

MEMORANDUM OF UNDERSTANDING

TO: Jill Boganwright-Tabor – NIPSCO
Phillip Patrick - NIPSCO

FROM: Gary Warfel - Saxon Partners

CC: Kevin Smith – Smith Sersic
Scott Yahne – Yahne Law
John Reed – Abrahamson Reed & Blise
Don Smith – Saxon Partners
David Arons – Saxon Partners

DATE: Updated April 4, 2024

**RE: CONVEYANCE OF LAND FROM NIPSCO TO THE TOWN
MUNSTER FOR PUBLIC ROADWAY IMPROVEMENTS**

This Memorandum of Understanding (“**MOU**”) sets forth an understanding between the **Northern Indiana Public Service Company (“NIPSCO”)**, the **Town of Munster, Indiana (“Town”)**, and **SPIN Munster, LLC (“Saxon”)**, (collectively, the “**Parties**”) regarding the conveyance of certain land by NIPSCO to the Town for public roadway access to a regional economic development project known as Kenmara (“**the Project**”), being developed by Saxon on a 59-acre parcel of land adjacent to utility rights-of-way owned by NIPSCO (“**NIPSCO Right-of-Way**”) in Munster, Indiana.

WHEREAS:

1. The Parties have been working together over the past three years to activate a significant economic development opportunity that the Project will create for the Town of Munster, Lake County, and the State of Indiana. The location of the Project and the NIPSCO Right-of-Way are identified in **Exhibit “A”**.
2. The Project will require multiple land conveyances and easements to be granted by NIPSCO in the locations identified in **Exhibit “B”**. Two roadways and one drainage easement are proposed to cross the NIPSCO Right-of-Way (“**NIPSCO Crossings**”), more specifically detailed below as the “**Fisher Street Extension**”, “**Maple Leaf Blvd**”, and the “**North Drainage Easement**”. A full set of engineered drawings for work impacting the NIPSCO Right-of-Way was included in a “**Technical Submittal**” transmitted to NIPSCO on May 5, 2023.

A. Fisher Street Extension. The first critical part of the Project requires the extension of Fisher Street west from Manor Avenue the south across the NIPSCO Right-of-Way, including the addition and modification of utility services in the area (“**Phase 1A Roadway Improvements**”). This public roadway extension will require both a permanent conveyance of land and temporary construction easements as detailed in **Exhibit “C-1”**. Legal descriptions of land to be conveyed by NIPSCO to the Town of Munster are detailed in **Exhibit “C-2”**. A separate temporary construction easement is to be granted by NIPSCO to the Town as detailed in **Exhibit “C-3”**. The preliminary plat for the Fisher Street Extension, approved by the Town of Munster on November 15, 2022, is attached as **Exhibit “C-4”**.

B. Maple Leaf Blvd. This is an extension of Maple Leaf Blvd northwest from Maple Leaf Crossing and then west across NIPSCO Right-of-Way north of the NIPSCO Munster Substation and under the elevated section of NICTD Westlake Corridor rail project under construction, shown in **Exhibit “D-1”**. The legal description of this land is detailed in **Exhibit “D-2”**. The preliminary plat for Maple Leaf Blvd, approved by the Town of Munster on November 15, 2022, is attached as **Exhibit “D-3”**.

C. North Drainage Easement. An existing drainage line in the vicinity of Area “C” shown on **Exhibit “B”** requires an existing easement to be updated and recorded in a form suitable to NIPSCO and Saxon. The existing easement dated January 9, 1980, was not properly recorded and the drain line has been operational for more than 40-years. Upgrades to the drainage line may be warranted.

