EWBANK & KRAMER

ATTORNEYS AT LAW

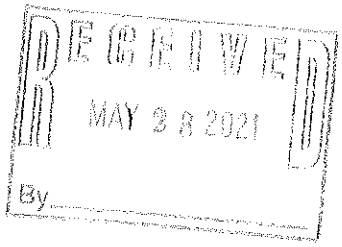
JAMES H. EWBANK (1865-1961)
GERALD H. EWBANK (1918-1979)

FRANK G. KRAMER
ROBERT J. EWBANK
PATRICIA J. COGHILL
ANTHONY M. SMART*
JARED J. EWBANK

*Licensed in Indiana and Ohio

TELEPHONE: (812) 537-2522
FACSIMILE: (812) 537-2531
EMAIL: contact@ewbankkramer.com
www.ewbankkramer.com

May 26, 2021



Indiana Department of Environmental Management
Regional Water & Sewer District Coordinator
Attention: Office of Water Quality
100 N. Senate Avenue
Indianapolis, IN 46204

Re: Dearborn County Regional Sewer District
City of Lawrenceburg - First Amended Interlocal Agreement

To Whom It May Concern:

Enclosed is a copy of First Amended Interlocal Agreement that has been executed by my client, Dearborn County Regional Sewer District, and the City of Lawrenceburg, Indiana. The amended agreement allows the Dearborn County Regional Sewer District to complete all enforcement actions necessary to force customers to connect to the force main in accordance with local, county, state and federal laws, as well as working with the Dearborn County Health Department in determining exempt status. This First Amended Interlocal Agreement is being submitted to your office in accordance with I.C. §36-1-7-4(b). A copy of the original agreement is also enclosed.

Also enclosed is a copy of my letter to the Office of the Attorney General in accordance with I.C. §36-1-7-4(b).

I will wait to hear from you. Thank you for your cooperation.

Very truly yours,

EWBANK & KRAMER

Frank G. Kramer

FGK:cs
Enclosures
pc: Office of Indiana Attorney General
Del Weldon - Lawrenceburg City Attorney *(via email only)*

RECEIVED
MAY 28 2021
By:

FIRST AMENDED INTERLOCAL AGREEMENT

[Upper Wilson Creek Sanitary Sewer Main Extension]

THIS FIRST AMENDED INTERLOCAL AGREEMENT (this "**Agreement**") is entered into this 19th day of April, 2021, by and between Dearborn County Regional Sewer District (the "**District**") and the City of Lawrenceburg, Indiana (the "**City**"), by and through its Utility Service Board, which operates the City of Lawrenceburg Municipal Utilities ("**LMU**").

WITNESSETH:

WHEREAS, LMU operates a sanitary sewer utility providing service within and outside of the municipal corporate limits of the City; and

WHEREAS, the District oversees certain sanitary sewer services in certain unincorporated areas of Dearborn County, Indiana; and

WHEREAS, approximately 16 homes in an area commonly known as Upper Wilson Creek require sanitary sewer service, which area is in close proximity to the City's municipal corporate limits and in unincorporated Dearborn County and which area is more particularly depicted on Exhibit A attached hereto and made a part hereof (the "**Service Area**"); and

WHEREAS, on May 12, 2017, the office of the Indiana Attorney General approved an Interlocal Agreement between the District and LMU whereby sewer service has been extended to a Service Area adjacent to the City in accordance with the terms of said Agreement; and

WHEREAS, the District desires LMU to continue to extend sanitary sewer service within the Service Area pursuant to the terms of this Agreement; and

WHEREAS, LMU is willing to continue to extend sanitary sewer service within the Service Area pursuant to the terms of this First Amended Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth below, the District and LMU (collectively, the "**Parties**" and individually, a "**Party**") agree as follows:

1. **Definitions.** The following definitions apply to this Agreement:

    a. Applicant. A person within the Service Area who applies for connection to LMU's sanitary sewer system.

    b. Customer. A person within the Service Area approved to receive or receiving sanitary sewer service from LMU. Once an Applicant's application to connect to LMU's sanitary sewer system is approved, the Applicant shall become a Customer.

c. Force Main. The low-pressure sanitary sewer force main constructed pursuant to the Interlocal Agreement.

d. ISBA. The Indiana State Board of Accounts.

e. Rider. The $18 per month fee that LMU will charge to each Customer until the earlier of the annexation of the Customer's property served by the Force Main into LMU or until the cost of the Force Main has been paid in full.

f. Service Area. As described in the recitals to this Agreement, the area depicted on Exhibit A attached hereto and made a part hereof.

g. Tap Fee. LMU's standard tap in fee charged pursuant to Lawrenceburg Municipal Code Section 52.101(C)(3)(a), as amended from time to time, for connections made to and for the development of LMU's sanitary sewer system. As of the date of this Agreement, the Tap Fee is Two Thousand Three Hundred Forty-Five Dollars ($2,345.00) for properties served by 5/8" or 3/4" water meters and Five Thousand Eight Hundred Sixty-Two Dollars ($5,862.00) for properties served by 1" water meters. City of Lawrenceburg, through appropriations, shall contribute One Thousand Five Hundred Dollars ($1,500.00) to the District per each individual lot, for a maximum number of sixteen (16) lots.

h. Remonstrance. Pursuant to IC § 13-18-15-2, the Customer shall not be eligible for the City of Lawrenceburg Mutual Development Fund $1,500.00 contribution for the Force Main hook up, or any other benefit listed above, unless and until they execute a Waiver of Remonstrance, which shall be recorded with the Dearborn County Recorder.

