

TOWN OF GEORGETOWN
RESOLUTION NO. R-20-12

**A Resolution for the Approval of an Asset Purchase Agreement
with Lakeland Lagoon Sewer Corporation**

WHEREAS, the Town Council for the Town of Georgetown, Indiana desires to purchase certain assets from Lakeland Lagoon Sewer Corporation; and

WHEREAS, the Lakeland Lagoon Sewer Corporation desires to have the Town purchase and manage the sewer lines and facilities for the Lakeland Lagoon Subdivision; and

WHEREAS, the purchase price for the assets as set out in the attached Asset Purchase Agreement is \$1; and

WHEREAS, the Town Council desires to assist Lakeland Lagoon Sewer Corporation and Lakeland Lagoon Subdivision with ensuring the assets can continue to operate safely and provide service to the residents in Lakeland Lagoon; and

WHEREAS, the Town Council desires to take over the assets and operation of the property and sewer service for Lakeland Lagoon; and

WHEREAS, the Town Council desires to provide some updates and improvements to the system at an upfront cost to the Town but which will be repaid by Lakeland Lagoon homeowners over time as set out in the attached Asset Purchase Agreement; and

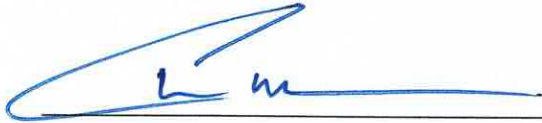
WHEREAS, the Town Council desires to proceed and approve the Asset Purchase Agreement as Attached.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF GEORGETOWN, INDIANA:**

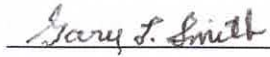
- 1) The Georgetown Town Council hereby wishes purchase certain assets of Lakeland Lagoon Sewer Corporation as set out in the Asset Purchase Agreement attached.
- 2) The Georgetown Town Council hereby wishes to provide certain updates and improvements to the Lakeland Lagoon Sewer Corporation assets that it purchases, as set out in the Asset Purchase Agreement attached.
- 3) The Georgetown Town Council approves the Asset Purchase Agreement attached.
- 4) The Georgetown Town Council hereby approves the President of the Council to sign the Asset Purchase Agreement on behalf of the Town.

SO RESOLVED AND APPROVED THIS 28 DAY OF July, 2020.

GEORGETOWN TOWN COUNCIL



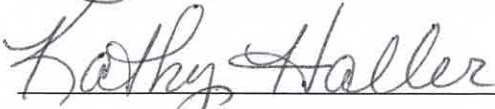
Chris Loop, Town Council President



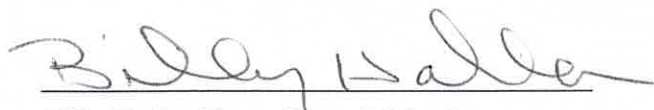
Gary Smith, Town Council Vice President



Ben Stocksdales, Town Council Member

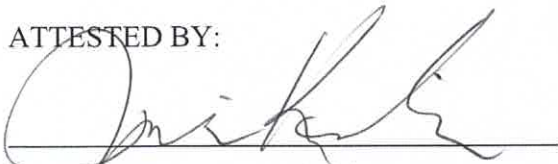


Kathy Haller, Town Council Member



Billy Haller, Town Council Member

ATTESTED BY:



Julia Keibler, Deputy Clerk/Treasurer

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into as of this 22 day of July, 2020, by and between the Town of Georgetown ("Buyer") and Lakeland Lagoon Sewer Corporation ("Seller").

WITNESSETH:

WHEREAS, Lakeland (Seller) is a private utility providing sewage services to customers in Floyd County, Indiana as shown on Exhibit A attached hereto and incorporated herein by reference (the "Service Area"); and

WHEREAS, the Town of Georgetown (Buyer) is a municipality located in Floyd County, Indiana, which also operates sewer services within Floyd County and wishes to acquire certain assets of Seller, as more particularly described herein; and

WHEREAS, the parties wish to enter into this transaction on the terms and conditions set out herein.

