

SEWER DEVELOPMENT AGREEMENT
FOR BENJAMIN K. JOHNSON AND ADRIENNE A. JOHNSON

THIS SEWER DEVELOPMENT AGREEMENT ("Agreement") is entered into as of this 23 day of November, 2019 (the Effective Date " ") by and between Benjamin K. Johnson and Adrienne A. Johnson, (hereinafter referred to as "Grantees"), and the Town of McCordsville, Indiana, an Indiana municipal Corporation, by and through its Town Council (hereinafter referred to as "the Town").

WITNESSETH

WHEREAS, Grantees and the Town wish to enter into an agreement regarding the development of sanitary sewers on Grantee's property, more particularly described in **Exhibit "A"** attached hereto and incorporated by reference herein, which facilities shall collect and transport wastewater and effluent to the Town's Wastewater Treatment Plant (herein referred to as "Plant"); and

WHEREAS, The Town wishes to acquire and Grantees wish to dedicate appropriate easements for municipal purposes (the "Utility Easements") to allow the Town to service 5791 W. McCord Rd., McCordsville, Indiana 46055 with sanitary sewer service.

NOW, THEREFORE, the parties agree as follows:

1. Compliance with Local Rules

Grantees agree in all respects to comply with the Town's Master Sewer Plan, Sewer Rate Ordinance, Sewer Use Ordinance, and the McCordsville Zoning Code adopted January 11, 2011 and any and all amendments or supplements thereto, and the McCordsville Stormwater Management Ordinance, and any and all relevant Town Ordinances and state statutes unless otherwise agreed to herein or as otherwise approved by the Town.

2. Wastewater Facilities and Easements

Grantees shall design and prepare cost estimates for the construction and installation of facilities, to the extent deemed necessary by the Town's engineer, to collect all wastewater and effluent generated on or within the subject real estate and all other facilities necessary to transport said wastewater and effluent to the Town's regional collection system at a point designated by the Town's engineer. All of the aforementioned infrastructure shall be collectively referred to as "the Facilities" and the Facilities will deliver wastewater, liquid waste, sewage, and other effluent from Grantee's property and from other properties within the **Bay Creek Drainage Basin** to the Plant by way of the regional collection system. The Town of McCordsville shall be responsible for obtaining all easements or

rights-of-way necessary to install the Facilities set forth above, except for the portion of the Facilities located on the subject real estate owned by Grantees, and to connect said Facilities to the Town's plant. The costs of said easements or rights-of-way shall be reimbursed to the Town by Grantees. In addition, Grantees agree to grant, at no cost to the Town, all necessary easements or rights-of-way as determined by the Town's engineer that are necessary to provide for extension of the Town's regional wastewater collection system to adjoining properties and/or sewage collection basins.

3. Sewer Availability

In exchange for the Town's allocation of sufficient treatment to serve the estimated 1 EDU's for the residential use of the subject real estate, Grantees shall be required to pay to the Town the sum of Three Thousand Five Hundred Dollars (\$3,500.00) at the time of application for a sewer connection permit.

4. Waiver of Rights to Remonstrate

Grantees, by their signatures below, for themselves and their legal successors in interest hereby waive any and all rights they may have to remonstrate to the annexation of the subject real estate by the Town of McCordsville, Indiana, at any time within fifteen (15) years of the date of this agreement; and furthermore, covenant and agree on their behalf, as well as their legal successors in interest to consent to any such annexation process.

5. Engineering Review

The design, construction, and specification of material and equipment to be used in all the Facilities installed by Grantees shall be subject to approval and construction observation by the Town's designated and qualified agent and/or consulting engineer whose decision shall be final as to any question arising regarding the same. Grantees shall contract directly with the Town's consulting engineer to review the plans for the design of said Facilities whose approval of the design, location, and specification for all materials and equipment shall be required prior to the commencement of construction and which will be in substantial compliance as to location as set forth on **Exhibit "A"** attached hereto and incorporated by reference herein. The decision of the Town's consulting engineer shall be final as to any question arising regarding the design, construction, or specification of material and equipment to be used in the construction of said Facilities. The cost for review of the design, construction, and specification of material and equipment to be used in the construction of the Facilities shall be in accordance with the schedule of charges for such review and construction observation fees as posted on the McCordsville website (www.mccordsville.org) at the time of each submitted section. Grantees shall be

responsible for any such design review and/or construction observation fees or any other cost in connection with such inspection and approvals.

