

**TO:** Board of Public Works and Safety

**FROM:** Alison Krupski, City Engineer

**SUBJECT:** Reimbursement Agreement with Hamilton County Drainage Board  
Sanitary Sewer crossing the Elwood Wilson Drain  
Pleasant Street Phase 2

**DATE:** October 15, 2024

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As a part of the Pleasant Street Phase 2 project, the City's sanitary sewer must be relocated across the Elwood Wilson Drain. The Hamilton County Drainage Board requires that any utilities crossing a legal drain be buried at a minimum depth of 10'. Due to tying into the existing sanitary sewer, it is not possible to relocate the sewer at the required depth. This agreement is a result of the city's request for a variance to allow the sewer to be relocated at a depth less than the required 10' depth (approx. 4'). It also allows the City to install a sleeve for CenterPoint to relocate their facilities. The agreement requires that the City pay for any damages to the ditch that occur as a result of the sanitary sewer. It also requires that the City pay for any future sanitary sewer relocation if the Drainage Board determines that ditch improvements are necessary and in conflict with the sanitary sewer.

I recommend the Board of Public Works and Safety approve this agreement with the Hamilton County Drainage Board.



**REIMBURSEMENT AGREEMENT FOR PORTIONS OF THE  
ELWOOD WILSON DRAIN LOCATED IN NOBLESVILLE, INDIANA**  
(Noblesville Sanitary Sewer)

This Reimbursement Agreement ("the Agreement"), entered on the dates set out below by and between the Hamilton County Drainage Board ("the Drainage Board") and the Noblesville Board of Works and Public Safety of the City of Noblesville, Indiana, ("the City");

**WITNESSETH**

WHEREAS, the City is in the process of designing a project to reconstruct a portion of Pleasant Street between 10<sup>th</sup> Street and 19<sup>th</sup> Street known as Phase II of the Pleasant Street Reconstruction Project ("Pleasant Street"); and

WHEREAS, the Drainage Board is a public body with responsibility for managing certain drainage facilities, including regulated drains and easements, within Hamilton County pursuant to Indiana Code 36-9-27; and

WHEREAS, part of a regulated drainage easement, known as the Elwood Wilson Drain ("the Wilson Drain") conveys storm water collected north of Pleasant Street, and conveys the storm water south under Pleasant Street; and,

WHEREAS, the part of the Wilson Drain which conveys stormwater near and below Pleasant Street is presently an open ditch; and,

WHEREAS, pursuant to Indiana Code 36-9-27-15 and 36-9-27-48, the Drainage Board has jurisdiction and power concerning the location, use, maintenance, and reconstruction of utilities within regulated drainage easements; and,

WHEREAS, the part of the Wilson Drain under the Pleasant Street Project is presently an open ditch and the City plans to locate a sanitary sewer of twenty-four inch (24") PVC pipe encased in concrete south of Pleasant Street and within the drainage easement of the Wilson Drain; and,

WHEREAS, the Drainage Board requires that utility structures located within a regulated drainage easement be located at least ten feet (10') below the lowest point of any drainage pipe or bottom of an open ditch; and,

WHEREAS, the Drainage Board has been requested to grant a variance to the City to permit a twenty-four inch (24") sanitary sewer to be encased in concrete under the Wilson Drain, with the top of the sanitary sewer ("the Sanitary Sewer") and the encasement to be at least four feet (4') below the bottom of the open ditch; and,

WHEREAS, the Drainage Board agrees to permit the City to install the Sanitary Sewer in the Wilson Drain as proposed by the City, and to thereafter permit the City to use, access, maintain, replace, repair, and operate the Sanitary Sewer; and,

WHEREAS, the City has agreed to reimburse the Drainage Board for all costs to replace or restore the Wilson Drain, which the Drainage Board may incur to repair damage to the Wilson Drain, but only to the extent said damage results from the location, installation, maintenance, or lack of repair of the City's Sanitary Sewer at or near the Wilson Drain, or a future drainage pipe which may be subsequently installed by the Drainage Board within the Drainage Easement of the Wilson Drain; and,

WHEREAS, in the future the Drainage Board may decide to replace the existing open ditch for the Wilson Drain with a reinforced concrete pipe, which would be at a location and elevation within the Drainage Easement of the Wilson Drain, which would be substantially similar to the location and elevation of the existing open ditch; and,

WHEREAS, in the event the failure or damage of the Sanitary Sewer causes future damage to facilities of the Drainage Board within the Wilson Drain, the City has agreed to reimburse the Drainage

Board, for all costs to replace or restore the Wilson Drain, which the Drainage Board may incur to repair damage to the Wilson Drain, but only to the extent said damage results from the location, installation, or lack of repair of the Sanitary Sewer at or near the Wilson Drain.

