

CITY OF ELKHART
BOARD OF PUBLIC WORKS MEETING
AGENDA

Common Council Chambers

9:00 A.M., Tuesday, June 01, 2021

<https://coei.webex.com/coei/j.php?MTID=mc04228d0cfbf456ebb8b508469aa61b8>

Join by phone: 1-415-655-0001

Meeting Number (access code): 172 473 7260 Meeting password: BOW21

I. Roll Call

II. Approve Agenda

III. Claims

IV. Minutes: Regular Meeting May 4, 2021(tabled), & May 18, 2021

V. Engineering

- a.) Administration
 - PSA DLZ City Office Space Evaluation
- b.) Right-of-Way
 - Handicap Parking Space Request 1308 Hubbard Avenue
 - Traffic Signal Analysis Indiana Ave. & Oakland Ave.
 - Award Quote #21-03 ECVB Driveway Project
- c.) Utility
 - Request Bid #21-13 Wastewater Treatment Plant Capacity Upgrades Phase II
 - Request Quote #21-07 1712 Prairie Street Alley Sewer Repairs
 - Request Quote #21-08 Woodward Ave & Safford Blvd. Sewer Repairs
 - Request Quote #21-09 605 Mason Street Sewer Repairs

VI. Utilities

- a.) Administration
 - Wastewater Treatment Plant MRO April 2021
 - Change Order #1 & #2 Bid #21-04 Network Building & Pretreatment Office Renovation

VII. New Business


- Sewage Works Refunding Bond 2021 Letter of Engagement with Barnes & Thornburg LLP
- BOW Resolution 21-R-11 Electronic Meeting Policy
- BOW Resolution 21-R-12 Title 412 N. Third St.

VIII. Public Participation

IX. 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.

May 27th, 2021 
JAMIE ARCE - CITY CONTROLLER

IN RELIANCE ON THE ABOVE CERTIFICATION, CLAIMS IN THE TOTAL AMOUNT OF \$3,184,849.50, AS LISTED ON THE REGISTER ATTACHED HERETO **CONSISTING OF 109 PAGES**, ARE HEREBY APPROVED EXCLUDING ANY CLAIMS WITHHELD AS SHOWN ON THE SEPARATE SUMMARY OF PENDING CLAIMS.

EXECUTED THIS 1ST DAY OF JUNE 2021 BY:

PRESIDENT _____
MICHAEL C. MACHLAN

VICE PRESIDENT _____
CHAD CRABTREE

MEMBER _____
JAMIE ARCE

MEMBER _____
RON DAVIS

MEMBER _____
ROSE RIVERA

ORIGINAL COPY MUST BE RETAINED IN THE CONTROLLER'S OFFICE

Board of Public Works

Accounts Payable Summary June 1, 2021

Individual Claims Over \$25,000 each:

Fund	Vendor	Description	Amount
101	LOCHMUELLER GROUP	DRAINAGE IMPROVEMENT PROJECT	35,785.05
101	MUNICIPAL EMERGENCY SVC	18 SETS FIRE RIG GEAR	48,948.84
202	REITH-RILEY CONSTRUCTION	PAVING ASPHALT	59,332.18
608	B L ANDERSON	LIFT STATION PUMPS	124,012.00
608	DLZ INDIANA	OAKLAND AVE TANK	101,767.25
231	DEATONS WATERFRONT SVC	ADA KAYAK DOCKS AT PARKS	64,365.20
201	WEST SIDE TRACTOR SALES	NEW COMPACT EXCAVATOR	78,200.00

Total Claims over \$25,000	512,410.52
Regular Claims under \$25,000:	547,519.36
Total Regular Departmental Claims:	1,059,929.88

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

526	RELIANCE STANDARD LIFE	LIFE INS PREMIUM-FEB 2021	27,919.44
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Total Pre-Approved over \$25,000:	27,919.44
Regular Claims under \$25,000:	113,487.07
Total Pre-Approved Claims:	141,406.51

Payroll and Pension Payments:

Fire & Police Pension	5.28.2021	414,478.35
Bi-weekly Payroll	5.14.2021	1,569,034.76
Total Payroll:		1,983,513.11

Total All Claims, Internal Payments, and Payroll: \$ 3,184,849.50

(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.

(b) Movement of monies between funds via check issuance and re-deposit. Done primarily for transfer of employer share of health insurance premiums and basic term life insurance premiums (100% employer paid) from various budgeted funds into the Group Insurance Fund (526) where it is combined with the employee share of health insurance premiums to be paid to the provider.

BOARD OF PUBLIC WORKS
Tuesday, May 4, 2021

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:02 a.m., Tuesday, May 4, 2021. The Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Rose Rivera, and Ron Davis attended in person. Jamie Arce and Chad Crabtree were absent.

1. Approve Agenda

A motion was made by Rose Rivera and seconded by Ron Davis to approve the agenda. On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the agenda was amended by adding the Sourcewell Purchase of GPS Service, Declaring and Emergency 5220 Middlebury Street Sinkhole, Declaring an Emergency Division Street Sewer Main Break Repair, and Board of Works Resolution 21-10 Amending the 2021 Wage Resolution. The amended agenda carried 3-0.

2. Open Bids

Bid #21-19 Fifteen Police Vehicles

Proof of publication was presented which appeared in The Elkhart Truth on April 10 and April 17, 2021. The following bids were received:

Jordan Automotive Group submitted a signed and certified bid summary form with all items checked. The base bid was \$39,988.00 each gas engine, \$38,467.00 each hybrid engine noting no trades for a total net bid of \$596,778.00.

Zeigler Ford Lincoln submitted a signed and certified bid summary form with all items checked. The base bid was \$511,789.59 for 13 units total. The bid for 15 units was \$589,102.17.

On motion by, seconded by and unanimously carried, the Board referred the bids to the Central Garage Department Head for review and recommendation at the next meeting.

3. Claims

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved the Claim and Allowance Docket in the amount of \$2,052,734.37 consisting of 113 pages as prepared on April 28, 2021 at 1:55 p.m.

4. Minutes Special Meeting April 13 & Regular Meeting April 20, 2021

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved the Special Meeting Minutes of April 13 and the Regular Minutes of April 20, 2021.

5. Tabled Items

Supplemental Agreement No. 4 with Weaver Consultants Group for Brownfields 700 W. Beardsley Project

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board took the Agreement off the table. A motion was made by Rose Rivera to approve the Supplemental Agreement No. 4 with Weaver Consultants Group for Brownfields 700 W. Beardsley Project. There was no second to the motion. The item failed.

6. Engineering

(A.) Administration

PSA with Christopher B. Burke Engineering for Design of Main Street and Middlebury Street Railroad Crossing

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved a PSA with Christopher B. Burke Engineering for the Design of Main Street

BOARD OF PUBLIC WORKS

Tuesday, May 4, 2021

and Middlebury Street Railroad Crossing in an amount not to exceed \$36,000.00.

(B.) Right-of-Way

Request Quote #21-04 High Street Curb Ramp

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board granted permission to quote the High Street Curb Ramp Quote #20-04.

(C.) Utility

PSA with Arcadis U.S., Inc. for Water Master Plan Update

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved a PSA with Arcadis US, Inc. for the Water Master Plan Update in an amount not to exceed \$84,500.00.

PSA DLZ Indiana, LLC Amendment #2 Main Street Water Main Replacement

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved Amendment #2 with DLZ Indiana, LLC for the Main Street Water Main Replacement project, WA 7687, for an increase of \$15,505.00, bringing the current not-to-exceed fee to \$247,330.00.

PSA DLZ Indiana Amendment #1 Edgewater Lift Station Replacement

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved Amendment #1 with DLZ Indiana, LLC for the Edgewater Lift Station Replacement Project, SA 7782, with a net change to the contract amount of \$0. The current not-to-exceed amount will remain at \$369,500.00.

Declaration of Emergency 5220 Middlebury Street Sinkhole

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board declared an emergency for the March 9, 2021 5220 Middlebury Street sinkhole repair.

Declare Emergency Division Street Sewer Main Break Repair

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board declared an emergency for the Division Street Sewer Main break repair.

7. Utilities

(A.) Administration

Wastewater Treatment Plant MRO for March 2021

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board accepted and placed on file the Wastewater Treatment Plant MRO for March 2021.

Great Lakes Combined Sewer overflow Annual Notification

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board accepted notification of the Great Lakes Combined Sewer Overflow Public Notice Annual Notification.

(B.) Utility Finance

Payment #21 to Keramida Inc. for 1032 E. Beardsley Avenue Remediation

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved payment #21 in the amount of \$7,950.00 to Keramida, Inc. for the 1032 E. Beardsley Ave. Remediation Project.

Payment #23 to Weaver Consultants Group for 700 W. Beardsley Ave. Remediation Project

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved payment #23 in the amount of \$2,415.25 to Weaver Consultants Group for the 700 W. Beardsley Ave. Remediation Project.

BOARD OF PUBLIC WORKS

Tuesday, May 4, 2021

(C.) Environmental Compliance

Notice of Violation: 25% Rule Violation Five Star Dive Bar, 526 S. Main St. (F2018-001)

A motion was made by Rose Rivera and seconded by Ron Davis to approve the Notice of Violation: 25% Rule Violation for Five Star Dive Bar, 526 S. Main St. (F2018-001) and assess a penalty of \$100.00. Megan Kolaczyk explained the violation to the Board. They pumped it out and responded within the allotted time frame. Jason Curtis spoke to the Board and let them know they changed their operational procedure for the grease trap. They were cleaning it in-house, and have hired a professional company to come out monthly to clean it and report to the pretreatment staff. On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board reduced the penalty to \$50.00. The amended motion carried 3-0.

