

CITY OF ELKHART
BOARD OF PUBLIC WORKS MEETING
AGENDA

Common Council Chambers

9:00 A.M., Tuesday, December 6, 2022

<https://coei.webex.com/coei/j.php?MTID=m700771b071cab74f395544154acf3ffe>

Join by phone: 1-415-655-0001

Meeting Number (access code): 2318 616 4934 Meeting password: BOW22

- I. Roll Call**
- II. Approve Agenda**
- III. Open Bids**
 - Bid #22-18 Main Street Concrete Repairs-REBID
 - Bid #22-19 Lerner Theater HVAC Equipment Installation-REBID
 - Bid #22-22 Nadel Avenue Groundwater Lift Station Improvements
- IV. Claims & Allowance Docket**
- V. Minutes Regular Meeting November 15, 2022**
- VI. Tabled Items**
 - FOG Violation 25% New Star Enterprises 1226 S. Main St. (F2016-021)
 - FOG Violation Failure to Submit New FOG Certificate Application Bird in the Hand (F2022-012)
 - FOG Violation Discharging Without a Valid FOG Certificate Bird in the Hand 240 E. Jackson (F2022-012)
 - Notice of Violation: Discharging Substances Which Obstruct the City Sewer- Taco Bell 2508 Cassopolis St (F2018-042)
 - FOG Violation Failure to Keep Records as Required Taco Bell 2508 Cassopolis St (F2018-042)
 - Service Agreement for City Supplied Uniforms with Wilden Uniform & Linen
 - Cancellation of Service Agreement with Cintas
 - Board of Works Resolution 22-R-23 and Board of Works Resolution 22-R-24
- VII. Utilities**
 - a.) Utility Attorney
 - Starbucks FOG Violations
 - Tabled FOG Notices of Violations
 - Administrative FOG NOV's
 - b.) Administration
 - Wastewater MRO Highlights
 - 2022 Wage Resolution Amendment
 - Board of Works Resolution 22-R-26 2023 Wage Resolution

- c.) Summary
 - Water Assessment Applications
 - Sewer Assessment Applications
 - Driveway Permits
 - Release of Bond
 - Revocable Permits

VIII.

Engineering

- a.) Stormwater
 - Board of Works Resolution 22-R-25 in Support of an Amending Ordinance to the Stormwater User Fee Ordinance
- b.) Right of way
 - Request Bid #23-02 2023 Street Materials
 - Change Order #2 & Final: East Industrial Area Resurfacing Bid #22-17
 - Change Order #2: Arlington Road Improvements Bid #22-06
 - Change Order #3 & Final: River District Zone 1 Earthwork and Utilities Bid #20-38
- c.) Utility
 - Request Bid #22-25 Oakland Avenue Project A CSO Force Main
 - Request Bid #23-01 2023 Utility Materials
 - Payment #10 to Bowen Engineering Corp.: Elkhart WWTP Capacity Upgrades Phase 2
 - Payment #50 to Donohue & Associates: Elkhart WWTP Capacity Upgrades
 - Award Bid #22-22 Nadel Avenue Groundwater Lift Station Project

IX.

New Business

- HUD Restrictive Covenants for 1101 Taylor, 173 N. Sixth, 412 N. Third, 526 W. Washington
- INDOT Street Sweeping Agreement
- Contract with Meltwater
- Award Quote #22-14 NYCRR Roof Replacement
- Contract with Rundell Ernstberger Associates for Annexation Strategy
- Teamsters Local Union #364 Collective Bargaining Agreement
- American Federation of State, County, and Municipal Employees Local 1484 Collective Bargaining Agreement

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.

November 30, 2022  _____
JAMIE ARCE - CITY CONTROLLER

IN RELIANCE ON THE ABOVE CERTIFICATION, CLAIMS IN THE TOTAL AMOUNT OF **\$4,681,279.73** AS LISTED ON THE REGISTER ATTACHED HERETO **CONSISTING OF 29 PAGES**, ARE HEREBY APPROVED EXCLUDING ANY CLAIMS WITHHELD AS SHOWN ON THE SEPARATE SUMMARY OF PENDING CLAIMS.

EXECUTED THIS 6TH DAY OF DECEMBER 2022 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

Accounts Payable Summary
December 6, 2022

Individual Claims Over \$25,000 each:

Fund	Vendor	Description	Amount
1101	YODER OIL COMPANY INC	GASOLINE	42,909.34
2500	WILBUR YODER	ROOF REPAIR- CENTRAL GARAGE	32,413.00
4450	SELGE CONSTRUCTION CO	JOHNSON ST SEWER EXTENSION	72,135.72
4650	CROSS EXCAVATING & DEMOLISH	IDEM	79,946.00
4650	NIBLOCK EXCAVATING	IDEM	71,336.06
6201	TROJAN TECHNOLOGIES	UV SYSTEM PARTS	47,505.50
6203	DLZ INDIANA, LLC	LS 13 REPLACEMENT	28,750.00
Total Claims over \$25,000			374,995.62
Regular Claims under \$25,000:			627,202.36
Total Regular Departmental Claims:			1,002,197.98

Pre-Approved Claims Over \$25,000 each: (a)

6106	IN DEPT OF REVENUE	PWU OCTOBER 2022 SALES TAX	36,544.60
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Total Pre-Approved over \$25,000:	36,544.60
Regular Claims under \$25,000:	106,039.17
Total Pre-Approved Claims:	142,583.77

American Rescue Plan Claims:

2474	EBY PLUMBING PLUS INC	HOMEOWNER OCCUPIED REHAB	156.79
2474	WARRICK & BOYN, LLP	WORKFORCE HOUSING	780.59
2474	PATHFINDER COMMUNICATIONS	COVID ADVERTISING	840.00
2474	PATHFINDER COMMUNICATIONS	COVID ADVERTISING	1,190.00
2474	PARTNERSHIP RADIO	COVID ADVERTISING	350.00
2474	PATHFINDER COMMUNICATIONS	COVID ADVERTISING	532.00
2474	LAMAR TEXAS LIMITED	BILLBOARD ADVERTISING	17,100.00
2474	IB COMMUNICATION LTD	LA RAZA RADIO	3,500.00
2474	RIETHCO, INC	HOMEOWNER OCCUPIED REHAB	221.00
2474	CHARLIE BOOKS	HOMEOWNER OCCUPIED REHAB	450.00
2474	JI CONTRACTING COMPANY	HOMEOWNER OCCUPIED REHAB	11,800.00
2474	STEVE HILL	SMALL BUSINESS CONTINUITY	2,450.00

Total American Resuce Plan Claims: 39,370.38

UTILITY REFUNDS

404.86

Payroll and Pension Payments:

Fire & Police Pension

Bi-weekly Payroll	11.10.2022	1,710,404.56
Bi-weekly Payroll	11.23.2022	1,786,318.18
RETRO PAY		-
Total Payroll:		3,496,722.74

Total All Claims, Internal Payments, and Payroll: \$ 4,681,279.73

(a) Claims with rigid payment deadlines. As provided for in the Elkhart Municipal Code §33.415, certain payments may be made prior to review and approval by the Board of Public Works. Typically such payments include utility bills, credit card bills, central services, association dues, employer-paid benefits, training, and employee reimbursements. Unusual items in excess of \$25,000 are noted in detail.

BOARD OF PUBLIC WORKS
Tuesday, November 15, 2022

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:02 a.m., Tuesday, November 15, 2022. Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Rose Rivera, Ronnie Davis and Jamie Arce attended in person. Chad Crabtree was absent. Mike noted the time was after 9:00 am and no more bids or quotes would be accepted.

1. Approve Agenda

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the agenda was approved as presented.

2. Open Quotes

Quote #22-14 NYCRR Museum Roof Replacement

Southwest Commercial Roofing submitted a quote summary form with a total quoted price of \$118,895.00 On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the quote was assigned to staff to review and award at the next meeting.

3. Claims & Allowance Docket

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the claims & allowance docket was approved in the amount of \$3,632,537.41 consisting of 27 pages as prepared on November 9, 2022 at 11:39 a.m.

4. Minutes Regular Meeting November 1, 2022

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the minutes from November 1, 2022 were adopted.

5. 2023 Water, Wastewater, Aquatics, & Storm Water Utility Operating and Capital Budgets

A motion was made by Jamie Arce and seconded by Rose Rivera to approve the 2023 Water Utility Operating Budget of \$7,543,430 and 2023 Water Utility Capital Budget of \$1,417,000 for a total of \$8,960,430.00; the Wastewater Utility Operating Budget of \$9,005.262, the Wastewater Bond & Interest Expense of \$4,415,665, and the Wastewater Utility Capital Budget of \$5,180,000 for a total of \$18,600,927; the Storm Water Utility Operating Budget of \$937,000; and the Aquatics Operating/Capital Budget of \$227,111. Lynn Brabec, Laura Kolo, Tim Reecer, Tory Irwin, Martin Noffsinger, Matt Rippey, Matt Heineman, Paul Wunderlich, Joe Foy, and Codie Tanguma discussed the Utility Budget details with the Board. Mike closed discussion and called for the vote. The motion carried 4-0.

6. Tabled Items

- FOG Violation New Star Enterprises 1226 S. Main St.- no action taken
- FOG Violation Bird in the Hand 240 E. Jackson Blvd.- no action taken
- FOG Violation Bird in the Hand 240 E. Jackson Blvd.- no action taken
- Violation Taco Bell 2508 Cassopolis St.- no action taken
- FOG Violation Taco Bell 2508 Cassopolis St.- no action taken
- Service Agreement with Wilden Uniform & Linen- no action taken
- Cancellation of Service Agreement with Cintas- no action taken
- BOW Resolution 22-R-23 and Board of Works Resolution 22-R-24

BOARD OF PUBLIC WORKS
Tuesday, November 15, 2022

7. Utilities

(A.) Administration

Award Quote #22-15 Public Works Cleaning Service

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board awarded Quote #22-15 to Shanholt's Cleaning Service for a cost not-to-exceed \$1,750.00/week for the cleaning of Elkhart Public Works offices in 2023.

Water Utility MRO for October 2022

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board accepted and placed on file the Water Utility MRO for October 2022.

Water Utility Transfer Requests

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board approved a transfer of \$12,000.00 from Water Operations Contractual to Water Operations Materials and Supplies, a transfer of \$5,000 from Water Operations Other Contractual to Water Operations Natural Gas, and a transfer of \$800.00 from Water Operations Other Contractual to Water Operations Uniforms and Mats.

Water and Wastewater Appropriation Requests

A motion was made by Jamie Arce and seconded by Rose Rivera to approve an appropriation of \$62,000.00 to Water Operations- Chemicals, an appropriation of \$115,000 to Wastewater Operations- Purchased Power, and an appropriation of \$9,500 to Wastewater Operations- Vehicle Parts and Repairs. Mike asked for a motion to table to ask the Deputy Controller a question. On motion by Jamie Arce, seconded by Rose Rivera and carried, the appropriations were tabled to later in the meeting.

(B.) Environmental Compliance

Termination of Consent Order with Compliance Schedule: Rico's at the Bulldog 3763 E. Jackson

A motion was made by Rose Rivera and seconded by Jamie Arce to terminate the Consent Order with Compliance Schedule for Rico's at the Bulldog. Lynn Brabec explained Rico's completed all of the Milestones in the Consent Order and recommended terminating the agreement. Mike called for the vote and the motion carried 4-0.

8. Engineering

(A.) Administration

Revocation of Excavation Permit and Hearing

Mike Machlan opened the hearing for the revocation of an Excavation Permit for Frontier, Inc. Attorney Maggie Marnocha began the hearing by explaining the situation. The Board of Works granted the City Engineer permission to revoke an Excavation Permit if the permit holder violates the Excavation Ordinance. That, in fact, did happen, and Tory Irwin revoked the Excavation Permit for Frontier. Maggie said they intended to come today to hold the hearing and request a penalty for the permit holder, and since then, further issues have developed. Mike asked Tory to tell the Board why the original action was taken. Tory Irwin said the reason they brought the Resolution to the Board to allow him to revoke an Excavation Permit was because of the numerous calls and complaints they have been receiving about this specific fiber installation. They were working under this permit on private property without permission, installing the line through or along private property, and also having

BOARD OF PUBLIC WORKS
Tuesday, November 15, 2022

equipment on private property and being rude to the home-owners when they pointed out they were not in the public right-of-way. Tory said they met with the Contractor and the permit-holder to discuss the situation and warned them that if this situation happened again we would revoke the Excavation Permit. The day the Board gave the authority to revoke the permit, we found out the Contractor had been working over the weekend and hooked up to a fire hydrant and stole City water without a meter. At that time, Tory said he revoked the excavation permit. Since that time, we found out that the excavator or the directional drilling company worked last Saturday and hit two of our water lines. The Utility responded and spent 10 hours getting our customers shut off. Our employee told the contractor they were not supposed to be working and were told, we know, too bad. Jamie asked if there were locates on those water lines. Tory said no, our locator knows that they are not to be working in the City because they do not have an Excavation Permit. We are in contact with them and they are aware of the situation. In addition to that, they are calling in emergency locates for things that are not emergencies. Jamie asked Tory a question in regards to private residences, what is the expectation and the method for obtaining permission from the property owner. Tory said the person doing the work needs to obtain that from the home owner. Mike clarified the fee requested for using the water illegally was \$900.00. Maggie noted the violation of the Excavation Ordinance is per/incident and that is \$1,000.00 each for two days. Maggie asked the Board to ratify the revocation, continue the revocation, and assess penalties.

Todd Payne of Frontier, Inc. came forward to speak to the Board. He brought two representative from the sub-contractors that did the work. He explained the job last Saturday on Laurelwood crossed between the City and the County. It was one continuous bore shot that they were making that crossed into the City. The sub-contractor was not aware. Mr. Antonio Vasquez spoke to the Board. He represented Mastec, and said his sub-contractor was drilling and performing the work on Saturday off County Road 16. The bore section was approximately 455 feet. 300 feet of that was in the County, and they determined on Monday after the hit was done, they did go into the City limits 155 feet, and that is where they hit the service lines. He spoke to his contractor and they did not look at the line limits. They were boring in the County into the subdivision, and that is where they hit two service lines. Mike asked him if that was the only time they worked in the City since the freeze, and he said yes, sir. They have plenty of area in the County they have been working in. Jamie asked him if he was aware of the revocation, and he said yes, sir. Mr. Payne also introduced Nate from TCS, the other contractor that can speak to the incident with the water meter. He said they had a water meter from Goshen. There is a language barrier with the sub-contractor C&S Underground. He said once he was made aware of the situation he told them they are not allowed to work in Elkhart any more. They will not be in this market moving forward. Jamie asked them how they notify property owners before they drill on their property. Mr. Payne said they require the vendors to notify the property owner when they will be on their property, even in the easement. They are supposed to be door tagged with contact information and told if there is any kind of damage to let them know to try to alleviate phone calls to the City. He told the Board they have Frontier inspectors now that follow the contractors and do spot checks with the residents and property owners. They have instructed them to never

BOARD OF PUBLIC WORKS

Tuesday, November 15, 2022

place a piece of equipment on anyone's property without making proper contact with the owner. Leave a note on the door with a phone number. He admitted, it has happened. They have had equipment on private property without proper notification. Jamie Arce added, notification is not consent. Mike Machlan said he lives in East Lake and their contractors performed much better. He said he is extremely disappointed with Frontier. Mr. Payne said they admit their Frontier projects have been off the rails a little bit and they brought in another inspector, so now they have two. They are trying to rein this in and address the issues.

Mike asked Tory and Maggie if the same boring hit two lines. Tory said yes, without a permit. Mike verified they were working in the County and the City. Mike asked for a motion to ratify the revocation and continue the revocation until the City Engineer is satisfied that his conditions have been met, assess a penalty of \$2,900.00 to Frontier and have Frontier pay the cost of repairs which price is to be determined. A motion was made by Jamie Arce and seconded by Rose Rivera to ratify the revocation and continue the revocation until the City Engineer is satisfied that his conditions have been met, assess a penalty of \$2,900.00 to Frontier and have Frontier pay the cost of repairs which price is to be determined. Mike said from the emails and today's representatives, Frontier is paying attention. Tory said they are going to meet with them and have some very specific guidelines on what they have to do to keep working and finish up the work they have now. Tory said he hopes they will meet those guidelines, and if they don't he will be right back here. Mike closed discussion and called for the vote. The motion carried 4-0.

Release of Easement The Diocese of Fort Wayne- South Bend, Inc.

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board released the previous Utility Easement and approved and accepted the Permanent Utility Easement for The Diocese of Fort Wayne- South Bend, Inc.

(B.) Project Manager

Change Order #3 & Final Johnson Street Sewer Extension Bid #22-04

On motion by Rose Rivera, seconded by Ron Davis and carried 4-0, the Board approved the release of retainage and Change Order #3 for the Johnson Street Sewer Extension Project, Bid #22-04, for a decrease of \$3,020.75, bringing the final Contract price to \$1,393,846.60.

(C.) Utility

Bowen Engineering Corp.: Elkhart WWTP Capacity Upgrades Phase 2 Retainage Corrections for Pay Requests #6 & #7

On motion by Rose Rivera, seconded by Ron Davis and carried 4-0, the Board approved the payment of the corrected Payapps in the amount of \$147,719.00 to Bowen Engineering Corporation from the allocated SRF loan for construction on the Elkhart WWTP Capacity Upgrades Phase 2 project.

Bowen Engineering Corp.: Elkhart WWTP Capacity Upgrades Phase 2 Retainage Corrections for Pay Requests #8 & #9

On motion by Rose Rivera, seconded by Ron Davis and carried 4-0, the Board approved the payment of the corrected Payapps in the amount of \$115,261.00 to Bowen Engineering Corporation from the allocated SRF loan for construction on the Elkhart WWTP Capacity Upgrades Phase 2 project.

BOARD OF PUBLIC WORKS

Tuesday, November 15, 2022

Award Bid #22-23 S. Fifth Street Water Extension Project

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board awarded Bid #22-23 to C&E Excavating, who was the lowest, responsive and responsible bidder with a contract price in the amount of \$346,602.00.

Award Bid #22-24 Lift Station 13 Replacement

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board awarded Bid #22-24 to Selge Construction Co., Inc. who was the lowest, responsive and responsible bidder with a contract price of \$453,886.50.

Request Bid #22-22 Nadel Avenue Groundwater Lift Station Improvements

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board approved plans and specifications and granted permission to advertise Bid #22-22 Nadel Avenue Groundwater Lift Station Improvement Project.

9. New Business

Contract with Walker Consultants

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board approved a contract expansion with Walker Consultants at a price not to exceed \$24,500.00.

2023 New Avenues

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board approved an Agreement with New Avenues for the Employee Assistance Plan for 2023.

10. Use & Event Permits

On motion by Rose Rivera, seconded by Jamie Arce and carried 4-0, the Board approved the following permits:

- Winterfest 12/3
- St. Vincent De Paul Our Lady of Guadalupe Procession 12/10

11. Tabled Item

Water and Wastewater Appropriation Requests

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the appropriation request was removed from the table for consideration. A motion was made by Jamie Arce and seconded by Rose Rivera to approve an appropriation of \$62,000.00 to Water Operations- Chemicals, an appropriation of \$115,000 to Wastewater Operations- Purchased Power, and an appropriation of \$9,500 to Wastewater Operations- Vehicle Parts and Repairs. Mike called for the vote and the motion carried 4-0.

12. Public Participation

Mike Machlan noted a neighbor told him the emergency siren behind Pinewood School is not working and asked Engineering to follow up.

Clerk Nancy Wilson read a note into the record from John Zakrajsek, Jr. received on November 3, 2022 stating, "1. There is nothing wrong or illegal for developing your own bid lists in addition to these notifications (in the Truth), and, 2. Why not hire a procurement coordinator for certain tasks & to be used by & report to several local government entities?"

BOARD OF PUBLIC WORKS
Tuesday, November 15, 2022

13. Adjournment

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board of Works adjourned at 11:02 a.m.

_____ Mike Machlan, President

Attest: _____ Nancy Wilson, Clerk of the Board

Rod Roberson
Mayor

Laura Kolo
Environmental Resources

Tory Irwin, P.E.
Engineering Services



Public Works &
Utilities Department


Administration, Engineering
& Laboratory
574.293.2572

Utility Billing
574.264.4273

1201 S. Nappanee St.
Elkhart, Indiana 46516

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

FROM: MAGGIE MARNOCHA, UTILITY ATTORNEY 

DATE: 11/22/22

RE: Starbucks FOG Violations

On October 4, 2022, the Board issued two penalties to Starbucks located at 2900 Cassopolis Street. The first penalty, in the amount of \$15 per day, was for failure to renew the FOG application. The second penalty, in the amount of \$30 per day, was for discharging into the POTW without a FOG permit.

Since that time, staff has come to the conclusion that the appropriate person was not notified of the NOV or of the need to renew the FOG application. The issues have now been remedied and staff requests that the Board rescind those violations.

Please move to rescind the two penalties assessed to Starbucks on October 4, 2022 for FOG violations.

Rod Roberson
Mayor

Laura Kolo
Environmental Resources

Tory Irwin, P.E.
Engineering Services



Public Works &
Utilities Department

Administration, Engineering
& Laboratory
574.293.2572

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574.264.4273

1201 S. Nappanee St.
Elkhart, Indiana 46516

MEMORANDUM

TO: BOARD OF PUBLIC WORKS
FROM: MAGGIE MARNOCHA, UTILITY ATTORNEY
DATE: 11/22/22
RE: Tabled FOG Notices of Violations

A handwritten signature in black ink, appearing to be "Maggie Marnocha", is written over the "FROM:" line of the memorandum.