2. **Scope of Sanitary Sewer Services.** The Parties agree to continue to jointly work together to facilitate the rendering of sanitary sewer services to the 16 homes located within the Service Area.

3. **Duties of LMU.** LMU agrees to perform the following duties under this Agreement:

a. Information. LMU will provide information to potential Customers concerning Tap Fees, monthly rates and charges, customer deposits, and all other fees and charges related to sanitary sewer service from LMU. Except for the Tap Fees, Customers in the Service Area shall be charged the same fees, monthly rates and charges, customer deposits and all other charges and assessments as are charged by the City to customers of LMU who reside within the corporate limits of City.

b. Applications. LMU will process applications for connection to LMU's sanitary sewer system and will approve connections for all applications meeting LMU's connection qualifications applicable to any potential customer of LMU and in accordance with this Agreement.

c. Pre-Connection Collection of Fees. Prior to Customer connection, LMU will assess and collect the entire amount of all fees required prior to connection to LMU's sanitary sewer system, including Tap Fees and any other applicable fee.

d. Monthly Billing. LMU will bill Customers connected to its sanitary sewer system in accordance with LMU's policies and procedures and rules and regulations for sanitary sewer service.

e. Pass-Through of Fees. LMU will remit to the District, all of the Riders collected by LMU. Remittances will be made on a monthly basis.

f. Ownership, Operation & Maintenance. LMU will continue to own, operate and maintain the Force Main, EXCEPT, the Service Area described in Exhibit A shall be regarded as part of the District's Sewer System for purposes of forcing Customers to connect to the Force main as provided in I.C. 13-26-5-2(8) and determining exempt status as provided in I.C. 13-26-5-2.5 and Ordinance 2017-010 of the Dearborn County, Indiana Code of Ordinances.

4. **Duties of the District.** The District agrees to perform the following duties under this Agreement:

a. Installation and Operation of Laterals and Grinder Pumps. Individual Customers will be responsible for the construction and installation costs of laterals and grinder pumps pursuant to a separate contract between LMU and the Customer. The Parties acknowledge that the maintenance and operation of laterals, lateral stubs, and grinder pumps will be the responsibility of the Customer.

b. Forced Connections. Complete all of the enforcement actions necessary to force customers to connect to the Force Main in accordance with local, county, state, and federal laws, as well as working with the Dearborn County Health Department in determining exempt status as provided in I.C. 13-26-5-2.5 and Ordinance 2017-010 of the Dearborn County, Indiana Code of Ordinances.

c. No Other Fees or Charges. Other than the Rider, the District will not assess or otherwise charge Customers for connection to the Force Main or for the rendering of sanitary sewer service by LMU.

5. **Authorizations for Disconnection or Refusal to Connect.** As a condition of accepting the responsibility of processing applications, accepting the Customers, and billing the Customers for the Rider, the District acknowledges that LMU may:

a. Disconnect or refuse to reconnect a Customer for any of the following reasons:

i. Failure to meet the applicable provisions of City, LMU or District ordinances;

ii. Violation of the LMU's rules and regulations for sanitary sewer service;

iii. Nonpayment of bills for sanitary sewer service;

iv. Interference or tampering with any meter, seal, or other equipment controlling or regulating the supply of water to a Customer's premises or the return of sewage from a Customer's premises;

v. Willful or negligent waste of sanitary sewer service due to improper or imperfect Customer-owned pipes, fixtures, appliances, or otherwise;

vi. Theft, diversion or use of sanitary sewer service without payment; or vacancy of service premises;

b. Decline or cease to furnish sanitary sewer service to any person or Customer who may be in debt to LMU for any reason except for property taxes and special assessments;

c. File a lien on the property to which sanitary sewer service is rendered;

d. Pursue any other collection remedies in accordance with applicable law; and

e. Exercise any power granted to municipal sewer utilities under Indiana law.

6. **Effective Date of Agreement.** This Agreement shall be effective as of the later of the completion of the following:

a. Adoption of this Agreement by ordinance or resolution of each Party in accordance with IC § 36-1-7-2(a).

b. Approval by the Indiana Department of Environmental Management in accordance with IC § 13-26-5-7(b)(2).

c. Approval by the Indiana Attorney General in accordance with IC § 36-1-7-4(b).

d. Recording in the records of the Office of the Recorder of Dearborn County in accordance with IC § 36-1-7-6, for which the District shall pay any recording fee.

The Parties agree and acknowledge that within sixty (60) days after this Agreement becomes effective, this Agreement will be filed with the ISBA for audit purposes in accordance with IC § 36-1-7-6. The Parties agree that the Clerk-Treasurer of Lawrenceburg will file this Agreement with the ISBA to satisfy the requirement of I.C. § 36-1-7-6.

7. **Insurance, Waivers and Indemnification.** Each Party is required to maintain adequate liability insurance and shall indemnify and hold the other Party and its employees or agents harmless from any claim for personal injury or property damage, including attorney fees resulting from its negligent or willful acts in connection with this Agreement. By entering into this Agreement, the Parties waive neither their respective sovereign immunity defenses nor any other limitation of liability that may be applicable. No provision of this Agreement

is intended to modify or waive any provision of the Indiana Tort Claims Act and any amendments thereto. Each Party shall provide the other with a certificate of insurance or letter of self-insurance annually as the case may be.

