

**CITY OF ELKHART  
BOARD OF PUBLIC WORKS MEETING  
AGENDA**

**Common Council Chambers**

**9:00 A.M., Tuesday, Dec 7, 2021**

<https://coei.webex.com/coei/j.php?MTID=m18394a7b1cd7f0bf62bed1e78742ad1f>

Join by phone: 1-415-655-0001

Meeting Number (access code): 2308 945 5881 Meeting password: BOW21

- I. Roll Call**
- II. Approve Agenda**
- III. Claims**
- IV. Minutes:** Regular Meeting November 16, 2021
- V. 2022 Water, Wastewater, Aquatics, and Storm Water Utility Operating and Capital Budgets**
- VI. Tabled Items:**
  - Notice of Violation Grease Control Device Not in Operational Order Happy North Garden 2900 Cassopolis St. (F2019-033)
  - Notice of Violation 25% Rule Happy North Garden 2900 Cassopolis St. (F2019-033)
- VII. Engineering**
  - a.) Administration
    - PSA Abonmarche: Asset Management EAM and GIS Support
  - b.) Utility
    - Change Order #1 & Final: 2010 Superior St. Sewer Repairs Quote #21-15
    - Payment #35, #36, #37, & 38 to Donohue & Associates: Elkhart WWTP Capacity Upgrades Phase 2
  - c.) Right of Way
    - Change Order #2 South Main Street Streetscape Lusher to Hively Bid #21-14
    - Change Order #1 & Final CR 17 Resurfacing Bid #21-26
    - Lexington Business Centre Plat- Right of Way Dedication
    - Request Quote #22-01 Burr Oak Avenue Clearing
    - Change Order #1 & Final Ace Cab Parking Lot Bid #20-37
    - Change Order #4 & Final Jackson Blvd. Landscape Improvements Bid #18-27
- VIII. Utilities**
  - a.) Administration
    - Wastewater Treatment Plant MRO October 2021

- Estoppel Certificate for AMZ (Elkhart) Propco LLC
- b.) Stormwater
  - PSA with DLZ Indiana LLC: Lawndale Area Groundwater Intrusion Study
- c.) Environmental Compliance
  - Notice of Violation Failure to Submit FOG Application Cracker Barrel #113 110 Northpointe Blvd. (F2015-100)
  - Notice of Violation 25% Rule Dairy Queen 1839 Cassopolis St. (F2015-356)
  - Notice of Violation Failure to Submit FOG Application Neveria Tres Mangos De Michoacan 2510 C Benham (F2016-007)
  - Notice of Violation 25% Rule Vanilla Bean Creamery 538 S. Main (F2019-011)
  - Notice of Violation 25% Rule Yummy Chinese 30913 US 20W (F2018-005)
  - Notice of Violation Failure to Submit FOG Application Concord Event Center 3719 S. Main St. (F2019-007)

## **IX. New Business**


- PSA Rundell Ernstberger Associates: Zoning Ordinance Update
- Transfer of Fixed Assets
- Elkhart Truth Contract Agreement
- Ratify Agreement with First Person: Pay for Performance Project
- Agreement with Baker Tilly for Estimated Loss of Revenue from Business Personal Property Taxes
- 2022 EAP Contract with New Avenues
- 2022 Contract with Everside Health
- 2022 Medical Insurance Contract with Anthem

## **X. Public Participation**

## **XI. Adjournment**

**Board of Public Works**  
**CLAIM AND ALLOWANCE DOCKET**

I HEREBY CERTIFY THAT EACH OF THE ABOVE LISTED VOUCHERS AND INVOICES OR BILLS ATTACHED THERETO ARE TRUE AND CORRECT AND I HAVE AUDITED SAME IN ACCORDANCE WITH IC 5-11-10-1.6. I ALSO HEREBY CERTIFY THAT THESE VOUCHERS AND INVOICES REPRESENT GOODS AND/OR SERVICES THAT ARE FOR THE BENEFIT OF THE CITY OF ELKHART AND THAT APPROPRIATIONS FOR THESE EXPENDITURES HAVE BEEN DULY MADE OR OTHERWISE AUTHORIZED BY THE CITY COUNCIL AND OTHER APPROPRIATE AUTHORITY.

December 2<sup>nd</sup>, 2021   
JAMIE ARCE - CITY CONTROLLER

IN RELIANCE ON THE ABOVE CERTIFICATION, CLAIMS IN THE TOTAL AMOUNT OF \$5,389,852.08, AS LISTED ON THE REGISTER ATTACHED HERETO CONSISTING OF 148 PAGES, ARE HEREBY APPROVED EXCLUDING ANY CLAIMS WITHHELD AS SHOWN ON THE SEPARATE SUMMARY OF PENDING CLAIMS.

**EXECUTED THIS 7TH DAY OF DECEMBER 2021 BY:**

PRESIDENT

\_\_\_\_\_  
MICHAEL C. MACHLAN

VICE PRESIDENT

\_\_\_\_\_  
CHAD CRABTREE

MEMBER

\_\_\_\_\_  
JAMIE ARCE

MEMBER

\_\_\_\_\_  
RON DAVIS

MEMBER

\_\_\_\_\_  
ROSE RIVERA

**ORIGINAL COPY MUST BE RETAINED IN THE CONTROLLER'S OFFICE**

BOARD OF PUBLIC WORKS  
Tuesday, November 16, 2021

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:00 a.m., Tuesday, November 16, 2021. The Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Jamie Arce, Rose Rivera, Chad Crabtree and Ron Davis attended in person.

1. Approve Agenda

On motion by Chad Crabtree seconded by Ron Davis and carried 5-0 the agenda was approved as presented.

2. Claims

On motion by Jamie Arce, seconded by Chad Crabtree and carried 5-0, the Board approved the Claim and Allowance Docket in the amount of \$3,656,948.48 consisting of 112 pages as prepared on November 12, 2021 at 12:03 p.m.

3. Minutes Regular Meeting November 2, 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the minutes from November 2, 2021 were adopted.

4. Tabled Items:

Notice of Violation Grease Control Device Not in Operational Order Happy North Garden 2900 Cassopolis St. (F2019-033)

No action was taken.

Notice of Violation 25% Rule Happy North Garden 2900 Cassopolis St. (F2019-033)

No action was taken.

5. Engineering

(A.) Administration

Change Order #2: River District Zone 1 Earthwork and Utilities Bid #20-38

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved Change Order #2 for the River District Zone 1 Earthwork and Utilities project, Bid #20-38, for an increase of \$29,220.80, bringing the current Contract price to \$1,429,318.58.

(B.) Utility

Change Order #2 & Final: S. Sixth St. Sewer Extension Project Bid #21-23

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the release of retainage and Change Order #2 & Final for the S. Sixth Street Sewer Extension project, Bid #21-23, for an increase of \$111.25, bringing the final Contract price to \$174,829.35.

Change Order #2 & Final: North Main Plant Generator Upgrade Project Bid #20-20

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the release of all retainage and Change Order #2 & Final for the North Main Plant Generator Upgrade project, Bid #20-20, for a decrease of \$78,324.93, bringing the final Contract price to \$450,848.07.

(C.) Right of Way

Change Order #2: Benham Ave. Reconstruction Project: Bid #20-23

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the release of retainage and Change Order #2 and Final for the Benham Avenue Reconstruction project, Bid #20-23, for an increase of \$124,823.93,



BOARD OF PUBLIC WORKS

Tuesday, November 16, 2021

bringing the current contract price to \$3,096,340.03.

Change Order #1 and Final Elkhart County Visitor Center Driveway Project-Quote #21-03

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the release of all retainage and Change Order #1 and final for the Elkhart County Visitor Center Driveway project, Quote #21-03, for an increase of \$7,121.30, bringing the final Contract price to \$32,011.30.

(D.) Summary

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board ratified the following permits:

Revocable Permit: #6500, Property Owner: Jeff Whisler

Property: 126 S. Main St.

Permit Holder: Jeff Whisler

Blocking off part of the sidewalk and parking

Sewer Assessment Application:

Jon Brown

24137 Roadster Ct

Elkhart, IN 46516

Property: 701 Fieldhouse Ave

Paid in full, \$3,600.00

Water Assessment Applications:

Jon Brown

24137 Roadster Ct

Elkhart, IN 46516

Property: 701 Fieldhouse Ave

Paid in full, \$1,095.50

Gregorio Rodreguez

1227 Fieldhouse Ave

Elkhart, IN 46517

Property: 1227 Fieldhouse Ave

Paid in full, \$1,227.00

6. Utilities

(A.) Administration

Water Utility MRO for October 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board accepted and placed on file the Water Utility MRO for October 2021.

Wastewater Treatment Plant Monthly Report for September 2021

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board accepted and placed on file the Wastewater Treatment Plant MRO for September 2021.

Chlorine Price Change

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board accepted the communication from Jeff Zehner, Operation Supervisor advising the Chlorine supplier Jones Chemical Inc. increased the price as noted on the memo dated October 27, 2021.

BOARD OF PUBLIC WORKS  
Tuesday, November 16, 2021

(B.) Finance

3rd Quarter Utility Financial Reports

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board accepted and placed on file the 3<sup>rd</sup> Quarter Utility Financial Reports.

2022 Utility Budget Request

On motion by Chad Crabtree, second by Ron Davis and carried 5-0, the Board accepted the draft of the 2022 Utility Budgets as presented for review and consideration at the December 7, 2021 Board of Works meeting.

(B.) Environmental Compliance

Notice of Violation: 25% Rule Subway 2010 Cassopolis St. (F2016-006)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation 25% Rule for Subway 2010 Cassopolis St and assess a penalty of \$100.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Mike asked if anyone was on line and there were no comments. He called for the vote and the motion carried 5-0.

7. New Business

Economic Development Grant

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the Economic Development Grant between the City of Elkhart and the Economic Development Corporation for \$105,240.00.

8. Use & Event Permits

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the following permits:

- Hunger and Homelessness Awareness Resource Fair 11/19- Central Park, Public Assembly, Plaza Sign, Electric
- Winterfest Parade 12/4- Parade & Public Assembly, Park's Stage, ESS, EMS, Golf Cars, Tables/Chairs, EPD, Temporary Street Closures, Electric, Plaza Sign, Special Exception from Noise
- St. Vincent de Paul Church Our Lady of Guadalupe Procession 12/11- ESS, Special Exception from Noise, Public Assembly
- INOVA Federal Credit Union New Year's Eve Fireworks 12/31- ESS, EMS, Temporary Street Closures, Special Exception from Noise

9. Electronic Policy

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the agenda was amended to discuss the electronic meeting attendance policy. Mike asked Nancy to email the policy to the Board and asked Rose to review it. No action was taken.

10. Adjournment

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board of Works adjourned at 10:00 a.m.

\_\_\_\_\_  
Mike Machlan, President

Attest: \_\_\_\_\_ Nancy Wilson, Clerk of the Board.



