

**STORMWATER DRAINAGE CONTRACT**  
**for Construction of Public Facilities**

**CONTRACT NO.**

**WORK ORDER NO.**

**THIS STORMWATER DRAINAGE CONTRACT** ("Contract") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ ("Contributor") and the **City of Fort Wayne Board of Stormwater Management** ("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 stormwater drainage improvements to serve **[project address/project name]**.

The stormwater drainage improvements consist of:

**[Description of Stormwater Improvements and Materials]**

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

2. The Stormwater 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 Stormwater 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 Stormwater 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 Stormwater Facilities to ensure any defects discovered within such one (1) year period are properly repaired.
3. 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 submit 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.
4. 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.
5. 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 Stormwater 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.

6. In addition to the Review Fees and SWPPP Inspection Fees, Contributor shall also pay a fee for necessary labor for inspection and engineering services provided by the City with respect to the Stormwater 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."
7. Contributor shall furnish and pay for all materials, contractual labor, equipment, permits and/or licenses required for the construction of said Stormwater 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 Stormwater Improvements, including the City Development Fees and the Construction Cost, is \$ \_\_\_\_\_. This amount is the "Contract Price" of this Contract.

### **Oversize**

8. As requested by the City, the Stormwater Improvements include additional capacity to address stormwater drainage issues beyond the Contributor's requirements. Upon completion and acceptance of the Stormwater Improvements, the City will pay the Contributor **\$Oversizing Cost** which is the amount equal to the difference between the cost of constructing stormwater improvements to serve only the Contributor's development and the cost of constructing the Stormwater Improvements.

### **Construction**

9. Contributor 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 Stormwater 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. In addition, Contributor may be required to provide documentation and records and/or re-excavate trenches of installed infrastructure to confirm that any work completed prior to notice was in compliance with the Approved Plans. Contributor will be charged \$ \_\_\_\_\_, as shown in Exhibit C for every hour spent requesting, reviewing, and meeting with Contributor to determine work started without notification was performed in accordance with the Approved Plans. If found to be not in compliance with the Approved Plans, then the Contributor shall bring the project into compliance with the Approved Plans. Failure to bring the Stormwater Improvements in compliance to the Approved Plans may result in additional enforcement in accordance with Stormwater Rules and Regulations, City Ordinances and State Law.
10. Construction of the Stormwater 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.
11. The City may approve the extension of additional storm sewers from the Stormwater Improvements without incurring any financial obligations to the Contributor under this Contract.
12. Upon final completion of the Stormwater 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, 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 Stormwater 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.
13. Upon receipt of all required Closeout Documents, the City will make final inspection of the Stormwater Improvements. Upon finding the Stormwater 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 Stormwater Improvements shall form and become and be a part of the City's public stormwater management system, and all right, title, and interest whatsoever in said Stormwater Improvements shall pass to and remain in the City of Fort Wayne, Indiana.

14. Failure to provide all required Closeout Documents will delay acceptance of the Stormwater Improvements. In addition, Contributor may be prohibited from making use of Stormwater Improvements. Beginning on the sixtieth (60<sup>th</sup>) day after Final Completion of the work, if Contributor has not provided all required Closeout Documents, Contributor will be assessed liquidated damages in the amount of \$ \_\_\_\_\_, as shown in Exhibit C until all required Closeout Documents are provided and the Stormwater Improvements are accepted by the City as provided under Section 11. These liquidated damages are intended to compensate the City for additional inspection and administrative costs incurred until acceptance of the Stormwater Improvements, and Contributor agrees that the liquidated damages provided in this Section constitute a reasonable estimate of those costs. For purposes of this Section, "Final Completion" means the Stormwater Improvements may be used for the purpose for which they were constructed, and all punch list items have been fully resolved to the City's satisfaction.
15. If Contributor makes any changes to the plat after the Stormwater 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. If the Contributor fails to provide documents as outlined in this section, the City may bill the Contributor for all time incurred by the City and all additional expenses for services provided by a third party to assemble any required documents as outlined in this section.
16. 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.

17. 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 STORMWATER MANAGEMENT**

**CONTRIBUTOR  
[Contributor Name]**

By \_\_\_\_\_  
Matthew Wirtz, Chair

By \_\_\_\_\_

Printed \_\_\_\_\_

By \_\_\_\_\_  
Shan Gunawardena, Member

Title \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_

Phone \_\_\_\_\_

Chris Guerrero, Member

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 **Matthew Wirtz, Shan Gunawardena, and Chris Guerrero** as Members of the Board of Public Stormwater Management, 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.*