

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

Common Council Chambers

9:00 A.M., Tuesday, April 4, 2023

<https://coei.webex.com/coei/j.php?MTID=m6b495aed677ccf65501f4c7319bcb39e>

Join by phone: 1-415-655-0001

Meeting Number (access code): 2308 230 2141 Meeting password: BOW23

I. Roll Call

II. Approve Agenda

III. Open Bids & Quotes

- Bid #23-06 2023 Street Department Curb Ramp Project
- Quote #23-09 Property Maintenance Services

IV. Claims & Allowance Docket

V. Minutes: Regular Meeting March 21, 2023

VI. Engineering

a.) Administration

- Sewer Bond Counsel Updated Engagement Letter to Retain Barnes & Thornburg
- Hearing for Revocation of Excavation Permit for Frontier

b.) Right-of-Way

- Change Order #1 & Final: Holly Lane Stormwater Headwall Quote #23-05

c.) Utility

- PSA with Kleinpeter Consulting Group LLC for Labor Standard Services for Oakland Avenue Project A
- Partial Payment #52 to Donohue & Assoc. Elkhart WWTP Capacity Upgrades Phase 2
- Partial Payment #53 to Donohue & Assoc. Elkhart WWTP Capacity Upgrades Phase 2

d.) Stormwater

- BOW Resolution 23-R-07 in Support of Ordinance for Construction and Post-Construction Stormwater Management to Repeal and Replace Ordinances 5034 and 5158

VII. Utilities

a.) Administration

- Wastewater Utility MRO for February 2023
- BOW Resolution 23-R-08 Appropriating Funds for the Benham Water Tower Rehabilitation
- BOW Resolution 23-R-09 Appropriating Funds for Consulting and Staff Training Regarding Production-Based Limits and Combined Waste Stream Formula

- Request to Engage Arcadis U.S. Inc. for Pretreatment Consulting to Calculate and Provide Training Regarding Production-based Limits and Combined Waste Stream Formula
- Award Bid # 23-04 Elkhart Benham Water Tower Rehabilitation
- b.) Pretreatment
 - Consent Order with Compliance Schedule: Carpenter Confections DBA Mini Delights
 - FOG Variance: Food Shack 840 W. Bristol St.

VIII.

New Business

- Disposal of Fixed Assets to Broyln Auction

IX.

Award Quotes: #23-09 Property Maintenance Services

X.

Public Participation

XI.

Adjournment



TO: Board of Public Works
FROM: Adam Fann, Assistant Director of Redevelopment
RE: Property Maintenance Services Quote#23-09
DATE: March 22, 2023

On April 4, 2023, quotes were opened for Property Maintenance Services at the regular Board of Works meeting. The contract will be for 1 Year and will consist of the maintenance mowing of vacant lots owned by the City of Elkhart and its Redevelopment Commission. _____ (____) quotes were received at the date and given to City staff for review.

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

There were no discrepancies with the quotes.

_____ was the lowest responsive and responsive quote, and they have successfully completed projects in the past for the City of Elkhart.

Staff recommends the Board of Public Works:

Award the Property Maintenance Services, Quote #23-09, to _____, who was the lowest, responsive and responsible quote with a contract price in the amount of \$_____

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.

March 29th

,2023



JAMIE ARCE - CITY CONTROLLER

IN RELIANCE ON THE ABOVE CERTIFICATION, CLAIMS IN THE TOTAL AMOUNT OF \$2,987,050.91 AS LISTED ON THE REGISTER ATTACHED HERETO CONSISTING OF 31 PAGES, ARE HEREBY APPROVED EXCLUDING ANY CLAIMS WITHHELD AS SHOWN ON THE SEPARATE SUMMARY OF PENDING CLAIMS.

EXECUTED THIS 4TH DAY OF APRIL 2023 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 April 4, 2023

Individual Claims Over \$25,000 each:

Fund	Vendor	Description	Amount
1101	APPLIED CONCEPTS, INC	RADAR UNITS FOR NEW SQUAD CARS	33,553.50
1101	JORDAN MOTORS	2 F-250 GREEN SUPERCABS	46,967.00
1101	JORDAN MOTORS	2 F-250 GREEN SUPERCABS	46,967.00
6501	ELKHART COUNTY TREASURER	STORMWATER PARTNERSHIP	31,450.96
7704	BERKLEY LIFE & HEALTH	CITY OF ELKHART INSURANCE	82,882.37
7704	HEALTH RESOURCES	DENTAL & VISION	25,541.02
Total Claims over \$25,000			267,361.85
Regular Claims under \$25,000:			679,106.39
Total Regular Departmental Claims:			946,468.24

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

6201	INDIANA MICHIGAN POWER	ELECTRICITY	28,298.29
Total Pre-Approved over \$25,000:			28,298.29
Regular Claims under \$25,000:			144,165.98
Total Pre-Approved Claims:			172,464.27

American Rescue Plan Claims:

2474	WARRICK & BOYN, LLP	WORKFORCE HOUSING	1,880.64
2474	INDIANA MICHIGAN POWER	SMALL BUSINESS CONTINUITY	754.32
2474	CHARLIE BOOKS	HOMEOWNER OCCUPIED REHAB	450.00
2474	CHARLIE BOOKS	HOMEOWNER OCCUPIED REHAB	550.00
Total American Resuce Plan Claims:			3,634.96

UTILITY REFUNDS

377.35

Payroll and Pension Payments:

Fire & Police Pension	
Bi-weekly Payroll	1,864,106.09
RETRO PAY	-
Total Payroll:	1,864,106.09

Total All Claims, Internal Payments, and Payroll: \$ 2,987,050.91

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

BOARD OF PUBLIC WORKS
Tuesday, March 21, 2023

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:00 a.m., Tuesday, March 21, 2023. Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Rose Rivera, Ronnie Davis and Jamie Arce attended in person. Chad Crabtree was absent. Mike Machlan said it was after 9:00 a.m. and no more bids or quotes would be accepted.

1. Approve Agenda

A motion was made by Ron Davis and seconded by Jamie Arce to approve the agenda. On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the agenda was amended to remove the request to Purchase Cisco Phone System from New Business. The amended agenda carried 4-0.

2. Open Bids & Quotes

Bid #23-04 Benham Tower Rehabilitation

Proof of publication was presented which appeared in The Elkhart Truth on February 25 and March 4, 2023. The following bids were received:

Maguire Iron, Inc. submitted a signed and certified bid summary form with all items checked. The base bid was \$730,000.00. Alternate 1 was \$751,160.00.

ONJ Coatings, Inc. submitted a signed and certified bid summary form with all items checked. The base bid was \$598,500.00.

TMI Coatings, Inc. submitted a signed and certified bid summary form with all items checked. The base bid was \$914,000.00. Alternate 1 was \$968,000.00.

Viking Painting, LLC. submitted a signed and certified bid summary form with all items checked. The base bid was \$530,100.00. Alternate 1 was \$554,020.00.

G&L Tank Sandblasting & Coatings, LLC, Inc. submitted a signed and certified bid summary form with all items checked. The base bid was \$618,500.00. Alternate 1 was \$643,500.00.

LC United Painting, Inc. submitted a signed and certified bid summary form with all items checked. The base bid was \$624,000.00.

Fedewa, Inc.. submitted a signed and certified bid summary form with all items checked. The base bid was \$611,999.00. Alternate 1 was \$621,999.00.

On motion by Rose Rivera, seconded by Jamie Arce and carried 4-0, the Board referred the bids to the staff of Public Works and Utilities for their review and recommendation at the next meeting.

Quote #23-06 Fire Station Lavatory

One quote was received from Framework Development, LLC for a price of \$82,064.00. The alternate is \$9,300.00. On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the quote was referred to staff to award later in the meeting if possible.

Quote #23-07 Franklin St. Drainage Project

Three quotes were received. The first quote was from Reith-Riley Construction for \$55,257.00. The second quote was from Premium Concrete Services for \$17,800.00. The third quote was from Selge Construction for \$30,850.00. On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the quotes were referred to staff to award later in the meeting if possible.

3. Claims & Allowance Docket.

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the

BOARD OF PUBLIC WORKS

Tuesday, March 21, 2023

Board approved the claims and allowance docket totaling \$4,815,924.52, consisting of 31 pages as prepared on March 15, 2023 at 8:45 a.m.

4. Minutes Regular Meeting March 7, 2023

On motion by Ron Davis, seconded by Jamie Arce and carried 4-0, the Board approved the minutes from March 7, 2023.

5. Engineering

(A.) Administration

BOW Resolution 23-R-05 to Authorize Attorney to Purchase Real Estate

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0 the Board approved BOW Resolution 23-R-05, a Resolution of the Board of Public Works of the City of Elkhart, Indiana, to designate and authorize the Public Works & Utilities Attorney to obtain Real Property.

(B.) Utility

Oakland Project A: Easement Agreement

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0 the Board approved the Easement Agreement in the amount of \$6,880.00 between the City and Andrew and Ann Green.

INDOT Agreement: Adjusted Cost Sunnyside Bridge Utility Coordination

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board approved the agreement between the City of Elkhart and INDOT for the Sunnyside Bridge Utility Coordination for \$1,479,600.00. Utility Engineer Paul Wunderlich noted for the Board the City of Elkhart will be reimbursed for the design work. This is a revised memo with an adjusted construction cost estimate.

(C.) Summary

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

Sewer Assessment Application:

Big and Tall Outlet
1333 S. Nappanee
Elkhart, IN. 46516
Property: 1333 S. Nappanee
Paid \$3540.00

Michael Dekker
3539 E. Jackson Blvd
Elkhart, IN 46516
Property: 3539 E. Jackson Blvd
Paid \$731.00, 20% down/Remaining balance,
\$2925.00

Water Assessment Application:

Square One Builders, dba: DDOT Properties
2812 Warren
Elkhart, IN 46516
Property: 2812 Warren
Paid \$2427.60

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Tuesday, March 21, 2023

Revocable Permits: #6552, EOZ Business, LLC
Property: 210 E. Jackson Blvd, Elkhart, IN. 46516
Permit Holder: DJ Construction
Description: sidewalk closure

#6553, Teachers Credit Union
Property: 145 Prairie St.
Permit Holder: RL Yoder, LLC
Description: Two concrete approach and sidewalk replacement

6. Utilities

(A.) Administration

Donahue & Associates, Inc. SCADA and Operations Consulting

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board approved a contract with Donahue & Associates for on-call operations, SCADA, and application Engineering services in an amount not to exceed \$35,000.00.

2023 Spring Watermain Flushing

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board accepted and placed on file the 2023 Spring Watermain Flushing Schedule.

Water Utility MRO for February 2023

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board accepted and placed on file the Water Utility MRO for February 2023.

Special Introduction- Joe Milroy

Steve Brown introduced the new Pretreatment Inspector Joe Milroy. Joe explained to the Board he will be going out to industry to do inspections to make sure they are following the Ordinance, as well as FSE's to do FOG inspections. There are three inspectors.

Steve notified the Board Megan Kolaczyk is leaving the City on Friday. Mike said Megan has done a terrific job, and thanked her for her many years of service to the City of Elkhart. Jamie wished her well on her next steps.

(B.) Regulatory Compliance

CSO Long-Term Control Plan Six-Month Report

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board accepted and placed on file the CSO Long Term Control Plan Six-Month Status Report.

(C.) Pretreatment

Swift Prepared Foods Permit #2002-01 (tabled)

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board took Swift Prepared Foods Permit #2002-01 off the table for discussion. A motion was made by Jamie Arce and seconded by Rose Rivera to approve the NOV for Swift Prepared Foods and assess a penalty of \$200.00. Steve Brown explained the violation to the Board and presented an updated memo. Attorney Maggie Marnocha clarified the request from Swift to remove the violation. Maggie told the Board they can look at the facts as presented by Steve Brown from Public Works, and listen to what the representative from Swift says. If you don't believe there has

BOARD OF PUBLIC WORKS

Tuesday, March 21, 2023

been a violation of the Ordinance, you can certainly find there has been no violation. If you believe there has been a violation after hearing everything, then you can consider what the penalty is. Steve gave you a recommendation, but the Board is free to assess the penalty up to \$2,500.00/per day. Rose asked Maggie if she saw the violation or if that is something she reviewed. Maggie responded that she sat down and went over the testing and everything with Steve Brown and Laura Kolo. She meets weekly with them to go over the testing results. Rose asked her from a legal perspective if there are enough facts to warrant a violation, and Maggie said yes. Benjamin Nuss of Swift Prepared Foods came forward to speak. He said moving forward, they will do everything in compliance with testing. The fact that we had some issues with paperwork is in the past. He wanted to reaffirm his commitment to be a good corporate citizen. Mike let him know the Board appreciates the effort they have shown by coming in and working through these issues. On motion by Jamie Arce, seconded by Ron Davis and carried, the Board amended the motion to assess no penalty. The amended motion carried 4-0.

