

1 **BILL NO. S-21-06-32**

2 SPECIAL ORDINANCE NO. S- 85-21

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4 AN ORDINANCE approving CONSTRUCTION
5 CONTRACT – THREE RIVERS PROTECTION AND
6 OVERFLOW REDUCTION TUNNEL (3RPORT) DEEP
7 DEWATERING PUMP STATION (DDPS) PROJECT -
8 WORK ORDER #76793 - \$54,193,515.00 between
9 F.A. WILHELM CONSTRUCTION CO., INC. and the
10 City of Fort Wayne, Indiana, in connection with the
11 Board of Public Works.

12 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
13 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

14 **SECTION 1.** That the CONSTRUCTION CONTRACT - THREE
15 RIVERS PROTECTION AND OVERFLOW REDUCTION TUNNEL (3RPORT)
16 DEEP DEWATERING PUMP STATION (DDPS) PROJECT - WORK ORDER
17 #76793 - \$54,193,515.00 between F.A. WILHELM CONSTRUCTION CO., INC.
18 and the City of Fort Wayne, Indiana, in connection with the Board of Public Works,
19 is hereby ratified, and affirmed and approved in all respects, respectfully for:

20 All labor, insurance, material, equipment, tools, power,
21 transportation, miscellaneous equipment, etc., necessary for
22 CONSTRUCTING THE DEEP DEWATERING PUMP STATION
23 (DDPS) ADJACENT TO THE CITY'S WATER POLLUTION
24 CONTROL PLANT AS PART OF THE 3RPORT PROGRAM.
25 THE DDPS WILL UTILIZE TWO VERTICAL, BELOW-GRADE
26 SHAFTS TO SERVE AS THE PUMP STATION SHAFT AND
27 UPFLOW SHAFT. THE INITIAL EXCAVATION OF THE
28 SHAFTS AND CONNECTING TUNNEL, INCLUDING SHAFT
29 LINING, ARE BEING PERFORMED BY OTHERS AS PART OF
30 THE 3RPORT TUNNEL AND SHAFTS PACKAGE. THE DDPS
PROJECT WILL CONSIST OF FURNISHING AND
INSTALLING EQUIPMENT WITHIN THE SHAFTS; ABOVE
GRADE STRUCTURES, GRAVITY SEWERS, AND
APPURTENANCES;


involving a total cost of FIFTY-FOUR MILLION ONE HUNDRED NINETY-THREE

1 THOUSAND FIVE HUNDRED FIFTEEN AND 00/100 DOLLARS –
2 (\$54,193,515.00). A copy of said Contract is on file with the Office of the City Clerk
3 and made available for public inspection, according to law.

4 **SECTION 2.** That this Ordinance shall be in full force and effect from
5 and after its passage and any and all necessary approval by the Mayor.

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7 
8 _____
9 Council Member

10 APPROVED AS TO FORM AND LEGALITY

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12 _____
13 Carol Helton, City Attorney

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**FORT WAYNE CITY UTILITIES
DEEP DEWATERING PUMP STATION
Best and Final Proposal Summary
February 22, 2021**

Final Selection Scoring

Area	Section	Score Range	Kokosing	Wilhelm
Qualification Score for Round 1 RFP Submittal	Round 1 RFP	0 - 10	8.2	8.4
Proposed Project Organizational Chart and Wage Comparison		0 - 20	15.8	17.6
Risk Register Narrative		0 - 20	17.2	15.8
Schedule Narrative		0 - 25	19.8	21.2
Project Cost Table		0 - 25	16.0	23.4
TOTAL		100	77.0	86.4

Based upon the scoring system established in the RFP, F.A. Wilhelm's proposal received the highest average score from the evaluation team consisting of 5 CUE staff.

CUE recommends that the project be awarded to F.A. Wilhelm so value engineering, coordination with ongoing projects, development of the guaranteed maximum price, and contracting can proceed.

AGREEMENT BETWEEN
BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA
AND
F.A. WILHELM CONSTRUCTION
FOR
THREE RIVERS PROTECTION AND OVERFLOW REDUCTION TUNNEL (3RPORT) DEEP
DEWATERING PUMP STATION (DDPS) PROJECT
FOR CONSTRUCTION CONTRACT (COST-PLUS)
(GUARANTEED SAVINGS CONTRACT)

RESOLUTION 76793

WORK ORDERS 76793

This Agreement is by and between THIS AGREEMENT is by and between the Board of Public Works of the City of Fort Wayne, Indiana ("Owner") and F.A. Wilhelm Construction Co., Inc. ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the final signed and sealed Contract Documents that will be completed by Designer of Record. The Work will be specifically described in the final plans, specifications, and other Contract Documents.
- 1.02 Contractor shall collaborate and coordinate with Owner to prepare and execute subcontracts for professional services during construction and Programming/System Supplier.

