

Cross Reference: Instrument Nos. 2000-27319 & 2001-02040

**AGREEMENT FOR TEMPORARY CONSTRUCTION EASEMENT AND
PERMANENT UTILITY EASEMENT**

THIS AGREEMENT FOR TEMPORARY CONSTRUCTION EASEMENT AND PERMANENT UTILITY EASEMENT ("Agreement") is made this ____ day of December 2023 (the "Effective Date"), by and between Peter Liegl, an individual ("Grantor"), and the TOWN OF BRISTOL, INDIANA, a municipal corporation existing under the laws of the State of Indiana ("Grantee").

RECITALS

WHEREAS, Grantor is the owner in fee simple of certain real estate located in Elkhart, County, Indiana, which is more particularly described in Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, Grantor desires to grant for the benefit of Grantee and Grantee desires to accept, a certain perpetual and non-exclusive easement in, on, over and across that certain portion of the Property as described and depicted in Exhibit B attached hereto and incorporated herein by reference (the "Easement Area") to provide for the installation, maintenance, repair, and replacement of drainage, wastewater, and utility facilities and equipment to be located on the Easement Area (the "Project"), upon the terms and conditions of this Agreement; and

WHEREAS, Grantor desires to grant and convey to Grantee the Easement (as defined herein) upon the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby declares, grants, and conveys as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Grant of Easement. Grantor hereby grants to Grantee a non-exclusive perpetual easement for the right and privilege to install, construct, operate, maintain, inspect, reconstruct, repair, remove, and replace underground sewer, water, wastewater, storm drainage,

electric, gas, telephone, cable and data transmission and other utility lines or facilities, including cables, wires, poles, conduits, lines, pipe and other such facilities, including, but not limited to, necessary underground support or protective structures, ducts, transformers, insulation, conduits and appurtenances and fixtures attached thereto, for the transmission of water, wastewater, sewage, gas, electricity, telephone, data or other utilities (collectively, the “Improvements”), within the Easement Area, solely for the purpose of, in connection with and in support of the installation, construction, operation, maintenance and, as needed from time to time, the repair, replacement, restoration and reconstruction of, any Improvements within the Easement Area (the “Easement”).

Section 3. Grant of Ingress and Egress and Temporary Use of the Property. Subject to the terms and conditions of this Agreement, Grantor grants and conveys to Grantee and its employees, agents, licensees, representatives, grantees, successors and assigns (collectively, “Grantee’s Benefitted Parties”) a temporary right of ingress and egress to and from the Easement Area over the Property and the right to temporarily use additional space, when available and reasonably necessary from time to time adjacent to the Easement Area, in order for Grantee or Grantee’s Benefitted Parties to exercise their rights under this Agreement. Grantor acknowledges that Grantee and Grantee’s Benefitted Parties right of ingress and egress includes the right to use equipment and materials on the Property which are necessary for the Easement.

Section 4. Restoration of Surface Area. All construction, maintenance, repair and operation of the Improvements by Grantee and Grantee’s Benefitted Parties shall be performed in accordance with all applicable laws, rules, ordinances, and regulations. Grantee and any of Grantee’s Benefitted Parties shall exercise reasonable efforts to construct, install, maintain, repair, replace and operate the Improvements and exercise the rights granted herein, so as to minimize the interference with the development, operation, and use of the Property. Grantee and any of Grantee’s Benefitted Parties shall exercise reasonable efforts to return the Property to as near its original condition as is reasonably possible at such time as such Grantee or any of Grantee’s Benefitted Parties completes its construction, maintenance, repair, or any other operations in the Easement Area with respect to the Easement. Grantee and any of Grantee’s Benefitted Parties shall have the right to remove from the extent of the Easement Area any encroaching trees, buildings, or other obstructions, to the free and unobstructed use of such Easement Area. Grantor herein covenants for itself, its grantees, successors and assigns that they will not erect or maintain any buildings or other structures or obstruction on, over, or under said Easement Area, except as otherwise expressly permitted by Grantee, in writing, and in accordance with the terms thereof, and which permission when in writing and recorded shall run with the real estate.

Section 5. Nature and Assignment of Easements and Rights. The Easements created herein shall be permanent and perpetual and, together with the rights and benefits thereof, shall inure to the benefit of Grantee and Grantee’s Benefitted Parties. The Easements created by this Agreement, together with the burdens thereof and obligations associated therewith, shall (i) run with and bind the Property and Easement Area, and (ii) bind Grantor (as the owner of the Property and Easement Area) and its grantees, successors and assigns and Grantee and Grantee’s Benefitted Parties. Each instrument which conveys, grants, transfers, creates, or assigns any interest in a part of the Property and Easement Area shall be deemed to impose as a limitation or restriction upon the Property and Easement Area, the burden of the Easement and the obligations associated therewith (whether or not the instrument of conveyance expressly imposes such limitation or restriction). Notwithstanding the foregoing, Grantor hereby reserves the right to grant easements

to other utilities or services which may intersect or transect the Easement Area. Any easement granted to a utility or service intersecting or transecting the Easement Area shall be subject to the rights of Grantee herein, and shall not be incompatible with, or interfere with, the continuing use of the Easement Area.

