CUMBERLAND TOWN COUNCIL

RESOLUTION 2014-09

A RESOLUTION APPROVING TERMINATION OF GREYHAWK WOODS STREETLIGHTING SERVICE AGREEMENTS

WHEREAS, the Cumberland Sanitary Board and Cumberland Water Board have approved the termination of certain service agreements, entered into by GEM Utilities, for the provision of street lights and services to Greyhawk Woods Homeowners Association, Inc.;

AND WHEREAS, the Cumberland Town Council finds that the Cancellation of Streetlighting Service Agreements should be approved;

IT IS, THEREFORE, RESOLVED, that the Cancellation of Streetlighting Service Agreements with Greyhawk Woods Homeowners Association is hereby approved.

Approved this 4th day of June, 2014.

CUMBERLAND TOWN COUNCIL

Joe Stieker, President

Anna Pea, Vice President

Nicole Bell, Member

Brian Gritter, Member
Mark Reynolds, Member

ATTEST

Grace Heck, Clerk-Treasurer
Cancellation of Streetlighting Service Agreements

The Town of Cumberland, Indiana ("the Town"), and Greyhawk Woods Homeowners Association, Inc. ("the HOA"), hereby enter into this Cancellation agreement, as follows:

1. Existing Agreement: The Greyhawk Woods Homeowners Association, Inc. previously entered into two “Agreements for Streetlighting Service” with Gem Utilities, Inc. (the "Streetlighting Agreements"), under which Gem Utilities ("Gem") agreed to provide, operate, and maintain a street lighting system in sections 1 through 5 of the Greyhawk subdivision in Brandywine Township in Hancock County, Indiana, for which the HOA agreed to pay a fee to Gem. The Streetlighting Agreements, each dated January 1, 2009, are attached hereto as Exhibit A. In these agreements, Gem agreed to purchase and install 27 poles with light fixtures.

2. Acquisition of GEM by Town: The Town subsequently acquired Gem and assumed all rights and obligations under the Streetlighting Agreements.

3. HOA’s Desire to Terminate: The HOA desires to terminate the Streetlighting Agreements and to accept the transfer of the street lighting equipment and to assume responsibility for the costs of operating the system.

4. Town’s Agreement to Terminate: The Town is agreeable to the HOA’s request to terminate the Streetlighting Agreements.

5. Termination: The parties agree that the Streetlighting Agreements should be and hereby are terminated. The HOA agrees to make a payment to the Town for any services provided prior to termination and to do so within thirty days of the termination.

6. Transfer of Equipment to HOA: The street lighting equipment that is the subject of the Streetlighting Agreements, including poles and fixtures, should be transferred to the HOA. This transfer will be reflected in a separate Bill of Sale which attached hereto and marked Exhibit B.

7. Cost of Street Lights After Termination: The HOA shall be responsible for all future costs relating to the street lighting equipment, including all costs of maintenance and repair, and shall be responsible for all costs of supplying electric power for operating the equipment. The Town shall have no further responsibility for such costs or expenses.

8. Inspection: The HOA has had a reasonable and acceptable opportunity to inspect the equipment, and accepts the same in its current condition. The Town makes no warranty or representation about the equipment’s condition.

9. General Provisions: This Agreement is the complete agreement between the parties regarding the cancellation of the Streetlighting Agreements. No verbal agreements shall be enforceable. This Agreement shall be construed under the laws of Indiana and is binding upon the parties’ heirs, successors, assigns, personal representatives, executors, and administrators. If any term of this Agreement is deemed unenforceable, the remainder of the Agreement will not be affected and will be enforceable to the fullest extent permitted by law.

10. Effective Date: This Agreement will become effective when both the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party’s signature) will be deemed the date of this Agreement.
Water Board of the Town of Cumberland, Indiana

By: ________________________________
Joe Sieker, President

Date: ________________________________

Attest: ______________________________
Grace Heck, Clerk-Treasurer

Greyhawk Woods Homeowners Assoc. Inc.

By: ________________________________

Printed/title ________________________________

Date: ________________________________

Grace Heck, Clerk-Treasurer
BILL OF SALE

Transferor:  The Water Board of the Town of Cumberland, Indiana

Transferee:  Greyhawk Woods Homeowners Association, Inc.

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Water Board of the Town of Cumberland, Indiana, an Indiana municipality, hereby conveys, assigns, sells, and transfers to Greyhawk Woods Homeowners Association, Inc. full, complete, and sole title – free and clear of all liens and encumbrances – in and to certain streetlighting equipment, including but not limited to 27 poles and light fixtures, owned by the Town which is located in sections 1 through 5 of the Greyhawk Woods subdivision.

This Bill of Sale is executed by the parties on the date(s) accompanying their signatures below.

Water Board of the Town of Cumberland, Indiana  Greyhawk Woods Homeowners Assoc. Inc.

By: ____________________________  By: ____________________________

Joe Siefker, President  Printed/title ____________________________

Date: ________________  Date: ____________________________

Attest:

Grace Heck, Clerk-Treasurer