

REGULAR SESSION, BOARD OF PUBLIC WORKS AND SAFETY, JUNE 28, 2021

The Board of Public Works and Safety of Plymouth, Indiana, met in Regular Session on June 28, 2021. The meeting was held in the Council Chambers, on the second floor of the City Building, 124 N. Michigan St., Plymouth, Indiana.

Mayor Senter called the meeting to order when there was a quorum present. Senter presided for Board Members Bill Walters and Jeff Houin. Board members Shiloh Milner was absent. City Attorney Sean Surrisi and Clerk-Treasurer Xaver were also present. Board Member Culp arrived after roll call. The public was able to see and hear the meeting through Microsoft Teams.

Board Members Houin and Walters moved and seconded to approve the minutes of the Regular Session meeting of June 14, 2021. The motion carried.

Utility Superintendent Davidson stated that the water main flushing had been completed and that they had very few issues and used half a million gallons of water less this year than previously during the procedure. He reported that the alleyway behind the Methodist Church at 400 N. Michigan Street had been removed and replaced with an inverted alley. After the heavy storms the maintenance man at the church stated that it was better with only a little leak on the north side of the project of the building; Davidson anticipates that issue will be fixed when the crack sealing company comes in to seal cracks as part of the annual street maintenance. Davidson believes that moving the downspout a little further will help solve that problem.

Davidson then informed the board that \$100,000 in federal funds would become available through the Corona Virus State and Local Fiscal Recovery Fund. The department had submitted their response to the survey by the Indiana Finance Authority for potential projects that may be related to the infrastructure improvements for the water and wastewater departments. He stated that they submitted two projects for the water department and one for the wastewater department. If any of their projects are selected, he would come before the board for approval for a 50/50 match on the project.

Fire Chief Holm thanked the Mayor, City Attorney Surrisi, Councilman Ecker, Councilman Listenberger, and Board Member Walters for their help of selecting Brandon Cooper as the new Assistant Chief.

Street Superintendent Margardt addressed the after effects of the storm that hit town recently. He stated that most of the debris from fallen trees seemed to be down Lake Avenue. He believes that they would be picking up branches and fallen limbs for at least a week. They hoped to get street sweepers out by Wednesday the 30th of June to finish clearing the streets of debris. As for

the flooding around town, Polk Street and Gill Street had been closed. He stated that they would continue to monitor the streets as necessary for potential hazards.

Park Superintendent Hite informed the board that the bridge behind the sledding hill was flooded and covered in debris. When the water went down, they would clear the bridge of debris. Another issue is that the performance area at River Park Square is flooded. There was a back-up preventer installed. Hite stated that he had talked to the engineer and he stated that since it was raining so hard that at a certain point it likely kept the back-up preventer open. He stated that they would be monitoring it, and once the river went down, they would work to pump the water out of the area.

City Engineer Gaul reviewed UT-21-013 Comcast – 529 N. 5th St, CNB- Work in the right-of-way. Gaul stated that the work would be going down the alley and then crossing the alley. Everything was in line except the depth which had been changed in the copy that was given to the board members prior to the meeting. There was a \$5,000 financial guarantee for the project. Gaul asked the board for permission to proceed with the project.

Board Members Walters and Houin moved and seconded to approve the work in the right of way, subject to the terms, notes, and conditions outlined in the correspondence provided by City Engineer Gaul and the placement of the financial guarantee. The motion carried.

Gaul added that the street department projects are out for bid, and a pre-bid meeting would be on Thursday for the projects.

City Attorney Surrisi presented an agreement with INDOT for Sweeping Services.

EDS #A249-17-ON170041

SWEEPING SERVICES

This Contract, entered into by and between the Indiana Department of Transportation (hereinafter referred to as "State") and the City of Plymouth, (the Local Public Agency or "LPA") in Marshall County, Indiana, the (hereinafter referred to as the "LPA"), is executed pursuant to the terms and conditions set forth herein.

WHEREAS, the State is in need of sweeping services to keep state highways and curbs clean and free of dirt and debris; and

WHEREAS, the City has the required sweeping capabilities.

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

SWEEPING SERVICES

This Contract, ("this Contract") entered into by and between the Indiana Department of Transportation (hereinafter referred to as "State") and the City of Plymouth (the Local Public Agency or "LPA"), in Marshall County, Indiana is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

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WHEREAS, the State is in need of sweeping services to keep state highways and curbs clean and free of dirt and debris; and

WHEREAS, the LPA has the required sweeping capabilities.