Consent Order with Compliance Schedule: El Ranch Viejo 7

A motion was made by Jamie Arce and seconded by Ron Davis to approve a Consent Order with Compliance Schedule for El Rancho Viejo 7. Megan Kolaczyk explained the situation to the Board. El Rancho Viejo is a new restaurant going in where Bennigan's used to be by the Toll Road. They need a 2,000 gallon grease interceptor installed. After the owner signed the Consent Order, the developer told him they will install the 2,000 gallon grease interceptor in the next two weeks. The current 1,000 gallon grease interceptor does not seem to be operational. The pumping company will install the proper fitting if needed. Mike called for the vote and the motion carried 4-0.

FOG Variance for Las Carnitas Taqueria 1217 S. Main Street

A motion was made by Jamie Arce and seconded by Rose Rivera to approve a FOG Variance for Las Carnitas Taqueria at 1217 S. Main Street. Megan Kolaczyk explained the variance to the Board. She said there is no space to install a properly sized interceptor. They need a properly sized grease trap on both three compartment sinks, and annual visual monitoring if the variance is approved. The FSE was present and said they are prepared to comply with all requirements by the Public Works and Utilities. On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board amended the motion to include annual visual monitoring. The amended motion carried 4-0.

7. New Business

Request to Quote #23-09 Property Maintenance Services

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board authorized the solicitation of Quote #23-09 Property Maintenance Services.

Contract with Traci Adams for City Council Minutes

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board approved a contract with Traci Adams to assist with the Council Minutes.

BOW Resolution 23-R-06 Authorizing Controller to Approve Personnel Partners Contracts

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the

BOARD OF PUBLIC WORKS

Tuesday, March 21, 2023

Board approved Board of Works Resolution 23-R-06, a Resolution of the Board of Public Works of the City of Elkhart, Indiana, to designate and authorize the City Controller to execute Personnel Partner Agreements.

enFocus, Inc. Contract: Economic Development

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board approved a Professional Services Agreement with enFocus, Inc. for an amount not to exceed \$80,000.00.

2023 Lease with Art League

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board approved the 2023 Lease with the Art League.

8. Award Quotes

#23-06 Fire Station 4 Lavatory

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board awarded Quote #23-06 Fire Station Lavatory to Framework Development, LLC for \$91,364.00.

#23-07 Franklin Street Drainage

On motion by Jamie Arce, seconded by Rose Rivera and carried 4-0, the Board awarded Quote #23-07 Franklin Street Drainage to Premium Concrete Services for \$17,800.00.

9. Use & Event Permits

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

- Gateway Mile Autofest 7/14 & 7/15- ESS, EFD, Stage, EPD, Water, Electric, City Plaza, Temporary Street Closures, Special Exception from Noise Ordinance, Public Assembly, Plaza Sign
- Color for Kids Family Fun Run 6/3- ESS, EMS, EPD, Temporary Street Closures, Public Assembly, Central Green Stage, Special Exception from Noise, Plaza Sign
- Compassion Walk 5/20- Island Park, Public Assembly, Plaza Sign
- Peace Officers Memorial Service 5/17- Kardzhali Park, chairs, podium, Plaza Sign, Public Assembly, Special Exception from Noise
- lechyd Da Tent Party 6/3- Temporary Street Closures (Alley behind lechyd Da), Special Exception from Noise Ordinance
- Elite Aesthetic pre-St. Patty Party 3/16- Special Exception from Noise Ordinance (ratified)
- Elite Aesthetic Spring Event 4/20- Special Exception from Noise
- Salute to Veterans WWII Reenactment & Airshow 5/20-5/21- Fencing, Event Trailer, ESS, EMS, Golf Cars, EPD, Public Assembly, Special Exception from Noise, Plaza Sign
- Crossroads Recovery in the Park 6/27- Central Green Stage, Special Exception from Noise Ordinance, Public Assembly, Plaza Sign
- Elkhart Juneteenth Celebration 6/19-- Temporary Street Closure, Public Assembly, Plaza Sign, Roosevelt Park, EFD, EPD, Special Exception from Noise,

BOARD OF PUBLIC WORKS

Tuesday, March 21, 2023

- Hoosier Harley Davidson 2023 events- Special Exception from Noise Ordinance
- Cinco De Mayo 5/6- Central Green Stage, Civic Plaza, Fencing, EPD, Temporary Street Closure, Public Assembly, Special Exception from Noise, Plaza Sign
- ADEC Picture Possibilities 7/29- City Plaza, Temporary Street Closure, Public Assembly, Special Exception from Noise, Water, Electric. Plaza Sign
- EnviroFest 8/12- Island Park, Stage, Fencing, ESS, EMS, Event Trailer, P/A System, Golf Cars, EPD, Water, Electric, Plaza Sign, Bridge Banners (Johnson and Main) Special Exception from Noise, Public Assembly

10. Adjournment

On motion by Jamie Arce, seconded by Ron Davis and carried 4-0, the Board, the Board of Works adjourned at 10:05 a.m.

_____ Michael C. Machlan, President

Attest: _____ Nancy Wilson, Clerk of the Board

Rod Roberson
Mayor

Laura Kolo
Environmental Resources

Tory Irwin, P.E.
Engineering Services



Public Works &
Utilities Department

Administration, Engineering
& Laboratory
574.293.2572

Utility Billing
574.264.4273

1201 S. Nappanee St.
Elkhart, Indiana 46516

MEMORANDUM

TO: Board of Public Works

FROM: Maggie Marnocha

DATE: 3/30/23

RE: Sewer Bond Counsel Updated Engagement Letter

Attached please find an updated engagement letter with regard to the City's retention of Barnes & Thornburg as counsel for 2023 Sewage Works Bonds. This engagement letter has been reviewed by the Legal Department and Corporation Counsel has approved the engagement of this law firm.

Please approve the updated engagement letter to retain Barnes and Thornburg as counsel for the 2023 Sewage Works Bonds.

Randolph R. Rompola
(574) 237-1244
randy.rompola@btlaw.com

March 30, 2023

VIA EMAIL

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

Re: City of Elkhart Sewage Works Revenue Bonds (SRF)

Dear John:

The purpose of this letter is to update our June 14, 2022, engagement letter to provide a fixed fee for our services as bond counsel to the City of Elkhart, Indiana (the "City") in connection with the proposed issuance of sewage works revenue bonds of the City (the "Bonds") as part of the Indiana Finance Authority SRF Program for the purpose of funding improvements to the City's sewage collection system and the payment of the costs of issuance of the Bonds (the "Transaction"). It is our understanding that Baker Tilly Municipal Advisors, LLC will be serving as municipal advisor for the City in the Transaction (the "Municipal Advisor").

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 Board of Public Works and the Common Council of the City, and related legal notices, affidavits and certificates.
3. We will assist City officials in preparing for and attending required meetings, including the required public hearings.
4. We will assist with the preparation or review of the Financial Assistance Agreement to provide for the bonds to be sold to the State Revolving Fund (the "SRF").
5. We will attend any meetings, as requested by the City.

6. If an offering document is necessary, we will assist the Municipal Advisor in preparing or reviewing certain sections of the official statement or offering circular that may 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 ensure that interest on the Bonds will continue to be excludable from gross income for federal income tax purposes.

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 remainder of the Transaction, (iv) the responsibilities we assume, our fee as bond counsel will not exceed \$73,000. In addition to our fixed fee, we anticipate incurring expenses in the transaction (i.e., in connection with the publication of the required notices, and the preparation of the bond transcript), all of which will be charged to the City. Our fee 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.

John M. Espar, Corporation Counsel
CITY OF ELKHART, INDIANA
March 30, 2023
Page 3

Conclusion

If you agree to our service as bond counsel in the Transaction upon the terms set forth herein, 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.

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

Sincerely,

BARNES & THORNBURG LLP



Randolph R. Rompola

RRR/bej

cc: Philip J. Faccenda, Jr.

AGREED TO AND ACCEPTED:

CITY OF ELKHART, INDIANA

By: _____

Printed: _____

Title: _____

DMS 25856902v1

Rod Roberson
Mayor

Laura Kolo
Environmental Resources

Tory Irwin, P.E.
Engineering Services



Public Works &
Utilities Department

Administration, Engineering
& Laboratory
574.293.2572

Utility Billing
574.264.4273

1201 S. Nappanee St.
Elkhart, Indiana 46516

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

FROM: TORY IRWIN *RI*

DATE: 03/29/23

RE: REVOCATION OF EXCAVATION PERMIT AND REQUEST FOR HEARING

Attached please find the Stop Work Order that was served on Frontier on March 21, 2023. In the notice we provided Frontier the opportunity for a hearing in front of the Board where they may present any testimony or evidence regarding their violations stated in the notice. Please set this matter to be heard by the Board on April 4, 2023 where we will present evidence and request the appropriate penalties.



Clussman, Ryan

From: Clussman, Ryan
Sent: Tuesday, March 21, 2023 3:13 PM
To: Payne, Todd; Irwin, Tory; Goodman, Michelle; Marnocha, Maggie; Wolgamood, Jacob
Cc: Wormer, Michael; Bates, Stu; andrew.megitt@FTR.com; roger barton
Subject: Stop Work Order
Attachments: IMG_20230321_134604277_HDR.jpg; IMG_20230321_134636345_HDR.jpg

All,

The City is issuing a stop work order for ALL of Frontier's activities within City Limits as you are once again operating outside the ROW as seen in the attached photos. These violations will be brought before the Board of Public Works at their next scheduled meeting on April 4th at 9:00 a.m. You will have an opportunity to be heard at the meeting.

All work within our City limits is to be suspended and will not be permitted to resume until Board approval and a pre-construction meeting is held with representatives of Frontier, their contractor, and the City of Elkhart Engineering Department.

Thanks,

Ryan Clussman, P.E.
Right-of-Way Engineer





M E M O R A N D U M

DATE: March 29, 2023

TO: Board of Public Works

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

RE: **Change Order Request #1 and Final: Holly Lane Stormwater Headwall Replacement Project – Quote #23-05**

Attached is change order request #1 and final for the Holly Lane Stormwater Headwall Replacement Project. This change order is for a decrease in quantities for the work done by Selge Construction Co.

This change order is for a decrease to the final quantities.

This change order request is for a decrease of \$3,000 to the current contract price of \$14,300.00. Approval of change order #1 and final would decrease the final contract price to \$11,300.00, resulting in a 21% decrease from the original contract price of \$14,300.00.

It is requested the Board of Public Works:
approve Change Order #1 and final and release all retainage for the Holly Lane Stormwater Headwall Replacement project, Quote #23-05, for a decrease of \$3,000, bringing the final Contract price to \$11,300.00.

CITY OF ELKHART

PUBLIC WORKS & UTILITIES

Change Order No. One & Final
Dated 3/13/2023

Project: Holly Lane Stormwater Headwall Replacement Project Contract No. 23-05

To: Selge Construction Co.
Contractor

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

City of Elkhart

By President, Board of Public Works

Dated _____

Nature of Changes

Adjustments to Final Quantities	(\$3,000.00)
TOTAL	\$ (3,000.00)

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

Original Contract Price	\$ 14,300.00
Contract Price Prior to this Change Order	\$ 14,300.00
Net change resulting from this Change Order	\$ (3,000.00)
Current Contract Price including this Change Order	\$ 11,300.00
Current Contract Price % Change from Original Price	-21.0%
Contract Time prior to this Change Order	NO CHANGE (Days or Time)
Net Time change resulting from this Change Order	NO CHANGE (Days)
Current Contract Time including this Change Order	NO CHANGE (Days or Time)

The above changes are approved:

Public Works & Utilities

BY: [Signature]
Engineer
3/28/23
DATE

The above changes are accepted:

BY: [Signature]
Contractor
3-28-23
DATE



M E M O R A N D U M

DATE: March 28, 2023
TO: Board of Public Works
FROM: Paul Wunderlich, Utility Engineer *W*
RE: **Kleinpeter Consulting Group LLC – PSA for Labor Standard Services
for Oakland Avenue Project A**

I am writing to request your approval of a Professional Service Agreement (PSA) with Kleinpeter Consulting Group LLC for labor standards services for Oakland Avenue Project A. This project is receiving funding through an SRF loan, and the agreement with Kleinpeter Consulting Group LLC is necessary to ensure that all labor standards are met, including payroll, jobsite postings, and wage requirements.

Under the terms of the PSA, Kleinpeter Consulting Group LLC will be responsible for overseeing compliance with all applicable labor standards for the project. The cost for Kleinpeter's services is not to exceed \$42,500.

We believe that this agreement with Kleinpeter Consulting Group LLC is necessary to ensure that Oakland Avenue Project A is completed in compliance with all applicable labor standards. We have carefully reviewed Kleinpeter's qualifications and believe that they are well-suited to provide the services required for this project.

