

IMAGE COPY PROPERTY OF MARION COUNTY

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MARCIA M. HAWTHORNE
RECORDER OF MARION COUNTY

LICENSE AGREEMENT

THIS INSTRUMENT WITNESSES THAT:

WHEREAS, the Indianapolis Water Company ("the Water Company") owns Geist and Morse Reservoirs, which lie in Marion, Hamilton, and Hancock Counties, State of Indiana, and operates them for water supply purposes; and

WHEREAS, on December 30, 1960, the Water Company conveyed to The Shorewood Corporation ("Shorewood") certain lands abutting Geist and Morse Reservoirs by Special Warranty Deeds that reserved certain easements to the Water Company over the lands conveyed, and created certain restrictions, covenants, and servitudes in the Water Company's favor; and

WHEREAS, on October 11, 1965, the Water Company released and modified those restrictions, covenants, easements, and servitudes and, prior to the execution hereof, by separate instruments of Release and Modification dated October 19 19, 1970, has further released and modified said covenants, restrictions, easements, and servitudes as they apply to real estate presently owned by Shorewood (which covenants, restrictions, easements, and servitudes as restated in the last mentioned instrument are hereinafter called "the Covenants"); and

WHEREAS, Shorewood plans to subdivide and sell all or a portion of the real estate it now owns, including the real estate acquired from the Water Company and burdened by the Covenants, and, in order that it may provide the most desirable recreational uses to purchasers of such real estate, has requested

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NOT FOR RESALE - IC 36-2-7-10

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IMAGE COPY PROPERTY OF MARION COUNTY, IA FOR LICENSE ONLY NO FOR RESALE IC 36-2-7-10

the Water Company to grant certain licenses with respect to the use of the reservoirs to Shorewood and subsequent owners of real estate now owned by Shorewood; and

WHEREAS, the Water Company is willing to grant such licenses with respect to the reservoirs upon the terms and conditions stated herein:

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the parties agree as follows:

1. The initial term of these licenses shall be for the period beginning October, 19, 1970, and ending October 30, 2069, unless sooner terminated as provided for herein. After October 30, 2069, these licenses shall continue from year to year unless either party terminates the licenses upon thirty (30) days' written notice to the other party prior to the end of any such year.

2. During the term of these licenses Shorewood shall have the privilege of installing and constructing marinas, boat docks, and beaches for commercial use adjacent to the shore line of either Geist or Morse Reservoir and extending a reasonable distance into the reservoirs.

3. Shorewood or its grantees or successors in interest who own, or are otherwise legally entitled to use or occupy, real estate abutting upon Geist or Morse Reservoirs may construct and install private beaches, boat docks, or boat houses for the use of themselves, or their invitees, and may cut or contour the

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banks of the reservoirs; provided, however, that any such beach, boat dock or boat house shall not extend more than 25 feet into the reservoir from the boundaries of the lands presently owned by Shorewood.

4. Shorewood, its grantees, successors in interest, invitees, or the invitees of its grantees or successors in interest may use the reservoirs for all water-related recreational uses, such as boating, swimming, fishing, water skiing, ice boating, and ice skating.

5. Rules and regulations for the use of the reservoirs that are necessary for the promotion of safety and recreational uses of the reservoirs shall be made by a three person committee composed of one designee of Water Company, one designee of Shorewood, and one person selected by the other two members of the committee.

6. The Water Company shall not be liable to Shorewood or to any other person for any damage either to person or to property caused by or resulting from the use of the reservoirs or activity thereon by Shorewood, its employees, successors in interest, sublicensees, concessionaires, agents, invitees, or permittees and not caused or contributed to by any act of the Water Company or any of its agents, employees, or invitees (except the act of owning or operating the reservoirs).

