

BILL NO. S-20-01-24

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving LEASE AGREEMENT -
6033 MAPLECREST ROAD - RESOLUTION #107-1-
21-20-1 - \$130,000.00 between ST JOSEPH
TOWNSHIP and the City of Fort Wayne, Indiana, in
connection with the Board of Public Works for the Fort
Wayne Police Department.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

SECTION 1. That the LEASE AGREEMENT - 6033 MAPLECREST
ROAD - RESOLUTION #107-1-21-20-1 by and between ST JOSEPH TOWNSHIP
and the City of Fort Wayne, Indiana, in connection with the Board of Public Works,
for the Fort Wayne Police Department, is hereby ratified, and affirmed and
approved in all respects, respectfully for:

Lease of 12,300 square feet of the building located at 6033
Maplecrest Road, Fort Wayne, Allen County Indiana. Lease
Term is for seven (7) years; annual rental is \$20,000.00

involving a total cost of ONE HUNDRED THIRTY THOUSAND AND 00/100
DOLLARS - (\$130,000.00) - (\$20,000.00 ANNUALLY). A copy of said Lease
Agreement is on file with the Office of the City Clerk and made available for public
inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from
and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney

Approval of Resolution #107-1-21-20-1, Lease Agreement between St Joseph Township and City of Fort Wayne for the property located at 6033 Maplecrest Road.

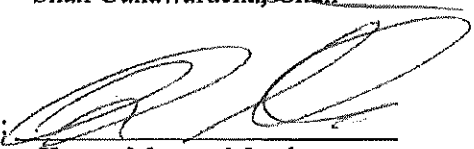
BOARD OF PUBLIC WORKS

Date: 1.21.2020


BY:


Shan Gunawardena, Chair

BY:


Kumar Menon, Member

BY:


Mike Avila, Member

ATTEST:


Michelle Bullock-Vondran, Clerk

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into this 27th day of December, 2018, at Fort Wayne, Indiana, by and between St. Joseph Township ("Landlord") and the City of Fort Wayne ("Tenant").

ARTICLE I. DEMISE, DESCRIPTION, USE, TERM AND RENTAL.

- 1.01 Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, pursuant to the terms and conditions set forth herein that portion of the building located at 6033 Maplecrest Road, Fort Wayne, Allen County, Indiana, more particularly described as:

The "Firehouse Area" (specifically excepting: (a) the office located behind the Quarter Master office; and (b) the back bay, (which houses the "Rehab Truck", grass bay, fitness center, and training center) containing approximately 12,300 useable square feet as depicted on Exhibit "A" attached hereto and incorporated herein by reference.

("Leased Premises"); to be used by the Fort Wayne Police Department and in accordance with uses normally incident thereto, but in no way shall be used for any illegal purpose, for the term of seven (7) year(s) commencing on July 1, 2019, and ending on December 31, 2025 ("Term") (unless earlier terminated as provided herein), for the annual rental of \$20,000.00, (or pro-rated portion thereof), payable as specified in Article II.

- 1.02 If Landlord shall be unable for any cause beyond Landlord's control to deliver possession of the Leased Premises on the commencement date of the term hereof, it shall not be liable to Tenant for any damage caused thereby, nor shall this Lease thereby become void or voidable, nor shall the term hereof in any way be extended, but in such event Tenant shall not be liable for any rent until such time as Landlord can and does deliver possession.
- 1.03 Tenant has inspected the Leased Premises and is satisfied with the physical condition thereof, and Tenant's taking possession of the Leased Premises shall be conclusive evidence that the same were in good condition and repair. Tenant agrees that no representation as to the condition of repair of the Leased Premises has been made except as herein noted and that no promise to decorate, alter, repair, or improve the Leased Premises prior to or during the term has been made, unless provided in this Lease.

ARTICLE II. RENTAL.

- 2.01 Tenant shall pay to Landlord at 6033 Maplecrest Road, Fort Wayne, Indiana 46835, ATTN: St. Joseph Township Trustee, or at such other place as the Landlord shall designate from time to time in writing, as rental for the Leased Premises, the annual sum of \$20,000.00 (or pro-rated portion thereof), payable without prior demand and without any setoff or deduction whatsoever, except as expressly provided herein, in semi-annual installments of \$10,000.00, each in advance on the first day of January and of July of

each calendar year upon and after commencement of the term hereof. Rent for the first year shall be the pro-rated amount of \$10,000.00

- 2.02 Failure of Landlord to make demand for rental when due shall not excuse payment thereof or constitute a waiver of Landlord's rights under this Lease. Tenant shall pay all rent, items of additional rent, and any other sums due under this Lease to Landlord forthwith. Said rent, additional rent and other sums shall bear interest from and after ten (10) days after the due date until paid at the rate of ten percent (10%) per annum or the maximum legal rate, whichever is less.