IT IS THEREBY AGREED by and between the parties as follows:

1. Notwithstanding the existing standards of the Drainage Board requiring the depth of utility facilities to be at least ten feet (10') below drainage facilities located within a regulated drainage easement, the Drainage Board grants a variance to the City to reduce the distance from the top of the City's concrete encasement twenty-four inch (24") Sanitary Sewer to be no closer than four feet (4') from the bottom of the open ditch of the Wilson Drain. The Drainage Board agrees to grant to the City a permit to install, use, maintain, access, repair, or replace the Sanitary Sewer in the Wilson Drain.
2. The City shall give the Hamilton County Surveyor at least thirty (30) days' notice prior to beginning the installation of the Sanitary Sewer within the easement of the Wilson Drain.
3. Within sixty (60) days of the completion of construction of the Sanitary Sewer, the City, or its designee, shall submit "as built" plans to the Hamilton County Surveyor showing the location of the Sanitary Sewer under the Wilson Drain.
4. The Sanitary Sewer shall be constructed by the City's contractors at the location shown on Exhibit A. No other City utilities may be constructed within the drainage easement pursuant to this variance to the City. However, the Drainage Board shall permit CenterPoint Energy to install an eight-inch (8") sleeve to contain a six inch (6") natural gas line of CenterPoint Energy within the drainage easement of the Wilson Drain. The location of the natural gas line shall be installed at a depth and location approved by the Drainage Board and the City, which location shall not interfere with the installation, operation, maintenance, access, or use of the Sanitary Sewer by the City. The top of the eight-inch (8") sleeve shall be located at a minimum of five feet (5') below the bottom of the Wilson Drain.

5. The proposed Sanitary Sewer of the City within the drainage easement shall only include the installation of a twenty-four inch (24") Sanitary Sewer encased in concrete to be located at least forty-eight inches (48") below the bottom of the Wilson Drain. The sewer shall be constructed in accordance with the permit plans as approved by the Hamilton County Surveyor's Office. Plans showing the location and pipe proposed by the City within the drainage easement shall be provided to the Hamilton County Surveyor and the Drainage Board for review and approval prior to installation pursuant to this Agreement.

6. The City shall reimburse the Drainage Board's costs for any future repair or maintenance of the Wilson Drain, or any subsequently installed drainage structure of the Drainage Board, but only to the extent said damage results from the location, installation, maintenance, or lack of repair of the Sanitary Sewer at or near the Wilson Drain. Those costs shall be itemized and provided to the City. Those costs shall be reimbursed within ninety (90) days of invoice. Any disputed costs should be resolved by the parties working together during said ninety (90) day period.

7. In the event the costs of repairing damage to the Drainage Board's open ditch or subsequently installed pipe are not reimbursed within ninety (90) days of the invoice, the City shall also pay the Drainage Board's reasonable attorney's fees and costs of collection.

8. Each party agrees in good faith to take such further actions and execute, acknowledge, and deliver, such further documents and instruments as may be necessary, or appropriate, to fully carry out the intent and purpose to this Agreement.

9. This Agreement is binding upon the parties and the parties executing it below acknowledge they have the authority to so bind the party for which they are signing.

10. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in this Agreement. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Drainage Board and the City.

11. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, with the same effect as if all parties had signed the same signature page.

IN WITNESS WHEREOF, the parties have entered into this Reimbursement Agreement on dates set out below.

ALL OF WHICH IS AGREED by the Hamilton County Drainage Board on the 9<sup>th</sup> day of September, 2024.

HAMILTON COUNTY DRAINAGE BOARD

[Signature]  
Christine Altman

Mark E. Heirbrandt

[Signature]  
Steven C. Dillinger

ATTEST:

[Signature]  
Lynette Mosbaugh, Secretary

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HAMILTON    )

Before me, a Notary Public in and for the State of Indiana, personally appeared Christine Altman, Mark E. Heirbrandt, and Steven C. Dillinger, as members of the Hamilton County Drainage Board, and Lynette Mosbaugh, as Secretary of the Hamilton County Drainage Board, who acknowledged the execution of the foregoing Reimbursement Agreement for and on behalf of such Board.

Subscribed and sworn to before me this 9<sup>th</sup> day of September, 2024.

My Commission Expires:  
11-5-2025



[Signature]  
Notary Public


Hamilton  
County of Residence

Recommended by Chris Jensen, Mayor of the City of Noblesville, this 15<sup>th</sup> day of ~~September~~ <sup>October</sup>, 2024.

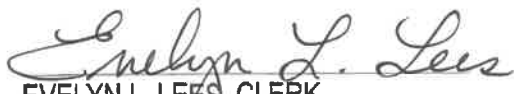


Chris Jensen, Mayor of the City of Noblesville

All of which is approved by the Board of Public Works and Safety of the City of Noblesville this 15<sup>th</sup> day of ~~September~~ <sup>October</sup>, 2024.

  
JACK MARTIN, PRESIDENT  
JOHN DITSLEAR, MEMBER  
LAURIE DYER, MEMBER  
ROBERT J. ELMER, MEMBER  
RICK L. TAYLOR, MEMBER

ATTEST:

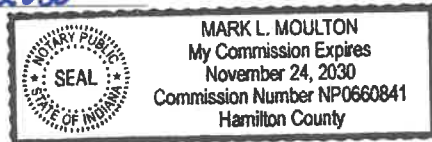
  
EVELYN L. LEES, CLERK  
CITY OF NOBLESVILLE, INDIANA

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HAMILTON        )

Before me, a Notary Public in and for the State of Indiana, personally appeared Jack Martin, President; John Ditslear, Member; Laurie Dyer, Member; Robert J. Elmer, Member; and Rick L. Taylor, Member of the Board of Public Works and Safety of the City of Noblesville and attested by Evelyn L. Lees, Clerk of City of Noblesville, Indiana, who acknowledged the execution of the foregoing Reimbursement Agreement.

Subscribed and sworn to before me this 15<sup>th</sup> day of October, 2024.

My Commission Expires:  
11-24-2030



Mark L. Moulton  
Notary Public

Hamilton  
County of Residence

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each social security number in the document.

Michael A. Howard

This instrument prepared by Michael A. Howard, Attorney at Law, One Hamilton County Square, Suite 306, Noblesville, Indiana, 46060, 317-443-4421.