6. Dedication

Upon the completion of construction and installation of the Facilities, Grantees shall dedicate all of said Facilities and all easements and rights-of-way necessary to service and maintain said Facilities, without restriction, to the Town.

7. Arbitration

The parties agree that should a disagreement regarding the terms and provisions of this Agreement arise and the parties are unable by negotiation to resolve said dispute, the parties shall submit the dispute to binding arbitration with each party to select an arbitrator of their choice and the two (2) selected arbitrators to select a third arbitrator with the cost of arbitration to be paid equally by the parties.

8. Assignment

The parties further agree that should Grantees desire to assign their rights, duties, and obligations under this Agreement, at any time within ten (10) years of the date of execution of this Agreement, said assignment may only be accomplished after receipt of the Town's written consent, which said consent shall not be unreasonably withheld or delayed. If Grantees, at any time, after the execution of this Agreement shall assign its rights, duties and obligations herein, Grantees shall notify the Town in writing ten (10) days prior to such assignment, the name, address, phone number and contact person of the assignee.

9. Binding

The terms of this Agreement shall be binding on and shall insure to the benefit of each party's heirs, executors, personal representatives, successors, assigns, parent companies, subsidiaries, lessees or other authorized person or entity acting on either party's behalf.

10. Breach

In the event of any breach of this Agreement by any party hereto, the non-breaching party shall be entitled to pursue all remedies available to it at law or in equity including enforcing this Agreement by specific performance.

11. Notices

Any notices, requests, demands, consents or other communications required or

permitted under this Agreement shall be in writing and shall be deemed delivered on the second day after such notice is deposited in a receptacle of the United States mail, registered or certified, first class postage prepaid, return receipt requested, address as follows:

To Grantees: Benjamin K. Johnson and Adrienne A. Johnson
5791 W. McCord Rd.
McCordsville, IN 46055

To Town: Town of McCordsville
6280 W. 800 N.
McCordsville, IN 46055

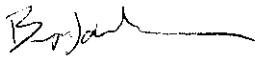
12. Execution

Each person executing this Agreement on behalf of Grantees shall supply contemporaneously with the execution of this document all necessary documents and records indicating authority to enter into this Agreement and to bind Grantees to the terms thereof.

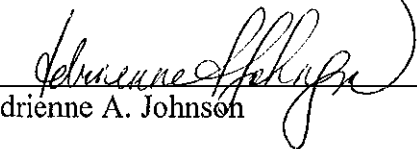
IN WITNESS WHEREOF, the parties have executed this Agreement as of the effective date.

Grantees

Town of McCordsville, Indiana



Benjamin K. Johnson



Adrienne A. Johnson

By: Thomas R. Strayer
Town Council President

EXHIBIT "A"
Property Description

Closing Date: August 16, 2019
Borrower(s): Benjamin K. Johnson and Adrienne A. Johnson
Property Address: 5791 West McCord Rd., McCordsville, IN 46055

PROPERTY DESCRIPTION:

A part of the East half of the Southwest Quarter of Section 13, Township 17 North, Range 5 East, described as follows:

Beginning at a point on the center line of the County Highway 565.5 feet Southwesterly measured on said Highway center line from the East line of the East half of the Southwest Quarter Section; thence continuing southwesterly on said Highway center line 188.5 feet; thence South parallel with the East line of the Southwest Quarter section 345 feet to the middle of a natural stream; thence easterly in the middle of said stream to a point due South of the place of beginning; thence North 524.5 feet to the place of beginning.

More commonly known as 5791 W. McCord Rd., McCordsville, IN 46055