ARTICLE III. INSURANCE.

- 3.01 In addition to the foregoing rental sums, Tenant shall, as further consideration for this Lease, maintain during the entire term of this Lease, self-insurance against the risks provide for in this Agreement under Tenant's existing plan of self-insurance as set forth on Tenant's Certificate of Liability Insurance, a true and accurate copy of which is attached hereto and made a part hereof as Exhibit "B".
- 3.02 Each of the said policies of insurance shall expressly provide that the policy shall not be canceled or altered without twenty (20) days prior written notice to the Landlord.
- 3.03 If the Tenant, at any time during the term of this Lease, shall fail to secure or maintain the said policies of insurance, Landlord shall be permitted to obtain such insurance in the Tenant's name, or as the agent of the Tenant, and shall be reimbursed by the Tenant for the cost of such insurance premiums. In such event, Tenant shall pay to Landlord interest on paid insurance premiums at the rate of ten percent (10%) per annum, computed from the date the insurance premiums were actually paid by the Landlord.
- 3.04 If the building or other improvements on the Leased Premises should be damaged or destroyed by fire, flood, or other casualty, Tenant shall give immediate written notice thereof to Landlord.
1. If the building in which the Leased Premises are located should be totally destroyed by fire, flood, or other casualty, or if it should be so damaged that rebuilding or repairs cannot, as reasonably determined by Landlord, be completed within sixty (60) days from the date of written notification by Tenant to Landlord of the occurrence of the damage, this Lease shall terminate and rental shall be abated for the unexpired portion of this Lease, effective as of the date of said written notification.
 2. If the building or other improvements in which the Leased Premises are located should be damaged by fire, flood, or other casualty, but not to such an extent that rebuilding or repairs cannot, as reasonably determined by Landlord, be completed within sixty (60) days from the date of written notification by Tenant to Landlord of the occurrence of the damage, this Lease shall not terminate, and the Landlord shall, if the casualty has occurred prior to the final twenty-four (24) months of the

Lease term, at its sole cost and risk proceed forthwith to rebuild or repair such building and other improvements to substantially the same condition in which they existed prior to such damage. If the casualty occurs during the final twenty-four (24) months of the Lease term, Landlord shall not be required to rebuild or repair such damage. If the building and other improvements are to be rebuilt or repaired and are untenable in whole or in part following such damage, the rental payable hereunder during the period in which they are untenable shall be abated. In the event that Landlord should fail to complete such rebuilding or repairs within sixty (60) days from the date of written notification by Tenant to Landlord of the occurrence of the damage, Tenant may at its option terminate this Lease by written notification at such time to Landlord, whereupon all rights and obligations hereunder shall cease.

- 3.05 Tenant agrees to protect, indemnify and hold Landlord harmless from and against any and all claims, demands, actions and causes of action, including reasonable attorney's fees, for injury or death of persons, or loss or damage to property, occurring on the Leased Premises, or in any manner whatsoever connected with Tenant's use and occupancy of the Leased Premises except as may be caused by Landlord's intentional or negligent acts or omissions. In the event of such liability resulting from Landlord's intentional or negligent acts or omissions, Landlord agrees to protect, indemnify and save Tenant harmless from and against any and all claims, demands, actions and causes of action, including reasonable attorney's fees, for injury or death of persons, or loss or damage to property.
- 3.06 Landlord shall not be responsible or liable at any time for any loss or damage to Tenant's equipment, fixtures or other personal property of Tenant or to Tenant's business, except to the extent that such loss or damage is a result of Landlord's negligent or intentional acts or omissions.
- 3.07 Landlord shall not be responsible or liable to Tenant or to those claiming by, through or under Tenant for any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of Landlord or other persons occupying adjacent, connecting, or adjoining premises unless such loss or damage is the result of (a) Landlord's negligent or intentional acts or omissions or (b) Landlord's failure to follow procedures contained herein for accessing the Leased Premises.
- 3.08 Tenant agrees to protect, indemnify and hold Landlord harmless from and against any and all claims, demands, actions and causes of action, including reasonable attorney's fees, for injury or death of persons or loss or damage to property occurring within the common areas of the facility in which the Leased Premises are a part and facilities adjacent thereto to the extent that such loss or damage is occasioned wholly or in part by any intentional or negligent act or omission of Tenant, its agents, contractors, employees, licensees or invitees.