Please remove the tabled FOG Notices of Violations and proceed in the following manner:

1. Bird in Hand. Staff is withdrawing both notices of violations because the issue has been remedied. **Please move to remove these notices from the table and allow staff to withdraw them.**
2. New Star Enterprise. The owner/facility contact was notified of the violation and advised that there will be a hearing at the Board Meeting scheduled for December 6, 2022. This involves a 25% Rule violation that results in grease being introduced into the wastewater system. **Please move to remove this notice from the table and proceed to hearing on this matter.**
3. Taco Bell. Staff acknowledges that there was an issue in serving the appropriate person with regard to the two tabled notices for this food service establishment. Staff requests that this be removed from the table and allow staff to withdraw the notices of violations. Once appropriate notice has been provide to the food service establishment, staff anticipates a notice may be filed with the Board at that time. **Please move to remove these notices from the table and allow staff to withdraw them.**



Request to withdraw

FATS, OILS AND GREASE
Failure to Submit a New FOG Certificate Application

Name of FSE: Bird in the Hand Facility Number: F2022-012
Physical Address: 240 E. Jackson

Date Application Due: 05/29/2022 Date of Violation: 05/30/2022
Date Complete: 7/13/2022

Offense # 1 in 12-month period. Penalty Matrix recommendation*: \$ 245
Calculation: \$100 - first 15 days (05/30/2022 - 06/13/2022+\$145
\$5/day for 29 days (06/14/2022 - 07/12/2022)

NOV Delivered to FSE: 9/15/2022 FSE NOV Response Due: 9/30/2022
NOV Response Submitted: No Response Complete [] Incomplete [X]
Response Missing: All items Completed Date: No Response

Offense # 1 in 12-month period. Penalty Matrix recommendation**: \$ 100

Penalty Matrix recommendation in combined penalties: \$ 245

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan Date
Chad Crabtree Date
Jamie Arce Date
Ronnie Davis Date
Rose Rivera Date

*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



Request to Withdraw

FATS, OILS AND GREASE Discharging Without a Valid FOG Certificate

Name of FSE: Bird in the Hand Facility Number: F2022-012
Physical Address: 240 E. Jackson

Date began operating without a valid FOG Certificate: 06/28/2022 Date of Violation: 06/28/2022

New Food Service Establishment:

Has a FOG Certificate Application been submitted? Yes No After opening

Was a pre-opening FOG inspection requested? Yes No

Offense # 1 in 12-month period. Penalty Matrix recommendation*: \$ 100
Calculation: \$100 (first 30 days)

NOV Delivered to FSE: 9/15/2022 FSE NOV Response Due: 9/30/2022
NOV Response Submitted: No Response Complete Incomplete
Response Missing: All items Completed Date: No Response

Offense # 2 in 12-month period. Penalty Matrix recommendation**: \$ 200

Penalty Matrix recommendation in combined penalties: \$ 300

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Chad Crabtree

Jamie Arce

Ronnie Davis

Rose Rivera

Date

Date

Date

Date

Date

*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



FATS, OILS AND GREASE 25% Rule Violation

Name of FSE: New Star Enterprise, Inc. **Facility Number:** F2016-021
Physical Address: 1226 S. MAIN ST.

25% Rule Violation Date: 08/17/2022 FOG + Solids Measurement: 100%
Offense # 1 in 12-month period. Penalty Matrix recommendation*:

\$ 100

NOV Delivered to FSE: 9/15/2022 FSE NOV Response Due: 9/30/2022
NOV Response Submitted: 9/15/2022 Complete Incomplete
Response Missing: Complete Completed Date: 9/15/2022
Offense # N/A in 12-month period. Penalty Matrix recommendation**:

\$ N/A

Penalty Matrix recommendation in combined penalties:

\$ 100

Board of Works total assessed penalty:

\$

Approved this _____ of _____, 2022

Michael Machlan

Chad Crabtree

Jamie Arce

Ronnie Davis

Rose Rivera

Date

Date

Date

Date

Date

*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

Request to Withdraw



City of Elkhart
Public Works & Utilities

To: Members of the Board of Public Works
From: Lynn Brabec, Environmental Compliance Manager
Date: October 6, 2022
Re: Notice of Violation: Discharging Substances Which Obstruct the City Sewer – Taco Bell, 2508 Cassopolis St. (F2018-042)

Taco Bell received a Notice of Violation (NOV) for discharging substances which obstruct the City's sewer system. On August 18, 2022 a back-up in the City's sewer system was track to Taco Bell. Utility staff was informed by the staff at Taco Bell that they ran out of toilet paper and paper towels were used instead. Taco Bell had Roto-Rooter jet the line. Grease, paper towels, and clothing items were found in the Taco Bell lateral. To date, Taco Bell has not responded to the Notice of Violation received on September 15, 2022. The Penalty Matrices recommend assessing penalties totaling \$200.

Violation #1: Discharging Substances Which Obstruct the City Sewer.

Date of Violation:	Penalty Matrix Recommendation:*	Met all requirements outlined in Notice of Violation? Requirements included submission of written response, signed certification statement and FOG application	Additional Violation?
8/18/2022	\$100	No	Yes (see Violation #2)

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

Date of Violation: 10/1/2022

Penalty Matrix Recommendation: \$100 Penalty**

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

Location:	Date of Violation:	Penalty Matrices Recommendation:	BOW Assessed Penalty:
Taco Bell 2508 Cassopolis St.	8/18/2022	\$200	\$

Approved this _____ of _____ 2022.

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:

*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 AND SUBSEQUENT OFFENSE(S)
9.1.5 Discharging substances which obstruct the sewer when:			
a. No damage	\$50	\$100	\$300
b. Damage	\$100	\$300	\$500

**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

Request to Withdraw



**FATS, OILS AND GREASE
Failure to Keep Records as Required**

Name of FSE: Taco Bell Facility Number: F2018-042
Physical Address: 2508 CASSOPOLIS ST.

Violation Date: 08/18/2022
Type of records not kept as required: Grease control device maintenance records not kept as required.

Offense # 1 in 12-month period. Penalty Matrix recommendation*: \$ 50

NOV Delivered to FSE: 9/15/2022 FSE NOV Response Due: 9/30/2022
NOV Response Submitted: No Response Complete Incomplete
Response Missing: All items Completed Date: No Response

Offense # 2 in 12-month period. Penalty Matrix recommendation**: \$ 200

Penalty Matrix recommendation in combined penalties: \$ 250

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

Date

*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 penalty may be assessed for this violation:

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	FOURTH AND SUBSEQUENT OFFENSE(S)
15.9.3 Failure to operate or maintain FOG control device in proper working order (Ord. No. 5746 as amended)	\$100	\$200	\$250	\$300
15.9.8 Failure to keep records as required	\$50	\$150	\$250	\$300

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

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD AND SUBSEQUENT OFFENSE(S)
9.3 ADMINISTRATIVE			
9.3.3 Failure to respond to Notice of Violation :	\$100	\$200	\$500



City of Elkhart
Public Works and Utilities

M E M O R A N D U M

Date December 1, 2022
To Mike Machlan, Board of Works President
From Lynn Brabec, Environmental Compliance Manager *LB*
RE Administrative FOG NOVs

Public Works is recommending the Board of Works to temporarily assess a penalty of **no dollars** for administrative type violations to the following Food Service Establishments:

- Granma's - failure to notify of change of ownership compliance since achieved
- McDonald's (5) - failure to notify of change in ownership compliance since achieved
- El Paraiso Supermarket - failure to submit renewal compliance since achieved

Elkhart Public Works is in the process of revisiting all aspects of the FOG program including the current FOG Ordinance, policies and associated penalties. At a future Board of Works Meeting, Public Works will be recommending the Board of Works to appoint a Designee to exercise discretion, with administrative type violations, as permitted by the current FOG Ordinance.



FATS, OILS AND GREASE Failure to Submit a New FOG Certificate Application

Name of FSE: Granma's House of Pancakes Facility Number: F2022-015
Physical Address: 3709 S. MAIN ST.

Date Application Due: 08/12/2022 Date of Violation: 08/13/2022
Date Complete: 9/21/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/30/2022 FSE NOV Response Due: 10/15/2022
NOV Response Submitted: 9/30/2022 Complete Incomplete
Response Missing: Complete Completed Date: 9/30/2022

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

Date

*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



FATS, OILS AND GREASE Failure to Submit a New FOG Certificate Application

Name of FSE: McDonald's Restaurant Facility Number: F2021-021
Physical Address: 2808 CASSOPOLIS ST.

Date Application Due: 09/01/2022 Date of Violation: 09/02/2022
Date Complete: 9/28/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/30/2022 FSE NOV Response Due: 10/15/2022
NOV Response Submitted: 10/11/2022 Complete Incomplete
Response Missing: Complete Completed Date: 10/11/2022

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

Date

*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



FATS, OILS AND GREASE

Failure to Submit a New FOG Certificate Application

Name of FSE: McDonald's Restaurant Facility Number: F2021-020

Physical Address: 130 N. MAIN ST.

Date Application Due: 09/01/2022 Date of Violation: 09/02/2022

Date Complete: 9/28/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/30/2022 FSE NOV Response Due: 10/15/2022

NOV Response Submitted: 10/11/2022 Complete [X] Incomplete []

Response Missing: Complete Completed Date: 10/11/2022

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

Date



FATS, OILS AND GREASE

Failure to Submit a New FOG Certificate Application

Name of FSE: McDonald's Restaurant Facility Number: F2021-018
Physical Address: 1430 SOUTH NAPPANEE

Date Application Due: 09/01/2022 Date of Violation: 09/02/2022
Date Complete: 9/28/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/30/2022 FSE NOV Response Due: 10/15/2022
NOV Response Submitted: 10/11/2022 Complete [X] Incomplete []
Response Missing: Complete Completed Date: 10/11/2022

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan Date
Chad Crabtree Date
Jamie Arce Date
Ronnie Davis Date
Rose Rivera Date

*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



FATS, OILS AND GREASE Failure to Submit a New FOG Certificate Application

Name of FSE: McDonald's Restaurant Facility Number: F2021-019
Physical Address: 21879 SR 120

Date Application Due: 09/01/2022 Date of Violation: 09/02/2022
Date Complete: 9/28/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/30/2022 FSE NOV Response Due: 10/15/2022
NOV Response Submitted: 10/11/2022 Complete Incomplete
Response Missing: Complete Completed Date: 10/11/2022

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

Date

*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



FATS, OILS AND GREASE Failure to Submit a New FOG Certificate Application

Name of FSE: McDonald's Restaurant Facility Number: F2021-022
Physical Address: 3429 S. MAIN. ST.

Date Application Due: 09/01/2022 Date of Violation: 09/02/2022
Date Complete: 9/28/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/30/2022 FSE NOV Response Due: 10/15/2022
NOV Response Submitted: 10/11/2022 Complete Incomplete
Response Missing: Complete Completed Date: 10/11/2022

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

Date

*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



FATS, OILS AND GREASE Failure to Submit a FOG Renewal Application

Name of FSE: EL PARAISO SUPERMARKET Facility Number: F2015-002

Physical Address: 111 E LUSHER AVE.

Date Renewal Application Due: 08/04/2022 Date of Violation: 08/05/2022

Offense # 1 in 12-month period.

NOV Delivered to FSE: 9/27/2022 FSE NOV Response Due: 10/19/2022*

*Manager called before deadline to request extension because owner was out of the country. . Extension granted.

NOV Response Submitted: 10/14/2022 Complete Incomplete

Response Missing: Complete Completed Date: Date or No Response

Offense # 0 in 12-month period.

Board of Works total assessed penalty: \$

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 re-evaluates the violation.

Approved this _____ of _____, 2022

Michael Machlan

Date

Chad Crabtree

Date

Jamie Arce

Date

Ronnie Davis

Date

Rose Rivera

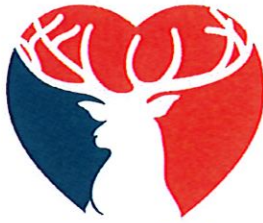
Date

*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 and Utilities

Date Nov 28, 2022
Memo To Board of Public Works
Memo From Laura Kolo, Utility Services Manager 
Subject Wastewater Utility Monthly Report of Operations
for the month of October, 2022

Wastewater MRO Highlights

Parameter	Monthly Avg	Permit Limit
Suspended Solids mg/L	7	30
cBOD5 mg/L	3	25
Phosphorus mg/L	0.95	1.0
Ammonia mg/L	0.79	4.4 (Dec-Apr) 4.2 (May-Nov)
Avg Daily Flow MGD	12.33	Design - 20
Total Monthly Flow MGD	382	Report

Incident Reports Filed

Date	Location	Volume (gal)	Cause
10/24/22	MH-00000628	unknown	grease


Wet Weather Overflows

Number of Events	Total Overflow Volume (MG)
2	1.392

Phosphorus % removal violation - cause remains undetermined



M E M O R A N D U M

Date November 15, 2022
To Mike Machlan, Board of Works President
From Laura Kolo, Utility Services Manager 
RE 2022 Wage Resolution Amendment

Elkhart Public Works is respectfully requesting to amend the 2022 Wage Resolution at add "Exhibit E" (attached); Utility Electrician at a maximum hourly rate of \$40.00.

A licensed electrician has not filled this AFSCME position since at least 1991. When the electrician position became open in December of 2021, the decision was made to attempt to fill the position as had been strongly recommended by our insurance carrier for several years, with a licensed electrician. After several months of posting the position at \$26.50 and not receiving any qualified applicants, the Human Resources Director, Public Works Director, Utility Attorney and I met with IBEW (International Brotherhood of Electrical Workers) 153 out of South Bend. IBEW confirmed our highest AFSCME Pay Grade, PG 10, \$26.50 per hour, was \$14 below the starting hourly rate of a licensed electrician.

With the support of the Human Resources Director and the Public Works Director, the position was advertised at \$40.00 per hour and we received two qualified applicants. Interviews were conducted, a second interview was conducted with one of the applicants and we would like to offer the applicant the position.

Funds are available for the remainder of 2022 due to several open positions throughout the year in wastewater maintenance. 2023 funding for this position was approved as part of the 2023 wastewater utility budget, which was approved on November 15. This position will be / has been incorporated in the proposed 2023 Wage Resolution.

Because the current 2022 Wage Resolution does not accommodate an hourly rate at this level, Public Works is requesting to amend the 2022 Wage Resolution with a new Exhibit E, specifically for the Utility Electrician.

EXHIBIT "E"

2022 MAXIMUM HOURLY RATE OF BASE PAY FOR UTILITY ELECTRICIAN

Utility Electrician	\$40.00 / hr
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Annual clothing and safety boot allowance are to be consistent with AFSCME.



M E M O R A N D U M

Date November 22, 2022
To Mike Machlan, Board of Works President
From Tory Irwin, Public Works Director TI
RE 2023 Wage Resolution 22-12-26

The 2023 Wage Resolution is attached. Modifications to the maximum annual salary in Exhibit A are reflective of the same equivalent increases for each respective position/pay grade made by the City Council for budget year 2023. It also reflects new positions that were added in 2022. Only one existing position changed, the classification of Asset Manager. It was updated to reflect the re-evaluation of the position by WIS, based on new duties added to the position in 2022.

The Union pay rates in Exhibit B are reflective of the tentative contract deals with AFSCME and Teamsters. The AFSCME contract will be subject to approval by both the Council and Board of Works.

Exhibit C matches exactly the language approved by the City Council for budget year 2023.

Exhibit D has been created to reflect a new Electrician position for Public Works, which is pending Board approval today as well.

Elkhart Public Works is respectfully requesting **approval of the 2023 Wage Resolution including Exhibits A-D.**

**2023 WAGE RESOLUTION
RESOLUTION # 22-R-26**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE
CITY OF ELKHART, INDIANA, TO ESTABLISH PAY SCHEDULES
FOR HOURLY-RATED AND CERTAIN SALARIED PERSONNEL
FOR THE CALENDAR YEAR 2023**

BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF ELKHART, INDIANA, THAT:

1. The wages for the listed positions for the calendar year beginning January 1, 2023 and ending December 31, 2023, shall be as follows:
 - A. For the salaried position within the Public Works and Utilities Department, the compensation set forth in Exhibit "A" for the listed positions shall be the maximum compensation for those positions.
 - B. For those positions covered by the Collective Bargaining Agreement between AFSCME Local No. 1484 and Teamsters Local No. 364 and the City of Elkhart, the maximum hourly rates of base pay by pay grade classification shall be the amounts set forth in Exhibit "B".
 - C. For those positions not covered by a collective bargaining agreement, or other resolutions or ordinance, the maximum hourly rates of base pay by job type shall be the amounts set forth in Exhibit "C".
 - D. For the position of Utility Electrician, the maximum hourly rate of base pay shall be the amount set forth in Exhibit "D".
2. For all full-time employees covered by the Collective Bargaining Agreements between the City of Elkhart and AFSCME Local No. 1484 and/or Teamsters

Local No. 364, the longevity program is as follows:

- A. Longevity: In addition to the base compensation, employees with four (4) or more years of service will receive fifteen dollars (\$15.00) per month for each four (4) years of service beginning in the fifth year where applicable. Longevity payments will not exceed twenty (20) years of service.
- B. Special Longevity: In addition to regular longevity pay, special longevity incentive will be paid at the rate of one hundred dollars (\$100.00) dollars per month for employees with over twenty (20) full years of service.

RESOLVED this ____ day of December, 2022.

Michael Machlan, President

Chad Crabtree, Vice President

Jamie Arce, Member

Ronnie Davis, Member

Rose Rivera, Member

ATTEST:

Nancy Wilson, Clerk

EXHIBIT "A"

2023 BIWEEKLY WAGES FOR SALARIED, NON-UNION POSITIONS
FOR THE PUBLIC WORKS AND UTILITIES DEPARTMENT

Job Title	Pay Grade	2023 Maximum Annual Salary
Aquatic Biologist	2C	\$78,833
Asset Manager	3A	\$88,704
Assistant Office Manager	1C	\$61,365
Billing Services Coordinator	2A	\$65,456
City Engineer	5A	\$130,171
Chemist (3)	2B	\$69,198
Chief Chemist	2C	\$78,833
Collections Supervisor	3A	\$88,704
Director of Public Works	5B	\$135,004
Distribution Supervisor	3A	\$88,704
Engineering Tech/ Records	2B	\$69,198
Engineering Technician (4)	2B	\$69,198
Environmental Compliance Supervisor	3B	\$94,936
Executive Services Manager	3B	\$94,936
GIS & Records Manager	3B	\$94,936
GIS Technician	2B	\$69,198
Industrial Waste Specialist (4)	2A	\$65,456
Maintenance Supervisor	3B	\$94,936
Network Manager	3B	\$94,936
Office Services I (6)	1C	\$61,365
Operations Supervisor	3A	\$88,704
Preventive Maintenance Coordinator (2)	3A	\$88,704
Project Manager	2C	\$78,833
Regulatory Compliance Manager	3B	\$94,936
Sewer Televising Tech	2B	\$69,198
Storm Water Utility Manager	3A	\$88,704
Utility Accountant	2C	\$78,833
Assistant City Attorney - Public Works	3C	\$100,715
Utility Engineer	4C	\$118,505
Utility Services Manager	5A	\$130,171
Water Quality Assurance Specialist	2B	\$69,198

EXHIBIT "B"

2023 MAXIMUM HOURLY RATE OF BASE PAY FOR EACH PAY GRADE
FOR POSITIONS COVERED BY THE COLLECTIVE BARGAINING AGREEMENT
BETWEEN AFSCME LOCAL #1484 AND
TEAMSTERS LOCAL #364 AND THE CITY OF ELKHART

Pay Grade	Hourly Rate
1	\$21.15
2	\$22.18
3	\$22.65
4	\$22.87
5	\$23.30
6	\$23.72
7	\$24.38
8	\$26.50
9	\$27.03
10	\$28.09

EXHIBIT "C"

2023 MAXIMUM HOURLY RATE OF BASE PAY FOR PART-TIME AND TEMPORARY
POSITIONS, INTERNS, SPECIALISTS AND OTHER POSITIONS NOT COVERED
BY A COLLECTIVE BARGAINING AGREEMENT, ORDINANCE OR RESOLUTION

Full-Time/Part-Time/Temporary

Unskilled Labor	\$10.00 - \$15.00
Skilled Labor	\$15.00 - \$21.58
Administrative Support Services, Professional, Specialists	\$15.00-\$30.00

EXHIBIT "D"

2023 MAXIMUM HOURLY RATE OF BASE PAY FOR UTILITY ELECTRICIAN

Utility Electrician	\$40.00 / hr
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B.O.W. SUMMARY
December 6, 2022

Water Assessment Application:

J.C. Brown & Associates
24137 Roadster Ct.
Elkhart, IN. 46517
Property: 715 Fieldhouse
Paid in full, \$1089.00

Keystone RV Company
P.O. Box 2000
Goshen, IN. 46527
Property: 2525 John Weaver Pkwy
Paid in full, \$850.00

Casey's Marketing Co.
P.O. Box 3001
Ankeny, IA. 50021
Property: 3704 S. Nappanee St.
Paid in full, \$3118.80

Casey's Marketing Co.
P.O. Box 3001
Ankeny, IA. 50021
Property: 22045 CR 6
Paid in full, \$8349.00

Habitat for Humanity
2910 Elkhart Rd.
Goshen, IN. 46527
Property: 1908 Belmont
Paid in full, \$1227.00

Habitat for Humanity
2910 Elkhart Rd
Goshen, IN. 46527
Property: 1920 Belmont
Paid in full, \$1227.00

We Impact Properties LLC
240 E. Jackson Suite 401
Elkhart, IN. 46516
Property: 3075 CR 6
Paid in full, \$14,212.00

Moyer Investments LLC
63678 CR 7
Goshen, IN. 46526
Property: 1905 Fieldhouse
Paid in full, \$1792.80

R&R Properties
545 Kollor

Elkhart, IN. 46516
Property: 1214 Locust
Paid in full, \$1020.00

Adams Lusher Indiana Trust
1290 E. Ireland RD. Suite V 100-239
South Bend, IN. 46614
Property: 54399 Adams
Paid in full, \$1227.00

J&J Home Builders
63677 CR 15
Goshen, IN. 46526
Property: 720 Hope
Paid in full, \$1192.50

Sewer Assessment Application: Moyer Investments LL
63678 CR 7
Goshen, IN 46526
Property: 1905 Fieldhouse
Paid in full, \$5515.00

We Impact Properties LLC
240 E. Jackson Suite 401
Elkhart, IN. 46516
Property: 3075 CR 6
Paid in full, \$50,815.00

Habitat for Humanity
2910 Elkhart Rd, PO Box 950
Goshen, IN. 46527
Property: 1920 Belmont
Paid in full, \$5455.00

Habitat for Humanity
2910 Elkhart Rd, PO Box 950
Goshen, IN. 46527
Property: 1908 Belmont
Paid in full, \$5455.00

Casey's Marketing Co.
PO Box 3001, One Convenience Blvd.
Ankeny, IA. 50021
Property: 22045 CR 6
Paid in full, \$36,955.00

Casey's Marketing Co.
PO Box 3001, One Convenience Blvd.
Ankeny, IA. 50021
Property: 3704 S. Nappanee St.
Paid in full, \$14,215.00

Keystone RV Company
PO Box 2000
Goshen, IN. 46527
Property: 2525 John Weaver Pkwy
Paid in full, \$3000.00

J&J Home Builder
63677 CR 15
Goshen, IN. 46526
Property: 720 Hope Ave.
Paid in full, \$5155.00

Driveway Permit:

#5049, Owner: Jerry Matthews
Property: 1313 W. Hubbard
Contractor: Owner
\$10,000 bond by Contractor

#5027, Owner: Frank & Tonja Lucchese
Property: 2110 Sunnyside Dr.
Contractor: Edge Construction
\$600.00 bond by Contractor

Release of Bond:

#5027, Contractor: Edge Construction
Property: 2110 Sunnyside Dr.
\$600.00 bond

Revocable Permits:

#6542, Owner: Tom Graber
Property: Timberstone Dr. & Cty Rd 15, North Entrance
Timberstone Dr. & Cty Rd 15, South Entrance
Permit Holder: Owner
Description: Sign

#6536, Slovic Baptist Church
Property: 420 South West Blvd
Permit Holder: Owner
Description: Road closure for pavement repair

#6535, Owner: Moose Lodge
Property: 1500 CR 6
Permit Holder: Judy Cunningham
Description: 8 signs along CR 6

#6533, Owner: Welmpact Properties LLC
Property: 3075 County Road 6 West
Permit Holder: DJ Construction
Description: Commercial access drive and improvements to CR 6

#6537, Owner: City of Elkhart
Property: 1319 W. County Road 6
Permit Holder: Minnesota Limited LLC
Description: Shoulder closure on south side CR 6

#6531, Owner: Tolson Center for Community Excellence
Property: 254 Chapman Ave
Permit Holder: DJ Construction
Description: Asphalt paving to access adjacent parking spaces

#6540, Owner: Michael L Russo
Property: 1430 Baldwin St.
Permit Holder: Owner
Description: Existing single pole freestanding sign in ROW



M E M O R A N D U M

DATE: December 6, 2022

TO: Board of Public Works

FROM: Joe Foy, Stormwater Manager 

RE: **Resolution in Support of an Amending Ordinance to the Stormwater User Fee Ordinance**

The Greater Elkhart County Stormwater Partnership was started in 2006 in an effort to establish a uniform application of the state's stormwater rules across the county. In so doing, the City of Elkhart, the City of Goshen, Elkhart County and the Town of Bristol committed to enacting new ordinances in a similar manner across all four jurisdictions to ensure that fees and other aspects of the stormwater program would be the same, thus providing no economic advantages or disadvantages to development in any of these jurisdictions.

