

(c) Restrictions. The Company shall not, without the prior written consent of the Board and subject to the Bond Documents: (i) change the nature of the business of the Waterworks as currently conducted, (ii) change the accounting methods or practices with respect to the Waterworks, (iii) enter into any contract, commitment or transaction not in the usual and ordinary course of the business of the Waterworks, (iv) utilize the assets of the Waterworks for any purpose other than the continued operation of the Waterworks, (v) distribute any of the assets of the Waterworks to the Company or any other person or entity, or (vi) dispose of, transfer, convey, pledge, mortgage, encumber or otherwise subject to any lien or security interest any of the assets of the Waterworks.

Section 4.02 Personnel.

(a) As of the Commencement Date, the Company shall recognize all certified unions representing Department or IWC employees who are performing work subject to this Agreement ("Bargaining Unit Employees") and agrees to assume the current collective bargaining agreements and to honor any collective bargaining agreement that may be negotiated with respect to IWC Transferred Employees ("CBA") (with respect to Bargaining Unit Employees) for the term of such agreements. During the term of this Agreement, the Company must (i) maintain a competent work force at a skill level sufficient to meet all operational and maintenance needs in a timely and efficient manner, (ii) ensure the continued and uninterrupted operation of the system on a twenty-four (24) hour per day, seven (7) day per week basis, and (iii) comply with all Applicable Laws in the performance of its responsibilities under this Agreement.

(b) As of the Commencement Date, the Company shall offer employment to IWC employees listed on Schedule 5.9(a) of the Asset Purchase Agreement provided at Closing and employed as of the Commencement Date. Such offer to each non-Bargaining Unit Employee shall include (1) position and wages or salary substantially comparable to such employee's position and wages or salary at IWC at the time such employee's employment with IWC ended, and (2) except as otherwise provided herein, the same retirement and welfare benefits that are offered to similarly situated employees of the Company. The Company shall assume sponsorship of, and all rights and obligations of IWC under, the following plans of IWC, and may at its own expense, and except as otherwise provided herein, amend or terminate such plans or merge them into its own retirement plans or provide a comparable benefit program, to the extent permitted by the CBA, as amended from time to time: (1) IWC Resources Corporation Employees' Pension Plan (the "Pension Plan"), (2) IWC Resources Corporation Executive Supplemental Benefit Plan, (3) IWC Resources Corporation Deferred Compensation Plan, (4) IWC Resources Corporation Employee Thrift Plan, (5) IWC Bargaining Unit 401(k) Plan, (6) IWC Resources Corporation Employee Stock Ownership Plan (the "ESOP"), (7) Group Life, Health, Dental and Disability Plan of IWC Resources Corporation ; and (8) Medicare Supplemental Health Insurance Plan. The foregoing assumption of plan sponsorship shall be completed pursuant to the Plan Sponsorship Agreement attached hereto as Exhibit 15 and shall be conditioned upon IWC's execution thereof. As of the Commencement Date, each Transferred Employee shall be given credit for the Transferred Employee's service with IWC for purposes of

benefit eligibility, accrual and vesting in all Company employee benefit plans and Retiree Benefits. Any co-insurance and deductibles paid by IWC Transferred Employees under the Group Life, Health, Dental and Disability Plan of IWC Resources Corporation or Medicare Supplemental Health Insurance during the year of the Commencement Date shall be counted towards the applicable co-insurance and deductibles under the Company's medical insurance plan for that same year, to the extent permissible. The Company shall waive any pre-existing condition exclusions contained in any Company's plan that would otherwise apply to IWC Transferred Employees and their dependents for conditions existing at the Commencement Date.

(c) Employees hired by the Company to provide Services shall be employees of the Company and not the City or the Department, and except as provided otherwise herein for Retiree Benefits, the Company shall be solely liable for the payment of all wages and provision of all other benefits to such employees in connection with their employment. The Company shall provide all management, supervisors, safety and training personnel, and other personnel necessary to responsibly provide the Services.