7. In the event the Water Company, solely by reason of its status as owner or operator of the reservoirs, becomes involved, through or on account of the terms of this License

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Agreement, or through or on account of the activities of Shorewood, its grantees, successors in interest, or invitees or permittees of any of them that occur on or in connection with the reservoirs, in any controversy or litigation with third persons or parties, Shorewood shall, upon notice from the Water Company or its agents, immediately do whatever is reasonable and feasible without prejudice to Shorewood's rights and interests to remove the Water Company's connection with, or liability under, such controversy or litigation. If Shorewood believes it has a good and valid defense or claim in such controversy or litigation that Shorewood desires to set up and maintain by and throughout court procedure and litigation, Shorewood shall have the right to do so. Shorewood shall immediately pay and discharge any and all final judgments, liens, costs, damages, expenses and obligations of the Water Company whatsoever in, or arising out of, the controversy or litigation involving the Water Company or its agents, including all costs, expenses and attorneys' fees incurred by the Water Company or its agents in protecting their interest or defending themselves in such controversy or litigation. So long as Shorewood is in good faith and by competent legal counsel actively defending the rights and interests of the Water Company in any such controversy or litigation, Shorewood shall not be liable for any expense of separate legal counsel representing the Water Company.

8. Shorewood shall procure and maintain during the terms of this Agreement Workmen's Compensation insurance, and

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fire and extended coverage insurance, public liability and property damage insurance, employee liability insurance, and such other insurance as is customarily carried by prudent operators of similar businesses. All such policies shall be so issued that they will inure to the benefit of Shorewood and the Water Company as their interests may appear, and shall be issued by a company or companies licensed to do business in the State of Indiana, and all such policies shall be written by reputable insurance companies acceptable to the Water Company; provided that all insurance proceeds paid for damage to property of Shorewood shall be payable solely to Shorewood (and the policies shall so provide). The minimum amounts of public liability and property damage insurance to be provided by Shorewood hereunder shall be agreed upon by the parties. Shorewood will provide the Water Company with certificates of all such insurance, which will provide that no cancellation shall be made for any cause without ten (10) days' written notice to the Water Company.

9. Shorewood shall not permit, and its grantees, successors in interest, or invitees shall not make, any use of the reservoirs that will cause or promote erosion of the banks or contamination, pollution, or diminution of the water supply, or interfere with their proper use, function, and maintenance as a source of water for use by the Water Company in its business.

In addition to any rules or regulations made by any committee created pursuant to paragraph 5 of this instrument, reasonable rules may be made and enforced by the Water Company to protect the reservoirs from erosion, contamination, pollution, diminution of the water supply, and interference with their proper use, function, and maintenance as a water supply facility, and the Water Company retains the right to make such reasonable rules and the right to take all reasonable actions upon the reservoirs necessary or requisite to protect, maintain, and use its water supply at Morse and Geist Reservoirs. Water Company will use reasonable care and good workmanship in the exercise of its reserved or retained rights hereunder. If, however, the action of Water Company causes damage to any structure or improvement that was lawfully constructed or erected pursuant to the licenses granted by paragraphs 2 and 3 hereof, Water Company will, to the extent possible and compatible with maintenance of the water supply in the reservoirs, repair and restore such structure or improvement to its previous condition, and this shall be the sole remedy for damages inflicted by Water Company or its employees in the proper exercise of these reserved or retained rights.

10. In the event Shorewood

(a) fails to maintain health and sanitary standards on either reservoir so that the quality or quantity of the water supply in a reservoir is endangered and such failure continues for five (5) days after notice designating such failure, or fails to perform (or in good faith to commence to perform and thereafter diligently complete performance of) any other of its covenants under this Agreement within twenty (20) days after notice; or

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(b) is adjudicated a bankrupt; or

(c) has a receiver in equity appointed for all or substantially all of its property and the appointment of such receiver is not set aside within ninety (90) days, or requests or consents to the appointment of a receiver; or

(d) has a trustee in reorganization appointed for its property and the appointment of such trustee is not set aside within ninety (90) days; or

(e) files a voluntary petition for reorganization or arrangement; or

(f) files a voluntary petition in bankruptcy; or

(g) files an answer admitting bankruptcy or agreeing to a reorganization or arrangement; or

(h) makes an assignment for the benefit of its creditors;

then, and in any such event, the Water Company may terminate Shorewood's privileges under this Agreement and reassume its control over the reservoirs with or without process of law, using such force as may be necessary, and remove all persons and property therefrom that endanger the water supply in the reservoirs, make such alterations and repairs as may be necessary in order to protect the quantity and quality of the water supply in the reservoirs, and Shorewood shall remain liable for all costs and expenses of such alterations and repairs. The Water Company shall not however, in the exercise of its rights hereunder, revoke any licenses inuring to the benefit of Shorewood's grantees unless it is necessary to do so for the protection of the quantity or quality of the water supply in the reservoirs.

