

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE JOINT PETITION)
BY THE CITY OF WEST LAFAYETTE,)
INDIANA, AND AMERICAN SUBURBAN)
UTILITIES, INC., FOR APPROVAL OF AN) CAUSE NO. 45358
AGREEMENT SETTTLING A WASTEWATER)
SERVICE TERRITORY DISPUTE PURSUANT)
TO IND. CODE § 8-1.5-6-10)

PREFILED TESTIMONY

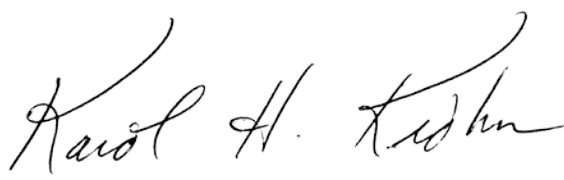
JAMES T. PARKS – PUBLIC’S EXHIBIT NO. 1

On Behalf of

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

May 29, 2020

Respectfully Submitted,



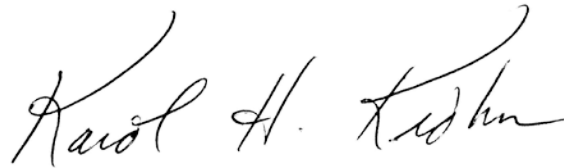
Karol H. Krohn Atty. No. 5566-82
Deputy Consumer Counselor

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Office of Utility Consumer Counselor's Prefiled Testimony of James T. Parks* has been served upon the following counsel of record in the captioned proceeding by electronic service on May 29, 2020.

David T. McGimpsey
**DENTONS BINGHAM
GREENEBAUM LLP**
212 West Sixth Street
Jasper, Indiana 47546
E-mail: david.mcgimpsey@dentons.com

Nicholas K. Kile
Lauren M. Box
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, Indiana 46204
E-mail: nicholas.kile@btlaw.com
lauren.box@btlaw.com



Karol H. Krohn
Deputy Consumer Counselor

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
115 West Washington Street
Suite 1500 South
Indianapolis, IN 46204
infomgt@oucc.in.gov
317/232-2494 – Phone
317/232-5923 – Facsimile

TESTIMONY OF OUCC WITNESS JAMES T. PARKS
CAUSE NO. 45358
CITY OF WEST LAFAYETTE, INDIANA, AND
AMERICAN SUBURBAN UTILITIES, INC.

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 A: My name is James T. Parks, P.E. and my business address is 115 W. Washington
3 Street, Suite 1500 South, Indianapolis, IN 46204

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Office of Utility Consumer Counselor (“OUCC”) as a Utility
6 Analyst II in the Water/Wastewater Division. My qualifications and experience are
7 described in Appendix A.

8 **Q: What relief do the Joint Petitioners seek in this cause?**

9 A: Joint Petitioners, the City of West Lafayette (“City” or “West Lafayette”) and
10 American Suburban Utilities, Inc. (“ASU”), under Ind. Code § 8-1.5-6-10, seek
11 Commission approval of a 25-year Service Territory Agreement (“2019 Settlement
12 Agreement”) to resolve a dispute between the parties regarding current and future
13 provision of wastewater services within portions of ASU’s Certificated Territorial
14 Authority (“CTA”) adjacent to and within the corporate boundaries of the City.¹

15 **Q: What is the purpose of your testimony?**

16 A My testimony supports approval of the 2019 Settlement Agreement between West
17 Lafayette and ASU in order to avoid litigation because the parties have settled a

¹ See Exhibit A, 2019 Service Territory Agreement, attached to the Joint Petition.

1 dispute over sewer service territory for the next 25 years. I describe the service
2 area dispute between the two parties and discuss the Joint Petitioners' previous
3 2009 Agreement. My review was limited to determining whether the 2019
4 Settlement Agreement was in the public interest and whether it clarifies which
5 utility will provide wastewater utility service in the boundary area between the
6 utilities for the next twenty-five years.

7 **Q: What have you done to prepare your testimony?**

8 A: I reviewed the Joint Petition and the direct testimonies and exhibits of Scott L.
9 Lods, President of American Suburban Utilities, Inc. and David Henderson, Utility
10 Director for West Lafayette. I drafted discovery questions and reviewed both
11 Utilities' responses to discovery, including the 2009 Agreement which also allowed
12 the City of West Lafayette to provide wastewater utility service within portions of
13 ASU's service area.² I also reviewed a more detailed map, entitled "2019 Service
14 Area Map, American Suburban Utilities, Inc." prepared by TBird Design Services
15 Corporation that displays in greater detail Joint Petitioners' service territory
16 boundaries. This map was provided to the OUCC by the Joint Petitioners. (*See*
17 Attachment JTP-1.) I did not perform an in-depth review of the map boundaries
18 and service area demarcations to confirm that the map is in conformance with
19 ASU's actual CTA, which was amended numerous times since 1966. A list of my
20 attachments is included in Appendix B.

² *See* Attachment JTP-2 for the 2009 Agreement between the City of West Lafayette and ASU.

II. DISCUSSION OF ISSUES

1 **Q: Please describe the nature of the service territory dispute.**

2 A: According to Joint Petitioners, both utilities have authority under Indiana law to
3 serve wastewater customers beyond West Lafayette's city limits: 1) ASU is
4 authorized by the Commission under its CTA issued pursuant to Ind. Code § 8-1-
5 2-89; and 2) West Lafayette may render sewer service within certain portions of the
6 10 mile "regulated territory" located outside city limits under Ind. Code § 36-9-23-
7 36. Therefore, both ASU and West Lafayette have authority to serve in some of
8 the same area.

9 **Q: Has West Lafayette passed a regulatory ordinance for wastewater services**
10 **beyond city limits?**

11 A: No. The Joint Petition indicates West Lafayette has not adopted a "regulatory
12 ordinance", defined under Ind. Code § 8-1.5-6-3, which would give it exclusive
13 authority to provide wastewater services within four miles of city limits. However,
14 as mentioned above, Ind. Code § 36-9-23-36 provides West Lafayette the authority
15 to provide service in areas within ten (10) miles outside its corporate boundaries.

16 **Q: Briefly describe American Suburban Utilities CTA.**

17 A: ASU serves wastewater customers primarily within non-incorporated areas of
18 Wabash and Tippecanoe Townships outside West Lafayette's corporate boundaries
19 in Tippecanoe County under CTA No. 57. ASU's CTA was first issued by the
20 Commission on November 10, 1966 (Cause No. 31165) and has been amended a
21 number of times since then, as shown in Table 1.

Table 1 – CTA Changes for American Suburban Utilities, Inc.

CTA No.	Cause No.	Date	Remarks
57	31165	11/10/1966	Indeterminate period
57-A	32722	02/04/1972	Normandy Farms
57-B	35794	10/04/1979	Wake Robin I subdivision
57-C	36629	01/13/1981	Sherwood 1 and 2
	38586	10/14/1988	Parts 3 and 4 of Sherwood Forest
57-D	38741	03/30/1989	Parts 3 and 4 of Sherwood Forest
57-E	39239	11/20/1991	Released certain portions of CTA to G&L Development Co. for Wake Robin Estates – Section II
	39708	09/22/1993	Dispute over GL World Headquarters
	41254	04/14/1999	CTA expansion near County Home wastewater plant
	42409	09/10/2003	Harrison Highlands subdivision
	42889	01/18/2006	Fieldstone subdivision and Tippecanoe Co. School Corp.

1 **Q: Please describe how Joint Petitioners' 2019 Settlement Agreement will prevent**
2 **further boundary disputes if approved by the Commission.**

3 A: Joint Petitioners negotiated the 2019 Settlement Agreement that delineates separate
4 areas to be served by the City or by ASU, effectively defining a new boundary line
5 between the utilities during the 25-year term of the proposed settlement. The 2019
6 Settlement Agreement includes provisions for:

7 (1) West Lafayette to make payments to ASU of \$1.00 per year per Equivalent
8 Dwelling Unit ("EDU") for approximately 80 customers located within the Purdue
9 Research Foundation ("PRF") area of ASU's current sewer utility CTA - customers

1 who connected to West Lafayette's sewer system after November 1, 2009.³ West
2 Lafayette would make additional payments for any EDUs that connect to West
3 Lafayette's municipal sewer system from the PRF area within five years after the
4 Commission approves the 2019 Settlement Agreement. West Lafayette estimates
5 the total payments will be less than \$3,000.⁴

6 (2) Annual "liquidated damages" payments Joint Petitioners would make to each
7 other for connecting customers from the other Petitioner's service area. These
8 payments to the non-breaching party would be 50% of the breaching party's then
9 existing rate on an annual basis for 25 years from the date of connection.⁵ It is
10 unclear whether the 50% liquidated damages are capped at the rate in effect when
11 the connection is initially made or whether the price would increase as future rate
12 increases take effect. I recommend Joint Petitioners clarify whether the 50%
13 liquidated damages payment would increase each time sewer rates are increased
14 during the 25-year life of the 2019 Settlement Agreement.

15 **Q: Does West Lafayette have wastewater infrastructure installed to serve the area**
16 **within the ASU CTA that will be served by West Lafayette?**

17 **A:** Yes. As part of West Lafayette's combined sewer overflow control program, the
18 City constructed the Western Interceptor along the relocated U.S. 231 corridor on
19 the City's west side. This interceptor, constructed in phases between 2007 and
20 2013, re-routes sanitary sewage flows from north and west of the City away from

³ The PRF area is shown in Exhibit A to the 2019 Service Territory Agreement provided as Attachment DH-1 to the Direct Testimony of David Henderson.

