

SPENDING AUTHORIZATION FORM

Pursuant to Whitestown Ordinance No. 2009-10, all purchases over \$5,000 must be preapproved by a body having authority to approve claims.

Name of Requestor:	Danny Powers	Department: DPW
Total Amount Reque	sted: \$337,025.69	
_	of Purchase (Attach additions s facility requires natural gas. This is	al materials as appropriate): the agreement with Center Point to extend the gas facilities.
Budget split 3	ways: 1101.01849	90, 6101.10511, 6201.10561
Signature of Request	or:	
Clerk-Treasurer Of	fice Verification:	
Sufficient fun	ds are available in the budge	et line numbers set forth above for the purchase
amount requested abo	ove:	
Signatur	e of Clerk-Treasurer Designe	ee:
	Printed Nam	e:
Board Approval:		
On	, the	of the Town of
Whitestown approved	d the above requested spending	ng authorization in an amount not to exceed
\$	·	
		Signature of Board President or Secretary

^{*}All payments must follow applicable claims approval procedures.

^{**}Requestor is responsible for ensuring any applicable bidding procedures (statute and/or ordinance) are followed.



SAP Work Order #: 108624417

Account No.: 02-620365015-6153143

Account Manager: Andrew Theisz

FIVE AND ONE HALF YEAR MINIMUM USE CONTRACT FOR GAS SERVICE

This March 13, 2024 ("Effective Date"), for valuable consideration, receipt of which is hereby acknowledged, Indiana Gas Company, Inc. d/b/a CenterPoint Energy Indiana North (referred to hereinafter as COMPANY), and Town of Whitestown. (Referred to hereinafter as CUSTOMER), (and collectively referred to hereinafter as the PARTIES), enter into this Five and One Half Year Minimum Use Contract for Gas Service (referred to hereinafter as AGREEMENT):

SECTION 1

The terms identified in this SECTION 1 and used in this Minimum Use Contract shall be defined as follows:

- (a) "Applicable Rate" shall be the **Rate 245 Large General Transportation Service**, as defined in the COMPANY'S Tariff for Gas Service. The Applicable Rate shall be subject to change from time to time, based upon CUSTOMER'S actual usage.
- (b) "Baseline Gas Purchase" shall be CUSTOMER'S total Non-Gas Cost Revenue for twelve billing months immediately preceding completion of the work specified in paragraph 2(a), or in this instance \$0.00.
- (c) "Gas Service" shall be as defined in the COMPANY'S Tariff for Gas Service.
- (d) "Minimum Gas Purchase Requirement" shall be as defined in Section 2(b).
- (e) "Minimum Use Contract" or "Agreement" shall be this Five and One Half Year Minimum Use Contract for Gas Service entered into by the COMPANY and CUSTOMER.
- (f) "Non-Gas Cost Revenue" shall be as defined in the COMPANY'S Tariff for Gas Service.
- (g) "Performance Assurance" shall mean, at the sole discretion of Company, collateral in the form of a cash deposit, guaranty agreement, or irrevocable standby letter of credit as further described in Section 3(d) below.
- (h) "Project" shall mean the infrastructure extension project as further described in Section 2(a) below.
- (i) "Start Date" shall mean the date on which Company completes the work specified in Section 2(a).
- (j) "Tariff for Gas Service" shall be the COMPANY'S Tariff for Gas Service, I.U.R.C. No. G-19, as amended from time to time.

- (I) "Term" shall be the term of this Minimum Use Contract, which is Five and One Half (5.5) Years, beginning from the Start Date.
- (m) "Transportation Service" shall be as defined in the COMPANY'S Tariff for Gas Service.

SECTION 2

- (a) COMPANY agrees to install gas facilities to serve new gas load, to be served as a Gas Service account, at **7728 South County Road 450 Easts, Whitestown, IN 46075,** as described in the attached "Exhibit A".
- (b) COMPANY agrees and represents that the estimated cost to provide Gas Service, including labor and materials, to the facilities specified in paragraph 2(a) is \$337,025.69. Upon Project completion, COMPANY shall verify and document the actual cost to complete the Project. The actual cost shall be the "Minimum Gas Purchase Requirement." COMPANY agrees that the cost of installation work includes without limitation all necessary permits and inspections, if any, and all other items necessary for CUSTOMER to commence operations.