This PSA has been reviewed and approved by our legal representative.

It is requested the Board of Public Works:
**approve the PSA between the City and Kleinpeter Consulting Group LLC for an amount
not to exceed \$42,500.00**

AGREEMENT FOR PROFESSIONAL LABOR STANDARDS SERVICES

CITY OF ELKHART OAKLAND AVENUE PROJECT CSO FORCE MAIN PROJECT & DRINKING WATER SERVICE LINE REPLACEMENT FOR STATE REVOLVING LOAN FUND (SRF)

THIS AGREEMENT ("this Agreement") is made and entered into effective as of the date of the last signature affixed to this Agreement, by and between the City of Elkhart, acting by and through its proper officials, and Kleinpeter Consulting Group LLC, a limited liability company.

RECITALS

WHEREAS, the City of Elkhart has received an SRF loan **for the purpose of making improvements** and that the City of Elkhart, desires to have professional assistance with the labor standards of said project; and

WHEREAS, Kleinpeter Consulting Group, LLC has extensive experience, knowledge and expertise delivering such professional labor standards services;

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

SECTION 1 – SCOPE OF WORK:

The following is a description of the services to be provided by Kleinpeter Consulting Group LLC, for this project.

1.1 Designation of Labor Standards Officer: Kleinpeter Consulting Group, LLC shall be responsible for labor standards of this project and shall provide services for the following:

a. **OBTAIN WEEKLY PAYROLL AND STATEMENT OF COMPLIANCE FOR PROJECT:**

Certified payrolls are to be submitted for (104) weeks by the prime contractor. The prime contractor is responsible to collect and submit the subcontractor payrolls and statement of compliance weekly to Kleinpeter Consulting Group, LLC.

b. **VERIFY JOB SITE POSTINGS ARE IN PLACE**

Kleinpeter Consulting Group, LLC is responsible to ensure the contractor has posted the "Notice to All Employees" poster, the required federal Poster (WH 1321) at the construction site.

c. **VERIFY COMPLIANCE WITH PREVAILING WAGE REQUIREMENTS**

Kleinpeter Consulting Group, LLC will check weekly payrolls, verify fringe benefits, and conduct employee interviews to ensure that the contractor/subcontractor is complying with requirements and paying the appropriate wage rates.

Kleinpeter Consulting Group, LLC will conduct immediate interviews in response to an alleged violation of the prevailing wage requirements.

Conduct employee interviews in confidence utilizing Form 1445 or equivalent document for the interviews is required to memorialize interviews.

Verify evidence of fringe benefit plans and payments of these plans by contractors and subcontractors who claim credit for fringe benefit contributions.

Review contractors and subcontractors use of apprentices and trainees. Verify registration and certification of apprentices and trainees with respect to apprenticeship and training programs approved by US Dept. of Labor or a state program; that contractors and subcontractors are not using a disproportionate number of laborers, trainees, and apprentices. Conduct these reviews in accordance with the payroll and employee interviews.

Maintain all labor standards records, including information on any restitutions (underpayments to laborers), on file. NOTE: Employees home address and social security number should not be on the certified payrolls.

Submit a final federal labor standard report to the City of Elkhart at the project completion.

Maintain labor standards records (certified payrolls, employee interviews, records of wage incidents, correspondence, debarment, search results, etc.) with the project files at Kleinpeter Consulting Group LLC's office for a period of three years after construction completion. Such records shall be available on request of the City of Elkhart or SRF.

SECTION 2 – CITY OF ELKHART RESPONSIBILITIES:

- 2.1 City of Elkhart shall designate a contact with respect to the work to be performed under this Agreement and to coordinate with the designated labor standards officer as it relates to SRF labor standards

Tory Irwin
Name

(574) 293-2572 ext. 2287
Phone Number

- 2.2 The City of Elkhart shall be informed of all SRF project milestones in the implementation of the grant and shall work with the Labor Standards Officer to ensure mandated SRF deadlines are met and a timely project scope when such change is an apparent possibility.
- 2.3 The City of Elkhart shall immediately inform Kleinpeter Consulting Group LLC of any potential change in the project scope when such change is an apparent possibility.

SECTION 3 – COMPENSATION:

- 3.1 The City of Elkhart shall pay Kleinpeter Consulting Group LLC Forty-Two Thousand Five Hundred Dollars (\$42,500). The project will be billed quarterly for services outlines in section 1.1a for the

SECTION 4 – TIME FOR PERFORMANCE

- 4.1 The term of this Agreement shall be from the date of the last signature affixed to the Agreement until the completion of the project

SECTION 5 – GENERAL PROVISIONS:

- 5.1 No Investment in Iran: As required by IC 522-16.5-13, Kleinpeter Consulting Group LLC, LLC Certifies that Kleinpeter Consulting Group LLC, LLC is not engaged in investment activities in Iran. Providing false certification may results in the consequences listed in IC 5-22-16.5-14, including termination of this Agreement and denial of future state contracts, as well as imposition of a civil penalty.
- 5.2 Changes in Scope of Work: Upon any change in the scope of the project, differing from the approved SRF project agreement, the Kleinpeter Consulting Group LLC, Labor Standards Officer shall be informed promptly.
- 5.3 Waiver of Modification Ineffective Unless in Writing: No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless signed by a duly authorized representative of The City of Elkhart and a duly authorized representative of Kleinpeter Consulting Group LLC.
- 5.4 Employment Eligibility Verification: Kleinpeter Consulting Group LLC affirms under penalties of perjury that he/she/it does not knowingly employ unauthorized alien
- a. Kleinpeter Consulting Group LLC shall enroll in and verify the work eligibility status of all his/hers/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. Kleinpeter Consulting Group LLC is not required to participate should E-Verify program cease to exist.
 - b. Kleinpeter Consulting Group LLC shall not knowingly employ or contract with an unauthorized alien. Kleinpeter Consulting Group LLC shall not retain an employee or contract with a person that Kleinpeter Consulting Group LLC, subsequently learns is an unauthorized alien.
- 5.5 Independent Contractor: Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party, Kleinpeter Consulting Group LLC
- 5.6 Termination: Either party may terminate this Agreement, in whole or in part, whenever, for any reason, it determines that such termination is in its best interests. Termination or partial termination of the Agreement shall be affected by delivering the other party a Termination Notice thirty (30) days prior to termination. Such notice should be delivered in the manner

described in Section 5, Paragraph 5.7 of this Agreement. Termination may be made effective immediately by mutual written consent of both parties.

- 5.7 Notice to Parties: Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid as follows:

Notices to the City of
Elkhart shall be sent to:

Attn: Rod Roberson, Mayor
229 S. Second Street
Elkhart, IN 46516

Notices to Kleinpeter
Consulting Group LLC
shall be sent to:

Attn: Michael Kleinpeter
Kleinpeter Consulting Group LLC
1381 W. Smokey Row Road
Greenwood, IN 46143

or to such other address or addresses as shall be finished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended receipt, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed, and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

SECTION 6 – AGREEMENT

This Agreement, together with other documents as enumerated below, form the Agreement between the parties hereto:

6.1 Employment of Unauthorized Aliens Affidavit (Appendix I)

In witness whereof, the City of Elkhart and Kleinpeter Consulting Group LLC, have, through duly authorized representatives, enter into this Agreement. The parties having read and understand the forgoing terms of this Agreement do by their respective signatures dated below hereby agree to the terms thereof.

The City of Elkhart

Kleinpeter Consulting Group LLC

Signature

Date

Michael Kleinpeter

Signature

3/25/2023

Date

Michael Machlan, Board of Works President
(Name and Title)

Michael Kleinpeter, President
(Name and Title)

Appendix I

EMPLOYMENT OF UNAUTHORIZED ALIENS AFFIDAVIT

I hereby affirm that I am duly authorized officer/director of the Kleinpeter Consulting Group LLC, LLC and I hereby certify that as of the date of this Affidavit, Kleinpeter Consulting Group LLC, LLC does not employ any "unauthorized aliens" as that term is defined in 8 U.S.C. 1234a(h)(3).

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FORGOING REPRESENTATIONS ARE TRUE.

3/25/2023
Date

Michael Kleinpeter
Signature

Michael Kleinpeter, President
Name and Title



Title VI Notice

Title VI Policy

The City of Elkhart, Indiana (Elkhart) is committed to a policy of inclusiveness, fairness, and accessibility of its programs, activities and services to all persons in Elkhart. As provided by Title VI of the Civil Rights Act of 1964 and all related statutes, Elkhart assures that no person shall, on the on the grounds religion, race, color, national origin, sex, age, disability/handicap, sexual orientation, gender identity, limited English proficiency, or low income status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any City of Elkhart program, activity or service. The City of Elkhart further assures every effort will be made to ensure non-discrimination in all of its programs, activities, and services, whether those program, activities and services are federally funded or not. In the event the City of Elkhart distributes Federal aid funds to another entity, the City of Elkhart will include Title VI language in all written agreements.

The Title VI Coordinator is:

Title VI Coordinator
City of Elkhart
229 S 2nd Street
Elkhart, Indiana 46516

Voice: (574) 294-5471
Fax: (574) 293-7658
TDD: (574) 389-0198
Email: titlevicoordinator@coei.org

To be included in City of Elkhart Contract Documents:

Acceptance by Contractor

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


Signed

MICHAEL J. KLEINPETER
Printed Name

3/27/2023
Dated



M E M O R A N D U M

DATE: March 8th, 2023
TO: Board of Public Works
FROM: Paul Wunderlich, Utility Engineer *PW*
RE: **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #52 to Donohue & Associates, Inc.**

Please see the attached invoice #52 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through January 21, 2023. The invoice totals \$53,824.00 and has been rounded as required by SRF.

To date, including this payment, we have paid \$2,768,946.15 or 71.69% of the contract.

It is requested that the BOW:

approve partial payment request #52 in the amount of \$53,824.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.



M E M O R A N D U M

DATE: March 8th, 2023
TO: Board of Public Works
FROM: Paul Wunderlich, Utility Engineer *PW*
RE: **Elkhart WWTP Capacity Upgrades – Phase 2 – QA7634: Approval of Partial Payment Request #53 to Donohue & Associates, Inc.**

Please see the attached invoice #53 from Donohue & Associates, Inc. for professional services provided for the Elkhart WWTP Capacity Upgrades – Phase 2 project for work performed through February 18, 2023. The invoice totals \$72,336.00 and has been rounded as required by SRF.

To date, including this payment, we have paid \$2,841,281.82 or 73.57% of the contract.

It is requested that the BOW:

approve partial payment request #53 in the amount of \$72,336.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades – Phase 2 project.



M E M O R A N D U M

DATE: April 4, 2023
TO: Board of Public Works
FROM: Joe Foy, Stormwater Manager 
RE: **Resolution in Support of an Ordinance for Construction and Post-Construction Stormwater Management**

In December of 2021, the Indiana Department of Environmental Management issued two new permits – the Construction Stormwater General Permit (CSGP) and the Municipal Separate Storm Sewer System General Permit (MS4GP). As a designated MS4 community, the City of Elkhart is required to adopt, implement and enforce the construction and post-construction requirements that are spelled out in the CSGP.

With the many additions and updates in the requirements of this new permit, and the addition of post-construction requirements, City staff felt it was best to repeal the existing construction stormwater ordinance and replace it with one that covers both the construction and post-construction stormwater requirements. The attached ordinance addresses the requirements of this new permit.

The Elkhart Stormwater Board passed a resolution in support of this ordinance on March 28, 2023.

Engineering respectfully requests that the Board of Works adopts Resolution 23-R-07 “A Resolution of the Board of Public Works of the City of Elkhart, Indiana, Recommending that the Common Council of the City of Elkhart, Authorize and Approve the following proposed ordinance – “City of Elkhart Ordinance Regarding Uniform Requirements for Construction and Post-Construction Stormwater Management to Repeal and Replace Ordinances 5034 and 5158.”

RESOLUTION 23-R-07

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE
CITY OF ELKHART, INDIANA, RECOMMENDING THAT THE COMMON
COUNCIL OF THE CITY OF ELKHART, AUTHORIZE AND APPROVE
PROPOSED ORDINANCE 23-0-_____ “CITY OF ELKHART ORDINANCE
REGARDING UNIFORM REQUIREMENTS FOR CONSTRUCTION AND
POST- CONSTRUCTION STORMWATER MANAGEMENT TO REPEAL
AND REPLACE ORDINANCES 5034 AND 5158”**

WHEREAS, the City of Elkhart, Indiana, is a municipal corporation that owns and operates three utilities, namely, the Water Utility, the Wastewater Utility, and the Storm Water Utility;

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

WHEREAS, the Board of Storm Water Management has the authority to manage the Storm Water Utility;

WHEREAS in December 2021 the Indiana Department of Environmental Management (IDEM) issued a new Construction Stormwater General Permit (CSGP) that requires certain project site owners, among other things, to develop a set of construction plans which include a stormwater pollution prevention plan for both construction and post-construction phases of development and that those plans are sent to IDEM or their designee for review;

WHEREAS in December 2021 IDEM also issued a new MS4 General Permit that requires the City of Elkhart to adopt, implement, and enforce various construction and post-construction requirements contained in the CSGP;

WHEREAS, the Board of Storm Water Management has resolved to submit to the Common Council for approval and passage, an ordinance to repeal and replace Ordinances 5034 and 5158; and

WHEREAS, the Board of Public Works acknowledges that this new ordinance will comply with IDEM's new Construction Stormwater General Permit.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF ELKHART, INDIANA, that the Board hereby recommends to the Common Council of the City that the Common Council approve the attached *City Of Elkhart Ordinance Regarding Uniform Requirements for Construction and Post-Construction Stormwater Management to Repeal and Replace Ordinances 5034 and 5158* as presented by the Board of Storm Water Management.

