

**SANITARY SEWER CONTRACT
for Construction of Public Facilities**

Cross Reference Document(s):

CONTRACT NO.:

WORK ORDER NO.:

THIS SANITARY SEWER CONTRACT ("Contract") is made and entered into this __ day of _____, 20____, by and between _____ ("Contributor") and the **City of Fort Wayne** ("City"), for the following and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to wit:

1. The City and the Contributor shall proceed dependent upon procurement of materials and labor and with reference to other similar work of said parties, or as approved by the City, to construct the following sanitary sewer improvements to serve **[project address/project name]**, being more particularly described as follows:

Description:

[Legal Description of Project Location] (hereinafter, the "Real Estate").

The sanitary sewer improvements proposed to become part of the public sanitary sewerage system consist of:

[Description of Sanitary Sewer Improvements and Materials]

(the foregoing being collectively referred to herein as the "Sewer Improvements").

2. The Sewer Improvements shall be constructed in accordance with the standards, plans and specifications as approved by City, which are on file in City's Development Services office and are incorporated herein by reference and made a part hereof (the "Approved Plans"). Prior to beginning construction of the Sewer Improvements, Contributor, or its contractor or designee shall provide City with a performance bond in the amount of the Contract Price (as hereinafter defined) securing Contributor's construction of the Sewer Improvements in accordance with the Approved Plans. The performance bond shall remain in effect for a period of one (1) year following acceptance of the Sewer Improvements by the Board of Public Works to ensure any defects discovered within such one (1) year period are properly repaired.

Annexation Waiver for Outside City Limits

3. Contributor represents that it is the owner of the Real Estate described in Section (1) herein and for itself, its successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by it as described in Section (1) or hereafter served by said Sewer Improvements or any extension thereof.
4. In further consideration and to induce City to execute and ratify this contract, Contributor for itself, its successors and assigns, agrees by this contract to vest in City the permanent right, at its discretion, to annex to the City of Fort Wayne at any future time by duly authorized ordinance said real estate described in Section (1) herein.
5. Contributor further agrees that any deeds, contracts, or other instruments of conveyance made by Contributor, its successors or assigns transferring or conveying any interest in and to any of the Real Estate described in Section (1) herein, shall contain the waiver and release provisions contained in this Section (5), which provision shall run with the land and the acceptance of delivery of any such instruments from Contributor, its successors and assigns to any grantee, vendor or contract purchaser shall be made subject to the terms of this contract and shall constitute an acceptance of the foregoing provisions by said grantee, vendor or contract purchaser and their successors in title.

6. Any owner or owners of land which now or hereafter is located outside the corporate limits of the City who connect into the Sewer Improvements constructed hereunder shall be deemed to thereby waive his, her, their, or its rights to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory which it is located or of the area served by said Sewer Improvements (I.C. 36-9-22-2, as Added by Acts 1981, P.L. 309, SEC. 95).

SWPPP, Review, and Inspection Fees (Inside City Limits)

7. For projects involving the projected land disturbance of one (1) acre or more or a land disturbance of less than one (1) acre that is part of a larger common plan of development that will ultimately disturb one (1) acre or more of land area, Owner must submit a Notice of Intent (“NOI”) to the Indiana Department of Environmental Management and provide a copy to City’s Development Services Department. Owner must also a Stormwater Pollution Prevention Plan (“SWPPP”) to the Development Services office to determine the plan sufficiently meets the requirements of the Indiana Construction Stormwater General Permit. The SWPPP must have been determined sufficient and a copy of the NOI must be provided to the Development Services office prior to Owner undertaking any land disturbing activity on the Real Estate. For projects involving a land disturbing activity of less than one (1) acre of land area that is not part of a larger common plan of development, Owner must still meet the minimum erosion and sediment control measures contained in the Fort Wayne Stormwater Utility General Rules and Regulations. Failure to comply with these requirements may delay approval of the Stormwater Facilities and cause Owner to incur additional inspection fees. Owner may also be subject to enforcement action by City’s Department of Stormwater Management in accordance with Chapter 53 of the Fort Wayne, Indiana Code of Ordinances or applicable Rules and Regulations.
8. Contributor shall pay all expenses associated with stormwater utility plan submittal review (the “Stormwater/SWPPP Review Fees”) in accordance with the rate structure set forth in Exhibit A attached hereto.
9. Contributor shall also pay all SWPPP inspection fees (the “SWPPP Inspection Fees”), in accordance with the rate structure set forth in Exhibit A attached hereto. If an approved SWPPP must be amended, construction of the Sewer Improvements is not completed within six (6) months after completion of the first SWPPP inspection, or the Real Estate is not maintained in compliance with the approved SWPPP, additional Review Fees and/or SWPPP Inspection Fees will apply. Such additional fees are also outlined in Exhibit A.
10. In addition to the Review Fees and SWPPP Inspection Fees, Contributor shall also pay a fee for necessary labor for inspection and testing services provided by the City with respect to the Sewer Improvements (the “Construction Inspection & Testing Fee”). The Construction Inspection & Testing Fee is \$ _____, as calculated in the Developer Cost Sheet attached hereto as Exhibit B. The Review Fees, SWPPP Inspection Fees, and the Construction Inspection & Testing Fee are collectively referred to herein as the “City Development Fees.”