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

1. **Duties of LPA.** The LPA shall provide the following services related to this Contract:

- A. The LPA agrees to perform all services necessary to keep the following described state roads, highways and curbs clean and free of dirt and debris (include road, location, curb miles, etc.) Each location shall be cleaned a minimum of two (2) times per year:

SR 17 _____

Total curb miles: 3.4

- B. The LPA agrees to dispose of all dirt and debris collected in the cleaning process. All cleaning and disposal of dirt and debris shall be to the reasonable satisfaction of the Indiana Department of Transportation's District Director or his/her designee. The LPA shall take proper precautions and be responsible for the safe performance of the work covered by this Contract. Furthermore, the LPA agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances in the performance of its work under this Contract.

- C. The LPA shall be responsible for all liability due to loss, damage, injuries, or other casualties to persons or property arising out of the work performed pursuant to this Contract, whether due in whole or in part to the negligent acts or omissions of the LPA, its agents or employees, or other persons engaged in the performance of the work, including any claims arising out of the Worker's Compensation Act.

2. **Consideration:** The LPA will be paid at the rate of 340⁰⁰ per curb mile per, for a total of \$ 1224⁰⁰ per year. Total remuneration under this Contract shall not exceed \$ 1224⁰⁰.

The LPA shall submit one (1) invoice to the State each year and the State shall pay the invoice in accordance with its regular fiscal procedures. **When submitting the invoice, the LPA shall certify that the service(s) has been provided.**

3. **Term.** This Contract shall be effective for a period of forty-eight (48) months. It shall commence on July 1, 2021 and shall remain in effect through June 30, 2025.

4. **Access to Records.** The LPA and its contractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

5. **Assignment, Successors.**

- A. The LPA binds its successors and assignees to all the terms and conditions of this Contract. The LPA may assign its right to receive payments to such third parties as the LPA may desire without the prior written consent of the State, provided that the LPA gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

- B. The LPA shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Additionally, the LPA shall provide prompt written notice to the State of any change in the LPA's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

6. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

7. **Audits.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-1-1, et seq., and audit guidelines specified by the State.

The State considers the LPA to be a "LPA" under 2 C.F.R. 200.330 for purposes of this Contract. However, if it is determined that the LPA is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), LPA shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

8. **Authority to Bind LPA.** The signatory for the LPA represents that he/she has been duly authorized to execute this Contract on behalf of the LPA and has obtained all necessary or applicable approvals to make this Contract fully binding upon the LPA when his/her signature is affixed and accepted by the State.

9. **Changes in Work.** The LPA shall not commence any additional work or change the scope of the

work until authorized in writing by the State. The LPA shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

10. Compliance with Laws.

- A. The LPA shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the LPA to determine whether the provisions of this Contract require formal modification.
- B. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.*, and the regulations promulgated thereunder. **If the LPA has knowledge, employee, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the LPA shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig>. If the LPA or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- C. The LPA certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The LPA agrees that any payments currently due to the State of Indiana may be withheld from payments due to the LPA. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the LPA is current in its payments and has submitted proof of such payment to the State.
- D. The LPA warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the LPA agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the LPA's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the LPA, the LPA may request that it be allowed to continue, or receive work, without delay. The LPA must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.
- F. The LPA warrants that the LPA and its contractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The LPA affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:
 - (1) The LPA and any principals of the LPA certify that:
 - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
 - (ii) IC §24-5-12 [Telephone Solicitations]; or
 - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];
 - in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
 - (B) the LPA will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
 - (2) The LPA and any principals of the LPA certify that an affiliate or principal of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or principal of the LPA, except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

10. Condition of Payment. All services provided by the LPA under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

11. Confidentiality of State Information. The LPA understands and agrees that data, materials, and information disclosed to the LPA may contain confidential and protected information. The LPA covenants that data, material and information gathered, based upon or disclosed to the LPA for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

12. Debarment and Suspension.

- A. The LPA certifies by entering into this Contract that neither it nor its principals nor any of its contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the LPA.
- B. The LPA certifies that it has verified the state and federal suspension and debarment status for all contractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred contractor. The LPA shall immediately notify the State if any contractor becomes debarred or suspended.