## MEMO

Date: December 1st, 2021  
To: Board of Public Works  
From: Nicolette Kershner, Utility Accountant - NK  
RE: 2022 Water, Wastewater, Aquatics, and Storm Water Utility Operating and Capital Budgets

Public Works and Utilities requests the Board's approval of the 2022 Water Utility, Wastewater Utility, Aquatic, and Storm Water Utility Operating and Capital Budgets:

| <u>OPERATING and CAPITAL BUDGETS:</u> |                    | <u>TOTAL</u>        |
|---------------------------------------|--------------------|---------------------|
| Water Utility Operating Budget        | \$7,170,723        |                     |
| Water Utility Capital Budget          | <u>\$1,239,500</u> | <u>\$8,410,223</u>  |
| Wastewater Utility Operating Budget   | \$7,954,634        |                     |
| Wastewater Bond & Interest Expense    | \$3,330,000        |                     |
| Wastewater Utility Capital Budget     | <u>\$4,665,243</u> | <u>\$15,949,877</u> |
| Aquatics Operating/Capital Budget     | <u>\$186,637</u>   | <u>\$186,637</u>    |
| Storm Water Utility Operating Budget  | \$742,809          |                     |
| Storm Water Utility Capital Budget    | <u>\$926,673</u>   | <u>\$1,669,482</u>  |

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Michael Machlan, President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chad Crabtree, Vice President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Arce, Member

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ronnie Davis, Member

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rose Rivera, Member

\_\_\_\_\_  
Date



*City of Elkhart*  
Public Works & Utilities

*Tahleed*  
*11/2/21*

To: Members of the Board of Public Works  
From: Lynn Brabec, Environmental Compliance Manager *JB*  
Date: October 22, 2021  
Re: Notice of Violation: Grease Control Device Not in Operational Order– Happy North Garden, 2900 CASSOPOLIS ST (F2019-033)

During an inspection on 3/12/2021 at Happy North Garden, located at 2900 Cassopolis St., Pretreatment staff found two of the three indoor grease traps not in operational order (Violation #1 and Violation #2). Happy North Garden received a certified letter on April 6, 2021 outlining that the two grease traps in non-operational order must either be removed or replaced by June 30, 2021. Removal is permissible because Happy North Garden has a 2,000 gallon grease interceptor installed outside. To date the two indoor grease traps have not been removed or replaced. These are the first and second violations of this type within a year. Happy North Garden did respond to the Notice of Violation received on September 28, 2021, however, the response was received 1 day late on October 14, 2021 (Violation #3). The Penalty Matrices recommends assessing a total penalty of \$800.

**Violation #1: Failure to operate or maintain FOG control device in proper working order**  
Small grease trap under the wok station

| Violation Date | Penalty Matrix Recommendation:* | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response, signed certification statement and FOG application | Additional Violation?  |
|----------------|---------------------------------|---|------------------------|
| 3/12/2021      | \$100                           | No  | Yes (see Violation #3) |

**Violation #2: Failure to operate or maintain FOG control device in proper working order**  
The large 100 GPM grease trap in the floor by the exit door on the north side of the building

| Violation Date | Penalty Matrix Recommendation:* | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response, signed certification statement and FOG application | Additional Violation?  |
|----------------|---------------------------------|---|------------------------|
| 3/12/2021      | \$200                           | No  | Yes (see Violation #3) |

**Violation #3: Failure to respond to Notice of Violation (Written response and signed certification statement)**

| Date of Violation: | Penalty Matrix Recommendation:** |
|--------------------|----------------------------------|
| 10/14/2021         | \$500 Penalty**                  |

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                                | Date of Violation: | Penalty Matrices Recommendation: | BOW Assessed Penalty: |
|--|--------------------|----------------------------------|-----------------------|
| Happy North Garden<br>2900 CASSOPOLIS ST | 3/12/2021          | \$800                            | \$                    |

Approved this 2nd of November 2021.





*City of Elkhart*  
Public Works & Utilities

*tabled  
11/2/21*

To: Members of the Board of Public Works  
From: Lynn Brabec, Environmental Compliance Manager *JB*  
Date: October 22, 2021  
Re: Notice of Violation: 25% Rule Violation – Happy North Garden, 2900 CASSOPOLIS ST (F2019-033)

During a follow-up inspection on 09/20/2021 at Happy North Garden, 2900 CASSOPOLIS ST, one of the three indoor grease traps was found to be in violation of the 25% Rule as defined in Ordinance No. 5434 as amended Section 5.11 and the Best Management Practices outlined in the Elkhart Public Works and Utilities Guide to Wastewater Utility Policies Section 15.6.1. This is the third 25% Rule Violation within a year. Happy North Garden did respond to the Notice of Violation received on September 28, 2021, however, the response was 1 day late. The Penalty Matrices recommends assessing a total penalty of \$750.

**Violation #1: Failure to operate or maintain FOG control device in proper working order (Ord. No. 5434 as amended)**

| Violation Date & FOG Amount | Penalty Matrix Recommendation:* | Met all requirements outlined in Notice of Violation? Requirements included submission of written response, signed certification statement | Additional Violation?  |
|-----------------------------|---------------------------------|--|------------------------|
| 09/20/2021<br>59%           | \$250                           | No   | Yes (see Violation #2) |

**Violation #2: Failure to respond to Notice of Violation (Written response and signed certification statement)**

| Date of Violation: | Penalty Matrix Recommendation:** |
|--------------------|----------------------------------|
| 10/14/2021         | \$500 Penalty**                  |

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                                | Date of Violation: | Penalty Matrices Recommendation: | BOW Assessed Penalty: |
|--|--------------------|----------------------------------|-----------------------|
| Happy North Garden<br>2900 CASSOPOLIS ST | 09/20/2021         | \$750                            | \$                    |

Approved this 2nd of November 2021.

\_\_\_\_\_  
Michael Machlan  
\_\_\_\_\_  
Chad Crabtree  
\_\_\_\_\_  
Jamie Arce  
\_\_\_\_\_  
Ronnie Davis  
\_\_\_\_\_  
Rose Rivera

11-2-21  
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## M E M O R A N D U M

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**DATE:** November 18<sup>th</sup>, 2021  
**TO:** Board of Public Works  
**FROM:** Joseph Feathers, Asset Manager   
**RE:** **Asset Management: Abonmarche Professional Services Agreement (PSA)**

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Our asset management program utilizes from industry leaders CentralSquare's Enterprise Asset Management (EAM) (formerly Lucity, Inc.), and ESRI's Geographic Information System (GIS) to support effective work order management and asset management for the City of Elkhart's water and wastewater horizontal and vertical infrastructure.

This request is for professional services by Abonmarche to provide support for EAM and GIS tasks outlined in the contract.

Once completed, these tasks will enable better time management to the Utilities by automating repetitive tasks, allow better access and support for workers in the field, and improve reporting by enabling access to data from multiple software systems to be accessed from EAM and GIS.

This contract will also be adding a public transparency component serving data to the public in the form of published map & data services, such as lead water service lines, capital improvement projects details, etc.

This request has been reviewed and approved by the Utility Accountant.

It is requested the Board of Public Works:

**Approve the Abonmarche Professional Services Agreement (PSA) for \$67,200.**





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## M E M O R A N D U M

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**DATE:** December 01, 2021  
**TO:** Board of Public Works  
**FROM:** Edgar Moreno, Utility Engineer *EM*  
**RE:** **Change Order Request #1 & Final: 2010 Superior Street Sewer Repairs – Quote #21-15**

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Attached is change order request #1 & Final for the 2010 Superior Street Sewer Repairs. This change order is for the adjustment to final quantities of work by Selge Construction Company, Inc.

This change order to reduce final Selge Construction contracts costs for final quantity adjustments at a cost of -\$1,620.00.

This change order request is for a decrease of \$1,620.00 to the current contract price of \$26,250.00. Approval of change order #1 would decrease the current contract price to \$24,630.00 resulting in a 6.2% decrease from the original contract price of \$26,250.00.

It is requested the Board of Public Works:

**Approve release of all retainage and Change Order #1 & Final for the 2010 Superior Street Sewer Repairs, Quote #21-15, for a decrease of \$1,620.00, bringing the final Contract price to \$24,630.00.**

# CITY OF ELKHART

## PUBLIC WORKS & UTILITIES

Change Order No. 1 and Final  
Dated 11/3/2021

Project: **2010 Superior Street Sewer Repair**

Contract No. 21-15

To: **SELGE CONSTRUCTION COMPANY, INC**

Contractor

You are required to make the changes noted below in the subject Contract:

City of Elkhart

By

President, Board of Public Works

Dated

### Nature of Changes

Adjustment to final quantities. \$ (1,620.00)

**TOTAL** \$ (1,620.00)

These changes result in the following adjustment of Contract Price and Contract Time:

|   |                             |
|---|-----------------------------|
| Original Contract Price                             | \$ 26,250.00                |
| Contract Price Prior to this Change Order           | \$ 26,250.00                |
| Net change resulting from this Change Order         | \$ (1,620.00)               |
| Current Contract Price including this Change Order  | \$ 24,630.00                |
| Current Contract Price % Change from Original Price | -6.2%                       |
| Contract Time prior to this Change Order            | NO CHANGE<br>(Days or Time) |
| Net Time change resulting from this Change Order    | NO CHANGE<br>(Days)         |
| Current Contract Time including this Change Order   | NO CHANGE<br>(Days or Time) |

The above changes are approved:

Public Works & Utilities

BY:

Engineer

11/30/21

DATE

The above changes are accepted:

By:

Contractor

11-30-21

DATE



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## M E M O R A N D U M

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**DATE:** November 2, 2021

**TO:** Board of Public Works

**FROM:** Edgar Moreno, Utility Engineer *EM*

**RE:** **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #35 to Donohue & Associates, Inc.**

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Please see the attached invoice #35 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through August 25, 2021. The invoice totals \$16,248.00 and will be paid through the SRF loan balance. The amount has been rounded to the nearest dollar as required by SRF.

To date, including this payment, we have paid \$1,777,893.00 or 46.03% of the contract.

It is requested that the BOW:

**approve partial payment request #35 in the amount of \$16,248.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.**



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## M E M O R A N D U M

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**DATE:** November 2, 2021  
**TO:** Board of Public Works  
**FROM:** Edgar Moreno, Utility Engineer *EM*  
**RE:** **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #36 to Donohue & Associates, Inc.**

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Please see the attached invoice #36 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through August 25, 2021. The invoice totals \$11,468.00 and will be paid through the SRF loan balance. The amount has been rounded to the nearest dollar as required by SRF.

To date, including this payment, we have paid \$1,789,361.00 or 46.33% of the contract.

It is requested that the BOW:

**approve partial payment request #36 in the amount of \$11,468.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.**



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## M E M O R A N D U M

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**DATE:** November 2, 2021  
**TO:** Board of Public Works  
**FROM:** Edgar Moreno, Utility Engineer *EM*  
**RE:** **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #37 to Donohue & Associates, Inc.**

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Please see the attached invoice #37 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through August 25, 2021. The invoice totals \$18,918.00 and will be paid through the SRF loan balance. The amount has been rounded to the nearest dollar as required by SRF.