RESOLVED this _____ day of _____, 2023.

Michael Machlan, President

Chad Crabtree, Vice President

Ronnie Davis, Member

Jamie Arce, Member

Rose Rivera, Member

ATTEST:

Nancy Wilson, Clerk

ORDINANCE _____

**CITY OF ELKHART ORDINANCE REGARDING
UNIFORM REQUIREMENTS FOR CONSTRUCTION AND
POST-CONSTRUCTION STORMWATER MANAGEMENT
TO REPEAL AND REPLACE ORDINANCES 5034 AND 5158**

WHEREAS Indiana Code Sections 36-1-3-1 et seq. permit any unit in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its governmental or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Indiana Water Pollution Control Board as part of its NPDES General Permit Rule Program imposed certain duties and obligations upon designated Municipal Separate Storm Sewer System (MS4) areas;

WHEREAS the City of Elkhart is part of the Greater Elkhart County Stormwater Partnership;

WHEREAS in December 2021 the Indiana Department of Environmental Management (IDEM) issued a new Construction Stormwater General Permit (CSGP) that requires certain project site owners, among other things, to develop a set of construction plans which include a stormwater pollution prevention plan (SWPPP) for both construction and post-construction phases of development and that those plans are sent to IDEM or their designee for review;

WHEREAS in December 2021 IDEM also issued a new MS4 General Permit (MS4 GP) that requires Indiana entities designated as MS4 to, among other things, adopt, implement, and enforce various construction and post-construction requirements contained in the CSGP;

WHEREAS, this Ordinance will repeal and replace Ordinances 5034 and 5158 in their entirety; and

WHEREAS each local governmental entity within the Greater Elkhart County Stormwater Partnership must put in place new construction and post-construction stormwater ordinances as well as enforcement mechanisms sufficient to enforce project site owners and/or operators to meet the minimum construction and post-construction requirements of the IDEM MS4 GP.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Elkhart, Indiana, that:

1. GENERAL PROVISIONS

This ordinance shall be applicable to all parcels of real estate within the jurisdiction of the City of Elkhart unless exempt under this ordinance.

- A. Exempt Real Estate. The following activities are exempt from the stormwater performance and documentation requirements established by this Ordinance.
- i. Agricultural land disturbing activities, including tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery and vegetative crops, pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural subsurface field tile..
 - ii. Forest harvesting activities.
 - iii. Construction activities that result in a land disturbance of less than one (1) acre of total land area as determined under IDEM CS GP and are not part of a larger common plan of development or sale.
 - iv. The following activities provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:
 - (1) Landfills that have been issued a certification of closure under 329 IAC 10;
 - (2) Coal mining activities permitted under IC 14-34; and
 - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains the equivalent stormwater requirements to those under IDEM CS GP, including expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.
 - v. Repairs to any stormwater treatment practice deemed necessary by the City of Elkhart's Department of Stormwater Management.
 - vi. Additions or modifications to existing single family structures.

2. DEFINITIONS

For purposes of this ordinance, the following definitions shall be applicable:

- A. If any term or provision contained in the IDEM CS GP is used in this ordinance, then the term or provision shall have the same meaning as set forth in the IDEM CS GP.
- B. If any term or provision contained in the IDEM MS4 GP is used in this ordinance, then the term or provision shall have the same meaning as set forth in the IDEM MS4 GP.
- C. Board shall mean the Stormwater Board of the City of Elkhart.
- D. City shall mean the City of Elkhart, Indiana.
- E. Department shall mean the Department of Stormwater Management of the City of Elkhart.
- F. Flooding shall mean more runoff leaving a site post-development than pre-development.
- G. Greater Elkhart County Stormwater Partnership shall mean the area designated by IDEM as MS4 entities under the IDEM MS4 GP which is comprised of the City of Elkhart, City of Goshen, Town of Bristol, and certain unincorporated areas within the County of Elkhart,

Indiana.

- H. Person shall mean an individual, partnership, limited partnership, limited liability partnership, corporation, limited liability company, association, company, organization, or governmental entity, whether for-profit or not-for-profit.
- I. Development shall mean any man-made change to improved or unimproved real estate including but not limited to:
- i. Construction, reconstruction, or placement of a building or any addition to a building;
 - ii. Construction of flood control structures such as levees, dikes, dams or channel improvements;
 - iii. Construction or reconstruction of bridges or culverts;
 - iv. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than one hundred eighty (180) days;
 - v. Installing utilities, erection of walls, construction of roads, or similar projects;
 - vi. Mining, dredging, filling, grading, excavation, or drilling operations;
 - vii. Storage of materials; or
 - viii. Any other activity that might change the direction, height, or velocity of flood or surface waters.
- “Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings
- J. Developer shall mean any person financially responsible for construction activity; or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.
- K. Redevelopment shall mean alterations of a property that change a site or building in such a way that there is disturbance of one (1) acre or more of land. The term does not include such activities as exterior remodeling.
- L. Stormwater Manager shall mean the City of Elkhart’s Stormwater Manager or their designee.
- M. SWCD shall mean the Elkhart County Soil and Water Conservation District, or its successor.
- N. Trained Individual shall mean an individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by professional certification (such as Certified Erosion Sediment and Stormwater Inspector (CESSWI) or Certified Inspector in Erosion and Sediment Control (CISEC)).

3. CONDUCT PROHIBITED

Any Person owning or operating non-exempt real estate shall not do any of the following:

- A. Discharge stormwater directly into a wetland or local water body without adequate treatment.
- B. Discharge stormwater in a manner that is inconsistent with applicable state or federal law.

4. CONDUCT REQUIRED

Any Person owning or operating non-exempt real estate shall obtain a Stormwater Permit addressing the IDEM-required construction and post-construction requirements for new development and redevelopment, and comply with each of the following requirements:

A. General Permit Procedures

The project site owner shall submit an application for a Stormwater Permit to the Elkhart County SWCD who acts as an agent of IDEM as well as the contact and the “designee” of the City for all CSGP-related matters. The application will include a completed application checklist, construction plan sheets, a stormwater pollution prevention plan, and any other necessary support information. Items noted in Section 4.1 (Post-Construction Plan) of the Stormwater Permit application checklist shall also be forwarded to the Stormwater Manager. The Stormwater Manager may, at their discretion, require one or more copies be submitted to other entities deemed appropriate by the Stormwater Manager. Additionally, a digital copy of the construction plans is required in a format accepted by the Stormwater Manager.

After receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the Stormwater Manager. Once all comments have been received and review completed, the Stormwater Manager will either approve the project, request modifications, or deny the project. If the applicant does not agree with or accept the review findings and wishes to seek an appeal, the Stormwater Manager will place the project on the agenda of the next regularly scheduled meeting of the Board, provided the agenda for the meeting has not yet been advertised or published. If time for notification does not allow, the project shall be placed on the following regularly scheduled meeting of the Board. If the project must go through a scheduled meeting, the Stormwater Manager will furnish the applicant a complete list of comments and objections to the plans and accompanying data prior to the scheduled meeting. After the scheduled meeting, the Stormwater Manager will either issue a permit, request modifications to the construction plans, or deny the project.

The project site owner must notify the Stormwater Manager and IDEM before beginning construction. Notification to the Stormwater Manager shall be in the form of an email while the notification to IDEM shall be in the form of an online IDEM Notice of Intent (NOI) submittal. Once a permit has been issued and the pending construction notifications submitted to the Stormwater Manager and IDEM before the beginning of construction, construction may

commence. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Ordinance and the terms and conditions of the approved permit. Upon completion of construction activities, a Certification of Completion and Compliance must be submitted to the Stormwater Manager. Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the SWCD office or a designee, requesting a termination inspection using the form on the SWCD website. The SWCD or designee or representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of this Ordinance and that the terms and conditions of the permit. Once the applicant receives a copy of the Termination Inspection Report confirming compliance, they must forward a copy to IDEM along with the required IDEM Notice of Termination (NOT) form. Permits issued by the SWCD shall expire on December 31st of the year which is one (1) year after the date the stormwater clearance was issued by the SWCD. Renewal of such a permit is required unless the following has occurred:

- i. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized;
- ii. All temporary erosion and sediment control measures have been removed; and
- iii. A notice of termination inspection has been requested from the SWCD by the expiration of the permit.

Subsequent annual renewals shall be required until all land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized; all temporary erosion and sediment control measures have been removed; and a notice of termination has been requested from the SWCD. If construction is not completed within 5 years, an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

B. Ordinance Fees

Filing and renewal fees for stormwater erosion control clearances under this Ordinance shall be as follows:

- i. For project sites that are required to submit construction plans to the SWCD pursuant to this Ordinance, a filing fee in the amount of One Hundred Dollars (\$100.00) per disturbed acre of land and per fractional acre exceeding a whole acre for review of the construction plans shall be due and payable at the time of application to the SWCD. Other review/project fees may be required per the current SWCD rates.
- ii. For project sites that are required to renew a stormwater clearance issued by the SWCD, an annual renewal fee in the amount of One Hundred Dollars (\$100.00) shall be due and payable to the SWCD no later than January 31st of the year after the expiration of the stormwater clearance.
- iii. For project sites that are required to submit a Post-Construction Stormwater Operation and Maintenance Plan, a fee equal to the current recording costs as set by the Elkhart County Recorder's office and collected by Simplifile shall be due and payable to the City at the time of Technical Review application to the City.

C. SWPPP Review Time Limits

Pursuant to IC 13-18-27-16, an MS4-designated entity or other review authority such as SWCD must make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than 5 acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth (14th) working day (for sites with 5 acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Depending on the outcome of the SWPPP review, the following scenarios may occur:

- i. No SWPPP review notification received: If the review authority does not notify the applicant of its preliminary determination as to whether the construction plan is substantially complete within either 10 or 14 days as noted above, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.
- ii. SWPPP not substantially complete: If the review authority notifies the applicant that the construction plan is not substantially complete, the project site owner may not submit a notice of intent letter to IDEM until the review authority makes a conclusive favorable determination concerning the construction plan under the IDEM rule/permit, or this Ordinance.
- iii. Unfavorable SWPPP: If the review authority notifies the applicant that the construction plan is substantially complete; and makes a conclusive unfavorable determination concerning the construction plan under IDEM rule/permit, or this Ordinance, the project site owner may not submit a notice of intent letter to IDEM.
- iv. Preliminary SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project. The plan review authority reserves the right to perform a comprehensive review at a later date, and revisions may be required at that time.
- v. Conditional SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a conditional review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project provided that the requirements included in the conditional review are fulfilled.

- vi. Favorable SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.

Note that the above time limits only apply to the SWPPP portion of the overall stormwater permit submittal and do not affect any official or non-official permit review timelines set by the entity for other aspects of the stormwater permit application.

D. Construction Site Erosion and Sediment Control Requirements

- i. General and Implementation Requirements - The City or its designated SWPPP reviewer utilizes the IDEM recommended Construction/SWPPP Review Form provided in a designated City permitting portal to review the submitted plans. The following general and implementation requirements apply to all land-disturbing activities and shall be considered in the preparation of a SWPPP within the corporate boundaries of the City of Elkhart.