ARTICLE 2—THE PROJECT AND GUARANTEED SAVINGS REPRESENTATIONS, WARRANTIES, GUARANTEES AND COVENANTS

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Implementation of a Guaranteed Savings Contract for constructing the Deep Dewatering Pump Station (DDPS) adjacent to the City's Water Pollution Control Plant as part of the Three River Protection and Overflow Reduction Tunnel (3RPORT) Program.
- 2.02 As to guaranteed savings representations and warranties, Contractor hereby represents and warrants to Owner that:
 - A. The installation of applicable process equipment planned to be used for the construction of the DDPS will constitute conservation measures as defined in Indiana Code section 36-1-12.5-1 (the "Conservation Measure");
 - B. That this Agreement is a "guaranteed savings contract," as that term is defined in Indiana Code section 36-1-12.5-2(2);

- C. Contractor is a "qualified provider," as that term is defined in Indiana Code section 36-1-12.5-3(a)(2) and (3);
- D. Contactor has submitted to Board of Public Works of the City of Fort Wayne, IN a report containing all data and information required by Indiana Code section 36-1-12.5-6.
- 2.03 Contractor hereby further represents and warrants to Owner that the Project will result in energy savings in the total amount of \$ 622,924.00 ("Total Energy Savings") and operational savings and avoided capital expenditures in the total amount of \$ 89,623,071.00 (the "Total Operational Savings") during the first 20 years following completion and Owner's acceptance of the Conservation Measure, pursuant to Section 16.07 hereof (the "Guarantee Period"), and Contractor guarantees that such total savings in the amount of \$ 90,245,995.00 (the "Total Guaranteed Savings") will exceed the Owner's total cost of the Project. A summary of the Total Guaranteed Savings and associated calculations are set forth in Exhibit C attached hereto and incorporated herein by this reference.
- 2.04 Owner and Contractor acknowledge and agree that the Total Guaranteed Savings are comprised of Total Energy Savings and Total Operational Savings. Owner and Contractor further acknowledge and agree that the Actual Savings from avoided operational capital expenditures, energy savings, and operational savings is \$ 90,245,995.00, as determined by industry engineering standards. The Actual Savings is to be allocated in equal amounts across each year of the Guarantee Period for the purposes of calculating the total annual savings to Owner from the Conservation Measure (see Table 4 of Exhibit C).
- Notwithstanding any other provision of this Agreement or the bonds, in no event and in no manner shall coverage under the Performance Bond and Payment Bond extend to Contractor's guarantee obligations set forth in Exhibit C, or any related provisions.
- 2.05 Owner and Contractor further stipulate and agree that (a) the Total Guaranteed Savings shall be considered fully satisfied upon Contractor's i) completion of all actions required under Indiana Code section 36-1-12.5 et. seq., ii) fulfillment of all its obligations under this Article 2 and iii) execution of this Agreement. The Total Guaranteed Savings will be realized over a period of 20 years following completion and Owner's acceptance of the Conservation Measure, which term of years the Contractor hereby represents is less than the average life of the Conservation Measure.
- 2.06 Contractor hereby covenants and agrees, pursuant to Indiana Code sections 36-1-12.5-6 and -10 to:
- A. Issue a report, prior to commencement of any Work, that includes the following:
1. all costs attributable to the Work, including the costs of design, engineering, installation, maintenance, repairs and debt service;
 2. the amount by which energy and operating costs will be reduced;
 3. the amount by which billable revenues will be increased; and
 4. a list of contractors and subcontractors to be used by Contractor with respect to the Conservation Measure.
- B. Provide to the governing body of Owner for provision to the Lieutenant Governor of Indiana, not more than sixty (60) days after the date of execution of this Agreement, the following:
1. a copy of this executed Agreement;

2. the energy or water consumption cost, if any, before the date of execution of the guaranteed savings contract,
 3. wastewater usage cost, if any, before the date of execution of the guaranteed savings contract,
 4. billable revenues, if any, before the date of execution of the guaranteed savings contract,
 5. the documentation using industry engineering standards for stipulated savings and related capital expenditures.
- C. Provide an annual report to the governing body of the Owner, for provision to the Lieutenant Governor of Indiana that includes the previous year's energy and operational savings to Owner resulting from this Agreement.

