

SEWER DEVELOPMENT AGREEMENT

THIS SEWER DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of this _____ day of _____, 2024 (the Effective Date “) by and between James M. and Jennifer M. Vaughn, (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, construction and/or connection of sanitary sewer facilities (“Facilities”) on Grantees’ property, located at 5759 W. McCord Road, McCordsville, IN 46055 (“Property”), which is more particularly described in **Exhibit “A”**;

WHEREAS, the Facilities will deliver wastewater, liquid waste, sewage, and other effluent from the Property to the Town’s Wastewater Treatment Plant (“Plant”) by way of the regional collection system; and

WHEREAS, in addition to the development, construction and/or connection of sanitary sewer facilities to Grantees’ Property, Grantees wish to dedicate and the Town wishes to accept appropriate easements the provide the municipal services identified herein (“Utility Easements”).

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

To the extent deemed necessary by the Town's engineer, Grantees shall design and prepare cost estimates for the construction and installation of all facilities needed to collect all wastewater and effluent generated on or within the Property and provide those estimates and renderings to the Town's engineer.

The Town of McCordsville shall be responsible for obtaining all easements or rights-of-way necessary to install the Facilities, except for the portion of the Facilities located on the Property, 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 Property, Grantees shall be required to pay to the Town the sum on Four Thousand Five Hundred Dollars (\$4,500.00) at the time of application for a sewer connection permit.

4. Annexation

Grantees, by their signatures below, for themselves and their legal successors in interest, hereby consent to the annexation of the Property by the Town of McCordsville. Further, Grantees, on their behalf and on behalf of their legal successors in interest, waive any and all rights they may have to remonstrate to any such annexation in accordance with Indiana Code section 36-4-3-11.7.

5. Engineering Review

To the extent deemed necessary by the Town's engineer, 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.

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

Grantees shall dedicate any and all necessary rights-of-way to the Town as called out by the Throughfare plan and local codes as determined by the Town engineer.

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: James M. and Jennifer M. Vaughn
5759 W. McCord Road
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.

13. Waiver

The Parties agree that the failure to enforce any provision or obligation under this Agreement shall not constitute a waiver thereof, or serve as a bar to the subsequent enforcement of any such provision or obligation under this Agreement.

14. Entire Agreement

This Agreement constitutes the entire agreement between the Parties. No understanding, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be supplemented or amended, except by written agreement signed by both Parties.

15. Severability

The invalidity of any section, clause, or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses, or provisions of this Agreement.

16. Survival of Obligations

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Agreement, as well as all continuing obligations indicated in the Agreement, will survive final payment, completion, and acceptance of the work or termination or completion of the Agreement.

17. Controlling Law

This Agreement is to be governed by the laws of the State of Indiana.


18. Recording

This Agreement shall be recorded in the Hancock County Recorder's Office within thirty days of execution.

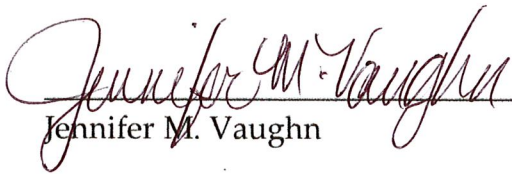
IN WITNESS WHEREOF, the parties have executed this Agreement as of the effective date.

Grantees

Town of McCordsville, Indiana


James M. Vaughn

By: Greg Brewer
Town Council President


Jennifer M. Vaughn

This instrument was prepared by Beth A. Copeland, Taft Stettinius & Hollister LLP, One Indiana Square, Suite 3500, Indianapolis, Indiana 46204-2023

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

Exhibit A

Legal 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 377 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 524.5 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 653 feet to the place of beginning, containing 1.93 acres, more or less.