⁴ See the Direct Testimony of David Henderson, page 7.

⁵ *Id.*

1 the City's combined sewer areas directly to the wastewater treatment plant. In
2 response to OUCC discovery, West Lafayette indicated the Western Interceptor
3 was sized to receive flow from ASU's CTA and that it has a Wastewater Master
4 Plan, updated in 2009, to serve this area.⁶

5 **Q: Are all areas within the respective sewer service areas developed?**

6 A: No. Significant areas are undeveloped within both utilities' delineated sewer
7 service areas, as shown on the 2019 Service Area Map shown in Attachment JTP-
8 1.

9 **Q: Will new sewers be installed in the respective service areas as undeveloped**
10 **parcels are developed?**

11 A: Yes. The OUCC understands each utility will continue extending their sewer
12 system to serve their respective sewer service areas delineated in the Exhibit A map
13 attached to the Joint Petition.

14 **Q: Does the twenty-five (25) year term of the Settlement Agreement raise any**
15 **questions?**

16 A: Yes. The proposed 2019 Settlement Agreement indicates that it will "commence
17 on the Effective Date (subject to the conditions set forth herein) and be in effect for
18 twenty-five (25) years from the Approval Date."⁷ However, the 2019 Settlement
19 Agreement does not address what entities (ASU or West Lafayette) will have the
20 exclusive right to provide service in the regulated territory after twenty-five years.
21 The Commission should consider requiring the entities to seek approval of another

⁶ See West Lafayette's responses to OUCC DR 1-2 and 1-3 in Attachment JTP-3. For ASU's responses to OUCC discovery, see Attachment JTP-4.

⁷ See the Service Territory Agreement in Attachment DH-1, page 3 of 17

1 service territory agreement prior to the proposed termination date of the 2019
2 Settlement Agreement.

3 **Q: How should parcels adjacent to existing West Lafayette or ASU sewers be**
4 **handled after the twenty-five year term of the Agreement?**

5 A: It is good public policy to allow parcels in areas already served by existing West
6 Lafayette or ASU sewers with available capacity or which could be connected via
7 a sewer main extension at lower capital cost to be connected to said sewers when
8 the parcels are developed. This lowers customers' cost to connect, avoids sewer
9 duplication and prevents creation of "islands" of service for one utility surrounded
10 by another utility's sewer infrastructure.

11 **Q: What should happen to customers within each utility's sewer service areas**
12 **when the 25-year term of the 2019 Settlement Agreement ends?**

13 A: These customers should remain customers of their respective utility. They should
14 not have to be disconnected and reconnected to the other utility. There should be
15 no change in service provider. Similarly, all sewer infrastructure installed by each
16 utility or contributed by developers to serve customers in these areas should remain
17 property of the utility serving those customers.

18 **Q: Is ASU seeking Commission approval to revise and reduce the size of its**
19 **current CTA?**

20 A: No. Although the 2019 Settlement Agreement provides for West Lafayette to
21 provide service for twenty-five years within a portion of ASU's CTA, ASU is not
22 seeking to modify its CTA. The Commission should consider whether it is

1 appropriate for ASU to retain the CTA in the areas to be served by West Lafayette
2 for the next twenty-five years.

3 **Q: Do you have any objection to the proposed Settlement Agreement?**

4 A: No. I believe the 2019 Settlement Agreement is in the public interest because it
5 avoids costly litigation between the parties, allows current West Lafayette
6 customers within ASU's CTA who are connected to the West Lafayette system to
7 remain customers of West Lafayette, and establishes an enforceable boundary
8 between the two utilities.

9 **III. OUCC RECOMMENDATIONS**

10 **Q: Please summarize your recommendations to the Commission in this cause.**

11 A: I specifically recommend that the Commission:

- 12 1. Approve the proposed 2019 Settlement Agreement.
- 13 2. Require all sewer customers currently connected to West Lafayette's sewer
14 system and all sewer customers who, during the term of the proposed 2019
15 Settlement Agreement connect to West Lafayette's sewer system in any
16 areas within ASU's certificated service territory, to remain connected to and
17 continue to be served by West Lafayette at the end of the 25-year term of
18 the proposed agreement.
- 19 3. Require all sewer customers currently connected to ASU's sewer system
20 and all sewer customers located inside the City of West Lafayette who
21 connect to ASU's sewer system, remain connected to and be served by
22 ASU.

1 4. Consider requiring the Joint Petitioners to seek approval of another service
2 territory agreement, if one is needed, prior to the end of the proposed 2019
3 Settlement Agreement, to avoid customer confusion and any disruptions
4 between the proposed 25-year term and the start of the next service territory
5 agreement.

6 5. Consider whether it is appropriate for ASU to retain its CTA in the areas to
7 be served by West Lafayette for the next twenty-five years.

8 6. Joint Petitioners should clarify whether the 50% liquidated damages
9 payments would increase whenever sewer rates are increased.

10 **Q: Does this conclude your testimony?**

11 A: Yes

Appendix A

1 **Q: Please describe your educational background and experience.**

2 A: In 1980 I graduated from Purdue University, where I received a Bachelor of Science
3 degree in Civil Engineering, having specialized in Environmental Engineering. I
4 then worked with the Peace Corps for two years in Honduras as a municipal
5 engineer and as a Project Engineer on self-help rural wastewater supply and
6 sanitation projects funded by the U.S. Agency for International Development (U.S.
7 AID). In 1984 I earned a Master of Science degree in Civil Engineering and
8 Environmental Engineering from Purdue University. I have been a Registered
9 Professional Engineer in the State of Indiana since 1986. In 1984, I accepted an
10 engineering position with Purdue University, and was assigned to work as a process
11 engineer with the Indianapolis Department of Public Works ("DPW") at the Town's
12 Advanced Wastewater Treatment Plants. I left Purdue and subsequently worked
13 for engineering consulting firms, first as a Project Engineer for Process Engineering
14 Group of Indianapolis and then as a Project Manager for the consulting firm HNTB
15 in Indianapolis. In 1999, I returned to DPW as a Project Engineer working on
16 planning projects, permitting, compliance monitoring, wastewater treatment plant
17 upgrades, and combined sewer overflow control projects.

18 **Q: What are the duties and responsibilities of your current position?**

19 A: My duties include evaluating the condition, operation, maintenance, expansion, and
20 replacement of water and wastewater facilities at utilities subject to Indiana Utility
21 Regulatory Commission ("Commission") jurisdiction.