ARTICLE IV. UTILITIES.

- 4.01 Landlord and Tenant acknowledge that the rent being paid pursuant to this Lease includes payment for estimated basic utilities to be used by Tenant. In that regard, and except as hereinafter provided, Landlord shall pay all basic charges for gas, electricity, sewage, and water used in or on the Leased Premises immediately upon becoming due. In the event telephone and/or internet service are installed and utilized by Tenant at the Leased Premises, such services shall be separately metered, and Tenant shall pay the charges for said separately-metered services. In the event Landlord and Tenant jointly determine that Tenant's usage of the Leased Premises results in extraordinary utility charges which can be attributed solely to Tenant's use of such utilities at the Leased Premises, Landlord and Tenant shall jointly calculate said extraordinary charges, which Landlord and Tenant jointly agree have been incurred solely by Tenant's extraordinary use of any such utilities at the Leased Premises, and such extraordinary utility charges attributable to Tenant use shall be separately invoiced to and paid for by Tenant.

ARTICLE V. WASTE AND NUISANCE.

- 5.01 Tenant shall not commit, or suffer to be committed any waste on the Leased Premises, nor shall it maintain, commit, or permit the maintenance or commission of any nuisance on the Leased Premises or use the Leased Premises for any unlawful purpose.

ARTICLE VI. REPAIRS AND MAINTENANCE.

- 6.01 The parties agree that Tenant shall be responsible for the periodic cleaning of the Leased Premises and Landlord shall be responsible for all other maintenance of the Leased Premises. All repairs of and replacements to the Leased Premises shall be the responsibility of the Landlord, which shall include, without limitation, all repairs to and replacements of electrical, mechanical, HVAC and plumbing systems, and repairs of and replacements to the building of which the Leased Premises are a part, including foundation, walls, access doors, garage doors, windows and roof.

ARTICLE VII. ALTERATIONS, IMPROVEMENTS, AND FIXTURES.

- 7.01 Tenant shall make the improvements to the Leased Premises as described on Exhibit "C" attached hereto and made a part hereof. All additional alterations and improvements to the Leased Premises by Tenant shall require the prior written consent of Landlord, which consent shall not be unreasonably withheld, and all alterations, additions, improvements, and fixtures (except trade fixtures, which Tenant shall be permitted to remove from the Leased Premises at any time during the term hereof or within twenty (20) days after expiration or earlier termination of this Lease, and not otherwise, if such removal can be effected without injury to the Leased Premises and if any such fixture shall not have become, by the manner in which it is affixed, an integral part of the Leased Premises) made or placed in or on the Leased Premises shall on expiration, or earlier termination of this Lease, belong to Landlord without compensation to Tenant; provided, however, that Landlord shall have the option, to be exercised on expiration or earlier termination of this

Lease, to require Tenant to remove any or all of such additions, improvements, or fixtures. Before installing any fixtures in or on the Leased Premises, Tenant shall submit plans and designs thereof to Landlord for its approval, and in the event the plans and designs are disapproved by Landlord, such fixtures shall not be installed until any changes required by Landlord are made. Any alteration, addition, or improvement made by Tenant after such consent of the Landlord shall have been obtained shall be made strictly in accordance with all applicable building codes and governmental authority regulations.

- 7.02 Tenant shall not permit any mechanics' lien to be filed against the fee of the Leased Premises or against the Tenant's leasehold interest in the premises by reason of work, labor, services or materials supplied or claimed to have been supplied to the Tenant or any holding the Leased Premises through or under the Tenant, whether prior or subsequent to the commencement of the term hereof. Landlord may forthwith have any such mechanic's lien removed and charge the costs thereof, including all attorneys fees, court costs and other costs associated with having the mechanics lien removed, to Tenant, which Tenant shall immediately reimburse to Landlord. In any event, Tenant's allowing a mechanics lien to be filed against the fee of the Leased Premises or against the Tenant's leasehold interest in the Premises that remains uncured for thirty (30) days shall constitute a default under the provisions of this Lease.

ARTICLE VIII. QUIET POSSESSION.

