

# WESTVILLE TOWN COUNCIL

AUGUST 03, 2021  
MINUTES OF MEETING

A special meeting of the Westville Town Council was held at the Town Hall, 100 Setser Drive at 5:00 p.m. Present: Michael Albert, Regina Ruddell, James Bechinske, Olga Pothorski, Clerk-Treasurer, Lori Mercer.

Absent: Tom Fath

Michael Albert called the meeting to order at 5:00 pm. The first part of the meeting was the budget workshop.

Council agreed to commit \$30,000.00 toward our share of the Community Crossings Grant which will come out of MVH Restricted. James Bechinske asked if we can use some of the ARP money for sidewalks and Mike Albert stated that we are still unsure on that, but we will contact Jeff Rowe for further guidance.

Clerk-Treasurer Mercer stated there will still be \$41,000.00 budgeted in the General Fund for the Volunteer Fire Department. Their contract for 2022 is for \$70,000.00. The remaining \$29,000.00 was anticipated to come from a hydrant use fee on the utility bills once the rate study was completed. We are unsure at this time if the rate study and utility bill adjustments will be completed by then end of 2022. In the event the adjustments are not completed, we can go for an additional appropriation to pay the remaining \$29,000.00, as we still have a little money left over from the Cares Act money.

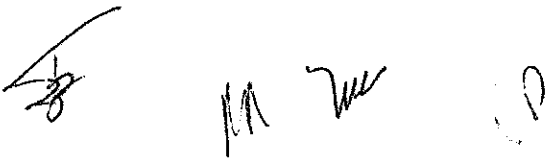
Michael Albert stated that part of the ARP money could be used for bonuses for those essential workers, and all of the Town's employees would qualify as essential workers. Lori Mercer will ask Jeff Rowe for more information on this. The council agreed to \$.25 raises for full-time and part-time employees. James Bechinske asked that Ken Atkison receive a raise of \$1.25 per hour since he has been here for many years. Council agreed.

Regina Ruddell did express her concern for the Repairs and Maintenance amount of \$12,500.00 that was allocated for the Police budget. Lori Mercer stated that she spoke with Nate Hynek about that and he split the \$25,000.00 that was budgeted last year into Repairs and Maintenance and a new line item of Other Fees and Services since a lot of their dues, memberships, etc have been paid from the Repairs and Maintenance line item, he can now take those costs from the Other Fees and Services line item.

Council was comfortable with the numbers on the spreadsheets that Clerk-Treasurer presented them for the 2022 budget.

The public hearing for the budget will be held on Sept. 14, 2021 at 6:30 pm and the adoption date will be Sept. 28, 2021 at 5:30 pm.

Michael Albert read the Guaranteed Savings Contract with Bowen Engineering regarding the WCC project. The maximum amount we will pay is \$10,212,286.00. Michael Albert made a motion to enter into contract with Bowen Engineering. Regina Ruddell, second. Roll Call: Ruddell, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Handwritten signatures and initials at the bottom of the page, including a large signature on the left and several initials in the center and right.

Michael Albert read Ordinance 2021-8 in title only. He stated that this is just an amendment to the original bond ordinance for the WCC project. Michael Albert made a motion to approve Ordinance 2021-8 on first reading. Regina Ruddell, second. Roll Call: Ruddell, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michael Albert made a motion to suspend the rules and adopt Ordinance 2021-8. James Bechinske, second. Roll Call: Ruddell, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michael Albert made a motion to adjourn at 5:36 pm. James Bechinske, second. All approved. Motion carried.

I, Lori Mercer, attest that these minutes are true and accurate.

Lori Mercer

ORDINANCE NO. 2021- B

An Ordinance amending Ordinance No. 2020-1 of the Town of Westville, Indiana, in connection with the Town's issuance of sewage works revenue bonds to finance additions and improvements to the sewage works of the Town

WHEREAS, the Town Council of the Town of Westville, Indiana (the "Council" and the "Town", respectively) adopted Ordinance No. 2020-1 (the "Bond Ordinance") on February 11, 2020, authorizing the issuance of its sewage works revenue bonds (the "Bonds") in the principal amount not to exceed \$10,970,000 to finance the costs of additions and improvements to the sewage works system of the Town (the "Project"), as more particularly described in the Bond Ordinance; and

WHEREAS, the estimated costs of the Project as set forth in the Bond Ordinance was not to exceed \$10,970,000; and

WHEREAS, based upon information provided to the Town by its consulting engineers and contractors for the Project, the estimated costs of the Project has increased to an amount not to exceed \$16,601,000; and

WHEREAS, the Council, having considered the matter and taken into account the advice of its municipal advisors, consulting engineers and bond counsel, finds that the Bond Ordinance should be amended to authorize the increase in the estimated costs of the Project and correspondingly increase the authorized amount of the Bonds;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTVILLE, INDIANA, THAT:

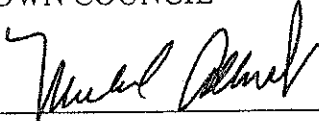
Section 1. All references in the Bond Ordinance to the estimated costs of the Project at not to exceed \$10,970,000 are hereby amended to reflect an estimated costs of the Project at not to exceed \$16,601,000.

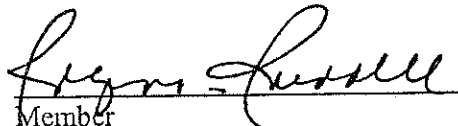
Section 2. All references in the Bond Ordinance to the authorized not to exceed principal amount of the Bonds at \$10,970,000 are hereby amended to reflect an authorized not to exceed principal amount of the Bonds at \$16,601,000. In addition, the authorized permitted uses of the proceeds of the Bonds is hereby amended to include the payment of interest on any bond anticipation notes issued by the Town pursuant to the Bond Ordinance.

Section 3. This ordinance shall be in full force and effect from and after its adoption.

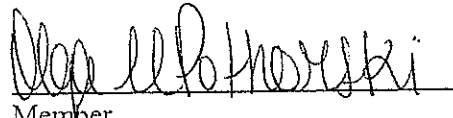
Adopted this 3<sup>rd</sup> day of August, 2021, by a vote of 4 ayes and 0 nays.

TOWN OF WESTVILLE, INDIANA  
TOWN COUNCIL

  
\_\_\_\_\_  
President

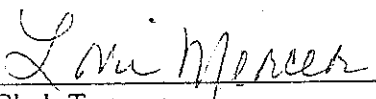
  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

ATTEST:

  
\_\_\_\_\_  
Clerk-Treasurer

**GUARANTEED SAVINGS  
CONTRACT (SRF)**

THIS GUARANTEED SAVINGS CONTRACT (herein sometimes "Agreement" and sometimes "Contract"), made this day 9/3/2021, by and between Town of Westville, Indiana, a municipal Corporation (hereinafter called the "Owner") and Bowen Engineering Corporation, an Indiana corporation, acting as contractor and qualified provider (hereinafter called "Contractor").

**WITNESSETH:**

WHEREAS, Contractor has submitted to Owner a proposal (the "Proposal") for the installation of Improvements to the Westville Wastewater Treatment System or conservation measures at facilities owned by Owner and located in LaPorte County, Indiana (herein the "Facilities"), the specific details of such Proposal are outlined in the Exhibits attached to this Agreement; and

WHEREAS, Owner has accepted the terms of the Proposal, and the Owner and Contractor desire to enter into this Agreement in order to memorialize their respective agreements and undertakings with respect to the Project (as defined hereinafter).

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

1. Integration; Conflict; Agreement Conditional.

The parties hereby incorporate by reference the same as if fully set forth herein, the following documents and instruments, all of which together are herein referred to as the "Contract Documents":

- 2007 Version of EJCDC C-700 Standard General Conditions of the Construction Contract (the "General Conditions");
- Specifications, Drawings and Project Manual (the foregoing, collectively, the "Specifications and Drawings");
- Exhibit A Scope of Work;
- Exhibit B Proposal & Open Book Structure;
- Exhibit B-1 Contractor's Open Book Pricing Model & Proposal
- Exhibit C Performance Guarantee;
- Exhibit D Support Services; and

- Exhibit E Project Completion Schedule
- Exhibit F SRF and GPR Documents

The Contract Documents also shall include any permissible change orders issued pursuant to this Agreement and signed by an authorized representative of each of the Owner and Contractor.

In the event there is a conflict between the provisions of this Agreement and any other Contract Document, the provisions of this Agreement shall be controlling with respect to the subject matter hereof.

## 2. Scope of Project.

For purposes hereof, the term "Project" shall mean and include the installation of the conservation measures and related upgrades ("CM's" or "Conservation Measures") at the Owner's Facilities as described in Exhibit A.

The Contractor represents (i) that the Project constitutes the installation of "conservation measures" as defined in I.C. 36-1-12.5-1 *et seq.* (herein the "Act"), and (ii) that this Agreement is a "guaranteed savings contract" as defined in the Act. The Contractor further represents that it is a "qualified provider" of "conservation measures", as defined in the Act. The Contractor also represents that it has issued the report containing all data and information required by I.C. 36-1-12.5-6.

The Contractor further represents that the Project will result in future capital avoided cost savings in the total amount of \$10,816,900 during the twenty (20) year period following completion of the Project. The Contractor represents that such total savings in the amount of \$10,816,900 (herein the "Total Guaranteed Savings") exceeds the Owner's total cost of the Project. The Contractor hereby guarantees that it will reimburse the Owner for the difference between the Total Guaranteed Savings and the actual savings realized by virtue of the installation of the Conservation Measures. The Total Guaranteed Savings are identified on Tables 1 through 3 attached to this Agreement and Savings Calculation documents, also attached to this Agreement (all of the foregoing, collectively, the "Savings Documents"). The Savings Documents are hereby incorporated into and made a part of this Agreement by this reference. The parties stipulate and agree that the Total Guaranteed Savings shall be considered fully satisfied upon the substantial completion of the Project. The Total Guaranteed Savings will be realized over a period of twenty (20) years following final installation of the Project, which term of years the Contractor represents is less than the average life of the Conservation Measures. The term of this Agreement shall extend for twenty (20) years effective with the Owner's acceptance of all Conservation Measures.

## 3. General Obligations and Rights of Contractor.

Unless otherwise expressly provided herein or directed in writing by Owner, Contractor shall do all acts and provide all things necessary to perform and complete the Project properly, efficiently, in a good and workmanlike manner, and in compliance with all laws and regulations. Contractor shall apply for, secure, and obtain all necessary permits, fees, and licenses, which may be required in connection with the Project.

Contractor shall preserve and maintain, to the greatest extent possible and consistent with good engineering and design, the natural terrain and existing trees on the real estate, and shall remove only those trees necessary for the location of the Project and approved by Owner for removal.

Contractor shall commence the work immediately in accordance with the Contract Documents and shall diligently prosecute and complete the Project without interruption in accordance with the Project Completion Schedule attached hereto as **Exhibit E**, subject only to work stoppages or delays due to acts of God and other causes beyond control of Contractor and not the fault of Contractor. Time is of the essence of this Contract.

To the extent that Contractor has received all payments due from Owner, Contractor shall not permit any liens for labor, materials or equipment performed or furnished in connection with the Project to be filed against the Facilities or any real estate of Owner by any person, firm or corporation and Contractor shall indemnify, defend and hold Owner and the real estate harmless from and against any and all such other liens, claims, suits, liability or expense (including, without limitation, attorney's fees) resulting therefrom. Contractor further agrees that upon the completion of the performance of this Contract and receipt of payment from the Owner, the Facilities and all real estate of Owner shall be free and clear of any mechanic's and materialmen's liens, not only of the Contractor but also of any and all permitted subcontractors, suppliers, materialmen, laborers or permitted sub-subcontractors, who may furnish any labor, material, services, fixtures, apparatus, machinery, equipment, improvements, repairs or alterations in connection with, or to, the Facilities, in connection with the Project referred to in this Contract.

**3.1. Contractor's Representations.**

A. Correction of Work. Consistent with Article 13.07 of the General Conditions, if within one year after the date of substantial completion, any Work is found to be defective, or if the repair of any damages to the Project, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly and without cost to Owner, correct such defective work. Contractor's warranty, correction of work and guarantee hereunder excludes defects or damage caused by:

1. Abuse, modification, or improper maintenance or operation by persons other than Contractor, or its subcontractors, suppliers, or any other individual or entity for whom Contractor is responsible;
2. Design errors or omissions in Contract Documents prepared by parties other than the Contractor or those for whom the Contractor is responsible; or
3. Normal wear and tear under normal usage.

B. Pursuant to Indiana Code 5-22-16.5, Contractor hereby certifies that it does not engage in investment activities in Iran as more particularly described in Indiana Code 5-22-16.5.