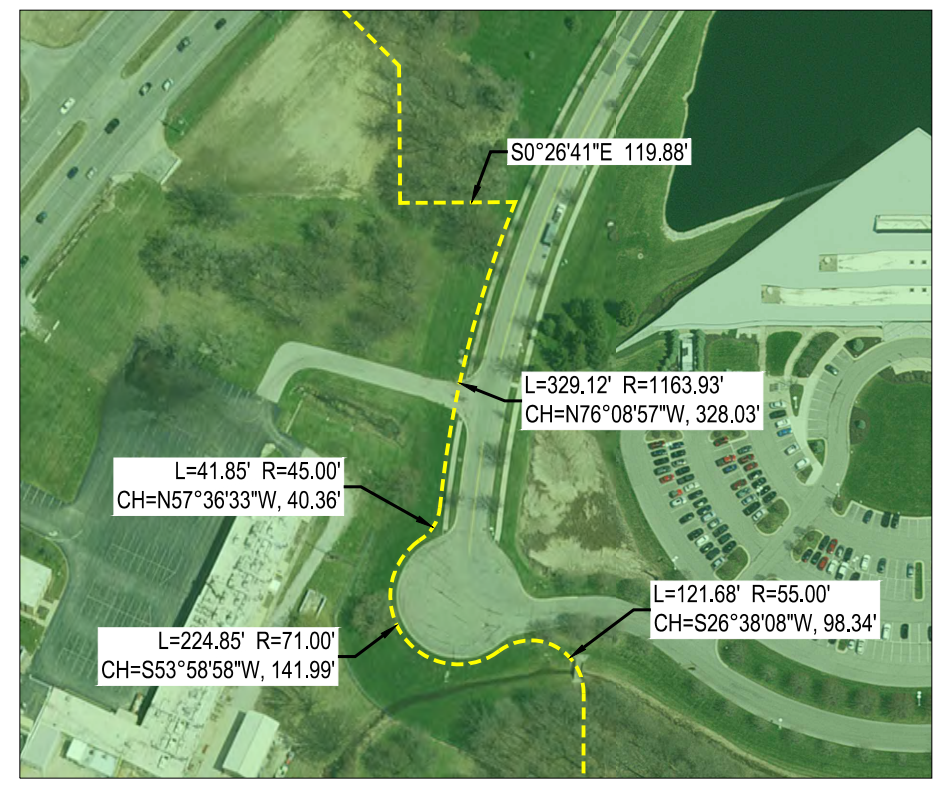
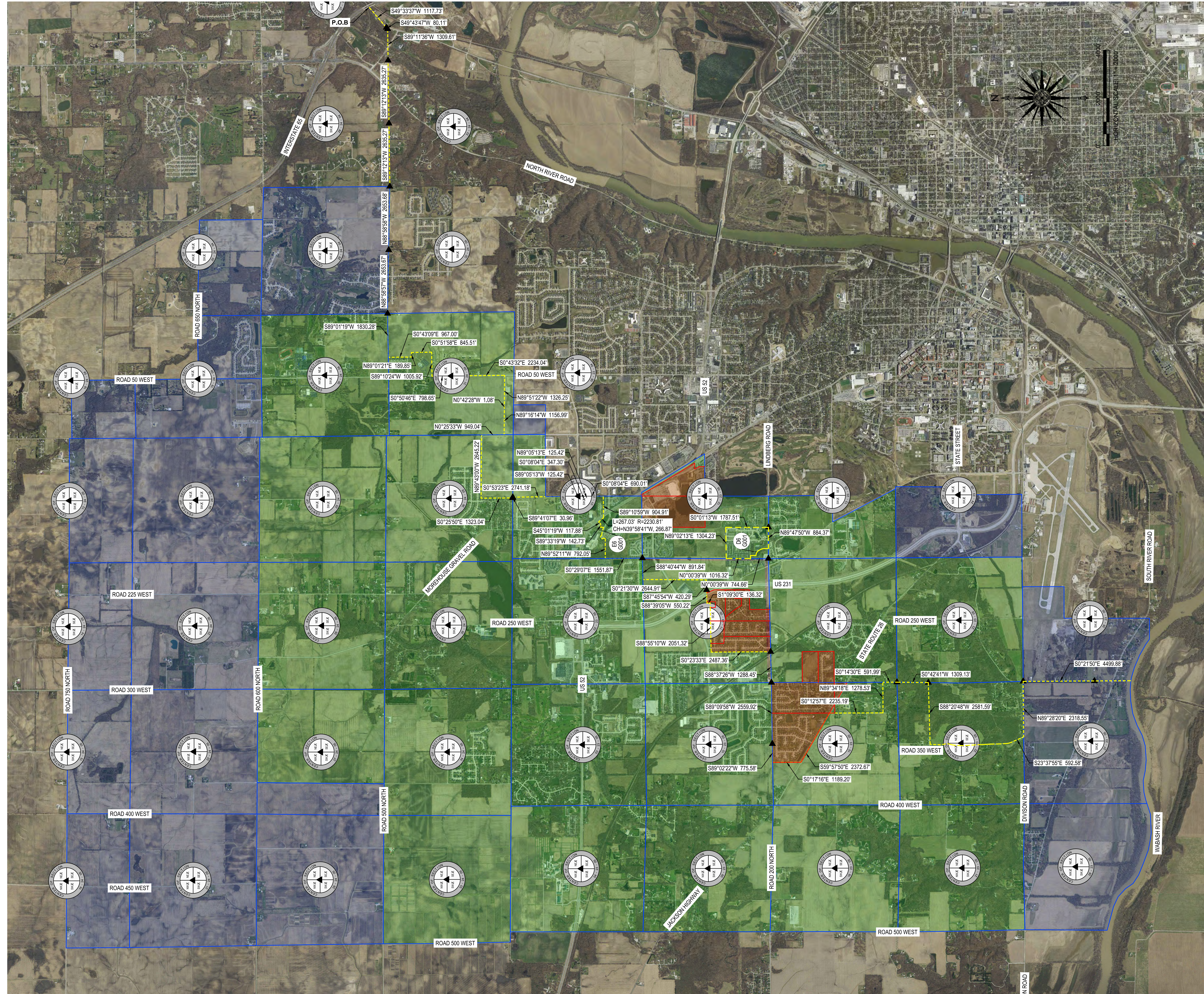
22 **Q: Have you previously testified before the Commission?**

23 A: Yes.

Appendix B - List of Attachments

- | | |
|------------------|--|
| Attachment JTP-1 | 2019 Service Area Map – American Suburban Utilities, Inc. |
| Attachment JTP-2 | 2009 Agreement submitted by ASU in response to OUCC DR 1-4 |
| Attachment JTP-3 | West Lafayette responses to OUCC DR 1 |
| Attachment JTP-4 | ASU responses to OUCC DR 1 |

FILE: P:\2018\8017 ASU Service Area Planning\DRAWINGS\ASU\LEGAL\MAPPING working.dwg - USER: PATRICK WILLIAMS - DATE: Tuesday, February 18, 2020 15:57:35 AM

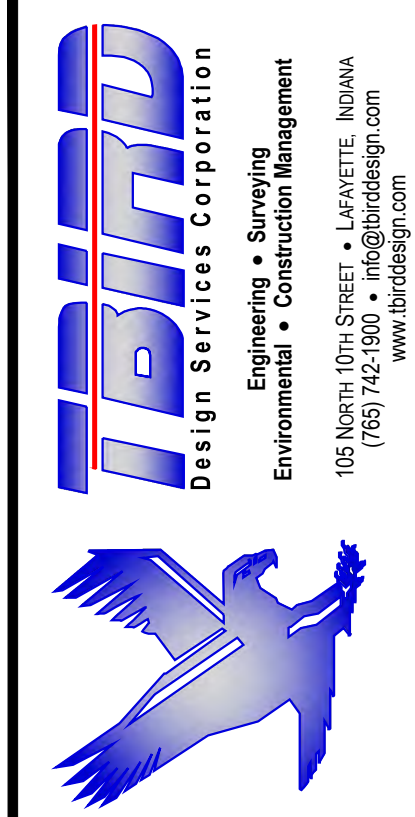


E6 ENLARGED PLAN VIEW
1" = 200'



D6 ENLARGED PLAN VIEW
1" = 200'

- SERVICE AREA LEGEND**
- CERTIFICATE OF TERRITORIAL AUTHORITY - 1966
 - CERTIFICATE OF TERRITORIAL AUTHORITY EXPANSION - 1972, 1989, 1991, 1999, 2003, 2006
 - EXCLUSION FROM TERRITORIAL AUTHORITY
 - PROPOSED SERVICE TERRITORY BOUNDARY LINE



CERTIFIED BY:

2019 SERVICE AREA MAP
AMERICAN SUBURBAN UTILITIES, INC.
3350 WEST 250 NORTH
WEST LAFAYETTE, IN 47906

MARK	DATE	DESCRIPTION

PROJECT NO: **18017**
FILE:8017-LEGAL MAPPING WORKING.DWG
DRAWN BY: MBH
CHECKED BY: PEW
LOCATION: TIPPICANOE COUNTY, INDIANA

TITLE:
OVERALL EXHIBIT
ASU SERVICE AREA

G001
1 OF 1

AGREEMENT

This Agreement is executed and entered by and between American Suburban Utilities, Inc. ("ASU"), and the City of West Lafayette, Indiana ("City"). It is based upon the following Recitals:

A. ASU is a public utility and sewage disposal company subject to the jurisdiction of the Indiana Utility Regulatory Commission ("IURC").

B. ASU provides sewer utility service to rural areas in Tippecanoe County, Indiana pursuant to Certificate of Territorial Authority No. 57 ("CTA") which was issued by the IURC in Cause No. 31165 on November 10, 1966. ASU's CTA has been amended several times since it was originally issued. The most recent amendment occurred in Cause No. 42889. The area covered by ASU's CTA as amended shall be referred to herein as the "ASU Service Area." A map of the ASU Service Area is attached hereto as Exhibit 1.

C. The City is a third class city which provides sewer utility service in and around its corporate limits in Tippecanoe County, Indiana ("City Service Area"). A map of the City Service Area is attached hereto as Exhibit 2.

D. On August 17, 2006, the City completed an annexation extending the boundaries of the City corporate limits. A map of the annexation is attached hereto as Exhibit 3.

E. There are sections of ASU's service area that lie within the City's boundaries causing the parties service areas to overlap. Each party is authorized by law to provide sewer utility service within sections of the other party's service area.

F. It is in the best interest of the parties and the public for the parties to agree to territorial boundaries for their respective service areas.

G. For purposes of this Agreement, the term “sewer utility service” shall mean the collection, treatment, purification and/or disposal in a sanitary manner of liquid and solid waste, sewage, night soil, or industrial waste.

NOW THEREFORE it is agreed by the parties as follows:

1. The ASU hereby transfers the sewer utility service area to the City as set forth on the map attached hereto as Exhibit 4 and more particularly described on Exhibit 5 attached hereto.

2. ASU shall have the exclusive right to provide sewer utility service to the ASU Service Area except for that portion transferred to the City under this Agreement, which shall be the new “New ASU Service Area.”

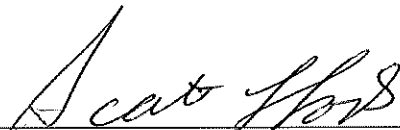
3. The City shall have the exclusive right to provide sewer utility service to the City Service Area and the area transferred from ASU to the City, which shall be the new “New City Service Area.”

4. For a period of fifty (50) years from the date of this Agreement, the City shall not provide sewer utility service in the New ASU Service Area without ASU’s consent.

5. For a period of fifty (50) years from the date of this Agreement, ASU shall not provide sewer utility service in the New West Lafayette Service Area without the City’s consent.

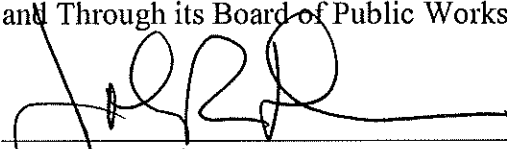
6. To the extent a regulatory authority with jurisdiction over the matter issues a final order no longer subject to appeal which is inconsistent with the terms, herein, such order shall take precedence. The parties agree to cooperate in their efforts mutually to resist such an order.

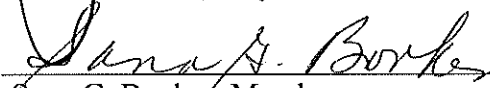
AMERICAN SUBURBAN UTILITIES, INC.