In 2007 a uniform stormwater user fee was adopted by all Partners. These funds are used to operate and maintain the stormwater collection systems in each jurisdiction, as well as to offset additional costs related to complying with the state and federal stormwater regulations.

At the end of 2021, the stormwater regulations and MS4 permits were updated in Indiana. The combination of the additional requirements of these new regulations and permits, and increasing project and contract costs lead the Partnership to retain Baker Tilley to complete a rate analysis in 2022. Upon completion of this rate study, Baker Tilly concluded the stormwater user fee should be increased to \$36.10 per year to meet the operational needs of all Partners. They also pointed out this could be completed in a three phase approach. The Advisory Board for the Partnership (which is made up of a representative from each jurisdiction) discussed these findings and passed a resolution in support of this three phase approach on November 17, 2022.

This amending ordinance will revise the annual stormwater fee as agreed to by all Partners and will only go into effect if all Partners pass similar ordinances within each jurisdiction.

Engineering respectfully requests that the Board of Works adopts Resolution 22-25 "A Resolution of the Board of Public Works of the City of Elkhart, Indiana, Recommending that the Common Council of the City of Elkhart, Authorize and Approve the Third Amendment to Ordinance 5012 "An Ordinance to Establish Stormwater User Fees for the City of Elkhart, Indiana"."

RESOLUTION 22-25

A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF ELKHART, INDIANA, RECOMMENDING THAT THE COMMON COUNCIL OF THE CITY OF ELKHART, AUTHORIZE AND APPROVE THE THIRD AMENDMENT TO ORDINANCE 5012 “AN ORDINANCE TO ESTABLISH STORMWATER USER FEES FOR THE CITY OF ELKHART, INDIANA”

WHEREAS, the City of Elkhart, Indiana (“City”), is a municipal corporation that owns and operates three utilities, namely, the Water Utility, the Wastewater Utility, and the Stormwater Utility; and

WHEREAS, the Board of Public Works has the authority to manage the Water Utility and the Wastewater Utility; and

WHEREAS, the City of Elkhart Stormwater Board has the authority to manage the Stormwater Utility; and

WHEREAS, the City is a member of the Greater Elkhart County Stormwater Partnership (“Partnership”); and

WHEREAS, in 2022 the Partnership agreed that a review of the stormwater user fee was necessary and hired Baker Tilly Municipal Advisors, LLP (BTMA), to review the current stormwater user fee and the stormwater budgets for each Partner and to provide a rate analysis to determine if any revisions of the user fee would be warranted; and

WHEREAS, the rate analysis report demonstrates a stormwater user fee increase is needed to meet the anticipated costs of operating and maintaining the stormwater system and complying with the Phase II Stormwater NPDES Permit Regulations.; and

WHEREAS, all Partnership members have agreed to present the revised stormwater user fee to their appropriate legislative body; and

WHEREAS, the City of Elkhart Stormwater Board has resolved to submit to the Common Council for approval and passage, an ordinance to revise the stormwater user fee; and

WHEREAS, the Board of Public Works has reviewed the proposal from the Partnership and agrees that the City should revise the stormwater user fee and timeline as proposed; and.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF ELKHART, INDIANA, that the Board hereby recommends to the Common Council of the City that the Common Council approve the attached *THIRD ORDINANCE AMENDING ORDINANCE NO. 5012 "AN ORDINANCE TO ESTABLISH STORMWATER USER FEES FOR THE CITY OF ELKHART, INDIANA"* as presented by the City of Elkhart Stormwater Board.

RESOLVED this 6th day of December, 2022.

Michael Machlan, President

Chad Crabtree, Vice President

Jamie Arce, Member

Ronnie Davis, Member

Rose Rivera, Member

ATTEST:

Nancy Wilson, Secretary



City of Elkhart
Engineering

MEMORANDUM

DATE: November 30, 2022

TO: Board of Public Works

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

RE: **Permission to Advertise for Bid #23-02, Street Materials 2023**

The Department of Public Works requests approval of the specifications and permission to advertise the Bid for Street Materials 2023.

The materials bid is completed annually to enable various City Departments to purchase materials and contractor services throughout the calendar year.

The action requested by the Board of Public Works is as follows:

Approve the specifications and grant permission to advertise Bid #23-02, Street Materials 2023.



M E M O R A N D U M

DATE: November 21, 2022

TO: Board of Public Works

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

RE: **Change Order Request #2 and Final: East Industrial Area Resurfacing project – Bid #22-17**

Attached is change order request #2 and final for the East Industrial Resurfacing project. This change order is for additional work by Niblock.

This change order is for additional work and grading done by Niblock and for a final adjustment to quantities.

This change order request is for an decrease of \$8,510.84 to the current contract price of \$829,718.90. Approval of change order #2 and final would decrease the current contract price to \$821,208.06, resulting in a 2.9% increase from the original contract price of \$797,981.40.

It is requested the Board of Public Works:

approve Change Order #2 and Final and release all retainage for the East Industrial Area Resurfacing project, Bid #22-17, for a decrease of \$8,510.84, bringing the final Contract price to \$821,208.06.

CITY OF ELKHART

PUBLIC WORKS & UTILITIES

Change Order No. Two & Final
Dated 11/9/2022

Project: East Industrial CCMG

Contract No. 22-17

To: Niblock Excavating and 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

Binder Wedge and Level	\$29,287.50
Surface Wedge and Level	\$32,587.50
Crosswalk Striping	\$1,350.00
Adjustment to Final Quantities	(\$71,735.84)
TOTAL	\$ (8,510.84)

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

Original Contract Price	\$ 797,981.40
Contract Price Prior to this Change Order	\$ 829,718.90
Net change resulting from this Change Order	\$ (8,510.84)
Current Contract Price including this Change Order	\$ 821,208.06
Current Contract Price % Change from Original Price	2.9%
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. Clewley
Engineer
11/16/22
DATE

The above changes are accepted:

BY: [Signature]
Contractor
11/15/22
DATE





M E M O R A N D U M

DATE: November 22, 2022
TO: Board of Public Works
FROM: Jason Simnick, Engineering Project Manager - JS
RE: **Change Order Request #2: Arlington Road Improvements – Bid # 22-06**

Attached is change order request #2 for the Arlington Road Improvements project. This change order includes additional costs due to the upsizing of a mast arm base.

The project called out a projected design for the bases of the signal poles on the project. There was also a note indicating that the contractor needed to have an engineer sign off on all structural designs based on the soils on site. C&E bid based on the dimensions of the bases and the fees in having an engineer sign off on the designs. The engineer they hired made significant adjustments in size requirements to one pole base. C&E is requesting to be compensated for the additional excavation and materials needed for the increased size of this base.

This change order request is for an increase of \$14,240.00 to the current contract price of \$1,358,895.00. Approval of change order #2 would increase the current contract price to \$1,373,135.00 resulting in a 2.1% increase from the original contract price of \$1,345,045.00.

It is requested the Board of Public Works:
approve a change order for the Arlington Road Improvements, Bid #22-06, in the amount of \$14,240.00.



M E M O R A N D U M

DATE: November 10, 2022
TO: Board of Public Works
FROM: Jason Simnick, Project Manager
RE: **Change Order Request #3 and Final: River District – Zone 1 Earthwork and Utilities project – Bid #20-38**

Attached is change order request #3 and Final for the River District – Zone 1 Earthwork and Utilities project. This change order is for the adjustment to final quantities.

This change order request is for a decrease of \$2,597.30 to the current contract price of \$1,429,318.58. Approval of change order #3 and Final would decrease the contract price to \$1,426,721.28 resulting in a 2.2% total increase from the original contract price.

It is requested the Board of Public Works:
approve release of all retainage and Change Order #3 and Final for the River District – Zone 1 Earthwork and Utilities project, Bid #20-38, for a decrease of \$2,597.30, bringing the final Contract price to \$1,426,721.28.

CITY OF ELKHART

PUBLIC WORKS & UTILITIES

Change Order No. 3 and Final
Dated 11/4/2022

Project: RIVER DISTRICT - ZONE 1 EARTHWORK AND UTILITES Contract No. 20-38

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. \$ (2,597.30)

TOTAL \$ **(2,597.30)**

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

Original Contract Price \$ 1,395,896.15

Contract Price Prior to this Change Order \$ 1,429,318.58

Net change resulting from this Change Order \$ (2,597.30)

Current Contract Price including this Change Order \$ 1,426,721.28

Current Contract Price % Change from Original Price 2.2%

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:

BY: [Signature]
Public Works & Utilities
Engineer
11-10-22
DATE

The above changes are accepted:

By: [Signature]
Contractor
07 Nov 22
DATE





M E M O R A N D U M

DATE: November 30th, 2022

TO: Board of Public Works

FROM: Paul Wunderlich, Utility Engineer *PW*

RE: **Oakland Avenue Project A CSO Force main – Bid #22-25 - Plan Approval and Permission to Advertise**

In accordance with the Long Term Control Plan, Elkhart Engineering is undertaking another milestone project. This project consists of new 30-inch force main, new storm pipe and manholes, new water main, sanitary sewer manhole replacement, pavement replacement, earthwork, erosion control, and maintenance of traffic in accordance with city standards.

Engineering selected DLZ to design the project. The plans for this project are complete and the project is ready to advertise.

It is requested the Board of Public Works:
approve the plans and specifications for the Oakland Avenue Project A CSO Force main – Bid #22-25 and grant permission to advertise.



M E M O R A N D U M

DATE: November 30, 2022

TO: Board of Public Works

FROM: Paul Wunderlich, Utility Engineer *W*

RE: **Permission to Advertise – 2023 Utility Materials Bid – Bid #23-01**

The Department of Public Works requests approval of the specifications and permission to advertise the 2023 Utility Materials Bid.

The materials bid is completed annually to enable various City Departments to purchase utility materials and contractor services throughout the calendar year. The materials bid will be advertised twice for the year of 2023 due to material cost fluctuation. The City will likely be able to obtain lower prices if bid multiple times as material and contractor services will not be up-scaled on short-term bids.

It is requested that the BOW:
approve the specifications and grant permission to advertise the first 2023 Utility Materials Bid – Bid #23-01



M E M O R A N D U M

DATE: November 30th, 2022

TO: Board of Public Works

FROM: Paul Wunderlich, Utility Engineer *W*

RE: **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #10 to Bowen Engineering Corporation**

Please see the attached partial pay application #10 from Bowen Engineering Corporation for construction services provided for the Elkhart WWTP Capacity Upgrades project for work performed during the period thru October 31, 2022. This partial pay application, in the amount of \$2,884,738.00, includes a payment for recent construction activities on the project, as well as payment for retainage. It will be paid through the SRF loan for this project. The partial payment this application breaks down as follows:

Payment Due	\$2,596,264.00
Retainage Held	\$288,474.00
Total Amount	\$2,884,738.00

To date, including this payment and all retainage, we have paid \$8,814,958.00, or 32.70% of the \$26,956,543.49 current contract price.

It is requested that the BOW:
approve partial payment request #10 in the amount of \$2,884,738.00 to Bowen Engineering Corporation from the allocated SRF loan for construction on the Elkhart WWTP Capacity Upgrades – Phase 2 project.



ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE


Contractor's Application for Payment No. 010


To (Owner): City of Elkhart	From (Contractor): Bowen Engineering Corporation	Via (Engineer): Donohue & Associates
Project: Elkhart WWTP Capacity Upgrades Phase II	Contract: Agreement 00 52 16-1 Elkhart WWTP Capacity Upgrades Phase II	SRF's Project No.: WW18262004
Owner's Contract No.: QA 76 34	Contractor's Project No.: 15-21-1069	Engineer's Project No.: 13476

**Application For Payment
Change Order Summary**

Approved Change Orders Number	Additions	Deductions	1. ORIGINAL CONTRACT PRICE
1	\$80,989.13		\$ 226,811,000.00
			\$ 80,989.13
			\$ 226,891,989.13
			4. TOTAL COMPLETED AND STORED TO DATE
			(Column F total on Progress Estimates) \$ 88,814,957.83
			5. RETAINAGE:
			a. 10% X \$663,102.68 Work Completed \$ 663,102.68
			b. 10% X \$2,183,931.07 Stored Material \$ 218,393.11
			c. Total Retainage (Line 5.a + Line 5.b) \$ 881,495.79
			6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c) \$ 57,933,462.05
			7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) \$ 55,337,197.82
			8. AMOUNT DUE THIS APPLICATION \$ 22,596,264.23
			9. BALANCE TO FINISH, PLUS RETAINAGE (Column H total on Progress Estimates + Line 5.c above) \$ 518,958,527.08
TOTALS	\$80,989.13		
NET CHANGE BY CHANGE ORDERS	\$80,989.13		

Contractor's Certification
The undersigned Contractor certifies, to the best of its knowledge, the following:
(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment.
(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and
(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor Signature: 
By: Naiman Thomas, Project Manager
Date: 11/1/2022

Payment of: \$ 22,596,264.23 (Line 8 or other - attach explanation of the other amount)
is recommended by:  11/1/11/22 (Engineer) (Date)
Payment of: \$ (Line 8 or other - attach explanation of the other amount)
is approved by: _____ (Owner) (Date)
Approved by: _____ Funding or Financing Entity (if applicable) (Date)

Received
NOV 14 2022

ELKHART PUBLIC WORKS & UTILITIES

APPROVED FOR PAYMENT

DATE:
DESCRIPTION:
ACCOUNT LINE:
PO NO:
APPROVED BY:

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract):		Agreement 00 52 16-1 Elkhart WWTP Capacity Upgrades Phase II		Application Number:		010			
Application Period:		10-3-2022 - 10-31-2022		Application Date:		11/1/2022			
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		E Materials Previously Stored (Not in C or D)	F Materials Stored This Period (not in C or D)	G Total Completed and Stored to Date (C + D + E + F)	H Balance to Finish (B - F)	
			D From Previous Application (C+D)	D This Period					
	Performance Bond and Insurance	\$119,077.00	\$119,077.00				\$119,077.00	100.0%	\$ -
	Maintenance Bond	\$54,767.00							\$54,767.00
	Mobilization	\$820,680.00	\$820,680.00				\$820,680.00	100.0%	
	Office Support	\$880,245.00	\$308,085.75	\$44,012.25			\$352,098.00	40.0%	\$528,147.00
	Field Supervision	\$966,680.50	\$386,672.20	\$48,334.02			\$435,006.22	45.0%	\$531,674.29
	Demobilization	\$94,654.00					\$94,654.00		\$94,654.00
	Sitework	\$406,869.00	\$153,615.15		\$105,207.00		\$258,822.15	63.6%	\$148,046.86
	Paving & Sidewalks	\$128,645.00					\$128,645.00		\$128,645.00
	Ductbank	\$43,869.00	\$40,014.85				\$40,014.85	91.2%	\$3,854.15
	200- Primary Effluent Channel								
	Structural	\$51,317.00			\$9,892.00		\$9,892.00	19.3%	\$41,425.00
	210- CMLDF Diversion								
	Demo & Excavate	\$316,684.00	\$253,347.20				\$253,347.20	80.0%	\$63,336.80
	Concrete Slab & Walls	\$285,421.00	\$71,355.25				\$71,355.25	25.0%	\$214,065.75
	Concrete Sump	\$102,453.00	\$102,453.00				\$102,453.00	100.0%	
	Structural	\$80,011.00			\$36,869.10		\$36,869.10	46.1%	\$43,141.90
	Temp. Bypass	\$250,241.00					\$250,241.00		\$250,241.00
	Process Mechanical	\$497,398.00					\$497,398.00		\$497,398.00
	Pinch Valve	\$425,000.00					\$425,000.00		\$425,000.00
	HVAC	\$23,506.00					\$23,506.00		\$23,506.00
	Electrical	\$127,589.00					\$127,589.00		\$127,589.00
	240 and 241 - PC6 Diversion and Meter Vault								
	Demo	\$13,688.00							\$13,688.00
	Concrete Repair - Unit Cost Item	\$37,765.00							\$37,765.00
	Structural	\$6,463.00	\$2,390.90		\$3,231.91		\$5,622.81	87.0%	\$840.19
	Equipment	\$10,755.00			\$9,892.00		\$9,892.00	92.0%	\$863.00
	Process Mechanical	\$7,133.00					\$2,853.20	40.0%	\$4,279.80
	Electrical	\$27,851.00					\$27,851.00		\$27,851.00
	300- Primary Control Building								
	Concrete Repair - Unit Cost Item	\$25,884.00							\$25,884.00
	310 - Primary Tunnel								
	Demo	\$32,966.00	\$26,372.80				\$26,372.80	80.0%	\$6,593.20
	Concrete Repair - Unit Cost Item	\$28,969.00							\$28,969.00
	Concrete curbs	\$5,546.00							\$5,546.00
	Structural	\$4,320.00			\$418.23		\$418.23	9.7%	\$3,901.77
	Equipment	\$115,446.00							\$115,446.00

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract):		Agreement 00 S2 16-1 Elkhart WWTP Capacity Upgrades Phase II		Application Number:		010		
Application Period:		10-3-2022 - 10-31-2022		Application Date:		11/1/2022		
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		E Materials Previously Stored (Not in C or D)	F Materials Stored This Period (not in C or D)	G Total Completed and Stored to Date (C + D + E + F)	H Balance to Finish (B - F)
			From Previous Application (C+D)	D This Period				
	Actuated Primary Sludge Valves	\$90,463.00						\$90,463.00
	Grinders	\$84,352.00			\$65,000.00		\$65,000.00	\$19,352.00
	Pumps	\$85,130.00	\$21,282.50				\$21,282.50	\$63,847.50
	Process Mechanical	\$175,754.00	\$79,871.56		\$25,580.84		\$105,452.40	\$70,301.60
	Electrical	\$69,342.00	\$34,671.00				\$34,671.00	\$34,671.00
	331-326 - Primary Clarifiers No. 1-6							
	Demo	\$82,409.50	\$13,734.92				\$13,734.92	\$68,674.58
	Concrete Repair - Unit Cost Item	\$41,393.00					\$41,393.00	\$41,393.00
	Concrete Walls & Misc. Concrete	\$61,298.00	\$9,194.70				\$9,194.70	\$52,103.30
	Structural	\$18,793.00			\$12,500.00		\$12,500.00	\$6,293.00
	PC Drives	\$190,506.00						\$190,506.00
	Baffle Walls	\$48,502.00						\$48,502.00
	Process Mechanical	\$26,320.00						\$26,320.00
	Electrical	\$244,715.00						\$244,715.00
	337-328 - Primary Clarifiers No. 7-8							
	Demo	\$45,364.00	\$45,364.00				\$45,364.00	\$65,652.00
	Primary Clarifier 6 Sump (concrete)	\$65,652.00						\$65,652.00
	330 - Primary Effluent Pump Station							
	Demo	\$27,051.00	\$27,051.00					\$27,051.00
	Structural	\$6,524.00			\$351.93		\$351.93	\$6,172.07
	Temp Bypass	\$271,036.00						\$271,036.00
	Electrical	\$36,512.00						\$36,512.00
	Concrete Repair - Unit Cost Item	\$57,493.00						\$57,493.00
	350 - Cloth Media Disk Filter Facility							
	Excavate	\$645,183.00	\$645,183.00					\$645,183.00
	Bottom Slab	\$495,410.00	\$495,410.00					\$495,410.00
	Concrete Walls & Misc. Concrete	\$847,856.00	\$308,713.60		\$42,392.80		\$351,106.40	\$296,749.60
	Structural	\$347,031.00	\$260,273.25				\$260,273.25	\$86,757.75
	Equipment	\$2,767,302.00			\$36,300.00	\$1,755,000.02	\$1,791,300.02	\$976,001.98
	HVAC Mechanical	\$82,450.00						\$82,450.00
	Process Mechanical	\$965,661.00	\$207,617.12				\$207,617.12	\$758,043.89
	Zielkowski	\$481,653.00						\$481,653.00
	Electrical	\$433,000.00	\$134,230.00				\$134,230.00	\$298,770.00
	360 - CMDF Meter Vault							
	Excavate	\$67,239.00	\$67,239.00					\$67,239.00
	Bottom Slab	\$64,095.00	\$64,095.00					\$64,095.00

