

Grinder Pump Easement & Maintenance Agreement

City of LaPorte Wastewater Department

This Agreement made as of the _____ day _____, 2017 by and between the City of LaPorte Wastewater, a municipal department of the City organized and existing under the laws of the State of Indiana, with its office located at 2101 Boyd Blvd, LaPorte, Indiana (hereinafter called the "City"), and _____ (hereinafter whether one or more called the "Property Owner").

WHEREAS, the Property Owner is the owner of a property in the City of LaPorte, Indiana, by virtue of a Deed recorded at Instrument No. _____, in the office of the Recorder of Deed in and for LaPorte, Indiana (herein called the "Property"), and

WHEREAS, the City has or will install, a grinder pump system on the Property so that the City can provide public wastewater service to the Property, and

WHEREAS, the grinder pump system consists of a grinder pump, a grinder pump basin, an electric control panel along with related conduits and wiring from the panel to the basin, and a pipeline from the grinder pump basin to the City's sanitary sewer main (hereinafter called the "Grinder Pump System"), and

WHEREAS, the Property Owner will install or has installed, at its sole expense, the sewer pipeline from the house to the Grinder Pump System and a connection point to provide electrical power to the electric control panel (hereinafter called the "Property Owner's Portion of the System"), and

WHEREAS, the City agrees to maintain ownership of the Grinder Pump System, and to provide for operation, maintenance, repair, service and replacement for the Grinder Pump System, under certain conditions which are outlined in this Agreement.

NOW THEREFORE, for and in consideration of the covenants set forth herein, and intending to be legally bound, the parties to this Agreement agree as follows:

Ownership

1. The City shall own and be responsible for any and all operation, maintenance, service, repair, and replacement of the Grinder Pump System, at the City's sole cost except for certain exceptions outlined herein.
2. Property Owner shall own and be responsible for any and all operation, maintenance, and service of the Property Owner's Portion of the System, including electricity to

operate the Grinder Pump System, at the Property Owner's sole cost. The City shall have no responsibility for the operation, maintenance, repair or replacement of the Property Owner's Portion of the System.

Services Provided by The City

3. The City shall perform routine maintenance of the Grinder Pump System and repair or replace Grinder Pump System components that are malfunctioning, provided those damages are due to ordinary wear and tear.
4. The City shall, at its sole cost, be responsible for the actual service work (including repairs or replacements) that it performs, or has performed to the Grinder Pump System, while on a service call, provided such repairs or replacements are not caused by Property Owner's negligence or willful actions as described elsewhere in this Agreement.
5. The City reserves the right to charge Property Owner for repair costs that the City, at its sole discretion, determines to be caused by the Property Owner's negligence or willful violation of the City Rules and Regulations, including the discharge of prohibited materials as more fully described in the City Rules and Regulations. A copy of the current version of the City Rules and Regulations related to the discharge of prohibited materials into The City-owned Grinder Pump Systems is attached to this agreement as Exhibit "A" and made part hereof. Repair costs, for the purpose of this section, shall include all costs incurred by the City in responding to a Property Owner service call request, including costs of transportation of The City personnel to and from the Property when responding to a service call request from the Property Owner, and all repair costs including personnel time, materials, and supplies needed for the repair. Personnel time costs shall include direct labor, overhead and fringe benefits. Property Owner hereby agrees to make prompt and full reimbursement of such costs when invoiced by the City.

Access

6. Property Owner agrees to keep the Grinder Pump System accessible to the City and unobstructed at all times. Accessible and unobstructed means that, other than the structure that the electrical control panel is fastened to, none of the following shall be placed within five (5) feet of the Grinder Pump System components:
 - Structures
 - Fencing
 - Fixed objects
 - Unattached/readily movable objects, unless authorized in writing by the City
 - Trees, shrubs, and other plantings, other than turf grass, unless authorized in writing by the City

7. Property Owner agrees to cooperate fully with the City in providing free and clear access at all reasonable times to the City for the purpose of constructing, reconstructing, repairing, inspecting, testing, operating, maintaining, servicing, removing and relocating the Grinder Pump System. Property Owner agrees that no new buildings or other new structure, plantings, fencing, or other fixed or movable objects shall be placed on the property that would obstruct the City from free access to the Grinder Pump System.
8. The City shall repair or compensate the Property Owner for damages which may be suffered in the construction, reconstruction, repair, inspection, testing, operation, maintenance, service, removal and relocation of the Grinder Pump System, except that the City shall not be responsible for repairing or replacing any landscaping, surface material or other surface, fencing, or buried and/or other site improvements that constitute obstructions as prohibited in this Agreement.
9. The Property Owner is encouraged, but not required, to remove snow from the access easement to the Grinder Pump System. In lieu of the Property Owner removing the snow, the Property Owner shall permit the City to clear snow from the access easement as necessary to access the Grinder Pump System. Although the City will attempt to minimize disturbance to the Property when clearing snow, the City shall not be responsible for repairing or replacing any turf grass damaged during the removal of snow.
10. The City shall not be responsible to repair or replace turf grass or turf on the Property due to normal wear and tear as a result of the City's operation and maintenance of the Grinder Pump Systems.