(d) To the extent permitted by law, prior to employing any person, the Company must request and obtain from such person detailed information concerning such person's qualifications and ability to perform the position for which such person is applying. The Company's employee records are to be subject to the Department's inspection at any time during the duration of this Agreement, to the extent permitted by law.

(e) The Company shall provide newly hired employees with an orientation and shall conduct interviews, career planning sessions, employee performance and needs assessments and initial ninety (90)-day performance reviews. IWC Transferred Employees shall become participants in the Company's medical plans applicable to similarly situated employees on the Commencement Date. The Company shall advise each employee set forth on Exhibit 5.9(a) of the Asset Purchase Agreement regarding the employee's eligibility for Retiree Medical Benefits at least ten (10) days before the Commencement Date. For a period of twenty four (24) months from the Commencement Date, IWC Transferred Employees cannot be terminated except for cause or subject to lay-offs or reductions in force. The Company shall continue to accrue benefits under the IWC Resources Corporation Employees' Pension Plan for all employees through December 31, 2002, and after that, for Bargaining Unit Employees pursuant to the CBA, as amended from time to time. The Company shall freeze the benefits under the IWC Resources Corporation Executive Supplemental Benefit Plan and the IWC Resources Corporation Deferred Compensation Plan at the Commencement Date. The Company shall convert the ESOP into a profit-sharing plan and shall contribute to the plan for all employees 1.5% of compensation through December 31, 2002, and after that pursuant to the CBA, as amended from time to time. The Company will pay scholarship benefits which were awarded to qualifying students prior to the Commencement Date under the T.W. Moses Memorial Scholarship program.

(f) The Company shall assign an individual employee of the Company to act as the "Operations Manager." The Department reserves the right to reject the Company's proposed Operations Manager. The Operations Manager shall be responsible, on a full-time basis, for the

management and oversight of the safe and reliable provision of all Services. The Operations Manager shall be expected to directly supervise the daily activities of Company personnel employed to operate, support and monitor all activities associated with the Services. The Operations Manager will be the primary Company liaison with the Department.

The Operations Manager shall be required to have a thorough working knowledge of the requirements of all Applicable Laws. The Operations Manager shall work cooperatively with the Department with respect to service quality, providing operational data, planning future service, responding to complaints and comments from customers and the general public, and responding to specific requests for other assistance.

As required, the Operations Manager shall attend all meetings and hearings pertaining to the provision of Services. This includes, but is not limited to, City-County Council meetings, Board meetings, and any and all citizen advisory group meetings. In the event the Operations Manager is unable to attend such meetings, the Operations Manager shall appoint a staff member with the authority to act on the Company's behalf and to appear as an agent of the Company in his or her place.

In the event the Operations Manager is unable to perform his or her duties, the Operations Manager shall appoint a staff member to serve in his or her place. The Company shall provide the Department-designated representative prior written notice whenever such appointment shall occur. If the Operations Manager is unable to perform his or her duties for more than two consecutive weeks, the Company shall assign another individual employee of the Company to act as a substitute Operations Manager, subject to Department approval and Applicable Laws.

(g) The Company designates James H. Buckler as the Company's initial Operations Manager. The Operations Manager, and any Department-approved successor, and all Company management employees assigned to the Waterworks on a full-time basis, shall, within ninety (90) days of the Commencement Date, comply with the Department's residency requirements, if any.

(h) The Department has selected the Company to perform the Services contemplated under this Agreement based, in part, on the past successful experience and expertise of the designated Operations Manager and the Company's key personnel, including the Operations Manager (the "Key Personnel"). The Company shall designate no fewer than three of its top managers as Key Personnel within sixty (60) days of the Commencement Date. Absent Department approval, the Company shall not replace any Key Personnel. In the event the Company desires to replace any Key Personnel for any reason, the Company shall provide the Department with ninety (90)-day's advance written notice or as much notice as is reasonably practicable under the circumstances.

