

**WATER CONTRACT**  
**for Construction of Public Facilities**

*Cross Reference Document(s):*

**CONTRACT NO.:**

**WORK ORDER NO.:**

**THIS WATER 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 potable water improvements to serve **[project address/project name]**, being more particularly described as follows:

The potable water improvements proposed to become part of the public water system consist of:

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

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

2. The Water 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 Water 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 Water 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 Water Improvements by the Board of Public Works to ensure any defects discovered within such one (1) year period are properly repaired.

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

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 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 Water 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 testing services provided by the City with respect to the Water Improvements (the "Construction Inspection & Testing Fee"). The Construction Inspection & Testing Fee is \$\_\_\_\_\_, as calculated in the Developer Cost Summary 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)**

7. 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 A. The Review Fees and the Construction Inspection & Testing Fee are collectively referred to herein as the "City Development Fees."

#### **Cost**

8. Contributor shall furnish and pay for all materials, contractual labor, equipment, permits and/or licenses required for the construction of said Water 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 Water Improvements, including the City Development Fees and the Construction Cost, is \$\_\_\_\_\_. This amount is the "Contract Price" of this Contract.

#### **Oversizing**

9. The Contract Price is based on construction and installation of a \_\_\_\_\_" water main, as detailed in Section 1 above. The parties acknowledge and agree, however, that the water 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 costs of oversizing the water main from \_\_\_\_\_" to \_\_\_\_\_" (**feet**)±L.F., said costs being **\$(Dollars)**.

#### **Oversizing Reimbursement**

10. Therefore, it is agreed that upon completion and acceptance of the Water Improvements by the City, the City will pay to Contributor, as set forth below, an amount of **\$(Oversizing Total)** hereinafter called the "Total Amount." The Total Amount shall be paid in the manner described in the following paragraph.
11. The payment of the Total Amount shall be made within thirty (30) days after acceptance of the Water Improvements by the Board of Public Works.

#### **Future Connections**

12. It is further understood and agreed by and between the parties to this Contract that should any additional person(s) wish to connect to this Water Improvements within a period of fifteen (15) years from the date of acceptance of the Water Improvements by the Board of Public Works and become a permanent consumer of water on the real estate described below as the Reimbursement Area, said person(s) shall apply to said City for a permit to tap said Water Improvements and shall be required to pay said City a share of the installation cost in addition to the regular tapping fee, which share shall be **(\$& Spelled out) per front foot**.

13. The money so collected shall be paid to Contributor.

14. The Reimbursement Area includes real estate located in the: **(Legal Description i.e. southwest one-quarter, etc.)**.

#### **Wheelock Road Corridor Area**

15. It is agreed that pursuant to **Special Contract 2004-W-13, Wheelock Road Corridor Area**, a Water Service Availability Fee shall be paid to CITY for each water service connection. Said fee, as established in said contract, shall be paid upon approval by the Fort Wayne City Council and prior to any water service connection. The Water Availability Fee shall be adjusted annually as provided for in Special 2004-W-13. The current fee is \$545.00 per water service connection.

### **Till Road Area**

16. It is agreed that pursuant to **Resolution No. 92-8-24-05-02**, The **Till Road Water Availability Fee** shall be paid to **CITY** for each water service connection. Said fee, as established in said resolution, shall be paid upon approval by the Fort Wayne City Council and prior to any water service connection. The Water Availability Fee shall be adjusted annually as provided for in Resolution No. 92-8-24-05-02. The current fee is \$116.00 per water service connection.

### **Thomas Road/Bass Road Area**

17. It is agreed that pursuant to **Special Contract 2002-W-02**, The **Thomas Road/ Bass Road** Availability Fee shall be paid to **CITY** for each water service connection. Said fee, as established in said contract, shall be paid upon approval by the Fort Wayne City Council and prior to any water service connection. The Water Availability Fee shall be adjusted annually as provided for in Special Contract 2002-W-02. The current fee is \$115.00 per water service connection.

### **Construction**

18. 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 Water 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 Water 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. 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. Except as otherwise stated herein, the City may approve the extension of additional mains and laterals from the Water Improvement(s) covered in this Contract without incurring any financial obligations to the Contributor under this Contract.
21. Upon completion of the Water 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), 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 \$\_\_\_\_\_. Upon receipt of all required Closeout Documents, the City will make final inspection of the Water Improvements. Upon finding the Water 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 Water Improvements shall form and become and be a part of the City's public water system, and all right, title, and interest whatsoever in said Water Improvements shall pass to and remain in the City of Fort Wayne, Indiana.
22. Failure to provide all required Closeout Documents within sixty (60) days after completion of the Water Improvements will delay acceptance of the Water Improvements. If the Water 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 Water Improvements prior to acceptance by the City.
23. If Contributor makes any changes to the plat after the Water 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 Water Improvements prior to submitting copies to the City.

24. 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.

25. 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

**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.*