



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

June 10, 2021

Ric Zehr
c/o Allen County Regional Water & Sewer District
200 East Berry Street, Suite B-015
Fort Wayne, Indiana 46802

Allen County Commissioners
200 East Berry Street, Suite 410
Fort Wayne, Indiana 46802

RE: Enclosed Letter of Intent to Acquire Certain District Assets and Debts

Dear President Zehr and County Commissioners:

Enclosed please find a Letter of Intent to Acquire Certain District Assets and Debts ("**LOI**") from the City of Fort Wayne ("**City**"), through its Division of Utilities ("**City Utilities**"). The proposed transaction would involve the transition of all the Allen County Regional Sewer District ("**District**") assets and the debts related to those assets to the City.

The goal of the proposed transaction is to provide immediate and long-term cost savings to District customers, improve levels of service, and improve public and environmental health. The terms outlined in the attached LOI would result in a reduction of rates for the District's customers to \$77.75 per month for 2021 and \$80.12 per month for 2022.¹ The new rates will provide immediate and long term financial relief to the vast majority of the District's current customers.

The City believes the proposed transaction is not only in the best interest of the District's customers who stand to realize substantial short-term and long-term savings, but also in the best interest of the District, the County, and the City. For these reasons, your consideration of the enclosed LOI is appreciated.

¹ Actual savings may vary depending on the customer's location. Some customers located within City limits may experience an even greater reduction in rates based on the City's rate schedules. Likewise, approximately 395 District customers in eight neighborhoods are assessed a City monthly capital surcharge ranging from \$20.00 to \$22.50 per month that covers other broader costs of extending service to such customers specific to those neighborhoods. These capital surcharges will continue after the acquisition and will be in addition to the rates listed in this paragraph until their termination on separate terms.

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If you have any questions or wish to discuss this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above the printed name.

Kumar Menon
Director of City Utilities

Enclosure

cc: Jim McGoff, Indiana Finance Authority (via email)
Bill Harkins, Indiana Finance Authority (via email)

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June 21, 2021

Ric Zehr
c/o Allen County Regional Water & Sewer District
200 East Berry Street, Suite B-015
Fort Wayne, Indiana 46802

RE: Letter of Intent to Acquire Certain District Assets and Debts

Dear President Zehr:

The City of Fort Wayne ("**City**"), through its Division of Utilities ("**City Utilities**"), is pleased to present this non-binding Letter of Intent ("**LOI**") to the Allen County Regional Water & Sewer District ("**District**") proposing the transition of all current assets and debts of the District to the City. The goal of this effort is to provide the customers of the District significant and immediate rate relief, lower long-term costs, higher levels of service, and improved public health and environmental stewardship throughout Allen County, Indiana ("**County**").

The City proposes to assume the ownership and responsibility for all current District assets, to assume or satisfy all current debt obligations of the District and to continue providing service to all current customers in accordance with the following (the "Transaction"):

1. Additional Financial Assistance from County. The parties understand that the Indiana Finance Authority ("**IFA**") will be offering low interest rate financing to City Utilities in an effort to achieve the overall rate relief goals for the District's current customers. The parties recognize that the Allen County Commissioners ("**Commissioners**") have previously provided substantial funds to the District in an effort to reduce rates, but the parties also understand that the

IFA may request that the Commissioners offer additional financial assistance in order to achieve the desired rate relief goals. In this instance, the Commissioners will consider such request and cooperate in good faith with the other parties to achieve the goal of offering rate relief to the District's customers.

2. District Liabilities. The transaction will exclude any and all non-asset related liabilities of the District (e.g., employment taxes, wages, building leases, etc.) and any real estate taxes that accrued prior to the date of Closing.

3. User Rates for District Customers. Monthly rates for all District customers would change at Closing to no more than the sum of:

- a. The City flat sewer rate (inside city or outside city as appropriate based on the customer's location); and
- b. Any existing capital surcharges applicable to the customer based on the customer's location, until the existing capital surcharge terminates on its own schedule.¹

4. District Employees. Employees of the District will be encouraged to apply for open positions within City Utilities, other City departments, and the County; provided, however, that the decision to extend an offer of employment shall be at the discretion of the applicable City or County department.

5. Assignment of District Service Contracts. The following existing contracts will be assigned (as-is) to the City, subject to any consents and other contractual requirements:

¹ Approximately 395 District customers in eight neighborhoods are assessed a City monthly capital surcharge that covers other broader costs of extending service to such customers specific to those neighborhoods (Examples: the Carrol Hand Area is \$20.00 and the Flutter Wheelock Area is \$22.50). These capital surcharges will continue after the acquisition and will be in addition to the rates listed in this paragraph until their termination on separate terms.

- a. Platter Parkway with Woodburn;
- b. Georgian Park with New Haven; and
- c. Salt Hill with Aqua Indiana.

6. Effective Date of Assignments. The assignment of the contracts delineated in paragraph 5 above, or any other contracts if applicable, will be effective as of the Closing Date (as defined below). Once this assignment is effective, City Utilities will be solely responsible for administering the contracts.

7. District Septic Systems. For those District customers that were provided replacement septic systems (approximately 23 residential homes), the City shall continue to own and operate such septic systems until the planned completion of payments (10 years from their respective start). After all payments are made, the ownership of and responsibility for such septic systems will be turned over to the customer as originally planned by the District.