Notice of Violation: 25% Rule Yummy Chinese (F2018-005)

A motion was made by Rose Rivera and seconded by Ron Davis to approve the Notice of Violation: 25% Rule Violation for Yummy Chinese (F2018-005) and assess a penalty of \$100.00. Megan Kolaczyk said they cleaned it out within the allotted time frame and responded to the violation on time. She explained the testing process. The FSE was not present either in-person or on line. On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board reduced the penalty to \$50.00. The amended motion carried 3-0.

FOG Variance Request: That Guy's Gourmet Ribs 2041 Cassopolis St. Suite A

A motion was made by Rose Rivera and seconded by Ron Davis to approve a FOG Variance Request for That Guy's Gourmet Ribs located at 2041 Cassopolis St. Suite A. Megan Kolaczyk explained the request to the Board. They received a variance in November 2020. They share two grease interceptors that are run in series with a second FSE The Matterhorn. The FOG Ordinance requires their own properly sized interceptor. The Legal Department and the Utility tried to work with the property owner to get a Restrictive Covenant in place and he was not willing to do that. Because the Variance expires in May, the owner requested an extension. Attorney Randy Arndt told the Board the owner does not want to do a restrictive covenant. If there is a problem with That Guy's Ribs, it is a problem for the owner of the building. Megan clarified that back in November, the Utility did not have time to contact the owner of the building before the Board issued the variance to help the new business get open during the difficult times. Mike asked if anyone was there representing That Guy's Ribs. The FSE was not present. Lynn Brabec said they have an interceptor, actually there are two of them. The unique situation is who is responsible if they are out of compliance since they run together. Randy responded that the owner of the property is responsible for both. On motion by Ron Davis, seconded by Rose River and carried 3-0, the Board amended the Variance to extend it until November. Lynn suggested a six-month variance to see if both facilities handle the current interceptors. Ron and Rose withdrew their amendment motion. On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board granted an extension to the FOG Variance until November 30, 2021 for That Guy's Gourmet Ribs for the current Variance situation, and required the Utility and the FSE to check the grease levels at least three times during that time period to see what the effects are of the shared grease interceptors. The amended motion carried 3-0.

BOARD OF PUBLIC WORKS

Tuesday, May 4, 2021

8. New Business

2021 Municipal Band Contract

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved the 2021 Municipal Band Agreement for an amount of \$55,000.00.

Economic Development Partnership Grant Greater Elkhart Chamber of Commerce

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved the Economic Development Partnership Grant between the City of Elkhart and the Center for Business Excellence in the amount of \$15,000.00.

Commercial Broadband Solutions Contract

On motion by Ron Davis, seconded by Rose Rivera and carried 3-0, the Board approved the contract for Commercial Broadband Solutions for installation of a backup dedicated internet access for \$500.00/month.

GPS Service Provider Funds Release

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board approved the GPS Service Provider Release for \$58,760.00 through Sourcewell to go to CDW Inc. the distributor of SamSara Technologies, and to enter into a contract to provide three years of GPS service and maintenance tracking of all City vehicles.

Board of Works Resolution #21-10 Amending the 2021 Wage Resolution

A motion was made by Rose Rivera and seconded by Ron Davis to approve Board of Works Resolution #21-10 amending the Board of Works Resolution 21-05 2021 Wage Resolution. Laura Kolo began the discussion by referencing a memo from Human Resources Director Kacey Spitzley. Laura explained the request to reinstate the Pretreatment Coordinator position, stating the needs of the group have changed, and they need to change the structure of the group. The modification also reflects a slight decrease to the Regulatory Affairs position due to a realignment of duties in that position as well. Overall, the net increase is just over \$2,000.00. Mike asked how they came up with the numbers if they went back to WIS who established those values originally? Lynn Brabec and Laura Kolo both responded yes, they did. Mike asked Lynn if they just undid this a year ago? Lynn said no, it was four years ago. Lynn explained that their needs at Public Works have changed, so they changed the job description for the Pretreatment Coordinator as such that in addition to the oversight of the Pretreatment program on a working manager's level, they have new a software called WHIM for operations and pretreatment along with LINKO software they use in the pretreatment program and the FOG program. Lynn said they need someone to be able to administer those programs and help other individuals in the structure of the program and its application. Those are some of the duties they added to the Pretreatment Coordinator position to justify that level of salary and to fulfill the needs of Public Works. Mike asked what the level was of the old Pretreatment Coordinator, and Lynn thought it was \$59,000. Mike said when he asked if WIS looked at this, he wanted to know if they looked at this or at the old Pretreatment Coordinator position? Lynn said it was the old Pretreatment Coordinator because WIS is no longer involved. Rose asked if they were having trouble hiring these positions and if that was part of the impetus to raise the salaries? Lynn said no, this position has not been advertised yet because it doesn't currently exist in the Wage Resolution. Mike asked if they anticipate hiring someone with computer and teaching

BOARD OF PUBLIC WORKS

Tuesday, May 4, 2021

experience because that's what it sounds like they are looking for. Lynn said yes, they are looking for someone with significant computer experience. Laura clarified, this is a reorganization within the division because it is upgrading a current position. It is not adding a position. Laura said if the needs cannot be met with current staff, they will have to re-evaluate. Mike said he heard them say they want to give someone a raise to manage the software, and Laura said yes, that would meet their needs. Lynn added they are rearranging some of the responsibilities within the department. Mike asked if Kacey Spitzley was on the call, and Laura said no, she is out of the office for two weeks. Lynn said the new software is much more labor intensive than they anticipated. There is a need from staff for significant input, and this will be ongoing to keep things updated. There are very few individuals that will have the rights to update and make changes to the dashboards, access rights, reports, and other things. Lynn said that for a long time, they have needed someone to assist staff members with software challenges. Rose asked if we will have trouble filling the Regulator Affairs Director position now due to the decrease in salary? Laura said she didn't think so because the duties changed. Mike said he would feel better with a WIS evaluation. He doesn't like having that tool and then arbitrarily deciding this person has more responsibilities so they go to group B, and this one has less we will put them in group C. Mike said that was not the intentions of the WIS at the time it was sold to the Mayor and the City Council. Lynn told Mike it is her understanding that WIS is no longer contracted by the City. Mike said that might be, and he was not saying they were arbitrary, but we got to a point where we were funding people and not positions, and we spent \$80,000 to create a comprehensive evaluation where you can compare the duties of people to their pay. Mike said you have your person picked out don't you. Laura said they worked with Kacey in HR, and she agreed this would be a reorganization within the division. Mike asked if the person has the extensive software experience they are looking for and Lynn said yes. Mike reminded Lynn she is such a good friend that in the past, she didn't hold some individuals to the performance level needed and it resulted in a reorganization. He said he is concerned and he will be watching that doesn't happen again. Lynn responded they believe that if they look at the current staff they have, when it comes to pretreatment and software, they have two individuals and maybe three that would be able to fill this position with a certain amount of training. Lynn said they were very careful not to develop a position around a person. Lynn said these are things they need within the department, and they believe they have the talent within their groups to be able to fulfill the position. Mike said he understands the need but his concern is the additional training. Mike quoted Kacey, bring them up or bring them out. Lynn gave her word to Mike there would not be an issue. Ron asked the usual process for an open position. Laura said they are not adding a position, they are changing a position. Lynn said now they post open positions to the City and public media. Laura said HR has the job description. Mike called for the vote and the motion carried 3-0.

9. Public Participation

Kevin Bullard asked on Facebook how many vehicles the new GPS would cover. Josh Holt responded two hundred vehicles and fifty pieces of equipment.

10. Adjournment

On motion by Rose Rivera, seconded by Ron Davis and carried 3-0, the Board

BOARD OF PUBLIC WORKS

Tuesday, May 4, 2021

of Works adjourned at 10:26 a.m.

_____ Mike Machlan, President

Attest: _____ Nancy Wilson, Clerk of the Board.

Any person may access the recording of this meeting by submitting a written request to the Clerk.

BOARD OF PUBLIC WORKS
Tuesday, May 18, 2021

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:02 a.m., Tuesday, May 18, 2021. The Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Rose Rivera, Jamie Arce, Chad Crabtree and Ron Davis attended in person. Mike noted the time was after 9:00 a.m. and no more bids or quotes would be accepted

1. Approve Agenda

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the agenda. On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the agenda was amended by adding the opening of Quotes 21-03 and 21-04 and the Award of 21-04 under new item 9. The amended agenda carried 5-0.

2. Open Bids & Quotes

Bid #21-24 Sewer System CCTV 2021

Proof of publication was presented which appeared in The Elkhart Truth on May 1 and May 8, 2021. The following bids were received:

Advanced Rehabilitation Technology submitted a signed and certified bid summary form with all items checked. The base bid was \$999,488.35.

National Power Rodding Corporation submitted a signed and certified bid summary form with all items checked. The base bid was \$463,871.20.

On motion by Ron Davis, seconded by Chad Crabtree and unanimously carried, the Board referred the bids to the Asset Manager for review and recommendation at the next meeting.

Quote #21-03 Elkhart County Visitor's Center Driveway

Rieth-Riley quoted \$58,600.00. Premium Concrete Services quoted \$24,890.00. On motion by Chad Crabtree, seconded by Jamie Arce and carried, the quotes were assigned to staff to report back at the next meeting.