ARTICLE 3—ENGINEER AND DESIGNER

- 3.01 The Owner has retained **Wessler Engineering, Inc.** ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by **Black and Veatch** "Designer".

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- B. Operation of the 3RPORT DDPS is a requirement of the City's Long Term Control Program and shall be completed within the dates listed in Article 4 of this Agreement to meet the City's Consent Decree deadlines.

4.02 *Contract Times: Dates*

- A. The Work will be substantially complete in two phases on or before 4.02.A.1&2 below, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **July 01, 2024**.
 1. Substantial Completion No 1 **December 31, 2023**
 2. Substantial Completion No 2 **May 01, 2024**
- B. Definition of Substantial Completion for the Work shall consist of successful completion of System Functional Testing and System Process Performance Testing, as listed in Specification Section 01 75 00, Commissioning Requirements and Sequencing. Operational Testing and 180-Day Commissioning Reliability Testing, as listed in Section 01 75 00 1.1.A.4.e and f are not requirements of Substantial Completion of the Work.
 1. Substantial Completion No 1: Functional capability for intended use of Deep Dewatering Pumping systems, functional use of Upflow Shaft and Siphon Conduits for gravity

conveyance to and the connection of the existing Siphon Junction Structure, including operational components needed to meet the Consent Decree requirements.

2. Substantial Completion No 2: Items described in Substantial Completion No 1 plus Functional capability of all remaining systems and equipment, including but not limited to screening systems, and grit handling systems.
- C. Contractor will be provided site access for the following areas:
1. Siphon Conduit and Flap Gate structure associated with Site Access Area #1 on the attached Exhibit E on or before **December 02, 2021**.
 2. Pump Station Building associated with Site Access Area #3 on the attached Exhibit E, on or before **November 9, 2022**.
 3. Screening and Grit Handling enclosure associated with Site Access Area #2 on the attached Exhibit E, or before **December 14, 2022**.
- D. Release dates for all critical equipment, materials, and other long lead items will be established by the Contractor, Owner, Engineer, and Designer at the written request of the Contractor any time after NTP. The Engineer will issue a Project Element Notice of Release form (Exhibit F) to release the procurement or construction of these items.

4.03 Milestones

- A. Parts of the Work shall be substantially completed on or before the following Milestone(s):
1. Milestone 1: Installation of all Flap Gate Structure concrete and Siphon Conduit between the Flap Gate Structure and the Twin 96" Junction Chamber on or before the original scheduled completion date of **July 18, 2022 plus 14 additional calendar days (August 01, 2022)**.
 2. Milestone 2: Completion of DDPS Electrical Room building envelope dry-in, to allow for weather sensitive material, equipment, and other construction to be installed on or before the original scheduled completion date of **June 16, 2023 plus 14 additional calendar days (June 30, 2023)**.
 3. Milestone 3: Completion of the remainder of the DDPS building envelope dry-in, to allow for weather sensitive material, equipment, and other construction to be installed on or before the original scheduled completion date of **October 25, 2023 plus 14 additional calendar days (November 8, 2023)**.

4.04 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion No 2*: Contractor shall pay Owner **\$3,500** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.

2. *Completion of Remaining Work:* After Substantial Completion No 2, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$2,500 for each day that expires after such time until the Work is completed and ready for final payment.
 3. *Milestones:* Contractor shall pay Owner \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of each listed Milestone until each listed Milestone is achieved, or until the time specified for Substantial Completion No 1 or Substantial Completion No 2 is reached, at which time the rate indicated in Paragraph 4.04.A.1 or 4.05.A will apply, rather than the Milestone rate.
 4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
 5. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not to be considered Cost of the Work.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.
- C. Owner shall have the right to deduct the liquidated damages at the time they are incurred from any money in its hands, otherwise due, or to become due, to Contractor, or to initiate applicable dispute resolution procedures and to recover liquidated damages for nonperformance of this Contract within the time stipulated. If any such money is insufficient to fully satisfy the liquidated damages to which the Owner is entitled, then Contractor shall pay to Owner that portion of the liquidated damages which remain after the unpaid balance of the Contract Price has been fully applied.
- D. If Contractor completes all Work associated with Substantial Completion No. 1 on or before the required contractual date, any previously assessed liquidated damages under Article 4.04.A.03 will be credited back to the Contractor.