Granting of Easement and Right-of-way

11. Property Owner (the "Grantor") grants at no cost to the City and the City's employees, agents, engineers, contractors and representatives (the "Grantee") the free and uninterrupted perpetual right, use, liberty and privilege of constructing, reconstructing, repairing, inspecting, testing, operating, maintaining, servicing, removing and relocating the Grinder Pump System on or upon the property, with an address as set forth in Exhibit "B" hereto attached and made part hereof.
12. The width of the easement or right-of-way herein granted for the constructing, reconstructing, repairing, inspecting, testing, operating, maintaining, servicing, removing and relocating the Grinder Pump System shall be ten (10) feet, being five (5) feet on each side of the installed pipe and/or conduit line location, plus the area on which the Grinder Pump Basin is located and a five (5) feet radius perimeter around the grinder pump basin.

13. Together with free ingress, egress and regress to and for the said grantee, its successors and assigns, and its agents or employees, on, over, and through the land as identified as Exhibit "B" (as limited in width as hereinbefore described), at all times and seasons forever hereafter, in order to construct, reconstruct, repair, inspect, test, operate, maintain, service, remove and relocate the Grinder Pump System, wherever the Grinder Pump System is located on the Grantor's property.
14. The Grantor herein as a covenant running with the land, for himself or herself, his or her heirs, executors, administrators, successors and assigns, does covenant that no new building or other new structure shall be erected or maintained within the width of the easement or right-of-way herein granted.
15. Grantee shall pay, or cause to be paid to the party entitled thereto, all damages to fences, timber, buildings or land which may be suffered in the construction, reconstruction, repair, inspection, testing, operation, maintenance, service, removal and relocation of the Grinder Pump System within the boundaries of the right-of-way or easement as described herein on the property as identified on Exhibit "B", provided the damages are not to repair or replace any landscaping, surface material or other surface, fencing, or buried and/or other site improvements that constitute obstructions as described in this Agreement.

Indemnity and Liability

16. Property Owner agrees to defend, indemnify and hold harmless the City, its officers and board members, its servants, agents and/or employees, from any claim for any injury or damage of any nature or kind whatsoever, including costs of investigation and defense and including but not limited to reasonable attorneys' fees, arising from the use, maintenance, repair or replacement of the Property Owner's Portion of the System or from the Property Owner's negligent or willful actions with respect to the use of the Grinder Pump System.
17. Property Owner hereby releases and forever discharges the City from any and all claims in law or in equity from any damage that may result from the flooding in a basement or a section of any building below grade construction which has plumbing fixtures, caused by blockage, or back flow of sewers occurring in the Property Owner's Portion of the System. The Property Owner, for him or herself and for Property Owner's successors and assigns hereby acknowledge their full responsibility for the operation, maintenance or repair or replacement of the Property Owner's Portion of the System, and acknowledge that the City is not in any way responsible for such operation, maintenance, repair or replacement of Property Owner's Portion of the System.

Assignability

18. The terms of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, and assigns of the parties hereto. All covenants and obligations contained in this Agreement shall be covenants and obligations running with the land and shall be binding upon subsequent owners of the Property. This Agreement shall be filed and recorded in the Office of the Recorder of Deeds of LaPorte County, Indiana, and indexed therein against the Property Owner and the Property for the purpose of giving notice to subsequent owners of the Property. Costs of filing and recording shall be paid by The City.
19. If the Property is sold, then at the time of settlement Property Owner agrees to include in the deed for the Property a provision imposing on the purchaser, his or her heirs, assigns and successors in interest, the ongoing obligations and conditions contained in this Agreement.

Rules and Regulations

20. Property Owner shall comply with all The City rules and regulations regarding the use of the Grinder Pump System and the City sewer system.
21. Owner shall pay to The City all regular fees and expenses for sewer service in accordance with the established rate schedule for the City's sanitary sewer system.
22. If the City determines the Property Owner is "repeatedly" causing the City to incur repair costs due to the Property Owner's negligence or willful actions including without limitation violation of the City's Rules and Regulations, including the discharge of prohibited materials, the City may, at its sole discretion, turn over all ownership, operating and maintenance responsibilities of the Grinder Pump System to the Property Owner. "Repeatedly" for the purpose of this Agreement, shall mean three (3) times or more per year, or two (2) times or more per year for two (2) consecutive years.

Miscellaneous

23. Property Owner agrees that he/she shall not make any structural changes or modifications to the Grinder Pump System without the City's written consent and approval. Any Property Owner modifications, if approved by the City, shall be at the Property Owners' sole expense.
24. Any Property Owner modifications made to the Grinder Pump System without the City's written consent shall relieve the City of its obligation to repair or replace the Grinder Pump System components at the City's cost and expense.