- 8.01 Landlord shall, on the commencement date of the term of this Lease as herein above set forth, place Tenant in quiet possession of the Leased Premises and shall secure it in the quiet possession hereof against all persons claiming the same during the entire Lease term and each extension thereof. The guarantees of quiet possession hereunder shall not extend to the actions or omissions of any party not under Landlord control.
- 8.02 This Lease, and Tenant's interest in the Leased Premises, and any extensions of the term hereof, shall be subordinate at the option of Landlord to any and all encumbrances or liens given by Landlord on the Leased Premises. Upon the request of the Landlord, the Tenant shall execute any and all documents necessary to effectuate the subordination of this Lease and Tenant's interest to any such encumbrance or lien. In the event of such request by Landlord, Tenant shall be entitled to receive from Landlord's lender an agreement that said lender shall not disturb this Lease or Tenant's rights herein so long as Tenant has fully complied with all of Tenant's obligations under the Lease at the time of the request.
- 8.03 Tenant agrees that from time to time, upon the request of Landlord, it will execute and deliver such statements or certificates (estoppel certificates) as may be required by any lender or prospective purchaser of Landlord regarding the status of Tenant's Lease and occupancy. Tenant further agrees that within ten (10) days after receipt from Landlord of a request for confirmation of Lease terms and status Tenant will execute and return same to Landlord, noting any corrections thereto, failing which the terms and status of this Lease and Tenant's occupancy thereunder shall be deemed as stated in such notice.

ARTICLE IX. DEFAULTS AND REMEDIES.

- 9.01 If Tenant shall allow the rental to be in arrears more than ten (10) days after the due date for any payment of rent, or shall remain in default under any other condition of this Lease for a period of twenty (20) days after written notice from Landlord (unless within such twenty (20) day period Tenant has in good faith commenced action to cure such default and is diligently pursuing such cure until completion), or should any person other than Tenant secure possession of the Leased Premises or any part thereof, by reason of any receivership, bankruptcy proceedings, or other operation of law in any manner whatsoever, or if Tenant shall desert or vacate any substantial portion of the Leased Premises, Landlord may, at its option, without notice to Tenant, terminate this Lease, or in the alternative, Landlord may reenter and take possession of the Leased Premises and remove all persons and property therefrom, and relet the Leased Premises or any part thereof, for all or any part of the remainder of said Lease term, to a party satisfactory to Landlord, and at such rental as Landlord may with reasonable diligence be able to secure. Under the circumstances set forth in this paragraph, Landlord is granted express permission by Tenant to enter and maintain possession of the Leased Premises, such that no trespass shall have occurred by Landlord on the Leased Premises. Should Landlord be unable to relet after reasonable efforts to do so, or should such rental be less than the rental Tenant was obligated to pay under this Lease, or any renewal thereof, plus the expense of reletting, the total amount of such deficiency shall become immediately due and owing, and Tenant shall pay the total amount of said deficiency to Landlord. After any default by Tenant, Tenant shall be liable to Landlord for Landlord's reasonable attorney's fees and costs of collection.
- 9.02 The termination of this Lease by reason of a default by the Tenant shall not affect the obligation to pay rental and all other obligations under this Lease. Such obligations shall continue until the Leased Premises have been relet to another Tenant on terms as favorable to the Landlord as this Lease. If by due diligence the Landlord is unable to relet the Leased Premises on terms comparable to the terms contained in this Lease, then the Tenant shall be liable for any deficiency or other damages that are the direct result of such default, including Landlord's reasonable attorney's fees and costs of collection. This paragraph shall be binding whether the termination is effected by judicial process or otherwise.
- 9.03 If Landlord defaults in the performance of any term, covenant, or condition required to be performed by it under this Lease, Tenant may elect either one of the following:
1. Twenty (20) days after written notice to Landlord, Tenant may remedy such default by any necessary action, and may pay expenses and employ attorneys; all reasonable sums expended or obligations incurred by Tenant in connection therewith (including but not limited to reasonable attorney fees) shall be reimbursed by Landlord to Tenant on demand, and on failure of such reimbursement, Tenant may, in addition to any of the other right or remedy

which Tenant may have, deduct the costs and expenses thereof from rental subsequently becoming due hereunder; or

2. Elected to terminate this Lease on giving at least twenty (20) days written notice to Landlord of such intention, thereby terminating this Lease on the date designated in such notice, unless Landlord shall have cured such default prior to expiration of the twenty (20) day period.
- 9.04 All rights and remedies of Landlord and Tenant under this Lease shall be cumulative, and none shall exclude any other right or remedy at law. Such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefore arises.

ARTICLE X. INSPECTION BY LANDLORD.