C. E-Verify. Pursuant to I.C. § 22-5-1.7 et seq., as the same may be amended from time to time, and as is incorporated herein by this reference (the "Indiana E-Verify Law"), Contractor is required to enroll in and verify the work eligibility status of its newly-hired employees using the E-Verify program affirming that it is enrolled and participating in the E-verify program and does not knowingly employ unauthorized aliens. In support of the Affidavit, Contractor shall provide the Owner with documentation indicating that it has enrolled and is participating in the E-Verify program. Should Contractor subcontract for the performance of any work under and pursuant to this Agreement, it shall fully comply with the Indiana E-Verify Law as regards each such subcontractor. Should the Contractor or any subcontractor violate the Indiana E-Verify law, the Owner may require a cure of such violation and thereafter, if no timely cure is performed, terminate this Agreement in accordance with either the provisions hereof or those set forth in the Indiana E-Verify Law. The requirements of this paragraph shall not apply should the E-Verify program cease to exist.

D. Debarment and Suspension.

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

2. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the Owner if any subcontractor becomes debarred or suspended, and shall, at the Owner's request, take all steps required by the Owner to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

### 3.2. Approvals.

Upon completion of the Project, the Contractor shall obtain approval of the installation of the Conservation Measures constituting the Project from the Indiana Department of Health, the Office of the State Fire Marshal, the Office of the State Building Commissioner, and any other State agency designated by the Act or any other State statute or regulation. The installation of the Conservation Measures constituted in the Project also shall be approved by an architect or engineer licensed under I.C. 25-4 or I.C. 25-31, such approval to be obtained at the expense of the



Contractor. The receipt of all such approvals (together collectively, the "Approvals") shall constitute a condition precedent to the Contractor's entitlement to receive the final payment.

### **3.3. Indemnification.**

Contractor shall indemnify and hold harmless the Owner, its agents, employees and representatives, and their respective successors and assigns, and any assignee of the Contractor (all of the foregoing, collectively, the "Owner Indemnified Parties") against all liability and loss as a result of negligence or misconduct in connection with the Project by Contractor, its permitted subcontractors, or the agents, employees, or representatives of Contractor or its permitted subcontractor(s), including any injury or death sustained by or any damage to the property of any person; provided however, that Contractor shall not be responsible for any injury or death, damage, or loss, including reasonable attorneys' fees and costs or other disbursements, to the extent caused by the negligence of any Owner Indemnified Parties, nor shall Contractor be held responsible to the extent of any concurrent or contributory negligence of any Owner Indemnified Parties or non-party.

Owner shall indemnify, defend and hold harmless Contractor, and the officers, shareholders, directors, and employees of the Contractor (herein the "Contractor Indemnified Parties") against all liability and loss as a result of the negligence or misconduct in connection with the Project by Owner and agents, employees or representatives of Owner, including any injury (including death) sustained by or any damage to the property of, any person; provided, however, that Owner shall not be responsible for any injury (including death), damage or loss (including reasonable attorney's fees and disbursements) to the extent caused by the negligence of any Contractor Indemnified Parties, nor shall Owner be held responsible to the extent of any concurrent or contributory negligence of any Contractor Indemnified Parties.

### **3.4. Bonds.**

If required by the Owner and before commencing the performance of this Agreement, the Contractor shall execute for the benefit of Owner, a good and sufficient Performance Bond and Payment Bond, in form acceptable to Owner and consistent with Article 5 of the General Conditions. Each bond shall be in an amount equal to the total GMP (as defined below in Section 5 of this Agreement), and the provisions of I.C. 36-1-12-13.1 and I.C. 36-1-12-14, if applicable to this Project, shall become a part of the terms of such bonds.

Notwithstanding any other provision of this Agreement or the bonds, in no event and in no manner shall coverage under the Performance Bond and Payment Bond extend to Contractor's guaranty obligations set forth in Exhibit C Performance Guarantee, or any related provisions.

### **3.5. Limitation of Liability.**

Except for insured claims arising or resulting from bodily injury, death or damage to real or personal property, the total liability of Contractor party to the other on all claims, whether in contract, warranty, tort, strict liability, or otherwise, arising out of the performance of this Agreement, shall not exceed the Contract Price. EXCEPT FOR THE WILLFUL MISCONDUCT OR RECKLESSNESS OF A PARTY, OR FOR ANY LOSSES COVERED UNDER AN INSURED CLAIM FOR BODILY INJURY, DEATH OR DAMAGE TO REAL OR PERSONAL

PROPERTY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, CONSEQUENTIAL, SPECIAL, SPECULATIVE, PUNITIVE, OR REMOTE DAMAGES.

**3.6. Insurance.**

**3.6.1. Obtaining Proper Insurance.**

Contractor shall not commence performance hereunder until (i) it has obtained and Owner has approved all insurance coverage required by this Section 3.6 and consistent with Article 5 of the General Conditions; and (ii) Owner has been furnished with a certificate of insurance properly evidencing and confirming that (a) Owner is an additional named insured, and (b) such insurance coverage is in effect and will not be canceled or materially altered without thirty (30) calendar days prior written notice to Owner. All insurance provided by Contractor hereunder shall provide for a waiver of subrogation against Owner. In the event that permitted subcontractors are not covered by the Contractor's policies of insurance, each permitted subcontractor shall secure policies of insurance, which meet the requirements of this Section 3.6.

**3.6.2. Amount of Insurance.**

Contractor shall take out and maintain, at its sole cost and expense, the following insurance coverage during the term of this Agreement and all other times during which Contractor, its employees, agents, or subcontractors shall be present at the Facilities, whether performing or correcting any portion of the Project. Owner shall be named as an Additional Insured and be given a 30 day notice of cancellation, non-renewal or significant change of coverage. Contractor insurance shall be written on a "primary and non-contributory" basis.

**a. Worker's Compensation, Employer's Liability, and Occupational Disease Insurance.**

Statutorily required worker's compensation insurance, including employer's liability and occupational disease coverage, to the extent provided by the Worker's Compensation Act and the Occupational Disease Act of the State of Indiana, on all of Contractor's employees engaged in the Project and shall include a Waiver of Subrogation endorsement in favor of the Owner;

**b. General Liability.**

Commercial general liability insurance (including contractual, independent contractors, explosion, and product/completed operations (for at least two (2) years following completion) coverages) against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than One Million Dollars (\$1,000,000.00) in one occurrence, and to the limit of not less than Two Million Dollars (\$2,000,000.00) annual aggregate;

**c. Automobile Liability.**

Automobile liability insurance against damage because of bodily injury, including death, or damage to property of others as the result of the operation of any automobile, with such

insurance to afford protection to the limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for any one person, not less than One Million Dollars (\$1,000,000.00) in respect to any one accident, and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage.

**d. Excess Liability**

Excess or umbrella liability insurance with limits of not less than Five Million Dollars (\$5,000,000.00) per project or location aggregate (these limits apply in excess of each of the above-mentioned policies).

**3.6.3 Builder's Risk Insurance.**

Contractor shall provide Builder's Risk Insurance for the benefit of Owner, Contractor, Engineer, Engineer's Subconsultants, any and all of the permitted subcontractors as their interest may appear, and for the benefit of all parties furnishing financing to the Owner for construction to be done hereunder, all of the same to be named insureds on the said Builder's Risk policy. The perils covered shall include fire and extended coverage, plus other perils (including theft, vandalism and malicious mischief) which extend coverages to the broadest form of "all risk" coverage. This "all risk" coverage shall be in the amount of 100% of the completed insurable value of the Project. Proceeds of such Builder's Risk Insurance shall be payable to Contractor, as trustee for all interested parties, and Contractor shall adjust all losses and claims with the insurer, subject, however, to the rights of any mortgagee. Such coverage shall insure items of labor and materials connected with the Project, whether in or adjacent to the Facilities insured, materials in place or to be used as part of the permanent construction, including surplus materials, shanties, protective fences, bridges, temporary structures, miscellaneous materials and supplies incident to the work, and such scaffolding, stagings, towers, forms and equipment as are not owned or rented by Contractor, the cost of which is included in the cost of the work.

**4. Building Insurance.**

The Owner's fire and extended coverage insurance now in effect on the Facilities will cover the Owner's interest or equity in the Project; however, it will not cover the equity or interest of the Contractor nor of its materials and/or equipment at the Facilities. The coverage of the Contractor's equity and/or interest, as above, shall be the responsibility of the Contractor.

**4.1. Title.**

Title to all Conservation Measures shall vest with the Owner upon substantial completion and payment to the Contractor. Such title shall continue to be subject to the provisions of this Agreement. It is the intent of all parties that any transfer of title to Owner pursuant to this Agreement shall occur automatically without the necessity of any bill of sale, certificate of title, or other instrument of conveyance.

The Owner shall be responsible for operating, maintaining, and insuring all Conservation Measures that are installed, except as otherwise set forth in Agreement, from and after the date of substantial completion.

5. Cost and Payments.

5.1. Cost.

In consideration of Contractor's performance of the work necessary for the completion of the Project, Owner shall pay the Construction Costs, Contractors Fee, Construction Contingency and Allowances as detailed and further described in Exhibit B and Exhibit B-1 (herein the "Contract Price). It is, however, recognized and agreed that the Contract Price is subject to the guaranteed maximum price set forth in Exhibit B-1 ("GMP"). Any cost and expense for the installation of the Project in excess of the GMP shall be and remain the sole and exclusive liability and obligation of Contractor, unless such additional cost results from the issuance of a Change Order by Owner that is approved by Contractor and signed by an authorized representative of Contractor and Owner.

By executing this Contract, Contractor represents that it has taken steps reasonably necessary to ascertain the nature and location of the Project, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Project or its costs, and has included provision for all such conditions in the GMP, including but not limited to: (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, or similar physical conditions at the Site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during performance of the Project. Contractor also represents that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Facilities, including all exploratory work done by Owner and made a part of this Contract, as well as from the specifications made a part of this Contract. Failure by Contractor to take the actions described and acknowledged in this paragraph will not relieve Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the Project.

Prior to substantial completion, the Owner may retain 10 percent of the amount of each payment for the work completed. If the work has been 50 percent completed as determined by Engineer, and if the quality and progress of the work have been satisfactory to Owner and Engineer and in accordance with the Contract Documents, Owner, on recommendation of Engineer, may determine that as long as the quality and progress of the work remain satisfactory to them and in accordance with the Contract Documents, there will be no additional retainage; and 50 percent of cost of materials and equipment not incorporated in the work (with the balance being retainage). Upon substantial completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the work completed, less such amounts as Owner is entitled to withhold under this Contract and less 200 percent of Engineer's estimate of the value of work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of substantial completion.

Owner shall make progress payments on account of the Contract Price on the basis of Contractor's applications for payment on or about the 15<sup>th</sup> day of each month during performance of the Project. All such payments will be measured by the schedule of values.

Contractor shall include in each permitted subcontract a limitation on the markup that Subcontractors can include in approved Change Orders. The cumulative total of markup (subcontractor markup plus all lower-tier subcontractor markups) shall not exceed fifteen percent (15%) of the cost of any approved Change Order. As Contractor's markup is accounted for in the fixed fee, there will be no additional Contractor's markup for changes in scope associated with Owner approved work that expends project savings.

6. Independent Contractor.

It is understood and agreed by the parties hereto that Contractor shall perform the Project according to its own means and methods and shall for all purposes be an independent contractor. All persons employed by Contractor in connection with the Project shall be subject only to its orders and supervision, and shall be paid directly by Contractor. Neither Owner nor its agents, servants, or employees shall have the right to direct, supervise, or control the manner or method in which Contractor or its subcontractors perform the Project, except as otherwise expressly provided herein; provided, however, Owner shall have the right to inspect the Project at any time for the purpose of determining whether the Project is being carried out in conformity with the Contract Documents.

7. Document Retention.

Contractor shall retain in its records copies of all plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, accounting records, documents reflecting the unit price of construction and other writings or things which document the Project, its design, and its construction. Contractor shall maintain substantiating records for seven (7) years after the date of final payment or for any longer period of time as may be required by law or good construction practice. Contractor shall promptly make such construction records available for inspection by Owner upon request during such retention period. Cost of Work information will be provided to the Owner upon request provided that documents related to fee and rates are not subject to audit or review by the Owner. If Contractor receives a notification of dispute or the commencement of litigation regarding the Project within this seven (7) year period, Contractor shall continue to maintain all Project records until final resolution of the dispute or litigation.