4.05 *Special Damages*

- A. Contractor shall reimburse Owner for any fines and penalties actually incurred by Owner, originating from the City of Fort Wayne United States and U.S. Environmental Protection Agency Consent Decree, dated 12/20/2007, as a direct result of the Contractor's failure to attain Substantial Completion No 1 according to the Contract Times specified in Paragraph 4.02 for Substantial Completion No 1(as duly adjusted pursuant to the Contract), until the Work is substantially complete.

<u>Item</u>	<u>Special Damages</u>
Substantial Completion No 1	Up to \$20,000/day for first 30 days, Up to \$25,000/day for days 31 – 90, Up to \$30,000/day after 90 days
<p>B. After Contractor achieves Substantial Completion No 1, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.</p>	
<p>C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.</p>	
<p>D. Special damages for failing to timely attain Substantial Completion No 1 are not to be considered Cost of the Work.</p>	

ARTICLE 5—CONTRACT PRICE

5.01 *Cost-Plus-Fee*

- A. For all Work other than Lump Sum Work, as noted in Exhibit B, Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the Cost of the Work plus Contractor's fee for overhead and profit, both of which will be determined as provided in Articles 6 and 7 below, subject to additions and deletions as provided in the Contract and subject to the limitations set forth in Article 8 below.
- B. For Lump Sum Work, as noted in Exhibit B, Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the lump sum fee listed in Exhibit B, regardless of the actual cost of the Work. Periodic progress payments for Lump Sum Work will be made based on an estimated percent complete of all Work and shall not be based on percent of Contract Time.

ARTICLE 6—COST OF THE WORK

- 6.01 Cost of the Work will be determined as provided in Paragraph 13.01 of the General Conditions, as duly modified and as further described in Exhibit B.

ARTICLE 7—CONTRACTOR'S FEE

7.01 Contractor's Fee will be determined as follows:

- A. A fixed fee of \$ 2,342,498.36, listed as "Fixed Contractor's Fee" in Exhibit B, which is subject to increases or decreases for changes in the Work as provided in Paragraph 9.01.

ARTICLE 8—GUARANTEED MAXIMUM PRICE

8.01 *Guaranteed Maximum Price*

- A. Contractor guarantees that the maximum amount payable by Owner (Guaranteed Maximum Price, or GMP) for the sum of the Cost of the Work under Article 6, plus Contractor's fee under Article 7, plus allowances and contingencies under this Article 8 will not exceed **\$_54,193,515.00_**, per Exhibit B, subject to increases or decreases for changes in the Work.
- B. The Contractor's guarantee of the GMP as defined in Article 8.1 above is further clarified:
 1. Contractor guarantees that the maximum amount payable by Owner shall not exceed the listed value, per Exhibit B, for the lump sum and allowance items, subject to increases or decreases for changes in the Work.
 2. Contractor does not guarantee any specific line items within the Cost of the Work comprising the GMP, other than those listed in 8.01.B.1 above.

8.02 *Allowances*

- A. The GMP contains, as part of the estimated Cost of the Work, Allowances, as listed in Exhibit B, and further defined in Specification Section 01 21 00, Allowances.
- B. All listed Allowances are Cash Allowances, as defined in Article 13.02 of the General Conditions. The Contractor's Fee, as defined in Article 7, is to include all applicable overhead and profit associated with Work paid under Allowances and no demand for additional payment for overhead, profit, or other expenses will be valid.

8.03 *Construction Contingency.*

- A. The GMP contains, as part of the estimated Cost of the Work, the Contractor's Construction Contingency and Owner's Allowance, which are sums mutually agreed upon and monitored by the Contractor and the Owner to cover costs which are properly reimbursable as a Cost of the Work but are not the basis for a Change Order. The Contractor shall provide the Owner with a contemporaneous accounting of charges against both amounts, if applicable, with each application for payment.

ARTICLE 9—CHANGES IN THE CONTRACT PRICE

9.01 *Determination of Changes in Contract Price*

- A. If a Change Order entails a change in Contract Price under the provisions of the Contract, then under this Agreement:
 1. The change will include the applicable increase or decrease in Cost of the Work, pursuant to the provisions of Article 13 of the General Conditions.
 2. Changes in Contractor's fee will be determined as set forth in Paragraph 13.01.D of the General Conditions.
 3. If there is a Guaranteed Maximum Fee, it will increase or decrease in an amount equal to the increase or decrease in Cost of the Work.
 4. If there is a Guaranteed Maximum Price, it will increase or decrease in an amount equal to the increase or decrease in Contract Price, including Cost of the Work and Contractor's Fee, as duly determined.