Review and Inspection Fees, No SWPPP Fees (Outside City Limits)

11. Contributor shall pay a fee for necessary labor for inspection and testing services provided by the City with respect to the Sewer Improvements (the “Construction Inspection & Testing Fee”). The Construction Inspection & Testing Fee is \$ _____, as calculated in the Developer Cost Sheet attached hereto as Exhibit C. The Review Fees and the Construction Inspection & Testing Fee are collectively referred to herein as the “City Development Fees.”

Cost

12. Contributor shall furnish and pay for all materials, contractual labor, equipment, permits and/or licenses required for the construction of said Sewer Improvements through **[Insert Name of Contractor]** at a cost of \$ _____ (the “Construction Cost”), and the Contributor shall hold City harmless from any liability for claims connected therewith. Therefore, the total value of the Sewer Improvements, including the City Development Fees and the Construction Cost, is \$ _____. This amount is the “Contract Price” of this Contract.

Oversizing

13. The Contract Price is based on construction and installation of a _____” sewer main, as detailed in Section 1 above. The parties acknowledge and agree, however, that the sewer main has been oversized from a base size

of _____” to _____” to accommodate future growth in the areas adjacent to the Real Estate. The City agrees to bear the cost of material, contractual labor and equipment, as supplied by the Contractor for oversizing the sewer main from a **(base size)**” sewer main to a **(oversized)**” sewer main, in the amount of **(Oversizing \$ & Spelled out)**. It is agreed that upon completion and within 30 days after acceptance of said Sewer Infrastructure by said City, the City will pay to said Contributor the oversizing cost of **(Oversizing Payment)**.

Future Connections

14. Said Sewer Infrastructure, when accepted by the City will serve the following described real estate herein referred to as follows:

DESCRIPTION

Such property being hereinafter referred to as the “Benefitted Area”.

15. In the event any present or future owners of land within the Benefitted Area shall at any time within 15 years after the date of this Contract desire to use said Sewer Infrastructure by direct tap to serve such land, City, through its duly constituted authorities, before permitting such use, shall require by contract or assessment, as may be appropriate, that such owner or owners of land within the Benefitted Area pay to City a fee for connecting to the local sewer serving said property. Said fee shall be in addition to the cost of standard tap-in and inspection fees, and monthly sewage treatment charges as are customarily charged by City. The properties affected and the full amounts due per **acre / ERU / parcel** are shown on attached Exhibit D. The amounts so collected shall be refunded to Contributor as partial reimbursement for amounts expended to construct the Sewer Infrastructure to serve the Benefitted Area until such time as one of the following events occur: a period of 15 years has passed from the date of this Contract or the Contributor has been reimbursed for the total amount subject to reimbursement, whichever event comes first. Thereafter, no reimbursements will be collected or paid.

Area Connection Fee at time of Connection

16. The Benefitted Area described above is subject to an area connection fee at the time of connection in accordance with agreements and/or resolutions on file in the Office of the Board of Public Works of said City. The area connection fee for _____ ERU's shall be paid on or before building sewer connections are made to the City sewer system in accordance with applicable fees in effect at the time of connection. The area connection fees represent the installation and/or oversizing costs expended by City for downstream collection system and treatment facilities **(Current Shed & Rate: _____ at \$ _____ per ERU - Subject to adjustments)**.

Septic Elimination Waiver

17. It is understood and agreed that the area connection fees **(Current Shed and Rate: _____ per ERU)** for the following addresses will be waived pursuant to the City of Fort Wayne Septic Elimination Policy – Resolution # 96-12-02-09-03 so long as such addresses are connected to City sewer within # of Days (Number of Days Spelled Out) days from acceptance of the sewer by the City:

Address 1

Address 2

Construction

18. Contributor or contractor shall notify the City at least forty-eight (48) hours prior to commencement of work in order to allow City to assemble an inspection team to monitor the construction of the Sewer Improvements. The City shall be entitled to recover any and all costs incurred as a result of Contributor’s failure to comply with this Section.
19. Construction of the Sewer Improvements shall begin within twelve (12) months following approval of the utility plan submittal(s). If construction does not begin within twelve (12) months, or if construction begins and then remains idle for a period exceeding twelve (12) months, a new submittal shall be required and approved prior to commencement or recommencement of construction, as the case may be. Failure to provide a new submittal

before expiration of the twelve (12) month period of inactivity may result in termination of this Contract in the City's discretion.