8. Termination for Failure to Perform; Rights Thereunder.

The Contractor shall use all due diligence in an effort to complete the entire work required by this Contract in accordance with the project schedule. Should the Contractor at any time refuse or neglect to supply a sufficiency of properly skilled workmen or materials of the proper quality, or fail to prosecute the work with promptness and diligence, the Owner may, after fourteen (14) days written notice to the Contractor and Contractor's failure to remedy the problem within that time period, to provide any such labor or materials and to deduct the costs thereof from any money then due or thereafter to become due to the Contractor under the Contract, and the Owner shall also be at liberty to terminate this Agreement with the Contractor for the Project and to enter upon the Project and take possession for the purpose of completing the work to be done under this Contract, to use all materials of the Contractor available for such work, and to employ any other person or persons to finish the work and to provide such additional materials therefore as may be

necessary; and in case of such discontinuance of the employment of the Contractor, the Contractor shall not be entitled to receive any further payment under this Contract until the said work shall be wholly finished, at which time if the unpaid balance of the amount to be paid under the Contract shall exceed the expense incurred by the Owner in finishing the work, such excess shall be paid by the Owner to the Contractor, but if such expense shall exceed such unpaid balance, the Contractor shall pay the balance to the Owner. The expenses incurred by the Owner as herein provided, either for the furnishing of materials or for finishing the work, and any damage incurred through such fault of the Contractor shall be substantiated by the Owner for payment by the Contractor.

9. Extension of Time for Completion of Project.

Should the Contractor be obstructed or delayed in the prosecution or completion of the Project by the act, negligence, delay, or default of the Owner or by any other damage or act beyond the reasonable control of Contractor or any subcontractor, then the time herein fixed for the completion of the work shall be extended for a period equivalent to the time lost by reason of any or all of the causes aforesaid, but no such allowance shall be made unless a claim therefore is presented in writing to the Owner within five (5) business days of the occurrence of such delay. Contractor's nonperformance of its obligations under this Contract will be excused (or, if practicable, the time period within which Contractor may perform an obligation shall be extended) if and solely to the extent: (i) Contractor's failure to perform, or failure to timely perform, an obligation results from Owner's failure to perform or failure to timely perform its responsibilities, (ii) Contractor provides Owner with prompt and reasonable notice of Owner's nonperformance, and (iii) Contractor uses commercially reasonable efforts to perform its duties notwithstanding Owner's failure to perform.

10. No Acceptance of Defective Work.

No certificate given or payment made under this Contract, except the final certificate and final payment thereon, shall be conclusive evidence of the performance of this Contract either wholly or in part; provided, that no payment or certificate, including, without limitation, the final payment and certificate, shall be construed to be an acceptance of defective work, improper materials or unauthorized substitutions.

11. Contractor to Furnish Required Statements.

The Contractor shall, at no additional cost, provide all statements, affidavits, waivers, and other instruments required by state or federal law or regulation (including, without limitation, the Act) or by local ordinances or rules, at such times and in the form required by said laws, regulations, ordinances, or rules, and the Contractor hereby acknowledges receipt of notice from the Owner to furnish same.

12. Nondiscrimination in Hiring Employees.

The Contractor, as required by I.C. 5-16-6-1 *et seq.* and I.C. 22-9-1-10, shall comply with the following:

A. The Contractor, any subcontractor, any supplier or any sub-supplier of a party to this Contract shall not discriminate against any employee or applicant for employment to be employed in the performance of this Contract with respect to his or her hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of his race, color, religion, sex, disability, national origin, or ancestry. Breach of this provision may be regarded as a material breach of this Contract.

B. This Contract involves the construction, alteration, or repair of a public building or public work, therefore the Contractor further agrees:

(1) That in the hiring of employees for the performance of work under this Contract or any subcontract hereunder, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not, by reason of race, religion, color, sex, national origin, or ancestry, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;

(2) That the Contractor, a subcontractor, or any person on his or their behalf shall not, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, religion, color, sex, national origin, or ancestry;

C. The Contractor or any subcontractor of the Contractor shall be required to pay for each class of work on such project a scale of wages which shall be consistent with Davis-Bacon wage as described in Exhibit F. That as part of this Contract, there is incorporated by reference herein the prevailing scale of wages pursuant to I.C. 5-16-7-1 *et seq.* See additional provisions of Attachment B, Attachment C and Attachment E as described in Exhibit F.

### 13. Miscellaneous Provisions.

#### 13.1. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

#### 13.2. Notices.

Unless otherwise specifically provided herein, any notice, consent, request, demand, report or statement (herein "Notice"), which is required or permitted to be given to or served upon either party hereto by the other party hereto under any of the provisions of this Agreement shall be in writing and deemed to be duly delivered when (i) personally delivered to the addressee, in the case of a Notice to be given to Contractor, or personally delivered to the addressee in the case of a Notice to be given to Owner, or (ii) upon the earlier of actual receipt or refusal of delivery when sent via traceable overnight courier (e.g., FedEx) or when sent in the United States mail, registered or certified, postage prepaid, and properly addressed as follows:

If to Owner: Michael Albert, Town Board President  
Town of Westville  
100 Sester Drive  
Westville, IN 46391

If to Contractor: John Dettman, Vice President  
Bowen Engineering Corporation  
8802 N. Meridian Street  
Indianapolis, IN 46260

With Copy to: General Counsel

### 13.3. Assignment.

Without Owner's prior written consent, Contractor shall not, and will not, assign, transfer, pledge, hypothecate, or grant any security interest in, or otherwise dispose of, this Agreement, or any portion of this Agreement.

Contractor, without the consent of the Owner, may assign its right to receive payment hereunder in whole or in part to various assignees, their agents or trustees (each and any one hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide that Contractor or the Assignee shall act as a collection and paying agent for holders of certificates of participation in this Agreement, or may provide that a third party trustee or agent shall act as a collection and paying agent for any Assignee, provided Owner receives written notification of the name and address of the trustee or the agent and a copy of the pooling and fractionalization agency or trustee agreement, if any such Assignee shall have all or a part of the assigned rights of Contractor under this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of and is binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto. Any assignment or reassignment of any of Contractor's right to receive payment hereunder shall be effective upon receipt by Owner of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such Assignee, and where applicable, to whom further payments hereunder should be made. Owner agrees to acknowledge, in writing, any assignments if so requested.

Owner agrees that, upon notice of assignment of payment rights, if so instructed, it shall pay directly to the Assignee, or its Trustee or Agent without abatement, deduction or setoff (except as permitted by this Agreement), all amounts, which become due hereunder.

Contractor does hereby assign to Owner, to the greatest extent permitted by law, all warranties of any manufacture of supplies, equipment, and all other materials used in the



performance of the Project. Contractor agrees to use reasonable efforts to assist Owner in seeking any redress under any such warranties.

**13.4. Nonwaivers and Defaults.**

The failure of either party hereto to insist upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provision or the relinquishment of any such rights. Except as otherwise expressly provided herein, no default by either party hereto in the performance of any of its covenants or obligations hereunder, which except for this provision would be the legal basis for the rescission or termination hereof by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the same within fifteen (15) calendar days after written notice thereof is given to such defaulting party by the other party hereto.

**13.5. Remedies Cumulative.**

Each remedy provided for by the Contract shall be cumulative and in addition to every other remedy provided for herein, by law or in equity.

Upon the occurrence of a default, either party, or its assignee, may, at its option, exercise any right, remedy, or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Agreement, (ii) recover damages for breach of this Agreement. Notwithstanding the exercise of any right, remedy or privilege, the parties shall remain liable for all covenants and indemnities under this Agreement, and for all legal fees and other costs and expenses, including court costs, incurred with respect to the enforcement of any of the remedies listed above or any other remedy available to either party to this Agreement.

Except as otherwise provided in this Contract, in the event of a claim, controversy or dispute between Owner and Contractor, the performance of any portion of the Project, the delivery of any materials, the payment of disputed monies or otherwise (the parties acknowledging that undisputed monies will be paid when due), Owner and Contractor agree that pending the resolution of such claim, controversy or dispute, Owner and Contractor shall continue to perform their respective obligations under this Contract without interruptions or delay, and Contractor agrees not to directly or indirectly stop or delay the performance of the Project, including the delivery of materials to the Project.

**13.6. Amendments.**

No amendment, supplement, or modification hereof shall be effective for any purpose unless the same is in writing and signed by both parties hereto, and the Contractor's assignee, if any.

**13.7. Headings.**

The headings of sections and subsections of this Agreement are for convenience of reference only and shall not constitute, affect the meaning, construction, or effect of, any provision hereof.

13.8. Entire Agreement.

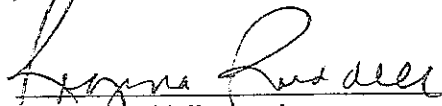
This Agreement, together with the Contract Documents, represents the entire agreement between the parties hereto and supersedes all prior negotiations, representations and agreements whether written or oral. To the extent of any conflict between this Agreement and its Exhibits and the Specifications and Drawings, and General Conditions, the terms and conditions of this Agreement shall prevail and supersede solely to the extent of any such conflict.

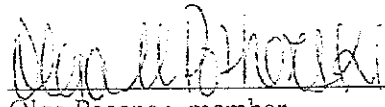
Authority to Execute Contract. This Contract is executed for Town of Westville, Indiana pursuant to a resolution of its Board, duly adopted at its regular meeting duly called and held on 8-3-2021.

  
\_\_\_\_\_  
Michael Albert, Board President

\_\_\_\_\_  
Tom Fath, Vice-President

  
\_\_\_\_\_  
James Bechinske, member

  
\_\_\_\_\_  
Regina Ruddell, member

  
\_\_\_\_\_  
Olga Pecanac, member

ATTEST:

  
\_\_\_\_\_  
Lori Mercer, Clerk Treasurer

Date: 8-3-2021

BOWEN ENGINEERING CORPORATION

By: John W. Dettman

Printed: John Dettman

Its: Vice President

ATTEST:

By: ROSE M. FISHER  
Its: Secretary

## EXHIBIT A

### SCOPE OF WORK

Projects will be completed in accordance with the Contract Documents. In recognition of the mutual benefits of the design assist process, it is an expectation that the details of the scope of work will change as key design decisions are made with related Project savings or changes documented by a Scope Modification Agreement.

#### **Project: Westville WWTP System Improvements (Phase 2)**

The proposal is based upon:

- McMahon project plans provided on 6/4/21
- Yard piping sketch provide by McMahon
- Scope of work below

#### **Scope of Work:**

##### Headworks:

1. Remove existing handrail, aerators, ladder, electrical components from existing equalization basin
2. Remove existing influent pump station pumps, motors, piping, and hood.
3. Remove top portion of influent pump station wet well to below grade and fill wet well with stone.
4. Remove portion of existing equalization tank slab for installation of a new slab for influent wet well.
5. Furnish and install cast in place concrete for new screening, grit removal, and influent pump wet well.
6. Furnish and install reinforcing steel for cast in place concrete. Rebar is based on 225 lbs/cy
7. Install granular material for construction of new cast in place slabs.
8. Furnish and install new precast concrete planks over wet well.
9. Furnish and install new precast concrete planks over new screening building
10. Furnish and install new grating and stairs for access to screening and grit channels
11. Furnish and install new tapered insulation roof with .060 EPDM roof system with gutters and downspout
12. Provide and install one (1) 3'-0" x 7'-0" FRP door and hardware
13. Provide and install one (1) 6'-0" x 7'-0" FRP door and hardware
14. Provide and install one (1) 10'-0" x 12'-0" sectional overhead door
15. Provide and install painting of new process piping
16. Provide and install necessary signage and fire extinguishers
17. Provide and install new influent screen and compactor
18. Provide and install new grit collection equipment, pump, washer, and conveyor
19. Provide and install three (3) influent submersible pumps
20. Provide and install new FRP Stop Gates
21. Provide and install HVAC equipment and Plumbing
22. Provide and install new ductile iron process piping for influent pump discharge and grit pump discharge to grit washer
23. Provide and install instrumentation and controls
24. Provide and install electrical

### Oxidation Ditch

1. Provide and install new steel sheeting along the south property line to allow for excavation of the new cast in place concrete channel
2. Excavate for new concrete channel and remove existing concrete blocks utilized for formwork and excavation support from original construction of oxidation ditch and backfill with excavated soils and granular material under existing plant road
3. Remove existing stairs from North Side of oxidation ditch
4. Furnish and install cast in place concrete for the construction of the new oxidation ditch channel slab and walls.
5. Furnish and install reinforcing steel for cast in place concrete. Rebar is based on 225 lbs/cy
6. Furnish and install new walkways and reinstall stairs for access to existing aerators and influent and effluent boxes
7. Furnish and install three (3) weir gates at influent and effluent boxes
8. Furnish and install four (4) new aerators and blowers
9. Furnish and install six (6) new slide assemblies for existing aeration equipment
10. Remove and reinstall six (6) existing blowers to the exterior north wall of new channel
11. Provide and install instrumentation and controls
12. Provide and install electrical

