

Town of Georgetown, IN

Resolution # R-09-09

DESIGN BUILDER RELEASE

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA ("GEORGETOWN"), THAT:

WHEREAS, the Georgetown Town Council ("Town Council") entered into certain contracts, and amendments thereof, with respect to the design and construction of a Waste Water Treatment Plant ("WWTP") by Capitol Engineering, Inc. (the "Design Builder").

WHEREAS, the construction of such WWTP has started, but has been stopped and delayed due to litigation concerning both of the sites for which a WWTP plant has been permitted by the Indiana Department of Environmental Management. One permitted site, the O'Brien site, has annexation pending, which cannot take effect until January 1, 2010. The other permitted site, the Shop site, is subject to a suit to review permitting by the Department of Natural Resources, which is plenary in scope and is subject to further appellate review by courts.

WHEREAS, Georgetown has worked with Floyd County to establish an alternate site for the WWTP, but construction at such alternate location would not be able to commence for several months, and is subject to various contingencies including financing and permitting. In addition some of the alternate sites under consideration, if ultimately selected, have physical attributes that may pose design and construction schedules that would significantly delay the commencement of construction.

WHEREAS, the Design Builder contends that continued obligations to construct Georgetown's WWTP have adversely affected the Design Builder's ability to bond and bid other construction projects.

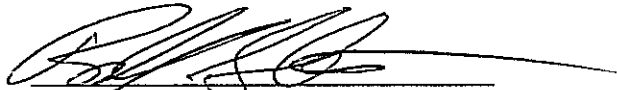
WHEREAS, Georgetown's executive and legal representatives have expressed Georgetown's willingness to relieve the Design Builder of certain obligations under the WWTP contracts, to facilitate the Design Builder's bonding and bidding for other construction projects.

WHEREAS, Georgetown and the Design Builder have been engaged in negotiations to modify the WWTP contracts so that the Design Builder may commence construction in the future at an already permitted site, or at an alternate site if possible, and to ascertain and address the Design Builder's delay damages under the contracts for the WWTP; moreover, Georgetown desires to continue working with the Design Builder for purposes of the WWTP.

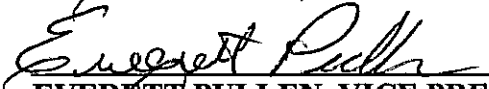
NOW THEREFORE, BE IT HEREBY RESOLVED THAT:

Georgetown hereby relieves the Design Builder of the obligation to stand ready to construct or to maintain bonding capacity for such construction, until such time as Georgetown may restart construction of its WWTP project and until such time as Georgetown and the Design Builder have entered into mutually agreed contractual modifications for such WWTP, with a mutually agreed settlement as to any damages owing to the Design Builder.

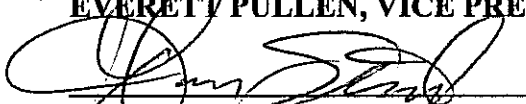
So ORDAINED by the Town Council of the Town of Georgetown, Indiana, this
8 day of JUNE 2009.



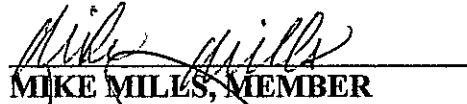
BILLY STEWART, PRESIDENT



EVERETT PULLEN, VICE PRESIDENT



AARON STRIEGEL, MEMBER



MIKE MILLS, MEMBER



KARLA PERKINS, MEMBER

ATTEST:


DOUGLAS COOK, CLERK/TREASURER