably require in the premises; and such plans in all parts, except as to kind, sizes, and dimensions of pipes and stops, shall be subject to the reasonable regulations of the Village, except for provisions thereof requiring the issuance of licenses and permits and the payment of fees to the Village; and, except in cases of emergency, no openings in the public ways or places may be made until after such approval is given by the Village, which approval shall not be unreasonably withheld.

—All trenches and ditches shall be dug, pipes laid, and trenches and ditches closed; and the paving or other public improvement disturbed in the course thereof shall be restored as expeditiously as the same can be done with skillfulness and safety. All such work shall be done so as to interfere as little as possible with public use of and travel over public ways. All service pipes shall be laid to the curbs or, in the absence of curbs, to curb lines, which shall, unless waived by the Company, be at the expense of the customer. All pipes, curb boxes, and construction hereunder shall be laid and installed with reference to and at such reasonable distance below the established grades of public ways through or in which the same shall be placed in accordance with Village regulations.

The mains, pipes, construction, all and singular, of the Company hereafter installed in said public ways shall be laid and placed so as not to interfere in any way with existing conduits, lines, sewers, water pipes, or other public improvement of the Village or the existing pipes, mains and conduits for the transmission or distribution of any utility product or service, whether of the Village or otherwise. There shall be no unnecessary or permanent obstruction of public ways by the Company. Said mains or pipes of the Company shall be laid at such places and at such reasonable depths with regard to established grades in public ways as the Village shall reasonably prescribe.

—The Company, at its expense, shall carefully guard and protect all public ways entered and opened hereunder so as to prevent injury to person or property while work therein is being

prosecuted by the Company; and as soon as practicable after completion of work and construction therein, all public ways entered and opened hereunder shall be restored to their former condition or usefulness by the Company. The Company, at its expense, shall also do all the refilling, puddling, or tamping, and paving and repaving made necessary by reason of construction, installation, operation, abandonment, or repair of its mains, pipes, or construction in public ways and shall be responsible for all repairs to and maintenance of its water system.

~~SECTION IV.~~ During the term of the franchise granted by this Ordinance, the Company shall be permitted to charge the same rates, charges, and fees and to apply the same rules, policies, and regulations as are charged and applied to customers located in unincorporated areas served by the Company. The Company may also charge a special rate for certain Centerburg customers as provided in the Agreement for the Sale and Purchase of the Waterworks System of the Village of Centerburg, Ohio.

~~SECTION V.~~ The rights and privileges of this Ordinance shall inure to the successors and assigns of the Company.

~~SECTION VI.~~ This Ordinance shall be void unless accepted by the Company in writing and such acceptance filed with the Village Clerk within sixty (60) days from and after its approval by the Village. The date of acceptance by the Company shall constitute the effective date of the franchise granted by this Ordinance.

~~SECTION VII.~~ This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

Passed this _____ day of _____, 2017.

Clerk _____ Mayor

ACCEPTANCE

Accepted this _____ day of _____, 2017.

DEL CO WATER
COMPANY, INC.

By _____

Its _____

EXHIBIT G

AGREEMENT OF LEASE (GROUND LEASE FOR WATER TOWER)

This Agreement of Lease (Ground Lease for Water Tower) (hereinafter referred to as the "Lease") is made by and between the Village of Centerburg, an Ohio municipal corporation, hereinafter referred to as "Lessor," and Del-Co Water Company, Inc., an Ohio non-profit corporation, hereinafter referred to as "Lessee," who are hereinafter referred to together as "Parties," regarding the improved real property commonly known as _____ and situated in the Village of Centerburg as hereinafter described as the "Premises," the same being the location of a current municipal water tower of Lessor which is being transferred and conveyed to Lessee simultaneous with the effectiveness of this Lease.

WHEREAS, Lessor and Lessee have negotiated a separate agreement wherein Lessee is simultaneously acquiring from Lessor its municipal water distribution system, exclusive of the water treatment plant, any real estate and specified intangible personal property; and

WHEREAS, the Parties desire by this Lease to provide for the continued placement of the existing water tower on the Premises; therefore, the following agreements are made:

1. TERM: Lessor, for itself and its successors in interest, hereby leases the Premises to Lessee for a term of ninety-nine (99) years, from the date when the water tower currently existing on the Premises is transferred and conveyed by Lessor to Lessee (which date shall be, for records purposes, set forth hereinbelow upon the transfer and conveyance to Lessee of the existing water tower), to serve as the site for the retention, or subsequent replacement, of the existing water tower. Regardless of any other provisions contained herein, this Lease may terminate earlier upon the agreement of the Parties or upon the Lessee or its successors in interest ceasing to utilize the current or a replacement water tower on the Premises for furnishing water within the Village of Centerburg.