To date, including this payment, we have paid \$1,808,279.00 or 46.82% of the contract.

It is requested that the BOW:

**approve partial payment request #37 in the amount of \$18,918.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.**





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## M E M O R A N D U M

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**DATE:** November 29, 2021  
**TO:** Board of Public Works  
**FROM:** Edgar Moreno, Utility Engineer **EM**  
**RE:** **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #38 to Donohue & Associates, Inc.**

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Please see the attached invoice #38 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through November 20, 2021. The invoice totals \$12,348.00 and will be paid through the SRF loan balance. The amount has been rounded to the nearest dollar as required by SRF.

To date, including this payment, we have paid \$1,820,627.00 or 47.14% of the contract.

It is requested that the BOW:

**approve partial payment request #38 in the amount of \$12,348.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.**





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## M E M O R A N D U M

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**DATE:** November 24, 2021  
**TO:** Board of Public Works  
**FROM:** Edgar Moreno, Utility Engineer *EM*  
**RE:** **Change Order Request #3: N. Main Street Water Replacement project – Bid #21-03**

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Attached is change order request #3 for the N. Main Street Water Replacement project. This change order is for the changes by the Simonton intersection and additional parts that were ordered.

This change order to increase Niblock Excavating, Inc. contracts costs for quantity adjustments at a cost of \$10,245.00. During construction, a 6" forcemain had to be relocated into a manhole south of Simonton. Additionally, due to the material shortage, an additional 24" butterfly valve was ordered and delivered to Public Works with hopes to expedite the delays on the project due to this valve being delayed by other vendors.

This change order request is for an increase of \$10,245.00 to the current contract price of \$1,547,708.00. Approval of change order #3 would increase the current contract price to \$1,557,953.00 resulting in a 1.9% overall decrease from the original contract price of \$1,587,977.50.

It is requested the Board of Public Works:

**Approve Change Order #3 for the N. Main Street Water Replacement project, Bid #21-03, for an increase of \$10,245.00, bringing the Contract price to \$1,557,953.00.**

# CITY OF ELKHART

## PUBLIC WORKS & UTILITIES

Change Order No. Three  
Dated 11/17/2021

Project: **N. MAIN STREET WATER REPLACEMENT**

Contract No. 21-03

To: NIBLOCK EXCAVATING, INC.  
Contractor

You are required to make the changes noted below in the subject Contract:

City of Elkhart

By President, Board of Public Works

Dated \_\_\_\_\_

### Nature of Changes

|  |            |
|--|------------|
| RELOCATE 6" FORCEMAIN INTO MANHOLE SOUTH OF SIMONTON | \$3,425.00 |
| ADDITIONAL 24" VALVE DELIVERED TO PUBLIC WORKS       | \$6,820.00 |

**TOTAL** \$ **10,245.00**

These changes result in the following adjustment of Contract Price and Contract Time:

|   |                             |
|---|-----------------------------|
| Original Contract Price                             | \$ 1,587,977.50             |
| Contract Price Prior to this Change Order           | \$ 1,547,708.00             |
| Net change resulting from this Change Order         | \$ 10,245.00                |
| Current Contract Price including this Change Order  | \$ 1,557,953.00             |
| Current Contract Price % Change from Original Price | -1.9%                       |
| Contract Time prior to this Change Order            | NO CHANGE<br>(Days or Time) |
| Net Time change resulting from this Change Order    | NO CHANGE<br>(Days)         |
| Current Contract Time including this Change Order   | NO CHANGE<br>(Days or Time) |

The above changes are approved:

Public Works & Utilities  
BY: [Signature]  
Engineer ✓  
11/24/21  
DATE

The above changes are accepted:

BY: [Signature]  
Contractor  
11/19/21  
DATE



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## M E M O R A N D U M

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**DATE:** November 30, 2021

**TO:** Board of Public Works

**FROM:** Ryan Clussman, Right-of-Way Engineer *RC*

**RE:** **Change Order Request #2: South Main Street Streetscape Lusher to Hively project – Bid #21-14**

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Attached is change order request #1 for the South Main Street Streetscape Reconstruction project. This change order is for a change in the work done by Selge Construction.

This change order is for a change in a pay items due to unforeseen site conditions.

There is no change to the current contract price of \$2,960,305.00.

It is requested the Board of Public Works:  
**approve Change Order #2 for the South Main Street Streetscape Reconstruction project, Bid #21-14.**

# CITY OF ELKHART

## PUBLIC WORKS & UTILITIES

Change Order No. Two  
Dated 11/15/2021

Project: **SOUTH MAIN STREET STREETSCAPE LUSHER TO HIVEL** Contract No. 21-14

To: SELGE CONSTRUCTION  
Contractor

You are required to make the changes noted below in the subject Contract:

City of Elkhart

By \_\_\_\_\_  
President, Board of Public Works

Dated \_\_\_\_\_

### Nature of Changes

CO3. Fill Existing 8" Watermain with Flowable Fill Concrete \$10,380.00  
Omit remaining 2376 LF of Item 10. Remove Existing Watermain (\$10,380.00)

**TOTAL** \$ -

These changes result in the following adjustment of Contract Price and Contract Time:

|   |                                    |
|---|------------------------------------|
| Original Contract Price                             | \$ <u>2,807,116.50</u>             |
| Contract Price Prior to this Change Order           | \$ <u>2,960,305.00</u>             |
| Net change resulting from this Change Order         | \$ <u>-</u>                        |
| Current Contract Price including this Change Order  | \$ <u>2,960,305.00</u>             |
| Current Contract Price % Change from Original Price | <u>5.5%</u>                        |
| Contract Time prior to this Change Order            | <u>NO CHANGE</u><br>(Days or Time) |
| Net Time change resulting from this Change Order    | <u>NO CHANGE</u><br>(Days)         |
| Current Contract Time including this Change Order   | <u>NO CHANGE</u><br>(Days or Time) |

The above changes are approved:

Public Works & Utilities

BY: Ryan W. Chapman  
Engineer

11/30/21  
DATE

The above changes are accepted:

By: James Bayless  
Contractor

11-30-21  
DATE

✓



---

## M E M O R A N D U M

---

DATE: November 30, 2021

TO: Board of Public Works

FROM: Ryan Clussman, Right-of-Way Engineer RC

RE: **Change Order Request #1 and Final County Road 17 Resurfacing Project – Bid #21-26**

---

Attached is change order request #1 and final for the County Road 17 Resurfacing project. This change order is for an increase in quantities for the work done by Niblock Excavating.

This change order is for an increase to the final quantities and additional milling and HMA pavement work on the approaches for the intersections. In addition, due to the high traffic volume in the corridor message boards were deemed necessary to properly inform the traveling public. The additional compensation was capped at 20% of the project per ~~Elkhart ordinance~~ *State Law*. There are sufficient funds to pay for the additional work.

This change order request is for an increase of \$177,762.45 to the current contract price of \$888,735.20. Approval of change order #1 and final would increase the current contract price to \$1,066,496.65, resulting in a 20.0% increase from the original contract price of \$888,735.20.

It is requested the Board of Public Works:

**approve Change Order #1 and final and release all retainage for the County Road 17 Resurfacing project, Bid #21-26, for an increase of \$177,761.45, bringing the final Contract price to \$1,066,496.65.**

# CITY OF ELKHART

## PUBLIC WORKS & UTILITIES

Change Order No. One/Final  
Dated 11/24/2021

Project: County Road 17 Resurfacing Project

Contract No. 21-26

To: Niblock Excavating  
Contractor

You are required to make the changes noted below in the subject Contract:

City of Elkhart

By \_\_\_\_\_  
President, Board of Public Works

Dated \_\_\_\_\_

### Nature of Changes

|                                       |    |             |
|---------------------------------------|----|-------------|
| Pre-Construction Message Boards       | \$ | 1,386.00    |
| Line, Paint, Solid Yellow Stripe (8") | \$ | 3,464.00    |
| Line, Paint, Solid White Stripe (8")  | \$ | 4,120.00    |
| Adjustment to Final Quantities        | \$ | 189,791.45  |
| Adjustment for 20% Cap                | \$ | (21,000.00) |

**TOTAL** \$177,761.45

These changes result in the following adjustment of Contract Price and Contract Time:

|   |           |                |
|---|-----------|----------------|
| Original Contract Price                             | \$        | 888,735.20     |
| Contract Price Prior to this Change Order           | \$        | 888,735.20     |
| Net change resulting from this Change Order         | \$        | 177,761.45     |
| Current Contract Price including this Change Order  | \$        | 1,066,496.65   |
| Current Contract Price % Change from Original Price |           | 20.0%          |
| Contract Time prior to this Change Order            | NO CHANGE | (Days or Time) |
| Net Time change resulting from this Change Order    | NO CHANGE | (Days)         |
| Current Contract Time including this Change Order   | NO CHANGE | (Days or Time) |

The above changes are approved:

Public Works & Utilities  
BY: Ryan W. Clyburn  
Engineer  
11/30/21  
DATE

The above changes are accepted:

BY: Marcus L. King  
Contractor  
29 Nov 21  
DATE





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## M E M O R A N D U M

---

**DATE:** December 7<sup>th</sup> 2021  
**TO:** Board of Public Works  
**FROM:** Danielle Garlington, Graduate Engineer EIT *dlg*  
**RE:** **Lexington Business Centre Plat- Accept ROW Dedication**

---

The City has been working cooperatively with property owners in the River District regarding various infrastructure improvements. One of these projects, included streetscaping on Lexington Ave, in-between Elkhart Ave and Junior Achievement Dr. Due to the new construction on Lexington Ave, the right-of-way has been proposed to be re-aligned.