NOW, THEREFORE, in consideration of the promises of the parties set out herein, as well as other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each party to the other, the parties agree as follows:

1. **Purchase of Assets.** At the Closing, as hereinafter defined, Seller shall sell to Buyer, and Buyer shall purchase from Seller, all of Seller's right, title and interest in and to the following assets (collectively referred to as the "Assets") free and clear of all liens, claims, encumbrances and liabilities (as hereafter defined):
 - a. All sewer lines, pipes, manholes, equipment and other tangible assets used to provide services to customers of Seller;
 - b. All easements held by Seller in connection with the services provided to Seller's customers;
 - c. All of Seller's accounts receivables, including all sewer charges until the Closing Date;
 - d. All customers served by Seller, including all customers lists, billing records, and other related materials;
 - e. All permits, licenses and other approvals necessary for the operation of Seller's facilities to the extent assignable;
 - f. Seller's files and records relating to the ownership or operation of the Assets, including, without limitation, customer and supplier records, manuals, books, files, records, engineering data, procedures, system instructions, drawings, blueprints, plans, designs, specifications, equipment lists, parts lists, equipment

maintenance records, equipment warranty information and specifications and drawings;

- g. All billing software utilized by Seller, including any source codes, manuals, and/or guides related thereto; and
- h. Any other assets of Seller relating to the ownership or operation of the Assets and the business of Lakeland not otherwise excluded under Section 2.

2. **Excluded Assets.** Excluded from the Assets described in Section 1 are the following assets of Seller (collectively referred to as "Excluded Assets"):

- a. Seller's cash and cash equivalents in excess of any amounts necessary to pay Buyer for outstanding charges for sewer services;
- b. Any insurance policies purchased by or on behalf of Seller on its business, property or personnel effective in the past, present or future which, in whole or in part cover liabilities or disability of its personnel. (Furthermore, Seller is not transferring to Buyer any rights, express or implied, under the Seller's Policies and Buyer shall have no right to assert or file any claim under Seller's Policies); and
- c. Any confidential legal documents of Seller.

3. **Purchase Price & Payment.** The purchase price for the Assets shall be the sum of One Dollar (\$1.00). The Purchase Price shall be paid in cash at the closing of the transaction contemplated herein on the Closing Date (as hereinafter defined) (the "Closing").

Buyer and Seller acknowledge and agree that the consideration provided for represents fair consideration for the sale and transfer of the Assets and the agreements as set forth in this Agreement, which consideration was agreed upon as the result of arm's-length, good faith negotiations between the parties and their respective representatives.

4. **No Assumption of Liabilities.** Buyer does not assume, and shall not in any manner be or become responsible or liable for, any debts, obligations or liabilities of Seller, whether known or unknown, fixed, contingent or otherwise, arising out of or resulting from Seller's ownership of the Assets or the operation of its business prior to the Closing Date.

5. **Improvements.** After Closing, Buyer intends to conduct certain repairs, upgrades and modifications to the Assets being purchased hereunder (the "Improvements") to be financed by Buyer and paid by means of sewer surcharges (the "Surcharges") to Seller's customers. Such improvements and the financing and surcharges related thereto must be approved by the Georgetown Town Council. The Georgetown Town Council hereby agrees to fund the construction costs up to \$315,000.00, with repayment by the Seller's customers over a period of 40 years. The customers of seller shall pay Out of Town rates to Georgetown, as approved and amended from time to time by Georgetown, with the surcharge of approximately \$16.50 a month to repay the up-front construction and soft costs paid by the Town. The Town shall also fund

soft costs of their own engineers and legal or other professionals. Lakeland shall be responsible for their own costs associated with legal or other professional they hire to review, assist, or represent them in this transaction or matters going forward.