8. **Joint Board & Dispute Resolution.** Pursuant to IC § 36-1-7-3(5)(B), the Parties establish a joint board consisting of the following:

    a. LMU Representative: Director of LMU

    b. District Representative: President of the District's Board of Directors

    The joint board shall meet as necessary to accomplish the terms and conditions of this Agreement. The Parties agree that all disputes or disagreements arising under this Agreement that are not resolved at the staff level shall be handled as follows: The joint board shall meet and agree to the appointment of a mediator who shall proceed to mediate the dispute. Such action shall be required before the commencement of any litigation.

9. **Financing.** Each Party is responsible for its own financing, staffing and budgeting to accomplish the purposes of this Agreement, unless otherwise expressly stated herein.

10. **Default and Remedies.** If either the City or District fails to perform any act or obligation required to be performed by it, the other party shall deliver written notice of such failure to the non-conforming party. The non-conforming party shall have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default ("Default") under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party shall not be in Default if it commences cure within said thirty (30) day period and thereafter diligently pursues cure to completion.

    In the event of a party's Default under this Agreement, then after giving notice and an opportunity to cure, the non-Defaulting party shall have the right to exercise any or all rights and remedies available to it in law or equity.

11. This Agreement specifically does not include any right of the District or duty of the City for any other sewage line main extensions. Construction of laterals to the main sewer line shall be the subject of separate Interlocal Agreements.

12. **Annexation.** In the event the City annexes the Service Area, or any portion thereof, prior to recovery by the District of the full cost of the Force Main, LMU will pay to the District an amount equal to the unpaid balance of said construction cost.

13. **Miscellaneous.**

    a. Incorporation of Recitals. The recitals immediately preceding this Agreement are incorporated herein by this reference.

    b. Time of the Essence. Time is of the essence in the performance of this Agreement.

c. Amendment. This Agreement shall not be amended except by written instrument executed by the Parties and adopted by ordinance in accordance with IC 36-1-7-2(a).

d. Entire Agreement. This Agreement contains the entire understanding between the Parties concerning the subject matter hereof. Prior understandings concerning the subject matter hereof, whether verbal or written, between the Parties or their agents are superseded by this Agreement.

e. Choice of Law. This Agreement shall be interpreted in accordance with the laws of the State of Indiana without reference to conflict of law principles. The venue of any action arising from this Agreement shall be the Superior Court of Dearborn County. In the event that a lawsuit is instituted to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all costs of such lawsuit, including reasonable attorney's fees, litigation expenses and costs.

f. No Waiver; Severability. The consent or waiver, express or implied, by a Party to any default under this Agreement will not be construed as a consent to or waiver of any other default under this Agreement. If any portion of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall nonetheless remain valid and enforceable; provided, however, if in the reasonable opinion of a Party, this Agreement fails of its essential purpose as a result of the severed provision(s), such Party shall have the right to terminate this Agreement upon thirty (30) days written notice to the other Party.

g. Notices. All notices or other communications required to be given hereunder shall be given in writing and shall be deemed to have been fully given on the date delivered, if delivered personally or by email (read-receipt requested), or on the date mailed if mailed by first-class United States Mail, postage prepaid, to the following address:

i. To LMU:

Lawrenceburg Municipal Utilities
Attn: Director
230 Walnut Street
P.O. Box 4198
Lawrenceburg, Indiana 47025
Email: bkinnett@lmu-in.net

ii. To the District:

Dearborn County Regional Sewer District
215 West High Street, #B
Lawrenceburg, Indiana 47025
Email: regionalsewer@dearborncounty.in.gov

Notwithstanding **Section 13.c.**, either Party may change its address or email for notice by providing notice to the other Party of such change in accordance with this **Section 13.g.**

h. Signatures/E-Delivery. An originally signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an originally signed copy of this Agreement.

i. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

j. Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other Party that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized and that this Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

k. No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties.

l. No Separate Entity Necessary. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

m. Ownership of property. Except as expressly provided to the contrary in this Agreement, any personal or real property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

"LMU/ CITY OF LAWRENCEBURG"
City of Lawrenceburg, Indiana,
by and through its Utility Service
Board, which operates the City of
Lawrenceburg Municipal Utilities

By: _____
Kelly Mollaun, Mayor

By: _____
Billy Kinnett, Director of LMU

ATTEST:

Mark Fette, Clerk Treasurer,
Lawrenceburg, Indiana

STATE OF INDIANA

COUNTY OF DEARBORN

Subscribed and sworn to me, a Notary Public, on this 20th day of May, 2021.

My Commission Expires:

12-14-2028

Notary Public
Printed: Lynn Walsh
Residing in Dearborn County, Indiana

LYNN WALSH
Dearborn County
NOTARY PUBLIC
Commission Number
NP0730521
NOTARY SEAL
Commission Expires December 14, 2028
STATE OF INDIANA

"DISTRICT"
Dearborn County Regional Sewer District

By: Steven Renihan, Pres.
Steven Renihan, President

ATTEST: R. Brett Fehrman Secretary
R. Brett Fehrman, Secretary

Dearborn County, Indiana

STATE OF INDIANA

COUNTY OF DEARBORN

Subscribed and sworn to me, a Notary Public, on this 20 day of May, 2021.