Section 6. Defaults and Remedies. In the event of a breach, or attempted or threatened breach, by either party of any of the terms, covenants, or agreements hereof, the other party shall be entitled forthwith to full and adequate relief by injunction and/or all other available legal and equitable remedies. Notwithstanding the foregoing, if either party shall fail to cure such breach within ten (10) business days after written notice of such breach from the non-breaching party, or an additional reasonable time after such receipt if (a) such failure cannot be cured within such ten (10) business day period and (b) the defaulting party commences curing such failure within such ten (10) business day period and thereafter diligently pursues the curing of such failure, then the non-breaching party may (i) cure (but is under no obligation to cure) such default and (ii) recover from the breaching party all costs and expenses (including, but not limited to, reasonable attorney's fees) associated therewith, together with interest at the rate of three percent (3%) per annum over the prime rate published in the Wall Street Journal from time to time from the date the non-breaching party incurs such costs and expenses. In no event shall a breach result in a termination of this Agreement.

Section 7. Address and Notice. All communications directed to the parties shall be sent to the following addresses:

If to Grantor: Peter Liegl
900 Carl P.O. Box 3030
Elkhart IN 46514
ATTN Mike Stump

If to Grantee: Town of Bristol, Indiana
303 E. Vistula Street
Bristol, Indiana 46507
Attn: Town Manager

With a copy to: Krieg DeVault LLP
4101 Edison Lakes Parkway, Suite 100
Mishawaka, Indiana 46545
Attn: Alex C. Bowman, Esq.

Either party may change its address for the purpose of this section by giving written notice to the other party at the address above (or to which the above has been validly changed pursuant to this Section). All notices required to be given under this Agreement shall be in writing, and shall be mailed by certified mail, return receipt requested, or deposited with a nationally recognized overnight delivery service, properly addressed to the party to be notified, at the address set forth above.

Section 8. Warranty of Grantor. Grantor hereby represents and warrants to Grantee that Grantor has fee simple title to the Property and that Grantor has the full authority to grant the Easement and to execute this Agreement.

Section 9. Due Authorization. Each undersigned person signing on behalf of a party in a representative capacity warrants and represents that: (i) he/she is fully empowered and duly authorized by any and all necessary action or consent required to execute and deliver this Agreement for and on behalf of said party; (ii) said party has full capacity, power and authority to enter into and carry out its obligations under this Agreement; and (iii) this Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of such party, enforceable in accordance with its terms.

Section 10. Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on all parties.

Section 11. Modification. This Agreement may not be modified or amended, except pursuant to a written agreement in recordable form executed by each of the parties hereto.

Section 12. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior agreements (whether written or oral), representations and understandings of the parties relating to the subject matter of this Agreement. No representations have been made to induce the other party to enter into this Agreement except as expressly set forth herein.

Section 13. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 14. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to its principles of conflict of laws. All claims, disputes and other matters in controversy arising out of or related to this Agreement, or the performance or breach thereof, shall be decided in the Circuit or Superior Courts of Elkhart County, Indiana, and that such courts shall have sole and exclusive jurisdiction over the action or proceeding, unless agreed to otherwise, in writing, by the parties.

Section 15. Waiver. No party shall be deemed to have waived any right which it holds hereunder unless the waiver is made expressly and in writing (and, without limitation the generality of the foregoing, no delay or omission by any party in exercising any such right shall be deemed a waiver of its future exercise). No waiver shall be deemed a waiver as to any other instance or any other right.

Section 16. Construction and Interpretation. The terms “hereof”, “herein” and “hereunder”, and words of similar import, are to be construed to refer to this Agreement as a whole, and not to any particular section, paragraph, or provision, unless expressly so stated. All words or terms used in this Agreement, regardless of the number or gender in which they are used, are

deemed to include any other number and any other gender as the context may require. This Agreement is to be construed without regard to any presumption or rule requiring construction against the party causing such document to be drafted or prepared. The terms “person” and “persons” used herein shall include natural persons and corporations, partnerships (general and limited), limited liability companies, firms, associations, trusts, estates, bodies politic, political subdivisions and other entities and organizations.


Section 17. Waiver of Appraisal and Statement of Easement Donation. Grantor herein acknowledges and understands that Grantor is hereby waiving certain rights afforded by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. This grant is made to the Grantee for the Project without any coercive action of any nature, and Grantor desires to donate the Temporary Construction Easement and Permanent Utility Easement to the Grantee.