In the event any Key Personnel voluntarily terminates his or her employment with the Company, the Company shall immediately provide notice to the Department.

The Department may require the Company to remove or replace any Key Personnel, with or without cause at any time. The Department, in its discretion, reserves the right to reject any candidate the Company proposes as a replacement or substitute Key Personnel.

(i) Commencing on or before ninety (90) days after the Commencement Date, the Operations Manager or an appropriate supervisory-level employee of the Company shall conduct a performance review session with each employee, for the purpose of giving each employee an opportunity to discuss the employee's job performance and future career development. The Company will endeavor to schedule and complete such performance review sessions within a period of thirty (30) days.

(j) The Company shall ensure that all management and personnel education and training relative to the operation, maintenance, repair and management of the Waterworks is continually updated on a scheduled basis, and that such management and personnel shall be recertified or relicensed, as applicable, as required or as recommended pursuant to Applicable Law. The Company shall provide training for all personnel involved in providing the Services. It is the sole responsibility of the Company to ensure that all personnel are fully knowledgeable of his or her duties and responsibilities. It is also the Company's responsibility to provide additional training if the training requirements specified by the Department are insufficient. All personnel who come in contact with the public in the performance of their duties must complete a City-approved sensitivity training/disability awareness course. The Company shall be expected to develop, implement, and maintain a formal training and retraining program for all personnel. The training and retraining program shall be submitted to the Department for review and comment. The program must provide a fixed minimum number of hours of training for new employees, including classroom instruction, and in-service training. The program must provide formal retraining methods, including criteria for determining the success of retraining efforts.

The Department reserves the right to inspect, review and monitor any and all training conducted by the Company. This includes, but is not limited to, inspection and review of all training materials, interviews with all training personnel, and monitoring of all training classes.

Each employee's training needs will be assessed against qualifications and experience required for each job description. Job skills enhancement training shall be provided by the Company for operations, collection and distribution systems, maintenance and management at all levels. The first round of training shall be concluded by the end of the first Billing Year with continued training throughout the term of this Agreement.

(k) The Company shall implement, as part of its in-house training program, a policy of assessing each new employee's training needs against the qualifications and experience required for each job description and, in consultation with the employee, shall develop for each employee an appropriate potential career path.

(l) The Company shall not unlawfully discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin,

age, disability, ancestry, disabled veteran status or Vietnam-era veteran status, nor commit any other unlawful or unfair employment practice and shall comply, to the extent applicable, with federal, state or local law, including Indiana Code §§ 22-9-1-10 and 5-16-6-1 and Indianapolis Municipal Code 581-102. The Company shall take affirmative steps to ensure that applicants are considered for employment, and that employees are dealt with during employment, without regard to their race, color, religion, gender, national origin, age, disabled veteran or Vietnam-era veteran status. Such affirmative steps shall apply to, but not be limited to, the following: hiring, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(m) The Company shall create, maintain, and document employee retention programs to minimize turnover among employees.

(n) The Company shall implement an appropriate drug and alcohol abuse testing policy as required or permitted by Applicable Laws and the current CBA, as amended from time to time. Reports of drug and alcohol testing programs, showing non-confidential information, shall be kept on file and made available to the Department upon request.

(o) The Company shall conduct appropriate background checks including, but not limited to, criminal record checks, subject to Applicable Laws.