- 10.01 Upon not less than twenty-four (24) hours' prior written notice from Landlord, Tenant shall permit Landlord and its agents to enter into and upon the Leased Premises (in the company of Tenant's representative) at all reasonable times for the purpose of inspecting or making repairs or alterations. Commencing ninety (90) days prior to the expiration of the Term (or any Renewal Term), Landlord reserves the right to show the Leased Premises to prospective tenants or brokers and to prospective purchasers or mortgagees upon not less than twenty-four (24) hours' prior written notice to Tenant and in the company of Tenant's representative, at all reasonable times. Landlord also reserves the right to place and maintain Landlord's usual "For Rent" signs upon the Leased Premises for the last ninety (90) days of this Lease. Notwithstanding the foregoing, Landlord shall have the right to enter into and upon the Leased Premises within said 24-hour period in the event of any emergency or other circumstance or situation that requires that the Landlord have access to the Leased Premises, including, but not limited to, utility or mechanical work or pest control. In such event, Landlord shall notify Tenant of the need for said access, and Tenant shall permit Landlord to enter the Leased Premises, but only in the presence of Tenant's representative, for the purpose of addressing said emergency or other circumstance or situation requiring Landlord's attention. Tenant shall provide Landlord access to the Leased Premises within said 24 hour notice period, which Landlord shall be entitled to use (i) only in the event Landlord requires access to the Leased Premises within the 24-hour notice period required herein and in the further event Tenant is not available to provide access to the Landlord, or (ii) at any time in the event Landlord's information and technology ("IT") equipment is located in the Leased Premises, provided that access to the Leased Premises by Landlord in either of the foregoing events shall be only in the company of Tenant's representative. In the event Landlord gains access to the Leased Premises because of the location of Landlord's IT equipment, Landlord shall only access that part of the Leased Premises where the IT equipment is located.

ARTICLE XI. ASSIGNMENT AND SUBLEASE.

- 11.01 Tenant shall not assign this Lease nor sublet all or any portion of the Leased Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and exclusive discretion. No consent by the Landlord, nor the acceptance of assignee, subtenant or occupant as a tenant shall release the Tenant from the further performance by the Tenant of the covenants in this Lease or be construed to relieve the Tenant from obtaining the consent in writing of the Landlord to any further assignment or subletting. In any event, Tenant shall remain primarily liable on this Lease for the entire term hereof and shall in no way be released from the full and complete performance of all of the terms, conditions, covenants, and agreements herein contained. Notwithstanding the foregoing, Tenant shall have the right to assign or sublet the Lease only to another department or agency of the City of Fort Wayne.
- 11.02 Landlord is expressly given the right to assign any or all of its interest under the terms of this Lease, whether an assignment for the purposes of conveyance of the title to the Leased Premises or an assignment to collateralize and secure a loan made with regard to the Leased Premises.

ARTICLE XII. SIGNAGE.

- 12.01 Tenant shall erect no signs on or about the Leased Premises except in accordance with all applicable sign ordinances, zoning classifications and any rules and regulations of Landlord, and then only after first obtaining Landlord's written consent, which shall not be unreasonably withheld.

ARTICLE XIII. MISCELLANEOUS.

- 13.01 All notices provided to be given under this Lease shall be given by certified mail, addressed to the proper party, at the following addresses:
- | | | |
|----|-----------|--|
| 1. | Landlord: | St. Joseph Township
ATTN: St. Joseph Township Trustee
6033 Maplecrest Road
Fort Wayne, Indiana 46835 |
| 2. | Tenant: | City of Fort Wayne
ATTN: Carol Helton, City Attorney
200 East Berry Street, Suite 430
Fort Wayne, Indiana 46802 |
- 13.02 This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.
- 13.03 This Lease and its performance shall be governed by the laws of the State of Indiana. The parties agree that any court action relating to this Lease shall be instituted and

prosecuted only in a court of competent jurisdiction in the County in which the Leased Premises are located or a contiguous County thereof.

- 13.04 In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 13.05 This Lease constitutes the sole agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter within it.
- 13.06 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.
- 13.07 The rights and remedies provided by this Lease are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights that the parties may have by law, statute, ordinance, or otherwise.
- 13.08 No waiver by the parties hereto of any default or breach of any term, condition, or covenant of this Lease shall be deemed to be a waiver of any other breach of the same or any other term, condition, or covenant contained herein.
- 13.09 In the event either party breaches any of the terms of this Lease and the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorney's fees and court costs so incurred by such other party.
- 13.10 Time is of the essence of this Lease.
- 13.11 If Landlord shall convey title to the Leased Premises pursuant to a sale or exchange of real estate, the Landlord shall not be liable to Tenant or any immediate or remote assignee or successor of Tenant as to any act or omission from and after such conveyance, provided Tenant has consented to such sale or exchange of the real estate, which consent shall not be unreasonably withheld.
- 13.12 Either party may cause a memorandum of this Lease to be recorded in the Office of the Recorder of the county in which the Leased Premises are located, but this Lease shall not be recorded.
- 13.13 During the terms of this Lease, the Tenant shall comply with all applicable federal, state and local environmental statutes and regulations, including without limitation: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as

amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act of 1976; the Toxic Substance Control Act of 1976; Indiana's State Superfund Law, IND. CODE 13-25-4; ; any of the regulations thereunder; and any other federal statute, state statute, or municipal ordinance creating liability for treatment, storage, disposal, or the arranging therefore, or the existence on the Leased Premises, of any hazardous or toxic substance, including any constituent thereof, and shall indemnify and hold Landlord harmless from violations therefore, including reasonable attorney's fees. As used in this paragraph, the term "hazardous or toxic substance" means any hazardous, regulated, infectious or toxic substance, material or waste, including, but not limited to, petroleum products and by-products, asbestos, and those substances, materials and wastes defined or specified in 42 U.S.C. §9602, *et. seq.*, and any similar state statute or municipal ordinance relating to the environment or public health. The provisions of this Section 13.13 shall survive the expiration or termination of this Lease, the discharge of all other obligations owed by the parties to each other under this Lease, and any transfer of interest to the Leased Premises or the Lease.

- 13.14 Landlord shall indemnify, defend (by attorney selected by Tenant), protect and hold harmless Tenant from and against any and all claims, liabilities, fines, judgments, losses, and reasonable costs or expenses (including reasonable attorney's fees) for the death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by the presence in, on, under or about the Leased Premises, or any discharge in or from the Leased Premises, of any hazardous or toxic substance, except to the extent that any such presence, discharge or release is caused by Tenant's activities on the Leased Premises or Tenant's failure to comply with any hazardous or toxic substance statute. As used in this paragraph, the term "hazardous or toxic substance" means any hazardous, regulated, infectious or toxic substance, material or waste, including, but not limited to, petroleum products and by-products, asbestos, and those substances, materials and wastes defined or specified in 42 U.S. C. §9602, *et. seq.*, and any similar state statute or municipal ordinance relating to the environment or public health.
- 13.15 Landlord shall be excused from performing any obligation or undertaking provided in this Lease in the event and/or so long as the performance of any obligation is prevented or delayed, retarded or hindered by Act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure equipment, facilities, materials, or supplies in the open market, failure of power, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, requisition, laws, orders of government or civil or military authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of Landlord.
- 13.16 At the expiration of the Lease term, Tenant shall surrender the Leased Premises in as good condition as they were at the beginning of the term, reasonable wear and tear excepted. Notwithstanding any provision of law or any judicial decision to the contrary, no notice shall be required to terminate the term of this Lease as herein provided, and the

term of this Lease shall expire on the termination date herein mentioned without notice being required from either party.

13.17 This Lease shall not be construed to make Landlord a partner or joint venture of Tenant, the relationship between Landlord and Tenant with respect to the Lease being solely that of Landlord and Tenant.

13.18 From time to time, Tenant, within five (5) days after notice, shall execute and deliver to Landlord, in recordable form, a certificate stating this Lease is in full force and effect (as modified, if applicable, and stating the modification) and confirming any other information whatsoever reasonably requested by Landlord to establish the terms and status of the terms created by this Lease.

13.19 Tenant hereby represents and warrants to the best of Tenant's actual knowledge that Tenant is not: (1) in violation of any Anti-Terrorism Law; (2) conducting any business or engaging in any transaction or dealing with any Prohibited Person, including the making or receiving or any contribution of funds, goods or services to or for the benefit of any Prohibited Person; (3) dealing in, or otherwise engaging in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224; (4) engaging in or conspiring to engage in any transaction that evades or avoids, or had the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in any Anti-Terrorism Law; or (5) a Prohibited Person, nor are any of its partners, members, managers, officers or directors a Prohibited Person. As used herein, "Antiterrorism Law" is defined as any law relating to terrorism, anti-terrorism, money laundering or anti-money laundering activities, including Executive Order No. 13224 and Title 3 of the USA Patriot Act and such provisions thereof which may be replaced or superseded by the USA Freedom Act. As used herein "Executive Order No. 13224" is defined as Executive Order No. 13224 on Terrorist Financing effective September 24, 2001, and relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism." "Prohibited Person" is defined as (i) a person or entity that is listed in the Annex to Executive Order 13224; (ii) a person or entity with whom Tenant or Landlord is prohibited from dealing or otherwise engaging in any transaction by any Anti Terrorism Law, or (iii) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office Of Foreign Assets Control as its official website, <http://www.treas.gov/ofac/t11sbn.pdf> or at any replacement website or other official publication of such list. "USA Patriot Act" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001" (Public Law 107-56). "USA Freedom Act" is defined as the Uniting and Strengthening America by Fulfilling Rights and Ending Espionage, Dragnet-collection and Online Monitoring Act, (Public Law 114-23).