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In the event of any default hereunder which has not been remedied, or in good faith commenced to be remedied, after the required notice, the Water Company may cure such default for the account and at the expense of Shorewood, and the reasonable amounts paid therefor shall be repaid by Shorewood, with interest at the rate of 6% per year, on the first day of the month following payment and notice thereof.

11. In the event that either party shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of fire, casualty, strikes, lockout, labor troubles, inability to procure materials or supplies, failure of power, governmental authority, riots, insurrection, war or other reason of like nature, where such delay, hindrance or prevention of performance shall not be within the reasonable control of the party obligated to perform and not be avoidable by diligence, the party so delayed shall promptly give notice thereof to the other party and thereupon performance of such act shall be excused for the period of delay.

12. In the event Water Company, in its sole discretion, shall raise the spillway upon the present dam or construct one or more new dams at Geist Reservoir so that the water level in that reservoir is raised higher than 785.0 feet above sea level these rights and licenses as they apply to Geist Reservoir shall terminate.

13. Each party promptly shall send the other a copy of all notices and process received by it concerning any pending,

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impending, or threatened claim, assessment, action, or other matter which does or may, directly or indirectly, affect such other party.

14. Both parties shall comply with all applicable statutes, laws, ordinances, regulations, orders, decrees and rules of all governmental authorities in connection with their management, use, and operation of the reservoirs, except when contesting the same.

15. The laws of the State of Indiana shall govern this Agreement in all of its aspects, including execution, interpretation, performance, and enforcement.

16. No delay in giving notice or in pursuing any remedy hereunder with respect to a default shall be deemed a waiver thereof, and such notice may be given and all remedies pursued at any time while such default continues. The waiver by the Water Company of the breach of any agreement or condition herein contained in one or more instances shall not be deemed to be a waiver of such agreement or condition or of any breach of the same or any other covenant, agreement, or condition in any other instance.

17. Each of the licenses shall be personal to Shorewood, unless otherwise expressly stated herein. Shorewood may not assign its personal privileges hereunder or delegate any of its obligations hereunder without first obtaining the written approval of the Water Company. In the event of an approved delegation of its obligations, Shorewood shall remain entirely

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responsible for the fulfillment of all of the provisions of this Agreement unless a transfer of such responsibility is specifically provided for in the delegation documents and is approved by the Water Company in writing prior to said delegation.

IN WITNESS WHEREOF, Indianapolis Water Company has, by its proper officers, executed this License Agreement on this 19th day of October, 1970, and The Shorewood Corporation has, by its proper officers, executed this License Agreement on this 19th day of October, 1970.

INDIANAPOLIS WATER COMPANY

By Thomas W. Moses
President

ATTEST:

Henry W. Stankis
Secretary

THE SHOREWOOD CORPORATION

By Allen E. Rowley
Vice President

ATTEST:

Henry W. Stankis
Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

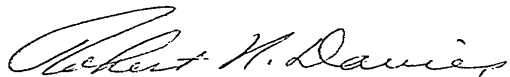
Before me, a Notary Public in and for said County and State, personally appeared Thomas W. Moses and

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Henry V. Starks, to me known and to me known to be the President and Secretary, respectively, of Indianapolis Water Company, and acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation and of each of them as such officer.

Witness my hand and Notarial Seal this 19th day of October, 1970.


Notary Public


My commission expires:

July 21, 1971

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Allen E. Rosenberg and Henry V. Starks, to me known and to me known to be the Vice President and Secretary, respectively of The Shorewood Corporation, and acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation and of each of them as such officer.

Witness my hand and Notarial Seal this 19th day of October, 1970.


Notary Public

My commission expires:

July 21, 1971

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This instrument was prepared by Robert N. Davies.

I certify this to be a true copy of the original.