(p) Unless terminated as provided in this subsection and subject to section 4.01(b)(15), the Company shall provide Retiree Medical Benefits to (1) all persons listed on the Schedule 5.9(h) provided by IWC at Closing who were at the Commencement Date receiving Retiree Medical Benefits from IWC or the division of IWC comprising former UDC employees, including retirees, their spouses and surviving spouses, (2) all Bargaining Unit IWC Transferred Employees as required by the CBA, as amended from time to time, (3) all non-Bargaining Unit IWC Transferred Employees, their spouses and surviving spouses, who have, on or before December 31, 2004, met the eligibility criteria for Retiree Medical Benefits which were in effect at the Commencement Date (the earlier of (with at least five years of service): (i) age 55 with combined age and years of service of 70 or more, (ii) any age with combined age and years of service of 75 or more, and (iii) age 50 with 15 years of service and disabled ("Eligibility Criteria")). The Retiree Medical Benefits provided must be substantially the same as the health insurance and life insurance benefits that are at that time provided to active employees of the Company, and must satisfy the requirements of the CBA, as amended from time to time, except that health insurance provided after Medicare eligibility may be supplemental to Medicare. The Retiree Medical Benefits shall include 100% of the cost of the retiree health insurance, life insurance and Medicare Part B premium reimbursements for retirees and their spouses, but may incorporate a charge to surviving spouses of 100% of the cost of single coverage health insurance. The Company may (1) negotiate with all certified unions regarding a reduction of, termination of or amendment of the Retiree Benefits, and (2) seek from IWC Transferred Employees a knowing and voluntary waiver of their right to Retiree Benefits. The Company shall, at its expense, perform all administrative services related to Retiree Medical Benefits, including but not limited to, maintaining employee records necessary to determine eligibility for

Retiree Medical Benefits, determining eligibility for Retiree Medical Benefits, conducting actuarial evaluations from time to time, administering retiree claims, obtaining from the Grantor Trust the appropriate amounts to cover Retiree Medical Benefits premiums and claims and paying those premiums and claims, and reporting to the appropriate governmental entities. Retiree Medical Benefits shall be satisfied through retirees' participation in the Company's insurance programs. The Department shall pay to the Company each month from the Grantor Trust solely for the cost of the Retiree Medical Benefits that the Company provided to IWC retirees (but not to UDC retirees, their spouses and surviving spouses ("UDC Retirees")), including premium costs and claims, and to the extent permitted by law, administrative expenses, the previous month, as required by this Agreement. The Company shall at its own expense, and not out of the Grantor Trust, pay for all UDC Retiree Medical Benefits, except that the surviving spouse of a UDC Retiree may be charged 100% of the cost of single coverage health insurance. The Company shall be responsible for any accrued liability unvested as of January 1, 2005 associated with the Retiree Medical Benefits, based on actuarial valuations conducted from time to time, through such time as the Retiree Medical Benefits are terminated or any termination of this Agreement. Such responsibility shall include, to the extent permitted by Applicable Law, making contributions to the Grantor Trust for IWC Transferred Employees (but not UDC transferred employees) who are not vested in Retiree Medical Benefits as of January 1, 2005, commencing January 1, 2005. Except with respect to UDC transferred employees, to the extent the Company (i) continues to offer Retiree Medical Benefits to any employees who would first become vested in Retiree Medical Benefits on or after January 1, 2005, and (ii) timely makes the required contribution to the Grantor Trust for such Retiree Medical Benefits, the Retiree Medical Benefits shall be reimbursed from the Grantor Trust.

(q) At the Commencement Date, to the extent a Transferred Employee has not been paid for accrued but unused vacation or sick days, the Company shall credit the IWC Transferred Employees with the number of vacation days and sick days equal to the Transferred Employee's vacation day and sick day entitlement for the calendar year of the Commencement Date, reduced by the number of vacation days and sick days such Transferred Employee has taken on or before the Commencement Date and increased by accrued but unused vacation and sick days carried over from years prior to the year of the Commencement Date. To the extent permitted by law, after December 31, 2002, the Company will pay non-Bargaining Unit IWC Transferred Employees base wages or salary for vacation days which are carried over to the Company in excess of the vacation days permitted under the Company's vacation policy and will pay non-Bargaining Unit IWC Transferred Employees base wages or salary for sick days carried over at greater than the Company's allowable maximum of 20 days.

#### Section 4.03 Safety of Persons and Property.

On and after the Commencement Date and through the term of this Agreement, the Company shall:

(a) take all reasonable precautions, including security measures at least equal to the past security practices of the owner of the Waterworks, to prevent damage, injury or loss to the