- (1) A professional engineer, licensed surveyor or licensed landscape architect must be utilized for activities associated with the development and design of the SWPPP, stormwater measure implementation, and stormwater project management.
- (2) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Unless needed to meet requirements and goals of the development, steep slopes should be avoided, and natural contours should be followed.
- (3) All activities on a site should be conducted in a logical sequence and in accordance with the site's construction phasing plan so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
- (4) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Methods for determining acceptable velocities are included in the Indiana Storm Water Quality Manual (ISWQM).
- (5) Sediment-laden water which otherwise would flow from the project site shall be managed by appropriate erosion and sediment control measures to minimize sedimentation to receiving waters and adjacent properties as discussed in the ISWQM and other authoritative sources.
- (6) Public roadways and roadways not exclusive to construction traffic shall be kept cleared of accumulated sediment that is a result of runoff or tracking. The following

minimum conditions are applicable:

- (a) Clearing of sediment must not include the utilization of mechanical methods that will result in mobilization of dust off the project site or flushing the area with water unless the flushed water is directed to an appropriate sediment control measure.
 - (b) Cleared sediment must be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
 - (c) Sediment discharged or tracked onto roadways that are open to traffic must be removed as directed by a regulatory authority or at a minimum, removed by the end of the same day.
- (7) Phasing of construction activities must be used, when feasible, to minimize the footprint of disturbed unstable areas.
- (8) Collected run off leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion, pollutant, or flooding problem to the adjacent property owner.
- (9) Natural features, including wetlands and sinkholes (karst features), shall be protected from pollutants associated with stormwater runoff, through appropriate stormwater management and/or treatment measures.
- (10) Soil compaction is to be minimized, especially in areas where permanent vegetation will be re-established and/or areas that are designated to infiltrate stormwater for the post-construction phase.
- (11) Topsoil must be preserved, unless infeasible.
- (12) Existing natural buffers that are adjacent to waters of the state must be preserved to promote infiltration and provide protection of the water resource, unless infeasible. Activities performed by a county drainage board under IC 36-9-27 are excluded.
- (a) Natural buffers must be preserved, including the entire buffer bordering and/or surrounding the water resource. Existing buffers:
 - (i) 50 feet or more in width must be preserved to a minimum of 50 feet.
 - (ii) less than 50 feet in width must be preserved in their entirety. May be enhanced with vegetation that is native and promotes ecological improvement and sustainability.
 - (b) Runoff directed to the natural buffer must be:
 - (i) treated with appropriate erosion and sediment control measures prior to discharging to the buffer.
 - (ii) managed with appropriate runoff control measures to prevent erosion from occurring within the buffer area.

- (c) Further information regarding buffer requirements is contained in IDEM's "Implementation of Buffers" guidance document.
- (13) Minimize the generation of dust through dust suppression techniques to prevent deposition into waters of the state and areas located beyond the permitted boundaries of the site as discussed in the ISWQM and other authoritative sources.
- (14) A stable construction site access measure must be provided at all points of construction traffic ingress and egress to the project site. Where the selected measure is not effective, an alternative measure or additional controls must be utilized to minimize tracking. Alternative measures may include, but are not limited to, wheel wash systems and rumble strips.
- (15) During the period of construction activities, all stormwater management measures necessary to meet the requirements of this permit must be maintained. Alternative measures must be selected and implemented, as necessary.
- (16) Discharge water from dewatering of ground water from excavations, trenches, foundations, etc. must not be discharged when:
- (a) Sediment-laden water is not first directed to an appropriate sediment control measure or a series of control measures, as per the ISWQM and other authoritative sources, that minimizes the discharge of the sediment.
 - (b) A visible sheen and/or pollutants are present at a level that requires additional treatment and/or an alternate permit.
- (17) Appropriate measures must be implemented to eliminate wastes or unused building materials including, but not limited to garbage, debris, cleaning wastes, wastewater, concrete washout, mortar/masonry products, soil stabilizers, lime stabilization materials, and other substances from being carried from a project site by runoff or wind. Wastes and unused building materials must be managed and disposed of in accordance with all applicable statutes and regulations.
- (18) Construction and domestic waste must be managed to prevent the discharge of pollutants and windblown debris. Surplus plastic or hardened concrete/cementitious materials are not required to be placed in trash receptacles and are considered clean fill that may be reused, disposed of on-site, or recycled in accordance with applicable state and federal regulations. Management of waste materials may include, but are not limited to:
- (a) Waste containers (trash receptacles), when selected to manage waste, must be managed to reduce the discharge of pollutants and blowing of debris. Receptacles that are not appropriately managed will require alternatives that include but are not limited to:
 - (i) A cover (e.g., lid, tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation or

- (ii) A similarly effective method designed to minimize the discharge of pollutants.
 - (b) Waste that is not disposed of in trash receptacles must be protected from exposure to the weather and/or removed at the end of the day from the site and disposed of properly.
- (19) Concrete washout areas, where concrete washout is permissible, must be identified for the site and the locations clearly posted. Wash water must be directed into leak-proof containers or leak-proof containment areas which are located and designed to divert runoff away from the measure and sized to prevent the discharge and/or overflow of the concrete wash water. If not evaporated, wash water must be removed (pumped) for appropriate off-site disposal.
- (20) Fertilizer applications associated with the stabilization plan for the project must meet the following requirements:
- (a) Apply fertilizer at a rate and amount as determined by a soil analysis or in accordance with the ISWQM or similar guidance documents.
 - (b) Apply fertilizer at an appropriate time of year for the project location, taking into consideration proximity to a waterbody, and preferably timed to coincide with the period of maximum vegetative uptake and growth.
 - (c) Avoid applying fertilizer immediately prior to precipitation events that are anticipated to result in stormwater runoff from the application area.
- (21) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures must be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality. To meet this requirement:
- (a) A spill prevention and response plan, meeting the requirements in 327 IAC 2-6.1, must be completed.
 - (b) Proper project management and the utilization of appropriate measures including, but not limited to, eliminating a source or the exposure of materials must be completed.
 - (c) Manage the following activities:
 - (i) Fueling and maintenance of equipment.
 - (ii) Washing of equipment and vehicles.
 - (iii) Storage, handling, and disposal of construction materials, products, and wastes.
 - (iv) Application of pesticides, herbicides, insecticides, and fertilizers.
 - (v) Dispensing and utilization of diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals.
 - (vi) Handling and disposal of hazardous wastes, including, but not limited to paints, solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids.
 - (vii) Washing of applicators and containers used for paint, grout, or other

materials.

(22) Personnel associated with the project must be informed of the terms and conditions of this permit and the requirements within the SWPPP. The permittee is required to document this process. Information must be provided through written notification, contracts, or other means (i.e., pre-construction meetings) that effectively communicates the provisions and requirements of the permit and SWPPP. Personnel may include, but are not limited to:

- (a) General contractors, construction management firms, grading or excavating contractors, and trade industry representatives (i.e. concrete industry) associated with the overall project.
- (b) Contractors or individual lot operators that have primary oversight on individual building lots.
- (c) Those responsible for the implementation of the SWPPP, and the installation, repair, and maintenance of stormwater measures.
- (d) Those responsible for the application and storage of treatment chemicals.
- (e) Those responsible for administering the self-monitoring program (SMP).

(23) A notice must be posted near the main entrance of the project site or at a publicly accessible location. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and include:

- (a) A copy of the completed IDEM Construction Stormwater Posting Project Information form or a document, such as the Permit Summary Report & Notice of Sufficiency letter produced by IDEM's online ePortal system or the one-page form included in a designated City permitting portal, that at a minimum contains the information referenced in the IDEM CSGP.
- (b) The NPDES permit number(s), upon receipt.
- (c) The location of the construction plan/SWPPP if the project site does not have an on-site location to store the plan.

(24) The use of anionic polymers (cationic polymers are not authorized for use) on the project site are authorized for sediment control provided their use is in conformance with current State of Indiana standards and specifications and the use is identified in the stormwater pollution prevention plan (SWPPP). If use of a polymer is not in the SWPPP and is selected at a later date, notification to IDEM and the Stormwater Manager is required. An email notification prior to the use of the polymer to the IDEM Storm Water Program and the Stormwater Manager is acceptable.

(25) Restoration and/or clean-up may be required for those areas impacted by sediment or other pollutant discharges. These activities will be performed as directed by the inspecting authority and may require:

- (a) Development and submittal of a removal and restoration plan to ensure the

methodology chosen will not result in further degradation of the resource.

(b) Permission by a property owner when the restoration activity requires access to a property owned by another entity or individual.

(c) Additional permits prior to initiation of the work.

ii. Stabilization Requirements - The following stabilization requirements apply to all land-disturbing activities:

(1) Un-vegetated areas that are left idle or scheduled to be left inactive must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. To meet this requirement, the following apply:

(a) Stabilization must be initiated by the end of the seventh day the area is left idle. The stabilization activity must be completed within fourteen (14) days after initiation. Initiation of stabilization includes, but is not limited to, the seeding and/or planting of the exposed area and applying mulch or other temporary surface stabilization methods where appropriate. Areas that are not accessible due to an unexpected and disruptive event that prevents construction activities are not considered idle.

(b) Areas that have been compacted may be excluded from the stabilization requirement when the areas are intended to be impervious surfaces associated with the final land use, provided runoff from the area is directed to appropriate sediment control measures.

(2) Final stabilization of a project site is achieved when:

(a) All land-disturbing activities have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved disturbed areas, and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed. This requirement does not apply to:

(i) Landscaping that is part of the final project plan is considered stable when the plan has been fully implemented and areas not being vegetated are stable with a non-erosive material and/or product.

(ii) Projects or specific stormwater measures that utilize native vegetation and/or special vegetative plantings that are either required by a water quality permit/authorization or part of the design and functionality of a stormwater measure provided the activity does not pose a threat that will result in off-site sedimentation.

(iii) Projects on land used for agricultural purposes when:

1. Stabilization is completed in accordance with the above Stabilization Requirements (in (1) (a) and (b)) as land-disturbance progresses. Land that is returned to agricultural production must be temporarily or

permanently seeded upon completing land-disturbing activities. Stabilization requirements may be waived by the inspecting authority if the project site does not pose a threat of discharging sediment.

2. Disturbed areas, not previously used for agricultural production, such as filter strips, must be returned to their pre land disturbance use.

- (b) Specific projects, due to function and/or operation may necessitate that an area remain disturbed. Only the minimum operational area is allowed to remain disturbed. This option primarily applies to off-road recreational commercial operations but may apply to other land use types upon determination by the regulating entity.

- iii. Design Requirements - The following design requirements apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP:

- (1) Sound engineering, agronomic, and scientific principles must be utilized for measures contained in the SWPPP.
- (2) Appropriate measures must be planned, designed, and installed as part of an erosion and sediment control system and in accordance with the site's construction phasing plan.
- (3) Stormwater runoff leaving the project site must be discharged in a manner that is consistent with this ordinance, state, or federal law.
- (4) Collected runoff leaving the project site must be directed to an established vegetated area, when feasible and applicable, to increase pollutant removal and maximize stormwater infiltration and then either discharged directly into a well-defined, stable receiving conveyance or diffused and released without causing erosion at the point of discharge.
- (5) Conveyance systems must be designed taking into consideration both peak flow and total volume and must be adequately protected so that their final gradients and resultant velocities are unlikely to cause erosion at the outlet or in the receiving channel, based on known conditions of the discharge at the time of design to accommodate post-construction conditions.
- (6) Sediment basins, where feasible, must withdraw water from the surface of the water column unless equivalent sediment reduction can be achieved by use of alternative measures. Alternative measures include but are not limited to increasing the basin length to width ratio to 4:1 or greater, implementation of porous baffles, use of flocculants/polymers, and/or phasing of project land disturbance that also incorporates a rapid stabilization program. During freezing conditions, the implementation of alternative withdrawal methods may be utilized.

- iv. Monitoring and Management Requirements - A trained individual, acceptable to the Stormwater Manager, shall monitor project construction and stormwater activities utilizing PermiTrack or other designated applications. These shall include:

- (1) A written evaluation of the entire project site, with the exception of those areas that

are considered unsafe. The evaluation must be performed by a trained individual and completed:

- (a) Twenty-four (24) hours prior to a qualifying precipitation event or by the end of the next business day following each measurable storm event (excludes accumulated snow events); which is defined as a precipitation accumulation equal to, or greater than, one-half (0.50) inch of rainfall within a 24-hour period. If no rain event occurs within the work week a minimum of one inspection must occur. In the event of multiple qualifying events during the work week, no more than three (3) inspections would be required to meet the self-monitoring commitment.
 - (b) At a minimum of one (1) time per month for specific areas within the project which are stabilized with permanent vegetative cover at seventy (70) percent density and/or erosion resistant armoring is installed. A reduction to once per month is also applicable for the entire project site for stabilized common areas, basins, conveyances, outfalls, and inactive building sites. Prior to reducing the monitoring to monthly, records must identify the area and the date the area became eligible for monthly monitoring. Weekly monitoring as identified in (a) above must resume if one or more of the following occurs:
 - (i) The vegetative cover fails or there is evidence of erosion in the identified area.
 - (ii) The Stormwater Manager requires monitoring to resume.
- (2) A complete evaluation report must include:
- (a) Name of the individual performing the evaluation, including printed name, title, and signature (electronic signatures are acceptable).
 - (b) Date of the evaluation.
 - (c) Amount of precipitation, when the evaluation is conducted after a measurable storm event. Recorded rainfall may be documented utilizing an on-site rain gauge or storm event information from a weather station that is representative of the project location.
 - (d) Observations of project performance in relation to:
 - (i) Implementation of the stormwater pollution prevention plan.
 - (ii) Assessment of existing stormwater measures based on industry standards and maintenance standards as identified in the designated Stormwater Permit Application Form to ensure each measure is operational and functioning properly.
 - (iii) Additional measures necessary in the event an existing measure fails or is not present in the landscape
 - (iv) Impacts including, but not limited to, sediment discharges, erosion, discharges that results in bank erosion, and operational activities that have the potential to generate pollutants and unauthorized discharges.
 - (e) Documentation of an actual discharge that is visible during the assessment, the location of the discharge and a visual description of the discharge. The visual

description includes, but is not limited to, color (turbidity reading is an option), odor, floatables, settled/suspended solids, foam, oil sheen, and any other visible sign that may be attributed to operations occurring on the project site.