SECTION 3

- (a) CUSTOMER agrees to pay for the Gas Service in accordance with the COMPANY'S RATE 245 Large General Transportation Service (a copy of which is attached hereto as Exhibit B and incorporated herein by reference) or such other Applicable Rate based on CUSTOMER'S actual usage, plus any charges arising under the COMPANY'S Tariff for Gas Service and in accordance with such amendments thereto as may be filed with and approved by the Indiana Utility Regulatory Commission (IURC).
- (b) CUSTOMER agrees that CUSTOMER'S "Baseline Gas Purchase" shall be Customer's total Non-Gas Cost Revenue for the facilities located at **7728 South County Road 450 East, Whitestown, IN 46075** for the twelve billing months immediately preceding completion of the work specified in paragraph 2(a), and in this instance **\$0.00**.
- (c) CUSTOMER agrees that its total Non-Gas Cost Revenue during the Term of this Agreement, less CUSTOMER'S Baseline Gas Purchase, shall be equal to or greater than the Minimum Gas Purchase Requirement, which is set out in section 2(b) above.
- Immediately upon execution of this Agreement, CUSTOMER shall deliver to COMPANY acceptable Performance Assurance in the form of cash, letter of credit or approved for open credit in the amount of at least \$337,025.69. Within sixty (60) days after the anniversary of the Start Date each year, COMPANY shall conduct an audit of CUSTOMER'S account to determine the amount of Non-Gas Cost Revenue received by COMPANY from the Project during the twelve (12) months immediately preceding the anniversary of the Start Date. As a result of the audit, the Performance Assurance may be reduced or amended by the amount of the Non-Gas Cost Revenue. The Performance Assurance amount shall be subject to reduction until the Performance Assurance amount is reduced to zero or until expiration of the Term, whichever occurs first.

- (e) For each customer, other than CUSTOMER, who connects to the extension, Company shall reduce the Performance Assurance Amount by the amount by which five and one-half (5.5) times the estimated annual Non-Gas Cost Revenue for gas appliances actually installed exceeds the cost of connecting such customer. At no time shall the aggregate reductions made exceed the Performance Assurance amount. Any reductions made pursuant to Sections 3(d) and 3(e) shall be made until the total Performance Assurance amount has been reduced to zero or expiration of the Term, whichever occurs first.
- (f) If the total Non-Gas Cost Revenues paid to the COMPANY, whether from CUSTOMER or other customers who subsequently connect to the extension, over the Term of this Minimum Use Contract fails to exceed the Minimum Gas Purchase Requirement, the CUSTOMER agrees that COMPANY shall bill CUSTOMER and CUSTOMER shall pay COMPANY the balance of the deficiency, PLUS any charges arising under the COMPANY'S Tariff for Gas Service. The bill for all such charges shall be provided to CUSTOMER no later than six (6) weeks after the end of the Term of this Agreement. CUSTOMER'S payment of that bill shall be received by COMPANY within thirty days after the date of the bill. If CUSTOMER should fail to pay the bill tendered by COMPANY for payment, CUSTOMER shall be liable to COMPANY for the amounts owed under this Minimum Use Contract, plus interest on the unpaid amount at the rate of one and one-half percent per month or the highest percentage allowed by law, whichever is less, plus reasonable attorney's fees, costs and expenses incurred by COMPANY to collect the amounts owed.
- (g) If the CUSTOMER terminates its Gas Service prior to the end of the Term of this Minimum Use Contract, CUSTOMER shall immediately pay COMPANY a sum equal to the difference between the Minimum Gas Purchase Requirement specified in SECTION 2(b) of this Agreement and the actual amount of total Non-Gas Cost Revenues paid to the COMPANY over and above the Baseline Gas Purchase, plus any charges arising under the COMPANY'S Tariff for Gas Service. Upon completion of the Term of this Minimum Use Contract, Customer shall continue to receive Gas Service under the Applicable Rate set out above, until such time as the PARTIES agree that the Customer is eligible to receive Gas Service under a different rate in the COMPANY'S Tariff for Gas Service.
- (h) If CUSTOMER prevents COMPANY from completing the work specified in SECTION 2(a), CUSTOMER agrees to pay COMPANY all costs incurred by the COMPANY up until such work ceases, plus any charges arising under the COMPANY'S Tariff for Gas Service.

SECTION 4

The PARTIES agree

- (a) That this Contract shall be for Gas Service supplied pursuant to the Applicable Rate over the Term of this Minimum Use Contract.
- (b) That the COMPANY will supply and CUSTOMER will purchase from the COMPANY all the Gas Service for the operation of CUSTOMER'S facilities within COMPANY'S service territory, as identified in Section 2(a).