By: 
Scott L. Lods, President

Date: 23 Oct 09

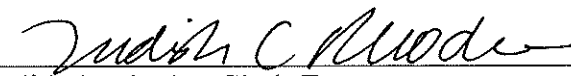
CITY OF WEST LAFAYETTE, INDIANA,
By and Through its Board of Public Works

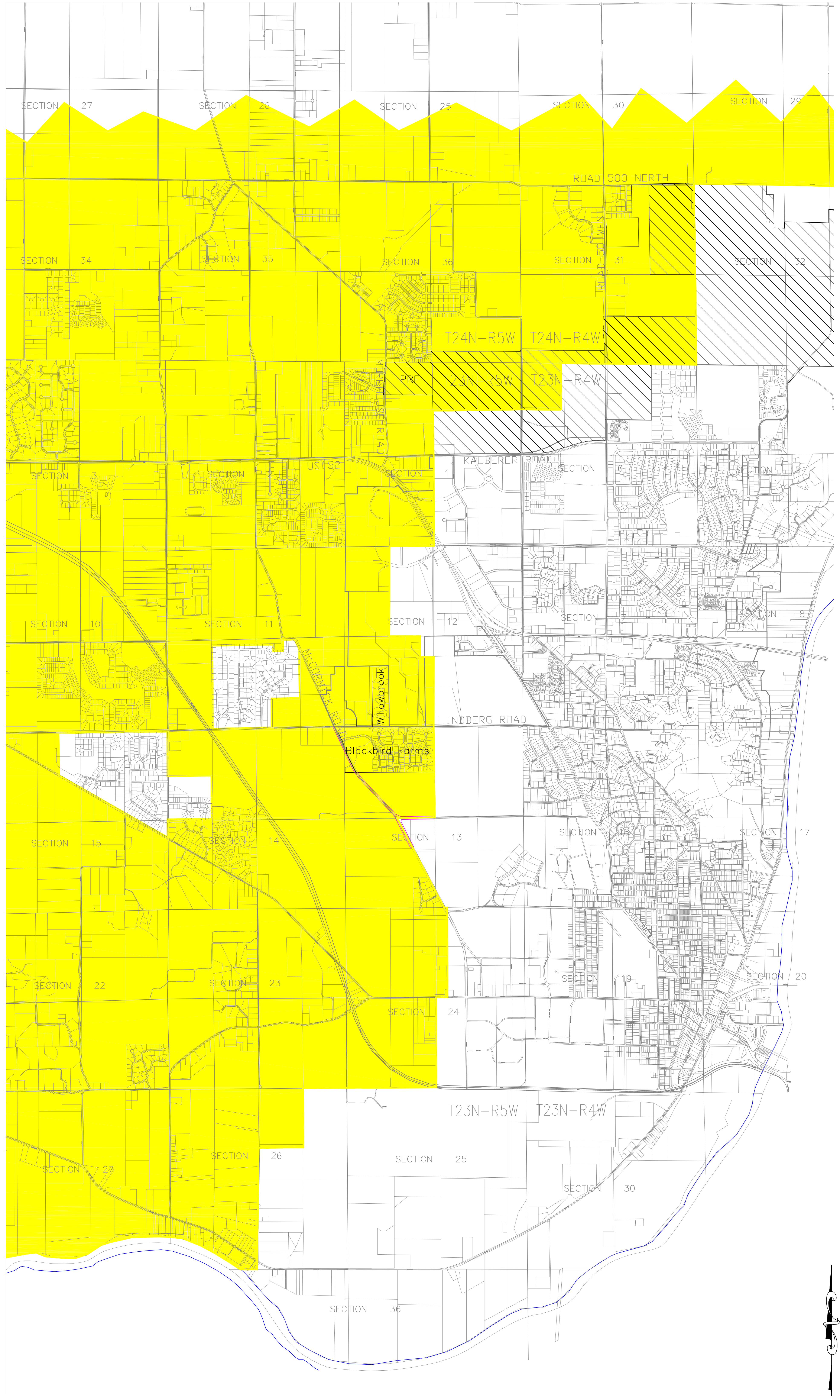
By: 
John R. Dennis, Mayor

By: 
Sana G. Booker, Member

By: 
Bradley W. Marley, Member

Date: 10/12/09

Attest: 
Judith C. Rhodes, Clerk-Treasurer



FILE	DESIGNATION
HORIZONTAL SCALE	VERTICAL SCALE
1200	NA
SURVEY BOOK	SHEET
CONTRACT	1 OF 1
	PROJECT
	2650

EXHIBIT 1
AMERICAN SUBURBAN UTILITIES SERVICE LIMITS

Branch Locations
 BLUFFTON
 CHARLOTTE
 JACKSONVILLE
 MERIDIAN
 PLAINFIELD

Headquarters
 8450 WESTFIELD BLVD., SUITE 300
 INDIANAPOLIS, IN 46240-8302
 TEL: 317-713-4616
 FAX: 317-713-4618
 www.ASUSU.com

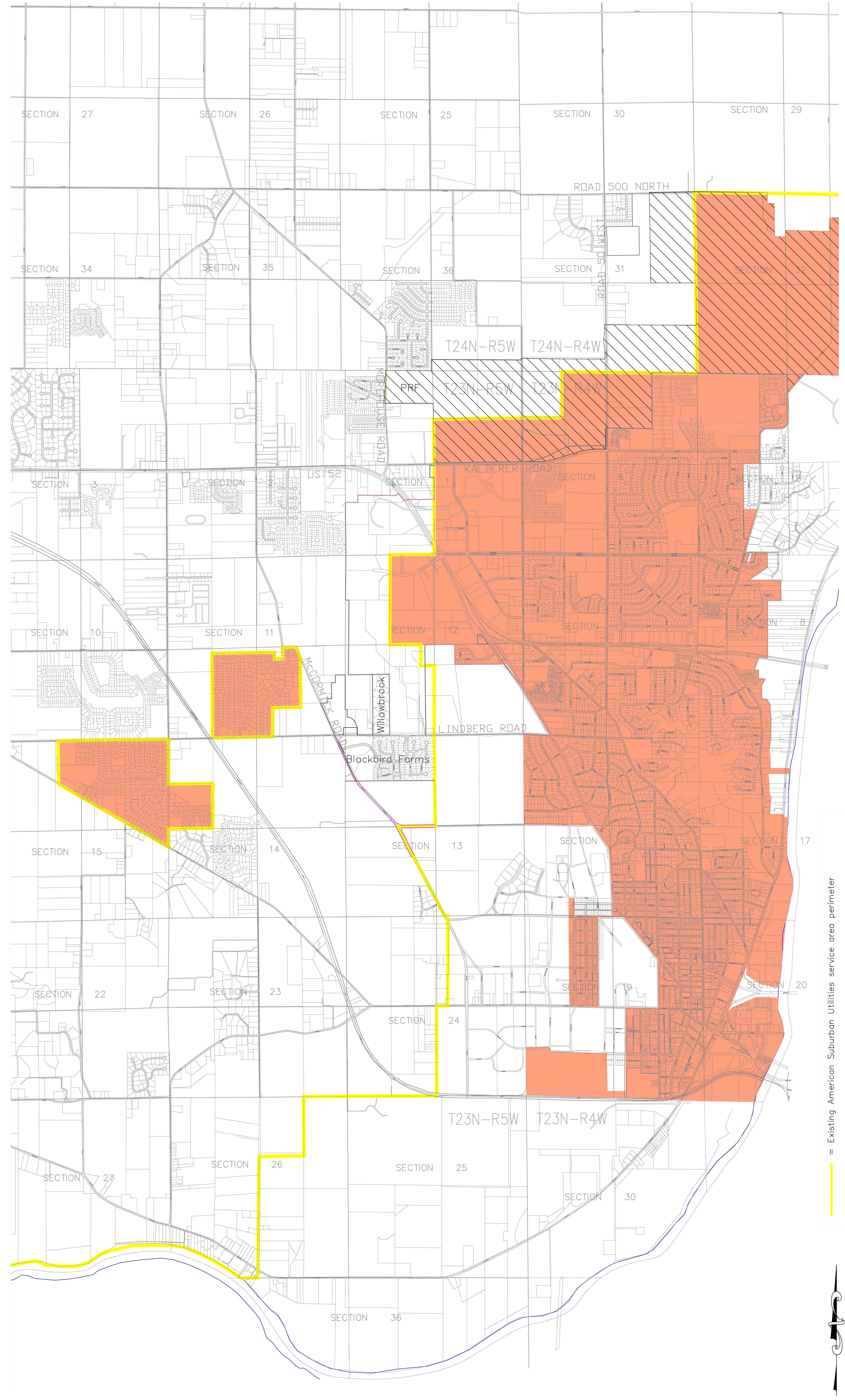
280-824-5720
 219-443-5800
 219-769-2333
 317-839-3242

DESIGNED:	DRAWN:	CHECKED:	DATE

GRAPHIC SCALE
 (1 IN FEET)
 1 inch = 1200 ft.

1200
600
0
600
1200

= Existing American Suburban Utilities service area
 = Current City of West Lafayette annexation area.