6. **Seller's Representations & Warranties.** Seller hereby represents and warrants to Buyer that as of the date hereof and as of the Closing Date:

- a. **Organization; Power and Authority.** Lakeland is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana and is duly licensed and qualified to do business in each jurisdiction wherein the character of its property or the nature of the activities being conducted by it make such qualification necessary. Seller has the corporate power and authority to (i) own and operate Lakeland's business; (ii) enter into and deliver this Agreement; and (iii) consummate the transactions contemplated by this Agreement.
- b. **Current Customers.** Lakeland currently has only residential customers.
- c. **Services.** Lakeland is the sole provider of sewer services directly to the Customers served by Lakeland. Lakeland is aware of no other provider of sewer services to Seller's customers, although Buyer provides services to Lakeland and Lakeland then provides services to Customers.
- d. **Authorization, Due Execution; No Conflicts.**
 - (i) This Agreement has been duly authorized by all necessary action on the part of Seller and Buyer. Upon the execution and delivery of this Agreement and upon approval of this Agreement by the parties, this Agreement shall constitute the legal, valid and binding obligation of Seller and Buyer enforceable against Seller and Buyer, in accordance with its terms.
 - (ii) The execution, delivery and performance of this Agreement by Seller will not (1) constitute a breach or violation of (a) the articles of incorporation or bylaws of Lakeland, (b) any applicable law, rule, statute or regulation, or (c) any indenture, deed of trust, mortgage, loan agreement or other material contract, agreement or instrument to which Lakeland is a party or by which Seller is bound; (2) constitute a violation of any pending or effective order, judgment or decree to which Seller is a party or by which Seller's assets or properties are bound or affected; (3) result in the acceleration of any material debt owed by Seller; or (4) result in the creation of any lien, charge or encumbrance upon the Assets except for liens, charges or encumbrances that may result from actions taken or caused to be taken by Buyer.
- e. **Title to and Condition of the Assets.** Buyer shall receive good and marketable title to all of the Assets at Closing, free and clear of all security interests, mortgages, liens, pledges, lawsuits, claims, charges or encumbrances

of any nature, subject only to those certain encumbrances. With respect to any easements:

- (i) Seller has no knowledge of any facts or claims placing Seller on notice that Seller may not have good and marketable title to all of the Easements and that, to Seller's knowledge, they possesses good and marketable title to all of the private easements necessary to operate the sewer system presently being operated by Seller in Floyd County, Indiana.
- (ii) Seller has not sold, assigned, transferred, encumbered or otherwise conveyed any of the Easements comprising the Assets.

f. **Claims, Litigation.** Except as expressly provided in the preceding paragraph of this section, Seller represents that there are no claims, actions, suits, proceedings, or investigations, either administrative or judicial, pending or to the best knowledge of Seller, threatened against Seller which Seller anticipates negatively affecting the Assets as of the Closing, at law or in equity, or before an arbitrator, court or before or by any governmental agency or instrumentality, domestic or foreign.

g. **Compliance with Law.** Seller is not in material violation of any law, regulation, rule, ordinance, order, judgment, writ, injunction, or decree, of any federal, state or local government or instrumentality or agency thereof, or any court, which has had, or is likely to have, a material adverse effect on Lakeland's business or the Assets and, as of the date hereof, Seller is not aware of any facts or material circumstances which may constitute or result in any such a violation.

h. **All Material Information.** Seller has not withheld from Buyer any material facts relating to the Assets. No representation or warranty made herein by the Seller and no statement contained in any instrument furnished or to be furnished to Buyer by the Seller in connection with the transactions contemplated by this Agreement contains or will contain an untrue statement of material fact or omits or will omit to state any material fact necessary to make any representation, warranty, or other statement of the Seller not misleading.

i. **No Other Agreements to Sell Assets.** Seller does not have any obligation, absolute or contingent, to any other person or entity to sell any of the Assets, or to effect any merger, consolidation or other reorganization of Seller or to enter into any agreement with respect thereof.

7. **Buyer's Representations & Warranties.** Buyer represents and warrants to Seller that as of the date hereof and as of the Closing Date:

- a. **Organization; Power and Authority.** Georgetown is a governmental entity under the laws of the State of Indiana. Georgetown Town Council has the

power and authority to (i) enter into and deliver this Agreement; and (ii) consummate the transactions contemplated by this Agreement.

b. Authorization, Due Execution; No Conflicts.

(i) This Agreement has been duly authorized by all necessary action on the part of Seller and Buyer. Upon the execution and delivery of this Agreement and upon approval of this Agreement by the parties, this Agreement shall constitute the legal, valid and binding obligation of Seller and Buyer enforceable against Seller and Buyer, in accordance with its terms.