Quote #21-04 High Street Curb Ramp

Rieth-Riley quoted \$104,760.00. Premium Concrete quoted \$39,680.00. Milestone Contractors North quoted \$38,475.00. On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the quotes were assigned to staff to review and report back at the end of the meeting with an award if possible.

3. Claims

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the Claim and Allowance Docket in the amount of \$3,800,443.65 consisting of 106 pages as prepared on May 18, 2021 at 8:55 a.m.

4. Minutes Regular Meeting May 4, 2021

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board tabled the Minutes of May 4, 2021.

5. Engineering

(A.) Administration

PSA Extension with ISC for River District Implementation

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board extended the PSA with ISC Community Development LLC to June 30, 2021. Mike supported the extension and complimented the City of Elkhart and administration for moving forward with the project.

BOARD OF PUBLIC WORKS

Tuesday, May 18, 2021

(B.) Right-of-Way

Request Bid #21-25 Franklin Street Resurfacing CCMG

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved plans and specifications and granted permission to advertise Bid #21-25 Franklin Street Resurfacing.

Request Bid #21-26 CR 17 Resurfacing

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved plans and specifications and granted permission to advertise Bid #21-26 CR 17 Resurfacing.

Alliance RV Permission to Grant Private Fence Encroachment

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board granted permission for the private fence and encroachment along Benchmark Drive for six months.

(C.) Utility

PSA with Wessler Engineering Inc. for Sunnyside Bridge Utility Coordination

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved a PSA with Wessler Engineering, Inc. for the Sunnyside Bridge Utility Coordination in an amount not to exceed \$33,100.00.

(D.) Summary

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

Revocable Permits:

#6469, Property Owner: Miguel Auzurez
Property: 1217 S. Main St
Permit Holder: Miguel Auzurez
Sidewalk Work

#6469, Property Owner: Mike & Heather Burnett
Property: 1321 E Jackson Blvd.
Permit Holder: Mike & Heather Burnett
Storage Container in the Right of Way

#6470, Property Owner: Placon
Property: 2901 Oakland Ave.
Permit Holder: Holladay Construction Group
Blocking one lane of traffic

#6471, Property Owner: RETA
Property: 116 W. Jackson Blvd.
Permit Holder: DJ Construction
Temporary fence around property for safety

#6472, Property Owner: Cecilio Gonzalez
Property: 1017 Fulton St.
Permit Holder: Fire Bins Dumpsters
Dumpster placed in the street in front of the house

BOARD OF PUBLIC WORKS
Tuesday, May 18, 2021

#6473, Property Owner: Carla Spencer
Property: 1528 Kilbourn St.
Permit Holder: First Response DRS
Dumpster placed in the street in front of the house

Release of Bond:

#4915, Owner: Silver Creek Homes
Property: 2614 CR 15

#4928, Contractor: Ortiz Construction
Property: 2328 Sylvan Ln.

#4942, Contractor: Nuway Construction
Property: 2800 Harman Dr.

#4945, Contractor: Straight Talk Construction
Property: 2502 Timberstone Dr. East

#4954, Contractor: Babsco Realty
Property: 301 W. Hively Ave.

#4962: Owner: Silver Creek Homes
Property: 3202 Neff St.

#4988, Contractor: MB Construction
Property: 2001 Woodland Estates Dr.

#4989, MB Construction
Property: 2028 Woodland Estates Dr.

#5001, Owner: Felipe Adame
Property: 2631 Stevens Ave.

#4983, Contractor: Brent Miller
Property: 2304 Aurora Ave

Sewer Assessment Application:

Damita Calhoun
58668 Stella Dr.
Elkhart, IN 46517
Property: 1101 W. Garfield Ave.
Paid in full, \$6,055.00

Jonathan Brown
24137 Roadster Ct.
Elkhart, IN 46516
Property: 700 Fieldhouse Ave.

BOARD OF PUBLIC WORKS
Tuesday, May 18, 2021

Paid in full, \$4,255.00

Alejandro & Juana Quintero
3203 Vernon Ave.
Elkhart, IN 46514
Property: 1600 Cassopolis St.
Paid in full, \$3,655.00

Water Assessment Application:

Debra Coody
2103 Miller St.
Elkhart, IN 46514
Property: 2103 Miller St.
Paid in full, \$1,214.14

MB Builders
2809 A Ferndale Rd
Elkhart, IN 46517
Property: 30823 Cynthia Dr.
Paid in full, \$828.00

MB Builders
2809 A Ferndale Rd
Elkhart, IN 46517
Property: 30672 Cynthia Dr.
Paid in full, \$683.10

Samuel Aguilar
2414 Morehouse Ave.
Elkhart, IN 46517
Property: 2414 Morehouse Ave.
Paid in full, \$448.50

Christi Smith
3221 Middlebury St.
Elkhart, IN 46516
Property: 3221 Middlebury St.
Paid in full, \$462.30

6. Utilities

(A.) Administration

Water Utility MRO for April 2021

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

Appropriation Request for Hydraulic Actuators

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved an appropriation of \$36,000.00 to line 608-5-999-799.0604 for the installation of new hydraulic actuators and drain valves on storage tanks at CSO 6

BOARD OF PUBLIC WORKS
Tuesday, May 18, 2021

&7, CSO 14, and CSO 31.

Appropriation Request for Two New Gear Boxes for Pumps

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board appropriated \$58,045.40 to line 608-5-999-799.0604 for the purchase and alignment of two new gear boxes for the secondary screw pumps at the treatment plant.

Request Quote #21-05 Elkhart Environmental Center Pervious Paver Installation

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the solicitation of quotes for the Elkhart Environmental Center (EEC) Pervious Paver Installation Project Quote #21-05.

Request Quote #21-06 Prep and Seeding of the Environmental Center Prep and Seeding of the South Prairie Area

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the solicitation of quotes for the EEC prep and seeding of the South Prairie Area Project Quote #21-06.

(B.) Aquatics

2020 Aquatics Community Monitoring Report

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board accepted and placed on file the 2020 Aquatics Community Monitoring Report.

Midwest Biodiversity Institute Contract for Macroinvertebrate Processing

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the contract provided by Midwest Biodiversity Institute for 2021 Elkhart Area Macroinvertebrate Processing at a cost of \$20,024.03.

Pace Analytical Services Contract for 2021 Fish Tissue Analysis

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved a Contract with Pace Analytical Services for 2021 Fish Tissue Analysis at a cost of \$5,795.00.

(C.) Environmental Compliance

Notice of Violation: 25% Rule King Gyros 3520 S. Main St.

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the Notice of Violation: 25% Rule Violation for King Gyros and assess a penalty of \$600.00. Megan Kolaczyk explained the violation to the Board. On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the action was tabled.

Notice of Violation: Discharging Without a FOG Certificate King Gyros 3520 S. Main St (F2015-185)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the Notice of Violation: Discharging Without a FOG Certificate KING GYROS 3520 S. Main St (F2015-185) and assess a penalty of \$470.00. Megan Kolaczyk explained the violation to the Board. They are discharging without a valid FOG Certificate. She explained the penalties to the Board. Mike asked if they were working with them, and Megan said they are completing most of the application but have not given them pumping records. The FSE was not present. Mike called for the vote and the motion carried 5-0.

Notice of Violation: 25% Rule King Gyros 3520 S. Main St.

On motion by Chad Crabtree, seconded by Jamie Arce and carried, the Board

BOARD OF PUBLIC WORKS

Tuesday, May 18, 2021

took the action off the table for consideration. A motion was made by Chad Crabtree and seconded by Ron Davis to approve the Notice of Violation: 25% Rule Violation for King Gyros and assess a penalty of \$600.00. Megan Kolaczyk explained they were in violation three times in one year. The recommended penalty was \$600.00. The FSE was not present. They have not responded. The Board discussed the ongoing violations and the importance of our FOG Ordinance. On motion by Jamie Arce, seconded by Ron Davis and carried 5-0, the penalty was amended to \$1,000.00. The amended motion carried 5-0.

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

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a Notice of Violation 25% Rule for Happy North Garden 2900 Cassopolis St. and assess a penalty of \$300.00. Megan explained the violation to the Board The FSE was not present and no comments on Facebook. Mike called for the vote and the motion carried 5-0.

8. New Business

NJPA Sourcewell Purchase- Street Sweeper

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the purchase of a new Global M-4 street sweeper for \$274,950.00 through Sourcewell and Brown Equipment Inc. for the Street Department.

Award Bid #21-19 Fifteen Police Cars

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board awarded Bid #21-19 Police Cars to Jordan Ford for \$596,778.00 as the lowest, responsive, and responsible bidder.

Axon Contract for Police Training Equipment

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the Axon contract with the Police Department for Tasers, Body Cameras, In-car cameras, Interview room cameras, and Oculus training, noting Corporation Counsel and the Elkhart Common Council approved the contract and funding. The Contract price is \$3,395,155.90 over a five-year period. Asst. Chief Snyder explained the equipment and training they purchased. Kelsey Donohue from Axon gave the Board an overview of the services provided with the purchase of their system.

Economic Development Grant with Elkhart Festivals Inc. for Jazz Festival

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved an Economic Development Partnership Grant for Elkhart Festivals Inc. in the amount of \$75,000.00 for the Elkhart Jazz Festival.

Request Bid #21-27 Demolition of 526 W. Washington St.