### Clarifier and Splitter Boxes

1. Provide and install new steel sheeting along the west property line to allow for excavation of the new cast in place concrete clarifier, influent splitter box, and effluent splitter box
2. Excavate for new concrete clarifier and backfill with excavated materials
3. Furnish and install cast in place concrete for the construction of the new concrete clarifier, clarifier influent splitter box, and clarifier effluent splitter box
4. Furnish and install reinforcing steel for cast in place concrete. Rebar is based on 225 lbs/cy
5. Furnish and install new clarifier mechanism, bridge, weirs and baffles
6. Furnish and install new weir gate at new influent splitter box
7. Provide and install instrumentation and controls
8. Provide and install electrical

### RAS Scum Pumps

1. Furnish and install two (2) RAS pumps in existing headworks building
2. Furnish and install one (1) Scum pump in existing headworks building
3. Provide and install process piping
4. Provide and install instrumentation and controls
5. Provide and install electrical

### UV Disinfection

1. Remove existing bar screen, screw conveyor, fine screen, and associated piping after the construction of the new headworks from the existing headworks building
2. Remove and reinstall existing handrail, grating, and stairs to allow for construction of the new UV channel
3. Furnish and install cast in place concrete for the construction of the new UV channel. UV channel is based on the duplication of the existing UV channel
4. Furnish and install new grating and handrail to allow for similar access to new UV as existing
5. Furnish and install new UV equipment

6. Furnish and install new process piping to allow for flow from the new effluent splitter box to both the UV channels
7. Furnish and install new 16" effluent line from new UV channel to existing Reaeration tank

#### Yard Piping

1. Furnish and install new 18" influent sewer from manhole "M" to a new manhole #1
2. Furnish and install new 18" influent sewer form manhole "M" to new manhole #2
3. Furnish and install new 18" influent sewer form new manhole #1 to new manhole #2
4. Furnish and install new 24" influent sewer from new manhole #2 to new screen channel
5. Furnish and install new 16" effluent line from new UV structure to existing reaeration tank
6. Furnish and install new 16" effluent line from reaeration tank to new manhole #3
7. Furnish and install new 16" effluent line from new manhole #3 to creek
8. Furnish and install new precast headwall on 16" effluent line at discharge location
9. Install new bore under State Road 2 for installation of the new 16" effluent line
10. Furnish and install new 12" influent pump discharge to oxidation ditch
11. Furnish and install new 10" RAS discharge to oxidation ditch
12. Furnish and install new 20" oxidation effluent to new clarifier splitter box
13. Furnish and install new 16" clarifier influent to new clarifier from new clarifier splitter box
14. Furnish and install new 16" clarifier effluent to new clarifier effluent junction box
15. Furnish and install new 24" clarifier effluent from clarifier junction box to UV channels
16. Furnish and install new 8" RAS from clarifier to new RAS pumps in existing headworks building
17. Furnish and install new 6" SCUM from clarifier to SCUM pump in existing headworks building

#### Solids Handling

1. Furnish and install two (2) HDPE double wall chemical storage tanks
2. Furnish and install two (2) chemical unloading panels
3. Furnish and install two (2) chemical metering pump assemblies
4. Furnish and install new chlorine dioxide generator
5. Furnish and install new Clean B Contact Coil
6. Furnish and install new Clean B Controls and analyzers
7. Provide first chemical fill of chemical tanks
8. Provide and install process piping
9. Provide and install instrumentation and controls
10. Provide and install electrical

#### **Proposal Clarifications:**

1. Proposal includes an \$225,000 allowance for purchase of influent screen and compactor
2. Proposal includes an \$262,000 allowance for purchase of grit removal equipment and grit washer/conveyor
3. Proposal includes an \$175,000 allowance for purchase of influent pumps
4. Proposal includes an \$275,000 allowance for purchase of new oxidation ditch aerators and blowers
5. Proposal includes an \$90,000 allowance for purchase of slides for modification to existing aerators at oxidation ditch
6. Proposal includes an \$175,000 allowance for purchase of clarifier mechanism, weirs, and baffles
7. Proposal includes an \$55,000 allowance for purchase of RAS and Scum Pumps
8. Proposal includes an \$75,000 allowance for purchase of UV equipment
9. Proposal includes an \$650,000 allowance for purchase of sludge conditioning equipment

10. Proposal includes an \$5,000 allowance for purchase of chemicals for first fill of chemical storage tanks for sludge conditioning process
11. Proposal includes an \$20,000 allowance for purchase of FRP stop plates and frames
12. Proposal includes an \$40,000 allowance for purchase of weir gates
13. Proposal includes an \$40,000 allowance for purchase of weir gates
14. Proposal includes an \$125,000 allowance for HVAC and plumbing work at new headworks
15. Proposal includes an \$800,000 allowance for electrical work
16. Proposal includes an \$200,000 allowance for instrumentation and controls

EXHIBIT B  
PROPOSAL & OPEN BOOK STRUCTURE

This is a "Cost Plus a Fixed Fee" proposal with a "Guaranteed Maximum Price" or "GMP". Exhibit B-1 is hereby incorporated by reference into, and made a part of, this Exhibit B. In exchange for payment by the Owner to Contractor, Contractor shall complete, without exception, and shall furnish required process know-how, labor, supervision, materials, tools, equipment, transportation, permits, and incidentals to accomplish the Project, including, without limitation, the following:

- B-1. Construction Costs: The following project specific personnel costs including, but not limited to, Operations Manager, Project Manager, Project Engineer, Project Coordinator, Safety Manager, Corporate Safety Director (site visits only), General Superintendent (site visits only), Project Field Superintendent, Project Quality Manager (site visits only), Project Field Engineer are all eligible personnel. In addition the following project cost including, but not limited to, project materials, consumable materials, subcontracted work, heavy equipment usage, mobilization & demobilization costs, office/tool trailers, initial site surveying, rental charges, taxes, permits, fees, licenses, tests, construction laydown/parking area requirements, water, power, fuel, medium tools, dumpsters, drinking water, drawing/specification, reproductions, insurance costs, on-site phones, faxes, computers, printers, losses, expenses, costs, fees and damages not compensated by insurance, dispute resolution fees and costs other than those arising from disputes between the Parties, subsistence and other travel expenses, sanitary facilities and utility consumption charges are all eligible for reimbursement and all other costs directly incurred by Contractor in connection with the Work. Contractor shall provide a labor rate exhibit for personnel costs. Mobilization & demobilization is limited to 5% of construction cost on the schedule of values and the full amount will be billed in the first payment of application.
- B-2. Fixed Contractor Fee: Contractor's fee for overhead and profit. The Contractor Fee will appear as a line item on the schedule of values and will progress on a percentage basis of project completion.
- B-3. Contractor's Contingency: The Contractor's GMP Proposal contains, as part of the estimated Cost of the Project, the Contractor's Contingency, a sum agreed upon to cover costs which are properly reimbursable as a Cost of the Project, whether or not such cost is the basis for a Change Order. The Contractor shall regularly (no less than on a monthly basis during the term of this Agreement) provide the Owner with an accounting of all charges against the Contractor's Contingency.
- B-4. Allowances: The Contractor GMP may contain allowances to cover costs that are properly reimbursable as a Cost of the Project. To the extent the actual Costs of the Work incurred by the Contractor to complete an Allowance Item is more or less than the applicable Allowance Amount, that Allowance Amount shall be adjusted (either increased or decreased) to correspond to the actual Cost of the Work incurred for that



Allowance Amount and the GMP shall be increased or decreased (as appropriate) by the same amount.

- B-5. Final Report, Project Savings: At the time of Final Completion, the Contractor shall provide a Final Contract Price Report with an invoice to the Owner that includes the cost of Project to date. If at such time the Final Contract Price is less than the Guaranteed Maximum Price referenced in Exhibit B-1, then the Owner shall keep 100% of the savings. Reports, referred to as buy sheets, will be given to the Owner by the Contractor monthly or bimonthly during construction documenting savings or losses.

*Exhibit B-1*  
CONTRACTOR'S OPEN BOOK PRICING MODEL & PROPOSAL

Project: Westville WWTP System Improvements (Phase 2)

The Project Price Is Composed of The Following Breakdown:

Westville WWTP Improvements	\$8,721,506
Construction Contingency:	\$734,425
Provider/Contractor Fixed Fee:	<u>\$756,355</u>
<b>GUARANTEED MAXIMUM PRICE:</b>	<b>\$10,212,286</b>

## EXHIBIT C

### PERFORMANCE GUARANTEE

#### SAVINGS GUARANTEE

The Contractor guarantees that the program described in the Guaranteed Savings Contract (the "Agreement") to which this Performance Guarantee is attached as Exhibit C will recover a total of \$10,816,900 in savings during the first twenty (20) years of operation, beginning on the first day of the month following substantial completion by the Owner regarding the installation of the equipment provided under the Agreement.

If, at the end of any year during the guarantee period, the program has failed to achieve the annual guarantee of savings, the Contractor will pay the Owner the difference between the annual guarantee and the actual savings amount.

Savings that are achieved by the upgrades and the modifications in the Agreement prior to completion of the entire retrofit project (construction period savings) will be added to the first year actual annual savings amount.

The Contractor and the Owner also agree that if the actual annual savings amount exceeds the annual guarantee amount, such excess savings amounts will be added to the savings for any future year before calculating the savings amount.

This guarantee, whether or not exercised, is the Contractor's sole liability with respect to any claim of savings.

#### METHODOLOGY

The savings are calculated using Microsoft Excel spreadsheets. All assumptions, variables, and equations are shown on each page. The total annual savings, including, operational savings, are stipulated between the Owner and the Contractor in the Agreement. Stipulated savings are savings that are agreed to be satisfied throughout the term of this performance guarantee. Any changes to the operation of the equipment or systems can be accounted for through calculation and the annual savings adjusted accordingly. The Tables below summarize the guaranteed annual savings from the calculations. This saving guarantee is dependent upon these conditions being met.

Any shortfall payments between the Owner and the Contractor will be made within 90 days of the end of each annual period.

Table 1: Annual Savings Summary

ECM	Description	Future Capital Avoided Cost Savings	Total Annual Savings
1	Westville Wastewater System Improvements (Phase 2)	\$ 540,845	\$ 540,845

Table 2: Annual Guaranteed Savings by Year of Contract

Contract Year	Annual Savings (\$)
1	\$ 540,845
2	\$ 540,845
3	\$ 540,845
4	\$ 540,845
5	\$ 540,845
6	\$ 540,845
7	\$ 540,845
8	\$ 540,845
9	\$ 540,845
10	\$ 540,845
11	\$ 540,845
12	\$ 540,845
13	\$ 540,845
14	\$ 540,845
15	\$ 540,845
16	\$ 540,845
17	\$ 540,845
18	\$ 540,845
19	\$ 540,845
20	\$ 540,845
Total	\$ 10,816,900

Table 3: Savings

Project: Westville, IN DOC Replacement Project - Phase 2 (Lift station/Forcemain & WWTP Improvements)

Prepared By: Bowen Engineering Corp.

ID	Description	NS Means Cost Data	QTY	Unit	S/Unit	Value	% Replaced	Project Cost
				object	\$ 884,824.80	884,825	100%	\$ 924,825
				object	\$ 1,460,882.54	1,460,883	100%	1,460,883
				object	\$ 301,937.80	301,938	100%	301,938
				object	\$ 2,742,474.00	2,742,474	100%	2,742,474
				object	\$ 1,499,290.10	1,499,290	100%	1,499,290
				object	\$ 1,000,000.00	1,000,000	100%	1,000,000
					\$ 8,057,408	8,057,408		8,057,408
					\$ 8,057,408	8,057,408		8,057,408
	Finance Bond				2.50%	101,052.61		101,053
	Insurance			Project	1.25%	308,720.29		308,741
	Water			Project	10.00%			
<b>TOTAL PROJECT COST=</b>								<b>\$ 10,816,909</b>

Annualized Savings = \$540,845.47  
 Given Term = 20 years

Notes:

- All data based on NS Means 2020 Building Construction Data Handbook and Historical Data\*
- Value = Qty x S/Unit
- Term = life of the contract
- % Replaced = amount of system to be replaced through this project
- \*Historical Data was not used due to the nature of the project.

EXHIBIT D

SUPPORT SERVICES

ANNUAL AUDITS

As part of the Guarantee, Bowen Engineering Corporation agrees to complete the annual report to be filed with the Department of Local Government Finance (see example on this page).