HORIZONTAL SCALE	1200
VERTICAL SCALE	NA
SURVEY BOOK	CONTRACT
FILE	DESIGNATION
SHEET	1 OF 1
PROJECT	2650

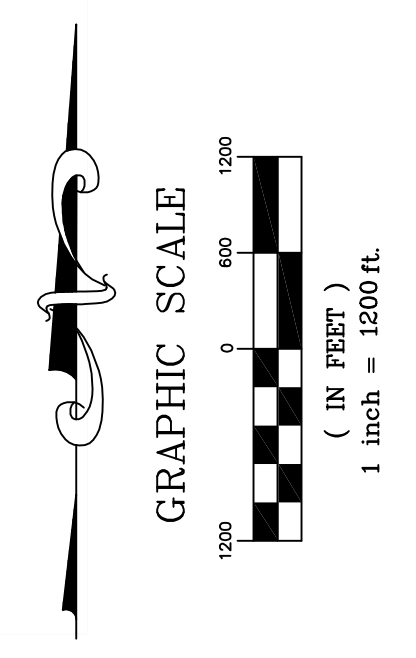
EXHIBIT 2
APPROXIMATE WEST LAFAYETTE SERVICE LIMITS

Branch Locations
 280-824-5720
 BLUFFTON
 8450 WESTFIELD BLVD., SUITE 300
 INDIANAPOLIS, IN 46240-8022
 317-713-4616
 www.BFSInc.com

280-824-5720
 BLUFFTON
 8450 WESTFIELD BLVD., SUITE 300
 INDIANAPOLIS, IN 46240-8022
 317-713-4616
 www.BFSInc.com

DESIGNED:	DRAWN:	CHECKED:	DATE

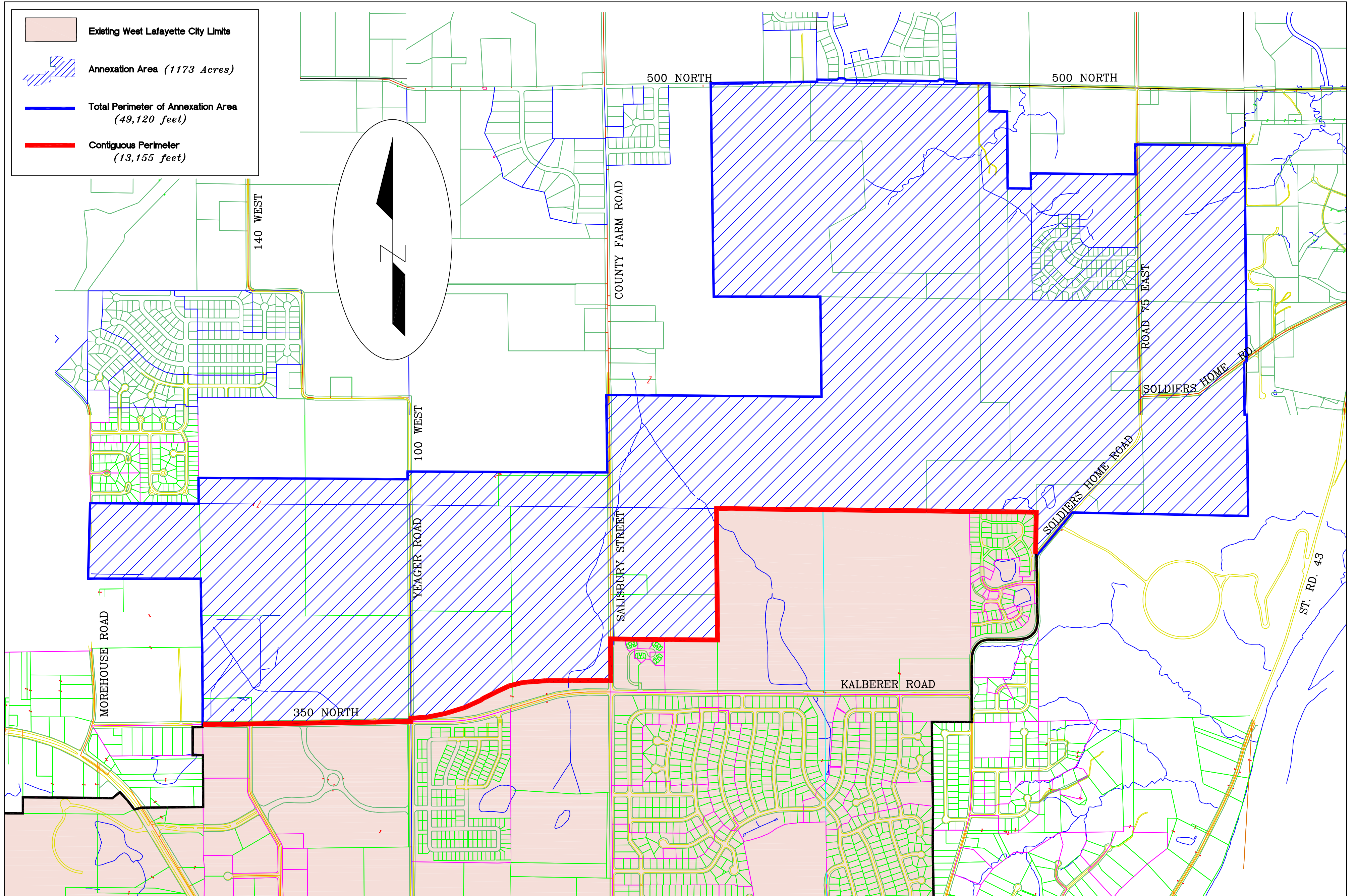
- = Existing American Suburban Utilities service area perimeter
- = City of West Lafayette service area.
- = Current City of West Lafayette annexation area.





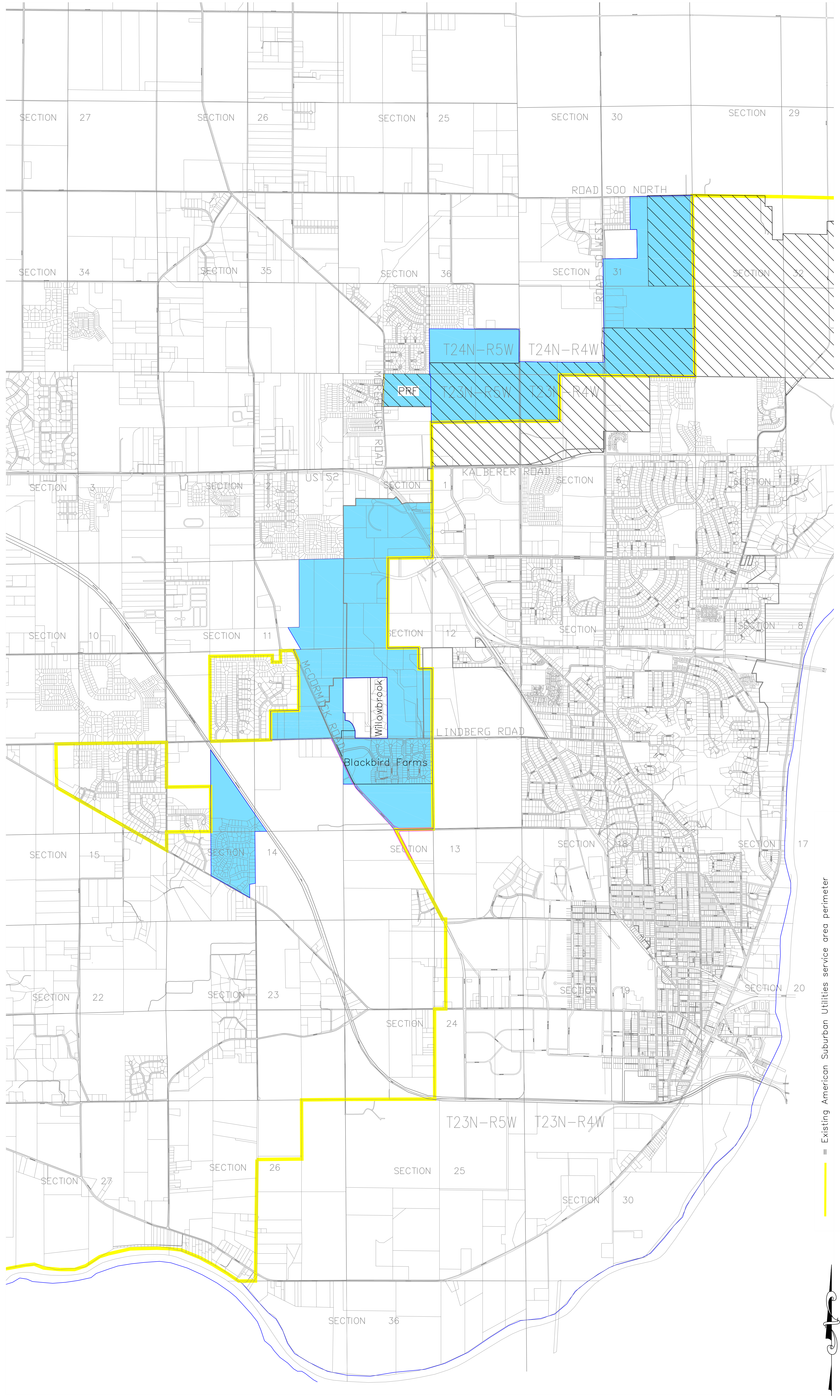
CITY OF WEST LAFAYETTE

CITY OF WEST LAFAYETTE ~ 2005 ANNEXATION

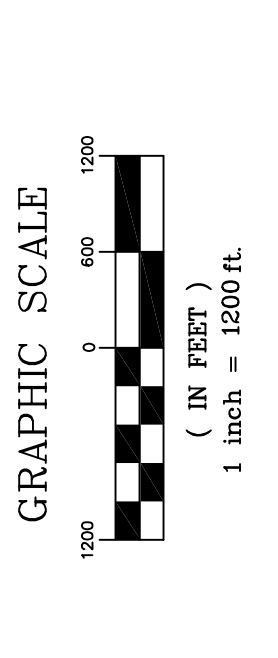


Disclaimer:
This drawing is for reference only. The lot lines in this drawing are just a representation of the boundaries. All engineering and survey data must be acquired through the original data stewards. This drawing is only to be used for review. The City of West Lafayette is not responsible for any errors or omissions in this drawing.