My Commission Expires:

November 29, 2024

Notary Public
Printed: Frank G. Kramer
Residing in Dearborn County, Indiana

I AFFIRM UNDER PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

FRANK G. KRAMER

APPROVED pursuant to Ind. Code 36-1-7-4:
Office of the Indiana Attorney General

_____(for)
Todd Rokita, Attorney General

Date: _____

This instrument Prepared by:
FRANK G. KRAMER, Attorney at Law
114 West High Street
Lawrenceburg, Indiana 47025
(812) 537-2522

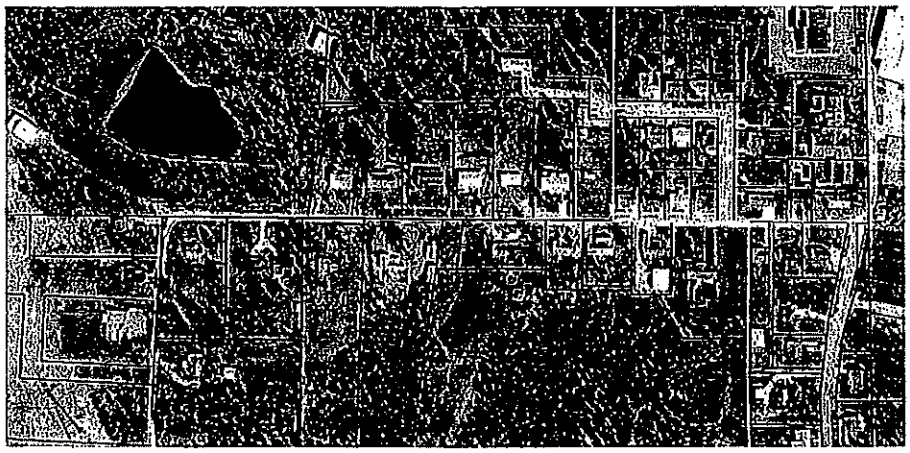
EXHIBIT A

Depiction of Service Area

HREZO Engineering, Inc.
GREENDALE • 1025 Ridge Avenue, Greendale, IN 47025
Phone: 812.537.4700 • Fax: 812.537.5054 • E-mail: contact@hrezoengineering.com
MADISON • 446 Meadow Lane, Madison, IN 47250
Phone: 812.273.2644 • Fax: 812.265.5249
Engineering Certification • Engineering Consulting • Construction Management
Full Engineering Services • Full Architectural Services • Full Surveying Services

HREZO
Engineering, Inc.

Wilson Creek Sewer Extension



RESOLUTION NO. 4-2021

Upper Wilson Creek Road

WHEREAS, the Dearborn County Regional Sewer District ("District") has determined a need to construct sewer infrastructure for upper Wilson Creek Road situated within the District; and

WHEREAS, the City of Lawrenceburg ("City") is located in close proximity to said facilities and is willing to enter into a First Amended Interlocal Agreement to provide service to upper Wilson Creek Road, all as more particularly set forth in the First Amended Interlocal Agreement attached hereto.

NOW, THEREFORE, be it resolved that the District hereby approves the First Amended Interlocal Agreement with the City attached hereto.

BE IT FURTHER RESOLVED that Steven Renihan, as Chairman, and Brett Fehrman, as Secretary, are hereby authorized to execute said Agreement on behalf of the District, and to execute any and all documents necessary to effectuate the terms of said Agreement.

Dated this 20 day of MAY, 2021.

R. Brett Fehrman, Secretary

Approved:

Steven Renihan, Chairman

4

RESOLUTION NO. 2-2021

A RESOLUTION ADOPTING A FIRST AMENDED INTERLOCAL AGREEMENT WITH THE DEARBORN COUNTY REGIONAL SEWER DISTRICT

WHEREAS, The City of Lawrenceburg, through Lawrenceburg Municipal Utilities ("LMU"), operates a sanitary sewer utility providing services within and outside of the municipal corporate limits of the City; and

WHEREAS, the Dearborn County Regional Sewer District ("the District") oversees certain sanitary sewer services in certain unincorporated areas of Dearborn County, Indiana; and

WHEREAS, approximately sixteen (16) homes in an area commonly known as Upper Wilson Creek require sanitary sewer service, which area is in close proximity to the City's municipal corporate limits and in unincorporated Dearborn County; and

WHEREAS, the District desires LMU to continue to extend sanitary sewer services within the Service Area pursuant to the terms of this Agreement; and

WHEREAS, LMU is willing to continue to extend sanitary sewer service within the Service Area pursuant to the terms of the Interlocal Agreement which is attached hereto as "Exhibit A" and incorporated by reference into this Resolution; and

WHEREAS, May 12, 2017, the office of the Indiana Attorney General approved an Unterlocal Agreement between the District and LMU whereby sewer service has been extended to a Service Area adjacent to the City in accordance with the terms of said Agreement.

NOW, THEREFORE, in consideration of the mutual promises, terms, and conditions set out in the attached First Amended Interlocal Agreement, the District and LMU agree to be bound by and execute the same.

ALL OF WHICH IS HEREBY RESOLVED BY THE UTILITY SERVICE BOARD OF THE CITY OF LAWRENCEBURG, DEARBORN COUNTY, INDIANA, ON THIS 17th DAY OF May, 2021.

Tony Abbott

Brett Bondurant

Thomas Rowlett, Sr.

Justin Noppert

Lennie Fryman

Kelly Mollaun, Mayor
(in the event of a tie vote)

ATTEST:

Mark Fette, Clerk Treasurer

This instrument prepared by:

FRANK G. KRAMER, Attorney at Law
114 West High Street
Lawrenceburg, Indiana 47025
(812) 537-2522

Candace R. Slayback

From: Gard, Susan [Susan.Gard@atg.in.gov]
Sent: Friday, May 12, 2017 10:17 AM
To: Contact
Subject: Dearborn County Regional Sewer District - Interlocal Agreement
Attachments: Interlocal - Dearborn County Regional Sewer, transmittal letter..pdf; Interlocal - Dearborn County Regional Sewer, approved.pdf

Dear Mr. Kramer:

Attached is a copy of the approved Interlocal Agreement. The original will be sent by first class mail.