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract):		Agreement 00 52 16-1 Elkhart WWTP Capacity Upgrades Phase II		Application Number:		010		
Application Period:		10-3-2022 - 10-31-2022		Application Date:		11/1/2022		
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		E Materials Previously Stored (Not in C or D)	F Materials Stored This Period (not in C or D)	G Total Completed and Stored to Date (C + D + E + F)	H Balance to Finish (B - F)
			(C+D)	D This Period				
	Concrete Walls & Misc. Concrete	\$99,343.00	\$90,000.00				\$9,343.00	
	Process Mechanical	\$124,841.00	\$24,968.20			\$24,968.20	\$99,872.80	
	Electrical	\$61,500.00					\$61,500.00	
	370 - Central Operations Building							
	Excavate	\$251,617.00	\$25,161.70			\$201,293.60	\$50,323.40	
	Concrete Footing	\$312,007.00				\$312,007.00	100.0%	
	Concrete Walls & Bottom Slab	\$389,653.00		\$176,131.90	\$18,523.94	\$272,757.10	70.0%	
	Concrete Floor Slab, Door Slab, Sloop Flg.	\$368,493.00		\$293,483.06		\$293,483.06	\$75,009.94	
	Precast Panels Topping Slab	\$91,543.00		\$272,757.10		\$272,757.10	\$18,785.90	
	Metals	\$133,179.00		\$91,543.00		\$91,543.00	\$41,636.00	
	Zielkowski	\$653,488.00	\$65,348.80			\$588,139.20	\$65,348.80	
	Div. 4-10	\$240,213.00		\$69,447.17		\$240,213.00	28.9%	
	Process Mechanical	\$318,565.00		\$10,825.94		\$318,565.00	3.4%	
	Ferrie Chloride Chem Feed System	\$87,306.00		\$117,308.20		\$117,308.20	13.3%	
	Electrical	\$582,694.00	\$57,500.00			\$525,194.00	90.1%	
	380 - Ferric Chloride Facility							
	Excavate	\$539.00				\$539.00	100.0%	
	Concrete Footing & Floor Slab	\$58,350.00				\$58,350.00	100.0%	
	Concrete Walls, curbs, pads	\$24,294.00				\$24,294.00	100.0%	
	Structural	\$512.00				\$512.00	100.0%	
	FRP Tanks	\$112,337.00				\$112,337.00	100.0%	
	Process Mechanical	\$7,949.00				\$7,949.00	100.0%	
	Electrical	\$27,800.00				\$27,800.00	100.0%	
	385 - CMDF Generator							
	Concrete	\$88,865.00				\$88,865.00	100.0%	
	Generator	\$263,813.00				\$263,813.00	100.0%	
	Electrical	\$91,000.00				\$91,000.00	100.0%	
	390 - Primary Effluent Diversion Structure							
	Demo & Excavate	\$15,425.00				\$15,425.00	100.0%	
	Concrete Southside	\$26,319.00				\$26,319.00	100.0%	
	Concrete Northside	\$25,745.00				\$25,745.00	100.0%	
	Structural	\$6,123.00			\$1,473.31	\$7,596.31	123.0%	
	Process Mechanical	\$4,782.00				\$4,782.00	100.0%	
	Electrical	\$24,678.00				\$24,678.00	100.0%	
	395 - CMDF Effluent Structure							
	Demo	\$16,568.00				\$16,568.00	100.0%	

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract):		Application Number:						
Agreement 00 52 16-1 Elkhart WWTP Capacity Upgrades Phase II		010						
Application Period:		Application Date:						
10-3-2022 - 10-31-2022		11/1/2022						
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		E Materials Previously Stored (Not in C or D)	F Materials Stored This Period (not in C or D)	G Total Completed and Stored to Date (C + D + E + F)	H Balance to Finish (B - F)
			D This Period	(F / B)				
	Concrete	\$28,540.00			\$2,115.91		\$2,115.91	\$28,540.00
	Structural	\$5,380.00						\$3,264.09
	Equipment	\$7,335.00						\$7,335.00
	Process Mechanical	\$3,897.00						\$3,897.00
	Electrical	\$26,540.00						\$26,540.00
	400 - Blower Building							
	Demo - Unit Cost Item	\$127,966.00						\$127,966.00
	Equipment	\$828,379.00			\$53,625.00		\$53,625.00	\$774,754.00
	Blowers - Unit Cost Item	\$1,357,034.00						\$1,357,034.00
	Process Mechanical	\$186,948.00						\$186,948.00
	Electrical	\$78,500.00					\$15,750.00	\$62,750.00
	410 - Aeration Tunnel							
	HVAC - Rooftop Unit	\$75,732.00						\$75,732.00
	HVAC - Makeup Air Unit	\$75,732.00						\$75,732.00
	HVAC - Exhaust Fan dome	\$37,866.00						\$37,866.00
	HVAC - Gas Fired Heater	\$56,799.00						\$56,799.00
	Valves & Actuators	\$489,342.00						\$489,342.00
	Process Mechanical	\$94,786.00						\$94,786.00
	Electrical	\$156,243.00					\$117,182.25	\$39,060.75
	Concrete Repair - Unit Cost Item	\$49,841.00						\$49,841.00
	420 - RAS Pump Station							
	Demo	\$57,932.00						\$57,932.00
	Concrete Repair - Unit Cost Item	\$68,655.00						\$68,655.00
	Structural	\$35,928.00			\$6,005.65		\$6,005.65	\$29,922.35
	Temp By-pass	\$232,827.00						\$232,827.00
	T-Valve	\$67,344.00						\$67,344.00
	Centrifugal Pump	\$650,232.00						\$650,232.00
	Process Mechanical	\$315,129.00						\$315,129.00
	Electrical	\$61,458.00						\$61,458.00
	451-455 - Aeration Tanks No. 1-5							
	Demo	\$218,381.00					\$21,838.10	\$196,542.90
	Foam Injection Grooving - Unit Cost Item	\$84,000.00						\$84,000.00
	Structural	\$65,822.00						\$65,822.00
	Process Mechanical	\$247,948.00						\$247,948.00
	Diffusers	\$455,168.00						\$455,168.00
	By-pass	\$321,061.00						\$321,061.00

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract):		Agreement 00 52 16-1 Elkhart WWTP Capacity Upgrades Phase II		Application Number:		010		
Application Period:		10-3-2022 - 10-31-2022		Application Date:		11/1/2022		
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		E Materials Previously Stored (Not in C or D)	F Materials Stored This Period (not in C or D)	G Total Completed and Stored to Date (C + D + E + F)	H Balance to Finish (B - F)
			D This Period	(C+D)				
	Air Headers	\$79,185.00						
	Electrical	\$54,132.00		\$14,886.30			\$14,886.30	\$79,185.00
	460 - Ferrous Chloride Storage							\$39,245.70
	Removal all except foundation	\$12,845.00						\$12,845.00
	470 - Dichlorination Building							\$5,200.00
	Demo	\$5,200.00						\$5,200.00
	550 - North Gate Structure							\$18,621.00
	Replace	\$18,621.00			\$9,892.00		\$9,892.00	\$8,729.00
	Electrical	\$2,600.00						\$2,600.00
	560 - Final Bypass Gate Structure							\$2,259.00
	Replace actuator	\$12,131.00			\$9,892.00		\$9,892.00	\$2,259.00
	Electrical	\$1,340.00						\$1,340.00
	600 - UV Distriection Building							\$20,326.00
	Demo	\$20,326.00						\$20,326.00
	Concrete	\$21,999.00			\$2,136.00		\$2,136.00	\$21,999.00
	Structural	\$4,961.00						\$2,825.00
	Bulkhead	\$37,086.00						\$37,086.00
	Equipment	\$20,883.00			\$19,784.00		\$19,784.00	\$1,099.00
	Electrical	\$28,540.00						\$3,000.00
	610 - UV Generator							\$25,540.00
	Concrete	\$38,856.00			\$38,856.00		\$38,856.00	
	Generator	\$183,816.00						\$183,816.00
	Electrical	\$38,950.00			\$16,500.00		\$16,500.00	\$22,450.00
	800 and 801 - Digester Tunnel and Tunnel Stairs							\$16,500.00
	Demo & Excavate	\$25,783.00			\$25,783.00		\$25,783.00	
	Concrete	\$54,242.00			\$43,393.60		\$43,393.60	\$10,848.40
	Zakowski	\$65,165.00			\$19,549.50		\$32,582.50	\$32,582.50
	Structural	\$6,413.00			\$2,966.27		\$6,413.00	
	Process Mechanical	\$18,762.00			\$3,206.50		\$6,413.00	\$18,762.00
	HVAC Mechanical	\$14,161.00			\$2,081.67		\$2,081.67	\$12,079.33
	810 - Digester Building							\$2,081.67
	Demo	\$24,780.00			\$9,912.00		\$9,912.00	\$14,868.00
	Process Mechanical	\$15,584.00			\$6,233.60		\$6,233.60	\$9,350.40
	Electrical	\$8,951.00						\$8,951.00
	650 - Transformer Facility - N/A							

Stored Material Summary

Contractor's Application

For (Contract): Agreement 00 52 16-1 Elkhart WWTP Capacity Upgrades Phase II Application Number: 010

Application Period: 10-3-2022 - 10-31-2022 Application Date: 11/1/2022

Bid Item No.	Supplier Invoice No.	Submittal No. (with Specification Section No.)	Storage Location	Description of Materials or Equipment Stored	D		E	Subtotal Amount Completed and Stored to Date (D + E)	F		G
					Date Placed into Storage (Month/Year)	Amount (\$)			Amount Stored this Month (\$)	Incorporated in Work Date (Month/Year)	
			West of SR_19	210 Aluminum Grating (See Structural Line in LS)	6/2022	\$7,700.00		\$7,700.00			\$7,700.00
			South of FCs	210 Reinforcing Steel (See Structural Line in LS)	5/2022	\$27,033.10		\$27,033.10			\$27,033.10
			310 PT	310 Sludge Grinders (See Grinders Line in LS)	3/2022	\$65,000.00		\$65,000.00			\$65,000.00
			South Fence West of HWY	Fabricated DI Pipe (See Process Mechanical in LS)	6/2022	\$25,580.84		\$25,580.84			\$25,580.84
			West of SR_19	320 Aluminum Grating (See Structural Line in LS)	6/2022	\$12,500.00		\$12,500.00			\$12,500.00
			Str. 470	350 Sampling Equipment (See Equipment Line in LS)	2/2022	\$16,516.00		\$16,516.00			\$16,516.00
			South of FCs	370 Reinforcing Steel (See Concrete Footing in LS)	6/2022	\$18,523.94		\$18,523.94			\$18,523.94
			Str. 470	400 Harmonic Filters (See Equipment in LS)	2/2022	\$53,625.00		\$53,625.00			\$53,625.00
			Adjacent to RCD	54" HP Lck Ductile Iron Pipe - CL/EL	5/2022	\$105,207.00		\$105,207.00			\$105,207.00
			SE Corner	240 SS Stop Loss (Structural Line in LS)	7/2022	\$2,136.00		\$2,136.00			\$2,136.00
			SE Corner	240 SS Stop Loss (Structural Line in LS)	7/2022	\$2,136.00		\$2,136.00			\$2,136.00
			SE Corner	600 SS Slide Gate (Structural Line in LS)	7/2022	\$2,136.00		\$2,136.00			\$2,136.00
			SE Corner	240 SS Slide Gate (Equipment Line in LS)	7/2022	\$9,892.00		\$9,892.00			\$9,892.00
			SE Corner	200 SS Slide Gate (Structural Line in LS)	7/2022	\$9,892.00		\$9,892.00			\$9,892.00
			SE Corner	350 SS Slide Gate (Equipment Line in LS)	7/2022	\$19,784.00		\$19,784.00			\$19,784.00
			SE Corner	550 SS Slide Gate (Replace Line in LS)	7/2022	\$9,892.00		\$9,892.00			\$9,892.00
			SE Corner	560 SS Slide Gate (Replace Line in LS)	7/2022	\$9,892.00		\$9,892.00			\$9,892.00
			SE Corner	600 SS Slide Gate (Equipment Line in LS)	7/2022	\$19,784.00		\$19,784.00			\$19,784.00
			West of SR_19	310 Aluminum Grating (Structural Line in LS)	6/2022	\$418.23		\$418.23			\$418.23
			West of SR_19	240 Aluminum Grating (Structural Line in LS)	6/2022	\$1,095.91		\$1,095.91			\$1,095.91
			West of SR_19	420 Aluminum Grating (Structural Line in LS)	6/2022	\$6,005.65		\$6,005.65			\$6,005.65
			West of SR_19	330 Aluminum Grating (Structural Line in LS)	6/2022	\$351.93		\$351.93			\$351.93
			West of SR_19	390 Aluminum Grating (Structural Line in LS)	6/2022	\$1,473.31		\$1,473.31			\$1,473.31
			West of SR_19	395 Aluminum Grating (Structural Line in LS)	6/2022	\$2,115.91		\$2,115.91			\$2,115.91
			Various Locations	801 Aluminum Grating (Structural Line in LS)	6/2022	\$240.23		\$240.23			\$240.23
				CMDP Equipment	10/2022	\$1,755,000.02		\$1,755,000.02			\$1,755,000.02
Totals						\$428,931.04		\$1,755,000.02			\$2,183,931.06

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AFFIDAVIT, RELEASE AND WAIVER OF LIEN

Nathan Thomas, being duly sworn states that he/she is the Project Manager
(Name of Officer) (Title)

of Bowen Engineering Corporation having contracted with City of Elkhart
(General Contractor) (OWNER)

to furnish certain materials and/or labor as follows: Pay Application 010
(Description)

for a project known as Elkhart WWTP Capacity Upgrades Phase II
located at 1201 S. Nappanee St. Elkhart, IN 46516

and owned by City of Elkhart
(Owner)

and does hereby further state on the behalf of the aforementioned Vendor/Subcontractor:

(PARTIAL WAIVER) that there is due from Owner the sum of \$ 2,596,264.23
{ } receipt of which is hereby acknowledged; or
{ X } the payment of which has been promised as the sole consideration for this Affidavit and Waiver of Lien, which is given solely with respect to said amount, and which waiver shall be effective only upon receipt of payment thereof by the undersigned;

(FINAL WAIVER) that the final balance due from Owner is the sum of \$ _____
{ } receipt of which is hereby acknowledged; or
{ } the payment of which has been promised as the sole consideration for this Affidavit and Final Waiver of Lien for the Project, and which waiver shall be effective only upon receipt of payment thereof by the undersigned.

THEREFORE, the undersigned waives and releases unto the Owner of said premises, any and all liens or claims whatsoever on the above-described property and improvements thereon on account of labor, material, services and/or equipment provided by the undersigned, subject to the limitations or conditions expressed herein, if any; and further releases claims of any nature against the Owner and/or Bowen and its sureties. If any, on account of the labor, materials and/or services provided, or which should have been provided, again subject to the limitations or conditions expressed herein, if any. The undersigned further agrees to indemnify, defend and hold the Owner, Bowen, and its sureties, if any, harmless from any and all claims and liens for services, labor, materials and/or equipment furnished by or on their behalf for the above described Project within the scope of the Payment set forth above. The undersigned further certifies that all parties who have provided labor, materials, and/or services for said work have been fully paid, or will be fully paid out of their payment contemplated herein, if any, such that no other party has or shall have any claim or right to a lien on account of labor, materials, services and/or equipment provided to the undersigned for said project and within the scope of this Affidavit, Release and Waiver of Lien.

I SWEAR OR AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE.

Bowen Engineering Corporation By Nathan Thomas
(General Contractor) (Authorized Representative/Title)

State of Ohio County of Franklin

Before me, A Notary Public in and for said County and State, personally appeared Nathan Thomas, in his/her capacity as Project Manager of Bowen Engineering Corporation

and who, having been duly sworn, executed this Affidavit, Release and Waiver of Lien.

WITNESS MY HAND AND NOTORIAL SEAL, this 8th day of November, 20 22.

My Commission Expires: 06/08/2025

Signature: *Angela Raab*

Printed: Angela Raab
(Notary Public)

Residing in Ohio County Delaware



Angela Raab
Notary Public, State of Ohio
My Commission Expires 06-08-2025



M E M O R A N D U M

DATE: November 30th, 2022
TO: Board of Public Works
FROM: Paul Wunderlich, Utility Engineer *W*
RE: **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #50 to Donohue & Associates, Inc.**

Please see the attached invoice #50 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through November 19, 2022. The invoice totals \$62,511.00 and has been rounded as required by SRF.

To date, including this payment, we have paid \$2,651,716.97 or 68.66% of the contract.

It is requested that the BOW:

approve partial payment request #50 in the amount of \$62,511.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.



Donohue & Associates, Inc.
209 N. Main Street, Suite 206 | South Bend, IN 46601
574.288.4580 | donohue-associates.com

November 23, 2022

Tory Irwin, PE
Director of Public Works & City Engineer
City of Elkhart
1201 S. Nappanee Street
Elkhart, Indiana 46516

Received
NOV 23 2022
ELKHART PUBLIC
WORKS & UTILITIES

Re: WWTP Capacity Upgrade Project – Phase II
Donohue Project No. 13476 - Invoice No. 50

Please find attached Invoice No. 50 for the WWTP Capacity Upgrade Project – Phase II project. This invoice covers the services rendered from October 23, 2022 through November 19, 2022.

Donohue's construction related efforts during this period of time included:

- Internal and external project coordination and management
- On-going communication/coordination with Bowen Engineering
- Site review, observation and project representation
- Review of submittals, RFI's and development of responses
- Coordination and review of Contractor Payment Applications

Donohue's anticipated efforts on the project over the course of the next month include:

- Continued project coordination, communication and management
- Review of submittals, RFI's, Payment Applications and other Construction Phase Services
- On-site observation and project representation

Thank you again for your continued confidence in Donohue and the opportunity to work with you and the City of Elkhart on this project. Should you have any questions regarding this invoice, the work completed, or any other aspect of this (or another) project, please do not hesitate to contact me at (574) 213-6124 or by email at jroschyk@donohue-associates.com.

Sincerely,

Jeremy Roschyk, P.E.
Project Manager

Enclosures: As noted

APPROVED FOR PAYMENT

DATE: 11/29/2022

DESCRIPTION: Engineering Services

ACCOUNT LINE:

PO NO:

APPROVED BY:

INVOICE



209 N. Main Street, Suite 206
South Bend, IN 46601
Phone: 574-288-4580
Fax: 574-288-0195

Invoice To:
City of Elkhart
Wastewater Utility
Attn: Tory S. Irwin, PE, City Engineer
1201 S. Nappanee Street
Elkhart, IN 46516

Invoice Date: November 23, 2022
Donohue Project No.: 13476
Invoice No: 13476-50
Project Manager: Jeremy Roschyk
Terms: Net 40 Days
Billing Period: 10/23/22 - 11/19/22

Project Description: WWTP Capacity Upgrade Project - Phase II

Your Authorization: Agreement, Effective 08/21/18
Amendment No. 1, Signed 07/07/20
Amendment No. 2, Signed 12/29/20
Amendment No. 3, Signed 07/06/21

Compensation:	Per Diem NTE	\$	1,328,000.00
	Per Diem NTE	\$	388,000.00
	Per Diem NTE	\$	30,700.00
	Per Diem NTE	\$	2,115,500.00
		\$	3,862,200.00

Billing Summary:	Project Charges to Date	\$	2,650,713.47
	Project Charges Previously Billed	\$	2,588,202.46
	Project Current Charges Billed	\$	62,511.01

Topographic Survey

Total Billed to Date	\$	29,411.22
Charges Previously Billed	\$	29,411.22

Labor (hours)	\$	-
Reimbursable Expenses	\$	-
Subconsultants	\$	-
Total	\$	-

Geotechnical Engineering

Total Billed to Date	\$	14,212.00
Charges Previously Billed	\$	14,212.00

Labor (hours)	\$	-
Reimbursable Expenses	\$	-
Subconsultants	\$	-
Total	\$	-

Design Services

Total Billed to Date	\$	1,436,338.79
Charges Previously Billed	\$	1,436,338.79

Labor (hours)	\$	-
Reimbursable Expenses	\$	-
Subconsultants	\$	-
Total	\$	-

Alternative Evaluation

Total Billed to Date	\$	238,492.84
Charges Previously Billed	\$	238,492.84
Labor (hours)	\$	-
Reimbursable Expenses	\$	-
Subconsultants	\$	-
Total	\$	-

Bidding Services

Total Billed to Date	\$	44,637.93
Charges Previously Billed	\$	44,637.93
Labor (hours)	\$	-
Reimbursable Expenses	\$	-
Total	\$	-

Constructon Related Services

Total Billed to Date	\$	564,520.40
Charges Previously Billed	\$	532,498.77
Labor (174.0 hours)	\$	31,365.00
Reimbursable Expenses	\$	656.63
Total	\$	32,021.63

Resident Project Representative (RPR) Services

Total Billed to Date	\$	323,100.29
Charges Previously Billed	\$	292,610.91
Labor (206.5 hours)	\$	27,625.00
Reimbursable Expenses	\$	2,864.38
Total	\$	30,489.38

Applications Engineering Services

Total Billed to Date	\$	-
Charges Previously Billed	\$	-
Labor (hours)	\$	-
Reimbursable Expenses	\$	-
Total	\$	-

Current Charges Due \$ **62,511.01**

Please Remit to:

Donohue & Associates, Inc.
3311 Weeden Creek Road
Sheboygan, WI 53081
Phone: 920-208-0296
Fax: 920-208-0402

<u>Aged Receivables</u>				
<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 days</u>	<u>>120 days</u>
\$62,511.01	\$68,209.29	\$90,570.51	\$0.16	\$0.00



City of Elkhart
Attn: Tory S. Irwin, PE, City Engineer
1201 S. Nappanee Street
Elkhart, IN 46516

Invoice Date: November 23, 2022
Invoice No.: 13476-50
Billing Period: 10/23/22 - 11/19/22
Project Manager: Jeremy Roschyk

DETAIL OF CURRENT CHARGES

LABOR

	Hours		Cost
Richard Claus	54.0	\$ 220.00	\$ 11,880.00
Jeff Wills	1.0	\$ 220.00	\$ 220.00
Timothy Bates	1.0	\$ 185.00	\$ 185.00
Jeremy Roschyk	32.5	\$ 185.00	\$ 6,012.50
Craig Schuenemann	26.5	\$ 185.00	\$ 4,902.50
Jim Miller	46.5	\$ 170.00	\$ 7,905.00
Katherine Merkle	46.5	\$ 150.00	\$ 6,975.00
Chase Benton	15.0	\$ 135.00	\$ 2,025.00
Joseph Henderson	152.0	\$ 120.00	\$ 18,240.00
Cade Kamaleson	5.0	\$ 120.00	\$ 600.00
Anne Koenig	0.5	\$ 90.00	\$ 45.00
TOTAL LABOR	380.5		\$ 58,990.00

REIMBURSABLE EXPENSES

Other Direct Costs - Travel

Airfare	\$ -
Gas, Parking, Tolls	\$ -
Lodging	\$ 240.10
Meals	\$ 172.78
Transportation/Mileage	\$ 3,108.13
Total Other Direct Costs - Travel	\$ 3,521.01

Equipment, Materials & Supplies

Printing	\$ -
Shipping/Postage	\$ -
Supplies	\$ -
Other - UR Studio	\$ -
Total Equipment, Materials & Supplies	\$ -

TOTAL REIMBURSABLE EXPENSES **\$ 3,521.01**

SUBCONSULTANT

Alt & Witzig Engineering, Inc. **\$ -**

TOTAL SUBCONSULTANT **\$ -**

INVOICE TOTAL **\$ 62,511.01**

340 - Labor Detail (By Project Number)

Monday, November 21, 2022

11:04:40 AM

Donohue & Associates, Inc.