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- = Existing American Suburban Utilities service area perimeter
- = Portion of American Suburban Utilities service area to be transferred to City of West Lafayette service area.
- = Current City of West Lafayette annexation area.



**EXHIBIT
PROPOSED UTILITY
SERVICE LIMITS**

Branch Locations
280-824-5720
BLUFFTON
910-661-2222
CHARLOTTE
919-431-5800
JACKSONVILLE
904-424-8302
MEMPHIS
901-452-4616
MERRILLVILLE
219-769-2333
PLANNED
317-839-3442

Headquarters
8450 WESTFIELD BLVD., SUITE 300
INDIANAPOLIS, IN 46240-8302
TEL: 317-713-4616
FAX: 317-713-4616
www.BFSGroup.com

BFS
Builder • Estimator • Contractor

HORIZONTAL SCALE 1200	VERTICAL SCALE NA	SURVEY BOOK CONTRACT	FILE DESIGNATION
		SHEET 1	SHEET 1
		PROJECT 2650	PROJECT 2650

EXHIBIT 4
BFS NO. HE2650

BUTLER FAIRMAN & SEUFERT

10 North Third Street
Lafayette, IN 47901
Tel. 765-742-4242
Fax 765-742-5321

LEGAL DESCRIPTION – Proposed service area transfer (American Suburban Utilities to the City of West Lafayette

Parts of Section 31 in Township 24 North, Range 4 West, Section 6 in Township 23 North, Range 4 West, Section 1 in Township 23 North, Range 5 West, and Section 36 in Township 24 North, Range 5 West, all in Wabash Township, Tippecanoe County, Indiana and more particularly described as follows:

Beginning at the northeast corner of the Northeast Quarter of said Section 31; thence traversing the lines of the existing American Suburban Utilities service area the following seven (7) courses: (1) South 00 degrees 52 minutes 06 seconds East a distance of 2,656.95 feet; (2) South 00 degrees 42 minutes 18 seconds East a distance of 2,647.26 feet; (3) North 89 degrees 22 minutes 55 seconds West a distance of 2,649.08 feet; (4) North 89 degrees 16 minutes 14 seconds West a distance of 1,320.00 feet; (5) South 00 degrees 20 minutes 08 seconds East a distance of 1,363.71 feet; (6) North 89 degrees 33 minutes 02 seconds West a distance of 1,166.33 feet; (7) South 89 degrees 10 minutes 36 seconds West a distance of 2,599.23 feet to the eastern line of the northwest quarter of said Section 1; thence North 00 degrees 53 minutes 23 seconds West, along said eastern line, a distance of 457.92 feet to a southern line of the City of West Lafayette corporate limits; thence traversing the southern, western and northern lines of said corporate limits the following eight courses: (1) North 89 degrees 43 minutes 10 seconds West, a distance of 1,444.40 feet; (2) North 01 degrees 47 minutes 06 seconds East, a distance of 374.30 feet; (3) South 88 degrees 21 minutes 19 seconds East, a distance of 20.00 feet; (4) North 01 degrees 47 minutes 06 seconds East, a distance of 232.80 feet; (5) North 88 degrees 54 minutes 45 seconds West, a distance of 20.00 feet; (6) North 01 degrees 47 minutes 06 seconds East, a distance of 175.64 feet; (7) South 89 degrees 43 minutes 15 seconds East, a distance of 20.01 feet; (8) North 01 degrees 47 minutes 06 seconds East, a distance of 180.86 feet to the southern line of the Southwest Quarter of the said Section 36; thence South 89 degrees 43 minutes 10 seconds East along said southern line, a distance of 1,348.47 feet to the southwest corner of the Southeast Quarter of said Section 36; thence North 00 degrees 24 minutes 16 seconds West, along the western line of said Southeast Quarter, a distance of 1,324.12 feet to the northern line of the Southwest Quarter of said Southeast Quarter; thence South 89 degrees 45 minutes 15 seconds East, along said northern line, a distance of 1,321.91 feet to the northwest corner of the Southeast Quarter of said Southeast Quarter; thence South 89 degrees 45 minutes 32 seconds East, along the northern line of the Southeast Quarter of said Southeast Quarter, a distance of 1,322.69 feet to the eastern line of the Southeast Quarter of said Section 36; thence South 00 degrees 47 minutes 15 seconds West, along said eastern line, a distance of 951.93 feet to the northern line of the Purdue Research Foundation real estate described in, Instrument Number 9602633; thence traversing the northern lines of the Purdue Research Foundation real estate described in, Instrument Number 9602633 and Deed Book 229, Page 50, both recorded in the aforesaid Office of the Recorder, the following three (3) courses: (1) South 89 degrees 16 minutes 14 seconds East a distance of 1,176.99 feet; (2) South 00 degrees 42 minutes 31 seconds East a distance of 1.08 feet; (3) South 89 degrees 51 minutes 25 seconds East a distance of 1,326.03 feet

to the western line of the Southeast Quarter of said Section 31; thence North 00 degrees 45 minutes 13 seconds West, along said western line and the western line of the Northeast Quarter of said Section 31, a distance of 3,032.83 feet to the southern line, extended, of the Saint Andrew Methodist Church real estate described in Instrument Number 05007747 in the aforesaid Office of the Recorder; thence North 89 degrees 12 minutes 07 seconds East, along said southern line and the extension thereof, a distance of 1,005.02 feet; thence North 00 degrees 47 minutes 53 seconds West, along the eastern line of said real estate, a distance of 845.70 feet; thence South 89 degrees 06 minutes 57 seconds West, along the northern line of said real estate, a distance of 189.37 feet; thence North 00 degrees 45 minutes 13 seconds West along the eastern line of Shepard's Point Subdivision, a distance of 967.00 feet to the northern line of the Northeast Quarter of said Section 3; thence North 89 degrees 01 minutes 20 seconds East a distance of 1,830.27 feet to the POINT OF BEGINNING, containing 535.8 acres, more or less.

ALSO:

Parts of Section 1, Section 11, Section 12, Section 13 and Section 14, all in Township 23 North, Range 5 West, Wabash Township, Tippecanoe County, Indiana and more particularly described as follows:

Beginning at the southeast corner of the Southwest quarter of said Section 1; thence traversing the lines of the existing American Suburban Utilities service area the following eight (8) courses: (1) South 89 degrees 20 minutes 57 seconds West a distance of 1,297.83 feet; (2) South 00 degrees 12 minutes 49 seconds West a distance of 2,634.82 feet; (3) North 89 degrees 32 minutes 08 seconds East a distance of 907.89 feet; (4) South 00 degrees 27 minutes 52 seconds East a distance of 620.00 feet; (5) North 89 degrees 32 minutes 08 seconds East a distance of 391.24 feet; (6) South 00 degrees 03 minutes 39 seconds West a distance of 2,042.78 feet; (7) South 00 degrees 44 minutes 09 seconds East a distance of 2,657.44 feet; (8) South 89 degrees 04 minutes 10 seconds West a distance of 1,144.25 feet to the western right-of-way line of McCormick Road; thence traversing said western right-of-way line the following three (3) courses: (1) North 39 degrees 05 minutes 45 seconds West a distance of 213.97 feet; (2) North 43 degrees 24 minutes 17 seconds West a distance of 1,257.80 feet; (3) North 37 degrees 38 minutes 13 seconds West a distance of 322.09 feet to the southern line of Blackbird Farms, Phase Three; thence South 89 degrees 41 minutes 08 seconds West, along said southern line, a distance of 300.96 feet to the western line of the Northwest Quarter of said Section 13; thence North 00 degrees 01 minutes 47 seconds East, along said western line, a distance of 602.09 feet to the western right-of-way line of McCormick Road; thence North 25 degrees 05 minutes 13 seconds West, along said western right-of-way line, a distance of 818.45 feet to the southern line of the Southeast Quarter of said Section 11; thence South 88 degrees 36 minutes 49 seconds West, along said southern line, a distance of 1,779.22 feet to a western line of the existing American Suburban Utilities service area; thence traversing the lines of the existing American Suburban Utilities service area the following seven (7) courses: (1) North 00 degrees 05 minutes 41 seconds West a distance of 845.00 feet; (2) North 88 degrees 54 minutes 19 seconds East a distance of 825.00 feet; (3) North 00 degrees 18 minutes 03 seconds West a distance of 623.00 feet; (4) North 00 degrees 09 minutes 04 seconds East a distance of 382.66 feet; (5) South 35 degrees 05 minutes 57 seconds West a distance of 10.51 feet; (6) North 00 degrees 01 minutes 33 seconds West a distance of 445.55 feet; (7) North 23 degrees 35 minutes 33 seconds West a distance of 373.37 feet to the northern line of the Southeast Quarter of said Section 11; thence North 88 degrees 29 minutes 42 seconds East, along said northern line, a distance of 219.00 feet to the proposed eastern right-of-way line of the proposed U.S. Highway 231; thence North 30

degrees 30 minutes 41 seconds West, along said proposed eastern right-of-way line, a distance of 745.05 feet to a northern line of the Bethel Christian Life Center real estate; thence North 88 degrees 29 minutes 55 seconds East, along said northern line, a distance of 332.02 feet; thence North 00 degrees 11 minutes 50 seconds West, along the western line of said real estate, a distance of 1,983.54 feet to the northern line of the Northeast Quarter of said Section 11; thence North 88 degrees 43 minutes 38 seconds East, along said northern line, a distance of 1,311.48 feet; thence North 00 degrees 29 minutes 07 seconds West, along the western line of the Southwest Quarter of said Section 1, a distance of 1,551.88 feet to the existing City of West Lafayette corporate limit; thence traversing said corporate limit the following seven (7) courses: (1) South 89 degrees 50 minutes 49 seconds East a distance of 366.41 feet; (2) North 00 degrees 54 minutes 29 seconds West, a distance of 213.13 feet; (3) South 89 degrees 25 minutes 21 seconds East a distance of 1,116.11 feet; (4) North 50 degrees 02 minutes 42 seconds East a distance of 89.90 feet; (5) South 39 degrees 57 minutes 12 seconds East a distance of 273.22 feet; (6) North 73 degrees 29 minutes 09 seconds East a distance of 119.16 feet; (7) North 89 degrees 22 minutes 35 seconds East a distance of 767.29 feet to the eastern line of the Southwest Quarter of said Section 1; thence South 00 degrees 07 minutes 53 seconds East, along said eastern line, a distance of 1,613.73 feet to the point of BEGINNING.