Section 18. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

[Signature Pages Follow]

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement for Temporary Construction Easement and Permanent Utility Easement to be executed as of the Effective Date.

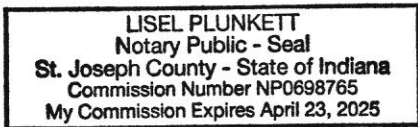
GRANTOR:

By: 
Printed Name: Peter J Liegl

STATE OF INDIANA)
) SS:
COUNTY OF Elkhart)

Before me, a Notary Public, in and for said County and State, personally appeared Peter J. Liegl, who acknowledged the execution of the foregoing instrument as his/her free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this 5 day of December, 2023.




Notary Public

Lisel Plunkett
Printed Signature

My Commission Expires:
April 23, 2025

My County of Residence:
St. Joseph

[Executions Continued on Following Page]

GRANTEE:

TOWN OF BRISTOL, INDIANA

By: _____

Name: Jeff A. Beachy

Title: Town Council President

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public, in and for said County and State, personally appeared Jeff A. Beachy, in his capacity as the Town Council President of the Town of Bristol, Indiana, who acknowledged the execution of the foregoing instrument, acting for and on behalf of said Town of Bristol, Indiana, and who acknowledged the execution of the foregoing instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this ____ day of

Notary Public

(SEAL)

Printed Signature

My Commission Expires:

My County of Residence:

Prepared by:

Alex C. Bowman, Esq.
Krieg DeVault LLP
4101 Edison Lakes Parkway, Suite 100
Mishawaka, Indiana 46545

Return after recording to:

Town of Bristol, Indiana
303 E. Vistula Street
Bristol, Indiana 46507
Attn: Town Manager

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ Alex C. Bowman, Esq.

EXHIBIT A

GRANTOR'S PROPERTY

Instrument No. 2000-27319

The East One hundred sixty-three and ninety-three hundredths (163.93) feet of Lot Numbered Twenty (20), the West Eight-six and seven hundredths (86.07) feet of Lot Numbered Nineteen (19) and Lot Numbered Twenty-one (21) EXCEPT the Westerly One hundred (100) feet, as the said Lots are known and designated on the recorded Plat of BRISTOL PARK FOR INDUSTRY, a Subdivision in Washington Township; said Plat being recorded in Plat Book 15, page 69 in the Office of the Recorder of Elkhart County, Indiana.

Tax ID Nos.: 15-03-23-402-004
 15-03-23-402-009
 15-03-23-402-005

Instrument No. 2001-02040

Tract I

Lot Numbered Nineteen (19) EXCEPT the West Eighty-six and seven hundredths (86.07) feet and Lots Numbered Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18) as the said Lots are known and designated on the recorded Plat of BRISTOL PARK FOR INDUSTRY, a Subdivision in Washington Township; said Plat being recorded in Plat Book 15, page 69, in the Office of the Recorder of Elkhart County, Indiana.

Tract II

Lot Numbered Twenty (20) EXCEPT the East One hundred sixty-three and ninety-three hundredths (163.93) feet as the said Lot is known and designated on the recorded Plat of BRISTOL PARK FOR INDUSTRY, a Subdivision in Washington Township; said Plat being recorded in Plat Book 15, page 69 in the Office of the Recorder of Elkhart County, Indiana.