Transactions for 10/23/22 through 11/19/22

		Date	Hours	Total Billing
Project Number: 13476 Elkhart-WWTP Capacity Upgrade -Phase II				
Billing Group Number: 07 Construction Services (700-799)				
1048	Wills, Jeffrey	11/16/22	1.00	220.00
1145	Koenig, Anne	10/25/22	.50	45.00
1307	Merkle, Katherine	10/24/22	2.00	300.00
1307	Merkle, Katherine	10/24/22	2.50	375.00
1307	Merkle, Katherine	10/25/22	2.00	300.00
1307	Merkle, Katherine	10/25/22	1.50	225.00
1307	Merkle, Katherine	10/26/22	2.00	300.00
1307	Merkle, Katherine	10/26/22	2.00	300.00
1307	Merkle, Katherine	10/27/22	1.00	150.00
1307	Merkle, Katherine	10/31/22	2.00	300.00
1307	Merkle, Katherine	10/31/22	1.50	225.00
1307	Merkle, Katherine	11/01/22	8.00	1,200.00
1307	Merkle, Katherine	11/02/22	8.00	1,200.00
1307	Merkle, Katherine	11/03/22	2.00	300.00
1307	Merkle, Katherine	11/03/22	2.00	300.00
1307	Merkle, Katherine	11/04/22	1.00	150.00
1307	Merkle, Katherine	11/04/22	1.00	150.00
1307	Merkle, Katherine	11/08/22	1.00	150.00
1307	Merkle, Katherine	11/09/22	1.00	150.00
1307	Merkle, Katherine	11/11/22	1.00	150.00
1307	Merkle, Katherine	11/14/22	1.00	150.00
1307	Merkle, Katherine	11/15/22	1.00	150.00
1307	Merkle, Katherine	11/16/22	2.00	300.00
1307	Merkle, Katherine	11/17/22	1.00	150.00
1317	Bates, Timothy	10/24/22	1.00	185.00
1322	Schuenemann, Craig	10/24/22	1.00	185.00
1322	Schuenemann, Craig	10/25/22	4.00	740.00
1322	Schuenemann, Craig	10/26/22	1.00	185.00
1322	Schuenemann, Craig	10/27/22	2.00	370.00
1322	Schuenemann, Craig	10/27/22	.50	92.50
1322	Schuenemann, Craig	10/28/22	.50	92.50
1322	Schuenemann, Craig	10/31/22	1.00	185.00
1322	Schuenemann, Craig	11/01/22	2.00	370.00
1322	Schuenemann, Craig	11/01/22	.50	92.50
1322	Schuenemann, Craig	11/02/22	.50	92.50
1322	Schuenemann, Craig	11/03/22	.50	92.50
1322	Schuenemann, Craig	11/07/22	1.00	185.00
1322	Schuenemann, Craig	11/08/22	2.00	370.00
1322	Schuenemann, Craig	11/09/22	1.00	185.00
1322	Schuenemann, Craig	11/14/22	2.00	370.00
1322	Schuenemann, Craig	11/15/22	1.00	185.00
1322	Schuenemann, Craig	11/16/22	2.00	370.00
1322	Schuenemann, Craig	11/17/22	2.00	370.00
1322	Schuenemann, Craig	11/18/22	1.00	185.00
1322	Schuenemann, Craig	11/18/22	1.00	185.00
1330	Roschyk, Jeremy	10/24/22	1.50	277.50
1330	Roschyk, Jeremy	10/25/22	.50	92.50
1330	Roschyk, Jeremy	10/25/22	1.00	185.00
1330	Roschyk, Jeremy	10/25/22	1.00	185.00
1330	Roschyk, Jeremy	10/27/22	2.00	370.00
1330	Roschyk, Jeremy	10/28/22	1.00	185.00
1330	Roschyk, Jeremy	10/28/22	1.00	185.00
1330	Roschyk, Jeremy	10/31/22	1.50	277.50

		Date	Hours	Total Billing
1330	Roschyk, Jeremy	10/31/22	2.00	370.00
1330	Roschyk, Jeremy	11/01/22	1.00	185.00
1330	Roschyk, Jeremy	11/01/22	1.00	185.00
1330	Roschyk, Jeremy	11/02/22	4.00	740.00
1330	Roschyk, Jeremy	11/02/22	1.00	185.00
1330	Roschyk, Jeremy	11/04/22	1.00	185.00
1330	Roschyk, Jeremy	11/07/22	1.00	185.00
1330	Roschyk, Jeremy	11/08/22	1.00	185.00
1330	Roschyk, Jeremy	11/10/22	1.00	185.00
1330	Roschyk, Jeremy	11/14/22	2.00	370.00
1380	Claus, Richard	10/24/22	1.50	330.00
1380	Claus, Richard	10/25/22	1.00	220.00
1380	Claus, Richard	10/26/22	1.00	220.00
1380	Claus, Richard	10/27/22	2.00	440.00
1380	Claus, Richard	10/28/22	2.00	440.00
1380	Claus, Richard	10/31/22	1.50	330.00
1380	Claus, Richard	11/01/22	4.00	880.00
1380	Claus, Richard	11/01/22	1.00	220.00
1380	Claus, Richard	11/02/22	7.00	1,540.00
1380	Claus, Richard	11/03/22	1.00	220.00
1380	Claus, Richard	11/03/22	1.00	220.00
1380	Claus, Richard	11/04/22	1.00	220.00
1380	Claus, Richard	11/04/22	1.00	220.00
1380	Claus, Richard	11/07/22	2.00	440.00
1380	Claus, Richard	11/07/22	1.00	220.00
1380	Claus, Richard	11/08/22	3.00	660.00
1380	Claus, Richard	11/10/22	3.00	660.00
1380	Claus, Richard	11/11/22	1.00	220.00
1380	Claus, Richard	11/11/22	3.00	660.00
1380	Claus, Richard	11/14/22	1.50	330.00
1380	Claus, Richard	11/14/22	.50	110.00
1380	Claus, Richard	11/14/22	2.00	440.00
1380	Claus, Richard	11/15/22	3.00	660.00
1380	Claus, Richard	11/16/22	2.00	440.00
1380	Claus, Richard	11/16/22	1.00	220.00
1380	Claus, Richard	11/17/22	1.50	330.00
1380	Claus, Richard	11/17/22	1.00	220.00
1380	Claus, Richard	11/18/22	.50	110.00
1380	Claus, Richard	11/18/22	2.00	440.00
1380	Claus, Richard	11/18/22	1.00	220.00
1415	Benton, Chase	10/31/22	2.00	270.00
1415	Benton, Chase	10/31/22	1.00	135.00
1415	Benton, Chase	11/04/22	2.00	270.00
1415	Benton, Chase	11/07/22	2.00	270.00
1415	Benton, Chase	11/08/22	2.00	270.00
1415	Benton, Chase	11/14/22	1.00	135.00
1415	Benton, Chase	11/15/22	2.00	270.00
1415	Benton, Chase	11/16/22	2.00	270.00
1415	Benton, Chase	11/17/22	1.00	135.00
1460	Kamaleson, Cade	10/25/22	1.00	120.00
1460	Kamaleson, Cade	10/31/22	.50	60.00
1460	Kamaleson, Cade	11/01/22	.50	60.00
1460	Kamaleson, Cade	11/08/22	.50	60.00
1460	Kamaleson, Cade	11/08/22	.50	60.00
1460	Kamaleson, Cade	11/09/22	.50	60.00
1460	Kamaleson, Cade	11/14/22	.50	60.00
1460	Kamaleson, Cade	11/15/22	.50	60.00
1460	Kamaleson, Cade	11/16/22	.50	60.00
Total for 07			174.00	31,365.00

		Date	Hours	Total Billing
Billing Group Number: 08 Resident Representation (800-801)				
1038	Miller, James	10/27/22	11.00	1,870.00
1038	Miller, James	11/02/22	11.50	1,955.00
1038	Miller, James	11/09/22	1.00	170.00
1038	Miller, James	11/11/22	11.00	1,870.00
1038	Miller, James	11/16/22	11.00	1,870.00
1038	Miller, James	11/18/22	1.00	170.00
1330	Roschyk, Jeremy	10/26/22	1.00	185.00
1330	Roschyk, Jeremy	10/27/22	1.00	185.00
1330	Roschyk, Jeremy	11/02/22	2.00	370.00
1330	Roschyk, Jeremy	11/11/22	2.00	370.00
1330	Roschyk, Jeremy	11/18/22	2.00	370.00
1441	Henderson, Joseph	10/24/22	8.00	960.00
1441	Henderson, Joseph	10/25/22	8.00	960.00
1441	Henderson, Joseph	10/26/22	8.00	960.00
1441	Henderson, Joseph	10/27/22	8.00	960.00
1441	Henderson, Joseph	10/28/22	8.00	960.00
1441	Henderson, Joseph	11/01/22	8.00	960.00
1441	Henderson, Joseph	11/02/22	8.00	960.00
1441	Henderson, Joseph	11/03/22	8.00	960.00
1441	Henderson, Joseph	11/04/22	8.00	960.00
1441	Henderson, Joseph	11/07/22	8.00	960.00
1441	Henderson, Joseph	11/08/22	8.00	960.00
1441	Henderson, Joseph	11/09/22	8.00	960.00
1441	Henderson, Joseph	11/10/22	8.00	960.00
1441	Henderson, Joseph	11/11/22	8.00	960.00
1441	Henderson, Joseph	11/14/22	8.00	960.00
1441	Henderson, Joseph	11/15/22	8.00	960.00
1441	Henderson, Joseph	11/16/22	8.00	960.00
1441	Henderson, Joseph	11/17/22	8.00	960.00
1441	Henderson, Joseph	11/18/22	8.00	960.00
Total for 08			206.50	27,625.00
Total for 13476			380.50	58,990.00
Final Totals			380.50	58,990.00

350 - Expense Detail (By Project Number)

Monday, November 21, 2022
12:50:10 PM

Donohue & Associates, Inc.

Transactions for 10/23/22 through 11/19/22

Date	Billing Vendor Amount Name	Full Description
Project Number: 13476 Elkhart-WWTP Capacity Upgrade -Phase II		
Billing Group Number: 07 Construction Services (700-799)		
Reimbursable Expenses		
5210 Mileage		
11/02/22	17.50	Roschyk, Jeremy / Drive to/from Elkhart WWTP
11/07/22	226.25	Claus, Richard / Elkhart WWTP Novemebr 1 and 2
Total for 5210	243.75	
5220 Meals		
11/07/22	25.78	Claus, Richard / Elkhart WWTP Novemebr 1 and 2
11/07/22	147.00	Claus, Richard / Elkhart WWTP Novemebr 1 and 2
Total for 5220	172.78	
5230 Lodging		
11/02/22	117.30	Roschyk, Jeremy / Katherine Merkle Hotel
11/07/22	122.80	Claus, Richard / Elkhart WWTP Novemebr 1 and 2
Total for 5230	240.10	
Total for Reimb. Exp.	656.63	
Total for 07	656.63	

Date	Billing Vendor Amount Name	Full Description
Billing Group Number: 08 Resident Representation (800-801)		
Reimbursable Expenses		
5210 Mileage		
10/27/22	180.00	Miller, James / Elkart
10/28/22	562.50	Henderson, Joseph / Mileage
11/01/22	180.00	Miller, James / Elkart
11/04/22	450.00	Henderson, Joseph / Mileage
11/11/22	562.50	Henderson, Joseph / Mileage
11/13/22	185.00	Miller, James / Elkart 11-11-12
11/16/22	181.88	Miller, James / Elkart
11/18/22	562.50	Henderson, Joseph / Mileage
Total for 5210	2,864.38	
Total for Reimb. Exp.	2,864.38	
Total for 08	2,864.38	

Date	Billing Vendor Amount Name	Full Description
Total for 13476	3,521.01	



M E M O R A N D U M

DATE: November 30th, 2022
TO: Board of Public Works
FROM: Paul Wunderlich, Utility Engineer *W*
RE: **Award Recommendation for the Nadel Avenue Groundwater Lift Station Project - Bid #22-22**

On December 6th, 2022, bids were opened for the Nadel Avenue Groundwater Lift Station project at the regular Board of Works meeting. _____ () bids were received at that time and given to the City's Engineering Department for review.

The bids have been reviewed and the results are as follows:

Contractor	Total Bid
	\$
	\$
	\$
	\$

There were no discrepancies with any of the bids. _____ was the lowest responsive and responsible bidder, and they have successfully completed projects in the past for the City of Elkhart.

There are sufficient funds already appropriated for this project.

It is recommended the Board of Public Works:
Award the Nadel Avenue Groundwater Lit Station Improvement project, Bid #22-22, to _____, who was the lowest, responsive and responsible bidder with a contract price in the amount of \$_____

**City of Elkhart
Development Services
Community
Development
Department**

Memo

To: City of Elkhart, Board of Public Works

From: Mary K. Kaczka, Assistant Director, Community Development Department

cc: Mike Huber, Director, Development Services

Date: November 18, 2022

Re: HUD Restrictive Covenants on 4 floodway homes acquired and demo with CDBG/FEMA funds.

The city used CDBG and FEMA funds to acquire and demo four (4) homes in the floodway.

1. 1101 Taylor
2. 173 N. 6th
3. 412 N. 3rd
4. 526 W. Washington

We were informed through a HUD Environmental Monitoring Compliance Audit the city did not record a restrictive covenant approved by HUD on the properties.

In order to comply with the requirements of the HUD CDBG program we must record on each deed the HUD approved restrictive covenant which basically controls what can be built on the city owned floodway property.

We hereby request the Elkhart Board of Public Works, at its December 6th meeting, approve the restrictive covenants and their recording on the deed of each property.

Thank you

Restrictive Covenant

THIS RESTRICTIVE COVENANT (“Covenant”) is made this _____ day of December, 2022, by the City of Elkhart, by its Board of Public Works, (together with all successors and assignees, collectively “Owner”).

WHEREAS: Owner is the fee simple owner of certain real estate in the County of Elkhart, Indiana, which is located at 1101 Taylor Street, Elkhart, Indiana and more particularly described as:

Lot Numbered 333 in Studebaker Park Addition, as per plat thereof recorded in Deed Record 116, page 44 in the Office of the Recorder of Elkhart County, Indiana.

This Real Estate was acquired by deed on June 14, 2021, and recorded on June 15, 2021, as Deed Record 2021-15763, in the Office of the Recorder of Elkhart County, Indiana. The Real Estate consists of approximately 0.114 acres and has also been identified by the State of Indiana as parcel identification number 20-06-09-278-001.000-012. The Real Estate, to which the restrictions in this Covenant apply, is depicted as the highlighted parcel a map attached hereto as Exhibit “A”.

WHEREAS: The City of Elkhart utilized funds from the U.S. Department of Housing and Urban Development to acquire certain real property for the purposes of reducing and eliminating future flood hazard risks and property damage.

WHEREAS: The City of Elkhart utilized FEMA Hazard Mitigation Grant Program funds to acquire certain real property for the purposes of reducing and eliminating future flood hazard risks and property damage.

WHEREAS: the terms of the mitigation grant program statutory authorities, Federal program requires consistent with 44 C.F.R. Part 80, and 24 C.F.R.55.12.

NOW THEREFORE, the City of Elkhart, Indiana subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions.
 - (a) The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities, wetlands management, nature reserves, cultivation, grazing, camping, unimproved, unpaved parking areas, and other uses consistent with FEMA guidance for open space.
 - (b) No new buildings or structures, shall be established or erected unless they are open on all sides and functionally related to floodway protection, recreation or open space management.

II. GENERAL PROVISIONS

1. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
2. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
3. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.
4. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.

5. Severability. If any portion of this Covenant, or other term set forth herein, is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect, as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, the City of Elkhart, Indiana, by its Board of Public Works, the said Owner of the Real Estate described above, has caused this Environmental Restrictive Covenant to be executed on this _____ day of December 2022.

 Michael C. Machlan, President
 Board of Public Works

STATE OF INDIANA)
) SS:
 COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Michael C. Machlan, the President of the Board of Public Works for the City of Elkhart, Indiana, and the authorized person of the Owner, the City of Elkhart, Indiana, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this ___ day of December 2022.

 Nancy A. Wilson, Notary Public
 Residing in Elkhart County, Indiana

My Commission Expires:


















This instrument prepared by: Margaret Mary Marnocha, Esq., City of Elkhart, 229 S. Second St., Elkhart, IN 46616, and I certify that I have taken care to remove any social security numbers. Margaret Mary Marnocha.

EXHIBIT B
MAP OF REAL ESTATE

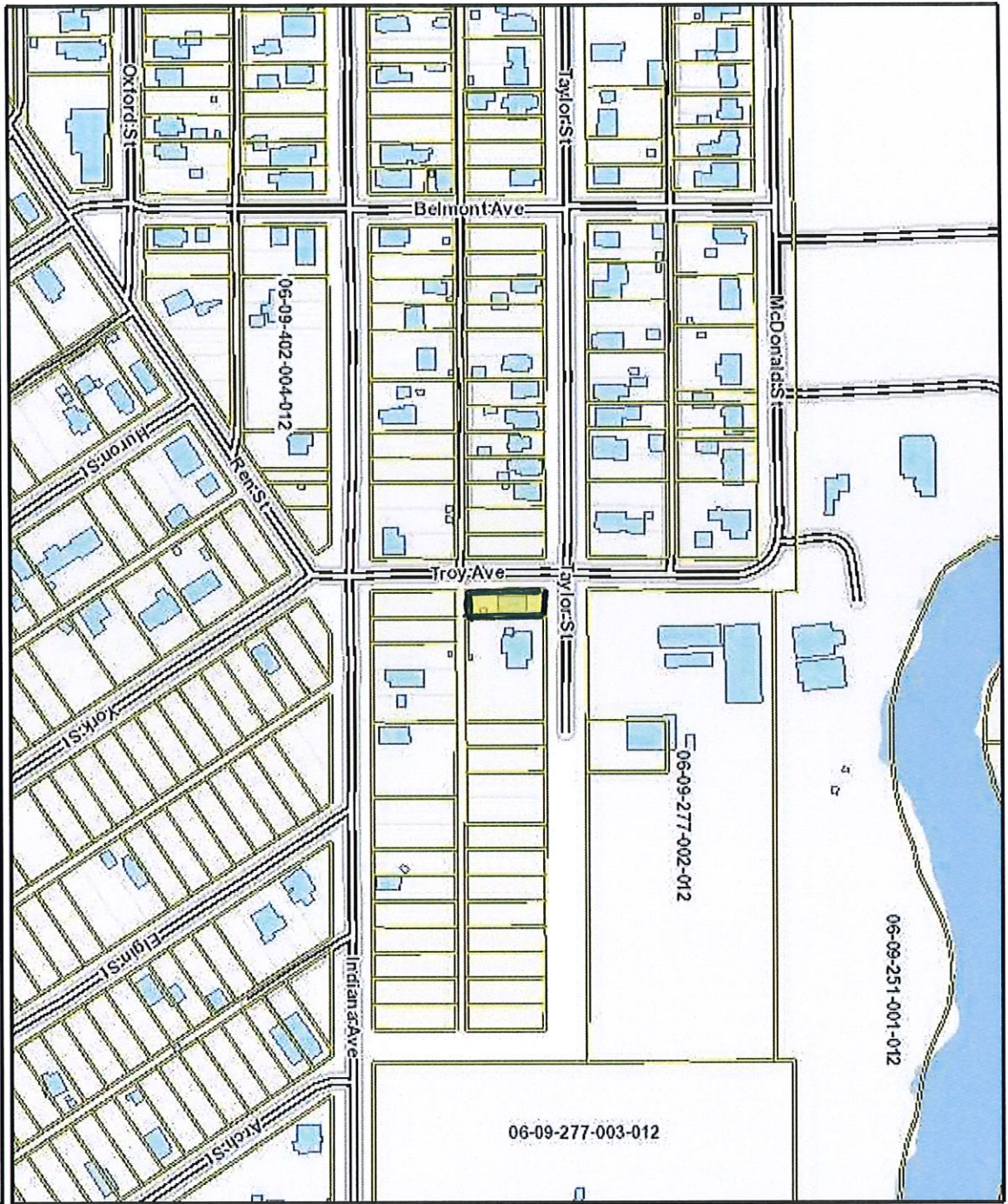
Michiana Regional GIS Website

txtSubTitle

Legend

-  SJC Parcel Dimensions
-  SJC Parcels
-  ELK Parcels
-  SJC Street
-  ELK Street
-  Building Footprint
-  Railroad
-  Abandoned Railroad
-  Road Centerline
-  Railroad Bridge
-  Roadway Bridge
-  Major Roads
-  Primary Roads
-  Secondary Roads
-  Local Roads
-  Rivers
-  Local Roads

1 inch = 187.44 feet



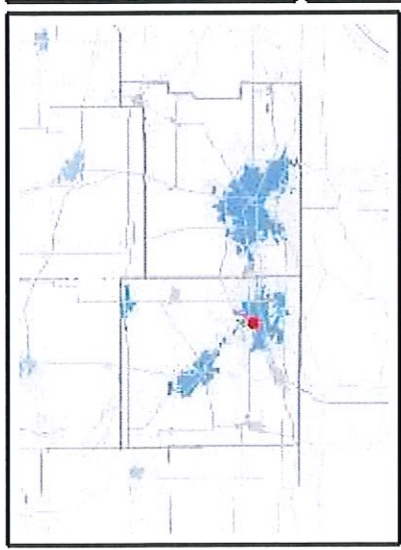
Date Printed: 11/17/2022

Map Generated By: Public

Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.