STATE OF NEW JERSEY DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Agency Name	Agency Address	Agency Telephone	Agency Fax	Agency E-mail
Bowen Engineering Corporation	2001 University Avenue Princeton, NJ 08542	609-953-1234	609-953-1234	bowen@boweneng.com
City of Princeton	1000 Walnut Street Princeton, NJ 08542	609-953-1234	609-953-1234	princeton@princetonnj.gov

Agency Name	Agency Address	Agency Telephone	Agency Fax	Agency E-mail
City of Princeton	1000 Walnut Street Princeton, NJ 08542	609-953-1234	609-953-1234	princeton@princetonnj.gov
County of Mercer	500 North Broad Street Princeton, NJ 08542	609-953-1234	609-953-1234	mercer@mercercounty.org

This report was prepared by Bowen Engineering Corporation for the City of Princeton, County of Mercer, and the State of New Jersey. It is not intended to be used for any other purpose.

The report was prepared in accordance with the requirements of the State of New Jersey Department of Local Government Finance. It is not intended to be used for any other purpose.

Prepared by Bowen Engineering Corporation, 2001 University Avenue, Princeton, NJ 08542. Telephone: 609-953-1234. Fax: 609-953-1234. E-mail: bowen@boweneng.com

Printed on 100% recycled paper. The report is not intended to be used for any other purpose.

EXHIBIT E

PROJECT COMPLETION SCHEDULE

Substantial Completion	18 months after Notice to Proceed
Define Punch List Items	after Substantial Completion
Final Project Completion	60 days after Substantial Completion

EXHIBIT F

INDIANA STATE REVOLVING FUND (SRF)

GREEN PROJECT RESERVE (GPR)

**FRONT END DOCUMENTATION AND SRF REQUIREMENTS**

The Project, and Contract Documents, include all requirements of the Indiana State Revolving Fund including the Green Project Reserve. The documentation immediately following this page are front end documents for SRF financing including Green Project Reserve:

1. Attachment B (front end documentation addendum from SRF website).
2. Attachment C (front end documentation addendum from SRF website).
3. Attachment E (front end documentation addendum from SRF website).
4. Copy of Davis Bacon Wage Determination used for the project.
5. DBE Packet.
6. Completed MBE/WBE Good Faith Efforts Worksheet(s).
7. Signed copy of Form OEE-1, "Certification of Nonsegregated Facilities."
8. Signed copy of Form OEE-2, "Notice to Labor Unions or Other Organizations of Workers – Nondiscrimination in Employment."
9. Completed Attachment H.



# WESTVILLE TOWN COUNCIL

AUGUST 10, 2021

## MINUTES OF MEETING

The regular meeting of the Westville Town Council was held at the Westville Town Complex Community Room, 100 Setser Drive at 7:00 p.m. Present: Michael Albert, Tom Fath, Olga Pothorski, James Bechinske, Lori Mercer; Clerk-Treasurer, Town Attorney, Doug Biege.

Absent: Regina Ruddell

A motion was made by Tom Fath to approve minutes of the June and July, 2021 meetings. Michael Albert, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

A motion was made by Michael Albert to approve claims for the months of June and July, 2021. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

### UTILITIES

Nathan Howell gave a brief summary of the MCO report for the months of June and July. They are attached.

The old water tower on Ridge Street was re-addressed from the May meeting. Tom Fath made a motion to accept the quote to demo the old water tower on Ridge Street. The quote is from Iseler Demolition and the amount is for \$28,600.00, to be paid from Water Maintenance. Michael Albert, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michael Albert read Resolution 2021-6, Validating Acquisition of Property. Doug Beige stated that all this Resolution is stating is that the Town will only be acquiring the easement of the CSX property in regard to wastewater expansion project. Michael Albert made a motion to adopt Resolution 2021-6. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michael Albert made a motion to approve the agreement with Baker-Tilly (tabled from November) to do a rate study on hydrant fees and leaf/limb pick up. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

### STREETS

James Bechinske stated that we are waiting for our funding for the Community Crossings Grant to come in so we can start the paving project.

### PARKS

Nothing to report in Parks.

### POLICE DEPARTMENT

Marshal Hynek reported monthly stats.

*Handwritten initials:* WM, JS, TF, DN

## **POLICE DEPARTMENT (CON'T)**

Marshal Hynek stated that he has been working on getting a grant for new body cameras.

Marshal Hynek reported that there will be a give back night at Holly's in Michigan City with the proceeds being donated to the Westville Police Department.

## **FINANCE**

Michael Albert read Resolution 2021-5, Transfer Resolution in its entirety. Michael Albert made a motion to adopt Resolution 2021-5. James Bechinske, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

## **MISCELLANEOUS**

Michael Albert read Ordinance 2021-7, Amendment to the Beautification Committee. The only two changes were that town employees can be a member and being a resident is no longer a requirement. Michael Albert made a motion to approve Ordinance 2021-7 on first reading. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes. Michael Albert made a motion to suspend the rules and adopt Ordinance 2021-7. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michelle Shirk from the Boys and Girls Club gave a short presentation on their program for after school care that will begin at the school on August 23<sup>rd</sup>.

Michael Albert made a motion to re-appoint Lori Mercer and Jaci Prentiss to the Beautification Committee. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michael Albert reported that the Plan Commission appointed Stacey Wescher, Adam Genis, and Megan Hill to the Beautification Committee and the committee is now fully staffed.

Doug Beige briefly explained the new zoning ordinance and zoning map that the Plan Commission has suggested to the council to adopt. A public hearing for the new map and ordinance was held on July 13, 2021. This zoning ordinance will be consistent with the county, City of Laporte, and Michigan City.

Michael Albert made a motion to approve Ordinance 2021-9, Amendment to the Zoning Map, on the first reading. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Michael Albert made a motion to approve Ordinance 2021-10, An Ordinance to Repeal the Town's Existing Ordinance and to Adopt a New Zoning Ordinance, on the first reading. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Both of the above Ordinance's will be on the docket for the September meeting.

**CITIZENS COMMENTS**

Lauri Timm from Water Tower Place Subdivision stated that they would like to have a block party at the intersection of Independence Ave. and Alan John Drive. She asked to have the small strip of Independence between East Jefferson and Alan John Drive closed on Aug. 28, 2021 from 2pm to 7pm. The rain date is Sept. 11, 2021, same time. Michael Albert made a motion to allow Independence Ave. to be closed between East Jefferson and Independence Ave. on Aug. 28, 2021 from 2pm to 7pm. James Bechinske, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Shelly Hacker asked to have Main Street closed from Ridge St. just to the old town hall for the Bikes for Birch ride Sept. 11, 2021 from 6AM to 3AM. Michael Albert made a motion to allow Main Street to be closed from Ridge St. up to the old town hall on Sept. 11, 2021 from 6AM to 3AM. Tom Fath, second. Roll Call: Fath, yes; Bechinske, yes; Pothorski, yes; Albert, yes.

Both parties above were told if they have any issues that they can get with the police and/or Mark Hale.

**ANY OTHER MATTERS THAT COME BEFORE THE COUNCIL**

A motion to adjourn was made by Michael Albert at 7:34 PM. James Bechinske, second Motion carried.

I, Lori Mercer, attest that these minutes are true and accurate.

Lori Mercer

**RESOLUTION OF THE TOWN OF WESTVILLE  
FOR VALIDATING ACQUISITION OF PROPERTY**

RESOLUTION NO. 2021-7

WHEREAS, the Town Council of The Town of Westville, Indiana, (“Westville”) has plans for a wastewater infrastructure improvement project to meet State and Federal regulations and Westville intends to proceed with the construction of such project.

WHEREAS, Westville acquired the following the following property which shall was injuriously affected:

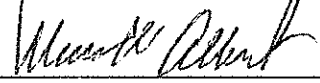
THAT PART OF THE CSX RAILROAD RIGHT-OF-WAY LOCATED IN SECTIONS 29 AND 32, TOWNSHIP 36 NORTH, RANGE 4 WEST OF THE SECOND PRINCIPAL MERIDIAN, LA PORTE COUNTY, INDIANA AS DESCRIBED PER PARCEL NUMBER 46-09-32-505-002.000-027, MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE NORTH 150.00 FEET OF SAID RAILROAD RIGHT-OF-WAY LOCATED IN SAID SECTION 32 AND ALSO THAT PART OF THE SAID RAILROAD RIGHT-OF-WAY LOCATED IN SAID SECTION 29 BETWEEN THE SOUTH LINE OF SAID SECTION 32 AND SOUTH LINE OF THE NORFOLK & WESTERN RAILROAD RIGHT-OF-WAY, SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, CONTAINING 5.98 ACRES, MORE OR LESS.

Now, therefore, be it resolved by the Town Council, the governing body of Westville, that:

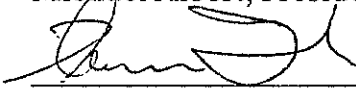
1. This Resolution shall serve as confirmation and verification of the Easement Agreement entered into between the Town of Westville and CSX Transportation Inc. recorded under document number 2021R-09210, which was recorded in the office of the La Porte County Recorder on June 14, 2021.
2. The Town of Westville shall consider this grant of easement as a full and final resolution and agreement between the parties concerning the easement necessary for the infrastructure improvement project mentioned above.
3. Town of Westville considers this grant of easement as necessary and appropriate and any proceedings concerning eminent domain taking of the parcel of real estate and fee simple hereby terminated, and consider the above easement as a final resolution of the matters set forth above.

Adopted and Passed by the Town Council of the Town of Westville, Indiana, this 10<sup>th</sup> day of August, 2021.

Town Council – Town of Westville

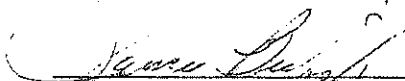


Michael Albert, President



Tom Fath

Regina Ruddell

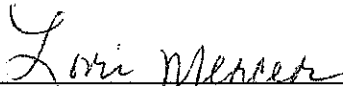


James Bechinske



Olga Pothorski

Attest:



Lori Mercer, Clerk Treasurer



Midwest Contract Operations

**Town of Westville**  
**June 2021 Monthly Report of Operations**  
**Prepared By: Nathan Howell**  
**July 13, 2021**

**Water**

1. GIS –Nothing new to report. Adam will take over responsibility of this.
2. The INDOT roundabout and culvert replacement projects are proceeding. The consulting engineer sent us locations where they want potholing done. We will have McMahon mark these sites so there are no issues where the potholing will be completed.
3. Peerless Midwest was on-site to replace the malfunctioning valves.
4. We noticed that several joints on the top of the concrete reaction basin have gotten worse. We sealed the second joint this month. We will discuss repairs with Bowen when they mobilize for the WWTP project.
5. The new water services for the new animal hospital are to be installed. We have spent a lot of time working to get accurate locations of South Coast force mains. H&G was on site to do preliminary work but could not bore because the INDOT permit was not yet issued.
6. There have been three water leaks this summer. Two were on Main Street and one on Valparaiso Street. One of the Main Street leaks had a 2-inch hole blown out of the bottom of the pipe. This is typically seen as a result of severe water hammer. The second leak on Main Street appeared to be due to corrosive soils. The failed section of pipe had a longitudinal crack where the clay soil was touching the pipe. The leak on Valparaiso Street was a sheer crack which was likely due to water hammer. All were repaired by D&M.

**Wastewater**

1. The Nash Finch Lift Station still needs a flow meter installed. We have had Bowen on-site to look at it and determine a price to do the work. We will also have them install a concrete slab to install a generator. We think we may have come up with a solution for the flow meter installation. We believe we can install it on the force main entering the manhole. If we can do this, we will save thousands of dollars.
2. The Westville Estates pump station is deteriorating rapidly. We have spoken with McMahon and Superior Pumping to renovate the station. We are considering installing the used system from the old WWTP.

3. We continue to spend much time on the DOC renovation project.
4. MB Controls is in the process of installing the Mission unit at the wastewater plant. They need to extend the antenna to the roof due to the poor cellular signal. The units in the New Durham and McDonalds' stations have been installed but not yet completed.
5. We were told by G.E. Marshal that they will not be able to repair the broken casting on the manhole on US 421 north of McDonalds. Another cover has now gotten loose which will need to be corrected. We have discussed this with Bowen.