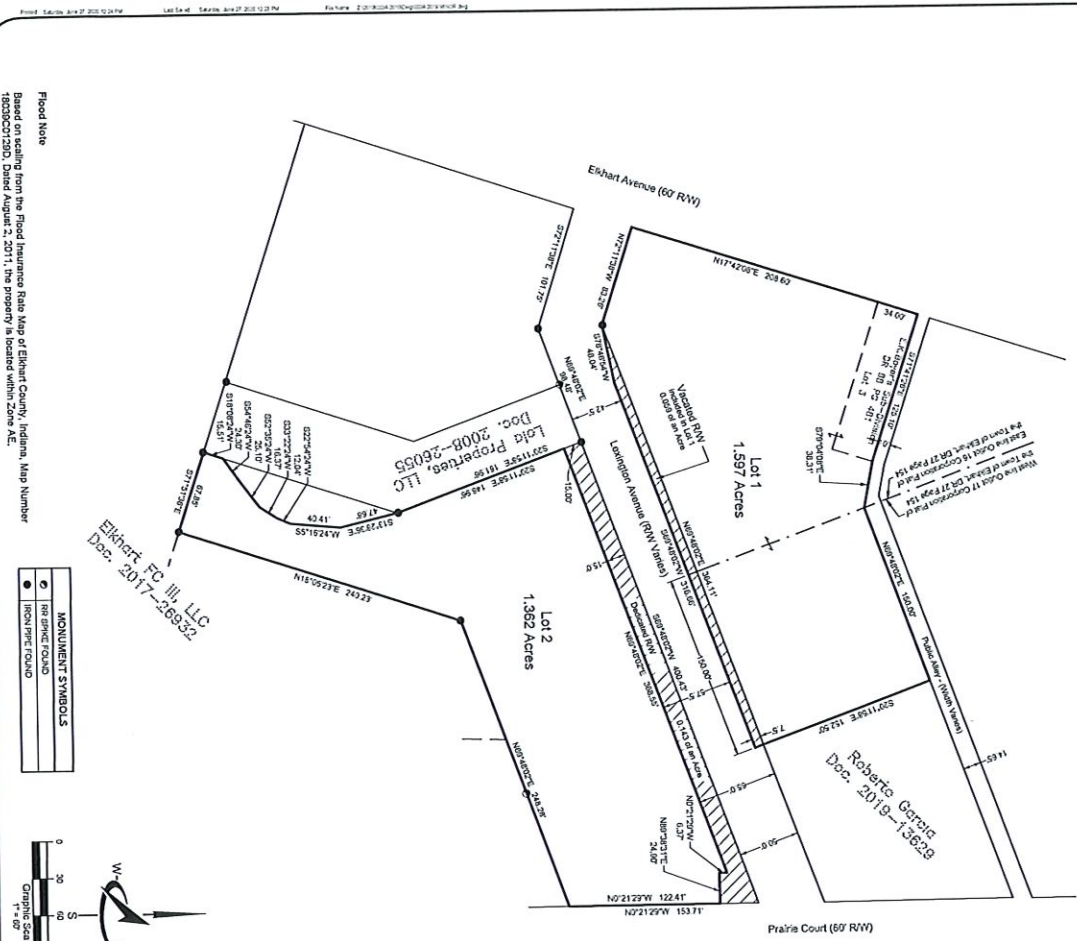
Marbach, Brady & Weaver Inc. has prepared the new plat, including the right-of-way dedication and vacation. The Board will be a signatory on the plat in its common role, as accepting new public right-of-way. The property the City will be accepting is the land on the south side of Lexington, fifteen feet in width. The proposed plat is attached for the Boards review.

This plat was originally considered and received approval from Public Works' Engineering and Planning & Zoning earlier this year. However, final steps were not taken due to a change in the Engineering staff.

**It is requested that the Board of Public Works accept the right-of-way dedication on the Lexington Business Centre plat.**

# Lexington Business Centre

Part of the Southeast Quarter of Section 5, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana



**LAND DESCRIPTION**

A part of Quarter 16, Quarter 17 and Quarter 18 as said outlots are known and designated on the Corporation Plat of the Town of Elkhart, recorded in Deed Record 27 Page 154 in the office of the Recorder of Elkhart County, Indiana and part of the Southeast Quarter of Section 5, Township 37 North, Range 5 East, Second Principal Meridian, Concord Township, Elkhart County, Indiana, being more particularly described as follows:

Beginning at the Northwest corner of Lot 3 as the said lot is known and designated in the Plat of E.C. Bauer's Sub-Division of Quarter 16 in Deed Record 88 Page 481 in the Office of the Recorder of Elkhart County, Indiana; thence South 71°41'30" East along the North line of said Lot 3 a distance of 125.10 feet to a point on the East line of said Lot 3; thence South 79°04'00" East along the South line of a public alley a distance of 38.31 feet to a point on the East line of said Lot 3; thence South 79°04'00" East along the South line of a public alley a distance of 150.00 feet to the Northwest corner of land conveyed to Roberto Garcia in Document Number 2019-13629 in the Office of the Recorder of Elkhart County, Indiana; thence South 20°11'58" East along the western line of said Garcia land and said line extended a distance of 152.50 feet to a point on the new North line of Lexington Avenue; thence South 69°40'00" West along the new North line of said Lexington Avenue a distance of 316.66 feet; thence South 78°46'54" West along the new North line of Lexington Avenue a distance of 48.04 feet; thence North 72°11'38" West along the North line of Lexington Avenue; thence North 72°11'38" East along the East line of Lexington Avenue a distance of 208.60 feet to the Southwest corner of the East line of Elkhart Avenue; thence North 17°42'08" East along the East line of Elkhart Avenue a distance of 34.00 feet to the point of beginning of this description.

Containing 1.597 acres, more or less.

**ALSO,**

Commencing at the intersection of the East right-of-way line of Elkhart Avenue and the South right-of-way line of Lexington Avenue; thence South 71°41'30" East along the East line of said Elkhart Avenue a distance of 120.25 feet; thence North 69°48'02" East along the South line of Lexington Avenue a distance of 98.48 feet to the Northwest corner of land conveyed to Loh Properties, LLC in Document Number 2008-26055 in the Office of the Recorder of Elkhart County, Indiana and the point of beginning of this description; thence South 20°11'58" East along the Northeast line of said Lot 1 a distance of 161.06 feet; thence following the next seven courses along the East line of said Lot 1 and

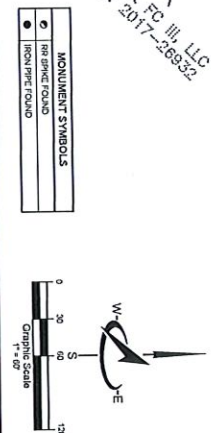
- (1) South 12°15'00" East a distance of 120.00 feet;
- (2) South 72°32'24" West a distance of 40.41 feet;
- (3) South 27°54'24" West a distance of 12.04 feet;
- (4) South 33°22'24" West a distance of 21.50 feet;
- (5) South 52°35'24" West a distance of 24.30 feet;
- (6) South 54°46'24" West a distance of 24.30 feet;
- (7) South 58°08'24" West a distance of 15.51 feet to the Southeast corner of said Lot 1 and a point on a North line of land conveyed to Elkhart FC III, LLC in Document Number 2017-26932 in the Office of the Recorder of Elkhart County, Indiana; thence South 71°13'19" East along the North line of said Elkhart FC III, LLC; thence North 69°40'00" East along a North line of said Elkhart FC III, LLC land a distance of 248.28 feet to a point on the West line of 400.23 feet; thence North 07°12'00" West along the West line of said Prairie Court a distance of 153.71 feet to a point on the South line of said Lexington Avenue; thence South 69°48'02" West along the South line of said Lexington Avenue a distance of 400.43 feet to the point of beginning of this description.

Containing 1.305 acres, more or less.

|   |  |
|---|--|
| SCALE: 1"=40'   |  |
| DATE OF FIELDWORK: 10/20/19   |  |
| DATE OF DRAWING: 01/25/20   |  |
| DATE OF CERTIFICATION: 01/25/20   |  |
| DATE: REVISION  |  |
| CAD FILE: 0303-2019 MARCH.dwg   |  |
| JOB NUMBER: 0303-2019   |  |
| DRAWN BY: LSR   |  |
| <p><b>Lexington Business Centre</b></p> <p>Part of the Southeast Quarter of Section 5, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana</p> |  |
| <p><b>Marbach</b></p> <p>Marbach, Brady &amp; Weaver, Inc.<br/>Engineering &amp; Surveying Since 1918<br/>www.marbach.us</p>  |  |
| <p>3220 Southview Drive<br/>Elkhart, Indiana 46514<br/>(574) 266-1010<br/>Fax: (574) 262-3040<br/>info@marbach.us</p>   |  |
| <p>© 2020 Marbach, Brady &amp; Weaver, Inc.</p>   |  |
| <p>SHEET 1 OF 2</p>   |  |
| <p>DESIGNED BY: B-44619</p>   |  |

**Flood Note**

Based on reading from the Flood Insurance Rate Map of Elkhart County, Indiana, Map Number 16050C01100, dated August 2, 2011, the property is located within Zone AE.





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## M E M O R A N D U M

---

**DATE:** December 7<sup>th</sup>, 2021

**TO:** Board of Public Works

**FROM:** Danielle Garlington, Graduate Engineer EIT *deg*

**RE:** **Permission to Quote Burr Oak Ave Clearing – RFQ #22-01**

---

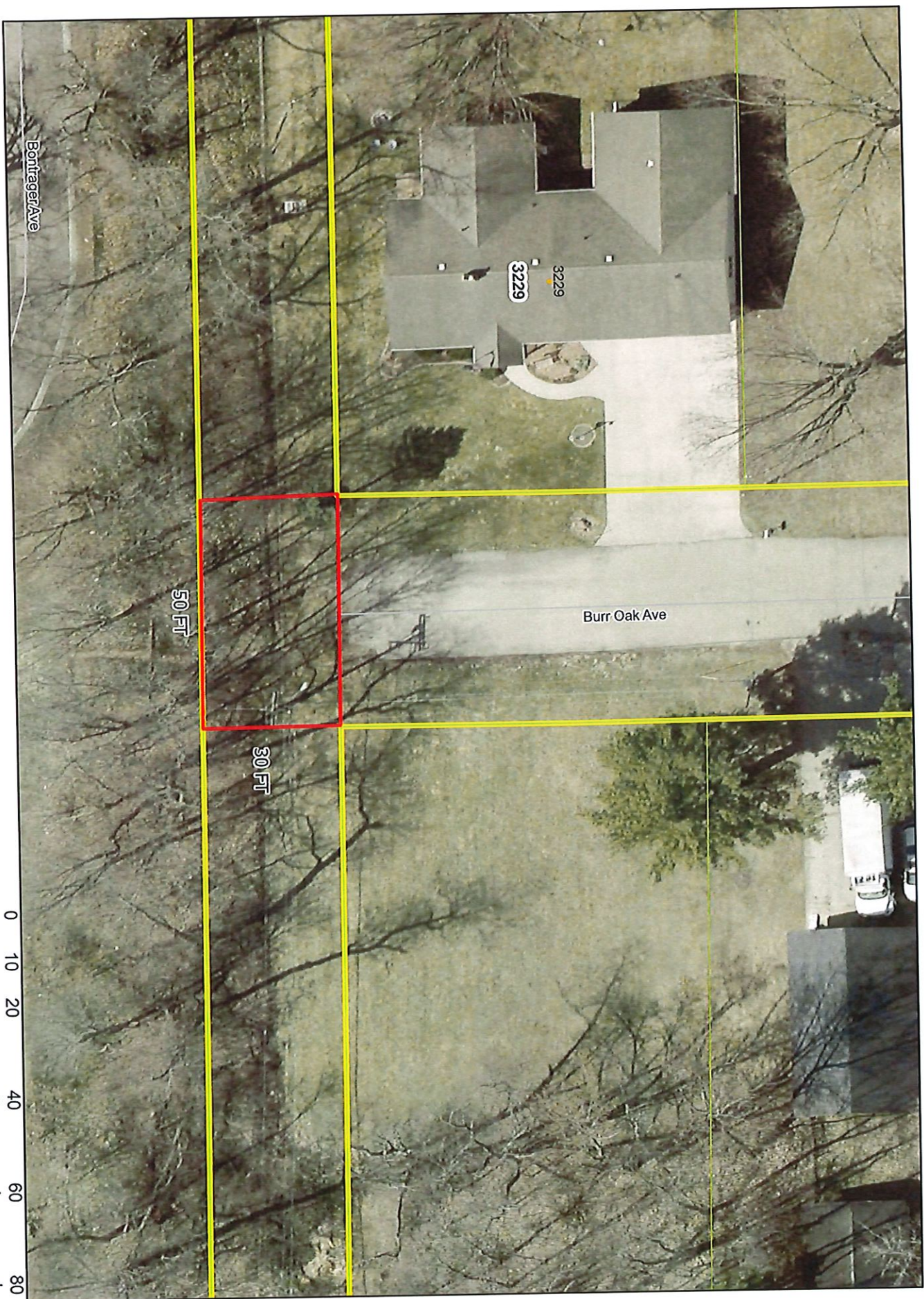
The Department of Public Works' Engineering Staff requests permission to quote the Burr Oak Ave Clearing project.