(ii) The execution, delivery and performance of this Agreement by Buyer will not (1) constitute a breach or violation of (a) any applicable law, rule, statute or regulation by which Buyer is bound.

8. Seller and Buyer's Representations & Warranties as to Brokers. Buyer, on the one hand, and Seller, on the other hand, each represents and warrants to the other that it has not dealt with any broker in connection with this transaction and that no broker was instrumental or had any part in bringing about this transaction.

9. Covenants Pending the Closing.

a. **Use of Reasonable Efforts.** The parties shall use all reasonable efforts to take all action and to do all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.

b. **Conduct Through the Closing.** Prior to the Closing, Seller shall:

(i) Operate and maintain its business in the ordinary course;

(ii) Not incur any material indebtedness with respect to the Assets or enter into any contracts or lease or sell any assets materially relating to the business of Seller;

(iii) Remain responsible for all costs, expenses, liabilities and obligations of its business in the ordinary course;

(iv) Maintain all of the Assets in as good a condition as they are now in, reasonable wear and tear excepted, and Seller shall maintain the Assets up to the Closing Date in accordance with its ordinary maintenance practices;

(v) Make all payments to Buyer as set forth in Section 3 hereof; and

(vi) Not transfer any of the Assets or create any easements, leases, tenancies, liens or other encumbrances or any possessory rights on or in connection with any of the Assets other than in the ordinary course of Seller's business consistent with past practices.

c. **Notice of Litigation.** Buyer, on the one hand, and Seller, on the other hand, will promptly notify the other in writing if it receives any notice or otherwise becomes aware of any new action or proceeding instituted or threatened before any court or

governmental agency by any third party to restrain or prohibit the consummation of the transactions contemplated by this Agreement.

- d. **Notices & Consents.** Seller shall give any required notices to third parties and use reasonable efforts to obtain any third party consents that Buyer may reasonably request or as may be required in connection with the transactions contemplated by this Agreement. Each of the parties shall give any notices to, make any filings with, and use its reasonable efforts to obtain any necessary authorizations, consents, and approvals of governments and governmental agencies in connection with the transactions contemplated by this Agreement.
- e. **Risk of Loss.** All risk of loss or damage prior to Closing by fire, tornado, windstorm, explosion or any other casualty whatsoever shall be assumed by Seller and in the event of loss or damage prior to Closing, Buyer shall have the right to terminate this Agreement upon written notice to Seller.
- f. **Title Insurance Commitment.** If requested by Buyer, Seller shall have delivered to Buyer, at Seller's expense, a standard form, ALTA owner's title insurance commitment (the "Title Commitment") in the amount of the current assessed value of the properties insuring marketable title to the Easements and showing all matters affecting title to such property. Within thirty (30) days of Buyer's receipt of the Title Commitment, Buyer shall advise Seller in writing of its objections, if any, to the Title Commitment. Failure of Buyer to provide such written notice within such thirty (30) day period shall be deemed an election by Buyer to waive any objections and to accept such title as Seller is able to convey without any reduction in the Purchase Price. Within five (5) days of Seller's receipt of any Buyer objections, Seller shall advise Buyer in writing whether it intends to correct the defects to which Buyer has objected. In the event Seller elects to correct all or some of such defects, Seller shall be entitled to extend the Closing Date for up to thirty (30) days to correct such defects after which period. If such defects are not cured, Buyer will be entitled to terminate this Agreement, in which case neither party shall have any further rights or obligations hereunder except as otherwise expressly provided herein, or may waive such defects and proceed to Closing. In no event shall Seller be obligated to bring any action or proceeding, make any payments, or otherwise incur any expense in order to eliminate the defects to which Buyer has objected except to remove any monetary liens shown in the title commitment. Any matter reflected in the Title Commitment that is not objected to in accordance with the terms hereof shall be deemed accepted by Buyer.

10. **Conditions Precedent to the Parties' Obligation to Close.** The obligations of the parties to close this transaction shall be contingent on the satisfaction of the following conditions:

- a. **Due Diligence.** Buyer shall have been given a reasonable access to Seller's facilities and to the Assets so as to perform a due diligence review of all information relating to the Assets which it may reasonably request.

Prior to Closing, Buyer shall have completed a due diligence inspection of the Assets, the results of which must be satisfactory to Buyer, in its sole discretion.