- (f) Detail of corrective action recommended and/or completed. Corrective action includes, but is not limited to:
 - (i) Repairing, modifying, or replacing any stormwater management measure.
 - (ii) Clean-up and proper disposal of spills, releases, or other deposits.
 - (iii) Remedying a permit violation.
 - (iv) Taking reasonable steps to remediate, minimize or prevent the discharge of pollutants associated with the construction activity until a permanent corrective solution is initiated.
 - (v) Restoring an impacted area and/or removing accumulated sediment, provided appropriate permission and permits are obtained to conduct the activity.
- (g) A timeline for which the corrective action will occur to remediate the discharge of pollutants. The established corrective action, at a minimum, must be initiated:
 - (i) On the day the deficiency was discovered or when it is not practical to initiate on the discovery date, no later than forty- eight (48) hours for the repair of a measure or installation of a temporary measure until a new and/or replacement measure is installed as specified in item ii) below.
 - (ii) Within seven (7) days of discovery for the installation of a new (alternative) measure or replacement of an existing measure unless a shorter timeframe is required as part of a regulatory inspection. The inspecting authority may also allow additional time to take corrective action.
 - (iii) If corrective action cannot be achieved within the timelines outlined in (i) or (ii) above, a reason for incompleteness must be provided and documented, including the anticipated completion date.
- (h) Documentation of corrective action taken from the previous self-monitoring report.

(3) Maintaining the SMP reports at the site or at an easily accessible location (refer to v. Project Documentation Requirements below).

(4) Utilizing PermiTrack (or other designated applications) or providing all written reports for the project site to the Stormwater Manager within forty-eight (48) hours of a request. Electronic copies are acceptable, provided they are in a format consistent with the paper record.

v. Project Documentation Requirements – The following project documentation shall be developed and maintained:

(1) Maintain a project management log that contains:

- (a) Information related to all off-site borrow sites, disposal areas, and staging areas, including the location of each activity as it is identified and/or selected.

- (b) Information related to all project activities including, but not limited to:
 - (i) SMP reports.
 - (ii) Regulatory inspections.
 - (iii) Responses to a compliance action or enforcement action.
 - (iv) Records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change and a summary of all changes.
- (2) Ensure the SWPPP and supporting documentation associated with the SMP and project management log are accessible at the project site office or in the possession of on-site individuals with responsibility for the overall project management or associated with the management and operations of construction activities. This information must be provided to the Stormwater Manager within forty-eight (48) hours of a request.
- vi. Project Termination Requirements – Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the SWCD Office or a designee, requesting a termination inspection. The SWCD or a designee, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the terms and conditions of the permit. Once the applicant receives a copy of the Termination Inspection Report confirming compliance, they must forward a copy to IDEM along with the required IDEM NOT information and submit a completed Certification of Completion and Compliance to the Stormwater Manager.
- vii. Individual Lot Requirements – An individual lot located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, the builders of these individual lots are required to develop a SWPPP for the individual lot per requirement included in a designated City permitting portal and complete a Construction Stormwater Residential Development Registration form (State Form 53049) and maintain it onsite.

E. Post-Construction Requirements

Any Person owning or operating commercial, industrial or residential subdivision real estate shall comply with each of the following requirements:

- i. Retain the first three inches of precipitation that fall on the site once the construction is complete. Typical retention facilities include dry wells, swales, infiltration practices, or retention ponds. These facilities should be designed and constructed in accordance with provisions provided in the latest edition of the ISWQM. A minimum 25 feet along the perimeter of these facilities shall be designated as Maintenance Easement. Also, a level Access Easement at least 20 feet wide shall be provided from a public right-of-

way to the facility. At a minimum, the base of swales or retention ponds shall be constructed with a soil mix of 50% sand and 50% topsoil and with minimal compaction to facilitate percolation. Alternative retention facilities may be considered by the Department on a case-by-case basis.

- ii. In certain redevelopment sites, where providing retention practices may prove to be impractical or those sites which discharge offsite to the City storm sewers or to a nearby water body, the Department may, on a case-by-case basis, waive the retention requirements noted in Item 1 (above) and/or may require a Water Quality Device, sized to treat the first inch of precipitation on the site by reducing the Total Suspended Sediment (TSS) by 80%, and installed offline. The accepted design flow rate for a Water Quality Device shall be the flow value at which the claimed TSS reduction is equaled or exceeded based on the unit's efficiency curve (flow rate versus removal rate graph). The following procedure should be used to estimate peak discharges (Q_{wq}) for flow through BMPs (adopted from Maryland, 2000). It relies on the volume of runoff (WQv) computed using the Small Storm Hydrology Method (Pitt, 1994) and utilizes the NRCS, TR-55 Method (June 1986).

Using the WQv methodology, a corresponding Curve Number (CN_{wq}) is computed utilizing the graph provided in a designated City permitting portal or the following equation:

$$CN_{wq} = \left[\frac{1000}{10 + 5P + 10Qa - 10\sqrt{Qa^2 + 1.25QaP}} \right]$$

where:

CN_{wq} = curve number for water quality storm event

P = 1" (rainfall for water quality storm event)

Qa = runoff volume, in inches = 1" × Rv

Rv = volumetric runoff coefficient = Rv = 0.05 + 0.009(I)

where:

I is the percent impervious cover

The water quality curve number, CN_{wq}, is then used in conjunction with the standard calculated time-of-concentration, T_c, and drainage area as the basis input for TR-55 calculations. Using the SCS Type II distribution for 1 inch of rainfall in 24-hours, the water quality treatment rate, Q_{wq}, can then be calculated.

- iii. For those projects involving land uses considered to be high pollutant producers or stormwater Hot Spots (see Table 1), additional water quality requirements may be imposed by the Department in addition to those included in water quality criteria in order to remove potential pollutant loadings from entering either groundwater or surface water systems. These pre-treatment options are included in Tables 1 and 2.

Table 1
Pre-Treatment options for Stormwater Hot Spots

Stormwater Hot Spots	Minimum Pre-Treatment Options (see Table 2)
Vehicle Maintenance and Repair Facilities	A, E, F, G
Fleet Storage Areas for Busses, Trucks, Etc.	A, G
Vehicle Fueling Stations	A, D, G
Drive-through Restaurants, Pharmacies, Convenience Stores	B, C, D, I, K
Outdoor Chemical Mixing or Handling	G, H
Outdoor Storage of Liquids	G
Commercial Nursery Operations	I, J, L
Other Uses or Activities Designated by Appropriate Authority	As Required

Table 2
Minimum Pre-Treatment Options

Minimum Pre-Treatment Options	
A	Oil/Water Separators / Hydrodynamic Separators
B	Sediment Traps/Catch Basin Sumps
C	Trash/Debris Collectors in Catch Basins
D	Water Quality Inserts for Inlets
E	Use of Drip Pans and/or Dry Sweep Material under Vehicles/Equipment
F	Use of Absorbent Devices to Reduce Liquid Releases
G	Spill Prevention and Response Program
H	Diversion of Stormwater away from Potential Contamination Areas
I	Vegetated Swales/Filter Strips
J	Constructed Wetlands
K	Stormwater Filters (Sand, Peat, Compost, etc.)
L	Stormwater Collection and Reuse (especially for irrigation)
M	BMPs that are a part of a Stormwater Pollution Prevention Plan (SWPPP) under a NPDES Permit

- iv. Install and maintain any and all stormwater measures and practices identified in the approved construction plan that were intended to remain in place after construction activities have been completed.
- v. Any discharge from a stormwater practice that is a Class V injection well shall be constructed outside of any 1-year (Zone 1) or 5-year (Zone 2) time of travel areas to public water supply wells, as defined by a modeled wellfield delineation performed in compliance with 327 IAC 8-4.1. When such delineation is not available, said practice must be at least 3,000 feet from the nearest public water supply well (unless applicant can demonstrate that the proposed practice will have no impacts on the water quality of the water supply well).
- vi. Provide the Department of Stormwater Management with a Post-Construction Stormwater Operation and Maintenance Plan (PCSOMP) in 8.5x11" format that:

- (1) Includes a narrative description of the location of proposed post-construction stormwater quality measures and their general details, when appropriate;
 - (2) Contains maintenance guidelines for the proposed stormwater quality measures;
 - (3) Provides a simplified site map that denotes the general location of building(s), hard surfaces and stormwater quality measures that will be maintained; and
 - (4) Includes an inspection checklist to be used for all inspections to assess the stormwater quality measures on the site to determine if maintenance/repairs are needed.
 - (5) Identifies the Person or entity responsible for long-term maintenance of the above measures and acknowledges that the owner is ultimately responsible for inspection, maintenance and upkeep of said measures;
 - (6) Requires all permanent stormwater management facilities be inspected annually and after every rainfall of 3" or more, to ensure compliance with this ordinance and provide for the removal of silt, litter, grass cutting, vegetation and other debris from all catch basins, inlets and stormwater retention/detention areas.
 - (7) The PCSOMP must be recorded with the Elkhart County Recorder's office at owner's expense.
- vii. Maintain natural drainage for any portion of the real estate not served by a constructed drainage system.
- viii. Keep all natural features such as wetlands protected from stormwater runoff pollutants.

5. SENSITIVE AREAS

In the event that a project site is determined to impact or discharge to a sensitive area as defined by the City's Water Quality Characterization Report (WQCR), the city of Elkhart may require more stringent stormwater quantity and quality measures.

6. ENFORCEMENT AND PENALTIES

A. Notice of Violation.

- i. Whenever the Department finds that a Person has committed a prohibited act or failed to meet the requirements of this ordinance, the Department or the Department's designee may take one (1) or more of the following actions:
 - (1) Notify the Person who committed the act or failed to meet the requirements of this ordinance by telephone and request compliance or cessation of the prohibited act.
 - (2) Notify the Person who committed the act or failed to meet the requirements of this ordinance in writing and order compliance or cessation of the prohibited act.
 - (3) Enter into an agreed order with the approval of the Board which order may include payment of a fine by the violator.

- (4) File a notice of violation before the Board describing the violation of this ordinance found by the Department.
 - (5) File a complaint in a court of competent jurisdiction within Elkhart County seeking a judicial determination that this ordinance has been violated and requesting the imposition of fines.
- ii. If the Department takes any authorized action and taking such action does not result in compliance with this ordinance, the Department may take any other authorized action to obtain compliance.
- iii. The Department may file a complaint with a court of competent jurisdiction to enforce the terms of an agreed order or an order of the Board.

B. Right to Enter Premises.

- i. The City shall have the right to enter on any premises for any of the following reasons:
 - (1) Investigate a suspected spill or discharge into the stormwater or City's storm drain system;
 - (2) To carry out routine or investigative inspections;
 - (3) To carry out routine or investigative sampling;
 - (4) To verify compliance with any agreed order, order of the Board or order of any court of competent jurisdiction.
- ii. If the Department has been refused access to any part of the premises from which stormwater is discharged and the Department is able to reasonably demonstrate to a court of competent jurisdiction within Elkhart County that there may be a violation of this ordinance, or that there is a need to inspect or sample as part of the Department's inspections or sampling program, the court may grant an order allowing City access to all relevant parts of a premises.
- iii. Any written notice of violation shall be issued upon the responsible party by regular U.S. mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.

C. Stormwater Board Hearing.

- i. Before any Board hearing is held, a party alleged to have violated this ordinance shall receive written notice of the violation including the nature of the violation and a summary of the facts that constitute that violation. In the event of an emergency hearing before the Board, this information may be orally presented to the affected party and the affected party may elect to proceed or the affected party may insist on written notice and delay the hearing. The emergency action taken by the City shall continue until a hearing can be held.
- ii. Any Person alleged to have violated this ordinance has the right to have an attorney

present to cross examine witnesses, and has the right to present evidence and have witnesses testify.

- iii. A Person found to have violated this ordinance has a right to appeal the determination of the Board to a court of competent jurisdiction within twenty (20) days of the action of the Board by filing a verified complaint. The court may affirm, modify or reverse the action taken by the Board. Any such appeal shall be heard de novo.