Tax ID Nos.: 15-03-23-427-004; 003; 002; 001
 15-03-23-402-007; 006; 003

EXHIBIT B

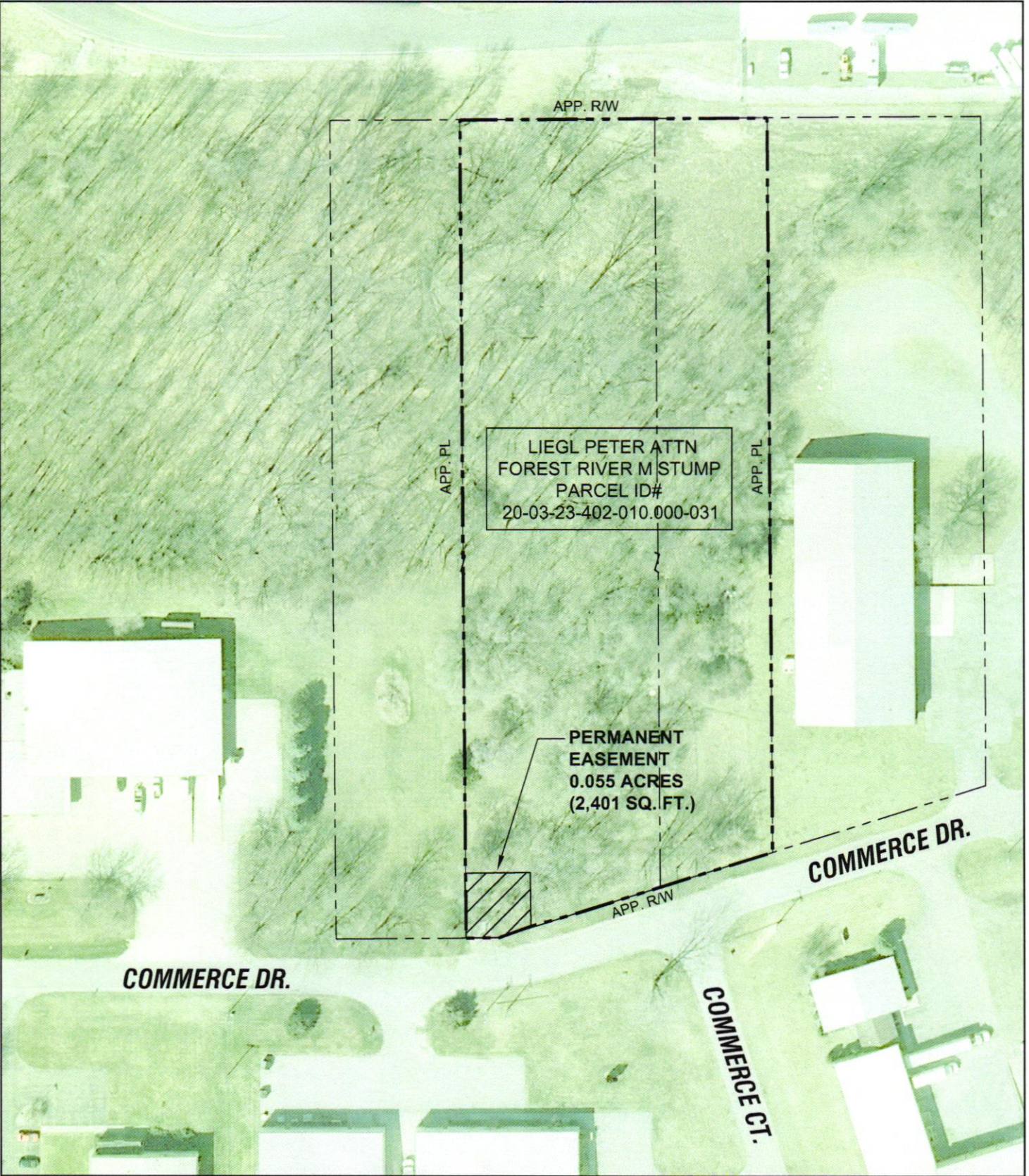
EASEMENT AREA

A permanent easement, contiguous with the north line of Commerce Drive for the purpose of constructing maintaining and usage of wastewater utilities, being a portion of the land owned by Peter Liegl (Contained in instrument #2000-27319 and instrument #2001-02040, in the Office of the Recorder of Elkhart County, Indiana), as shown on the attached drawing and more particularly described as follows:

A part of Section 23, Township 38 North, Range 6 East in Washington Township, Elkhart County, Indiana, described as follows:

Commencing from the southwest corner of Lot # 21 in BRISTOL PARK FOR INDUSTRY SUBDIVISION (the plat thereof being recorded in Plat Book 15, page 69 in the Office of the Recorder of Elkhart County, Indiana); thence South 89 degrees 54 minutes 00 seconds West (platted bearing) 100.00 feet along the south line of said Lot #21 to the southwest corner of a tract of land owned by Peter Liegl (contained in instrument #2000-27319), and the Point of Beginning; thence North 00 degrees 00 minutes, 00 seconds East along the west line of said Liegl tract 50.00 feet; thence North 89 degrees 54 minutes 00 seconds East 50.00 feet; thence South 00 degrees 00 minutes, 00 seconds West 42.41 feet to the south line of said Lot #21; thence South 73 degrees 00 minutes 00 seconds West along the south line of said Lot #21 a distance of 26.09 feet; thence South 89 degrees 54 minutes 00 seconds West along the South line of Said Lot #21 a distance of 24.96 feet to the POINT OF BEGINNING, containing 0.055 acres (2,401square feet) more or less.

Subject to all legal easements, highways, and rights-of-way.



TEMPORARY EASEMENT



PERMANENT EASEMENT

APP.R/W = APPROXIMATE RIGHT-OF-WAY
APP.P/L = APPROXIMATE PROPERTY LINE



COMMONWEALTH ENGINEERS, INC.
A wealth of resources to master a common goal.

TOWN OF BRISTOL
ELKHART COUNTY, INDIANA
EXISTING LIFT STATION 8 SITE

EXHIBIT "B"



SCALE: 1" = 100'