Excepting from the above:

A part of the Southwest Quarter of Section 12 in Township 23 North, Range 5 West, Wabash Township, Tippecanoe County, Indiana and more particularly described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 12; thence South 89 degrees 47 minutes 50 seconds East, along the southern line of said Southwest Quarter, a distance of 350.00 feet to the POINT OF BEGINNING; thence North 00 degrees 12 minutes 10 seconds East, along the eastern line of the Public Service Company of Indiana (now Duke Energy) real estate, a distance of 217.50 feet; thence North 89 degrees 47 minutes 50 seconds West, along the northern line of said real estate, a distance of 0.81 feet; thence traversing the eastern lines of McCormick Place Planned Development, Phase III the following six courses: (1) North 19 degrees 38 minutes 58 seconds West a distance of 122.92 feet; (2) North 29 degrees 52 minutes 07 seconds West a distance of 106.12 feet; (3) North 47 degrees 28 minutes 45 seconds West a distance of 103.64 feet; (4) North 73 degrees 33 minutes 25 seconds West a distance of 82.96 feet; (5) North 89 degrees 58 minutes 02 seconds West a distance of 40.59 feet; (6) North 00 degrees 31 minutes 41 seconds West a distance of 226.70 feet; thence North 89 degrees 47 minutes 49 seconds West a distance of 57.30 feet to the western line of the Southwest Quarter of said Section 12; thence North 00 degrees 00 minutes 43 seconds West, along said western line, a distance of 1,016.91 feet; thence North 89 degrees 11 minutes 09 seconds East, along the northern line of Wellstone Holdings LLC real estate and along the northern line of Willowbrook West Apartments, Phase Two, a distance of 1,288.11 feet; thence South 00 degrees 30 minutes 00 seconds East, along the eastern line of Willowbrook West Apartments, Phase Two and Phase One, a distance of 1,784.40 feet to the southern line of said Southwest Quarter; thence North 89 degrees 47 minutes 50 seconds West, along said southern line, a distance of 953.19 feet to the POINT OF BEGINNING, containing in said exception 48.7 acres, more or less.

Containing after said exception 595.5 acres, more or less.

ALSO:

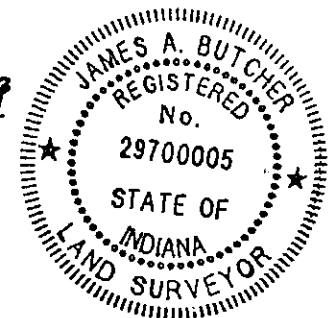
A part of Section 14 in Township 23 North, Range 5 West, Wabash Township, Tippecanoe County, Indiana and more particularly described as follows:

Beginning at the northwest corner of the Southwest Quarter of said Section 14; thence South 00 degrees 35 minutes 11 seconds East, along the eastern line of said Southwest Quarter, a distance of 1,518.65 feet to a southern line of The Orchard Subdivision, Section 1, Phase 3; thence South 79 degrees 43 minutes 30 seconds West, along said southern line, a distance of 172.20 feet to an eastern line of said subdivision; thence South 00 degrees 35 minutes 11 seconds East, along said eastern line, a distance of 389.50 feet to the approximate centerline of State Road 26; thence North 60 degrees 25 minutes 24 seconds West a distance of 1,305.96 feet to the western line of the East Half of the Southwest Quarter of said Section 14; thence North 00 degrees 24 minutes 54 seconds West, along said western line, a distance of 1,289.09 feet; thence North 00 degrees 13 minutes 37 seconds West, along the western line of the East Half of the Northwest Quarter of said Section 14, a distance of 2,400.28 feet to the southwestern right-of-way line of the Kankakee, Beaverville and Southern railroad; thence South 34 degrees 38 minutes 09 seconds East, along said southwestern right-of-way line, a distance of 2,906.30 feet to the southern line of the Northeast Quarter of said Section 14; thence South 89 degrees 21 minutes 17 seconds West, along said southern line, a distance of 347.30 feet to the POINT OF BEGINNING, containing 93.0 acres, more or less.

SURVEYOR'S CERTIFICATE

I, James A. Butcher, a Registered Professional Land Surveyor of the State of Indiana, do hereby certify that the above description was prepared by me or under my direct supervision.

CERTIFIED BY: James A. Butcher 10/02/09
James A. Butcher, L.S. # 29700005 Date



PREPARED FOR: The City of West Lafayette

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-1: Please state the cost of a residential sewer bill for 5,000 gallons per month usage and provide the basis and assumptions used to calculate the sewer bill including fixed charges, volumetric charges and surcharges.

RESPONSE:

For services rendered after January 2018, the rate is \$6.13 per 1,000 gallons. This include \$3.52 per 1,000 gallons for operations, maintenance and replacements and \$2.61 per 1,000 gallons for debt service.

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-2: Please state if West Lafayette is currently under any enforcement actions or Agreed Order for its wastewater collection and treatment system. If so, please describe the nature of the enforcement action or Agreed Order, provide the current status, and provide the anticipated date when the enforcement will be resolved.

RESPONSE:

West Lafayette's approved Combined Sewer Overflow Long Term Control Plan ("LTCP") is included in an Agreed Judgment. West Lafayette is in compliance with its LTCP, and its LTCP is on track to be completed by September 2027.

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-3: Please state if West Lafayette has a Wastewater Master Plan to serve the area within ASU's CTA that will be transferred to and served by the West Lafayette system. If so, please identify the Master Plan and the year it was finalized.

RESPONSE:

West Lafayette does have a master plan to serve the area within ASU's CTA with the Western Interceptor. West Lafayette updated its Wastewater Collection System Master Plan in 2009 to include this service area.

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-4: Please state if the Western Interceptor was sized to serve the area within ASU's CTA (roughly bounded on the north by Lindbergh Road and on the west by County Road 350 West) that will be served by the West Lafayette system.

RESPONSE:

The Western Interceptor was sized to receive wastewater flow from within ASU's CTA.

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-5: Please state how many current West Lafayette sewer customers are located within ASU's existing CTA.

RESPONSE:

Twelve current West Lafayette wastewater customers are located within ASU's existing CTA. Of that figure, several are multi-family complexes.

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-6: Reference Attachment SLL-1 to the Direct Testimony of Scott L. Lods. Please provide a copy of David T. McGimpsey's letter, dated April 4, 2018, regarding the disagreement between West Lafayette and ASU in relation to the Agreement entered between the parties in 2009 establishing service territories.

RESPONSE:

Please see OUCC Attachment 1-6.



David T. McGimpsey
Partner
dmcgimpsey@bgdlegal.com

April 4, 2018

VIA EMAIL (chris.shelmon@gutweinlaw.com)

Christopher D. Shelmon, Esq.
Gutwein Law
250 Main Street, Suite 590
Lafayette, Indiana 47901

RE: City of West Lafayette 2009 Agreement with American Suburban Utilities, Inc.

Dear Chris:

I write in response to your correspondence of March 1, 2018, concerning the dispute between American Suburban Utilities, Inc. (“ASU”) and the City of West Lafayette (the “City”). While the City remains interested in finding an amicable resolution to the disputes addressed in your letter, it categorically rejects the assertion that it is in violation of any purported obligations owed pursuant to the 2009 Agreement with ASU concerning sewer service areas (the “2009 Agreement”). In sum, the 2009 Agreement is invalid as a matter of law, and accordingly, cannot serve as the basis for any purported damages claim against the City.

As you know, the provision of sewage service by sewage disposal companies in rural areas in Indiana is governed by Ind. Code 8-1-2-89. That statute explains that sewage disposal companies – like ASU – may only provide service in rural areas in a manner consistent with the terms of a certificate of territorial authority (“CTA”) issued by the Indiana Utility Regulatory Commission (“IURC”). The holder of a CTA is obligated to furnish reasonably adequate sewage disposal service in the area set forth in its CTA, and in exchange for doing so, is granted an exclusive right to provide such service within the CTA boundaries as against other sewage disposal companies. Ind. Code 8-1-2-89(c) & (h). The issuance, modification, and transfer of CTAs is the exclusive province of the IURC. Thus, for example, alterations to the boundaries of a CTA, or efforts to sell, lease, or otherwise transfer a CTA, are only valid if approved by the IURC. *See* Ind. Code 8-1-2-89(j).

ASU holds a CTA (most recently amended on January 18, 2006) covering areas addressed in the 2009 Agreement. Rather than attempt to alter or otherwise transfer portions of its CTA through the appropriate IURC process, however, it appears that ASU instead attempted to bypass that

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process via the 2009 Agreement. This effort was problematic, and ultimately unenforceable, for at least three reasons.