D. Sanctions.

- i. Each violation of this Ordinance may be subject to a civil penalty of up to Two Thousand Five Hundred Dollars (\$2,500.00).
- ii. The Department will utilize the Enforcement Matrix, as shown in Attachment A, to calculate recommended penalties for violations of this Ordinance.
- iii. The Department may enter upon private property and take any and all measures necessary to abate a violation, if a court of competent jurisdiction has found that a violation of this ordinance has occurred and has approved the action to be taken by the City. The costs of such abatement shall be assessed to the owner of the private property.
- iv. The Department may suspend MS4 discharge access to stop an actual or threatened discharge which presents imminent and substantial danger to the environment, to the health or welfare of any person, to the MS4 or to water of the United States. This suspension may be without notice if an emergency exists but a hearing will be held at the next Board meeting after the owner of the real estate can be notified to determine the existence of an emergency and that there is a substantial and imminent danger.
- v. The Board or any court of competent jurisdiction may order the owner of the real estate, or the responsible party for the operations on the real estate, to take any and all actions necessary to comply with this ordinance.
- vi. The Department may recover reasonable attorney fees, court costs and other expenses associated with the enforcement of this ordinance including sampling and monitoring expenses and the cost of actual damages incurred by the City.
- vii. Each day a violation continues constitutes a new and separate violation.

- E. Continuing Violation. If a Person has violated this ordinance and continues to do so, the Department may petition any court of competent jurisdiction within Elkhart County for the issuance of a temporary restraining order or permanent injunction which restrains or requires specific compliance with this ordinance.

- F. Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Department may take necessary corrective action, the cost of which shall

become a lien upon the property until paid.

7. ADMINISTRATION

Except as otherwise provided, the Department shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to, or duties imposed upon, the Department may be authorized by the Board to designated City personnel.

8. INTERPRETATION AND SEVERABILITY

- A. Interpretation. In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- B. Conflict. The City of Elkhart Ordinance No. 5034 and Ordinance No. 5158 are hereby repealed and replaced by this ordinance. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are also hereby repealed to the extent of such inconsistency or conflict.
- C. Compatibility with Other Permit and Ordinance Requirements. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provisions of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provisions of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.
- D. Severability. If the provisions of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this ordinance.
- E. Effective Date. This ordinance shall be in full force and effect from and after the date of its passage, approval, and publication as provided by law.

Attachment A

Enforcement Matrix for Construction Site Stormwater Runoff Control

Offense	First Occurrence	Second Occurrence	Third Occurrence	Fourth and Subsequent Occurrences
Administrative				
Construction without a Stormwater Pollution Prevention Plan (SWPPP)	100**	150**	200**	500**
SWPPP Amendment Required	10	20	40	100
Notice of Intent (NOI) not properly posted	0	2	4	8
Location of SWPPP not posted	0	2	4	8
Self-inspection not performed/forms not provided	0	10	20	30
Permit Renewal deadline missed	30	30	30	30
Best Management Practices (BMPs)				
Concrete/Mortar Washout (WO)				
a. discharge is going directly into a surface water	50**	50**	75**	100**
b. discharge into a catch basin (CB) (connected to an MS4 conveyance)	25*	50**	75**	100**
c. discharge into a catch basin (CB) (not connected to an MS4 conveyance)	20*	30*	40*	50**
d. discharge does not reach CB or surface water	0	4	8*	12*
e. maintenance required (WO water is still contained)	0*	4	8	12
f. maintenance required (WO water is leaking out)	5*	10*	20*	40*
Perimeter Protection				
a. not installed (on plans)	0	10	25	40
b. maintenance required (sediment is not leaving site)	0	5	10	25
c. maintenance required (sediment is leaving site)	5	10	15*	30*
Construction Entrance/Exit				
a. not installed (on plans)	0	20	30*	40**
b. maintenance required (tracking is not occurring)	0	10	20	30
c. maintenance required (tracking is occurring)	0*	15*	25*	40*
Site Stabilization				
a. not installed when or as required by SWPPP	0	10	20	30
b. not installed correctly	0	10	20	30
Inlet Protection				
a. not installed (on plans)	0	5	10	15
b. maintenance required (on-site impact)	0	2	4	6
c. maintenance required (off-site impact)	5	10*	15*	20**
d. discharge to an inlet connected to an MS4 conveyance	25*	50**	75**	100**
Dewatering				
a. causing erosion or depositing sediments	0	5	10	25
b. discharge of sediment/other pollutants into a surface water or an MS4 conveyance	50**	50**	75**	100**
Runoff Controls (check dams, outlet protection)				
a. not installed or not installed correctly (on plans)	0	10	20	30
b. maintenance required (erosion is occurring)	0	5	10	25
c. discharge of sediment/other pollutants into a surface water	50**	50**	75**	100**
Other				
a. not installed or not installed correctly (on plans)	0	5	10	15
b. maintenance required (on-site impact)	0	2	4	6
c. maintenance required (off-site impact)	5	10*	15*	20*
Trash/Litter	0	2	4	8
Spill Control/Containment	0	5	10	15
Direct discharge of pollutants to a surface water	50**	50**	75**	100**
Total Points per Occurrence				

* Corrective action required immediately or within one business day

** Stop Work Order issued immediately

Point Total	Resulting Fine
0-15	\$0
16-25	\$50
26-30	\$100
31-40	\$150
41-50	\$250
51-60	\$300
61-70	\$400
71-80	\$500
81-99	\$750
100-110	\$1,000
111-125	\$1,500
126-150	\$2,000
151-175	\$2,500

Severity of Violation	Response	Form of Communication
Minimal (No Impact)	Educational	site visit, call, meeting, email, inspection report (or combination)
Minor (Indirect Impact)	Non-Compliance Letter	Minor violation - Requires a written response. No penalties if violations are corrected.
Moderate (Direct Impact)	Warning Letter	Formal enforcement. Penalties may be assessed.
Significant (Direct Impact)	Notice of Violation (NOV)	Significant violation(s). Immediate corrective action required. Stop Work Order Issued.



Date Mar 27, 2023
 Memo To Board of Public Works
 Memo From Laura Kolo, Utility Services Manager *ik*
 Subject Wastewater Utility Monthly Report of Operations
 for the month of February, 2023

Wastewater MRO Highlights

Parameter	Monthly Avg	Permit Limit
Suspended Solids mg/L	20	30
cBOD5 mg/L	6	25
Phosphorus mg/L	1.05	1.0
Ammonia mg/L	4.28	4.4 (Dec-Apr) 4.2 (May-Nov)
Avg Daily Flow MGD	13.81	Design - 20
Total Monthly Flow MGD	387	Report

Incident Reports Filed

Date	Location	Volume (gal)	Cause
2/7/23	1438 Willowdale	unknown	grease
2/13/23	1201 S. Nappanee	22,500	construction related
2/15/23	315 Plum	50	roots
2/21/23	820 Kilbourne	10	roots
2/27/23	1201 S. Nappanee	1000	construction related

Wet Weather Overflows

Number of Events	Total Overflow Volume (MG)
3	7.5128

Total Phosphorus % removal violation; limit is 75% min, removal was 74.5%
 Ammonia daily max violation; limit is 10.4 mg/L, Feb was 10.6 mg/L
 Biomonitoring Re-Take for Pimephales promelas (Fathead Minnow) failed
 -TRE Plan will be submitted to IDEM as required by NPDES Permit



MEMORANDUM

Date March 27, 2023
To Milke Machlan, Board of Works President
From Laura Kolo, Utility Services Manager *LK*
RE Appropriation Request

Elkhart Public Works is respectfully requesting an appropriation of \$530,100 to ~~6101-5-734-4440800~~ *6108-5-000-6200500* *SK*, Tank Maintenance Restoration Fund, for the rehab and painting of Benham Water Tower.

The appropriation has been approved by the Controller's Office.

Resolution 23-R- 08

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE
CITY OF ELKHART, INDIANA, APPROPRIATING FUNDS FOR THE
REHABILITATION WORK FOR THE BENHAM WATER TOWER**

WHEREAS, the City of Elkhart, Indiana, is a municipal corporation; and

WHEREAS, the Board of Public Works ("Board") is the body authorized to manage the municipal utilities; and

WHEREAS, the Water Utility's Benham Water Tower is in need of certain maintenance and rehabilitation; and

WHEREAS, the Board advertised Bid No. 23-04 to obtain bids for the performance of said maintenance and rehabilitation; and

WHEREAS, the Board received seven responsive bids, the lowest of which is \$530,100.00; and

WHEREAS, the Water Utility is requesting an appropriation in that amount so that the bid can be awarded by the Board; and

WHEREAS, the Board deems it proper and in the best interests of the City of Elkhart and its citizens to appropriate the funds necessary to cover the cost of the maintenance and rehabilitation of the Benham Water Tower.

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

1. The Board approves the funding request for maintenance and rehabilitation of the Benham Water Tower.
2. The Board appropriates the sum of \$530,100.00 from the Water Tank

Maintenance Fund 6108-5-000-6200500 for the maintenance and rehabilitation of the Benham Water Tower.

RESOLVED this 4th of April 2023.

Michael Machlan, President

Chad Crabtree, Vice President

Jamie Arce, Member

Ronnie Davis, Member

ATTEST:

Rose Rivera, Member

Nancy Wilson, Clerk



City of Elkhart
City Controller's Office

BOW Public Works Appropriation Request Form

Date: 3/27/23

BOW Meeting Date: 4/4/23

Requesting Division:

Engineering: ☐ Operations: ☐ Maintenance: ☐ Administration: ☒ Lab: ☐ Aquatics: ☐

Distribution: ☐ Collections: ☐ Service: ☐

Requesting Manager: Laura K. De

Important: Completed form due to the Controller's Office NO LATER THAN Noon on Monday the week prior to the Board of Public Works meeting.

Fund Information:

Which fund is this appropriation being requested from?

Wastewater: ☐ Water: ☐ Stormwater: ☐ Aquatics: ☐ Other: ☒ Specify: Water Tower

Brief Description of Request:

Rehab Benham water Tower

Requested Account Line Information:

Line # 6108-5-734 Line Name: Tank Maint Rest. Amount: \$ 530,100⁰⁰
Line # 6108-5-000-6200500 Line Name: _____ Amount: \$ _____

Transfer Details:

Does request include a budget transfer? (Y/N) If yes, how much? \$ _____

For transfer requests, enter affected account lines and amounts below:

Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____

Controller's Office Reassignment of Account if Necessary:

Fund # _____ Fund Name _____
Acct # _____ Acct Name _____ Amount \$ _____

Fund # _____ Fund Name _____
Acct # _____ Acct Name _____ Amount \$ _____

Approval:
Controller

E. Koon

Date: 3/27/23



MEMORANDUM

Date March 27, 2023
To Mike Machlan, Board of Works President
From Laura Kolo, Utility Services Manager *LK*
RE Appropriation Request

Elkhart Public Works is respectfully requesting an appropriation of \$18,400 to 6201-5-812-7360000, Wastewater, Laboratory, Other Contractual, for pretreatment consulting to calculate and provide training regarding production based limits and combined waste stream formula.

The appropriation has been approved by the Controller's Office.



City of Elkhart
City Controller's Office

BOW Public Works Appropriation Request Form

Date: 3/27/23

BOW Meeting Date: 4/4/23

Requesting Division:

Engineering: ☐ Operations: ☐ Maintenance: ☐ Administration: ☐ Lab: ☒ Aquatics: ☐

Distribution: ☐ Collections: ☐ Service: ☐

Requesting Manager: Laura Kolb

Important: Completed form due to the Controller's Office NO LATER THAN Noon on Monday the week prior to the Board of Public Works meeting.

Fund Information:

Which fund is this appropriation being requested from?

Wastewater: ☒ Water: ☐ Stormwater: ☐ Aquatics: ☐ Other: ☐ Specify: _____

Brief Description of Request:

consulting to calculate and provide training regarding production based limits and combined waste stream formula

Requested Account Line Information:

Line # 6201-5-812- Line Name: Other Contractual Amount: \$ 18,400⁰⁰

Line # _____ Line Name: _____ Amount: \$ _____

Transfer Details:

Does request include a budget transfer? (Y/N) If yes, how much? \$ _____

For transfer requests, enter affected account lines and amounts below:

Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____
Acct # _____	Acct Name _____	Amount \$ _____

Controller's Office Reassignment of Account if Necessary:

Fund # _____ Fund Name _____
Acct # _____ Acct Name _____ Amount \$ _____

Fund # _____ Fund Name _____
Acct # _____ Acct Name _____ Amount \$ _____

Approval:
Controller

E. Koo

Date: 3/27/23

Resolution 23-R- 09

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE
CITY OF ELKHART, INDIANA, APPROPRIATING FUNDS FOR
CONSULTING AND STAFF TRAINING REGARDING PRODUCTION-
BASED LIMITS AND COMBINED WASTE STREAM FORMULA.**

WHEREAS, the City of Elkhart, Indiana, is a municipal corporation; and

WHEREAS, the Board of Public Works ("Board") is the body authorized to manage the municipal utilities; and

WHEREAS, the Wastewater Utility has a pretreatment program designed to monitor the utility customers who are classified as significant industrial users (SIUs); and

WHEREAS, part of that monitoring involves certain calculations that require expert input and consultation; and

WHEREAS, the Wastewater Utility has identified said expert who is qualified and available to calculate limits and train utility staff members on the use of those formulas and calculations; and

WHEREAS, the Water Utility is requesting an appropriation in the amount of \$18,400.00 to hire that expert to provide those services; and

WHEREAS, the Board deems it proper and in the best interests of the City of Elkhart and its citizens to appropriate the funds necessary to cover the cost of the expert.