- (c) That the Gas Service to be supplied by COMPANY pursuant to this Agreement at **7728 South County Road 450 East, Whitestown, IN 46075,** shall be delivered at one mutually agreeable point upon the

 CUSTOMER'S premises. It shall be metered by meters furnished, installed and maintained by the

 COMPANY. A location for the metering equipment, suitable to the COMPANY, shall be provided by the

 CUSTOMER and adequate protection afforded to avoid damage thereto, tampering, or interference with

 such metering equipment. The COMPANY shall make periodic tests of its meters and keep them within

 standards of accuracy set out in the regulations of the IURC.
- (d) That the Gas Service supplied herein is for the sole use of the CUSTOMER, for the purpose aforesaid, and shall not be transmitted elsewhere or shared or resold, or used as auxiliary or standby as to any other source of supply except as may be herein specifically agreed to by the PARTIES.
- (e) That the Gas Service provided by COMPANY shall be subject to the COMPANY'S Tariff for Gas Service filed with the Indiana Utility Regulatory Commission and any amendments thereto. A copy of the Tariff for Gas Service is found at www.in.gov/iurc.
- (f) That except for rates and charges under Section 3(a) payable by the CUSTOMER, neither PARTY shall be liable to the other for damages for any act, omission or circumstance occasioned by or in consequence of any Act of God, labor disturbance, act of public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment or by any other cause or causes beyond such PARTY'S reasonable control, including any curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or by the making of necessary repairs upon the property or equipment of either PARTY hereto.
- (g) That this Agreement shall not be binding upon the COMPANY until such time as it is executed by one of its Executive Officers.
- (h) That the Gas Service shall be governed by COMPANY'S Tariff for and standard gas rules and regulations for Gas Service as filed with the Indiana Utility Regulatory Commission and any amendments thereto. A copy of these rules and regulations will be furnished to the CUSTOMER upon request.
- (i) That this Agreement inures to and binds the heirs, administrators, successors and assigns of the PARTIES. This Agreement may not be transferred by CUSTOMER without COMPANY'S prior written consent.
- (j) That this Agreement constitutes the entire understanding between the PARTIES as to the subject matter referred to and terminates and supersedes any prior written or unwritten understanding relating to the subject matter referred to. The PARTIES do not intend that there be any third PARTY beneficiaries of this Agreement
- (k) That this Agreement may be altered or amended only by a written document signed by both PARTIES. The failure to enforce any provision or obligation under this Agreement shall not constitute a waiver or serve as a bar to subsequent enforcement of such provision or any other provision under this Agreement.

- (I) That all provisions which contemplate or provide for any act or activity following the effective date of termination or expiration shall survive termination or expiration until such time as those provisions have been fulfilled or satisfied. Termination of this Agreement shall not release either PARTY from any liability which at the time of termination PARTY has already arisen or which thereafter may arise.
- (m) That this Agreement is to be construed in accordance with the laws of the State of Indiana without regard to its conflict of laws or choice of law principles that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction. Any dispute shall be subject to the exclusive jurisdiction of Indiana courts and venue of any such contest shall be Vanderburgh County, Indiana. All remedies are intended to be cumulative and in addition to all other remedies available to a PARTY at law or in equity.
- (n) That in the event one PARTY must enforce any obligations of another PARTY the successful PARTY in any litigation shall be entitled to recover its reasonable attorney's fees and expenses.
- (o) That if any provision of this Agreement is held invalid by any tribunal in a final decision, such provision shall be deemed modified to eliminate the invalid element, and, as so modified, such provision shall be deemed a part of this Agreement. If it is not possible to modify any such provision to eliminate the invalid element, such provision shall be deemed eliminated from this Agreement. The invalidity of any provision of this Agreement shall not affect the force and validity of the remaining provisions.
- (p) That all notices or written consents to be given by either PARTY to the other may be effected by registered or certified mail, return receipt requested, or overnight delivery by an established carrier. When mailed, notices or written consents shall be addressed to the PARTIES at the addresses appearing below, unless a PARTY has notified the other PARTY of a change in address. Notice shall be considered communicated, and consent shall be considered given, as of the date it is actually received.
- (q) That this Agreement may be executed in multiple counterparts, each of which shall be an original for all purposes. Such duly executed counterparts shall, collectively, constitute one Agreement.
- (r) That the PARTIES will promptly execute and deliver any and all other instruments which may be necessary to consummate this Agreement and/or necessary to cure any defect in the execution and delivery of this Agreement and the documents referenced herein.
- (s) That any specific Performance Assurance requirement(s) provided in conjunction with this AGREEMENT have been mutually agreed to by both PARTIES.