25. Upon discovery by the City of any unauthorized modifications to the Grinder Pump System, or if the City determines the Property Owner is "repeatedly" causing the City to incur repair costs due to the Property Owner's negligence or willful actions including violation of the City's Rules and Regulations, including the discharge of prohibited materials, the City shall give written notice of such modification or repeated violations to the Property Owner. Such notice shall specify a date, not sooner than 30 days from the date of such notice, when the City will, on and after such date, be relieved of its obligations to own, operate, maintain, service, and to make repairs and replacements to the Grinder Pump System, at the City's expense.

Upon receipt of said notice, the Property Owner may, prior to the date specified in the notice, appeal the City staff's decision to terminate the City's obligations under this Agreement with respect to owning and performing operation, maintenance, service, repairs and replacements at the City's own cost and expense.

If an appeal is filed by a Property Owner within 30 days, the appeal shall be heard by the Board of Public Works and Safety(hereinafter called "Board"). During the pendency of the appeal, if any repairs or replacements are required to the Grinder Pump System, the City shall perform such repairs or replacements in accordance with this Agreement. If, upon completion of the appeal and a decision by the Board, that the modification to the Grinder Pump System were not authorized by the City, or that the Property Owner was "repeatedly" causing the City to incur repair costs due to the Property Owner's negligence or willful actions including violation of the City's Rules and Regulations, including the discharge of prohibited materials, then any work performed by the City during the pendency of the appeal, and all work thereafter performed on the Grinder Pump System, shall be billed to the Property Owner and the Property Owner shall be responsible for payment of the costs and expenses of such repairs or replacements.

In the event the Board finally determines that Property Owner has made unauthorized repairs, or that the Property Owner was "repeatedly" causing the City to incur repair costs due to the Property Owner's negligence or willful actions including violation of the City's Rules and Regulations, including the discharge of prohibited materials, or in the event no appeal is filed by the Property Owner to the notice within the timeframe specified, then in either case, the City shall thereafter be authorized to file and record a supplement to this Agreement in the LaPorte County Recorder of Deeds Office, indicating that the Grinder Pump System has been modified by the Property Owner without The City authorization and consent, or that the Property Owner was "repeatedly" causing the City to incur repair costs due to the Property Owner's negligence or willful actions including violation of the City's Rules and Regulations, including the discharge of prohibited materials, and that the City shall be relieved of its obligations to own, operate, maintain, service, and provide for repairs or replacements to the Grinder Pump System. Costs of filing and recording the supplement shall be paid by Property Owner.

If the Board decides upon appeal that Property Owner's actions did not rise to the level of an unauthorized repair, or did not rise to the level of "repeatedly" causing the City to incur repair costs due to the Property Owner's negligence or willful actions including violation of the City's Rules and Regulations, including the discharge of prohibited materials, then upon such decision, the duties of the parties shall remain as originally set forth in this Agreement, and no supplement to this Agreement shall be filed by the City.

26. This Agreement shall be recorded in the Recorder of Deeds office in and for LaPorte County, Indiana, and shall serve as notice to the owners of the Property of the existence of this Agreement and the duties imposed on the owners of the Property with respect to the matters set forth in this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement as of the ____ day of _____, 2017.

Attest/Witness:

AUTHORITY:
City of LaPorte

OWNER:

By: _____

[PRINT NAME]

[PRINT NAME]

CITY OF LAPORTE :
: SS:
LAPORTE COUNTY :

On this the _____ day of _____, 2017, before me, a Notary Public in and for the County aforesaid, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of City of LaPorte, a municipality, and that such officer, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the City by himself as _____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

CITY OF LAPORTE :
: SS:
LAPORTE COUNTY :

On this the _____ day of _____, 2017, before me, a Notary Public in and for the County aforesaid, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

EXHIBIT A
Rules and Regulations

E. Except as otherwise provided in the Sewer Use Ordinance, no user discharging to a City-owned Grinder Pump System shall discharge or cause to be discharged into Grinder Pump System any sewage, industrial waste, pollutant or other matter or substance containing

1. Diapers, baby wipes, adult wipes, or shop rags
2. Feminine products, sanitary napkins or tampons of any kind
3. Cloth of any kind
4. Glass or metal or plastic products of any kind
5. Excessive amounts of oil and grease of any kind
6. Lubricating oils
7. Kitty litter
8. Other large non-wastewater items such as toys
9. Seafood shells
10. Explosive or flammable materials, including but not limited to gasoline or kerosene
11. Paint thinner, solvents, or antifreeze

For the purpose of this section, a Grinder Pump System includes a grinder pump, a grinder pump basin, an electric control panel along with related conduits and wiring from the panel to the basin, and a pipeline from the grinder pump basin to the City's sanitary sewer main.