We are glad to have been of service.

Susan W. Gard
Deputy Attorney General, Advisory Section
Office of Indiana Attorney General Curtis Hill
302 West Washington Street
IGCS - 5th floor
Indianapolis, IN 46204
p: 317.233.0926 | f: 317.232.7979
Susan.gard@atg.in.gov

CONFIDENTIALITY NOTICE: This communication and any attachments are for the exclusive and confidential use of the intended recipient and may contain privileged or other confidential information. If you are not the intended recipient, please do not read, distribute or take action in reliance upon this message. If you have received this in error, please notify us immediately by return email and promptly delete this message and its attachments from your computer system. We do not waive attorney-client, work product or other applicable privilege by the transmission of this message.

STATE OF INDIANA
OFFICE OF THE ATTORNEY GENERAL
INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR
302 W. WASHINGTON STREET • INDIANAPOLIS, IN 46204-2770
www.AttorneyGeneral.IN.gov

CURTIS T. HILL, JR.
INDIANA ATTORNEY GENERAL

TELEPHONE: 317.232.6201
FAX: 317.232.7979

May 12, 2017

Ewbank and Kramer
Attn: Frank G. Kramer
114 W. High Street
Lawrenceburg, Indiana 47025-1908

RE: Interlocal Agreement [Upper Wilson Creek Sanitary Sewer Main Extension]
Dearborn County Regional Sewer District and City of Lawrenceburg

Dear Mr. Kramer:

We have reviewed the referenced Interlocal Cooperation Agreement and are of the opinion that it complies with the requirements set forth IC 36-1-7. A copy of the Agreement with our approval signature accompanies this letter. We have also received confirmation that the Indiana Department of Environmental Management has approved the Agreement under IC 13-26-5-7(b).

Before the Agreement becomes effective, it will need to be recorded with the Dearborn County recorder as required by IC 36-1-7-6 (which also requires filing with the State Board of Accounts within 60 days).

Very truly yours,

Susan W. Gard, Deputy Attorney General
Advisory Services Section

Via First Class Mail

INTERLOCAL AGREEMENT

[Upper Wilson Creek Sanitary Sewer Main Extension]

THIS INTERLOCAL AGREEMENT (this "**Agreement**") is entered into this 17 day of April, 2017, by and between Dearborn County Regional Sewer District (the "**District**") and the City of Lawrenceburg, Indiana (the "**City**"), by and through its Utility Service Board, which operates the City of Lawrenceburg Municipal Utilities ("**LMU**").

WITNESSETH:

WHEREAS, LMU operates a sanitary sewer utility providing service within and outside of the municipal corporate limits of the City;

WHEREAS, the District oversees certain sanitary sewer services in certain unincorporated areas of Dearborn County, Indiana;

WHEREAS, approximately 16 homes in an area commonly known as Upper Wilson Creek require sanitary sewer service, which area is in close proximity to the City's municipal corporate limits and in unincorporated Dearborn County and which area is more particularly depicted on Exhibit A attached hereto and made a part hereof (the "**Service Area**");

WHEREAS, the District desires LMU to extend sanitary sewer service within the Service Area pursuant to the terms of this Agreement; and

WHEREAS, LMU is willing to extend sanitary sewer service within the Service Area pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth below, the District and LMU (collectively, the "**Parties**" and individually, a "**Party**") agrees as follows:

1. **Definitions.** The following definitions apply to this Agreement:

    a. Applicant. A person within the Service Area who applies for connection to LMU's sanitary sewer system.

    b. Customer. A person within the Service Area approved to receive or receiving sanitary sewer service from LMU. Once an Applicant's application to connect to LMU's sanitary sewer system is approved, the Applicant shall become a Customer.

c. Force Main. The low-pressure sanitary sewer force main to be constructed pursuant to this Agreement.

d. ISBA. The Indiana State Board of Accounts.

e. Rider. The $18 per month fee that LMU will charge to each Customer until the earlier of the annexation of the Customer's property served by the Force Main into LMU or until the cost of the Force Main has been paid in full.

f. Service Area. As described in the recitals to this Agreement, the area depicted on Exhibit A attached hereto and made a part hereof.

g. Tap Fee. LMU's standard tap in fee charged pursuant to Lawrenceburg Municipal Code Section 52.101(C)(3)(a), as amended from time to time, for connections made to and for the development of LMU's sanitary sewer system. As of the date of this Agreement, the Tap Fee is Two Thousand Three Hundred Forty-Five Dollars ($2,345.00) for properties served by 5/8" or 3/4" water meters and Five Thousand Eight Hundred Sixty-Two Dollars ($5,862.00) for properties served by 1" water meters. City of Lawrenceburg, through appropriations, shall contribute One Thousand Five Hundred Dollars ($1,500.00) to the District per each individual lot, for a maximum number of sixteen (16) lots.

h. Remonstrance. Pursuant to IC § 13-18-15-2, the Customer shall not be eligible for the City of Lawrenceburg Mutual Development Fund $1,500.00 contribution for the Force Main hook up, or any other benefit listed above, unless and until they execute a Waiver of Remonstrance, which shall be recorded with the Dearborn County Recorder.

2. **Scope of Sanitary Sewer Services.** The Parties agree to jointly work together to facilitate the rendering of sanitary sewer services to the 16 homes located within the Service Area.

