

ORDINANCE 16-2012

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF MOORESVILLE, INDIANA, DECLARING THAT A PUBLIC
CONVENIENCE AND NECESSITY REQUIRE THE TOWN OF MOORESVILLE
TO ACQUIRE AND/OR CONDEMN UTILITY PROPERTY**

WHEREAS, the Town of Mooresville ("Town") is a political subdivision and municipality organized and operating under the laws of the State of Indiana; and

WHEREAS, it is the intent of the Town Council ("Council") of Mooresville to protect and advance the health, safety, welfare, and wellbeing of its citizens, utility users, and the community; and

WHEREAS, local governments such as the Town are often uniquely situated to account and provide for the best interests of the community, citizens, and users through the provision of utility services; and

WHEREAS, the Town already has a municipal utility that provides certain services; and

WHEREAS, the Town has held public meetings and a hearing, received public input from citizens and the existing water utility, Indiana-American Water Company, Inc. ("IAWC"), and retained attorneys, accountants, engineers, and appraisers to evaluate, advise the Town with respect to, and value IAWC's utility assets in and around the Town as are necessary and appropriate in the provisions of water service, generally known as the "IAWC Mooresville Utility;" and

WHEREAS, on November 21, 2012, consistent with Ind. Code 32-24-1-5(c), the Town tendered a written offer to IAWC seeking to purchase the IAWC Mooresville Utility, the amount of such offer being based upon the fair value of the IAWC Mooresville Utility as determined by an independent appraisal; and

WHEREAS, IAWC had thirty (30) days to accept the Town's offer to purchase the IAWC Mooresville Utility; and

WHEREAS, IAWC did not accept the Town's November 21, 2012 offer to purchase the IAWC Mooresville Utility, and the Town and IAWC have been unable to otherwise agree on a price to be paid for the IAWC Mooresville Utility; and

WHEREAS, the Town Council now finds in the exercise of its legislative discretion that the public necessity exists for the Town to exercise its legal authority to condemn and operate the IAWC Mooresville Utility; and

WHEREAS, Indiana law, including Ind. Code 8-1-2-93, specifically provides that IAWC is required to consent to the Town's acquisition or purchase of the IAWC Mooresville Utility; and

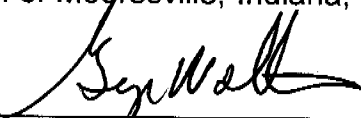
WHEREAS, the Council desires to affirm that its President is authorized to execute any and all necessary or appropriate documents, and its attorneys are authorized to file any and all necessary or appropriate papers, to effectuate the acquisition or condemnation of the IAWC Mooresville Utility.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Mooresville, Indiana, as follows:


1. The above recitals are incorporated herein by this reference as though fully set forth herein below.
2. The Council hereby finds and declares, consistent with its legislative discretion, that a public necessity exists for the Town to condemn and own and operate the IAWC Mooresville Utility.
3. The Council hereby affirms and ratifies that its President may execute any and all documents necessary or appropriate to pursue and finalize the acquisition and condemnation of the IAWC Mooresville Utility.
4. By passage of this Ordinance, the Council authorizes its attorneys to prepare and file any and all papers to pursue and effect the acquisition and/or condemnation of the IAWC Mooresville Utility, including, but not limited to, bringing an action in the appropriate Court for the same.
5. To the extent any prior action, ordinance, or other provision of the Town is inconsistent with this Ordinance, such action, provision, or ordinance is superseded to the extent necessary to effectuate this Ordinance.
6. The terms, paragraphs, sentences, words, and actions of this Ordinance are separable, and if any portion of this Ordinance or its acts is found to be unconstitutional, invalid, or unenforceable, any such determination shall not affect the remaining terms or portions of the Ordinance and related actions of the Town and Council.
7. This Ordinance is effective immediately upon its adoption.

[Signature Page Follows]

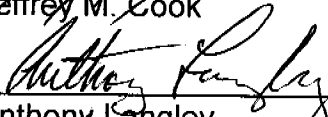
Adopted by the Town Council of the Town of Mooresville, Indiana, on this 24
day of December, 2012.




George Watkins, President



Jeffrey M. Cook



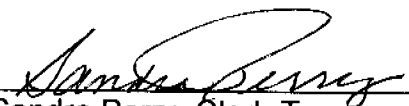
Anthony Langley



Virginia Perry



Mark Mathis

ATTEST: 
Sandra Perry, Clerk-Treasurer

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