The project will consist of clearing the right of way at the south dead end of Burr Oak Ave. The contractor is expected to remove all trees and clear vegetation at the dead end of Burr Oak Ave. This clearing is to prepare for constructing a small cul-de-sac at the end of Burr Oak Ave. The roadwork will be performed by the City's Street Department next spring.

**It is requested the Board of Public Works grant permission to quote the Burr Oak Ave Clearing project RFQ#22-01.**



ATTACHMENT A



**Disclaimer:** The graphic data provided by the City of Elkhart, Indiana ("City") herein may be inaccurate or out of date. Any person or entity who relies on said information for any purposes does so at their own risk. Neither the City, or its boards, commission, officials, or employees warrant accuracy, reliability, or timeliness of any of the data provided herein. This data is provided "as is" without warranty of any kind, and all warranties of merchantability and fitness for a particular purpose are hereby disclaimed. Portions of this material include intellectual property of Elkhart County, Indiana and are used herein by permission. Information shown on any map or other data provided is not warranted for accuracy or merchantability by Elkhart County.





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## M E M O R A N D U M

---

DATE: December 7<sup>th</sup>, 2021

TO: Board of Public Works

FROM: Danielle Garlington *dlg*

RE: **Change Order #1 & Final: Ace Cab Parking Lot – Bid#20-37**

---

Attached is change order request #1 and final for the Ace Cab Parking Lot project. This change order is for adjustments to final quantities.

Adjustments to final quantities results in a net decrease of \$3,346.51. This decrease is largely due to a decrease in the measured quantity of hot mix asphalt pavement, reinforced concrete storm sewer pipe, and ductile iron water pipe.

This change order request is for a decrease of \$3,346.51 from the original contract price of \$235,261.75. Approval of this change order would decrease the contract price to \$231,915.24, resulting in a -1.4% decrease from the original contract price.

**It is requested the Board of Public Works approve the release of retainage and change order #1 & final for the Ace Cab Parking Lot project, Bid #20-37, for a decrease of \$3,346.51 bringing the final contract price to \$231,915.24.**

# CITY OF ELKHART

## PUBLIC WORKS & UTILITIES

Change Order No. One and Final  
Dated 11/23/2021

Project: **ACE CAB PARKING LOT**

Contract No. 20-37

To: NIBLOCK EXCAVATING & ASPHALT

Contractor

You are required to make the changes noted below in the subject Contract:

City of Elkhart

By

President, Board of Public Works

Dated

### Nature of Changes

Adjustment to final quantities. \$ (3,346.51)

**TOTAL** \$ **(3,346.51)**

These changes result in the following adjustment of Contract Price and Contract Time:

|   |                             |
|---|-----------------------------|
| Original Contract Price                                 | \$ 235,261.75               |
| Contract Price Prior to this Change Order               | \$ 235,261.75               |
| Net change resulting from this Change Order             | \$ (3,346.51)               |
| Current Contract Price including this Change Order      | \$ 231,915.24               |
| Current Contract Price % Change from Original Price     | -1.4%                       |
| Contract Time prior to this Change Order                | NO CHANGE<br>(Days or Time) |
| Net Time <b>change</b> resulting from this Change Order | NO CHANGE<br>(Days)         |
| Current Contract Time including this Change Order       | NO CHANGE<br>(Days or Time) |

The above changes are approved:

Public Works & Utilities  
BY: [Signature]  
Engineer  
11/23/21  
DATE

The above changes are accepted:

By: \_\_\_\_\_  
Contractor  
\_\_\_\_\_  
DATE





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## M E M O R A N D U M

---

DATE: December 7<sup>th</sup>, 2021

TO: Board of Public Works

FROM: Danielle Garlington *dlg*

RE: **Change Order #4 & Final: Jackson Blvd Landscape Improvements – Bid#18-27**

---

Attached is change order request #4 and final for the Jackson Blvd Landscape Improvements project. This change order is for adjustments to final quantities.

Adjustments to final quantities results in a net decrease of \$10,274.95. This decrease is largely due to a decrease in the measured quantity of pavement removal, permeable paver installation, and landscaping items.

This change order request is for a decrease of \$10,274.95 from the previous contract price of \$463,375.60. Approval of this change order would decrease the contract price to \$453,100.65, resulting in a 23.3% increase from the original contract price.

**It is requested the Board of Public Works approve the release of retainage and change order #4 & final for the Jackson Blvd Landscape Improvements project, Bid #18-27, for a decrease of \$10,274.95 bringing the final contract price to \$453,100.65.**

# CITY OF ELKHART

## PUBLIC WORKS & UTILITIES

Change Order No. FOUR & FINAL  
Dated 8/3/21

Project: Jackson Blvd Landscape Improvements Contract No. 18-27

To: SELGE CONSTRUCTION  
Contractor

You are required to make the changes noted below in the subject Contract:

City of Elkhart

By \_\_\_\_\_  
President, Board of Public Works

Dated \_\_\_\_\_

### Nature of Changes

ADJUSTMENT TO FINAL QUANTITIES (\$10,274.95)

TOTAL \$ (10,274.95)

These changes result in the following adjustment of Contract Price and Contract Time:

|   |                                    |
|---|------------------------------------|
| Original Contract Price                             | \$ <u>367,336.25</u>               |
| Contract Price Prior to this Change Order           | \$ <u>463,375.60</u>               |
| Net change resulting from this Change Order         | \$ <u>(10,274.95)</u>              |
| Current Contract Price including this Change Order  | \$ <u>453,100.65</u>               |
| Current Contract Price % Change from Original Price | <u>23.3%</u>                       |
| Contract Time prior to this Change Order            | <u>NO CHANGE</u><br>(Days or Time) |
| Net Time change resulting from this Change Order    | <u>NO CHANGE</u><br>(Days)         |
| Current Contract Time including this Change Order   | <u>NO CHANGE</u><br>(Days or Time) |

The above changes are approved:

Public Works & Utilities

BY: Tony Brown  
Engineer

11/23/21  
DATE

The above changes are accepted:

By: James B. Brown  
Contractor

8-4-2021  
DATE



Date: November 24, 2021

Memo To: Michael Machlan, Board President

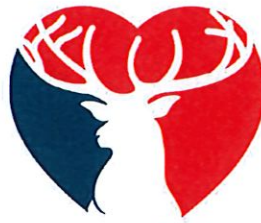
Memo From: Laura Kolo, Utility Services Manager *lk*

RE: Wastewater Treatment Plant Monthly Report – October 2021

The monthly Wastewater Treatment Plant NetDMR, CSO MRO, and Marketing and Distribution reports were all submitted electronically for the month of October. The wastewater treatment plant treated and released 486 million gallons to the St Joseph River.

**CSO Events:** Nine wet weather CSO events occurred in October.

**Violations:** Two incident reports were filed in October. On October 27, evidence was found of a back-up at manhole 140-107. The city's largest lift station immediately downstream of this location was under construction at the time. By-pass pumping does accommodate dry flow capacity, but wet weather capacity is limited. On October 29, a back-up occurred at 2461 Muirfield Drive. Work was done at the downstream lift station that day. When the work was done, that station was not properly returned to full operation.



City of Elkhart  
*Public Works and Utilities*

## Memo

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**To:** Board of Public Works  
**From:** Timothy D. Reecer, Executive Services Manager TK  
**Date:** December 1, 2021  
**Re:** Estoppel Certificate for AMZ (Elkhart) Propco LLC

---

As a part of Project Winnie, the owner, AMZ (Elkhart) Propco LLC, requested the attached Estoppel Certificate be executed by the Board of Works.

The Certificate serves as a measure to protect the Owner through certain assurances, including, but not limited too, that the City has not modified the Compact Agreement recorded against the real estate known as "Elkhart East" as well as ensure there are no outstanding debts on the real estate owed to the City that the Owner could be responsible for as a part of the purchase.

This Certificate has been reviewed by Legal.

**It is the recommendation of Public Works and Utilities the BOW execute the Estoppel Certificate for AMZ (Elkhart) Propco LLC as presented.**

**ELKHART COMPACT AGREEMENT**  
**ESTOPPEL CERTIFICATE**  
**AND CONSENT TO ASSIGNMENT**

September \_\_\_, 2021

**SEAHAWK CORPORATION**

P.O. Box 1322  
Elkhart, IN 46515  
Attention: Pete Leatherman

And

**QR AMZ (ELKHART) PROPCO LLC**

c/o Quadreal Property Group  
308 4<sup>th</sup> Avenue SW  
Suite 2810  
Calgary, Alberta T2P 0H7  
Attention: Executive Vice President, West

**RE: Estoppel Certificate and Consent to Assignment (this "Certificate") relating to that certain Elkhart Compact Agreement, recorded November 9, 2006 as Document No. 2006-33232, of the Official Records of Elkhart County, Indiana (the "Agreement").**

To Whom It May Concern:

The undersigned, on behalf of the City of Elkhart, Indiana, a municipal corporation of the State of Indiana, acting by and through its Board of Public Works (the "City"), has been advised that QR AMZ (ELKHART) PROPCO LLC, a Delaware limited liability company ("Buyer"), intends to purchase all that certain real property located in Elkhart County, Indiana and more particularly described in Exhibit A attached hereto (the "Property") from Seahawk Corporation, an Indiana corporation ("Seller"), which Property is subject to the terms, conditions and requirements of the Agreement. Unless expressly defined herein, all initially-capitalized terms used herein shall have the meanings given such terms in the Agreement.