## Town of Westville - Operational Summary for the Wastewater Treatment Plant

### Influent

2021	Total Gallons	Flow			BOD		TSS		Ammonia		Phosphorus	
		Max. Daily	Min. Daily	Monthly Avg.	mg/l	#'s	mg/l	#'s	mg/l	#'s	mg/l	#'s
January	5,781,500	227,000	165,000	186,500	143	230	282	447	29.6	46.1	5.6	8.7
February	5,650,400	248,800	177,600	201,800	145	249	296	506	24.9	42	5.1	8.6
March	5,992,300	255,700	160,000	193,300	159	262	327	524	24.8	39.9	5.7	9.2
April	5,708,400	259,100	163,100	190,280	171	285	313	519	28.1	44.6	5.4	8.6
May	6,342,600	362,000	163,700	204,600	152	260	301	512	27.9	47.7	5.1	8.7
June	5,790,000	301,600	160,600	192,800	217	329	829	1255	31.5	50.7	7	11.3
July												
August												
September												
October												
November												
December												

### Effluent

2021	Total Gallons	Flow			BOD		TSS		Phosphorus		Ammonia	
		Max. Daily	Min. Daily	Monthly Avg.	Monthly Avg.	% Removed	Monthly Avg.	% Removed	mg/l	% Removed	mg/l	% Removed
January	5,560,000	221,000	158,000	174,900	2.5	98.2	3.8	98.1	.2	97.2	.16	99.5
February	5,406,400	230,500	170,000	193,100	3	97.8	6.5	97.8	.2	96.1	.34	98.6
March	5,753,700	249,800	157,900	185,600	3.1	98	7.5	97.7	.3	94.6	.08	99.7
April	5,485,500	251,900	154,900	182,850	2.3	98.7	5.3	98.3	.6	88.6	.05	99.8
May	6,088,400	196,400	154,200	196,400	2.5	98.3	5.3	98.2	.6	88.7	.04	99.8
June	5,629,800	298,400	150,600	187,700	2.9	98.7	5.9	99.3	.5	92.4	.07	99.8
July												
August												
September												
October												
November												
December												

## Town of Westville – Operational Summary for the Water Treatment Plant

Month Ending	Total Monthly Flow	Maximum Daily Flow	Minimum Daily Flow	Average Daily Flow	Chlorine Usage (lbs.)	Fluoride Usage (lbs.)
01/31/21	3,642,000	159,500	0	117,300	56.3	41
02/28/21	4,212,900	397,600	53,500	150,500	62	46
03/31/21	5,196,600	255,700	110,700	167,000	75.9	59
04/30/21	5,080,800	263,300	79,100	168,100	75.4	44
05/31/21	5,299,200	261,000	83,400	172,500	83.9	39
06/30/21	4,582,600	250,00	77,800	151,200	67.8	54
07/31/21						
08/31/21						
09/30/21						
10/31/21						
11/30/21						
12/31/21						





**Town of Westville**  
**July 2021 Monthly Report of Operations**  
**Prepared By: Nathan Howell**  
**August 10, 2021**

**Water**

1. GIS –Adam is in the process of purchasing a tablet and configuring it for the GIS system.
2. We have heard nothing since last month regarding the INDOT roundabout and culvert replacement projects.
3. We noticed that several joints on the top of the concrete reaction basin have gotten worse. We sealed the second joint this month. We will discuss repairs with Bowen when they mobilize for the WWTP project.
4. The new water services for the new animal hospital are installed.

**Wastewater**

1. The Nash Finch Lift Station still needs a flow meter installed. We have had Bowen on site to look at it and determine a price to do the work. We will also have them install a concrete slab to install a generator. We think we may have a solution for the flow meter installation. We believe we can install it on the force main entering the manhole. If we can do this, we will save thousands of dollars.
2. The Westville Estates pump station is deteriorating rapidly. We have spoken with McMahon and Superior Pumping to renovate the station. We are considering installing the used system from the old WWTP.
3. We continue to spend much time on the DOC renovation project. We will be submitting to the Town a fee adjustment to our existing contract. Once construction begins and the plant is upgraded to a Class 3 facility, we will need to spend much more time in Town.
4. MB Control has installed the Mission units at the wastewater plant, and the New Durham and Mc Donald's lift stations. We are in the process of getting them activated.
5. We were told by G.E. Marshal that they will not be able to repair the broken casting on the manhole on US 421 north of McDonald's. Another cover is now loose which will need to be corrected. We have discussed this with Bowen.

6. We had the Main Street sanitary sewers cleaned and televised. We will provide Bowen the information regarding the sewer laterals off the main line which could conflict with the new force main for the WCC. There were many more laterals than what we were expecting.
7. The hydrants were flushed and serviced.
8. The chlorine system was serviced by Spear. They also connected the back-up chlorine booster pump. We have changed service providers.

### Town of Westville - Operational Summary for the Wastewater Treatment Plant

#### Influent

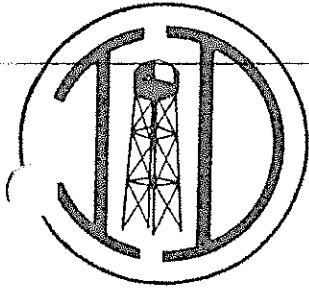
2021	Total Gallons	Flow			BOD		TSS		Ammonia		Phosphorus	
		Max. Daily	Min. Daily	Monthly Avg.	mg/l	#'s	mg/l	#'s	mg/l	#'s	mg/l	#'s
January	5,781,500	227,000	165,000	186,500	143	230	282	447	29.6	46.1	5.6	8.7
February	5,650,400	248,800	177,600	201,800	145	249	296	506	24.9	42	5.1	8.6
March	5,992,300	255,700	160,000	193,300	159	262	327	524	24.8	39.9	5.7	9.2
April	5,708,400	259,100	163,100	190,280	171	285	313	519	28.1	44.6	5.4	8.6
May	6,342,600	362,000	163,700	204,600	152	260	301	512	27.9	47.7	5.1	8.7
June	5,790,000	301,600	160,600	192,800	217	329	829	1255	31.5	50.7	7	11.3
July	5,821,800	260,000	130,700	187,800	160	256	256	271	30.8	48.3	5.3	8.3
August												
September												
October												
November												
December												

#### Effluent

2021	Total Gallons	Flow			BOD		TSS		Phosphorus		Ammonia	
		Max. Daily	Min. Daily	Monthly Avg.	Monthly Avg.	% Removed	Monthly Avg.	% Removed	mg/l	% Removed	mg/l	% Removed
January	5,560,000	221,000	158,000	174,900	2.5	98.2	3.8	98.1	.2	97.2	.16	99.5
February	5,406,400	230,500	170,000	193,100	3	97.8	6.5	97.8	.2	96.1	.34	98.6
March	5,753,700	249,800	157,900	185,600	3.1	98	7.5	97.7	.3	94.6	.08	99.7
April	5,485,500	251,900	154,900	182,850	2.3	98.7	5.3	98.3	.6	88.6	.05	99.8
May	6,088,400	196,400	154,200	196,400	2.5	98.3	5.3	98.2	.6	88.7	.04	99.8
June	5,629,800	298,400	150,600	187,700	2.9	98.7	5.9	99.3	.5	92.4	.07	99.8
July	5,461,900	249,500	157,100	182,100	2.1	98.7	3.9	98.6	.4	91.8	.03	99.9
August												
September												
October												
November												
December												

### Town of Westville – Operational Summary for the Water Treatment Plant

Month Ending	Total Monthly Flow	Maximum Daily Flow	Minimum Daily Flow	Average Daily Flow	Chlorine Usage (lbs.)	Fluoride Usage (lbs.)
01/31/21	3,642,000	159,500	0	117,300	56.3	41
02/28/21	4,212,900	397,600	53,500	150,500	62	46
03/31/21	5,196,600	255,700	110,700	167,000	75.9	59
04/30/21	5,080,800	263,300	79,100	168,100	75.4	44
05/31/21	5,299,200	261,000	83,400	172,500	83.9	39
06/30/21	4,582,600	250,000	77,800	151,200	67.8	54
07/31/21	4,541,900	244,700	65,000	145,300	63.8	53
08/31/21						
09/30/21						
10/31/21						
11/30/21						
12/31/21						



# Iseler Demolition, Inc.

**Scott / John**

*Specializing in Water Tower Demolition*

Main Office: (800) 338-8396

Fax: (989) 428-4689

Scott: 989 428 4216

John: (810) 623-1105

7840 PORTLAND AVE., ROOM 5  
PO BOX 185 • PORT HOPE, MI 48468

6/4/2021

To: Town of Westville  
PO Box 275  
Westville, IN 46391

Attn: Tom Fath

Our price to dismantle and remove, down to the concrete foundation, the 75,000 gallon elevated water tower in Westville, IN is \$28,600.00.

- Iseler Demolition will receive and dispose of all the scrap metal from this project.
- This price does not include concrete foundation removal, or water main capping.
- Price is valid for 60 days. If our price is not accepted in that time frame we reserve the right to requote.
- The city will need to close down Walnut St. for the one day demo.
- The city will need to have the power lines de-energized that run down the alley north of the tank.
- The city will need to obtain permission from the church to tarp the roof.
  - Iseler Demolition will provide the tarping and sprinklers to do so.
  - Iseler Demolition will be responsible for any damage that may be done to the roof while tarping/performing the demo.
  - The Church can be added to our insurance policy if necessary.
- The owner is responsible for supplying a good water supply, to be used for fire prevention & (if necessary) extinguishing. An active fire hydrant within 300 ft. is most preferred; however an available source with high pressure is acceptable as we run multiple garden hoses at the same time. We have an adapter to convert from 1 fire hose to several garden hoses, & run several garden hoses/sprinklers at once.
  - Sprinklers will be placed on top of all the buildings that need to be tarped as indicated on the attached overhead.
- This price does not include the cost of any demolition permits or asbestos inspections that might be required as part of the permitting process. If permitting is required, please plan to obtain them yourself or ask the city for a waiver.
- Our price excludes any hazardous material, other than the possibility of lead based paint. This includes any riser insulation that may be inside the riser as well as

PCB's, asbestos, Coal Tar coating, Mercury. If there is any hazardous material other than the possibility of lead based paint, our price is invalid

- IDI reserves the right to leave any tank sediment on site for others to deal with at a later time.
- Iseler Demolition will have 60 days to perform the demo from the notice to proceed being issued.
- Demolition will be at Iseler Demolitions scheduling convenience

If awarded this project, your company will be named as certificate holder and additional insured party on our general liability policy. We adhere to current OSHA and EPA regulations. Thank you for the opportunity to provide a quote on this project.

Note: This proposal may be withdrawn by us if not accepted within 30 days.  
ISELER DEMOLITION, INC.

Authorized Signature Scott Iseler

Scott Iseler SI/jh

ACCEPTANCE OF PROPOSAL AND ALL STIPULATIONS

Signature [Handwritten Signature] Date 8/11/2021

Below location, Swing of  
object 516 - Pick over  
Power lines 183





Baker Tilly US, LLP  
112 IronWorks Ave, Ste C  
Mishawaka, IN 46544  
United States of America

T: +1 (574) 935 5178  
F: +1 (574) 935 5928  
bakertilly.com

October 5, 2020

Town of Westville  
c/o Town Council  
353 West Main Street  
Westville, IN 46391

RE: Engagement Letter Agreement Related to Services

This letter agreement (the "Engagement Letter") is to confirm our understanding of the basis upon which Baker Tilly US, LLP ("Baker Tilly") and its affiliates are being engaged by Client (the "Client") to assist the Client with advisory services.

#### **Scope, Objectives and Approach**

It is anticipated that projects undertaken in accordance with this Engagement Letter will be at the request of the Client. The scope of services, additional terms and associated fee for individual engagements will be contained in a Scope Appendix or Appendices to this Engagement Letter. Authorization to provide services will commence upon execution and return of this Engagement Letter and one or more Appendices.

#### **Management's Responsibilities**

It is understood that Baker Tilly will serve in an advisory capacity with the Client. The Client is responsible for management decisions and functions, and for designating an individual with suitable skill, knowledge or experience to oversee the services we provide. The Client is responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services. The Client is responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

The procedures we perform in our engagement will be heavily influenced by the representations that we receive from Client personnel. Accordingly, false representations could cause material errors to go undetected. The Client, therefore, agrees that Baker Tilly will have no liability in connection with claims based upon our failure to detect material errors resulting from false representations made to us by any Client personnel and our failure to provide an acceptable level of service due to those false representations.

The ability to provide service according to timelines established and at fees indicated will rely in part on receiving timely responses from the Client. The Client will provide information and responses to deliverables within the timeframes established in a Scope Appendix unless subsequently agreed otherwise in writing.

The responsibility for auditing the records of the Client rests with the Client's separately retained auditor and the work performed by Baker Tilly shall not include an audit or review of the records or the expression of an opinion on financial data.

### **Ownership of IP**

Unless otherwise stated in a specific Scope Appendix, subject to Baker Tilly's rights in Baker Tilly's Knowledge (as defined below), Client shall own all intellectual property rights in the deliverables developed under the applicable Scope Appendix or Appendices ("Deliverables"). Notwithstanding the foregoing, Baker Tilly will maintain all ownership right, title and interest to all Baker Tilly's Knowledge. For purposes of this Agreement "Baker Tilly's Knowledge" means Baker Tilly's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Contractor prior to the Effective Date of this Agreement or the applicable Scope Appendix or Appendices ("Baker Tilly's Preexisting Knowledge") (2) developed or obtained by Baker Tilly after the Effective Date, that are reusable from client to client and project to project, where Client has not paid for such development; and (3) extensions, enhancements, or modifications of Baker Tilly's Preexisting Knowledge which do not include or incorporate Client's confidential information. To the extent that any Baker Tilly Knowledge is incorporated into the Deliverables, Baker Tilly grants to Client a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Baker Tilly Knowledge in connection with the Deliverables, and for no other purpose without the prior written consent of Baker Tilly. Additionally, Baker Tilly may maintain copies of its work papers for a period of time and for use in a manner sufficient to satisfy any applicable legal or regulatory requirements for records retention.