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Restrictive Covenant

THIS RESTRICTIVE COVENANT (“Covenant”) is made this _____ day of December, 2022, by the City of Elkhart, by its Board of Public Works, (together with all successors and assignees, collectively “Owner”).

WHEREAS: Owner is the fee simple owner of certain real estate in the County of Elkhart, Indiana, which is located at 173 North Sixth Street, Elkhart, Indiana and more particularly described as:

Lot Numbered 202 as the said Lot is known and designated on the recorded Plat of Fieldhouse’s Fifth, an Addition to the City of Elkhart, Elkhart Coutny, Indiana; said Plat being recorded in Deed Record 95, page57 in the Office of the Recorder of Elkhart County, Indiana.

This Real Estate was acquired by deed on February 15, 2022, and recorded on February 16, 2022, as Deed Record 2022-03555, in the Office of the Recorder of Elkhart County, Indiana. The Real Estate consists of approximately 0.116024 acres and has also been identified by the State of Indiana as parcel identification number 20-06-05-306-018.000-012. The Real Estate, to which the restrictions in this Covenant apply, is depicted as the highlighted parcel a map attached hereto as Exhibit “A”.

WHEREAS: The City of Elkhart utilized funds from the U.S. Department of Housing and Urban Development to acquire certain real property for the purposes of reducing and elminating future flood hazard risks and property damage.

WHEREAS: The City of Elkhart utilized FEMA Hazard Mitigation Grant Program funds to acquire certain real property for the purposes of reducing and elminating future flood hazard risks and property damage.

WHEREAS: the terms of the mitigation grant program statutory authorities, Federal program requires consistent with 44 C.F.R. Part 80, and 24 C.F.R.55.12.

NOW THEREFORE, the City of Elkhart, Indiana subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions.

- (a) The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities, wetlands management, nature reserves, cultivation, grazing, camping, unimproved, unpaved parking areas, and other uses consistent with FEMA guidance for open space.
- (b) No new buildings or structures, shall be established or erected unless they are open on all sides and functionally related to floodway protection, recreation or open space management.

II. GENERAL PROVISIONS

1. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
2. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
3. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.
4. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.

5. Severability. If any portion of this Covenant, or other term set forth herein, is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect, as if such portion found invalid had not been included herein.

16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, the City of Elkhart, Indiana, by its Board of Public Works, the said Owner of the Real Estate described above, has caused this Environmental Restrictive Covenant to be executed on this _____ day of December 2022.

 Michael C. Machlan, President
 Board of Public Works

STATE OF INDIANA)
) SS:
 COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Michael C. Machlan, the President of the Board of Public Works for the City of Elkhart, Indiana, and the authorized person of the Owner, the City of Elkhart, Indiana, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

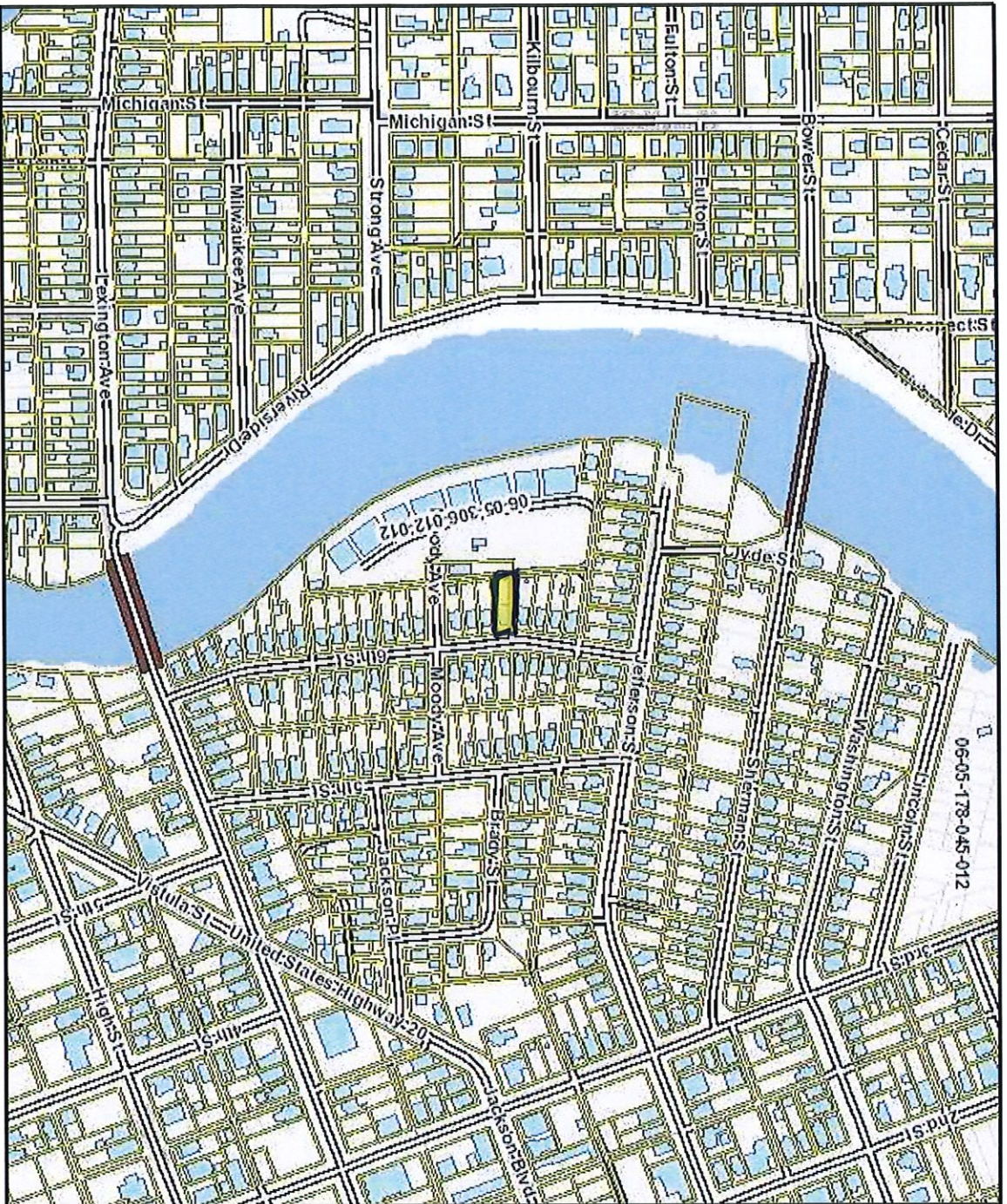
Witness my hand and Notarial Seal this ___ day of December 2022.

 Nancy A. Wilson, Notary Public
 Residing in Elkhart County, Indiana

My Commission Expires:

This instrument prepared by: Margaret Mary Marnocha, Esq., City of Elkhart, 229 S. Second St., Elkhart, IN 46616, and I certify that I have taken care to remove any social security numbers. Margaret Mary Marnocha.

EXHIBIT B
MAP OF REAL ESTATE



Michiana Regional GIS Website

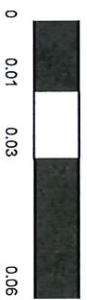
txtSubTitle

Legend

- SJC Parcel Dimensions
- SJC Parcels
- ELK Parcels
- SJC Street
- ELK Street
- Building Footprint
- Railroad
- Abandoned Railroad
- Road Centerline
- Railroad Bridge
- Roadway Bridge
- Major Roads
- Primary Roads
- Secondary Roads
- Local Roads
- Rivers
- Local Roads



1 inch = 299.94 feet



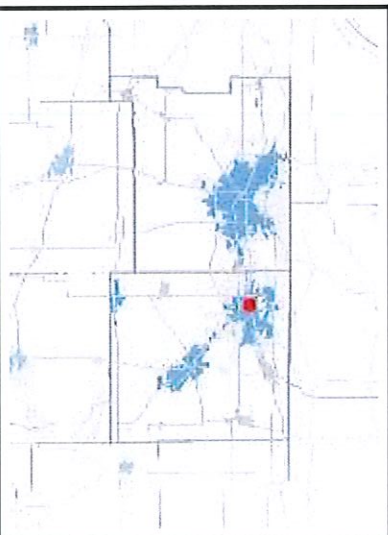
Miles

Date Printed: 11/17/2022
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Michiana Area Council of Governments | Geographic Information System
 Ellettsville and St. Joseph, Indiana, IN

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Restrictive Covenant

THIS RESTRICTIVE COVENANT (“Covenant”) is made this _____ day of December, 2022, by the City of Elkhart, by its Board of Public Works, (together with all successors and assignees, collectively “Owner”).

WHEREAS: Owner is the fee simple owner of certain real estate in the County of Elkhart, Indiana, which is located at 412 North Third Street, Elkhart, Indiana and more particularly described as:

A parcel of Land Forty-one feet and three inches (41’3”) by parallel lines North and South from off the North end of Lot Number Fifty-two (52) as the said Lot is known and designated on the recorded Plat of A.W. Dunbar’s Addition to the City of Elkhart; said Plat being recorded in Deed Record 61, page 506, in the Office of the Recorder of Elkhart County, Indiana.

This Real Estate was acquired by deed on June 14, 2021, and recorded on June 16, 2021, as Deed Record 2021-15878, in the Office of the Recorder of Elkhart County, Indiana. The Real Estate consists of approximately 0.0781 acres and has also been identified by the State of Indiana as parcel identification number 20-06-05-179-005.000-012. The Real Estate, to which the restrictions in this Covenant apply, is depicted as the highlighted parcel a map attached hereto as Exhibit “A”.

WHEREAS: The City of Elkhart utilized funds from the U.S. Department of Housing and Urban Development to acquire certain real property for the purposes of reducing and elminating future flood hazard risks and property damage.

WHEREAS: The City of Elkhart utilized FEMA Hazard Mitigation Grant Program funds to acquire certain real property for the purposes of reducing and elminating future flood hazard risks and property damage.

WHEREAS: the terms of the mitigation grant program statutory authorities, Federal program requires consistent with 44 C.F.R. Part 80, and 24 C.F.R.55.12.

NOW THEREFORE, the City of Elkhart, Indiana subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions.

- (a) The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities, wetlands management, nature reserves, cultivation, grazing, camping, unimproved, unpaved parking areas, and other uses consistent with FEMA guidance for open space.
- (b) No new buildings or structures, shall be established or erected unless they are open on all sides and functionally related to floodway protection, recreation or open space management.

II. GENERAL PROVISIONS

1. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
2. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
3. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.
4. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.

5. Severability. If any portion of this Covenant, or other term set forth herein, is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect, as if such portion found invalid had not been included herein.

16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, the City of Elkhart, Indiana, by its Board of Public Works, the said Owner of the Real Estate described above, has caused this Environmental Restrictive Covenant to be executed on this _____ day of December 2022.

 Michael C. Machlan, President
 Board of Public Works

STATE OF INDIANA)
) SS:
 COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Michael C. Machlan, the President of the Board of Public Works for the City of Elkhart, Indiana, and the authorized person of the Owner, the City of Elkhart, Indiana, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

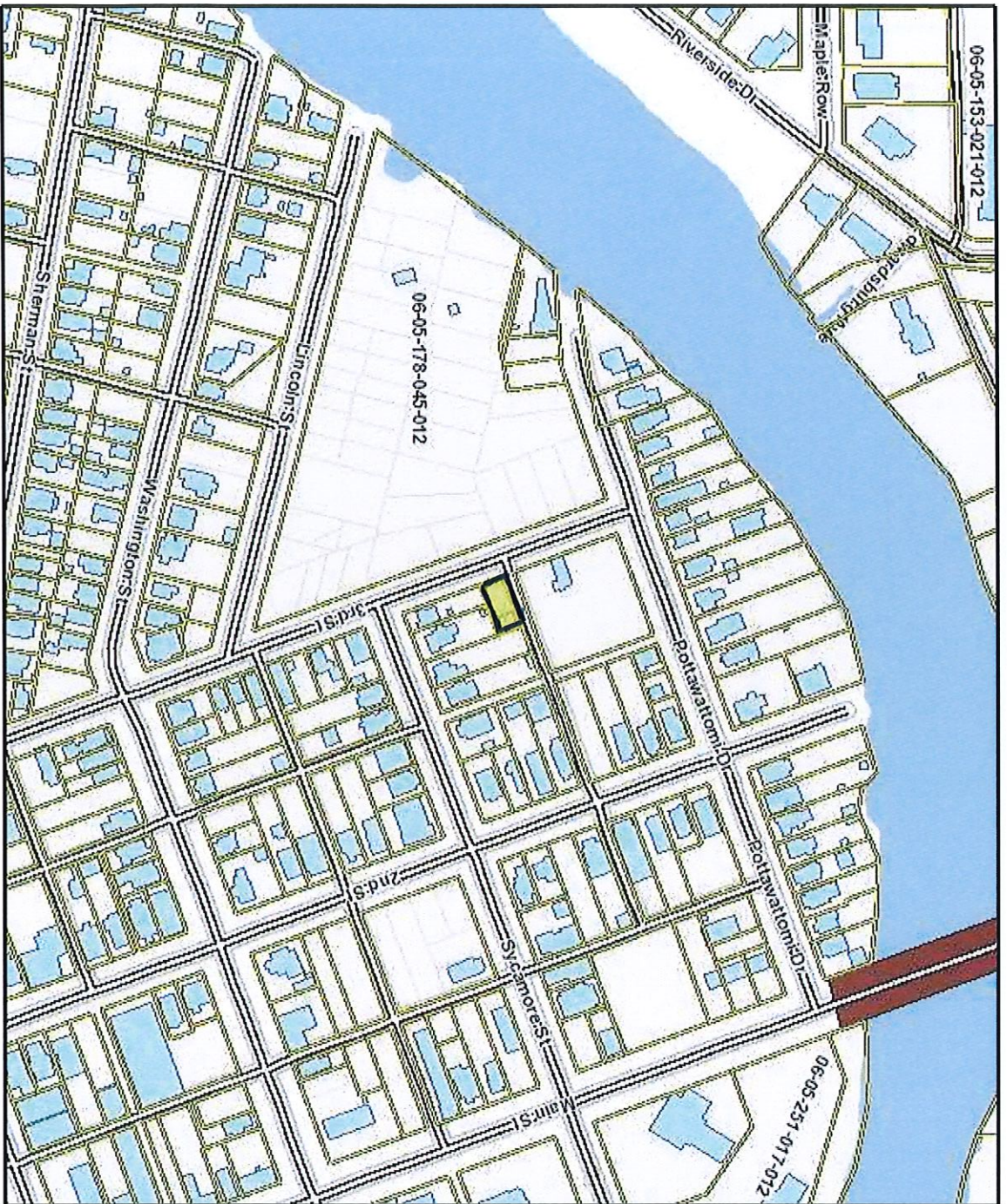
Witness my hand and Notarial Seal this ___ day of December 2022.

 Nancy A. Wilson, Notary Public
 Residing in Elkhart County, Indiana

My Commission Expires:

This instrument prepared by: Margaret Mary Marnocha, Esq., City of Elkhart, 229 S. Second St., Elkhart, IN 46616, and I certify that I have taken care to remove any social security numbers. Margaret Mary Marnocha.

EXHIBIT B
MAP OF REAL ESTATE



Michiana Regional GIS Website

txtSubTitle

Legend

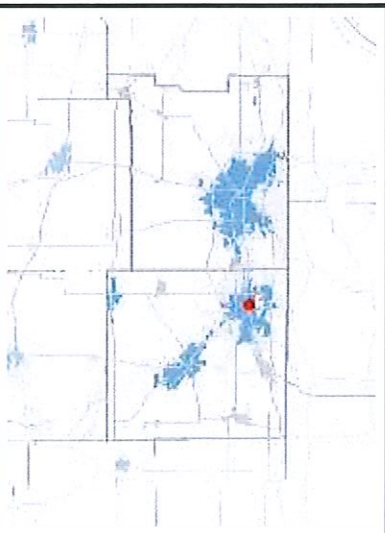
- SJC Parcel Dimensions
- SJC Parcels
- ELK Parcels
- SJC Street
- ELK Street
- Building Footprint
- Railroad
- Railroad
- Abandoned Railroad
- Road Centerline
- Railroad Bridge
- Roadway Bridge
- Major Roads
- 1
- 10
- Primary Roads
- Secondary Roads
- Local Roads
- Rivers
- Local Roads

1 inch = 187.44 feet



Date Printed: 11/17/2022
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Restrictive Covenant

THIS RESTRICTIVE COVENANT (“Covenant”) is made this _____ day of December, 2022, by the City of Elkhart, by its Board of Public Works, (together with all successors and assignees, collectively “Owner”).

WHEREAS: Owner is the fee simple owner of certain real estate in the County of Elkhart, Indiana, which is located at 526 West Washington Street, Elkhart, Indiana and more particularly described as:

The South One Half (1/2) of Lot Number Twenty-eight (28) of H.M. Dunbar’s Addition to the City of Elkhart, State of Indiana; said Plat being recorded in Deed Record 31, page 258, in the Office of the Recorder of Elkhart County, Indiana.

This Real Estate was acquired by deed on May 3, 2021, and recorded on May 13, 2021, as Deed Record 2021-12482, in the Office of the Recorder of Elkhart County, Indiana. The Real Estate consists of approximately 0.124 acres and has also been identified by the State of Indiana as parcel identification number 20-06-05-181-002.000-012. The Real Estate, to which the restrictions in this Covenant apply, is depicted as the highlighted parcel a map attached hereto as Exhibit “A”.

WHEREAS: The City of Elkhart utilized funds from the U.S. Department of Housing and Urban Development to acquire certain real property for the purposes of reducing and elminating future flood hazard risks and property damage.

WHEREAS: The City of Elkhart utilized FEMA Hazard Mitigation Grant Program funds to acquire certain real property for the purposes of reducing and elminating future flood hazard risks and property damage.

WHEREAS: the terms of the mitigation grant program statutory authorities, Federal program requires consistent with 44 C.F.R. Part 80, and 24 C.F.R.55.12.

NOW THEREFORE, the City of Elkhart, Indiana subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions.
 - (a) The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities, wetlands management, nature reserves, cultivation, grazing, camping, unimproved, unpaved parking areas, and other uses consistent with FEMA guidance for open space.
 - (b) No new buildings or structures, shall be established or erected unless they are open on all sides and functionally related to floodway protection, recreation or open space management.

II. GENERAL PROVISIONS

1. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
2. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
3. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.
4. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.

5. Severability. If any portion of this Covenant, or other term set forth herein, is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect, as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, the City of Elkhart, Indiana, by its Board of Public Works, the said Owner of the Real Estate described above, has caused this Environmental Restrictive Covenant to be executed on this _____ day of December 2022.

 Michael C. Machlan, President
 Board of Public Works

STATE OF INDIANA)
) SS:
 COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Michael C. Machlan, the President of the Board of Public Works for the City of Elkhart, Indiana, and the authorized person of the Owner, the City of Elkhart, Indiana, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this ___ day of December 2022.

 Nancy A. Wilson, Notary Public
 Residing in Elkhart County, Indiana

My Commission Expires:

This instrument prepared by: Margaret Mary Marnocha, Esq., City of Elkhart, 229 S. Second St., Elkhart, IN 46616, and I certify that I have taken care to remove any social security numbers. Margaret Mary Marnocha.