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved plans and specifications and granted permission to advertise Bid #21-27 for the Demolition of 526 W. Washington St.

PSA with Insight Strategic Concepts, Inc. for Elkhart 2040 We Thrive Economic Development Plan Phase III

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved a PSA with Insight Strategic Concepts, Inc. for Elkhart 2040 We Thrive Economic Development Plan Phase III for an amount not to exceed

BOARD OF PUBLIC WORKS

Tuesday, May 18, 2021

\$440,000.00. Chief of Staff Bradley Tracy gave an overview of the Contract to the Board and noted the Common Council approved the funding.

Award Quote #21-04 High Street Sidewalk Repair Project

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board awarded Quote #21-04 High Street Sidewalk Repair Project to Milestone Contractors North Inc. for \$38,475.00.

9. Use and Event Permits

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the following use and event permits:

- Come to Life Release Party 5/29- Central Green Stage, Special Exception from Noise, Public Assembly, Plaza Sign
- Corpus Christi Procession 6/6- Public Assembly, Special Exception from Noise, ESS
- Hernandez Confirmation 5/15- Special Exception from Noise
- Color for Kids Fun Run/Walk 6/26- Central Green, ESS, EMS, Temporary Street Closures, Plaza Sign, Public Assembly, Special Exception from Noise
- ADEC Picture Possibilities 7/30-Plaza, Street Closure, Public Assembly, Special Exception from Noise, Plaza Sign
- EBE South Side Parade 7/24- ESS, Street Closures, Golf Carts, Parade and Public Assembly, Special Exception from Noise
- EBE 2021 IBE Youth Retreat 7/30- Central Green Stage, Public Assembly, Special Exception from Noise
- Gateway Mile Autofest 7/17- ESS, Temporary Street Closure, Public Assembly, Special Exception from Noise, Plaza Sign
- Jazz Festival 6/18-6/20- Central Green Stage, fencing, Golf Cars, EMS, EPD, Temporary Street Closures, Special Exception to Noise, Public Assembly, Plaza Sign
- Taste of Elkhart Food Truck Festival 9/25- Central Green and Civic Plaza- EMS, Fencing, Golf Cars, Risers, Trailer, EPD, Temporary Street Closures,
- DAV Fundraiser 6/5- Special Exception to Noise
- DAV Picnic 8/14- Special Exception to Noise
- EnviroFest 8/7-ESS, Golf Carts, Stage, Trailer, EPD, Plaza Sign, Bridge Banners, Special Exception from Noise, Public Assembly
- 2021 Summer Chill Series 3rd Fridays- Event Fencing, Stage, Plaza Sign, Public Assembly, Special Exception from Noise
- America Needs Fatima Rosary Rally 10/16- City Plaza, Plaza Sign, Electric, Special Exception from Noise, Public Assembly
- Juneteenth 6/19- Temporary Street Closure, Plaza Sign, Special Exception from Noise, Public Assembly

10. Public Participation

Mayor Roberson spoke to the Board about mitigation and masks. There is a notion that the City is not following the CDC Guidelines, and the Mayor wanted to be clear. We are a proponent of vaccines and would like to see everybody vaccinated as soon as possible. We realize there has not been the take rate on vaccines in our

BOARD OF PUBLIC WORKS

Tuesday, May 18, 2021

County that we would have hoped. We need to continue to move forward and get the people vaccinated. In the meantime, the mitigation requirements have been lifted by the Governor. If you are vaccinated, you do not have to wear a mask. The capacity restrictions have been lifted. We would recommend at certain places to be masked, but the mitigation guidelines around COVID have been lifted. If you aren't vaccinated, we are suggesting and recommending you wear a mask to protect everyone. We hope that those that are not vaccinated wear a mask to help protect others. Businesses have a right to require a mask for their services. We are a proponent of getting people as healthy as possible and get on the other side of COVID. We still have positive cases and people in the hospitals being treated. If you are not vaccinated please go get it, and if you are you can take it off if you want to. Mike Machlan thanked him for his leadership during the pandemic.

10. Adjournment

On motion by Chad Crabtree, seconded by Rose Rivera and carried 5-0, the Board of Works adjourned at 11:03 a.m.

_____ Mike Machlan, President

Attest: _____ Nancy Wilson, Clerk of the Board.



M E M O R A N D U M

DATE: May 25, 2021
TO: Board of Public Works
FROM: Tory Irwin, City Engineer *TI*
RE: **City Office Space Evaluation PSA - DLZ**

The Department of Public Works requests approval of the attached Professional Services Agreement for the City Hall and 201 2nd Street Building Assessment project.

The City of Elkhart is evaluation office space to accommodate the modern needs, including COVID mitigation measures, for certain City Departments that have current space challenges. This evaluation will look at the current use of office space, programming needs, and propose solutions to maximize the use of space. The spaces being evaluated currently include the 1st floor of the Municipal Building and the entire Annex Building.

This agreement has been sent to legal for review and approval. Funding for this study will come from already appropriated Civil City money.

It is requested the Board of Public Works:
approve the Professional Service Agreement between the City and DLZ Indiana, LLC. for the City Hall and 201 2nd Street Building Assessment project, in an amount not to exceed \$_____.



M E M O R A N D U M

DATE: May 26, 2021

TO: Board of Public Works

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

RE: **Handicap Parking Space Request: 1308 Hubbard Avenue.**

This parking request was brought forth by Robbie Ritchie. Mr. Ritchie brought forward a request to the engineering department to investigate the parking in front of his house at 1308 W Hubbard Avenue. Mr. Ritchie expressed concern that he and his Father are both disabled and could greatly benefit from having an ADA parking space in front of their house. He also expressed concern that recent development on his street has resulted in more people parking along the street and they would often take up the available parking space in front of his house leaving him to park further away.

Two different representatives from the engineering department went out and investigated the site. Attached with this memo are photos of the site. Upon inspection it was noted that there is no existing landing for an ADA accessible route to the residence. In addition, the roadway width measured in front of the house was 22' which is under the minimum roadway width for parking along the street. As such, engineering cannot recommend a handicap parking spot without the existence of an ADA accessible route, and the lack of sufficient roadway width for a designated parking space, as this would not be in compliance with federal ADA rules.

It is recommended the Board of Public Works:
Does not approve the request to put in a handicap parking space at 1308 W Hubbard Avenue.





M E M O R A N D U M

DATE: May 26, 2021
TO: Board of Public Works
FROM: Ryan Clussman, Right-of-Way Engineer *RC*
RE: **Traffic Signal Analysis – Indiana Avenue & Oakland Avenue.**

The traffic signals at Indiana Avenue and Oakland Avenue have been requested to be studied by the engineering department. The engineering department investigated the traffic flows at the six-way intersection under two operating conditions, fully signalized and all-way stop.

A traffic analysis was done at the intersection with the traffic signal in operation and with the signal operating as an all way stop under a flashing red signal. Under the PM peak flow conditions with the traffic signal fully operational the queue length on Indiana reached 13 cars, and Oakland reached 18 cars in length. The PM peak flow under the all way stop conditions only reached a max queue length of 5 on Indiana and 6 on Oakland. This is more than a 50% reduction in queue length.

It is recommended the Board of Public Works:

Approves the use of a flashing red traffic signal at the intersection of Indiana Avenue and Oakland Avenue.



M E M O R A N D U M

DATE: May 26, 2021
TO: Board of Public Works
FROM: Ryan Clussman, Right-of-Way Engineer RC
RE: **Award Recommendation for Elkhart County Visitor Center Driveway Project - Quote #21-03**

On May 18, 2021, bids were opened for the Elkhart County Visitor Center Driveway project at the regular Board of Works meeting. Two 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
Premium Concrete Services	\$24,890.00
Rieth-Riley Construction Co. Inc.	\$58,600.00

There were no discrepancies with any of the quotes. **Premium Concrete Services** was determined to be the lowest responsive and responsible bidder, and they have successfully completed projects in the past for the City of Elkhart.

This project will be funded by already appropriated funds. There is a sufficient amount for this project.

It is recommended the Board of Public Works:
Award the Elkhart County Visitor Center Driveway Project Quote #21-03, to Premium Concrete Services, who was the lowest, responsive and responsible bidder with a contract price in the amount of \$24,890.00.



M E M O R A N D U M

DATE: May 26, 2021
TO: Board of Public Works
FROM: Edgar Moreno, Utility Engineer *EM*
RE: **Elkhart WWTP Expansion – Bid #21-13 – Approval of Plans and Permission to Bid – Donohue & Associates, Inc.**

The City of Elkhart requests approval of the plans for the Elkhart WWTP Expansion and grant permission to bid.

The City of Elkhart must complete expansion of the WWTP to 60 MGD wet weather capacity as part of the Consent Decree. This project will include cloth media disk filters, headworks effluent flow; a new operations center, and other miscellaneous structure repairs and items.

The funds will come from an SRF loan

It is requested the Board of Public Works: *# 21-13 Wastewater Treatment Plant Capacity Upgrades Phase II*
Approve the plans for the WWTP Expansion and grant permission to bid the project.



M E M O R A N D U M

DATE: May 26, 2021
TO: Board of Public Works
FROM: Edgar Moreno, Utility Engineer *EM*
RE: **Permission to Quote 1712 Prairie Street Alley Sewer Repairs - Quote #21-07**

The Department of Public Works requests permission to quote the 1712 Prairie Street Alley Sewer Repairs project.