Seller has been advised that, as a condition to Buyer's purchase of the Property, Buyer requires that Seller provide Buyer with certain assurances regarding the status of the Agreement and the Property. As an inducement for Buyer to purchase the Property, the City hereby certifies to Buyer that as of the date of this Certificate:

1. There has been no amendment, modification or supplement to the Agreement by any recorded or unrecorded document, plat, or agreement, and the Agreement is in full force and effect.



2. The City has not assigned or delegated any of its rights, powers or obligations as the City under the Agreement.
3. Neither Seller nor the buildings and/or the structures on the Property are in violation of any terms, conditions, restrictions or requirements of the Agreement, and to the City's knowledge, no event has occurred that, with the passage of time or with the giving of notice, or both, would result in a breach or default under the Agreement, and no legal action has been instituted by the City or its agents against Seller, the Property or any other party to the Agreement.
4. There are no unpaid assessments, obligations or other charges or fees assessed, due, or payable by Seller pursuant to the Agreement.
5. The City acknowledges and agrees that the use of the Property complies in all respects with the terms and conditions of the Agreement.
6. Each and every covenant, condition and obligation contained in the Agreement and required to be performed or satisfied with respect to the Property and the buildings and/or the structures on the Property, has been satisfied.

The City acknowledges that Buyer is relying upon the statements in this Certificate and does hereby certify to and for the benefit and reliance of Buyer, its lender, and their respective heirs, executors, administrators, successors and assigns, and any title company issuing an owner's and/or lender's policy of title insurance for the Property, that each of the foregoing statements is true, correct and complete as of the date hereof. To the extent the terms hereof conflict with the terms of the Agreement, the terms hereof shall control.

Pursuant to Section 20 of the Agreement, the City hereby consents to Seller's assignment to Buyer of Seller's interest in the Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

The undersigned hereby execute this Certificate as of the date first written above.

**CITY:**

CITY OF ELKHART, INDIANA, acting by  
and through its Board of Public Works

---

Michael Machlan, President

---

Chad Crabtree, Vice President

---

Jamie Arce, Member

---

Ronnie Davis, Member

---

Rose Rivera, Member

**Attest:**

---

Nancy Wilson, Secretary

**EXHIBIT A**  
**PROPERTY**

**TRACT I: (20-03-19-200-003.000-030)**

THE SOUTH ONE-HALF (1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION NINETEEN (19), TOWNSHIP THIRTY-EIGHT (38) NORTH, RANGE SIX (6) EAST.

**TRACT II: (20-03-19-200-006.000-030)**

A part of the East Half of Section Nineteen (19), Township Thirty-eight (38) North, Range Six (6) East, more particularly described as follows: Commencing at the Southeast corner of the Northeast Quarter of Section 19; thence North along the East line of the quarter section, three hundred ninety (390) feet to the place of beginning of this description; thence North along the East line of the quarter section, two hundred sixty (260) feet; thence West, parallel with the South line of the quarter section, five hundred (500) feet; thence South, parallel with the East line of the quarter section, two hundred sixty (260) feet; thence East parallel with the South line of the quarter section, five hundred (500) feet to the place of beginning.

**TRACT III: (20-03-19-200-007.000-030)**

The Southeast Quarter of the Northeast Quarter of Section Nineteen (19), Township Thirty-eight (38) North, Range Six (6) East, lying north of the Indiana East-West Toll Road in Elkhart County, Indiana. EXCEPTING public highways.

ALSO EXCEPTING:

A part of the East Half of Section Nineteen (19), Township Thirty-eight (38) North, Range Six (6) East, more particularly described as follows: Commencing at the Southeast corner of the Northeast Quarter of Section 19; thence North along the East line of the quarter section, three hundred ninety (390) feet to the place of beginning of this description; thence North along the East line of the quarter section, two hundred sixty (260) feet; thence West, parallel with the South line of the quarter section, five hundred (500) feet; thence South, parallel with the East line of the quarter section, two hundred sixty (260) feet; thence East parallel with the South line of the quarter section, five hundred (500) feet to the place of beginning.

**TRACT IV: (20-03-19-200-009.000-030)**

A TRACT OF LAND IN ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PART OF THE WEST ONE-HALF OF THE NORTHEAST QUARTER AND ALL THAT PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION NINETEEN (19), TOWNSHIP THIRTY-EIGHT (38) NORTH, RANGE SIX (6) EAST, LYING NORTH OF THE NORTH LINE OF THE INDIANA EAST-WEST TOLL ROAD.

EXCEPT:

THE NORTH FOURTEEN (14) ACRES OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION NINETEEN (19), TOWNSHIP THIRTY-EIGHT (38) NORTH, RANGE SIX (6) EAST.



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## MEMORANDUM

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**DATE:** December 7, 2021

**TO:** Board of Public Works

**FROM:** Joe Foy, Stormwater Manager 

**RE:** **Professional Services Agreement with DLZ Indiana, LLC  
Lawndale Area Groundwater Intrusion Study**

---

Attached is the Standard Form of Agreement for Professional Services (PSA) for "Lawndale Area Groundwater Intrusion Study" (Project). This agreement is for work to be provided by DLZ Indiana, LLC.

The Project work from this agreement includes the following:

- **Evaluate groundwater table elevation and variability**
  - Includes establishing two (2) additional monitoring wells
- **Groundwater chemical and bacteriological testing and evaluation**
- **Perform groundwater modeling of the shallow aquifer to evaluate options for reducing groundwater intrusion into neighborhood basements**
- **Exploratory excavation of one segment of existing perforated drain**
- **Review existing pipe networks and other design plans**
  - Teleview existing sewer pipes and manhole to gather data on the condition
- **Develop alternative solutions to prevent neighborhood basement flooding caused by high groundwater levels**
- **Evaluate residential home modifications, including potentially raising finished floor elevation**
- **Develop budgetary costs**
- **Provide final recommendations and summary report**

This agreement has been sent to Legal for review.

Funding for this project will be provided by three budget lines, 429-5-690-443.0200 (Cum Sewer), 612-5-931-736.0000 (Stormwater Contractual) and 606-5-817-736.0000 (Wastewater Engineering Contractual).

Engineering requests the Board of Public Works:

**Approve the Professional Services Agreement for "Lawndale Area Groundwater Intrusion Study" with DLZ Indiana, LLC for a total not-to-exceed amount of \$197,700.00.**



*City of Elkhart*  
Public Works & Utilities

To: Members of the Board of Public Works  
From: Lynn Brabec, Environmental Compliance Manager  
Date: December 2, 2021  
Re: Notice of Violation: Failure to Submit Renewal FOG Application as Required – CRACKER BARREL #113, 110 NORTHPOINTE BLVD. (F2015-100)

CRACKER BARREL #113 received a Notice of Violation (NOV) for failing to submit their FOG Renewal Application within the allotted timeframe. To date, CRACKER BARREL #113 has not responded to the Notice of Violation received on October 22, 2021. The Penalty Matrices recommend assessing a total penalty of \$450.

Violation #1: Failure to submit FOG Renewal Application due on 10/02/2021.

| Date of Violation: | Penalty Matrix Recommendation:*  | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response, signed certification statement and FOG application | Additional Violation?  |
|--------------------|--|---|------------------------|
|                    | \$350  |   |                        |
| 10/3/2021          | \$350=\$100 (first 15 days)+\$250 (\$5 per day 10/19/2021 thru 12/06/2021-50 days) | No  | Yes (see Violation #2) |

Violation #2: Failure to respond to a Notice of Violation (Written response, signed certification statement and FOG Renewal Application).

Date of Violation: 11/7/2021

Penalty Matrix Recommendation: \$100 Penalty\*\*

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                                    | Date of Violation: | Penalty Matrices Recommendation: | BOW Assessed Penalty: |
|--|--------------------|----------------------------------|-----------------------|
| CRACKER BARREL #113<br>110 NORTHPOINTE BLVD. | 10/3/2021          | \$450                            | \$                    |

☐ The Board of Public Works authorizes the Public Works staff to continue to apply the penalty assessed by the Board as outlined in the, "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, until the FSE becomes compliant or the Board reevaluates the violation.

Approved this \_\_\_\_\_ of \_\_\_\_\_ 2021.



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Michael Machlan

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Date

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Chad Crabtree

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Date

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Jamie Arce

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Date

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Ronnie Davis

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Date

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Rose Rivera

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Date

**Additional notes or requirements from the Board of Public Works:**

\*According to the "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, the following recommended penalties may be assessed for this violation:

| Offense   | First offense                         | Second offense                         | Third offense | Fourth & subsequent offense(s) |
|---|---------------------------------------|--|---------------|--------------------------------|
| 15.9.2 Discharging without a valid FOG Certificate              | \$100 first 30 days of violation      | \$10 per day for day 31 and thereafter | N/A           | N/A                            |
| 15.9.7 Failure to submit new or renewal application as required | \$100 for first 15 days past due date | \$5 per day for day 16 and thereafter  | N/A           | N/A                            |

\*\*According to the guidance in the Enforcement Response Plan Penalty Matrix the following recommended penalties may be assessed if in violation:

| OFFENSE   | FIRST OFFENSE | SECOND OFFENSE | THIRD & SUBSEQUENT OFFENSE(S) |
|---|---------------|----------------|-------------------------------|
| 9.3.3 Failure to respond to Notice of Violation : | \$100         | \$200          | \$500                         |



*City of Elkhart*  
Public Works & Utilities

To: Members of the Board of Public Works  
From: Lynn Brabec, Environmental Compliance Manager  
Date: December 2, 2021  
Re: Notice of Violation: 25% Rule Violation – Dairy Queen, 1839 Cassopolis St. (F2015-356)

During a renewal inspection on 10/28/2021 at Dairy Queen, 1839 Cassopolis St., the grease interceptor was found to be in violation of the 25% Rule as defined in Ordinance No. 5434 as amended Section 5.11 and the Best Management Practices outlined in the Elkhart Public Works and Utilities Guide to Wastewater Utility Policies Section 15.6.1. This is the first 25% Rule Violation within a year. To date, Dairy Queen, has not sent a written response to this violation. The Penalty Matrices recommends assessing a total penalty of \$200.