20. The City may approve the extension of additional sanitary sewers from the Sewer Improvements without incurring any financial obligations to the Contributor under this Contract.
21. The Sewer Improvements shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors or assigns or any future owner of any land serviced by said the Sewer Improvements shall, at any time, discharge or permit to be discharged or to flow into said Sewer Improvements any water runoff caused by natural precipitation, or anything other than sanitary sewage in accordance with the Fort Wayne Code of Ordinances.
22. Upon completion of the Sewer Improvements, the Contributor or its contractor shall submit all required project closeout documents, including, without limitation, an as-built survey (stamped and signed by an Indiana-licensed surveyor or licensed engineer), Completion Affidavit, a Maintenance Bond (only if a performance bond was not previously supplied) Certified Record Drawings in Adobe PDF file format and .DWG CAD file format, GPS obtained Record Drawing data, the most recent plat, all necessary easement agreements, and CADD files in standard .DWG CAD format (collectively, the "Closeout Documents") to the City and shall take such action as is necessary to transfer all rights, titles, and interest in said Sewer Improvements and easement agreements to the City. CAD .DWG files are preferred in Autodesk Civil 3D .dwg CAD file format, but standard .dwg CAD file format is required at a minimum. The Maintenance Bond, if required, shall run for a minimum period of one (1) year from the date of the acceptance of said system by the City and shall be in the minimum amount of \$_____.
23. Upon receipt of all required Closeout Documents, the City will make final inspection of the Sewer Improvements. Upon finding the Sewer Improvements to be acceptable and in full compliance with the Approved Plans, the City shall issue its Letter of Acceptance to the Contributor. Upon issuance of the Letter of Acceptance, and in accordance with the terms of said letter, the Sewer Improvements shall form and become and be a part of the City's public sanitary sewerage system, and all right, title, and interest whatsoever in said Sewer Improvements shall pass to and remain in the City of Fort Wayne, Indiana.
24. Failure to provide all required Closeout Documents within sixty (60) days after completion of the Sewer Improvements will delay acceptance of the Sewer Improvements. If the Sewer Improvements were constructed as part of a larger development project all Closeout Documents, except for the recent plat, must be provided within sixty (60) days after completion of the project. Contributor may not make use of any Sewer Improvements prior to acceptance by the City.
25. If Contributor makes any changes to the plat after the Sewer Improvements are accepted, Contributor shall provide City with copies of all documents reflecting the changes, including, without limitation, the updated plat, as-built survey(s), CAD files and other similar documents with fifteen (15) days after the date such changes are made. Contributor may not make use of any Sewer Improvements prior to submitting copies to the City.
26. E-Verify Affidavit. Pursuant to Indiana Code 22-5-1.7, Contributor agrees and shall enroll in and verify the work eligibility status of all newly hired employees of the Contributor through the E-Verify program. E-Verify means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). Contributor is not required to verify the work eligibility status of all newly hired employees of Contributor through the E-verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Contributor, being first duly sworn, deposes and states that the Contributor does not knowingly employ an unauthorized alien.

27. The laws of the State of Indiana shall govern this Contract.

IN WITNESS WHEREOF, the parties hereto have subscribed to this instrument as of the day and year first above written.

**CITY OF FORT WAYNE, INDIANA
BOARD OF PUBLIC WORKS**

**CONTRIBUTOR
[Contributor Name]**

By _____
Shan Gunawardena, Chair

By _____

Printed _____

By _____
Kumar Menon, Member

Title _____

Address _____

By _____
Chris Guerrero, Member

Phone _____

Attest: _____
Michelle Fulk-Vondran, Clerk

SAMPLE

ACKNOWLEDGEMENT

CONTRIBUTOR

STATE OF _____)
) SS
COUNTY OF _____)

BEFORE ME, a Notary Public in and for said State and County personally appeared _____, as _____, on behalf of _____, and acknowledged the execution of the foregoing Contract as a voluntary act and deed.

WITNESS my hand and notarial seal this _____ day of _____ 20_____.

My Commission Expires: _____

Notary Public Signature

Resident of _____ County

Printed Name

**ACKNOWLEDGEMENT
CITY**

STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

BEFORE ME, a Notary Public in and for said State and County personally appeared **Shan Gunawardena, Kumar Menon, and Chris Guerrero** as Members of the Board of Public Works, and **Michelle Fulk-Vondran**, Clerk of the Board, and acknowledged the execution of the foregoing Contract as their voluntary act and deed.

WITNESS my hand and notarial seal this _____ day of _____ 20_____.

My Commission Expires: _____

Notary Public Signature

Resident of _____ County

Printed Name

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

*This instrument prepared by Maria Gomez-Espino, Fort Wayne City Utilities,
Form date April 2024.*