- b. **IURC Approval.** Seller and Buyer shall jointly petition the Indiana Utility Regulatory Commission (IURC) for the approval of the sale or transfer of the Assets, the transfer of Seller's sewer customers to Buyer and the financing and Surcharges related to the Improvements, and the IURC shall have approved the joint petition. In support of the joint petition to the IURC, Buyer and Seller each agree to be separately represented at IURC hearings by counsel. Unless otherwise directed by the Commission, Buyer and Seller will file the joint petition with the IURC. If the IURC approves the sale or transfer to the Assets, the transfer of Seller's sewer customers to Buyer, and the financing and surcharge related to the Improvements but such approval alters the term of this Agreement in any material way, either Buyer or Seller may terminate this Agreement unless the alteration has been consented to by both Buyer and Seller.
- c. **Common Council Approval.** Buyer shall take all necessary and appropriate action necessary to seek the approval of the Georgetown Town Council, to the extent required by applicable laws, rules and regulations, for the purchase of the Assets and for the financing of and Surcharges related to the Improvements in connection therewith. Buyer shall have received financing for the completion of the Improvements acceptable to Buyer, in its sole discretion, within a reasonable amount of time of a final non-appealable order of the IURC.
- d. **Transfer of NPDES Permit.** The parties shall cooperate in filing the forms and paperwork necessary to transfer and assign or otherwise obtain approval for the issuance of an NPDES permit to Buyer, and such permit shall be approved and issued.
- e. **Other Consents, Approvals, Authorizations.** All necessary consents, approvals and authorizations of any governmental bodies, authorities and agencies, shall be received, free of conditions or restrictions which would impair the ability of either party to consummate the transaction contemplated by this Agreement. Seller shall cooperate with Buyer as Buyer may reasonably require in giving all notices and in making any necessary filings to obtain any necessary permits, licenses and approvals.

11. **Termination.** The parties may terminate this Agreement as provided below:

- a. Buyer and Seller may terminate this Agreement by mutual written consent at any time prior to the Closing Date.
- b. Buyer and Seller may terminate this Agreement in the event that the IURC, Georgetown Town Council fails to approve either this Agreement or of the

transfers and transactions contemplated herein or in the event that Buyer is unable to obtain an assignment or issuance of any permits necessary to operate the Seller's business after Closing.

- c. Buyer may terminate this Agreement at any time prior to closing:
 - (i) If Seller has breached any representation, warranty or covenant including any of the covenants pending the Closing as described in Section 9 in any material respect, and Buyer has delivered notice of such breach to Seller and, the breach has continued for a period of ten (10) days after Seller's receipt of such notice; or
 - (ii) If a Closing has not occurred on or before August 15, 2020, because of a failure of any condition precedent to the parties' obligation to close under Section 10 hereof (unless the failure results primarily from Buyer itself breaching any representation, warrant or covenant contained in this Agreement or from inaction or unexcused delay on the part of Buyer); or
 - (iii) Pursuant to any provisions of this Agreement specifically permitting Buyer to terminate this Agreement.
- d. Seller may terminate this Agreement at any time prior to Closing:
 - (i) If Buyer has breached any representation, warranty or covenant (including any covenant Pending the Closing) in any material respect, and Seller has delivered notice of such breach to Buyer and the breach has continued for a period of ten (10) days after Buyer's receipt of such notice.
 - (ii) If a Closing has not occurred on or before August 15, 2020, because of a failure of any condition precedent to the Seller's obligation to close under Section 10 hereof (unless the failure results primarily from Seller itself breaching any representation, warrant or covenant contained in this Agreement or from inaction or unexcused delay on the part of Seller); or
 - (iii) Pursuant to any provisions of this Agreement specifically permitting Seller to terminate this Agreement.

If either party terminates this Agreement pursuant to this Section 11, all rights and obligations of the parties shall terminate without any liability of either party to the other with respect to the transactions contemplated hereby, except (i) for any liability of a party then in breach; or (ii) except as otherwise expressly provided herein.