The project will consist of the excavation, removal and repair of a 12" VCP sanitary sewer main located within the alley behind 1712 Prairie Street. The cause of the sewer main break is unknown and the contractor will be advised that the failure may be a break in the sewer main, sewer lateral or the connection between the two.

This project will be funded through collections contractual funds until those have been exhausted, at which point Public Works would seek an appropriation should we need to allocate more funds.

It is requested the BOW:
grant permission to quote the 1712 Prairie Street Alley Sewer Repairs project Quote #21-07.



M E M O R A N D U M

DATE: May 26, 2021
TO: Board of Public Works
FROM: Edgar Moreno, Utility Engineer **EM**
RE: **Permission to Quote Woodward Ave. & Safford Blvd Sewer Repairs - Quote #21-08**

The Department of Public Works requests permission to quote the Woodward Ave. & Safford Blvd. Sewer Repairs project.

The project will consist of the excavation, removal and repair of an 8" VCP sanitary sewer main located at the intersection of Woodward Ave. and Safford Blvd approximately 24 feet south of the down-stream manhole. The cause of the sewer main break is unknown, but the break was discovered on 4/26/21 while jetting the main line. Retrieval was returning raw sand and rocks indicating a break in the main line.

This project will be funded through collections contractual funds until those have been exhausted, at which point Public Works would seek an appropriation should we need to allocate more funds.

It is requested the BOW:

grant permission to quote the Woodward Ave. & Safford Blvd Sewer Repairs project Quote #21-08.



M E M O R A N D U M

DATE: May 26, 2021
TO: Board of Public Works
FROM: Edgar Moreno, Utility Engineer *EM*
RE: **Permission to Quote 605 Mason Street Sewer Repairs - Quote #21-XX** *09*

The Department of Public Works requests permission to quote the 605 Mason Street Sewer Repairs project.

The project will consist of the installation of potentially up to (5) monitoring manholes as well as up to (5) sanitary sewer laterals. The property owner originally inquired about sewer connections on his property for a new building. While the City doesn't have any records or drawings of the existing sewer line on the property, it was discovered that during the 8th St. & Mason sewer/water project a 24" brick pipe was unearthed during excavation. While the pipe ran dry and appeared abandoned, it has recently been discovered to still be active. The proposed manhole and lateral installations will ensure proper control of storm and sanitary with the City of Elkhart system.

This project will be funded through sewer insurance funds.

It is requested the BOW:
grant permission to quote the 605 Mason Street Sewer Repairs project Quote #21-XX. *09*



City of Elkhart
Public Works and Utilities

Date: May 26, 2021
Memo To: Michael Machlan, Board President
Memo From: Laura Kolo, Utility Services Manager *lk*
RE: Wastewater Treatment Plant Monthly Report – April 2021

The monthly Wastewater Treatment Plant NetDMR, CSO MRO, WETT Testing and Marketing and Distribution reports were all submitted electronically for the month of April. The wastewater treatment plant treated and released 324 million gallons to the St Joseph River.

CSO Events: Three wet weather CSO events occurred in April.

Violations: Three dry weather event occurred in April. One was due to a power outage, one due to the PLC not properly resetting after a radio was replaced and one due to rags.



M E M O R A N D U M

Date May 19, 2021
To Mike Machlan, Board of Works President
From Laura Kolo, Utility Services Manager
RE Change Order approval request *Bid # 21-04*

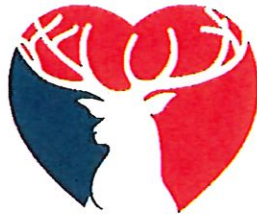
Elkhart Public Works is respectfully requesting approval of two change orders to the contract with Brown and Brown for the for the Restroom and Pretreatment Office Renovation.

\$129,900	Original contract amount
\$4,282	Change Order #1, 04/16/21 - frame enhancements to accommodate ventilation requirements
<u>\$591</u>	Change Order #2, 05/19/21 – door credit, additional light switches and floor repair
\$134,773	Revised contact amount

Rod Roberson

Mayor

John Espar



City of Elkhart

Department of Law

229 S. Second St.

Elkhart, Indian 46516

MEMO

To: Board of Public Works – Mike Machlan, Chad Crabtree, Rose Rivera, Ronnie Davis, Jamie Arce

From: Randy Arndt

Re: Sewage Works Refunding Revenue Bond for 2021

Date: May 20, 2021

Barnes & Thornburg, through Phil Faccenda, has submitted a letter of engagement to the City for Sewage Works Refunding Revenue Bonds of 2021. The purpose of the bonds is for the purpose of refunding the City's 209 Sewage Works Bonds and for payment of the costs associated with the issuance of the bonds. Barnes & Thornburg will act as the City's bond counsel.

As bond counsel, the firm shall provide numerous services including preparing documentation for the Transaction (which is the refunding and payment of the costs of issuing the bonds), assist City officials in preparing for required meetings, assisting in preparing sections of the bonds statements, preparing and supervising the closing of the transaction.

Barnes & Thornburg's responsibilities are concluded upon delivery of their opinion for the bonds. They have given an expected fee range to perform all services in a range from \$48,000 to \$56,000.00. They may also have other expenses such as costs in connection with publication of notices and the preparation of the bond transcript.

The City is requesting that the board accepts and agrees to the terms of the letter of engagement and authorizes the president of the board to execute acceptance of the letter of engagement on behalf of the board and the City.

Philip J. Faccenda, Jr.
(574) 237-1148
philip.faccenda@btlaw.com

May 12, 2021

John M. Espar, Esq.
Corporation Counsel
CITY OF ELKHART, INDIANA
229 S. Second Street
Elkhart, IN 46516

Re: City of Elkhart, Indiana Sewage Works Refunding Revenue Bonds of 2021

Dear John:

The purpose of this letter is to set the terms and conditions under which our Firm will serve as bond counsel to the City of Elkhart, Indiana (the "City") in connection with the proposed issuance of sewage works refunding revenue bonds by the City (the "Bonds") for the purpose of refunding the City's 2009 Sewage Works Bonds (the "2009 Bonds") and the payment of the costs of issuance of the Bonds (collectively, the "Transaction"). It is our understanding that Baker Tilly, Municipal Advisors will be serving as municipal advisor for the City in the Transaction (the "Municipal Advisor").

I am enclosing our Standard Terms of Engagement for Legal Services dated August 2020, setting forth the standard terms upon which our Firm accepts client engagements. Our engagement by you in this matter will be governed by these standard terms to the extent not expressly modified by this letter. In particular, by signing this letter, you agree that we may represent other clients in certain matters adverse to you as described in the Standard Terms of Engagement for Legal Services under the caption "**Waiver of Certain Potential Conflicts of Interest.**"

Identity of Client

It is important from the outset of our relationship that we have a clear understanding as to the identity of our client. Our only client in this matter is the City, and not any of its agencies, instrumentalities, boards, commissions, officials, officers, employees or other affiliates. You have agreed that our representation of the City in this matter will not give rise to any attorney-client relationship between our Firm and any agency, instrumentality, board, commission, official, officer, employee or other affiliate of the City. You have also agreed that, during the course of our representation of the City in this matter, our Firm will not be given any confidential information regarding any agency, instrumentality, board, commission, official, officer, employee or other affiliate of the City. Accordingly, our Firm's representation of the City in this matter will not give rise to any conflict of interest in the event other clients of our Firm are adverse to any

agency, instrumentality, board, commission, official, officer, employee or other affiliate of the City.

Services

Bond counsel is engaged to render an objective legal opinion with respect to the authorization and issuance of bonds. As bond counsel in the Transaction, we advocate the interests of the City and not any other party to the Transaction. We also assume that the other parties to the Transaction, including, but not limited to any underwriter (the "Underwriter"), will retain such counsel as they deem necessary and appropriate to represent their interests in this Transaction.

As bond counsel, we will provide the following services as and when requested by the City:

1. We will assist the City and the Municipal Advisor in structuring the Transaction, preparing a detailed timetable establishing the duties and obligations of each party to the Transaction and assisting with the representatives of the City in understanding all of the City's financial options for the Transaction.
2. We will prepare the documentation for the Transaction, including all legal notices, ordinances, and resolutions of the Common Council of the City, and related affidavits and certificates.
3. We will assist City officials in preparing for and attending required meetings, including the required public hearings.
4. We will prepare the documentation for the financing, including the necessary resolutions, ordinances and internal working group agenda, all legal notices and related affidavits and certificates.
5. We will attend any meetings, as requested by the City.
6. We will assist the Municipal Advisor in preparing or reviewing certain sections of the official statement or offering circular that will be used to market the Bonds, specifically, the portions that describe the Bonds and other legal documents, federal tax matters, and our legal opinion.
7. We will assist the City in its continuing disclosure undertaking, if necessary, under federal securities law to allow an underwriter to purchase the Bonds.
8. We will prepare or assist in preparing for and participate in any meetings with any rating agency, municipal bond insurer or other credit provider concerning the Transaction.

9. We will coordinate the scheduling and supervise the closing of the Transaction, including preparation of required closing documents.

Subject to the completion of proceedings to our satisfaction with respect to the Bonds, we will render our opinion to the effect that: (i) the Bonds are the valid and binding obligation of the issuer of the Bonds, enforceable against such issuer in accordance with their terms, and (ii) the interest on the Bonds is excludable from gross income for federal income tax purposes and is exempt from taxation in the State of Indiana (all subject to certain limitations which will be expressed in the opinion).