3. **Duties of LMU.** LMU agrees to perform the following duties under this Agreement:

a. Information. LMU will provide information to potential Customers concerning Tap Fees, monthly rates and charges, customer deposits, and all other fees and charges related to sanitary sewer service from LMU. Except for the Tap Fees, Customers in the Service Area shall be charged the same fees, monthly rates and charges, customer deposits and all other charges and assessments as are charged by the City to customers of LMU who reside within the corporate limits of City.

b. Applications. LMU will process applications for connection to LMU's sanitary sewer system and will approve connections for all applications meeting LMU's

connection qualifications applicable to any potential customer of LMU and in accordance with this Agreement.

c. Pre-Connection Collection of Fees. Prior to Customer connection, LMU will assess and collect the entire amount of all fees required prior to connection to LMU's sanitary sewer system, including Tap Fees and any other applicable fee.

d. Monthly Billing. LMU will bill Customers connected to its sanitary sewer system in accordance with LMU's policies and procedures and rules and regulations for sanitary sewer service.

e. Pass-Through of Fees. LMU will remit to the District, all of the Riders collected by LMU. Remittances will be made on a monthly basis.

f. Ownership, Operation & Maintenance. Upon conveyance by the District to LMU, LMU will own, operate and maintain the Force Main.

4. **Duties of the District.** The District agrees to perform the following duties under this Agreement:

a. Approval of Plans; Construction of Force Main. The District will prepare construction plans for the Force Main consistent with LMU's standards and specifications for main construction. The District will submit such construction plans to LMU for approval. After LMU approval, the District will construct the Force Main in accordance with the approved construction plans and in accordance with good utility practice accepted in the industry. Upon completion, the District will test the Force Main and will provide as-built construction drawings of the Force Main in hard copy and digital formats.

b. Installation and Operation of Laterals and Grinder Pumps. Individual Customers will be responsible for the construction and installation costs of laterals and grinder pumps pursuant to a separate contract between LMU and the Customer. The Parties acknowledge that the maintenance and operation of laterals, lateral stubs, and grinder pumps will be the responsibility of the Customer.

c. Easements; Conveyance of Easement and Force Main. If road right-of-way for Wilson Creek Road is not sufficient, the District will acquire private easements for the construction, operation and maintenance of the Force Main and the rendering of sanitary sewer service within the Service Area. Upon completion and successful testing of the Force Main, the District will convey the Force Main and all related easements to LMU. Laterals and lateral stubs, however, shall not be conveyed to LMU.

d. Force Main Maintenance Obligation. The District will require the contractor responsible for installation and repair of the force main to provide a one (1) year warranty and be financially responsible for faulty materials or improper workmanship relating to the construction and installation of the Force Main.

e. Forced Connections. The District covenants and agrees that it will not oppose or interfere with connections to the Force Main required by LMU pursuant to state statute, administrative rule or order, or court order.

f. No Other Fees or Charges. Other than the Rider, the District will not assess or otherwise charge Customers for connection to LMU's sanitary sewer system or for the rendering of sanitary sewer service by LMU.

5. **Authorizations for Disconnection or Refusal to Connect.** As a condition of accepting the responsibility of processing applications, accepting the Customers, and billing the Customers for the Rider, the District acknowledges that LMU may:

   a. Disconnect or refuse to reconnect a Customer for any of the following reasons:

      i. Failure to meet the applicable provisions of City, LMU or District ordinances;

      ii. Violation of the LMU's rules and regulations for sanitary sewer service;

      iii. Nonpayment of bills for sanitary sewer service;

      iv. Interference or tampering with any meter, seal, or other equipment controlling or regulating the supply of water to a Customer's premises or the return of sewage from a Customer's premises;

      v. Willful or negligent waste of sanitary sewer service due to improper or imperfect Customer-owned pipes, fixtures, appliances, or otherwise;

      vi. Theft, diversion or use of sanitary sewer service without payment; or vacancy of service premises;

   b. Decline or cease to furnish sanitary sewer service to any person or Customer who may be in debt to LMU for any reason except for property taxes and special assessments;

   c. File a lien on the property to which sanitary sewer service is rendered;

d. Pursue any other collection remedies in accordance with applicable law; and

e. Exercise any power granted to municipal sewer utilities under Indiana law.

6. **Effective Date of Agreement.** This Agreement shall be effective as of the later of the completion of the following:

   a. Adoption of this Agreement by ordinance or resolution of each Party in accordance with IC § 36-1-7-2(a).

   b. Approval by the Indiana Department of Environmental Management in accordance with IC § 13-26-5-7(b)(2).

   c. Approval by the Indiana Attorney General in accordance with IC § 36-1-7-4(b).

   d. Recording in the records of the Office of the Recorder of Dearborn County in accordance with IC § 36-1-7-6, for which the District shall pay any recording fee.

   The Parties agree and acknowledge that within sixty (60) days after this Agreement becomes effective, this Agreement will be filed with the ISBA for audit purposes in accordance with IC § 36-1-7-6. The Parties agree that the Clerk-Treasurer of Lawrenceburg will file this Agreement with the ISBA to satisfy the requirement of IC § 36-1-7-6.

7. **Insurance, Waivers and Indemnification.** Each Party is required to maintain adequate liability insurance and shall indemnify and hold the other Party and its employees or agents harmless from any claim for personal injury or property damage, including attorney fees resulting from its negligent or willful acts in connection with this Agreement. By entering into this Agreement, the Parties waive neither their respective sovereign immunity defenses nor any other limitation of liability that may be applicable. No provision of this Agreement is intended to modify or waive any provision of the Indiana Tort Claims Act and any amendments thereto. Each Party shall provide the other with a certificate of insurance or letter of self-insurance annually as the case may be.