and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the contractor for work to be performed under this Contract.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the LPA and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The LPA agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the LPA as a result of such failure to proceed shall be borne by the LPA.
- C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include: (1) a description of the disputed issues; (2) the efforts made to resolve the dispute; and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the disputed; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.
- D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.
- E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C, relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the state should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

14. Drug-Free Workplace Certification. As required by Executive Order No. 90-6 dated April 12, 1990, issued by the Governor of Indiana, the LPA hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The LPA will give written notice to the State within ten (10) days after receiving actual notice that the LPA, or an employee of the LPA in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or

violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the LPA certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the LPA's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the LPA's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the LPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

15. Employment Eligibility Verification. As required by IC § 22-5-1.7, the LPA swears or affirms under the penalties of perjury that the LPA does not knowingly employ an unauthorized alien. The LPA further agrees that:

- A. The LPA shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The LPA is not required to participate should the E-Verify program cease to exist. Additionally, the LPA is not required to participate if the LPA is self-employed and does not employ any employees;
- B. The LPA shall not knowingly employ or contract with an unauthorized alien. The LPA shall not retain an employee or contract with a person that the LPA subsequently learns is an unauthorized alien;
- C. The LPA shall require his/her/its contractors, who perform work under this Contract, to certify to the LPA that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The LPA agrees to maintain this certification throughout the duration of the term of a contract with a sub LPA.

16. Employment Eligibility Verification. The LPA affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

- A. The LPA shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The LPA is not required to participate should the E-Verify program cease to exist. Additionally, the LPA is not required to participate if the LPA is self-employed and does not employ any employees;
- B. The LPA shall not knowingly employ or contract with an unauthorized alien. The LPA shall not retain an employee or contract with a person that the LPA subsequently learns is an unauthorized alien;
- C. The LPA shall require his/her/its contractors, who perform work under this contract, to certify to the LPA that the contractors does not knowingly employ or contract with an unauthorized alien and that the contractors has enrolled and is participating in the E-Verify program. The LPA agrees to maintain this certification throughout the duration of the term of a contract with a contractors.

The State may terminate for default if the LPA fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

17. Funding Cancellation. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

18. Governing Laws. This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

19. Indemnification. The LPA agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the LPA and/or its contractors, if any, in the performance of this Contract. The State shall not provide such indemnification to the LPA.

The LPA shall be responsible for providing all necessary unemployment and workers' compensation insurance for the LPA's employees.

20. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, except by written agreement signed by all necessary parties.

21. Insurance.

A. The LPA and its contractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the LPA for any and all claims of any nature which may in any manner arise out of or result from LPA's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an

additional insured on a primary, non-contributory basis.

3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.

4. Fiduciary liability if the LPA is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.

5. Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.

6. Surety or Fidelity Bond(s) if required by statute or by the agency.

7. Cyber Liability if requested by the State addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The LPA shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The LPA's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the LPA.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the LPA in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
5. The LPA waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.
- C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The LPA shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

24. Nondiscrimination.

A. Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The LPA certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this covenant may be regarded as a material breach of this Agreement, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the LPA or any subcontractor.

B. INDOT is a recipient of federal funds, and therefore, were applicable, the LPA and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

The LPA agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Agreement.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, limited English proficiency, or status as a veteran.)

C. During the performance of this Agreement, the LPA, for itself, its assignees, and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. Nondiscrimination: The LPA, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
4. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by INDOT and the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA shall so certify to INDOT or the Federal Highway Administration as appropriate and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Agreement, INDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Agreement until the LPA complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions: The LPA shall include the provisions of paragraphs 1. through 5, in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

25. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

Notices to the State shall be sent to:

Indiana Department of Transportation - LaPorte

315 E. Boyd Blvd.

LaPorte, IN 46350

Notices to the LPA shall be sent to:

(name of LPA)

City of Plymouth

ATTN: Jeanine M. Xaver,
Clerk-Treasurer

124 N Michigan St
Plymouth, IN 46563

As required by IC 4-13-2-14.8, payments to the LPA shall be made via electronic funds transfer in accordance with instructions filed by the LPA with the Indiana Auditor of State.

26. Payments. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20.

27. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part: IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

28. Progress Reports. The LPA shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

29. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

30. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

31. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the LPA as a result of this Contract.