**Violation #1: Failure to operate or maintain FOG control device in proper working order (Ord. No. 5434 as amended)**

| Violation Date & FOG Amount | Penalty Matrix Recommendation:* | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response, signed certification statement. | Additional Violation? |
|-----------------------------|---------------------------------|--|-----------------------|
| 10/28/2021<br>42%           | \$100                           | No   | Yes                   |

**Violation #2: Failure to respond to Notice of Violation (Ord. No. 5434 as amended)**

| Date of Violation: | Penalty Matrix Recommendation:** |
|--------------------|----------------------------------|
| 11/25/2021         | \$100 Penalty**                  |

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                          | Date of Violation: | Penalty Matrices Recommendation: | BOW Assessed Penalty: |
|------------------------------------|--------------------|----------------------------------|-----------------------|
| Dairy Queen<br>1839 Cassopolis St. | 10/28/2021         | \$200                            | \$                    |

Approved this \_\_\_\_\_ of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Michael Machlan

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chad Crabtree

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Arce

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ronnie Davis

\_\_\_\_\_  
Date

Additional notes or requirements from the Board of Public Works:

\*According to the "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, the following penalty is recommended for a 25% Rule violation:

| Offense   | First offense | Second offense | Third offense | Fourth & subsequent offense(s) |
|---|---------------|----------------|---------------|--------------------------------|
| 15.9.3 Failure to operate or maintain FOG control device in proper working order (Ord. No. 5434 as amended) | \$100         | \$200          | \$250         | \$300                          |

\*\*According to the guidance in the Enforcement Response Plan Penalty Matrix, Section, 9.3.3, Failure to respond to a Notice of Violation:

| OFFENSE   | FIRST OFFENSE | SECOND OFFENSE | THIRD & SUBSEQUENT OFFENSE(S) |
|---|---------------|----------------|-------------------------------|
| 9.3.3 Failure to respond to Notice of Violation : | \$100         | \$200          | \$500                         |



*City of Elkhart*  
Public Works & Utilities

To: Members of the Board of Public Works  
From: Lynn Brabec, Environmental Compliance Manager  
Date: December 2, 2021  
Re: Notice of Violation: Failure to Submit Renewal FOG Application as Required – Neveria Tres Mangos De Michoacan, 2510 C Benham Ave. (F2016-007)

Neveria Tres Mangos De Michoacan received a Notice of Violation (NOV) for failing to submit their FOG Renewal Application within the allotted timeframe. To date, Neveria Tres Mangos De Michoacan has not responded to the Notice of Violation received on October 22, 2021. The Penalty Matrices recommend assessing a total penalty of \$450.

**Violation #1:** Failure to submit FOG Renewal Application due on 10/02/2021.

| Date of Violation: | Penalty Matrix Recommendation:*   | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response, signed certification statement and FOG application | Additional Violation?  |
|--------------------|---|---|------------------------|
| 10/03/2021         | \$350<br>\$350=\$100 (first 15 days)+\$250 (\$5 per day 10/19/2021 thru 12/06/2021-50 days) | No  | Yes (see Violation #2) |

**Violation #2:** Failure to repsonsed to a Notice of Violation (Written response, signed certification statement and FOG Renewal Application).

Date of Violation: 11/7/2021

Penalty Matrix Recommendation: \$100 Penalty\*\*

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:  | Date of Violation: | Penalty Matrices Recommendation: | BOW Assessed Penalty: |
|--|--------------------|----------------------------------|-----------------------|
| Neveria Tres Mangos De Michoacan<br>2510 C Benham Ave. | 10/3/2021          | \$450                            | \$                    |

☐ The Board of Public Works authorizes the Public Works staff to continue to apply the penalty assessed by the Board as outlined in the, "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, until the FSE becomes compliant or the Board reevaluates the violation.

Approved this \_\_\_\_\_ of \_\_\_\_\_ 2021.

-OVER-

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Michael Machlan

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Date

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Chad Crabtree

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Date

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Jamie Arce

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Date

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Ronnie Davis

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Date

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Rose Rivera

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Date

**Additional notes or requirements from the Board of Public Works:**

\*According to the "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, the following recommended penalties may be assessed for this violation:

| Offense   | First offense                         | Second offense                         | Third offense | Fourth & subsequent offense(s) |
|---|---------------------------------------|--|---------------|--------------------------------|
| 15.9.2 Discharging without a valid FOG Certificate              | \$100 first 30 days of violation      | \$10 per day for day 31 and thereafter | N/A           | N/A                            |
| 15.9.7 Failure to submit new or renewal application as required | \$100 for first 15 days past due date | \$5 per day for day 16 and thereafter  | N/A           | N/A                            |

\*\*According to the guidance in the Enforcement Response Plan Penalty Matrix the following recommended penalties may be assessed if in violation:

| OFFENSE   | FIRST OFFENSE | SECOND OFFENSE | THIRD & SUBSEQUENT OFFENSE(S) |
|---|---------------|----------------|-------------------------------|
| 9.3.3 Failure to respond to Notice of Violation : | \$100         | \$200          | \$500                         |





**To:** Members of the Board of Public Works  
**From:** Lynn Brabec, Environmental Compliance Manager  
**Date:** December 2, 2021  
**Re:** Notice of Violation: 25% Rule Violation – Vanilla Bean Creamery, 538 S. Main St. (F2019-011)

During an inspection on 10/12/2021 at Vanilla Bean Creamery, 538 S. Main St., the grease trap was found to be in violation of the 25% Rule as defined in Ordinance No. 5434 as amended Section 5.11 and the Best Management Practices outlined in the Elkhart Public Works and Utilities Guide to Wastewater Utility Policies Section 15.6.1. This is the first 25% Rule Violation within a year. Vanilla Bean Creamery responded to the Notice of Violation within the allotted timeframe. The Penalty Matrices recommends assessing a total penalty of \$100.

**Violation #1: Failure to operate or maintain FOG control device in proper working order (Ord. No. 5434 as amended)**

| Violation Date<br>& FOG Amount | Staff<br>Recommendation:* | Met all requirements outlined in Notice of Violation?                                   | Additional<br>Violation? |
|--------------------------------|---------------------------|---|--------------------------|
|                                |                           | Requirements included submission of written response,<br>signed certification statement |                          |
| 10/12/2021<br><br>61%          | \$100                     | Yes   | No                       |

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                                | Date of Violation: | Penalty Matrices<br>Recommendation: | BOW Assessed Penalty: |
|--|--------------------|-------------------------------------|-----------------------|
| Vanilla Bean Creamery<br>538 S. Main St. | 10/12/2021         | \$100                               | \$                    |

Action taken by Board of Public Works: \_\_\_\_\_ Penalty: \$ \_\_\_\_\_

Approved this \_\_\_\_\_ of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Michael Machlan

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chad Crabtree

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Arce

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ronnie Davis

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rose Rivera

\_\_\_\_\_  
Date

Additional notes or requirements from the Board of Public Works:

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\*According to the "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, the following penalty is recommended for the second offense (within a year) of the 25% Rule:

| Offense   | First offense | Second offense | Third offense | Fourth & subsequent offense(s) |
|---|---------------|----------------|---------------|--------------------------------|
| 15.9.3 Failure to operate or maintain FOG control device in proper working order (Ord. No. 5285 as amended) | \$100         | \$200          | \$250         | \$300                          |



**To:** Members of the Board of Public Works  
**From:** Lynn Brabec, Environmental Compliance Manager  
**Date:** December 2, 2021  
**Re:** Notice of Violation: 25% Rule Violation – Yummy Chinese, 30913 US 20 W (F2018-005)

On October 21, 2021 Yummy Chinese, 30913 US 20 W, submitted their quarterly grease interceptor cleaning report. The report indicated that the grease interceptor was pumped out on October 5, 2021. On this date, the pumping company found the grease interceptor in violation of the 25% Rule as defined in Ordinance No. 5434 as amended Section 5.11 and the Best Management Practices outlined in the Elkhart Public Works and Utilities Guide to Wastewater Utility Policies Section 15.6.1. This is the second 25% Rule Violation within a year. Yummy Chinese did respond to the Notice of Violation within the allotted timeframe. The Penalty Matrices recommends assessing a total penalty of \$200.

**Violation #1: Failure to operate or maintain FOG control device in proper working order (Ord. No. 5434 as amended)**

| Violation Date<br>& FOG Amount | Staff<br>Recommendation:* | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response,<br>signed certification statement | Additional<br>Violation? |
|--------------------------------|---------------------------|--|--------------------------|
| 10/05/2021<br><br>26%          | \$200                     | Yes  | No                       |

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                      | Date of Violation: | Penalty Matrices<br>Recommendation: | BOW Assessed Penalty: |
|--------------------------------|--------------------|-------------------------------------|-----------------------|
| Yummy Chinese<br>30913 US 20 W | 10/05/2021         | \$200                               | \$                    |

Action taken by Board of Public Works:

Penalty: \$ \_\_\_\_\_

Approved this \_\_\_\_\_ of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Michael Machlan

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chad Crabtree

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Arce

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ronnie Davis

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rose Rivera

\_\_\_\_\_  
Date

Additional notes or requirements from the Board of Public Works:

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\*According to the "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, the following penalty is recommended for the second offense (within a year) of the 25% Rule:

| Offense   | First offense | Second offense | Third offense | Fourth & subsequent offense(s) |
|---|---------------|----------------|---------------|--------------------------------|
| 15.9.3 Failure to operate or maintain FOG control device in proper working order (Ord. No. 5285 as amended) | \$100         | \$200          | \$250         | \$300                          |





*City of Elkhart*  
Public Works & Utilities

To: Members of the Board of Public Works  
From: Lynn Brabec, Environmental Compliance Manager  
Date: December 2, 2021  
Re: Notice of Violation: Failure to Submit Renewal FOG Application as Required – Concord Event Center, 3719 S. Main St. (F2019-007)

Concord Event Center received a Notice of Violation (NOV) for failing to submit their FOG Renewal Application within the allotted timeframe. Concord Event Center responded to the Notice of Violation received on October 22, 2021. The Penalty Matrices recommend assessing a total penalty of \$190.

Violation #1: Failure to submit FOG Renewal Application due on 10/02/2021.

| Date of Violation: | Penalty Matrix Recommendation:*   | Met all requirements outlined in Notice of Violation?<br>Requirements included submission of written response, signed certification statement and FOG application | Additional Violation? |
|--------------------|---|---|-----------------------|
|                    | \$190   |   |                       |
| 10/03/2021-        | \$190=\$100 (first 15 days)+\$90 (\$5 per day 10/19/2021 thru 11/04/2021-18 days) | Yes   | No                    |

The Penalty Matrices recommend the Board assess the following in combined penalties:

| Location:                                | Date of Violation: | Penalty Matrices Recommendation: | BOW Assessed Penalty: |
|--|--------------------|----------------------------------|-----------------------|
| Concord Event Center<br>3719 S. Main St. |                    | \$190                            | \$                    |

☐ The Board of Public Works authorizes the Public Works staff to continue to apply the penalty assessed by the Board as outlined in the, "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, until the FSE becomes compliant or the Board reevaluates the violation.