8. **Joint Board & Dispute Resolution.** Pursuant to IC § 36-1-7-3(5)(B), the Parties establish a joint board consisting of the following:

   a. LMU Representative: Director of LMU

   b. District Representative: President of the District's Board of Directors

   The joint board shall meet as necessary to accomplish the terms and conditions of this Agreement. The Parties agree that all disputes or disagreements arising under this

Agreement that are not resolved at the staff level shall be handled as follows: The joint board shall meet and agree to the appointment of a mediator who shall proceed to mediate the dispute. Such action shall be required before the commencement of any litigation.

9. **Financing.** Each Party is responsible for its own financing, staffing and budgeting to accomplish the purposes of this Agreement, unless otherwise expressly stated herein.

10. **Default and Remedies.** If either the City or District fails to perform any act or obligation required to be performed by it, the other party shall deliver written notice of such failure to the non-conforming party. The non-conforming party shall have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default ("Default") under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party shall not be in Default if it commences cure within said thirty (30) day period and thereafter diligently pursues cure to completion.

    In the event of a party's Default under this Agreement, then after giving notice and an opportunity to cure, the non-Defaulting party shall have the right to exercise any or all rights and remedies available to it in law or equity.

11. This Agreement specifically does not include any right of the District or duty of the City for any other sewage line main extensions. Construction of laterals to the main sewer line shall be the subject of separate Interlocal Agreements.

12. **Annexation.** In the event the City annexes the Service Area, or any portion thereof, prior to recovery by the District of the full cost of the Force Main, LMU will pay to the District an amount equal to the unpaid balance of said construction cost.

13. **Miscellaneous.**

    a. Incorporation of Recitals. The recitals immediately preceding this Agreement are incorporated herein by this reference.

    b. Time of the Essence. Time is of the essence in the performance of this Agreement.

    c. Amendment. This Agreement shall not be amended except by written instrument executed by the Parties and adopted by ordinance in accordance with IC 36-1-7-2(a).

d. Entire Agreement. This Agreement contains the entire understanding between the Parties concerning the subject matter hereof. Prior understandings concerning the subject matter hereof, whether verbal or written, between the Parties or their agents are superseded by this Agreement.

e. Choice of Law. This Agreement shall be interpreted in accordance with the laws of the State of Indiana without reference to conflict of law principles. The venue of any action arising from this Agreement shall be the Superior Court of Dearborn County. In the event that a lawsuit is instituted to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all costs of such lawsuit, including reasonable attorney's fees, litigation expenses and costs.

f. No Waiver; Severability. The consent or waiver, express or implied, by a Party to any default under this Agreement will not be construed as a consent to or waiver of any other default under this Agreement. If any portion of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall nonetheless remain valid and enforceable; provided, however, if in the reasonable opinion of a Party, this Agreement fails of its essential purpose as a result of the severed provision(s), such Party shall have the right to terminate this Agreement upon thirty (30) days written notice to the other Party.

g. Notices. All notices or other communications required to be given hereunder shall be given in writing and shall be deemed to have been fully given on the date delivered, if delivered personally or by email (read-receipt requested), or on the date mailed if mailed by first-class United States Mail, postage prepaid, to the following address:

i. To LMU:

Lawrenceburg Municipal Utilities
Attn: Director
230 Walnut Street
P.O. Box 4198
Lawrenceburg, Indiana 47025
Email: olin@lmu-in.net

ii. To the District:

Dearborn County Regional Sewer District
215 West High Street, #B
Lawrenceburg, Indiana 47025
Email: regionalsewer@dearborncounty.in.gov

Notwithstanding **Section 13.c.**, either Party may change its address or email for notice by providing notice to the other Party of such change in accordance with this **Section 13.g**.

h. Signatures/E-Delivery. An originally signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an originally signed copy of this Agreement.

i. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

j. Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other Party that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized and that this Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

k. No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties.

l. No Separate Entity Necessary. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

m. Ownership of property. Except as expressly provided to the contrary in this Agreement, any personal or real property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

"LMU/CITY OF LAWRENCEBURG"

City of Lawrenceburg, Indiana,
by and through its Utility Service
Board, which operates the City of
Lawrenceburg Municipal Utilities

By: _____
Kelly Mollaun
Mayor

By: _____
Olin Clawson
Director of LMU

ATTEST:

_____
Tyler Rainey, Clerk Treasurer
Lawrenceburg, Indiana

STATE OF INDIANA

COUNTY OF DEARBORN

Subscribed and sworn to me, a Notary Public, on this 7 day of April, 2017.

My Commission Expires:

3/22/24

_____
Notary Public
Printed: Yalonda N. Lischkge
Residing in Dearborn County, Indiana

YALONDA N. LISCHKGE
NOTARY PUBLIC INDIANA SEAL
COUNTY OF DEARBORN
COMMISSION # 682299
COMMISSION EXPIRES 3/22/24

"DISTRICT"

Dearborn County Regional Sewer District

By: Steven Renihan
Steven Renihan
President

ATTEST:

R. Brett Fehrman
Brett Fehrman, Secretary
Dearborn County, Indiana

STATE OF INDIANA

COUNTY OF DEARBORN

Subscribed and sworn to me, a Notary Public, on this 20 day of April, 2017.