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

1. The Board approves the funding request in order to contract with an expert to provide certain calculations, and also training of utility staff members.

2. The Board appropriates the sum of \$18,400.00 from the Other Contractual Fund 6201-5-812-7360000 to employ a consultant to perform certain calculations, and training of staff members.

RESOLVED this 4th of April 2023.

Michael Machlan, President

Chad Crabtree, Vice President

Jamie Arce, Member

Ronnie Davis, Member


ATTEST:

Rose Rivera, Member

Nancy Wilson, Clerk



M E M O R A N D U M

Date March 27, 2023
To Mike Machlan, Board of Works President
From Laura Kolo, Utility Services Manager 
RE Request to Engage

Elkhart Public Works is respectfully requesting the Board of Works to contract with Arcadis U.S. Inc. for Pretreatment Consulting to calculate and provide training regarding production based limits and combined waste stream formula.

Funding has been appropriated and the contract (attached) has been approved by Legal.

CITY OF ELKHART, INDIANA

SUPPLEMENTAL AGREEMENT NO. 1

BETWEEN CITY OF ELKHART AND ARCADIS U.S., INC.

FOR PROFESSIONAL SERVICES

THIS SUPPLEMENTAL AGREEMENT NO. 1 is effective as of _____

("Effective Date") between **City of Elkhart, Indiana, acting by and through its Board of**

Public Works ("OWNER") and Arcadis U.S., Inc. ("ENGINEER"). For the following Project:

- 1) Water distribution modeling on-call services ("Project").

The OWNER has requested certain additional services, not included in the original contract dated October 4, 2022 for the Water Modeling On-Call Project. The additional services includes:

- I. Industrial pretreatment support services as additional on-call services

OWNER and ENGINEER agree to amend the above referenced Contract for the Water Modeling On-Call Project as follows:

- I. Agreement, Paragraph 1.01. Scope: delete the paragraph in its entirety and replace as follows:

Engineer shall provide, or cause to be provided, the services set forth herein, in Exhibit A and additional services described within this Supplemental Agreement No. 1.

- II. Agreement, Paragraph 9.01. Exhibits Included: delete Paragraph A in its entirety and replace as follows:

- A. Exhibit A, "Engineer's Services," consisting of 2 pages.

- III. Agreement, Paragraph 9.02. Total Agreement: delete the paragraph in its entirety and replace as follows:

- A. This Supplemental Agreement No. 1 and the Original Agreement dated October 4, 2022 constitutes the entire agreement between the Owner and Engineer for the

Project and supersedes all prior written oral understandings. This Agreement may only be amended, supplemented, or modified by a duly executed written instrument.

- IV. Exhibit A, Engineer's Services: replace Exhibit A, Engineer's Service in its entirety with the attached, provided at the end of this Supplemental Agreement No. 1.
- V. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses: add the following for payments associated with the additional scope of work:

Arcadis proposes to complete the Industrial Pretreatment Support Services under Supplemental Agreement No. 1 on a time and material basis for a not-to-exceed budget:

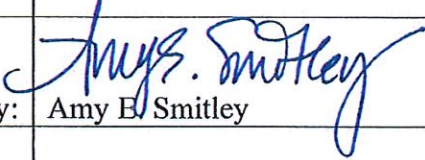
Industrial Pretreatment Support Services

Task	Hours	Budget
Task 1. Production-Based Limits Development (3 Facilities)	50	\$7,800
Task 2. Virtual Training on Production-Based Limits	12	\$2,500
Task 3. Combined Wastestream Formula Calculation Review	46	\$8,100
Total	108	\$18,400

(Remainder of Page Intentionally Left Blank)

Supplement Agreement No. 1 incorporates all other terms and conditions as set forth in the original Agreement dated October 4, 2022. The original Agreement dated October 4, 2022 shall remain in full force and effect, except as herein modified.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. 1.

OWNER: City of Elkhart, Indiana, acting by and through its Board of Public Works		ENGINEER: Arcadis U.S., Inc.	
By:	Michael C. Machlan, P.E.	By:	 Amy E. Smitley
Title:	President, Board of Works	Title:	Vice President
Date Signed:		Date Signed:	
Attest:		Engineer License or Certificate No.:	
Secretary		State of:	State of Indiana
Address for giving notices:		Address for giving notices:	
Elkhart City Board of Public Works		Arcadis U.S., Inc.	
229 S. Second Street		50 Monument Circle, Suite 300 B	
Elkhart, Indiana 46516		Indianapolis, IN 46204	

Designated Representative:		Designated Representative:	
		Amy E. Smitley, PE	
Title:		Title:	Vice President
Phone Number:		Phone Number:	317-273-9144
Facsimile Number:		Facsimile Number:	
E-Mail Address:		E-Mail Address:	Amy.Smitley@arcadis.com

\\SB11\proj\PROJ\1461\5237 Elkhart CSO 31\Project Managment\Supplemental #1\Contract Amendment No 1.doc



This is **EXHIBIT A**, consisting of 2 pages, referred to in and part of the
Agreement between Owner and Engineer for Professional Services

Engineer's Services

Water Modeling On-Call Services

The City of Elkhart (City) updated their Water Master Plan in 2011. A distribution model was developed as part of the original Water Master Plan in 2002 to assist in identifying when additional system facilities are needed and help with capital improvements planning efforts. This model was converted to EPANET in 2015 but had not been calibrated or otherwise updated since 2002. The City also embarked on an asset management program, and developed plans for their distribution system and their facilities in 2020 to comply with the IFA SRF Loan Program Asset Management requirements. In 2021, the City initiated updating the Water Master Plan for the 2021-2030 planning horizon. As part of this planning effort, the existing model was reviewed but ultimately a new model was developed and calibrated. This scope of work entails utilizing the water model to evaluate new development or other City needs on an on-call, as-needed basis.

SCHEDULE

It is proposed that Arcadis complete this work on an on-call, as-needed basis.

Industrial Pretreatment Support Services

Task 1. Production-Based Limits Development

Arcadis will develop spreadsheets for determining production-based local limits for three manufacturing facilities (Hydroextrusion LLC, Elkhart Products, and Huntington Alloy) in Elkhart with point source categorical limits associated with 40 CFR Parts 467, 468, and 471, respectively. Arcadis will follow the USEPA's NPDES Permit Writers' Manual, Guidance Manual for the Use of Production-Based Pretreatment Standards and the Combined Wastestream Formula document. These spreadsheets will be provided to Elkhart for their use.

Required information for production-based limit development for each industrial user (IU):

- Operational permit
- Existing production-based limit development spreadsheets
- Permit application
- Detailed line diagram
- Regulated waste streams
- Detailed monthly production data

Assumptions

- Assume up to two, one-hour Microsoft Teams meetings

Task 2. Virtual Training on Production-Based Limits

Arcadis will prepare a training presentation and provide a virtual training session to discuss the development of the production-based limits for Elkhart to be able to develop in the future.

Assumptions:

- Assumes one, one-hour Microsoft Teams meeting

Task 3. Combined Wastestream Formula (CWF) Calculation Review

Arcadis will provide technical review of the combined waste stream formula calculation for each IU in accordance with 40 CFR Part 403. Arcadis will review the application of the combined wastestream formula calculation and provide feedback.

Required information for production-based limit development for each IU:

- Detailed line diagram
- CWF calculation spreadsheets

Assumptions:

- Assumes up to two, one-hour Microsoft Teams meetings
- Assumes up to one hour per IU to review the CWF
- Assumes approximately 40 IUs

SCHEDULE

It is proposed that Arcadis complete the production-based limits for the three required facilities immediately upon notice to proceed and within two weeks, assuming all information can be provided by Elkhart in a timely fashion. The training will occur following development. The CWF calculation review will be performed within two weeks after information is received.



INNOVATIVE IDEAS
EXCEPTIONAL DESIGN
UNMATCHED CLIENT SERVICE

March 24, 2023

Ms. Laura Kolo
Utility Services Manager
City of Elkhart Public Works and Utilities
1201 S Nappanee Street
Elkhart, IN 46516

RE: Award Recommendation for the Elkhart Benham Water Tower Rehabilitation
WA-7897 / Bid No. 23-04

Dear Ms. Kolo,

On March 21, 2023, bids were opened for the Elkhart Benham Water Tower Rehabilitation project at the regular Board of Public Works meeting. Seven (7) bids were received at that time and have been reviewed for completeness.

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

Contractor	Total Base Bid	Total Alternate Bid
Viking Painting, LLC	\$530,100.00	\$552,890.00
O&J Coatings, Inc.	\$598,500.00	\$620,500.00
Fedewa, Inc.	\$611,999.00	\$621,999.00
G&L Tank Sandblasting and Coatings LLC	\$618,500.00	\$643,500.00
L.C. United Painting Co., Inc.	\$624,000.00	\$636,000.00
Magulre Iron, Inc.	\$730,000.00	\$751,160.00
TMI Coatings, Inc.	\$914,000.00	\$968,000.00

There was one (1) discrepancy in the bids. Viking Painting LLC did not have the correct bid alternate total. The total was corrected in the bid tab.

Viking Painting LLC was the lowest responsive and responsible bidder, and they have successfully completed projects in the past.

It is recommended that the Board of Public Works award the Elkhart Benham Water Tower Rehabilitation project to Viking Painting LLC, who was the lowest, responsive and responsible bidder with a contract price in the amount of \$530,100.00.

Sincerely,

Jamie Poczekay, P.E.

Project Manager

CC: ACL, AJH



M E M O R A N D U M

Date March 27, 2023
To Mike Machlan, Board of Works President
From Steve Brown, Pretreatment Manager
RE Carpenter Confections DBA Mini Delights *SB*

This is a communication to the Board regarding the Consent Order with Compliance Schedule for Carpenter Confections DBA Mini Delights. The previous Consent Order with milestones could not be completed due to the 3 basin sink being mounted into the concrete wall of the building. Removing such a sink would have caused much damage to the structure of the building.

Mini Delights reached out to Public Works explaining this issue and concerns. Public Works met with their plumber and we came up with a possible solution. We agreed to have the plumber install 3 separate 20-gallon grease traps for each basin. Mini Delights would be responsible for maintaining all three grease control devices.

Public Works is requesting to rescind the current consent order, and inform the BOW that we are working with Mini Delights to present a new Consent Order at later date. Mini Delights has been very responsive in the past six months through this whole ordeal.

Public Works is requesting the Board to rescind the current consent order for Carpenter Confections DBA Mini Delights.



M E M O R A N D U M

Date March 27, 2023
To Mike Machlan, Board of Works President
From Joe Milroy Pretreatment Inspector *SB*
RE Food Shack

This is a communication to the Board regarding the Variance Request for Food Shack at 840 W. Bristol St. There is an existing 700 gallon grease interceptor at this location with a control manhole. Since ownership has changed a 1000 gallon grease interceptor is required by code.

Food Shack reached out to Public Works explaining this would pose a financial hardship on the new food service establishment. Food Shack has agreed to have the existing 700 gallon grease interceptor pumped and inspected to make sure it is in good working order.

Public Works is requesting to allow Food Shack to operate with the 700 gallon grease interceptor with the understanding that it be pumped as often as necessary and if the interceptor were to fail it will be replaced with a properly sized interceptor. Food Shack has been very receptive to our staff in trying to open the new food service establishment.

Public Works supports this variance request for the Food Shack at 840 W. Bristol St.



Central Garage

To: Board of Works
From: Josh Holt
Date: March 20, 2023
RE: Auction

Dear Board Members,

I Josh Holt, Central Garage Fleet Manager, am asking your permission to send City Vehicles & Equipment to Broyln Auction, based in Elkhart, Indiana.

The following vehicles and pieces of equipment below are to be disposed of. I plan to send them to Broyln Auctions for maximum public participation. The proceeds from the auction, will be sent to the General Fund & Public Works Fund. These vehicles have surpassed their useful life, and/or are too costly to keep in our fleet.

Sincerely,
Joshua J. Holt
Elkhart Central Garage & Fleet Manager

[illegible]