The supporting documentation for this engagement, including, but not limited to work papers, is the property of Baker Tilly and constitutes confidential information. We may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. If we are required by law, regulation or professional standards to make certain documentation available to required third parties, the Client hereby authorizes us to do so.

### **Timing and Fees**

Specific services will commence upon execution and return of a Scope Appendix to this Engagement Letter and our professional fees will be based on the rates outlined in such Scope Appendix.

Unless otherwise stated, in addition to the fees described in a Scope Appendix the Client will pay all of Baker Tilly's reasonable out-of-pocket expenses incurred in connection with the engagement. All out of pocket costs will be passed through at cost and will be in addition to the professional fee.

### **Dispute Resolution**

Except for disputes related to confidentiality or intellectual property rights, all disputes and controversies between the parties hereto of every kind and nature arising out of or in connection with this Engagement Letter or the applicable Scope Appendix or Appendices as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuation, or termination of this Agreement or the applicable Scope Appendix or Appendices as shall be resolved as set forth in this section using the following procedure: In the unlikely event that differences concerning the services or fees provided by Baker Tilly should arise that are not resolved by mutual agreement, both parties agree to attempt in good faith to settle the dispute by engaging in mediation administered by the American Arbitration Association under its mediation rules for professional accounting and related services disputes before resorting to litigation or any other dispute resolution procedure. Each party shall bear their own expenses from mediation and the fees and expenses of the mediator shall be shared equally by the parties. If the dispute is not resolved by mediation, then the parties agree to expressly waive trial by jury in any judicial proceeding involving directly or indirectly, any matter (whether sounding in tort, contract, or otherwise) in any way arising out of, related to, or connected with this Agreement or the applicable Scope Appendix or Appendices as or the relationship of the parties established hereunder.



Because a breach of any the provisions of this Engagement Letter or the applicable Scope Appendix or Appendices as concerning confidentiality or intellectual property rights will irreparably harm the non-breaching party, Client and Baker Tilly agree that if a party breaches any of its obligations thereunder, the non-breaching party shall, without limiting its other rights or remedies, be entitled to seek equitable relief (including, but not limited to, injunctive relief) to enforce its rights thereunder, including without limitation protection of its proprietary rights. The parties agree that the parties need not invoke the mediation procedures set forth in this section in order to seek injunctive or declaratory relief.

### **Limitation on Damages**

To the extent allowed under applicable law, the aggregate liability (including attorney's fees and all other costs) of either party and its present or former partners, principals, agents or employees to the other party related to the services performed under an applicable Scope Appendix or Appendices shall not exceed the fees paid to Baker Tilly under the applicable Scope Appendix or Appendices to which the claim relates, except to the extent finally determined to have resulted from the gross negligence, willful misconduct or fraudulent behavior of the at-fault party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays or interruptions arising out of or related to this Engagement Letter or the applicable Scope Appendix or Appendices as even if the other party has been advised of the possibility of such damages.

Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Engagement Letter are material bargained for bases of this Engagement Letter and that they have been taken into account and reflected in determining the consideration to be given by each party under this Engagement Letter and in the decision by each party to enter into this Engagement Letter.

The terms of this section shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of you, Baker Tilly or others), but these terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These terms shall also continue to apply after any termination of this Engagement Letter.

You accept and acknowledge that any legal proceedings arising from or in conjunction with the services provided under this Engagement Letter must be commenced within twelve (12) months after the performance of the services for which the action is brought, without consideration as to the time of discovery of any claim.

### **Other Matters**

#### E-Verify Program

Baker Tilly participates in the E-Verify program. For the purpose of this paragraph, the E-Verify program means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.401(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). Baker Tilly does not employ any "unauthorized aliens" as that term is defined in 8 U.S.C. 1324a(h)(3).

#### Investments

Baker Tilly certifies that pursuant to Indiana Code 5-22-16.5 *et seq.* Baker Tilly is not now engaged in investment activities in Iran. Baker Tilly understands that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

#### Non-Discrimination

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

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

In the event Baker Tilly is requested by the Client; or required by government regulation, subpoena, or other legal process to produce our engagement working papers or its personnel as witnesses with respect to its Services rendered for the Client, so long as Baker Tilly is not a party to the proceeding in which the information is sought, Client will reimburse Baker Tilly for its professional time and expenses, as well as the fees and legal expenses incurred in responding to such a request.

Neither this Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated, or subcontracted by either party without the written consent of the other party. Either party may assign and transfer this Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interest or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Engagement Letter.

In the event that any provision of this Engagement Letter or statement of work contained in a Scope Appendix hereto is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Engagement Letter or statement of work did not contain the particular provisions held to be unenforceable. The unenforceable provisions shall be replaced by mutually acceptable provisions which, being valid, legal and enforceable, come closest to the intention of the parties underlying the invalid or unenforceable provision. If the Services should become subject to the independence rules of the U.S. Securities and Exchange Commission with respect to Client, such that any provision of this Engagement Letter would impair Baker Tilly's independence under its rules, such provision(s) shall be of no effect.

#### **Termination**

Both the Client and Baker Tilly have the right to terminate this Engagement Letter or any work being done under an individual Scope Appendix at any time after reasonable advance written notice. On termination, all fees and charges incurred prior to termination shall be paid promptly. Unless otherwise agreed to by the Client and Baker Tilly, the scope of services provided in a Scope Appendix will terminate 60 days after completion of the services in such Appendix.

**Important Disclosures**

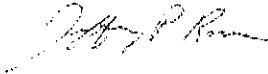
Incorporated as Attachment A and part of this Engagement Letter are important disclosures. These include disclosures that apply generally and those that are applicable in the event Baker Tilly is engaged to provide municipal advisory services.

This Engagement Letter, including the attached Disclosures as updated from time to time, comprises the complete and exclusive statement of the agreement between the parties, superseding all proposals, oral or written, and all other communications between the parties. Both parties acknowledge that work performed pursuant to the Engagement Letter will be done through Scope Appendices executed and made a part of this document.

Any rights and duties of the parties that by their nature extend beyond the expiration or termination of this Engagement Letter shall survive the expiration or termination of this Engagement Letter or any statement of work contained in a Scope Appendix hereto.

If this Engagement Letter is acceptable, please sign below and return one copy to us for our files.

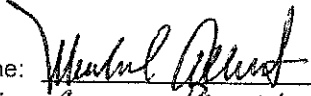
Sincerely,



Jeffrey P. Rowe, Partner

**Signature Section:**

The terms as set forth in this Engagement Letter are agreed to on behalf of the Client by:

Name:   
Title: Commons President  
Date: 11/16/22

## **Attachment A**

### **Important Disclosures**

#### Non-Exclusive Services

Client acknowledges and agrees that Baker Tilly, including but not limited to Baker Tilly US, LLP, Baker Tilly Municipal Advisors, LLC, Baker Tilly Capital, LLC, and Baker Tilly Investment Services, LLC, is free to render municipal advisory and other services to the Client or others and that Baker Tilly does not make its services available exclusively to the Client.

#### Affiliated Entities

Baker Tilly US, LLP is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly US, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly US, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

Baker Tilly Investment Services, LLC ("BTIS"), a U.S. Securities and Exchange Commission ("SEC") registered investment adviser, may provide services to the Client in connection with the investment of proceeds from an issuance of securities. In such instances, services will be provided under a separate engagement, for an additional fee. Notwithstanding the foregoing, Baker Tilly may act as solicitor for and recommend the use of BTIS, but the Client shall be under no obligation to retain BTIS or to otherwise utilize BTIS relative to Client's investments. The fees paid with respect to investment services are typically based in part on the size of the issuance proceeds and Baker Tilly may have incentive to recommend larger financings than would be in the Client's best interest. Baker Tilly will manage and mitigate this potential conflict of interest by this disclosure of the affiliated entity's relationship, a Solicitation Disclosure Statement when Client retains BTIS's services and adherence to Baker Tilly's fiduciary duty and/or fair dealing obligations to the Client.

Baker Tilly Capital, LLC ("BTC") Baker Tilly Capital, LLC ("BTC") is a limited service broker-dealer specializing in merger and acquisition, capital sourcing, project finance and corporate finance advisory services. BTC does not participate in any municipal offerings advised on by its affiliate Baker Tilly Municipal Advisors. Any services provided to Client by BTC would be done so under a separate engagement for an additional fee.

Baker Tilly Municipal Advisors ("BTMA") is registered as a "municipal advisor" pursuant to Section 15B of the Securities Exchange Act and rules and regulations adopted by the SEC) and the Municipal Securities Rulemaking Board ("MSRB"). As such, BTMA may provide certain specific municipal advisory services to the Client. BTMA is neither a placement agent to the Client nor a broker/dealer. The offer and sale of any Bonds is made by the Client, in the sole discretion of the Client, and under its control and supervision. The Client acknowledges that BTMA does not undertake to sell or attempt to sell bonds or other debt obligations and will not take part in the sale thereof.

Baker Tilly, may provide services to the Client in connection with human resources consulting, including, but not limited to, executive recruitment, talent management and community survey services. In such instances, services will be provided under a separate scope of work for an additional fee. Certain executives of the Client may have been hired after the services of Baker Tilly were utilized and may make decisions about whether to engage other services of Baker Tilly or its subsidiaries. Notwithstanding the foregoing, Baker Tilly may recommend the use of Baker Tilly or a subsidiary, but the Client shall be under no obligation to retain Baker Tilly or a subsidiary or to otherwise utilize either relative to the Client's activities.

Conflict Disclosure Applicable to Municipal Advisory Services Provided by BTMA.

*Legal or Disciplinary Disclosure.* BTMA is required to disclose to the SEC information regarding criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation involving BTMA. Pursuant to MSRB Rule G-42, BTMA is required to disclose any legal or disciplinary event that is material to the Client's evaluation of BTMA or the integrity of its management or advisory personnel.

There are no criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations or civil litigation involving BTMA. Copies of BTMA filings with the SEC can currently be found by accessing the SEC's EDGAR system Company Search Page which is currently available at <https://www.sec.gov/edgar/searchedgar/companysearch.html> and searching for either Baker Tilly Municipal Advisors, LLC or for our CIK number which is 0001616995. The MSRB has made available on its website ([www.msrb.org](http://www.msrb.org)) a municipal advisory client brochure that describes the protections that may be provided by MSRB rules and how to file a complaint with the appropriate regulatory authority.

*Contingent Fee.* The fees to be paid by the Client to BTMA are or may be based on the size of the transaction and partially contingent on the successful closing of the transaction. Although this form of compensation may be customary in the municipal securities market, it presents a conflict because BTMA may have an incentive to recommend unnecessary financings, larger financings or financings that are disadvantageous to the Client. For example, when facts or circumstances arise that could cause a financing or other transaction to be delayed or fail to close, BTMA may have an incentive to discourage a full consideration of such facts and circumstances, or to discourage consideration of alternatives that may result in the cancellation of the financing or other transaction.

*Hourly Fee Arrangements.* Under an hourly fee form of compensation, BTMA will be paid an amount equal to the number of hours worked multiplied by an agreed upon billing rate. This form of compensation presents a potential conflict of interest if BTMA and the Client do not agree on a maximum fee under the applicable Appendix to this Engagement Letter because BTMA will not have a financial incentive to recommend alternatives that would result in fewer hours worked. In addition, hourly fees are typically payable by the Client whether or not the financing transaction closes.

*Fixed Fee Arrangements.* The fees to be paid by the Client to BTMA may be in a fixed amount established at the outset of the service. The amount is usually based upon an analysis by Client and BTMA of, among other things, the expected duration and complexity of the transaction and the work documented in the Scope Appendix to be performed by Baker Tilly. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, Baker Tilly may suffer a loss. Thus, Baker Tilly may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives.

BTMA manages and mitigates conflicts related to fees and/or other services provided primarily through clarity in the fee to be charged and scope of work to be undertaken and by adherence to MSRB Rules including, but not limited to, the fiduciary duty which it owes to the Client requiring BTMA to put the interests of the Client ahead of its own and BTMA's duty to deal fairly with all persons in its municipal advisory activities.