8. Additional Contracts. The following existing contracts will be addressed as follows:

- a. Arcola, Riverhaven, Southern Service Area, Bernway, Canyon Run, and Mayhew will be amended to address the transfer of ownership of the District's assets serving the foregoing territories and acknowledge the extension of the City's service area pursuant to the July 5, 1979 Order of the Steam Pollution Control Board in Cause No. B-422.
- b. The current arrangement between the City Utilities and the District under which City Utilities performs certain services on behalf of the District will become void upon Closing and the City will assume all responsibility and costs for operating the District's assets.

- c. The contract for service to Northwest Lake Township will remain in effect at Closing and continue as agreed.
- d. The contract for service to Western Eel River Township and Canyon Run will be amended to address the confirmation of the Town of Huntertown's Exclusive Territory as directed in the Indiana Utility Regulatory Commission's Final Order in Cause No. 44519 in May of 2016.

9. Interlocal Agreement. The District and the City will enter into a separate Interlocal Agreement authorizing the City to provide service on behalf of the District in any District territory established under the July 5, 1979 Order of the Stream Pollution Control Board in Cause No. B-422 or otherwise, with the exception of any other territories established by state, county, or local agencies such as the Leo-Cedarville Regional Sewer District, the Maysville Regional Water and Sewer District, the City of New Haven, Indiana, the City of Woodburn, Indiana, and the Town of Grabill, Indiana.

10. Conversion of Grinder Pump Stations. Grinder Pump Stations ("GPS") allow entities such as the District and City Utilities to provide sewer service to many customers that may not otherwise be feasible to serve; however, GPS can be more costly to operate and maintain in comparison to other sewer service methods. GPS provide service to individual customers ("IGPS") or are established to provide service to several/multiple customers ("MGPS"). There are currently approximately one thousand two hundred (1,200) homes served by IGPS and there are approximately two hundred and fifty (250) additional MGPS that serve approximately five hundred (550) homes within the District.

- a. At Closing, City Utilities will assume the ownership and responsibility of the operations and maintenance of all IGPS and MGPS and continue to

provide the same level of service, repairs, and customer and technical support as provided by the District. City Utilities will have staff qualified, trained, and prepared to provide the service to IGPS and MGPS at or before Closing.

- b. At or within 90 days following Closing, City Utilities will provide to all customers served by IGPS the information, operating manuals, troubleshooting guidelines, and other assistance regarding the best practices for operating and maintaining their GPS. In addition, City Utilities will retain the services of no less than two third-party firms that are pre-qualified in providing service to IGPS with standard costs for on-demand service calls, equipment repair, and replacements.
- c. No sooner than 90 days following Closing, City Utilities will commence with notification to the IGPS homeowners of the transition of ownership and responsibility of the operations and maintenance and associated costs of all IGPS to the respective homeowners with the following allocations:
 - 1. The continued access to service calls, repairs, and replacements from City Utilities staff and/or pre-qualified City Utilities service providers if the homeowner elects to use these services.
 - 2. City Utilities will provide one float/sensor replacement, one pump replacement, and one GPS discharge line check-valve replacement (1 of each) at no direct cost to the homeowner if the work is done by City Utilities or one of City Utilities' prequalified service providers

3. The ability to purchase new grinder pumps in the future (after first replacement has been provided) from City Utilities and finance the cost of the grinder replacement through City Utilities.
- d. At or before Closing, City Utilities will initiate and commence a long-term effort to consider the conversion of all MGPS into IGPS and upgrade any remaining MGPS to traditional City Utilities-maintained sewage lift stations (“Lift Stations”). Any resulting IGPS will then be addressed by City Utilities as described in subsection c above. Any resulting Lift Stations will remain the direct responsibility of City Utilities.
- e. City Utilities will continue this effort until all customers served by GPS have their own IGPS or are served by Lift Stations and there is no such cost of GPS within the revenue requirement of or cost to City Utilities and its overall group of customers.

City Utilities shall prepare more detailed descriptions of the GPS programs and approaches proposed by City Utilities in the definitive agreement documents among the parties.

11. Timing for Execution. This Letter of Intent shall be null and void unless executed by all parties on or before July 9, 2021.

12. Due Diligence and Final Agreement. The entire offer and transition are subject to the results of due diligence by the City, any necessary municipal and/or regulatory approvals, and the acceptance of a final, definitive and binding agreement between the District, Commissioners, and City on or before August 31, 2021.

13. This LOI does not constitute a formal and binding agreement. This LOI merely reflects the basic terms and conditions upon which the parties would be willing to consummate the

Transaction. The terms and conditions set forth in this LOI may be subject to modification, change or withdrawal without penalty.

14. Preparation and Execution of Final Agreement. The parties agree to memorialize the principles contained herein in a permanent, long-term agreement between the parties. Such final agreement may also contain terms and conditions not otherwise included in this LOI. The final agreement shall be finalized on or before August 31, 2021. If the parties are unable to execute an agreement on or before August 31, 2021, the terms and conditions in this LOI shall be null and void.

15. Approval of Final Agreement. The parties agree to cooperate in good faith to obtain all necessary approvals and execution of the final agreement.

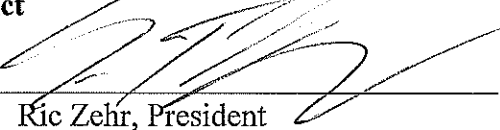
16. Closing Date. The City proposes a closing date of October 28, 2021 ("**Closing Date**").

Please indicate your concurrence with the above outline of terms and conditions by signing below.

City of Fort Wayne, through its Division of Utilities

By: 
Kumar Menon, Director

Allen County Regional Water & Sewer District

By: 
Ric Zehr, President