EXHIBIT B
MAP OF REAL ESTATE

Michiana Regional GIS Website

txtSubTitle

Legend

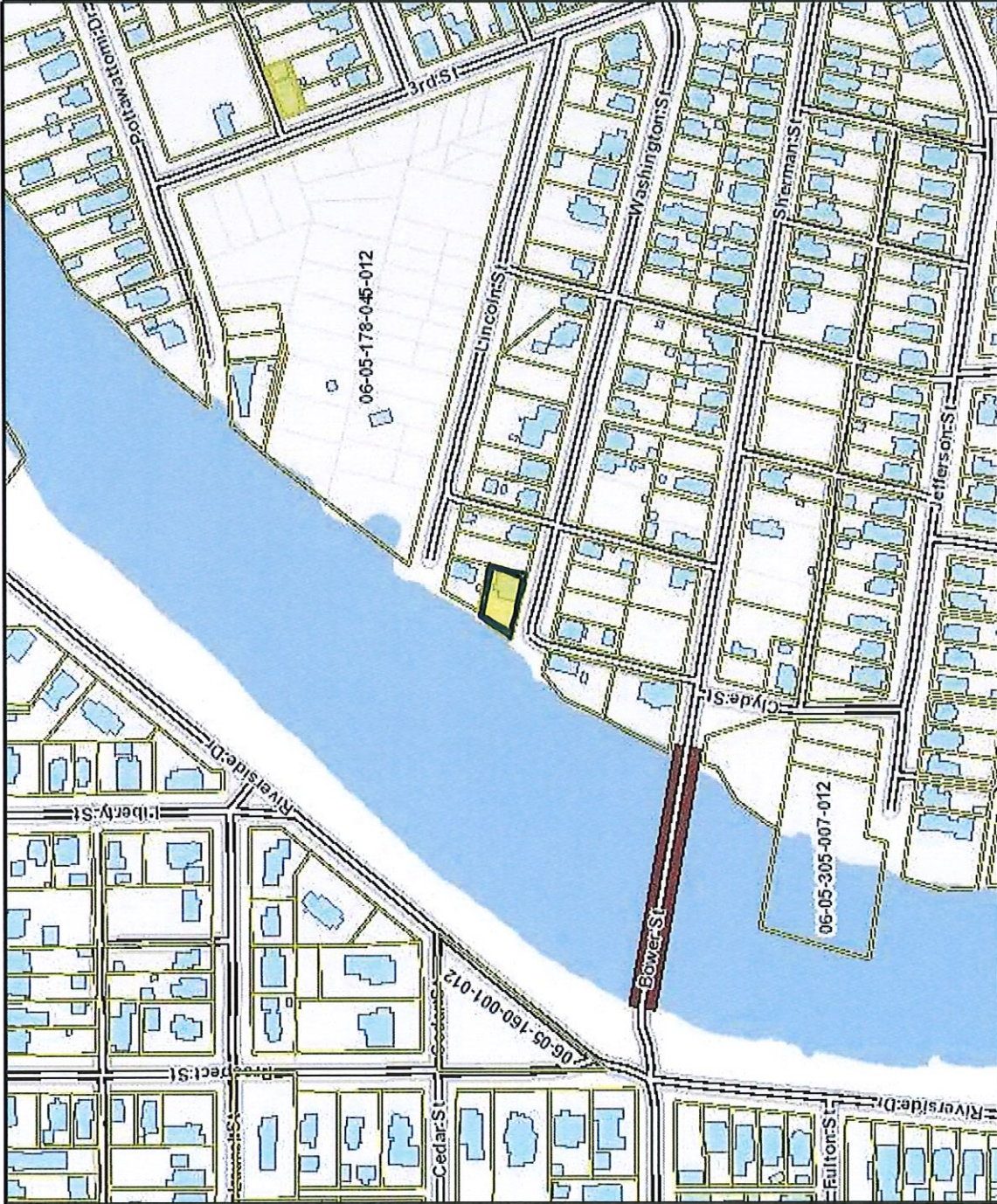
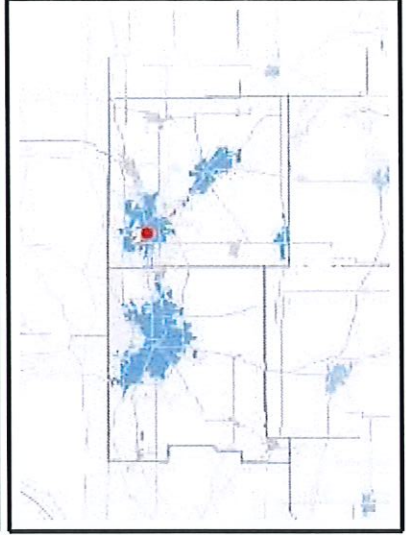
- SJC Parcel Dimensions
- SJC Parcels
- ELK Parcels
- SJC Street
- ELK Street
- Building Footprint
- Railroad
- Railroad
- Abandoned Railroad
- Road Centerline
- Railroad Bridge
- Roadway Bridge
- Major Roads
- 1
- 10
- Primary Roads
- Secondary Roads
- Local Roads
- Rivers
- Local Roads

1 inch = 187.44 feet



Miles

0 0.01 0.02 0.04



Date Printed: 11/17/2022

Map Generated By: Public

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Michiana Area Council of Governments (Geographic Information System
Elkhart and St. Joseph Counties, IN)



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 Works
From: Jamie Arce, Controller *JA*
Regarding: INDOT Street Sweeping Agreement
Date: November 30, 2022

The accompanying agreement between the City and Indiana Department of Transportation (INDOT) is for the period July 1, 2021, through June 30, 2025. This agreement is part of our ongoing service of providing street sweeping services for 11.0 curb miles of SR 19 and 2.8 curb miles of SR 33.

The City will be responsible for cleaning each location a minimum of two (2) times per year and will be reimbursed \$360.00 per curb mile per year for a total of \$4,968.00 per year and total of \$19,872.00 for the term of this contract.

This agreement has been reviewed by the City's Utility Attorney.

It is recommended that the Board of Works approve the agreement between the City of Elkhart and INDOT to provide street sweeping services on SR 19 and SR 33.

SWEEPING SERVICES
EDS/SCM# _____

This Contract, entered into by and between the Indiana Department of Transportation (hereinafter referred to as "State") and the **City of Elkhart** (hereinafter referred to as the "City"), is executed pursuant to the terms and conditions set forth herein.

WHEREAS, the State is in need of sweeping services to keep state highways and curbs clean and free of dirt and debris; and

WHEREAS, the City has the required sweeping capabilities and is willing to perform sweeping services on state facilities pursuant to this Contract;

NOW THEREFORE, in consideration of the mutual covenants contained herein the parties agree as follows.

1. Duties of City. The City agrees to perform all services necessary to keep the following described state roads, highways and curbs clean and free of dirt and debris (include road, location, curb miles, etc.):

SR 19 for 11.0 curb miles.
SR 33 for 2.8 curb miles

Total curb miles: 13.8

a) The City agrees to dispose of all dirt and debris collected in the cleaning process. All cleaning and disposal of dirt and debris shall be to the reasonable satisfaction of the Indiana Department of Transportation's District Director or his/her designee. The City shall take proper precautions and be responsible for the safe performance of the work covered by this Contract. Furthermore, the City agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances in the performance of its work under this Contract.

b) **Each location shall be cleaned a minimum of two (2) times per year.**

c) The City shall be responsible for all liability due to loss, damage, injuries, or other casualties to persons or property arising out of the work performed pursuant to this Contract, whether due in whole or in part to the negligent acts or omissions of the City, its agents or employees, or other persons engaged in the performance of the work, including any claims arising out of the Worker's Compensation Act.

2. Consideration. The State agrees to pay the City \$360.00 per curb mile per year, for a total of \$4,968.00 per year. Total remuneration under this Contract shall not exceed \$19,872.00.

The City shall submit one (1) invoice to the State each year and the State shall pay the invoice in accordance with its regular fiscal procedures. **When submitting the invoice, the City shall certify that the service(s) has been provided.**

3. Term. This Contract shall be effective for a period of forty-eight (48) months. It shall commence on **July 1, 2021**, and shall remain in effect through **June 30, 2025**.

4. Access to Records. The City and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

5. Assignment; Successors.

A. The City binds its successors and assignees to all the terms and conditions of this Contract. The City may assign its right to receive payments to such third parties as the City may desire without the prior written consent of the State, provided that

the City gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

B. The City shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Additionally, the City shall provide prompt written notice to the State of any change in the City's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

6. Assignment of Antitrust Claims. [OMITTED – NOT APPLICABLE].

7. Audits. The City acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, et. seq. and audit guidelines specified by the State.

The State considers the City to be a "City" under 2 C.F.R. 200.330 for purposes of this Contract. However, if it is determined that the City is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), City shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

8. Authority to Bind the City. The signatory for the City represents that he/she has been duly authorized to execute this Contract on behalf of the City and has obtained all necessary or applicable approvals to make this Contract fully binding upon the City when his/her signature is affixed, and accepted by the State.

9. Changes in Work. The City shall not commence any additional work or change the scope of the work until authorized in writing by the State. The City shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

10. Compliance with Laws.

A. The City shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the City to determine whether the provisions of this Contract require formal modification.

B. The City and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the City has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the City shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the City is not familiar with these ethical requirements, the City should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the City or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the City. In addition, the City may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The City certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The City agrees that any payments currently due to the State may be withheld from payments due to the City. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the City is current in its payments and has submitted proof of such payment to the State.

D. The City warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the City agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the City's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the City, the City may request that it be allowed to continue, or receive work, without delay. The City must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

F. The City warrants that the City and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

G. The City affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC 5-22-3-7:

(1) The City and any principals of the City certify that:

(A) the City, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC §24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC §24-5-12 [Telephone Solicitations]; or

(iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the City will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The City and any principals of the City certify that an affiliate or principal of the City and any agent acting on behalf of the City or on behalf of an affiliate or principal of the City, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

11. Condition of Payment. All services provided by the City under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

12. Confidentiality of State Information. [OMITTED – NOT APPLICABLE].

13. Continuity of Services. [OMITTED – NOT APPLICABLE].

14. Debarment and Suspension.

A. The City certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the City.

B. The City certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The City shall immediately notify the State if any subcontractor becomes

debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by State. [OMITTED – NOT APPLICABLE].

16. Disputes. [OMITTED – NOT APPLICABLE].

17. Drug-Free Workplace Certification. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the City hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The City will give written notice to the State within ten (10) days after receiving actual notice that the City, or an employee of the City in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the City certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the City's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the City's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Eligibility Verification. As required by IC § 22-5-1.7, the City swears or affirms under the penalties of perjury that the City does not knowingly employ an unauthorized alien. The City further agrees that:

A. The City shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The City is not required to participate should the E-Verify program cease to exist. Additionally, the City is not required to participate if the City is self-employed and does not employ any employees.

B. The City shall not knowingly employ or contract with an unauthorized alien. The City shall not retain an employee or contract with a person that the City subsequently learns is an unauthorized alien.

C. The City shall require his/her/its subcontractors, who perform work under this Contract, to certify to the City that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled

and is participating in the E-Verify program. The City agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the City fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

19. Employment Option. If the State determines that it would be in the State's best interest to hire an employee of the City, the City will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to the State or the employee.

20. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

21. Funding Cancellation. As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

22. Governing Law. This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

23. HIPAA Compliance. [OMITTED – NOT APPLICABLE.]

24. Indemnification. The City agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the City and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the City.

25. Independent Contractor; Workers' Compensation Insurance. The City is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The City shall provide all necessary unemployment and workers' compensation insurance for the City's employees, and City shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

26. Indiana Veteran Owned Small Business Enterprise Compliance. [OMITTED – NOT APPLICABLE].

27. Information Technology Enterprise Architecture Requirements. [OMITTED – NOT APPLICABLE].

28. Insurance.

29. Key Person(s). [OMITTED – NOT APPLICABLE].

30. Licensing Standards. [OMITTED – NOT APPLICABLE].

31. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, except by written agreement signed by all necessary parties.

32. Minority and Women's Business Enterprises Compliance. [OMITTED – NOT APPLICABLE].

33. Nondiscrimination.

- A. Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the City covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The City certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this covenant may be regarded as a material breach of this Agreement, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the City or any contractor or subcontractor.
- B. INDOT is a recipient of federal funds, and therefore, where applicable, the City and any contractors or subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

The City agrees that if the City employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the City will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The City shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by reference. Breach of this covenant may be regarded as a material breach of this Agreement.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, limited English proficiency, or status as a veteran.)

- C. During the performance of this Agreement, the City, for itself, its assignees and successors in interest (hereinafter referred to as the "City") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
1. Compliance with Regulations: The City shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of this Agreement.
 2. Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential contractor or subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement, and the Regulations relative to

nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.

4. **Information and Reports:** The City shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by INDOT and the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses furnish this information, the City shall so certify to INDOT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, INDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: (a) withholding payments to the City under the Agreement until the City complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.
6. **Incorporation of Provisions:** The City shall include the provisions of paragraphs 1. through 5. above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

34. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

Notices to the State shall be sent to:

Indiana Department of Transportation – Fort Wayne District

ATTN: Scott E. McDaniel

5333 Hatfield Road

Fort Wayne, IN 46808

Notices to the City shall be sent to:

ATTN: City of Elkhart

229 S. Second Street

Elkhart, IN 46516

As required by IC 4-13-2-14.8, payments to the City shall be made via electronic funds transfer in accordance with instructions filed by the City with the Indiana Auditor of State.

35. Order of Precedence; Incorporation by Reference. [OMITTED – NOT APPLICABLE].

36. Ownership of Documents and Materials. [OMITTED – NOT APPLICABLE].

37. Payments.

A. All payments shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the City in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20.

B. If the City is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the City agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

38. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

39. Progress Reports. [OMITTED – NOT APPLICABLE].

40. Public Record. The City acknowledges that the State will not treat this Contract as containing confidential information and the State will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

41. Renewal Option. This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

42. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

43. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

44. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the City as a result of this Contract.

45. Termination for Convenience. This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to IDOA and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the City of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The City shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The City shall be compensated for services herein provided but in no case shall total payment made to the City exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

46. Termination for Default. [OMITTED – NOT APPLICABLE].

47. Travel. [OMITTED – NOT APPLICABLE].

48. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the City shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the City's negligent performance of any of the services furnished under this Contract.

49. Work Standards. The City shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the City shall grant such request.

50. State Boilerplate Affirmation Clause. [OMITTED – NOT APPLICABLE].

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, member or officer of the City, that he/she has not, nor has any other member, employee, representative, agent or officer of the City, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Agreement, the City attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Agreement by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Agreement to the State of Indiana. I understand that my signing and submitting this Agreement in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Agreement and this affirmation. I understand and agree that by electronically signing and submitting this Agreement in this fashion I am affirming to the truth of the information contained therein. I understand that this Agreement will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: https://fs.gmis.in.gov/psp/guest/SUPPLIER/ERP/c/SOI_CUSTOM_APPS.SOI_PUBLIC_CNTRCTS.GBL

In Witness Whereof, the City and the State have, through duly authorized representatives, entered into this Contract. The parties, having read and understand the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Name of City: City of Elkhart
Signature: _____
Printed Name: _____
Title: _____
Date: _____

Indiana Department of Transportation

State Budget Agency

Todd Johnson
Fort Wayne District Deputy Commissioner

Zachary Q. Jackson, Director

Date: _____

Date: _____

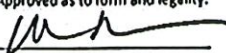
Indiana Department of Administration

**APPROVED AS TO FORM AND LEGALITY
Office of the Attorney General**

Rebecca Holwerda, Commissioner
Date: _____

Theodore E. Rokita, Indiana Attorney General *(FOR)*

Date Approved: _____

Approved as to form and legality.


Margaret M. Marnocha
Utility Staff Attorney

Meltwater Services

Meltwater Lite

- Users: Access by up to 2 Authorized Users (defined herein) to the Meltwater platform. "Authorized Users" means those specific employees or consultants located in United States that Customer has authorized to use the Meltwater platform solely for Customer's own internal business purposes.
- Searches: 5 Searches. A "Search" is a string of keywords used to search online news or social media sources and find relevant results in the form of articles or posts. Results are displayed in the Meltwater platform and contain a hyperlink to the original source article or post.
- Dashboards: 2 dashboard(s) on the Meltwater platform. Dashboards are customizable and display analytics and search results from any Searches. Each Dashboard can contain up to 9 Widgets.
- Widgets: Access to both Brand Monitoring and Brand Analysis widget groups, including Potential Reach, Sentiment Score, Share of Voice, Advertising Value Equivalency, Top Languages, RSS Feed, Content Streams, Media Exposure, World Heat Map, Trending Themes, Top Publishers and Top Locations widgets.
- Sources: News and social media monitoring. News search results from all sources tracked by Meltwater worldwide.
- Extras: Tagging, translation and distribution of search results.
- Sentiment: Natural Language Processing (NLP) analysis of article sentiment in selected languages.
- Alerts: Twitter Influencer (twitter only) and Top reach (news only) are included. Authorized Users can configure Alerts for Searches and Users. Alerts are available in the Meltwater Platform, email reports and/or Mobile App.
- Email: Daily e-mail reports and ad-hoc dashboard reports showing search results for Authorized Users.
- Mobile: Access to Meltwater app (available in iOS and Android) to view saved Searches and Search Results.
- Subject to the approval of Twitter, Customer may receive content from Twitter or post content to Twitter ("Twitter Content") pursuant to this Agreement and Customer represents that it has read, understands, and agrees to be bound by Twitter's terms of service located at <https://twitter.com/en/tos>. Meltwater or Twitter may terminate Customer's access to Twitter Content if Meltwater or Twitter reasonably believes that Customer is violating Twitter's terms of service.

Newsletter

- Design and send branded e-Newsletters from within the Meltwater platform, containing search results and/or Customer generated content.
- Includes 1 branded, customized template and 1 pre-saved Recipient list. Pre-saved Recipient list can save up to 1,000 e-mail addresses of customers choice.
- Customer is responsible for obtaining any required consent from recipients on the Recipient list where necessary. Customer will receive one newsletter template with a maximum of three (3) revisions. Meltwater may pause Newsletter sends if unsubscribe rates trigger SPAM alerts.

Premium Social Package

- Social media content package for use with searches and dashboard analytics in Meltwater platform.
- Search results from Twitter, Facebook, Instagram, Forum sites, Product Review sites and website comment sections.
- Search results can be visualized alongside other content types in integrated dashboards.
- Available widgets for visualization include Heat Maps, Media Exposure, Share of Voice, Top Posters, Sentiment Score, Sentiment, Languages, Locations, Sources, Topic Momentum and Trending Themes.
- Sentiment rating for all results using Natural Language Processing. (selected languages only)
- Search results can be exported in PDF, Image or Excel formats.(selected languages only)
- Subject to the approval of Twitter, Customer may receive content from Twitter or post content to Twitter ("Twitter Content") pursuant to this Agreement and Customer represents that it has read, understands, and agrees to be bound by Twitter's terms of service located at <https://twitter.com/en/tos>. Meltwater or Twitter may terminate Customer's access to Twitter Content if Meltwater or Twitter reasonably believes that Customer is violating Twitter's terms of service.

Media Relations Platform

- Access to media contacts in the following country: United States
- Ability to research, organize and manage relevant media contacts and sources.
- Proprietary media contact search with relevance rankings.
- Advanced search of media contact database by journalist or publication name, location, beat, role and channel.
- Access for all Authorized Users with current access to Meltwater platform. If purchased as a standalone product without prior access to Meltwater platform, access provided for up to 5 Authorized Users
- Ability to email media outreach (pitches, press releases and media advisories) and track open rates.
- Ability to upload contacts. Customer is responsible for obtaining all required consent from such contacts where necessary.

Terms of Service:

Meltwater will provide the above Services for the period of time reflected by the start & end dates below.

Product	Start Date	End Date
Meltwater Lite	Jan 01, 2023	Dec 31, 2023
Newsletter	Jan 01, 2023	Dec 31, 2023
Premium Social Package	Jan 01, 2023	Dec 31, 2023
Media Relations Platform	Jan 01, 2023	Dec 31, 2023

Payment Terms:

Meltwater Services are paid for in advance of the Start Date in a single lump sum. Once this Order Confirmation is signed, an invoice for the price below will be generated and due net14. Except as provided in the Terms of Use, all payment is non-refundable. Discounts and/or special pricing and/or payment terms, if any, may not apply to your renewal term.

(If you are tax exempt please provide your Meltwater representative with a valid current tax exemption form upon signing.)

Price : 7000.00 USD

Terms of Use:

The company identified in the signature block below ("Customer") hereby agrees that its use of any Meltwater Service is governed by the terms set out in this Order Confirmation and the terms and conditions of use, located at <https://www.meltwater.com/terms-of-use/northamerica/> ("Terms") (together the "Agreement"). Any other terms, including those on a purchase order, in a vendor registration application, or part of an RFP, are considered void and shall have no force and effect.

Special Terms:

Any Special Terms below shall supersede Meltwater's standard Terms of Use.

- Invoices under this Agreement will be due within 30 days of invoice date.

By signing this Agreement, you warrant that you have the authority to enter into this Agreement on behalf of Customer and that you have read, understand, and accept all of the terms of this Agreement

Customer

Name and Contact Information:

City of Elkhart
229 S 2nd St
Elkhart, Indiana 46516
United States
Contact: Corinne Straight

Date _____
Name _____
Email _____
Title _____
Signature _____

Meltwater

Name and Contact Information:

Meltwater News US Inc.
Suite 165, 555 Twin Dolphin Drive,
Redwood City, CA, 94065
United States of America
FTIN number: 20-8289528 (b2b-version)

Date _____
Name **Ellee Ruskaup**



Memo

To: Board of Works
From: Timothy D. Reecer; Interim Director *TR*
Date: November 29, 2022
Re: Award Recommendation for the NYCRR Roof Replacement –
Quote #22-14

On November 15, 2022, quotes were opened for the NYCRR Roof Replacement project at the regular Board of Works meeting. One (1) quote was received at that time and given to the Museum Staff for review.

The quote has been reviewed and the results are as follows:

Contractor	Total Quote Price
Southwest Commercial Roofing	\$118,895

There were no discrepancies with the quote. Southwest Commercial Roofing was the lowest responsive and responsible quoter.

There are sufficient sewer funds already appropriated for this project.

It is recommended the Board of Public Works:

Sign the contract for and award the NYCRR Roof Replacement Project, Quote #22-14, to Southwest Commercial Roofing, who was the lowest, responsive and responsible quoter with a contract price in the amount of \$118,895.

Rod Roberson
Mayor



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

December 1, 2022

Michael Machlan
Chad Crabtree
Ronnie Davis
Jamie Arce
Rose Rivera

RE: PROPOSAL FOR ANNEXATION STRATEGY
Economic Development
City of Elkhart, IN

Dear Board:

The Department of Development Services is diligently working to support our business and manufacturing community within the City of Elkhart. One of our primary goals within Economic Development is to support initiatives to diversify our economy. A step toward that goal is to recruit and plan where business should be located within the City to best support their needs. Sometimes we are not able to locate new businesses within current City boundaries, requiring annexation. To be strategic with our growth model, we have engaged with Rundell Ernstberger Associates (REA), leaders in development and annexation planning. They have agreed to provide an annexation strategy that will analyze factors related to growth such as soil conditions, utility requirements and public safety needs.