The following exhibits are attached and incorporated by reference:

Exhibit A Description of Property

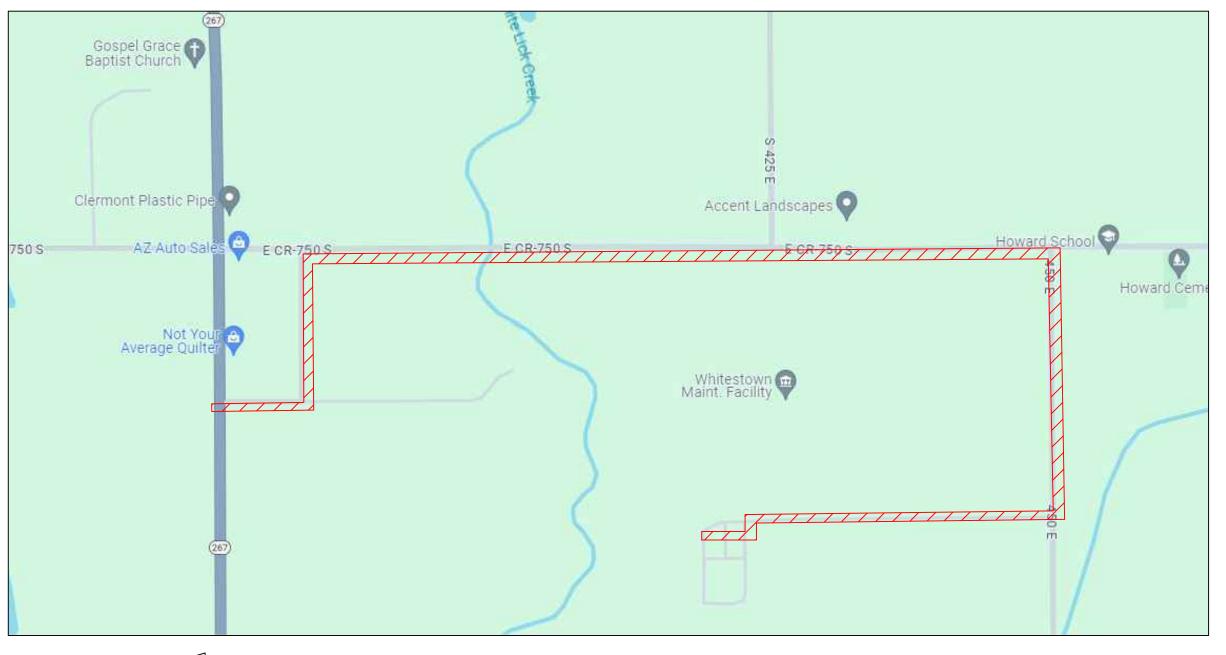
Exhibit B A current copy of COMPANY'S Tariff can be downloaded from the following link.

 $\underline{https://midwest.centerpointenergy.com/assets/downloads/rates/in-north-gas-tariff.pdf}$

IN WITNESS WHEREOF, the undersigned, authorized representatives of the PARTIES have executed this document to be effective as of the Effective Date listed above:

INDIANA GAS COMP CENTERPOINT ENER	,	TOWN OF WHITESTOWN	
AUTHORIZED BY:		AUTHORIZED BY:	
Signature	Date	Signature	Date
Printed Name		Printed Name	
 Title		 Title	

NB-IN-WHITESTOWN-7728 SOUTH COUNTY ROAD 450 E-INSTALL MAIN-PLASTIC PRELIMINARY MAIN EXTENSION DRAWINGS



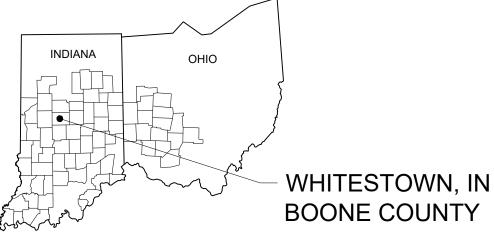


Exhibit A