9.02 *Documentation of Changes*

- A. The amount of any increases or decreases in Contractor's Fee, in any Guaranteed Maximum Price, or in any Guaranteed Maximum Fee, will be set forth in the applicable Change Order.

9.03 *Changes Paid Under Allowances*

- A. Changes in the Project Scope that are paid using Allowances included in the GMP do not constitute a change in Contract Price and will not constitute a change in the Contractor's Fee, per Article 8.02, unless it results in an exceedance of the Guaranteed Maximum Price.

ARTICLE 10—PAYMENT PROCEDURES

10.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will indicate the amount of Contractor's Fee then payable. Applications for Payment will be processed by Engineer as provided in the General Conditions.

10.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment as recommended by Engineer each month during construction as provided in Paragraphs 10.02.B.1 and 10.02.B.2 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
- B. *For Cost of the Work:* Progress payments on account of the Cost of the Work will be made:
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work but are delivered, suitably stored, and accompanied by documentation satisfactory to Owner as provided in the General Conditions (with the balance being retainage).
 2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.
- C. *For Contractor's fee:* Progress payments on account of the Contractor's fee will be made as follows:
1. If Contractor's fee is a fixed fee, payments prior to Substantial Completion will be in an amount equal to 95 percent of such fee earned to the date of the approved Application for Payment (less in each case payments previously made on account of such fee) based

on the progress of the Work measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work on the number of units completed), and upon Substantial Completion in an amount sufficient to increase total payments to Contractor on account of his fee to 100 percent of Contractor's fee. In the event there is no Schedule of Values the progress of the Work will be measured as provided elsewhere in the Contract.

D. Escrow Agreement.

1. If the Contract is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

10.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the balance due to Contractor, in accordance with Paragraph 15.06 of the General Conditions.

10.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 11—CONTRACT DOCUMENTS

11.01 *Contents*

- A. The Contract Documents consist of all of the following:
 1. This Agreement.
 2. Escrow Account Agreement.
 3. Drug Policy Acknowledgement Form.
 4. E-Verify Affidavit.
 5. SRF Loan Program DBE Packet.
 6. SRF Attachment B – Davis-Bacon Act Contract Provisions.
 7. SRF Attachment C – Wage Fringe Benefit Certification Contract Provisions.
 8. SRF Attachment E – Suspension and Debarment Contract Provisions.
 9. SRF Attachment I – AIS Contract Provisions.
 10. SRF Attachment J – AIS Contractor Certification.
 11. SRF EPA Form OEE-1.
 12. SRF EPA Form OEE-2.
 13. Bonds:
 - a. Performance bond (together with power of attorney).

- b. Payment bond (together with power of attorney).
- 14. Federal Wage Rate Requirements (see Appendix).
- 15. General Conditions.
- 16. Supplementary Conditions.
- 17. Specifications as listed in the table of contents of the project manual.
- 18. Drawings (not attached but incorporated by reference) consisting of **160** sheets with each sheet bearing the following general title: **Three Rivers Protection and Overflow Reduction Tunnel Deep Dewatering Pump Station**, dated 3/12/2021.
- 19. Addenda (inclusive).
- 20. Exhibits to this Agreement (enumerated as follows):
 - a. **Exhibit A – Scope of Work**
 - b. **Exhibit B – Proposal & Open Book Structure**
 - c. **Exhibit C – Performance Guarantee**
 - d. **Exhibit D – Support Services**
 - e. **Exhibit E – 3RPORT DDPS Project Site Access Coordination Figure**
 - f. **Exhibit F – Project Element Notice of Release**
- 21. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
 - f. Future completed signed and sealed Contract Documents prepared by Designer.
 - g. Allowance Modifications
- B. There are no Contract Documents other than those listed above in this Article 11.
- C. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 12—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

12.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.

2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. To the extent of the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all known conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.
12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization

Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

12.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

12.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor in the Supplementary Conditions.

ARTICLE 13—MISCELLANEOUS

13.01 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.02 *M.B.E/W.B.E Participation*

- A. Indiana State Revolving Fund Loan Program – This project is being financed in whole or in part by the Indiana State Revolving Fund Loan Programs. The Contractor is required to comply with all federal and state laws, rules, regulations, and contract provisions included in Indiana Finance Authority (IFA) State Revolving Fund (SRF) documents per Article 9 of this agreement


(IFA SRF requirements and forms are available on the IFA SRF website.)