To the extent any additional material conflicts of interest have been identified specific to a scope of work the conflict will be identified in the respective Scope Appendix. Material conflicts of interest that arise after the date of a Scope Appendix will be provide to the Client in writing at that time.

**RE: Proposed Financial Advisory Services – Hydrant Rental Fee and Leaf/Limb Pickup Fee**

**DATE: October 5, 2020**

This Scope Appendix is attached by reference to the above named engagement letter (the "Engagement Letter") between the Town of Westville, Indiana (the "Client") and Baker Tilly US, LLP and relates to services to be provided by Baker Tilly Municipal Advisors, LLC

**SCOPE OF WORK**

Baker Tilly Municipal Advisors, LLC ("BTMA") will perform the following services:

**A. Analysis of Costs and Revenues (Rate Analysis) (Consulting Services) – Leaf/Limb Pickup**

1. Determine historical costs for providing leaf/limb pickup.
2. Determine total number of customers.
3. Working with representatives of the client, establish a budget identifying projected annual operation, maintenance, and capital requirements.
4. Develop proposed user rates that will generate sufficient revenues to fund the proposed operation, maintenance, and capital budgets.

**B. Analysis of Public Hydrant Rental Fee (Rate Analysis) (Consulting Services)**

1. Determine the historical amount of public hydrant rental fee revenue
2. Determine total number of equivalent connections
3. Determine the monthly public hydrant rental fee per equivalent connection

**C. Meetings and Reports (Consulting Services)**

1. Attend a meeting with officials of the Client to discuss findings and recommendations.
2. Furnish a financial report summarizing the results of the Firm's studies for submission to the Client.
3. Provide financial information including a new schedule of rates and charges, if required, to the Client's attorneys for the preparation of resolutions and ordinances as may be required.
4. Attend a public hearing to be conducted by the Client in order to present accounting information relating to the proposed rates and charges, if a rate change is necessary.

**COMPENSATION AND INVOICING**

Baker Tilly's fees for services set forth in the Scope Appendix will be billed at Baker Tilly's standard billing rates based upon the actual time and expenses incurred in an amount not to exceed Six Thousand Five Hundred Dollars (\$6,500).

Standard Hourly Rates by Job Classification  
1/1/2020

Partners / Principals / Directors	\$240.00	to	\$500.00
Managers	\$200.00	to	\$325.00
Senior Consultants	\$150.00	to	\$250.00
Consultants	\$135.00	to	\$200.00
Municipal Bond Disclosure Specialists	\$120.00	to	\$190.00
Support Personnel	\$110.00	to	\$150.00
Interns	\$90.00	to	\$110.00

- *Billing rates are subject to change periodically due to changing requirements and economic conditions. Actual fees will be based upon experience of the staff assigned and the complexity of the engagement.*

The above fees shall include all expenses incurred by Baker Tilly with the exception of expenses incurred for mileage which will be billed on a separate line item. No such expenses will be incurred without the prior authorization of the Client. The fees do not include the charges of other entities such as rating agencies, bond and official statement printers, couriers, newspapers, bond insurance companies, bond counsel and local counsel, and electronic bidding services, including Parity®. Coordination of the printing and distribution of Official Statements or any other Offering Document are to be reimbursed by the Client based upon the time and expense for such services.

Conflicts of Interest

Attachment A to the Engagement Letter contains important disclosure information that is applicable to this Scope Appendix.

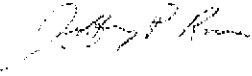
We are unaware of any additional conflicts of interest related to this Scope Appendix that exist at this time.

Termination

Notwithstanding termination provisions contained in the Engagement Letter, this Scope Appendix is intended to be ongoing and applicable individually to specific services including financings, arbitrage computations, and/or continuing disclosure engagement, ("Sub-engagements") as if they are the sole subject of the Scope Appendix. As such, termination may occur for a specific Sub-engagement without terminating the Scope Appendix itself. On termination of a Sub-engagement or the Scope Appendix, all fees and charges incurred prior to termination shall be paid promptly. Unless otherwise agreed to by the Client and Baker Tilly, the scope of services provided in a Sub-engagement performed under this Scope Appendix will terminate 60 days after completion of the services for such Sub-engagement.

If this Scope Appendix is acceptable, please sign below and return one copy to us for our files. We look forward to working with you on this important project.

Sincerely,



Jeffrey P. Rowe, Partner

**Signature Section:**

The services and terms as set forth in this Scope Appendix are agreed to on behalf of the Client by:

Name: Wendell Allport  
Title: Cowen Freeman  
Date: 11/10/20



RESOLUTION #2021-5  
TRANSFER OF FUNDS

BE IT RESOLVED BY THE WESTVILLE TOWN COUNCIL THAT THE FOLLOWING FUNDS BE TRANSFERRED:

Transfer Two Thousand (\$2,000.00) from Appropriation #101200361 (Repairs and Maint) GEN FUND (P) to Appropriation #101200290 (Misc Supplies) GEN FUND (P)

Transfer Eight Thousand (\$8,000.00) from Appropriation #201001134 (Health Ins) MVH FUND to Appropriation #201001361 (Rep & Maint) MVH FUND

Transfer Five Hundred (\$500.00) from Appropriation #201001134 (Health Ins) MVH FUND to Appropriation #201001324 (Phone) MVH FUND

Transfer Two Thousand Four Hundred Fifty (\$2,450.00) from Appropriation #204001221 (Fuel) PARK FUND to Appropriation #204001361 (Repairs and Maint) PARK FUND

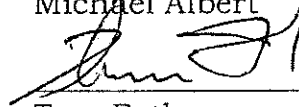
Transfer Five Thousand (\$5,000.00) from Appropriation #101002399 (Unsafe Buildings) GEN FUND(C) to Appropriation 101002361 (Rep & Maint) GEN FUND (C)

PASSED AND ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST 2021.

WESTVILLE TOWN COUNCIL



Michael Albert



Tom Fath

Regina Ruddell



James Bechinske



Olga Pothorski

ATTEST:

  
Lori Mercer Clerk-Treasurer

Ordinance No.: 2021-7

**AN AMENDED ORDINANCE OF THE TOWN COUNCIL OF THE  
TOWN OF WESTVILLE,  
LAPORTE COUNTY, INDIANA,  
ESTABLISHING A BEAUTIFICATION COMMITTEE**

WHEREAS, the Town Council (“Town Council”) of the Town of Westville, LaPorte County, Indiana (“Westville”), has declared in its recently adopted Comprehensive Plan Update the importance of making long term sustainability a focus of all decision making processes in the community; and

WHEREAS, the Comprehensive Plan Update also note the importance of ensuring that proper steps are taken to preserve and protect assets in Westville; and

WHEREAS; the goals of the Comprehensive Plan Update also include maximizing connectivity, quality of life, and scenic beautification in Westville; and

WHEREAS; the Town Council declares sustainability, beautification and maintenance of healthy environment, together with social and economic well-being, is vital to the public interest; and

WHEREAS; it is the intent of this Ordinance to coordinate and inform efforts to promote beautification for the greater good of the public in the Westville community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTVILLE, LAPORTE COUNTY, INDIANA, AS FOLLOWS:

Section 1. Establishment. There is hereby created a Westville Beautification Committee (“Committee”).

Section 2. Membership. The Committee shall consist of seven (7) voting members. Three (3) of the voting members of the Committee shall be appointed by the Town Council. The remaining four (4) members of the Committee shall be appointed by the Westville Advisory Plan Commission (“Plan Commission”). The Town Council shall further designate the President of the Committee from the Committee’s membership.

Section 3. Qualifications. Applicants seeking membership to the Committee should have an interest in improving the everyday life of Westville’s citizens to improve and protect the beauty of Westville by proposing, identifying, and providing guidance for the efforts and opportunities that will enhance the aesthetic nature of Westville. Residency within the Town limits is not a requirement. Town employees may be appointed to the committee.

Section 4. Terms. The initial term for each member of the Committee shall expire on December 31, 2018. Subsequent terms shall be for two (2) year periods thereafter. Individuals may be appointed for the additional terms. Members shall serve at the pleasure of the Town Council and Plan Commission and may be removed from the Committee with or without cause, by a majority vote of the Council/Commission that appointed the members to the Committee. A vacancy automatically occurs if the voting member: (1) fails to attend three (3) consecutive Committee meetings; (2) moves his or her residence outside of the Westville municipal boundaries; or (3) is deceased.

Section 5. Meetings. The Committee shall hold meetings at least quarterly and may hold such additional meetings as the Committee determines to be appropriate. At its first meeting each year, the Committee shall select from its membership a vice president and secretary. The Committee shall take and maintain minutes of all of its meetings. Minutes shall contain at minimum, the time and place of each meeting, the names of members present, all official acts of the Committee, the votes given by the members, and a summary of all proceedings before the Committee. A majority of the Committee's members shall constitute a quorum. All official meetings that include a majority of the Committee shall be open to the public, except to the extent otherwise permitted by Indiana law.

Section 6. Activities in Charge. The Committee shall have no legal obligations, responsibilities, duties or governmental authority, and Committee membership shall not constitute a public office. However, the Committee is charged with encouraging a clean and healthy environment for Westville's current and future generations through the promotion of sustainable development, environmental responsibility and community connectivity. The goals and functions of the Committee include:

- a. Establishing a solid working relationship with Westville and its residents;
- b. Prioritizing beautification projects in Westville and establishing a long-term plan;
- c. Ensuring coordination with other Westville Boards, Commissions and Committees-primarily the Streets Department and Parks and Recreation Liaison;
- d. Seeking to work collaboratively with organizations on improvement projects;
- e. Working to ensure engagement and feedback from residents on project proposals;

- f. Establishing a project to seek and accept community input and involvement;
- g. Reviewing proposals and projects being conducted by Westville Town Government to advise on beautification efforts;
- h. Address areas of Westville which need beautification;
- i. Proposed and lead efforts to further beautify Westville; and
- j. Consider and support recommendations for residents.

The Committee will serve as an advising body to the Plan Commission and Town Council. While the Committee can propose projects and improvement opportunities, it must seek the approval of the Town Council for any funding or the ability to proceed. For other improvement projects and investments propose by other Town Boards or Committees, the Town Council may request coordination with the Committee.

Section 7. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication required by law.

Adopted by the Town Council of the Town of Westville, LaPorte County, Indiana, on this 10<sup>th</sup> day of Aug, 2021.

WESTVILLE TOWN COUNCIL

BY: Michel Allard

Lesya Russek

Alpaal Bohareski

James Pugh

[Signature]

ATTEST:

Lori Mercer

Lori Mercer, Clerk-Treasurer of the Town of Westville, Indiana

LEGAL NOTICE

The Westville Town Council will meet in a special meeting at 6:00 p.m. (local time) on August 19, 2021. The special meeting will be held at Town of Westville Community Room located at 100 Setser Drive, Westville, Indiana 46391.

Westville Town Council

*This notice is not for legal publication  
but just for notification purposes.*

# WESTVILLE TOWN COUNCIL

AUGUST 19, 2021  
MINUTES OF MEETING

A special meeting of the Westville Town Council was held at the Town Hall, 100 Setser Drive at 6:00 p.m. Present: Michael Albert, Tom Fath, Olga Pothorski, Deputy Clerk-Treasurer, Stacey Wescher.

Absent: Regina Ruddell, James Bechinske, Lori Mercer, Town Attorney Doug Beige.

Meeting called to order at 6:00 p.m. Michael Albert brought to attention that it was discovered that The Auto Cruise Inn is going to have a beer garden on Sept. 10, 2021 at their car show at Prairie Meadow Park (PMP). Upon finding this out, The Masonic Lounge is wanting a beer garden for The Baggo Tournament on Aug. 21, 2021. Michael Albert stated that it needs to be approved by the Town, like done before.

Michael Albert made a motion to allow The Masonic Lodge to have a beer garden provided by Jimmy's during their festivities from 9 a.m. to 6 p.m. on Aug. 21, 2021, and on Sept. 10, 2021, from 4:30 PM to dark for the Cruise In, provided that Jimmy's provides a certificate of insurance to the Clerk's office. Olga Pothorski, second. Roll Call: Pothorski, yes; Fath, yes; Albert, yes.

Nate Hynek stated he talked to excise and Jimmy's does have the proper license to operate a beer garden offsite.

Michael Albert stated he doesn't want PMP to be a beer garden every year.

Michael Albert stated that in addition to the motion he made, he wants to add that with the exception of Pumpkin Fest that we put a moratorium on beer gardens at PMP this year so we have time to get something set up for next spring or summer. It needs to be applied for 60 days prior of the event to give the Town time to approve the request.

Michael Albert made a motion to adjourn at 6:07 pm. Olga Pothorski, second. All approved. Motion carried.

I, Stacey Wescher, attest that these minutes are true and accurate.

Stacey Wescher

ff OD