2. RENT: Concurrent with the execution of this Lease, Lessee has delivered to Lessor the sum of Ninety Nine Dollars (\$99), the same representing the advance payment of total consideration for the term of this Lease. After the term of this Lease commences, in the event this Lease terminates as otherwise specified herein earlier than the original term set forth in ¶ 1 above, there shall be no rebate of rent to Lessee.

3. OTHER INTERESTS: Lessee acknowledges that at the commencement of the term of the Lease that the existing water tower on the Premises is utilized for placement of communications antennae and equipment utilized respectively by Lessor's and Knox County's safety forces. Lessee acknowledges that it will continue to permit Lessor and Knox County to utilize the Premises for said purposes; provided, however, that said utilization shall not interfere with Lessee's operation and use of its water tower and that Lessor's and Knox County's access to the water tower shall be in accordance with Lessee's water tower access policies and procedures, including any indemnification provisions therein, as amended from time to time. Likewise, the parties agree and acknowledge that within the scope of this Lease, Lessee shall have access to the Premises as reasonably desired by Lessee over Lessor's other property that is adjacent to the Premises, to the extent the Premises does not have its own frontage onto a public right-of-way. Such access shall include, by way of example rather than limitation, ingress, egress

or for other utilities as is reasonably desired by Lessee for the operation, maintenance and repair of the water tower.

4. FENCING: If either Lessor or Lessee shall reasonably determine that fencing, or additional fencing, is needed to separate the Premises from other real property of Lessor or of another owner, Lessee shall install and thereafter maintain such fencing at its cost.

5. PREMISES: The real property which is the subject of this Lease, hereinafter referred to as the Premises, is more particularly described as follows:

Situated in the State of Ohio, County of Knox, and Village of Centerburg, bounded and described as follows:

See attached legal description of _____ acres, more or less, marked as Exhibit A and attached plat of survey marked as Exhibit B.

Lessor, by its duly authorized elected official, hereby executes this Lease on the date written below.

VILLAGE OF CENTERBURG (OHIO)

By: _____

Date Title: Mayor

STATE OF OHIO,
COUNTY OF KNOX, ss.:

Before me, a notary public in and for said county and state, personally appeared _____, Mayor of the Village of Centerburg, who indicated he is authorized in the premises, that execution of the foregoing instrument is his voluntary act and deed, and by virtue thereof the voluntary act and deed of the Village of Centerburg, and, under penalty of perjury in violation of Section 2921.11 of the Revised Code, represented to me to be said person.

In testimony thereof, I have hereunto set my hand and official seal this ____ day of _____, 201__.

Notary Public

Lessee, by its duly authorized officer, hereby executes this Lease on the date below written.

DEL-CO WATER COMPANY, INC.

By: _____

Date Timothy D. McNamara, President

STATE OF OHIO,
COUNTY OF DELAWARE, ss.:

Before me, a notary public in and for said county and state, personally appeared Timothy D. McNamara, President of Del-Co Water Company, Inc., who indicated he is authorized in the premises, that execution of the foregoing instrument is his voluntary act and deed, and by virtue thereof the voluntary act and deed of the Del-Co Water Company, Inc., and, under penalty of perjury in violation of Section 2921.11 of the Revised Code, represented to me to be said person.

In testimony thereof, I have hereunto set my hand and official seal this ____ day of _____,
201__.

Notary Public

CERTIFICATION OF BEGINNING DATE OF TERM

I hereby certify that the water tower on the Premises was transferred and conveyed by Lessor to Lessee on the ____ day of _____, 201__, which date pursuant to ¶ 1 hereinabove becomes the beginning date of the term of this Lease.

VILLAGE OF CENTERBURG (OHIO)

By _____
Title: Mayor

This instrument prepared by:

Manos, Martin, & Pergram Co., LPA
50 North Sandusky Street
Delaware, OH 43015-1926
(740) 363-1313

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