The opinion for the Bonds will be executed and delivered by us in written form on the date the Bonds are exchanged for their purchase price (the "Closing") and will be based on facts and law existing as of its date. In rendering the opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us, without undertaking to verify the same by independent investigation.

Upon delivery of the opinion for the Bonds, our responsibilities as bond counsel will be concluded with respect to the Transaction. Specifically, but without implied limitation, we do not undertake (unless separately engaged) to provide continuing advice to the City or any other party concerning any actions necessary to assure that interest on the Bonds will continue to be excludable from gross income for federal income tax purposes.

As bond counsel, we will not provide the following services in connection with the Transaction:

1. We will not review the financial condition of the City, the feasibility of the projects to be financed with the proceeds of the Bonds or the adequacy of the security provided to owners of the Bonds, and we will express no opinion relating thereto.
2. Except as specifically set forth above, we will not assume or undertake responsibility for the preparation of an official statement or any other disclosure document with respect to the Bonds, nor are we responsible for performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document.
3. We will not provide any other services not specifically set forth above.

Although I will be the lawyer responsible for this matter, I may assign portions of the work to be done to other Firm lawyers. In an effort to effect greater efficiencies and to reduce total fees, I may also ask one or more of our paralegals to assist in this matter as well in the areas of (1) filing certain documents, such as the UCC filing statements, with certain state and local agencies and (2) compiling the executed documents for the transcript.

John M. Espar, Esq.
Corporation Counsel
CITY OF ELKHART, INDIANA
May 12, 2021
Page 4

Municipal Advisor Matters

We understand that the Municipal Advisor is an independent registered municipal advisor, and that the City will look primarily to the Municipal Advisor for financial advice in the Transaction. We (a) are not a financial advisor or financial expert regarding the issuance of municipal securities or municipal financial products, and (b) are not subject to the fiduciary duty imposed on independent registered municipal advisors by the United States Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

Fees

Based upon: (i) our understanding of the terms and structure of the Transaction and the assumptions set forth in this letter, (ii) the duties we will undertake pursuant to this letter, (iii) the time we anticipate devoting to the Transaction, and (iv) the responsibilities we assume, we expect that our fees will range from \$48,000 to \$56,000 for the work necessary to prepare and adopt the bond ordinance to refund all of the 2009 Bonds and to successfully close the refunding of the 2009 Bonds. In addition to our fees, we anticipate incurring expenses in the transaction (i.e., in connection with the publication of the required notices of public hearing and notices for the Bond sale as required by law, and the preparation of the bond transcript), all of which will be charged to the City. Our fees and expenses are usually paid shortly after the Closing out of the proceeds of the Bonds, and we customarily do not submit any statement until shortly after the Closing unless there is a substantial delay in completing the financing.

E-Verify Participation

In connection with this engagement, we agree that Barnes & Thornburg LLP is enrolled in and will verify the work eligibility status of all newly hired employees through the Federal E-Verify program (unless and until the E-Verify program no longer exists). This letter confirms that Barnes & Thornburg LLP has signed an affidavit stating that it does not knowingly employ an unauthorized alien, and we will provide a copy of that affidavit to you upon request.

Conclusion

If you agree to our service as bond counsel in the Transaction upon the terms set forth herein and acknowledge that the statements made in the heading "Municipal Advisor Matters" are accurate and true to your knowledge, please indicate your acknowledgement and agreement on behalf of the City by executing the enclosed copy of this letter in the space provided below and return the executed copy to me.

You may terminate our engagement as bond counsel at any time simply by notifying us. We may terminate our engagement for nonpayment of our fees and other charges and where we are required or permitted to do so by the Rules of Professional Conduct after giving you reasonable notice and allowing time for you to engage successor counsel, if necessary.

BARNES & THORNBURG LLP

John M. Espar, Esq.
Corporation Counsel
CITY OF ELKHART, INDIANA
May 12, 2021
Page 5

We ask you to acknowledge that, in reviewing and executing this letter, you have not relied on any advice provided by our Firm but instead have acted solely in reliance upon the advice of other legal counsel.

We are pleased to have this opportunity to be of service to you.

Sincerely yours,

BARNES & THORNBURG LLP


Philip J. Faccenda, Jr.

PJF/bej
Enclosure

ACKNOWLEDGED AND AGREED:

CITY OF ELKHART, INDIANA

By: _____

Printed: _____

Title: _____

DMS 19862064

BARNES & THORNBURG LLP

BARNES & THORNBURG LLP

TERMS OF ENGAGEMENT FOR LEGAL SERVICES

The following terms are an integral part of our agreement with you and, unless modified expressly in writing by mutual agreement, govern all of our engagements for you. We ask that you review these terms carefully and write us promptly if you have any questions. We suggest that you retain this document in your file together with our engagement letter(s).

Our Client

The person or entity that we represent is the person or entity identified as our client in our engagement letter and does not include any affiliates or relatives of such person or entity. This means that, unless we specifically agree otherwise, we do not have any lawyer-client relationship with:

- Your subsidiaries, parent company or other business entities in a commonly controlled group, without regard to any internal arrangements for the management of affairs between our client and any such affiliate, or any operational commonality among such entities such as consolidated administrative services, common in-house legal functions, or any overlapping officers, directorships or ownership;
- Your owners, shareholders, members, managers, partners, directors, officers, employees, representatives or agents;
- Your spouse, partner, children or other family members.

Therefore, our representation of you will neither limit nor impair our ability to represent another client with interests adverse to any such affiliated entity, affiliated person or family member without obtaining your consent.

The Scope of Our Work

Our practice with new clients is to describe the scope of our initial engagement in the letter we send accepting employment. With existing and recurrent clients, we may or may not provide a description of new matters depending on the circumstances, but we will always provide such a description if asked. In any engagement we limit our services to those you ask us to perform and those we deem reasonably necessary to accomplish the requested services. If you ask us to limit our work to only one or certain aspects of a transaction, matter or case, we will address only what you request, even if full legal representation on such matter would normally be more involved or extensive.

If you do not expressly request in writing that we notify your insurance carrier(s) on your behalf regarding any

matter in which we are representing you, we will assume you are taking responsibility yourself for such notification. Similarly, unless you specifically ask us in writing for our advice concerning your data security practices, we shall have no obligation to inform or advise you regarding such matters.

The outcome of legal matters and proceedings cannot be predicted with certainty. If we offer an assessment of the likely outcome of a matter, that is merely our opinion based on our understanding of the facts and the law at the time. We cannot guarantee results.

Who Will Provide the Services

Each client matter handled by our Firm is assigned to a principal lawyer contact. The principal lawyer should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal lawyer at any time. Under the supervision of the principal lawyer, your work or parts of it may be performed by other lawyers and legal assistants in the Firm.

To help us serve our clients, we employ law clerks (often law students), paralegals, lobbyists, investigators, patent agents, foreign lawyers, research librarians, environmental analysts, translators, draftsmen, ediscovery/litigation support personnel and other technical (non-legal) specialists. Such personnel possess training, experience and skills that enable them to assist our lawyers in discharging their responsibilities, but they are not lawyers. Accordingly, you should not construe or rely upon any communications you receive from such personnel as legal advice.

How Fees Will Be Set

The basis on which our fees will be determined is described in the pertinent engagement letter. Usually the time and effort required are the primary factors on which our fees are based. We will record the time we devote to your work (typically in increments of 1/10th of an hour). This time may include conferences (both in person and over the telephone), negotiations, court appearances, factual and legal research and analysis, document preparation and revision, required travel and other related matters. Peer collaboration and review is an important element of providing quality services, and so our time records will often include discussions between lawyers within our Firm concerning the matters in which we have been engaged. The hourly rates we charge for our lawyers and service providers are based on their relative experience, skills, reputation, the type of engagement, market factors and similar considerations.

We review our hourly rates at least annually and may adjust them periodically. Our statements will reflect the applicable rates in effect at the date of the statement even if they exceed the applicable hourly rates in effect on the date the services were performed.

We are sometimes requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter on which our fees are hourly or otherwise variable. But fees and costs are often unpredictable. Accordingly, except in those engagements in which we specifically agree in writing to a flat or maximum fee, we make no commitment concerning the maximum fees and costs that will be necessary to resolve or complete the matter, even when we have provided an estimate. The ultimate cost is invariably more or less than the amount estimated. In addition, your obligation to pay the Firm's fees and costs is in no way contingent on the ultimate outcome of the matter.

In instances in which we offer and you accept a flat fee, that flat fee covers only the services within the scope of work specified in the flat fee proposal. Any additional work will be billed at our standard hourly rates unless otherwise agreed in writing.

Other Charges

In addition to our fees we will likely bill you for various charges that we itemize separately. These may include charges or fees for:

- messengers and couriers
- photocopying, desktop publishing or printing
- data storage
- ediscovery data hosting services
- litigation support technology services
- computerized research
- certain clerical services
- filing fees (including electronic filings)
- court reporters
- witnesses
- outside experts and consultants, including for example accountants, appraisers and other legal counsel
- travel
- phone and Web conferencing

Certain of these other charges may represent more than our out-of-pocket cost to contribute toward covering indirect expenses we incur. We incur outside charges on your behalf as your agent. You agree to pay these charges when due. We may require that

you pay significant expenses directly or in advance. In some instances when we make advance payment on your behalf as a convenience, we may be entitled to incentives, rebates or rewards from our banks or credit card companies for using their services. Such arrangements lower our overhead and administrative expense and are not passed along to clients.