My Commission Expires:

November 29, 2020

Frank G. Kramer
Notary Public
Printed:
Residing in Dearborn County, Indiana

I AFFIRM UNDER PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

FRANK G. KRAMER

APPROVED pursuant to Ind. Code 36-1-7-4:
Office of the Indiana Attorney General

Lucy W. Gard (for)
Curtis T. Hill, Jr., Attorney General

Date: May 12, 2017

This instrument prepared by:
FRANK G. KRAMER, Attorney at Law
114 West High Street
Lawrenceburg, IN 47025
(812) 537-2522

EXHIBIT A

Depiction of Service Area

HREZO Engineering, Inc.
GREENDALE • 1025 Ridge Avenue, Greendale, IN 47025
Phone: 812.537.4700 • Fax: 812.537.5054 • E-mail: contact@hrezoengineering.com
MADISON • 448 Meadow Lane, Madison, IN 47250
Phone: 812.273.2644 • Fax: 812.265.5249

Engineering Certification • Engineering Consulting • Construction Management
Full Engineering Services • Full Architectural Services • Full Surveying Services

HREZO Engineering, Inc.

Wilson Creek Sewer Extension

Exhibit A

RESOLUTION NO. 3 -2017

A RESOLUTION ADOPTING AN INTERLOCAL AGREEMENT WITH THE DEARBORN COUNTY REGIONAL SEWER DISTRICT

WHEREAS, The City of Lawrenceburg, through Lawrenceburg Municipal Utilities ("LMU"), operates a sanitary sewer utility providing service within and outside of the municipal corporate limits of the City; and

WHEREAS, the Dearborn County Regional Sewer District ("the District") oversees certain sanitary sewer services in certain unincorporated areas of Dearborn County, Indiana; and

WHEREAS, approximately 16 homes in an area commonly known as Upper Wilson Creek require sanitary sewer service, which area is in close proximity to the City's municipal corporate limits and in unincorporated Dearborn County; and

WHEREAS, the District desires LMU to extend sanitary sewer service within the Service Area pursuant to the terms of this Agreement; and

WHEREAS, LMU is willing to extend sanitary sewer service within the Service Area pursuant to the terms of the Interlocal Agreement which is attached hereto as "Exhibit A" and incorporated by reference into this Resolution.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set out in the attached Interlocal Agreement, the District and LMU agree to be bound by and execute the same.

ALL OF WHICH IS HEREBY RESOLVED BY THE UTILITY SERVICE BOARD OF THE CITY OF LAWRENCEBURG, DEARBORN COUNTY, INDIANA, ON THIS THE 17th DAY OF Apr. 2017.

Randy Abner, President

Tony Abbott

Aaron Cook

Mel Davis

Paul Seymour, Jr.

Kelly Mollaun, Mayor
(in the case of a tie vote)

ATTEST:

Tyler Rainey, Clerk-Treasurer

THIS INSTRUMENT PREPARED BY:

Delmar D. Weldon III
City Attorney, City of Lawrenceburg
ZERBE GARNER BLONDELL & WELDON, LLP
15 West Center Street
Lawrenceburg, Indiana 47025
Phone: (812) 537-0001
Email: ddweldon@zerbegarnerlaw.com

RESOLUTION NO. 1 - 2017

Upper Wilson Creek Road

WHEREAS, the Dearborn County Regional Sewer District ("District") has determined a need to construct sewer infrastructure for upper Wilson Creek Road situated within the District; and

WHEREAS, the City of Lawrenceburg ("Lawrenceburg") is located in close proximity to said facilities and is willing to enter into an Interlocal Agreement to provide service to upper Wilson Creek Road, all as more particularly set forth in Interlocal Agreement attached hereto.

NOW, THEREFORE, be it resolved that the District hereby approves the Interlocal Agreement with the City of Lawrenceburg attached hereto.

BE IT FURTHER RESOLVED that Steven Renihan, as Chairman, and Brett Fehrman, as Secretary, are hereby authorized to execute said Agreement on behalf of the District, and to execute any and all documents necessary to effectuate the terms of said Agreement.

Dated this 20th day of April, 2017.

R. Brett Fehrman

Brett Fehrman, Secretary

Approved:

Steven Renihan

Steven Renihan, Chairman

EWBANK & KRAMER

ATTORNEYS AT LAW

JAMES H. EWBANK (1865-1961)
GERALD H. EWBANK (1918-1979)

FRANK G. KRAMER
ROBERT J. EWBANK
PATRICIA J. COGHILL
ANTHONY M. SMART*
JARED J. EWBANK

*Licensed in Indiana and Ohio

TELEPHONE: (812) 537-2522
FACSIMILE: (812) 537-2531
EMAIL: contact@ewbankkramer.com
www.ewbankkramer.com

May 26, 2021

Indiana Attorney General's Office
Indiana Government Center South
302 W. Washington Street, 5th Floor
Indianapolis, IN 46204-2770

Re: City of Lawrenceburg - First Amended Interlocal Agreement

To Whom It May Concern:

On May 12, 2017 your office approved an Interlocal Agreement between the Dearborn County Regional Sewer District and the City of Lawrenceburg, Indiana by and through its Utility Service Board which operates the City of Lawrenceburg Municipal Utilities. I am enclosing a copy of that agreement with this letter. That agreement has been amended to allow the Dearborn County Regional Sewer District to complete all enforcement actions necessary to force customers to connect to the force main in accordance with local, county, state and federal laws, as well as working with the Dearborn County Health Department in determining exempt status. The First Amended Interlocal Agreement is being submitted to your office in accordance with I.C. §36-1-7-4(b).

Also enclosed is a copy of my letter to the Indiana Department of Environmental Management in accordance with I.C. §13-26-5-7.

I will wait to hear from you. Thank you for your cooperation.

Very truly yours,

EWBANK & KRAMER

Frank G. Kramer

FGK:cs
Enclosures
pc: IDEM
Del Weldon, Lawrenceburg City Attorney *(via email only)*