For the services offered, REA agrees that the City shall not pay more than \$150,000 to be split between the Economic Development and Planning departments. We are requesting that a motion be made to approve the contract with REA which limits the amount the City will pay for services to \$150,000. Services will begin immediately upon the Board's approval and an executed contract. Please consider our request to execute this agreement as presented.

Respectfully,

A handwritten signature in black ink, appearing to read "Kristen Smole", is written over the typed name. The signature is fluid and cursive.

Kristen Smole

AGREEMENT FOR PROFESSIONAL SERVICES

FOR

CITY OF ELKHART

BY AND BETWEEN THE

CITY OF ELKHART
BOARD OF PUBLIC WORKS
229 SOUTH SECOND STREET
ELKHART, INDIANA 46516

AND

RUNDELL ERNSTBERGER ASSOCIATES
618 E. MARKET STREET
INDIANAPOLIS, INDIANA 46202

THIS AGREEMENT is made this _____ day of September 2022 by and between Rundell Ernstberger Associates (hereinafter "REA") and the Board of Works, City of Elkhart, Indiana (hereinafter "Client"). Client and REA, for the consideration hereinafter set forth, hereby agree as follows:

1. Services of REA

REA agrees to provide the professional services described in Exhibit A (hereinafter the "Services") attached and incorporated by reference.

2. Schedule of Services

REA shall use its best efforts to complete the Services in a timely fashion to meet Client's requirements. If the parties have agreed to a specific project schedule and specific milestone dates, such information will be set forth in Exhibit B attached hereto.

3. Responsibilities of Client

Client shall furnish or make available to REA all of its records, maps, or other data which are pertinent to REA's work. Client shall authorize and assist REA in obtaining any such pertinent information from other public and private sources. REA shall be entitled to use and rely upon, without reverification, the accuracy, reliability, and completeness of said records, maps and all other data provided by Client or its employees, agents, officers, or consultants in conjunction with REA's performance of the Services.

4. Compensation

As compensation for the performance of the Services, Client shall pay REA its fees and expenses in accordance with Exhibit C. Payments are due at the address appearing on the invoice within 30 days following the invoice date. Invoices not paid within 30 days will accrue interest from the 31st day at the rate of 1% per month (12% per annum).

If Client disputes any portion of an invoice submitted by REA, Client shall notify REA within fourteen (14) days of the invoice date, identify the cause of the disagreement, and timely pay any amounts not in dispute. The parties agree to use their best efforts to resolve the dispute within thirty (30) days of Client's notice to REA. Client's failure to dispute an invoice within fourteen (14) days of the invoice date shall be deemed a waiver of all claims pertaining to that invoice.

5. Termination

This Agreement may be terminated by either party upon not less than seven (7) days written notice. REA shall be compensated for all Services performed until the receipt of notice plus any fees and/or costs reasonably necessary to properly terminate the project.

6. Relationship of Parties

REA is and shall at all times during the term of this Agreement be an independent contractor of Client. This Agreement and the relationship of the parties shall not be deemed to create or be one of employment, agency, partnership, joint venture, or any other association.

7. Assignment

This Agreement is binding on the heirs, successors, and assigns of the parties hereto. This Agreement may not be assigned by Client or REA without the prior written consent of the other. Any assignment without written consent of the other party shall be null and void.

8. Standard of Care

The standard of care for all professional planning and design and related Services performed or furnished by REA under this Agreement will be the care and skill ordinarily used by the members of REA's profession practicing under similar conditions at the same time and in the same locality. REA makes no warranties, express or implied, under this Agreement or otherwise, in connection with REA's Services.

9. Insurance

REA shall procure and maintain worker's compensation and employer's liability insurance in accordance with requirements of the state in which the Services are being performed, comprehensive liability insurance (including contractual and contractor's protective liability coverage) with combined single limits of \$1,000,000 per occurrence for bodily injury and property damage; automobile liability coverage including owned and hired vehicles with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage and professional liability insurance in the amount of \$2,000,000 per claim.

10. Indemnification

REA shall indemnify and hold harmless Client, its officers, directors, shareholders, partners, agents and employees from and against those damages and costs (including reasonable attorney's fees) that Client is legally obligated to pay as a result of a third party claim concerning the death or bodily injury to any person or the destruction or damage to any property, but only to the extent caused by the negligent act, error or omission of REA subject to any limitations of liability contained in this Agreement. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by any applicable statute of repose or statute of limitations.

Client shall indemnify and hold harmless REA, its officers, directors, shareholders, partners, agents and employees from and against those damages and costs (including reasonable attorney's fees) that REA is legally obligated to pay as a result of a third party claim concerning the death or bodily injury to any person or the destruction or damage to any property, but only to the extent caused by the negligent act, error or omission of Client subject to any limitations of liability contained in this Agreement.

11. Limitation on Liability

The total liability of REA and its officers, directors, shareholders, partners, employees and agents to Client and any one claiming by, through or under Client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of, or in any way related to, the Services of this Agreement from any cause or causes whatsoever including, but not limited to, negligence, errors, omissions, strict liability or breach of contract shall not exceed the total compensation received by REA under this Agreement or the total amount of \$1,000,000, whichever is greater.

12. No Personal Liability

Notwithstanding any other provision of this Agreement to the contrary, REA's officers, directors, shareholders, partners, employees, or agents shall not be personally liable, regardless of the cause of action asserted including breach of contract, warranty, guarantee, products liability, negligence, tort, strict liability, or any other cause pertaining to REA's performance or non-performance of the Agreement. Client will look solely to REA for its remedy for any claim arising out of or related to this Agreement

13. Waiver of Consequential Damages

In no event shall REA be liable to Client or the Client to REA for consequential, special or indirect damages, including but not limited to, loss of profits or revenue, loss of use of equipment, loss of production, additional

expenses incurred in the use of the equipment and facilities and claims of customers of the Client. This disclaimer shall apply to consequential damages based upon any cause of action whatsoever asserted including, but not limited to, ones arising out of any breach of contract, warranty, guarantee, products liability, negligence, tort, strict liability, or any other cause arising out of the performance or non-performance of the contract by Client/REA.

14. Mediation

The parties, as a condition precedent to commencing litigation (other than for the non-payment of REA's fees), shall endeavor to resolve their claims by mediation which, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the contract and with the American Arbitration Association.

15. Other Agreements

(a) The services to be performed by REA are intended solely for the benefit of Client and no benefit is conferred on, nor any contractual relationship established with any person or entity not a party to this Agreement; (b) Any provision or part thereof of this Agreement held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties; (c) This Agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters; (d) This Agreement shall not be amended, modified, supplemented or rescinded in any manner except by written agreement executed by the parties; (e) This Agreement shall be governed by and construed in accordance with the laws of the state where the project is located; (f) REA shall not be liable for any failure to perform or delay in the performance of the Services due to circumstances beyond its reasonable control; (g) No waiver by REA or Client of any power, right or remedy hereunder or under applicable law with respect to any event or occurrence shall prevent the subsequent exercise of such power, right or remedy with respect to any other or subsequent occurrence.

16. Certifications

(a) **Non-Discrimination.** Pursuant to Indiana Code §22-9-1-10, Consultant and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

(b) **Telephone Solicitation Act Compliance.** Consultant certifies that, except for de minimis and non-systematic violations, it has not violated the terms of I.C. 24-4.7, I.C. 24-5-12, or I.C. 24-5-14 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and that Consultant will not violate the terms of I.C. 24-4.7 for the duration of this Agreement, even if I.C. 24-4.7 is preempted by federal law. Consultant further certifies that any affiliate or principal of Consultant and any agent acting on behalf of Consultant or on behalf of any affiliate or principal of Consultant, except for de minimis and non-systematic violations, has not violated the terms of I.C. 24-4.7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and will not violate the terms of I.C. 24-4.7 for the duration of this Agreement, even if I.C. 24-4.7 is preempted by federal law.

(c) **E-Verify**

(1) Consultant hereby affirms under penalties of perjury that he/she does not knowingly employ an unauthorized alien. Consultant shall enroll in and verify the work eligibility status of all of his/her

newly hired employees through the E-Verify program as defined in I.C. 22-5-1.7-3. Consultant is not required to participate should the E-Verify program cease to exist.

- (2) Consultant shall not knowingly employ or contract with an unauthorized alien.
- (3) Consultant shall not retain an employee or contract with a person that it subsequently learns is an unauthorized alien.
- (4) Consultant agrees to maintain this certification throughout the duration of the term of a contract with the Client.
- (5) Consultant may terminate for default if Consultant fails to cure a breach of this provision no later than thirty (30) days after being notified by the Client.

(d) Iran

Consultant does hereby certify that it has never and currently does not contract with the government of Iran for such business and services as defined in Indiana Code 5-22-16.5-1 et seq. Furthermore Consultant will take the necessary steps to maintain compliance with this statutory provision throughout the term of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

RUNDELL ERNSTBERGER ASSOCIATES, INC.

CLIENT

By: Cynthia A. Bowen
Name: Cynthia A. Bowen, FAICP
Title: Principal
Date: 11/11/2022

By: _____
Name: _____
Title: _____
Date: _____

ATTACHMENT A SCOPE OF SERVICES

City of Elkhart Annexation Strategy Scope of Services

ASSUMPTIONS

- Focus Group meetings will occur with specific stakeholders with no specific public input sessions scheduled
- Task Force is comprised of City of Elkhart staff
- Certain financial assumptions regarding costs will be made to complete cost/benefit analysis
- This will be a high-level strategy document for the city and will contain the strategy under which the city may decide to annex parcels into the city's jurisdiction.
- A generalized annexation strategy map will be created.
- Increment for annexation phasing will be 5 years, 10 years, and long-term.

PHASE 1: DISCOVERY

1.1 PROJECT MANAGEMENT: Management of project including periodic phone calls with staff, preparing monthly invoices, planning for project milestones, quarterly progress report meetings, discussing preliminary and intermediate progress on drafts, updates on schedule, and guiding and directing the overall project.

1.2 KICK-OFF MEETING: Project kick-off with the client to review the scope of services, finalize the schedule and establish communication protocol and ensure a clear understanding of the desired outcomes for the project. The client will take the project team on a tour of the study area and discuss strengths and weaknesses and any of their concerns or issues with the study area.

1.3 PROJECT BASE MAPPING & DATA: Collect data and prepare project base mapping for the study area utilizing available GIS information to include aerial photography, parcels, zoning, land use, roadway, and right-of-way dimensions, topography, waterways, flood hazard areas, utilities, transit routes and facilities, pedestrian/bicycle facilities, and other resources as identified by the city and REA.

1.4 STUDY AREA BOUNDARY: REA will work with city to identify the Study Area Boundary for the Annexation Strategy.

1.5 RELEVANT PLANS AND STUDIES: Review and summarize current studies and relevant planning and design efforts to be considered as part of the study. This will include the Comprehensive Plan, Transportation Plan, Water/Sewer Plans, Zoning Ordinance, Subdivision Regulations, housing study by Zimmerman Volk, Parking Study, Retail Study, EDC Regional Employment Study, Community Foundation Bike and Pedestrian Plan, Existing C of E Bike Plan by MACOG, and PWU Sidewalk Plan, and other reports as provided by the city.

1.6 DEVELOPMENT AGREEMENT REVIEW: Obtain and review approved sewer service and compact agreements from public works department that will have bearing on services or future annexations.

1.7 ECONOMIC & DEMOGRAPHIC CONTEXT: Collect relevant economic, demographic, and real estate data for future analysis in a GIS framework. Confirm current economic and demographic trajectories for key geographies under study. The employment analysis will focus on county-level trends regarding employment by industry/cluster, as well as demographic trends (households by age and income, population & median age). Emphasis can be placed on seasonal factors (tourism or agriculture), correlated with housing demand (resident/seasonal). The employment overview will focus on the mix of companies and industries represented across the County. Regional trends will be benchmarked against a short list of peer destinations for context.

1.8 REVIEW OF EXISTING PHYSICAL CONDITIONS - LAND USE, TRANSPORTATION, AND UTILITY CONDITIONS: REA will review relevant plans and documents as provided by the city. REA will review and assess the city's plans to understand goals and policies for such areas as land use, transportation, and infrastructure conditions for the study area. REA will document current conditions, identify opportunities and constraints, level of service, planned developments, existing land use, roadway conditions, planned roadway improvements, and existing or planned pedestrian/bicycle facilities, planned water and sewer services. Summarize review from existing documents and field review results into a summary analysis report, including text, maps, and photographs.

1.9 REVIEW OF EXISTING GOVERNMENT SERVICES: REA will review existing services to determine a baseline of existing services to help evaluate the impact on future services.

1.10 TASK FORCE MEETINGS: Project Team will meet once with the task force during this phase. The first meeting will be to review precedent research and discuss stakeholder meetings and the second meeting will be to discuss outcomes from a review of relevant plans/studies, findings from stakeholder meetings, and market analysis and economic context.

1.11 FOCUS GROUP MEETINGS: Project team will facilitate discussions with city Departments, Economic Development Corporation (EDC), and members of the Chamber of Commerce, to discuss the services they provide to the community and their thoughts regarding future annexation. This could include police, fire, parks, utility, planning, economic development, community development, etc.

PHASE 2 FRAMEWORK

2.1 PURPOSE & OBJECTIVES OF ANNEXATION: REA will develop the purpose and objectives for annexation in the City of Elkhart. This will be used to develop policies for annexation and will serve as a framework for how the City Council will evaluate proposed annexations.

2.2 IDENTIFICATION OF POTENTIAL ANNEXATION AREAS: REA will work with the city to identify potential areas for future annexation.

2.3 ANALYSIS OF POTENTIAL ANNEXATION AREAS: REA will analyze and evaluate potential areas of annexation area based on a series of criteria to be identified. Some of those criteria could include:

- The ability of the city to provide certain public services and at a certain level of service – to be identified in Phase 1;
- Whether the annexation will cause a financial burden or a reduction in the level of service to the city or existing citizens;
- Whether the annexation would eliminate unincorporated "islands" or could be expanded to eliminate unincorporated "islands";
- Whether the annexation would follow logical boundaries, such as streets, subdivisions, waterways, or substantial topographic changes;
- Whether the annexation would eliminate an irregularity or irregularities in the city's boundaries, thereby improving service delivery;
- The relative costs and affordability to serve the proposed annexation versus the revenue to be derived from annexation;
- The proposed annexation is consistent with the adopted Comprehensive Plan; and
- The capital cost and affordability to the city of making required infrastructure improvements and/or addressing infrastructure deficiencies.

2.4 FUTURE CONDITIONS & SUITABILITY ANALYSIS: Using the criteria above, REA will run a suitability analysis which will determine which locations are best suited for future annexation based on the criteria above. This will be based on the criteria above as well as other policies such as proximity to roads and overlap with utilities). Once the analysis has been created, a heat map will be created to indicate the degree to which sites are most suitable for annexation.

2.5 TASK FORCE MEETINGS: Project Team will meet three times with the task force during this phase.

PHASE 3 ACTION

3.1 DEVELOP STRATEGY: REA will develop a strategy for annexation. This strategy can include a timeframe for annexation, potential land use and zoning recommendations, services needed for area/parcel for annexation, cost/benefit analysis of annexation.

3.2 DRAFT REPORT: Prepare a draft report, including analysis, illustrations, and strategy for any potential annexation(s) and/or annexation phasing.

3.3 FINAL REPORT: Prepare final report, including analysis, illustrations, and strategy for any potential annexation(s) and/or annexation phasing.

3.4 ANNEXATION TEMPLATE: Provide a template format for use in the study and evaluation of future annexation areas.

3.5 TASK FORCE MEETINGS: Project Team will meet twice with the task force during this phase.

ATTACHMENT B PROJECT SCHEDULE

Once contract is approved, the Consultant will work with the City of Elkhart Planning & Development Dept. to identify dates for milestones and meetings.

Anticipated start date: September 2022

Phase 1 Discovery: October 31, 2022

Phase 2 Framework: November 30, 2022

Phase 3 Action: January 31, 2023

**ATTACHMENT C
PAYMENT:**

The consultant will provide professional services for a lump sum amount of One hundred and fifty thousand five hundred dollars and no/100. (\$150,000.00), inclusive of all expenses, payable on a monthly progress invoice based on a percent completed on the projects. The invoice will be broken down into three phases including Phase 1: Discovery, Phase 2: Framework; Phase 3: Action. Funding for Phases 1 and 2 are payable in 2022 and funding for Phase 3 will be payable in 2023.

Phase	Hours	Cost
Phase 1: Discovery (payable 2022)	484	\$64,000.00
Phase 2: Framework (payable 2022)	218	\$33,500.00
Phase 3: Action (payable in 2023)	386	\$52,500.00
Total		\$150,000.00

Additional services beyond those included in Attachment A will be performed as needed and only when authorized in writing, electronically by the client. Fees for additional services will be provided at our standard hourly rates or on a negotiated fee basis.



City of Elkhart

Title VI Notice

It is the public policy of the City of Elkhart to provide all of its citizen's equal opportunity for education, employment, access to public conveniences and accommodations and housing without regard to Race, Religion, Color, Sex, National Origin, Ancestry, or Disability.

The City of Elkhart adheres to equality in access as expressed by TITLE VI of the Civil Rights Act of 1964, as amended which states:

No person shall on the grounds of race, color, national origin, excluded from participation in, or be denied the benefits of, or otherwise be subjected to discrimination in any program, service or activity receiving Federal financial assistance.

This equality of opportunity also includes freedom from discrimination based on age, gender, and disability.

For more information or to file a complaint contact the ADA/Title VI Coordinator for the City of Elkhart:

Title VI | Coordinator
1201 S Nappanee St
Elkhart, IN 46516

Email: titlevicordinator@coei.org Phone:
(574) 293-2572

Fax: (574) 293-7658

TDD: (574) 389-0189

Acceptance by Contractor

I hereby certify that I have received the City of Elkhart's "Title VI Notice" and agree to comply with the requirements and provisions of the City of Elkhart's Title VI Policy during the duration of this Agreement with the City of Elkhart.

Signed

Printed Name

Dated

The City of Elkhart Title VI Policy may be accessed here:

<https://elkhartindiana.org/government/human-resources/#tab-b900fced1bdffd36578>

ADDENDUM TO AGREEMENT FOR PROFESSIONAL SERVICES

This is an addendum to Agreement for Professional Services between the City of Elkhart (“City”) and Rundell Ernstberger Associates (“REA”). All terms and conditions as set forth in the Agreement for Professional Services shall remain in full force and validity with no change unless clearly identified herein and shall apply to this addendum except as expressly amended herein. In the event of any contradiction or discrepancy between the terms of this addendum and the General Conditions, the provisions of this addendum shall prevail.

Compensation. The first paragraph of Section 4, “Compensation” shall be deleted and replaced with “Client shall pay approved amounts no later than 40 days after receipt or as Client’s standard practices allow.” Indemnification. The second paragraph of Section 10, “Indemnification” shall be deleted in its entirety and the terms stated therein are no longer part of the Agreement for Professional Services.

Waiver of Consequential Damages. The terms as stated in Section 13, “Waiver of Consequential Damages” shall be deleted in its entirety and the terms stated therein are no longer part of the Agreement for Professional Services.

Other Agreements. The terms as stated in subpart (c) of Section 15, “Other Agreements”, shall be deleted in its entirety and the terms stated therein are no longer part of the Agreement for Professional Services.

1. Certification Statement Regarding Investments in Iran. The attached Certification Statement Regarding Investments in Iran now becomes a part of the General Conditions.

IN WITNESS WHEREOF, the City of Elkhart, Indiana, by its Board of Public Works and Rundell Ernstberger Associates have duly executed this Addendum to the Agreement for Professional Services and agree to abide by its terms.

The City of Elkhart, Indiana, by its Board of Public Works:

Michael C. Machlan, President

Chad Crabtree, Vice President

Rose Rivera, Member

Jamie Arce, Member

Ronnie Davis, Member

CERTIFICATION STATEMENT REGARDING INVESTMENTS IN IRAN

I, Cecil Penland, certify to the following:

1. Pursuant to Indiana Code 5-22-16.5 *et seq.*, I am not now engaged in investment activities in Iran.
2. I understand that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

EXECUTED THIS 7th DAY OF November, 2022.

Cecil Penland
Printed: Cecil Penland

STATE OF INDIANA)

) SS:

COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Michael Machlan, Chad Crabtree, Rose Rivera, Ronnie Davis, and Jamie Arce, in their capacity as members of the Board of Public Works for the City of Elkhart, Indiana, for and on behalf of the City of Elkhart, Indiana, and being duly authorized to do so, acknowledged the execution of the foregoing Addendum to the Agreement for Professional Services on the _____ day of _____, 2022.

In Witness Whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
Resident of _____ County

On behalf of Rundell Ernstberger Associates:

Cecil Penland

Printed: Cecil Penland

Title: Partner

Rod Roberson
Mayor

Laura Kolo
Environmental Resources

Tory Irwin, P.E.
Engineering Services



Public Works &
Utilities Department

Administration, Engineering
& Laboratory
574.293.2572

Utility Billing
574.264.4273

1201 S. Nappanee St.
Elkhart, Indiana 46516

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

FROM: Maggie Marnocha, Esq.

DATE: 11/30/22

RE: Teamsters Collective Bargaining Agreement

Attached please find the final negotiated contract between the Teamsters Union and the City of Elkhart. Please move to approve this Collective Bargaining Agreement between the City of Elkhart and Teamsters.

Rod Roberson
Mayor

Laura Kolo
Environmental Resources

Tory Irwin, P.E.
Engineering Services



Public Works &
Utilities Department

Administration, Engineering
& Laboratory
574.293.2572

Utility Billing
574.264.4273

1201 S. Nappanee St.
Elkhart, Indiana 46516

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

FROM: Maggie Marnocha, Esq.

DATE: 11/30/22

RE: AFSCME Collective Bargaining Agreement

Attached please find the final negotiated contract between the American Federation of State, County and Municipal Employees and the City of Elkhart.

Please move to approve this Collective Bargaining Agreement between the City of Elkhart and AFSCME. *Local 1484*