In some engagements, it is necessary to engage legal counsel in a foreign country. When we engage counsel in a foreign country on your behalf, we are not guarantors or indemnitors for such foreign counsel's work, nor are we in a position to review the adequacy of their legal work or translation of documents. We engage foreign counsel to assist you specifically because we are not licensed or familiar with the applicable legal system and therefore are not in a position to provide those legal services or judge their adequacy.

Terms of Payment

We will bill you on a regular basis, typically monthly, for both fees and other charges. Our fees and charges are due when you receive our statement. Also, if you do not pay us within 30 days of our statement or as otherwise agreed, you agree that we may discontinue providing services immediately and withdraw from representing you after providing reasonable notice of our intention to do so. You also agree that until we are paid in full on all of your legal matters, and except to the extent otherwise prohibited or limited by law, we shall have a lien on all papers and files in our possession related to any of the matters in which we have represented you, and any property recovered or obtained as a result of our work on your behalf. To the extent not prohibited by applicable law or court rule and effective with new clients on or after January 1, 2019, you agree to pay us finance charges at the rate of 12% per annum on all fees and charges that you fail to pay within 30 days of our invoice(s) (or, if applicable, a later past due date agreed by us in writing). You agree to pay the costs of collecting your debt to us, including court costs, filing fees and reasonable attorneys' fees.

Advance Deposits and Amounts Received in Trust

New clients of our Firm will ordinarily be asked to make an advance deposit with the Firm. The Firm may also in its sole discretion at any time during our representation require existing clients to make an advance deposit based, for example, on past payment history, creditworthiness, increases in the scope or intensity of our work, or other factors that may cause the Firm to conclude it is appropriate to do so.

If we require an advance deposit from you, we will charge or draw against the advance deposit for fees and other charges as our legal services are provided. We will issue

regular statements to you describing the fees and other charges which have been deducted from the advance deposit and the amount which must be paid to replenish the advance deposit to the agreed level. If the advance deposit is insufficient to cover fees and other charges anticipated in the current and following month, or if the scope or intensity of our work is anticipated to increase, we may require that the balance be increased. At the conclusion of our legal representation, once we are fully paid, or at such time as the advance deposit is no longer necessary or is appropriately reduced, the remaining balance, if any, will be returned to you.

Any advance deposit we receive from you will be held in our trust account until it is charged for fees and other charges for your account or is returned to you. No interest is paid on amounts held by us in our trust account. In particular, court rules in jurisdictions in which we practice require that interest earned on pooled client trust accounts is payable to a charitable foundation established in accordance with the court's rule. While your advance deposit is held by us in our trust account, it remains your property. You authorize us to apply the deposit to any fees and charges that you owe us.

Other deposits that we receive to cover specific items, and any funds that we recover or receive on your behalf, will also be held by us in our general trust account (without interest) and disbursed as provided in our agreement with you, and you will be notified from time to time of the amounts applied or withdrawn. You grant us a security interest in any funds we receive and hold in trust for you (including any advance deposits) to secure payment of any outstanding fees or other charges you owe us. Any amount remaining after disbursement or application to your account will be returned to you.

Identifying Conflicts of Interest

We maintain an electronic database relating to our client engagements which we use in evaluating and avoiding conflicts of interest. The Rules of Professional Conduct governing lawyers generally prohibit a lawyer or law firm from representing one client in a matter directly adverse to another client unless the affected clients provide informed consent confirmed in writing. To allow us to identify and address potential conflict issues, you represent to us that you have identified for us all persons and entities that are or may become involved in the matter in which we are being engaged, including all persons and entities affiliated with you who you believe have interests that could be affected by our engagement. You also agree that you will promptly notify us if you become aware of any other persons or entities that are or may become involved in the matter.

Waiver of Certain Potential Conflicts of Interest

As you are aware, we are a large law firm with multiple practices in multiple offices throughout the country, and we represent many different clients in many different industries, including clients who are competitors of each other and sometimes adversaries in legal matters. In taking on this representation, we commit that we will not represent any other client in any matter adverse to you that is substantially related to a matter in which we represent you. In this context, "substantially related" is a term that has come to have a settled meaning in the case law and in Bar ethics opinions. What this commitment means is that we will not take on any matter adverse to you on behalf of another client in circumstances in which any of your confidential data or information, as normally would have been obtained by us in our representation of you, would be material to any new matter adverse to you that we might accept from another client.

In return for our agreement to represent you in this matter and future matters (if any), you consent and agree that we may be adverse to you on behalf of other clients in matters that are not substantially related to the matter we are now undertaking on your behalf or to any additional matter we may undertake on your behalf in the future. Such unrelated matters may include, but are not limited to:

- a. Agreements, business contracts, licenses, mergers and acquisitions, joint ventures, loans and financings, and securities offerings, including contract negotiations with you in which we represent another party, and preparation for other clients of contracts or other legal documents to which you will be a party or that may affect your rights or obligations;
- b. Advice regarding the existence, scope or validity of your rights in real, personal or intellectual property and/or concerning the interpretation and application of provisions of contracts or other legal documents to which you may be party or that may affect your legal rights or obligations;
- c. Advice and representation of our other clients regarding the existence or potential existence of legal claims that our other clients may have against you or that you may have against them, in disputes with you of any nature, or in claims our other clients may assert against you or you against them including litigation in a court, agency or other tribunal, and in arbitration or mediation.
- d. Bankruptcies, reorganizations, receiverships or insolvencies (including proceedings under the US Bankruptcy Code or state insolvency proceedings); non-judicial debt restructurings, including representation of creditors, liquidators or other

insolvency professionals in domestic or international matters in which you are a creditor, debtor or other party in interest;

- e. Patents, copyrights, trademarks, trade secrets or other intellectual property matters; including advice to other clients regarding the existence, scope or validity of your rights in intellectual property and assistance in securing or protecting other clients' intellectual property in ways that may limit or constrain your rights;
- f. Real estate, zoning and environmental matters in which your interests in real property may be involved or adversely affected, or in which you may face liability for environmental contamination;
- g. Representation and advocacy with respect to legislative issues, policy issues, or regulatory issues, including rulemakings, administrative proceedings and enforcement proceedings; and,
- h. Third-party discovery requests (including subpoenas) to be served on you, and discovery requests (including subpoenas) that have been served by you on others.

If at a later time you withdraw or modify this advance waiver in any respect, you agree and consent to our withdrawal from our representation of you pursuant to these General Terms of Representation and the applicable Rules of Professional Conduct.

In addition, if there are parties adverse to you in the matter we are undertaking on your behalf, it is possible that those adverse parties will have need for counsel in matters which do not have a substantial relationship to the matter in which we represent you. Even though we would, as a result, be receiving some fee income from your adversary, you consent to our representing such parties in matters that are not substantially related to any of our work for you. For our part, we commit to continued zealous representation of your interests in the matters in which we do represent you notwithstanding any fee income we may receive from your adversary. Of course, the foregoing consent does not affect our obligation to protect confidential information you share with us in connection with our representation of you and not to use such information to your detriment.

Consent to Electronic Communications

You agree that both you and our Firm may use electronic devices and Internet services to communicate with each other and forward documents notwithstanding some risk that such communications may be intercepted by and disclosed to unauthorized parties. You agree that the benefits of using such technology outweigh the risks of unauthorized or inadvertent disclosure. We caution you

that, to maintain the confidentiality and privilege of our communications with each other, you should not use a computer, other electronic device, network or Internet address that is owned, controlled or on which your communications may be accessed by anyone other than you. This warning includes electronic venues provided by your employer, a hotel, a library, an Internet café, or even a shared home computer. Any device you use to communicate with us should be password protected and not accessible by any third party.

Privacy Notice

During the course of this engagement, the firm may collect and acquire possession of certain personal information relating to the matters in which we are representing you. You should only provide the minimum amount of personal information necessary for us to perform our legal services. Our collection and processing of personal information is governed by the firm's Privacy Notice, which you may view at btlaw.com/privacy-policy, as well as applicable privacy laws, regulations, and codes of professional conduct.

Lawyers Holding Public Offices

Our lawyers may from time to time serve in elected or appointed positions with various governmental bodies. Such lawyers must discharge those duties without regard to their employment or association with the Firm, and more importantly, it would be a prohibited conflict of interest for them to give any special consideration, benefit, or access to you or any other client of the Firm. Accordingly, you confirm that your engagement of our Firm is not in consideration for or in contemplation of any expected benefit to be derived from the activities of any elected or appointed official.

Certain Client Responsibilities

You agree to cooperate fully with us, to provide promptly and candidly all information (including documents and electronic data) known or available to you that is relevant to our representation. If your engagement involves actual or potential claims or litigation, you have an obligation to preserve potentially relevant information, including electronic data. It is important for you to ensure automatic deletions or record retention policies are suspended as necessary to ensure this information is preserved. If you have questions, you should discuss these issues with us at the outset of our engagement involving any claim or litigation or as soon as a dispute or litigation related to any matter on which you have engaged us becomes reasonably foreseeable. You also agree to respond promptly to our requests for direction and other communications and to attend meetings and court proceedings at our request.

Use of Publicly Available Information

We will protect nonpublic, confidential information related to your representation in accordance with our professional obligations. To best serve all of our clients, however, it is helpful for us to be able to describe our experiences in the practice of law to assist others in choosing counsel and for other business reasons. Accordingly, we understand that you authorize us, unless you specifically instruct us to the contrary, to truthfully disclose or describe to others information related to our representation of you that is otherwise publicly available (e.g., in public filings, government publications, press releases, on the Internet and the like).