3. The Project is being phased:
 - A. The Fisher Street Extension (**“Phase 1A Roadway Improvements”**) will be completed in accordance with the **Phase 1A Development Agreement** executed between Saxon and the Town of Munster on July 17, 2023.
 - B. Maple Leaf Blvd (**“Phase 1B”**), the North Drainage Easement, and other future phases of work that will include Phase 2 and Phase 3 (collectively the **“Future Phases”**) are detailed in the Development Plan submitted to the Town of Munster and will be executed under a **“Future Phase Development Agreement”** between Saxon and the Town.
 - C. Future Phases of work will begin after Phase 1A is underway, allowing more time for definitive agreements related to tax increment financing and a Future Phase Development Agreement to be completed by the Town and Saxon.
4. This MOU outlines certain conditions (**“Conditions Precedent”**) to be satisfied for Phase 1A of the Project in order for NIPSCO to convey land and grant easements to the Town. The Conditions Precedent are outlined in **Exhibit “E”**, attached hereto.
5. Any conditions required for Future Phases of work will be addressed separately under a future memorandum of agreement and will not impact the terms and conditions outlined in this MOU for Phase 1A.

NOW THEREFORE:

1. Subject to the terms and conditions outlined in this MOU, NIPSCO agrees to convey land to the Town for the Fisher Street Extension as described in **Exhibit “C-2”**, and to grant a temporary construction easement over land described in **Exhibit “C-3”** as follows:
 - A. NIPSCO shall execute and deliver a warranty deed (**“Warranty Deed”**) as attached in form hereto as **Exhibit “F-1”**, allowing Saxon to begin the Phase 1A Roadway Improvements in Town of Munster public roadway right-of-way.

- B. NIPSCO shall execute and deliver a temporary construction easement attached in form hereto as **Exhibit “F-2”** (the “Temporary Construction Easement”) for Phase 1A.
- C. The parties agree and stipulate that the Warranty Deed and the Temporary Construction Easement will be executed and recorded after:
 - i. The Phase 1A Development Agreement between the Town and Saxon is executed.
 - ii. All Conditions Precedent for Phase 1A have either been completed or are in the process of being completed to the satisfaction of NIPSCO.
 - iii. All details in the Technical Submittal, including the Phase 1A Plans and Specifications are updated and have been reviewed and approved by NIPSCO.
- 2. Subject to agreeable terms and conditions to be outlined in a future Memorandum of Understanding, NIPSCO will consider the conveyance of land to the Town for Maple Leaf Blvd as described in **Exhibit “D-1”** and **“D-2”**, and as follows:
 - A. NIPSCO will consider a separate Warranty Deed for Phase 1B.
 - B. The parties stipulate that a Warranty Deed for Maple Leaf Blvd crossing will be delivered and recorded after:
 - i. A Future Phase Development Agreement is executed between the Town and Saxon.
 - ii. Any Conditions Precedent for Phase 1B have been satisfied.
 - iii. All details in the Technical Submittal for Phase 1B will be updated, reviewed, and approved by NIPSCO.
- 3. In a separate document, NIPSCO and Saxon will work together to amend and record the existing drainage easement identified in the vicinity of Area “C” on **Exhibit “B” (“North Drainage Easement”)**. to create an updated easement which may include the replacement and upgrade of the existing pipe. Engineering details and the easement will be updated as part of the Future Phases of work.
- 4. The conditions and obligations outlined in the MOU shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

This MOU constitutes an agreement by the Parties to move forward with more definitive land conveyance documents to be executed between NIPSCO and the Town of Munster that will allow Saxon to move forward with the final design and construction of the Phase 1A Roadway Improvements across and through NIPSCO Right-of-Way as outlined herein.

Northern Indiana Public Service Company (“NIPSCO”)

By: _____
Name Title

Signature Date

Town of Munster, Indiana (“Town”)

By: _____
Name Title

Signature Date

SPIN Munster, LLC

By: _____
Name Title

Signature Date

List of Exhibits

Exhibit "A"	Project Location
Exhibit "B"	NIPSCO Right-of-Way and Crossing Locations
Exhibit "C-1"	Fisher Street Extension
Exhibit "C-2"	Fisher Street Conveyance
Exhibit "C-3"	Fisher Street Construction Easement
Exhibit "C-4"	Fisher Street Preliminary Plat
Exhibit "D-1"	Maple Leaf Blvd
Exhibit "D-2"	Maple Leaf Blvd Conveyance
Exhibit "D-3"	Maple Leaf Blvd Preliminary Plat
Exhibit "E"	Conditions Precedent
Exhibit "F-1"	Warranty Deed
Exhibit "F-2"	Temporary Construction Easement