Approved this \_\_\_\_\_ of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Michael Machlan

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chad Crabtree

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Arce

\_\_\_\_\_  
Date

-OVER-

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Ronnie Davis

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Date

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Rose Rivera

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Date

**Additional notes or requirements from the Board of Public Works:**

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\*According to the "FSE FOG Penalty Guideline Table" contained in the Elkhart Public Works and Utilities "Guide to Wastewater Utility Policies", July 2019 revision, the following recommended penalties may be assessed for this violation:

| Offense   | First offense                         | Second offense                         | Third offense | Fourth & subsequent offense(s) |
|---|---------------------------------------|--|---------------|--------------------------------|
| 15.9.2 Discharging without a valid FOG Certificate              | \$100 first 30 days of violation      | \$10 per day for day 31 and thereafter | N/A           | N/A                            |
| 15.9.7 Failure to submit new or renewal application as required | \$100 for first 15 days past due date | \$5 per day for day 16 and thereafter  | N/A           | N/A                            |

\*\*According to the guidance in the Enforcement Response Plan Penalty Matrix the following recommended penalties may be assessed if in violation:

| OFFENSE   | FIRST OFFENSE | SECOND OFFENSE | THIRD & SUBSEQUENT OFFENSE(S) |
|---|---------------|----------------|-------------------------------|
| 9.3.3 Failure to respond to Notice of Violation : | \$100         | \$200          | \$500                         |

Rod Roberson  
Mayor



Development Services  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.970.1361

November 9, 2021

Michael Machlan  
Chad Crabtree  
Ronnie Davis  
Jamie Arce  
Rose Rivera

**RE: PROPOSAL FOR PROFESSIONAL SERVICES**  
**Zoning Ordinance update**  
**Elkhart, Indiana**

Dear Board of Works Members:

Planning staff are working to update the zoning ordinance to a Unified Development Ordinance (UDO). This update will incorporate the zoning, subdivision and preservation ordinances into one document. The purpose of this update is to make the document easier to navigate for the development community, site selectors, as well as citizens looking for information related to development in Elkhart. With the growth the City is experiencing, this document format is becoming more common in the state and across the country because of the graphic examples, charts relaying concepts and hyperlinks embedded in the document to quickly access parallel developmental regulations and regulations. This format also reduces the redundancy that exists between multiple ordinances by having the relevant information in one place – thus making the timeline shorter for the preliminary interactions that occur frequently prior to development.

REA has provided Development Services with a proposal which includes their scope of work, professional fee, and schedule (to be determined with assistance of Task Force) – anticipated to be 12 to 14 months.

For the service offered, Rundell Ernstberger Associates (REA) agrees that the City shall not pay more than \$149,500.00 for these services. Funding for this contract has been appropriated from existing contracts not completed due to COVID in 2020, professional services dollars for 2021 and 2022 and additional funding from the Redevelopment Commission. As such, the City is requesting that a motion be made to approve and the agreement with REA which contract limit the amount the City will pay for services to \$149,500.00.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Trotter".

Eric Trotter  
Assistant Director for Planning  
Development Services



RECEIVED  
NOV 17 2021

CITY OF ELKHART

DISPOSAL OR TRANSFER-TO OF FIXED ASSET

DESCRIPTION OF ASSET: Lathe  
LOCATION OF ASSET: Public Works & Utilities  
TYPE OF FIXED ASSET:  
☐ LAND ☐ IMPROVEMENTS  
☐ BUILDING ☒ MACHINERY & EQUIPMENT  
☐ CONSTRUCTION-IN-PROGRESS ☐ INFRASTRUCTURE  
C.I.P. #: \_\_\_\_\_  
C.I.P. LOCATION: \_\_\_\_\_

SERIAL NUMBER OR VIN: 0262701-148  
DESCRIPTION/COMMENTS: \_\_\_\_\_  
BRAND OR MAKE: FORD MODEL: DOALL 17  
YEAR: 1984 PREVIOUS FLEET # N/A NEW FLEET # N/A

DISPOSAL METHOD: SOLD \$ going to auction TRADED \$ \_\_\_\_\_  
JUNKED SCRAPPED END-OF-LEASE STOLEN/WRECKED  
TRANSFERRED TO: \_\_\_\_\_ (ATTACH PD REPORT)

DATE BOARD APPROVED: \_\_\_\_\_ DATE COUNCIL APPROVED: \_\_\_\_\_  
(ATTACH COPY OF MINUTES) (REAL PROPERTY VALUE > \$9,999.)

DATE MAYOR APPROVED: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
(REAL PROPERTY ONLY)

DATE CONTROLLER APPROVED: 11/16/21 SIGNATURE: E. Kono

SIGNATURE OF PERSON RESPONSIBLE: Christopher Hughes  
PRINTED NAME: Christopher Hughes

SIGNATURE OF DEPARTMENT HEAD: Laura W20

IF TRANSFERRED:  
RECEIVING PERSON'S SIGNATURE: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_

CONTROLLER'S USE ONLY

RECEIVED: \_\_\_\_\_ FIXED ASSET ENTERED: \_\_\_\_\_

INSURED: \_\_\_\_\_ CONTROLLER'S INITIAL: \_\_\_\_\_





## MEMO

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Date: December 2, 2021  
To: Board of Public Works  
From: Mayra Garcia  
RE: Approval of Contract Agreement

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Board Members,

The contract presented today details the terms of agreement between the City of Elkhart and The Elkhart Truth to provide Covid-19 related information and educational content to the public. The terms are ten consecutive weeks of ads both in digital and print format not to exceed the value of \$5,995. The dollars shall be allocated from the America Rescue Plan (ARP).

It is requested that the Board of Public Works approves the contract agreement with the above stated company for \$5,995 for 10 weeks. Mayra Garcia, Administrative Assistant, will be available to answer any questions.

# The Elkhart Truth

Good Afternoon Mayor,

Thank you for the time last week. I would like to break down in writing a marketing partnership campaign that would focus on flooding our city with as much information as possible regarding the flu, COVID, and this new strain that seems to be heading our way. Due to the importance of such a campaign for our community, we would like to propose a partnership/matching program.

For ten consecutive weeks, starting the week of Sunday, December 12, we would run the following print and digital marketing.

## Print

- \*Twenty half page ads
  - 4 columns (6.717") x 15"
  - Run dates
    - Twice a week over ten weeks
- \*Three front page bottom ad strip
  - 6 columns (10.13") x 2"
  - Run dates to be determined
  - Within the ten week window

## Digital

- \*Web ads on our website
  - 728 x 90
  - 300 x 220
  - Total impressions of 175,000 within the ten week window
- \*Email Blast
  - Twice - once in December and January

The Elkhart Truth would like to offer a match of \$5,995, making your investment for this marketing program only \$5,995. Doing so will create a marketing campaign valued at \$11,990.

Thank you.

David A. Damerow  
Publisher  
The Elkhart Truth  
(574) 296-5963  
[www.elkharttruth.com](http://www.elkharttruth.com)

Roderic Roberson  
Mayor

Jamie Arce  
City Controller



City Controller's Office  
229 S. Second St.  
Elkhart, IN 46516

574.294.5471  
Fax: 574.294.8491

# Memo

To: Mike Machlan, President Board of Public Works  
From: Jamie Arce, City Controller *[Signature]*  
Regarding: First Person - Pay for Performance Project  
Date: December 1, 2021

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Included as part of the Civil City and Public Works budgets were performance based raises for full time employees that are not included in one of the five (5) collectively bargained groups. As you may also be aware the City is currently working to fill the Human Resources Director role and as a result lacks the bandwidth and subject matter expertise to efficiently roll out an effective pay for performance program in the limited time left this year.

The City approached Megan Nail from First Person to assist in developing training materials for managers, to provide live onsite training, and to assist with the development of a Merit Matrix. First Person has experience working with Cities of similar size and the administration is confident that they will add necessary value as we work to further implement our pay for performance model. This will be paid from existing budgeted funds and has been approved by our Department of Law.

It is requested that the Board ratify the agreement with First Person for the Pay for Performance Project in an amount not to exceed \$17,500.

**Roderic Roberson**  
*Mayor*

**Jamie Arce**  
*City Controller*



*City Controller's Office*  
229 S. Second St.  
Elkhart, IN 46516

574.294.5471  
Fax: 574.294.8491

# Memo

To: Mike Machlan, President Board of Public Works  
From: Jamie Arce, City Controller *[Signature]*  
Regarding: Baker Tilly Agreement – Business Personal Property Taxes  
Date: November 30, 2021

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Board the attached engagement letters with Baker Tilly are for them to provide the City an estimated loss of revenue in the event the Business Personal Property Tax in its current form is repealed and not replaced with an offsetting revenue source. The Indiana General Assembly is expected to see a request to repeal this tax in the upcoming abbreviated session and the work being performed by Baker Tilly for the City of Elkhart will assist in educating our representatives in the true value of the impact to our budget.

It would be my request that you approve this agreement with Baker Tilly in an amount not to exceed \$7,500 to provide the City with an estimated loss of revenue from Business Personal Property Taxes.



Rod Roberson  
Mayor

Elizabeth Koller  
Department Head



Human Resources  
201 S. Second St.  
Elkhart, IN 46516  
Office 574-296-9167  
Fax 574-296-7541

December 2, 2020

Board of Public Works  
229 South Second Street  
Elkhart, IN 46516

Re: 2022 Group Benefit Renewals – Employee Assistance Program (EAP)

Dear Board Members:

Please see the attached renewal contract for our EAP services provided by New Avenues. At this time, I request that the Board of Public Works review and approve this contract.

The EAP program provides referrals for counseling and behavioral health services for our employees. The program also provides Management Referral services for employees whose work behaviors have been a matter of concern and who might benefit from professional evaluation and coaching in order to improve performance. Additionally, EAP provides ancillary services such as conflict resolution and various online services for a variety of work/life circumstances. The City has utilized this coverage for EAP services for over twenty-one years.

If you have any questions or concerns, please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Elizabeth Koller", with a long, sweeping horizontal line extending to the right.

Elizabeth Koller  
Interim Department Head

Rod Roberson

Mayor

Elizabeth Koller

Department Head



Human Resources

201 S. Second St.

Elkhart, IN 46516

Office 574-296-9167

Fax 574-296-7541

December 2, 2020

Board of Public Works  
229 South Second Street  
Elkhart, IN 46516

Re: 2022 Group Benefit Renewals – Everside Health

Dear Board Members:

Please see the attached contract for medical services provided by Everside Health. Everside Health will provide discounted health services, including prescriptions, for all of our insured. We believe that this will be a great benefit for our employees, in convenience and affordability. At this time, I request that the Board of Public Works review and approve this contract.

If you have any questions or concerns, please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Elizabeth Koller". The signature is fluid and cursive, with a large loop at the end.

Elizabeth Koller

Interim Department Head

Rod Roberson

Mayor

Elizabeth Koller

Department Head



Human Resources

201 S. Second St.

Elkhart, IN 46516

Office 574-296-9167

Fax 574-296-7541

December 2, 2020

Board of Public Works  
229 South Second Street  
Elkhart, IN 46516

Re: 2022 Group Benefit Renewals – Anthem

Dear Board Members:

Please see the attached renewal contract for medical insurance provided by Anthem. At this time, I request that the Board of Public Works review and approve this contract extension. We will retain the three plans that were available in 2021. There has been a 7.2% increase in cost which the City has chosen to absorb.

If you have any questions or concerns, please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Elizabeth Koller", with a long, sweeping horizontal line extending to the right.

Elizabeth Koller  
Interim Department Head