First, the 2009 Agreement simply does not comply with the process outlined in Ind. Code § 8-1-2-89. Indiana Code § 8-1-2-89(h) makes clear that ASU's CTA may only be altered with IURC approval, "but not otherwise...[.]" Regardless of the intent behind the 2009 Agreement, neither the City nor ASU had the legal authority to enter into an agreement contrary to law. *See, e.g., Lee v. State*, 816 N.E.2d 35, 38-39 (Ind. 2004).

Second, because the 2009 Agreement does not comply with the applicable statutory framework, it likely violates the Sherman Act (15 U.S.C. § 1). The Sherman Act makes unlawful all contracts in restraint of trade or commerce. The 2009 Agreement restrains trade or commerce by attempting to trade exclusivity to provide sewage service within certain specified territories, and then promising the maintenance of such exclusivity for fifty (50) years. While the process under Ind. Code § 8-1-2-89 pursuant to which CTAs are issued, amended, revoked, and transferred also operates to restrain trade, it falls into the state action exception to the Sherman Act and is therefore permissible. *See, e.g., Prime Healthcare Services-Monroe, LLC v. Ind. Univ. Health Bloomington, Inc.*, 2017 U.S. Dist. LEXIS 162507, *3 (S.D. Ind. September 29, 2017). The same cannot be said of the 2009 Agreement, because nothing in Ind. Code § 8-1-2-89 suggests that parties other than the IURC can transfer or otherwise modify CTA boundaries. Accordingly, the 2009 Agreement is not part of the "clearly articulated and affirmatively expressed" state policy and is unenforceable.

Third, though the City's Board of Works and ASU certainly appeared to be interested in working together in the manner expressed in the 2009 Agreement, the City's Board of Works simply lacked the authority to bind the City to the terms of the 2009 Agreement. Indiana Code § 36-9-23-6, which sets forth the authority of the Board of Works concerning contracts, only permits the Board of Works to "enter into contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers." Other contracts, for example, contracts "relating to the financing of the acquisition or construction of any sewage works..." are "not effective until...approved by the municipal legislative body." This is so because only the City's municipal legislative body has the non-delegable authority to "regulate," that is, to "license, inspect, or prohibit." Ind. Code § 36-1-2-15. This legislative function includes the ability to regulate the furnishing of utility service and specifically the furnishing of sewer service. *See, e.g., Ind. Code § 36-9-2-15 and -16; see also Ind. Code § 36-9-2-18* (explaining that the powers set forth Ind. Code § 36-9-2-16 may be used inside and within four (4) miles of the City's municipal boundaries).

Further, the Home Rule Act clarifies that when there is no specific manner for the exercise of the City's powers – which is the case with Ind. Code § 36-9-2-15 and -16 – the City must exercise such power through its ordinances. Ind. Code § 36-1-3-6. Because there is no applicable ordinance adopting the terms of the 2009 Agreement or otherwise attempting to delegate the

Christopher D. Shelmon, Esq.

April 4, 2018

Page 3 of 3

authority to do so to the Board of Works (assuming for sake of argument that this is even possible), the 2009 Agreement cannot and does not bind the City.

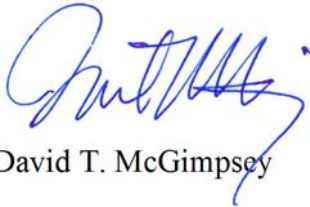
Because the 2009 Agreement is invalid, it does not establish or otherwise govern the parties' obligations and rights with respect to the provision of sewage disposal service within the City's municipal boundaries or outside of them. Rather, the parties' obligations and rights are governed by applicable statute. Accordingly, the City has the right to provide sewer service within its corporate boundaries under Ind. Code § 36-9-2-15 and -17, and to areas within ten (10) miles of its corporate boundaries under Ind. Code § 36-9-23-36.

These statutory provisions expressly permit the City to provide service to the customers identified in your letter, including the Rolls Royce Research and Development Facility, Purdue's Daycare, Purdue's athletic facilities at McCormick Road and Cherry Lane, and Blackbird Farms Apartments. Thus, any claims for damages arising from such actions have no basis in the facts or the law. The City therefore declines ASU's request to provide information ASU suggests it needs to better calculate its purported damages, because there are no such damages. This is particularly true given that there does not appear to be any evidence of detrimental reliance by ASU on the terms of the 2009 Agreement in the nine years since it was signed.

The City remains willing, however, to discuss with ASU other potential ways in which the parties could work together to coordinate issues relating to sewer service on a going forward basis in a manner consistent with the statutes applicable to such service. If you believe such discussions would be worthwhile, please provide dates and times that would work for ASU and we will attempt to set a meeting.

Very truly yours,

BINGHAM GREENEBAUM DOLL LLP



David T. McGimpsey

cc: Mayor John Dennis (*via email*)
Mr. David Henderson (*via email*)
Thomas L. Brooks, Jr., Esq. (*via email*)
Brian W. Welch, Esq. (*via email*)
Alex E. Gude, Esq. (*via email*)

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-7: After the 25 year term of the Settlement Agreement, what happens to customers within ASU's CTA who are currently connected or will be connected to West Lafayette's sewer system?

RESPONSE:

Petitioner objects to the request on the grounds it is vague and ambiguous. Under the Agreement, there will be no customers in that portion of ASU's CTA served by ASU under the Agreement who connect to West Lafayette's sewer system. That is the point of the Agreement.

OUCC DATA REQUEST #1

City of West Lafayette, Indiana

Cause No. 45358

May 4, 2020

Q-1-8: Who will own the long lived sewer infrastructure assets, including contributed plant, within ASU's CTA serving customers who are currently connected or will be connected to West Lafayette's sewer system?

RESPONSE:

Petitioner objects to the request on the grounds it is vague and ambiguous. Under the Agreement, there will be no customers in that portion of ASU's CTA served by ASU under the Agreement who connect to West Lafayette's sewer system. That is the point of the Agreement.

OUCC DR 1-1

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Please state the cost of a residential sewer bill for a usage of 5,000 gallons per month. Please identify all basis used for calculating the bill including fixed charges, volumetric charges and surcharges.

Information Provided:

ASU does not charge residential customers a metered sewer bill. The flat rate charge for a residential customer is \$64.82.

OUCC DR 1-2

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Please state if ASU is currently under any enforcement actions for its wastewater collection and treatment system. If so, please describe the nature of the enforcement action or Agreed Order, provide the current status, and provide the anticipated date when the enforcement will be resolved.

Information Provided:

No.

OUCC DR 1-3

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Please state if ASU has a Wastewater Master Plan for its service area including the area within ASU's CTA that will be transferred to and served by the West Lafayette system. If so, please identify the Master Plan and the year it was finalized.

Information Provided:

ASU does not have a master plan to serve the area to be served by West Lafayette..

OUCC DR 1-4

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Reference the Direct Testimony of Scott I. Lods on page 2 which reads in part:

Therefore, both ASU and West Lafayette have authority to serve in these areas. To address this issue, ASU and West Lafayette entered into an agreement in 2009 (the “2009 Agreement”) to establish service territories and to clearly delineate which utility could serve where.

Please provide a copy of the 2009 Agreement and all attachments that delineated areas that each utility could serve.

Information Provided:

Please see attached.

Attachment:

OUCC DR 1-4.pdf

OUCC DR 1-5

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Reference the 2019 Service Area Map prepared by TBird Design Services Corporation. Please answer or provide the following.

- a. Which utility paid for the creation of this map?
- b. Date the map was originally created; and
- c. Date the map was completed in its final form as provided to the OUCC on March 19, 2020.
- d. Please provide a copy of the 2019 Service Area Map with a layer showing the 2020 corporate boundaries of the City of West Lafayette.

Objection and Information Provided:

Petitioner objects to OUCC DR 1-5 on the grounds and to the extent it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The map accompanies the legal description and, as the Agreement reflects, the legal description was prepared after the agreement was signed. Petitioner does not have a copy of the map with the West Lafayette territorial limit depicted.

OUCR DR 1-6

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Reference the Direct Testimony of David Henderson, Exhibit B LEGAL DESCRIPTION – REVISED CERTIFICATE OF TERRITORIAL AUTHORITY, Area Reserved by: American Suburban Utilities, Inc. Is ASU requesting that the Commission approve the REVISED CERTIFICATE OF TERRITORIAL AUTHORITY to permanently revise ASU’s CTA by removing from ASU’s existing CTA, those areas currently being served or that will be served by the West Lafayette system?

Information Provided:

ASU is only seeking the relief prayed for in the Joint Petition.

OUCC DR 1-7

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

After the 25 year term of the Settlement Agreement, what happens to customers within West Lafayette's sewer service area who connect to ASU's sewer system?

Objection and Information Provided:

Petitioner objects to the request on the grounds it is vague and ambiguous. Under the Agreement, there will be no customers in the West Lafayette service area who connect to ASU's sewer system. That is the point of the Agreement.

OUCG DR 1-8

**DATA INFORMATION REQUEST
American Suburban Utilities, Inc., and
City of West Lafayette, Indiana**

Cause No. 45358

Information Requested:

Who will own the long lived sewer infrastructure assets, including contributed plant, within West Lafayette's sewer service area serving customers who connect to ASU's sewer system?

Objection and Information Provided:

Petitioner objects to the request on the grounds it is vague and ambiguous. Under the Agreement, there will be no customers in the West Lafayette service area who connect to ASU's sewer system. That is the point of the Agreement.