12. Closing.

- a. On the Closing Date, Seller shall deliver to Buyer the following documents/items, each of which has been duly executed by the appropriate party:
 - (i) Possession of the Assets;

- (ii) Bill of Sale with warranty of title for all of the Assets which are personal property;
 - (iii) Any other documents or instruments of conveyance and transfer as Buyer may reasonably request for the purpose of assigning, transferring, granting, conveying and confirming the Assets or any part of the Assets to Buyer; and
 - b. On the Closing Date. Buyer shall deliver to Seller the Purchase Price paid to Seller in cash and a release of the outstanding amounts owed to Seller as set forth in Section 3.
 - c. Closing Date & Location. The Closing shall take place on the earliest agreed upon date after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived and Buyer and Seller receive a final non-appealable order from the IURC for the transaction contemplated by this Agreement and at such date, place and time as shall be mutually agreed to by the Parties (the "Closing Date"). Unless otherwise mutually agreed in writing by the parties, the Closing shall be effective at 12:01 a.m. (EDT) time on the Closing Date and shall occur at the offices of Georgetown Town Hall, 9111 St. Rd. 64, Georgetown IN 47122.
13. **Default.** The obligations under this Agreement are of a special and unique character. Failure of either party to perform its obligations will cause irreparable injury to the other party, the amount of which would be extremely difficult, if not impossible, to estimate or determine, and which cannot be adequately compensated by monetary damages alone. Therefore, the injured party will, in addition to any rights and remedies available to it, be entitled to an injunction, restraining order, writ of mandamus or other equitable relief from any court of competent jurisdiction, including, without limitation, specific performance, restraining any violation or threatened violation of any term of this Agreement, or requiring compliance with or performance of any obligation under this Agreement, by the defaulting party.

14. Indemnification.

- a. Indemnification. Seller shall protect, defend, indemnify and hold Buyer and its employees, officers, affiliates, agents and representatives harmless with respect to any damages, liabilities, claims, losses and expenses (including, without limitation, reasonable legal fees and costs, court costs and costs of investigating potentially indemnifiable claims) (hereinafter collectively referred to as "Losses") which may be incurred by Buyer arising out of:
 - (i) Any breach by Seller of any of its representations, warranties, covenants or agreements (including the Covenants Pending the Closing) made in this Agreement; or

- (ii) Any and all liabilities and obligations of Seller for its acts or omissions or any other matters or occurrences that take place on or before the Closing and that relate to the ownership, maintenance or operation of the Assets. Seller agrees, at Seller's sole cost and expense, to defend against any and all such Losses described in Sections 14(a)(i) and (ii) and any appeals that may be made thereon, and to pay or satisfy any judgment or decree that may be rendered against Buyer in any such action, suit or legal proceeding, or which may result therefrom.
- b. **Claims for Indemnification.**
 - (i) Whenever any claim is made for indemnification under this Section 14, Buyer will promptly notify Seller by certified U.S. mail, postage prepaid, after the Buyer has actual knowledge of any event which might give rise to a claim for indemnification under this Agreement; provides that if the Buyer receives a complaint petition or any other pleading in connection with a claim which requires the filing of an answer, or other responsive pleading, it will furnish the Seller with a copy of such pleading as soon as possible after receipt.
 - (ii) The failure by the Buyer to give notice of a claim as required above or delay in giving such notice will not affect the validity or amount of such claim and the indemnification obligations of the Indemnifying Party will remain in effect as to such claim, except to the extent that the Indemnifying Party can demonstrate that it has been prejudiced or adversely affected thereby.
- c. **Limitations on Representations.** Seller's and Buyer's representations, warranties, covenants and agreements are subject to the following specific limitations:
 - (i) All representations and warranties of the parties contained herein shall remain in full force and effect for a period of one (1) year after the Closing Date.
 - (ii) Buyer and Seller agree that the limitations contained in this Section 14(d)(i) shall not pertain to any claim or action that may be brought by either party against the other based upon fraud or intentional misrepresentation.
 - (iii) For the avoidance of doubt, Buyer and Seller further agree that nothing in this Agreement shall be construed as to permit any claims by any creditor of Seller to be transferred to Buyer.