Termination and Withdrawal

You may terminate our representation of you at any time without cause simply by notifying us. Your termination of our services will not affect your responsibility for payment of fees and other charges incurred before termination and in connection with an orderly transition of the matter.

We are subject to the Rules of Professional Conduct that require or allow us to withdraw from representing a client in various circumstances. These may include any circumstances in which withdrawal can be accomplished without material adverse effect on the interests of the client. Among other circumstances that may give rise to withdrawal, subject to the Rules of Professional Conduct, we may withdraw from representing you if you do not fulfill your client responsibilities to us, including failure to pay our fees and charges, or if we determine that our relationship has become impaired, such as by your failure to follow our advice relating to a representation.

Unless previously terminated, our representation of you in any matter terminates upon our completion of the services you retained us to perform. Generally, this will be indicated by your receipt of our final statement for services rendered on that matter. In general, our representation shall be deemed completed if there is no billable work for a period of six months and there are no ongoing appeals proceedings or intellectual property maintenance obligations.

Except where applicable laws require otherwise, you agree that the following provisions will govern the way we handle materials and records related to our representation of you. We typically store the materials we retain in electronic form. We do not keep our copies of such materials and records indefinitely. We will discard or delete the materials we retain related to your representation when we believe it is reasonable to do so, without further notice to you. Accordingly, you are

strongly encouraged to keep your own files related to our representation, especially important legal documents. So that you can do so, we will provide you with copies of materials we have retained whenever you request them during our representation. Even after your matter is completed, on request we will provide you with copies in electronic form of any materials we still have to which you are entitled. You agree to pay our charges for retrieving and copying materials for you, and any other fees and charges that remain outstanding in connection with our representation of you. We may require such payment before delivering such materials. You authorize us to follow these procedures without providing you further notices or seeking further instructions in the future.

Our representation of you in any matter is limited to that specific matter, and will not give rise to any ongoing attorney-client relationship. After our representation of you in any matter has ended, we may from time to time represent you in such subsequent matters as you may request. However, we are under no obligation to represent you in any subsequent matters, and nothing herein should be construed to give rise to any attorney-client relationship after our representation has concluded or terminated. If we do undertake to represent you in any subsequent matter, the scope and duration of our representation will be limited to that specific subsequent matter and, unless we expressly establish new terms of engagement with you at that time, the terms of engagement stated in this document and our engagement letter will apply.

Lawyers sometimes become personally entangled in court proceedings in connection with their clients' matters. If our Firm or any of our lawyers or staff are named as a party, or are required to produce evidence or appear, in a legal proceeding or deposition as a result of our services performed for you (other than as a result of our misconduct or negligence), you agree, even after our representation has terminated, to pay us for our lawyers' and non-lawyers' time and other charges and expenses incurred in connection with our defense or participation in such proceeding, on the same basis that applies to our standard hourly fees and charges in effect at the time.

After our representation of you in any matter has ended, changes may occur in applicable laws or regulations that could have an impact upon your rights and liabilities. Unless you subsequently engage us to provide such advice on the same matter, our Firm has no continuing obligation to advise you with respect to future legal developments.

Rod Roberson

Mayor

John Espar



Department of Law

229 S. Second St.

Elkhart, Indian 46516

MEMO

To: Michael Machlan
Jamie Arce
Ronnie Davis
Chad Crabtree
Rose Rivera

Re: Resolution 21-R-11

Date: May 27, 2021

From: Randy Arndt

The State of Indiana has amended new requirements for member of a governing body to participate in meetings by electronic means. One requirement is that the governing body adopts a written policy to establish the procedures by which a member may participate electronically.

The policy in the resolution allow the electronic participation to establish a forum and to participate in taking final action as long as the member can be seen and heard. Any member must be physically present in no less than fifty (50%) percent of meetings per calendar year. At all meetings, at least fifty (50%) percent of the member must be present in person when a member is present by electronic communications. A member may attend two consecutive meeting electronically but must attend one meeting in person if two consecutive meetings are electronically attended electronically. Special rules apply when an emergency is declared.

The City respectfully requests that this board move to accept and approve the policy for members to attend meeting electronically by moving to pass Resolution No.21-R-11.

RESOLUTION NO. 21-R-11

A RESOLUTION ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE BOARD OF PUBLIC WORKS MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended Indiana Code 5-14-1.5-1 *et seq.* (Act), by amending IC 5-14-1.5-3.5 to prescribe new requirements by which members of a governing body of a public agency of a political subdivision may participate in a meeting by electronic means of communication;

WHEREAS, a member of a governing body may participate by any means of communication that:

- (a) Allows all participating members of the governing body to simultaneously communicate with each other; and
- (b) Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting;

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by IC 5-14-1.5-3.5(d); and

WHEREAS, the Board of Public Works (BPW) is the governing body of the City of Elkhart, Indiana:

NOW, THEREFORE, BE IT RESOLVED BY THE BPW OF THE CITY OF ELKHART, INDIANA:

Section 1. Incorporation of State Law. The provisions of Indiana Code 5-14-1.5-1 *et seq.* (Act), including definitions, apply to this resolution.

Section 2. Electronic Meetings Policy. This resolution shall be known as the “Electronic Meetings Policy” of the BPW and applies to the BPW and any committee appointed directly by the BPW or its presiding officer.

Section 3. Participation by Mean of Electronic Communication. Subject to Sections 6 and 8, any member may participate in a meeting by any electronic means of communication that:

- (a) allows all participating members of the governing body to simultaneously communicate with each other; and
- (b) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

Section 4. Quorum and Voting. A member who participates by an electronic means of communication:

- (a) shall be considered present for purposes of establishing a quorum; and
- (b) may participate in final action only if the member can be seen and heard.

Section 5. Application of Policy. All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 6. Limitations on Participation by Electronic Means of Communication.

- (a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication;
- (b) Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
- (c) A member may not attend more than a fifty percent (50%) of the meetings in a

calendar year by an electronic means of communication, unless the member's electronic participation is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

(d) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication.

(e) A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

Section 7. Minutes of Meeting. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (a) identify each member who:
 - (1) was physically present at the meeting;
 - (2) participated in the meeting by electronic means of communication; and
 - (3) was absent; and
- (b) identify the electronic means of communication by which:
 - (1) members participated in the meeting; and

- (2) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 8. Prohibited Actions. No member of the BPW may participate by means of electronic communication in a meeting at which the BPW may take final action to:

- (a) adopt a budget;
- (b) make a reduction in personnel;
- (c) initiate a referendum;
- (d) impose or increase a fee; or
- (e) impose or increase a penalty;

Section 9. Emergency Declarations. If an emergency is declared by (1) the governor under IC 10-14-3-12 or (2) the mayor under IC 10-14-3-29:

- (a) members are not required to be physically present for a meeting until the emergency is terminated; and
- (b) Members may participate in a meeting by any means of communication provided that:
 - (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person;
 - (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session;
 - (3) The minutes or memoranda of the meeting must comply with Section 7 of this resolution; and
 - (4) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 10. Effective Date. This resolution shall be effective from and after adoption by the PPW and compliance with IC 36-4-6-14.

RESOLVED this ____ day of June, 2021.

Michael C. Machlan
President of the Board of Public Works

ATTEST:

Nancy Wilson, Secretary

Rod Roberson

Mayor

John Espar



Department of Law

229 S. Second St.

Elkhart, Indian 46516

MEMO

To: Michael Machlan
Jamie Arce
Ronnie Davis
Chad Crabtree
Rose Rivera

Re: Resolution 21-R-12

Date: May 27, 2021

From: Randy Arndt

The City of Elkhart Redevelopment Commission approved a purchase agreement with FEMA regarding a flood damaged property. The property is commonly known as 412 N. Third Street, Elkhart, Indiana, Elkhart, Indiana. The final step in obtaining the properties is for the Board to approve and accept the taking of the title to both parcels of property.

As such, the City respectfully requests that the board make a motion that allows the board to approve and accept taking the titles for 412 N. Third Street , Elkhart, Indiana. I thank the board for considering this request.

RESOLUTION NO 21-R-12

RESOLUTION OF THE BOARD OF WORKS APPROVING
TAKING TITLE OF A FEMA FLOOD DAMAGED PROPERTIES

WHEREAS, the City of Elkhart Redevelopment Commission passed a resolution on May 11, 2021 to approve a purchase agreement for a parcel of FEMA flood damaged property commonly known as 412 N. Third Street, Elkhart, Indiana; and

WHEREAS, in passing the resolution, the Commission noted that it had approved and arranged the purchases by coordinating and approving Community Development Block Grant funding for the portion of the purchase price not covered by FEMA; and

WHEREAS, the purpose of taking title of the properties is to allow the City to demolish the properties to use them in the future as Open Space; and

WHEREAS, taking title to the properties is in the best interests of the City of Elkhart and its citizens.

NOW THEREFORE, BE IT RESOLVED:

1. The Board of Work approves and accepts the taking of title of the following property: 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 designed 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.
2. The approval and acceptance of the properties is done in the Redevelopment Commissions resolution approving the purchase of the properties.

ADOPTED BY A MAJORITY VOTE OF THE BOARD OF WORKS MEETING THIS 1st
DAY OF June 2021.

City of Elkhart, Board of Public Works

Michael Machlan, President

ATTEST:

Nancy Wilson, Board Administrative Assistant