13.20 Landlord and Tenant hereby knowingly, voluntarily and intentionally waive the right to a trial by jury in respect of any litigation based hereon, arising out of, under or in connection with this Lease or any documents contemplated to be executed in connection herewith or any course of conduct, course of dealings, statements (whether oral or

written) or actions of either party arising out of or related in any manner to the Premises (including, without limitation, any action to rescind or cancel this Lease or any claims or defenses asserting that this Lease was fraudulently induced or is otherwise void or voidable). This waiver is a material inducement for Landlord to enter into and accept this Lease.

- 13.21 Tenant may terminate this Lease, without cause, in Tenant's sole discretion, at any time following the second anniversary date of the term, upon forty-five (45) days' prior written notice to Landlord.

IN WITNESS WHEREOF, the undersigned Landlord and Tenant have executed this Lease as of the day and year first above written.

"LANDLORD"

ST. JOSEPH TOWNSHIP

By: Sarah Gnagy
Printed Name: Sarah Gnagy
Title: Trustee of St. Joseph Twp.

"TENANT"


CITY OF FORT WAYNE

By: Daniel A. Brenner
Printed Name: Daniel A. Brenner
Title: Property Manager

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, on this 27 day of DECEMBER 2018, personally appeared ST. JOSEPH TOWNSHIP by SARAH GNAGNY its TRUSTEE, and acknowledged the execution of the above and foregoing.


WITNESS my hand and Notarial Seal.


Notary Public
KRISTA GENEVIEVE MAXWELL
Notary Public - Seal
Allen County - State of Indiana
Commission Number 705601
My Commission Expires Sep 24, 2025

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, on this 27th day of December 2018, personally appeared the CITY OF FORT WAYNE by Daniel A. Baennen its Property Manager, and acknowledged the execution of the above and foregoing.

WITNESS my hand and Notarial Seal.


Notary Public
MONA K CLAPPER
Notary Public - Seal
Allen County - State of Indiana
Commission Number 705581
My Commission Expires Sep 24, 2025

This instrument prepared by: Peter G. Mallers, Esq. (#9001-02), Beers Mallers Backs & Saffin, LLP, 110 West Berry Street, Suite 1100, Fort Wayne, Indiana 46802

34L3088/Dec. 20, 2018

EXHIBIT "A"
DEPICTION OF LEASED PREMISES

File -
T.H.
T.H.

1570
1570
1570

$$\frac{1}{100} \times 3600 = 36$$

15515

7806
7806
7806

1058
Office
3-14-33 + 782

2285

2284 10882

for Utilities

42X40

514168
85-108

121 348 5062

1084

EXHIBIT "B"

TENANT'S CERTIFICATE OF LIABILITY INSURANCE



CITY OF FORT WAYNE, INDIANA CERTIFICATE OF LIABILITY INSURANCE

ISSUE DATE (12/27/2018)

THOMAS HENRY, MAYOR

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

PRODUCER

City of Fort Wayne
Risk Management Department
200 E. Berry Street, Suite 470
Fort Wayne, IN 46802
(260)-427-1197

COMPANIES AFFORDING COVERAGE

COMPANY
LETTER A

COMPANY
LETTER B

INSURED

City of Fort Wayne
200 E. Berry Street, Suite 470
Fort Wayne, IN 46802
(260)-427-1197