15. Further Assurances.

- a. Buyer, on the one hand, and Seller, on the other hand, each represents, warrants and covenants to the other that if at any time after the execution of this Agreement, the other party will reasonably consider or be advised that any further actions, assignments, or assurances are necessary or desirable to carry out the

intent and accomplish the purposes of this Agreement, according to its terms, it will take such actions, execute and make all such assignments and assurances and do all things necessary or appropriate to carry out the intent and accomplish the purposes of this Agreement, or otherwise consummate the transactions contemplated by this Agreement according to its terms.

- b. Seller shall place a recording on its telephone number offering income callers the option of being connected to Buyer. The message shall be acceptable to Buyer in its discretion and shall remain in place for a period of three (3) months following the Closing. Seller shall maintain its mailing address for a period of three (3) months following Closing and shall distribute any received therein which should properly be received by Buyer to Buyer and shall forward all email messages received by it pertaining to matters effecting Buyer's customers directly to Buyer.
- c. Following the Closing, each party will promptly deliver to the other party any mail or other communication received by it which is addressed to the other.

16. Miscellaneous.

- a. **Waiver.** No waiver of any breach of any provision of this Agreement shall be deemed a waiver of any proceeding or succeeding breach or of any other provision of this Agreement.
- b. **Notes.** Any notice required or permitted to be given under this Agreement shall be deemed given and received when deposited in the U.S. mail, return receipt requested, certified or registered mail, postage prepaid as follows:

(i) To Buyer: Georgetown Town Council
9111 St. Rd 64
PO Box 127
Georgetown, IN 47122

Copy To: Kristi L. Fox, Attorney
Fox Law Offices, LLC
409 Bank Street
New Albany, IN 47150

(ii) To Seller: J. David Agnew, Attorney
Lorch Naville Ward, LLC
506 State St., PO Box 1343
New Albany, IN 47151-1343

or such other address as either party may notify the other in accordance with this paragraph.

- c. **Successors & Assigns.** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns: provided that neither party shall assign this Agreement or any rights under this Agreement to any other person without the prior written consent of the other, which consent may be withheld by either

party hereto in its respective sole discretion. Any other attempted or purported assignment or transfer of this Agreement by a party without such consent of the other party shall be null and void.

- d. **Severability.** The provisions of this Agreement shall be deemed severable, and if any provisions or part of this Agreement is held to be illegal, void, or invalid under applicable law, such provision or part shall be changed to the extent reasonably necessary to make the provision or part, as so changed, legal, valid and binding. If any provision of this Agreement is held to be illegal, void or invalid in its entirety, the remaining provisions of this Agreement shall not in any way be affected or impaired by shall remain binding in accordance with their terms.
- e. **Entire Agreement; Amendment.** This Agreement contains the entire agreement of the parties and supersedes any prior understandings, agreements or representations by or between the parties, written or oral, in the intent they relate in any way to the subject matter hereof. This Agreement may be altered or amended only by an instrument in writing, duly executed by Buyer and Seller.
- f. **Interpretation.**
 - (i) This Agreement is being entered into among competent parties, experienced in business and represented by counsel, and has been received by the parties and their counsel. Therefore, language in this Agreement is not to be construed against any particular party as the drafter of such language.
 - (ii) The captions and headings contained in this Agreement are solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement.
- g. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which together shall be deemed one and the same instrument.
- h. **Applicable Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.
- i. **Costs and Expenses.** Except as otherwise provided in this Agreement, each party shall bear its own expenses in connection with the transaction contemplated by this Agreement, including cost of their respective attorneys and accountants.
- j. **No Third Party Beneficiaries.** No person not a person to this Agreement including, but not limited to, any persons employed at any time by Seller and any trade creditors of Seller, shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

17. **Non-Competition.** Seller and its owners, officers, directors, successors, subsidiaries, and affiliates (the "Non-Compete Parties") shall not engage in any activities related to the provision of sewer services within a ten (10) mile radius of the Service area for a period of three (3) years from the Closing Date. For the avoidance of doubt, the parties agree that this section in no way limits the Non-Compete Parties from engaging in other activities.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BUYER

BY: 

NAME: CHRIS LOOP

TITLE: TOWN COUNCIL PRESIDENT

SELLER:

BY: Joshua Stinson

NAME: 

TITLE: PRESIDENT