32. Termination for Convenience. This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the LPA of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The LPA shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The LPA shall be compensated for services herein provided but in no case shall total payment made to the LPA exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

33. Termination for Default.

- A. With the provision of thirty (30) days notice to the LPA, the State may terminate this Contract in whole or in part if the LPA fails to:
 1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
 2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract.
- B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the LPA will be liable to the State for any excess costs for those supplies or services. However, the LPA shall continue the work not terminated.
- C. The State shall pay the contract price for completed supplies delivered and services accepted. The LPA and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

34. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the LPA shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the LPA's negligent performance of any of the services furnished under this Contract.

35. Work Standards. The LPA shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the LPA shall grant such request.

Non-Collusion and Acceptance. The undersigned attests, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, employee or officer of the LPA, that he/she has not, nor has any other employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, the LPA and the State have, through duly authorized representatives, entered into this Contract. The parties, having read and understand the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Name of LPA	LPA
Signature:	_____
Printed Name:	_____
Title:	_____
Date:	_____

Indiana Department of Transportation	State Budget Agency
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Joseph Guslin, Acting Deputy Commissioner of Finance FOR: Joseph McGuinness, Commissioner	Zachary Q. Jackson, Director
Date: _____	Date: _____

Indiana Department of Administration	APPROVED AS TO FORM AND LEGALITY Office of the Attorney General
Lesley A. Crane, Commissioner	Theodore E. Rokita, Indiana Attorney General (FOR)
Date: _____	Date Approved: _____

This Sweeping Services Contract is authorized by IC 8-23-2-6 and IC 5-22-2-4.

Surrisi stated that the sweeping services agreement was similar to those that they have had for years, including the \$1,224.00 per year for the services. The City Street Department would be sweeping down Michigan Street and Lake Avenue as part of the agreement.

Board Members Culp and Walters moved and seconded to approve the Sweeping Services Agreement. The motion carried.

Board Members Houin and Walters moved and seconded to allow for the payroll for June 30, 2021 and the claims for June 28, 2021, as entered in claim register #2021. The motion carried.

Board Members Houin and Walters moved and seconded to accept the following

communications:

- 06.28.21 Check Register
- May 2021 Code Enforcement Activity Report
- May 2021 PPD Activity Report
- Notice from Marshall County Drainage Board – Yellow River Clearance

PLYMOUTH POLICE DEPARTMENT

Code Enforcement

Activity Report Summary 2021

Type	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Tall Grass	0	0	0	0	43								43
Owner Complied	0	0	0	0	22								22
City Action (Mowed)	0	0	0	0	8								8
Action Pending	0	0	0	0	13								13
Abandoned or Junk Vehicles	3	86	7	13	10								119
Owner Complied	2	85	5	10	5								107
City Action (Towed)	1	1	2	3	0								7
Action Pending	0	0	0	0	5								5
Debris/Junk on Property	3	1	69	57	8								138
Owner Complied	2	1	60	44	6								113
City Action (Cleaned)	1	0	9	13	1								24
Action Pending	0	0	0	0	1								1
Fowl/Livestock	0	0	0	0	0								0
Owner Complied	0	0	0	0	0								0
City Action	0	0	0	0	0								0
Action Pending	0	0	0	0	0								0
Signs in Public Right of Way (Removed)	0	0	0	0	0	14							14

PLYMOUTH POLICE DEPARTMENT

Activity Report Summary 2021

Type	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Calls for Service, Complaints, Information	695	633	793	861	873								3,855
911 Hang-Up Calls	97	95	104	108	104								508
Alarms	65	59	62	56	59								301
Vehicle Checks	10	5	17	22	4								58
Assist Other Agencies	6	2	7	7	5								27
Animal Complaints	21	18	23	33	30								125
Traffic Stops	284	217	427	272	319								1,519
Citations Issued	145	111	221	118	173								768
Accident Reports	26	22	30	34	38								150
Case Reports	97	99	109	102	119								526
Arrests	16	33	33	34	44								160
Arrests (Adult)	11	25	26	26	33								121
Arrests (Juvenile)	5	8	7	8	11								39

The motion carried.

There being no further business, after a proper motion and second to adjourn. Senter declared the meeting adjourned at 6:10 p.m.

Jeanine M. Xaver
Jeanine M. Xaver, IAMC, CMC, CPFIM
Clerk-Treasurer

APPROVED: *Mark Senter*
Mark Senter
Mayor