COMPANY
LETTER C

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMIT SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS
	GENERAL LIABILITY				GENERAL AGGREGATE \$
X	COMMERCIAL GENERAL LIABILITY	SELF INSURED	7/14/89		PRODUCTS-COMP/OP AGG. \$
	CLAIMS MADE OCCUR.	100%			PERSONAL & ADV. INJURY \$ SEE
	OWNER'S & CONTRACTOR'S PROT.	NON REVERTING FUND			EACH OCCURRENCE \$ BELOW
					FIRE DAMAGE (ANY ONE FIRE) \$
					MED. EXPENSE (ANY ONE PERSON) \$
					COMBINED SINGLE LIMIT \$
	AUTOMOBILE LIABILITY				
	ANY AUTO	SELF INSURED	7/14/89		
X	ALL OWNED AUTOS	100%			BODILY INJURY (PER PERSON) \$ SEE
	SCHEDULED AUTOS	NON REVERTING FUND			BODILY INJURY (PER ACCIDENT) \$ BELOW
	HIRED AUTOS				
X	NON-OWNED AUTOS				
X	GARAGE LIABILITY				PROPERTY DAMAGE \$
	EXCESS LIABILITY				EACH OCCURRENCE \$
	UMBRELLA FORM				AGGREGATE \$
	OTHER THAN UMBRELLA FORM				
	WORKERS' COMPENSATION				STATUTORY LIMITS
	AND	SELF INSURED	7/14/81		EACH ACCIDENT \$
	EMPLOYERS' LIABILITY				DISEASE - POLICY LIMIT \$
					DISEASE - EACH EMPLOYEE \$

OTHER

Lease agreement between St. Joe Township and the City of Fort Wayne, dated 12/27/2018.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Comprehensive General Liability, Comprehensive Automobile Liability Limits: \$700,000 BI; \$5,000,000 per occurrence, as per Indiana Tort Claim Liability Act.

CERTIFICATE HOLDER

St. Joe Township, Allen County, Indiana

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Thomas Henry

EXHIBIT "C"

TENANT'S LEASEHOLD IMPROVEMENTS

Tenant shall install a security system selected by Tenant within the Leased Premises at Tenant's cost, Tenant shall also install at Tenant's cost signage on and about the Leased Premises which provides notice of Tenant's occupancy and control of the Leased Premises,

COUNCIL DIGEST SHEET

Enclosed with this introduction form is a tab sheet and related material from the vendor(s) who submitted bid(s). Purchasing Department is providing this information to Council as an overview of this award.

RFPs, BIDS, OTHER PROJECTS

Bid/RFP#/Name of Project	Lease Agreement between City of Fort Wayne and St Joseph Township for approximately 12,300 sqft of space in the property located at 6033 Maplecrest Rd, Fort Wayne, St Joseph Township, Allen County, Indiana
Awarded To	St Joseph Township
Amount	\$20,000 annually
Conflict of interest on file?	N/A
Number of Registrants	N/A
Number of Bidders	N/A
Required Attachments	

EXTENSIONS

Date Last Bid Out	N/A
# Extensions Granted To Date	

SPECIAL PROCUREMENT

Contract #/ID (State, Federal, Piggyback--Authority)	Lease Agreement between City of Fort Wayne and St Joseph Township for approximately 12,300 sqft of space in the property located at 6033 Maplecrest Rd, Fort Wayne, St Joseph Township, Allen County, Indiana
Sole Source/ Compatibility Justification	NA

BID CRITERIA *(Take Buy Indiana requirements into consideration.)*

Most Responsible, Responsive Lowest	No <i>If no, explain below</i>
If not lowest, explain	Property was best fit for the Department

COUNCIL DIGEST SHEET

COST COMPARISON

<i>Increase/decrease amount from prior years For annual purchase (if available).</i>	N/A
--	-----

DESCRIPTION OF PROJECT / NEED

<i>Identify need for project & describe project; attach supporting documents as necessary.</i>	Space is needed by FW Police Department for their Emergency Services Team for the housing of vehicles and equipment, and to deploy the Team as necessary

REQUEST FOR PRIOR APPROVAL

<i>Provide justification if prior approval is being requested.</i>	N/A

FUNDING SOURCE

<i>Account Information.</i>	Police Department General Funds



CITY OF FORT WAYNE

THOMAS G. HENRY, MAYOR

January 28, 2020

City Council Members
City of Fort Wayne

RE: City of Fort Wayne/St Joseph Township Lease Agreement 6033 Maplecrest Road

Dear Council Members:

The City has entered into a Lease Agreement to occupy approximately 12,300 sqft in the property located at 6033 Maplecrest Road in St Joseph Township, Allen County, Indiana. A copy is attached.

The City of Fort Wayne Board of Public Works has approved this agreement.

We are asking for Council to approve this acquisition.

If you have any questions on the above, please feel free to contact me at 427-2317.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Carmichael", is written over a light blue horizontal line.

Christopher Carmichael
Property Manager

ENGAGE • INNOVATE • PERFORM

CITIZENS SQUARE

200 E. Berry St. • Fort Wayne, Indiana • 46802 • www.cityoffortwayne.org
An Equal Opportunity Employer