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Work Order Number 76793). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

F.A. Wilhelm Construction Co., Inc.

BY: 
Nathan S. Crowell

TITLE: Operations Manager

DATE: 6/11/21
(Date signed by Contractor)

Address for giving notices:

3914 Prospect Street

Indianapolis, IN 46203

OWNER:

CITY OF FORT WAYNE

BY: _____
THOMAS C. HENRY, MAYOR

BOARD OF PUBLIC WORKS, CITY OF FORT WAYNE INDIANA

BY: _____
SHAN GUNAWARDENA, CHAIR

BY: _____
KUMAR MENON, MEMBER

BY: _____
CHRIS GUERRERO, MEMBER

ATTEST: _____
MICHELLE FULK-VONDRAN, CLERK

DATE: _____
(Date signed by Board)

ACKNOWLEDGMENT (CONTRACTOR)

STATE OF INDIANA)

SS:)

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 11th day of June, 2021, personally appeared the within named Nathan S. Crowell who being by me first duly sworn upon his oath says that he is the Operations Mgr. of F.A. Wilhelm Construction and as such duly authorized to execute the foregoing instrument and acknowledged the same as the voluntary act and deed of _____ for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.



Notary Public

Printed Name of Notary

My Commission Expires:

Resident of Johnson County County

ACKNOWLEDGMENT (OWNER)

STATE OF INDIANA)

SS:)

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this ____ day of _____, _____, personally appeared the within named Thomas C. Henry, Shan Gunawardena, Kumar Menon, Chris Guerrero, and Michelle Fulk-Vondran, by me personally known, who being by me duly sworn said that they are respectively the Mayor of the City of Fort Wayne, and Chairman, Members, Manager and Clerk of the Board of Public Works of the City of Fort Wayne, Indiana, and that they signed said instrument on behalf of the City of Fort Wayne, Indiana, with full authority so to do and acknowledge said instrument to be in the voluntary act and deed of said City for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Notary Public

Printed Name of Notary

My Commission Expires:

Resident of _____ County

EXHIBIT A

SCOPE OF WORK

FORT WAYNE DEEP DEWATERING PUMP STATION GUARANTEED SAVINGS CONTRACT PROJECT

Projects will be completed under the conditions of the 2018 Version of EJDC C-700 Standard General Conditions of the Construction Contract (the "General Conditions") as amended by the Owner's Supplementary Conditions (the "Supplementary Conditions"). The Scope of Work shall be as set forth in the Specifications and Drawings, and Project Management Information System (PMIS) responses (the foregoing, collectively, the "Specifications and Drawings"), and as described below. The Specifications and Drawings, General Conditions and Supplementary Conditions are hereby incorporated into, and made a part of, this Agreement by this reference. Significant changes in scope of work will be documented by a Scope Modification Agreement.

PROJECT SCOPE

The Work under this Contract includes the construction of the 3RPORT Deep Dewatering Pump Station (DDPS), including outfitting and installing equipment within shafts excavated by others, above grade structures, gravity sewers, and appurtenances. The Contract consists of, but is not limited to, the following major components:

1. Installation and construction of the equipment, systems, and structure within and above the Pump Station Shaft, including the Deep Dewatering Pump Station Building located above the Pump Station Shaft.
2. Installation and construction of the equipment, systems, and structure within the Upflow Shaft (referred to as the Working Shaft in the 3RPORT Tunnel and Shafts Package), including the Screenings and Grit Handling Enclosure located above the Upflow Shaft.
3. Installation and construction of Siphon Conduits, Flap Gate Structure, Siphon Conduit Structure, and all appurtenances.
4. DDPS discharge piping.
5. The System Supplier's scope of Work as defined in Section 40 61 13 – Process Control Systems General Provisions. System Supplier and Access Control Supplier shall be named by the Owner and retained/subcontracted by the Contractor as part of the specified allowance.

PROPOSAL CLARIFICATIONS

These clarifications and exceptions are provided to further define the scope of work included in the GMP. These Clarifications shall control and govern in the event of an omission or conflict between any provisions of the Contract Documents.

1. The extent of the inferred scope items included in this GMP are the following; All other scope/systems are assumed to be complete and functional as drawn and indicate the entire design for a fully functional system:
 - a) Buried Intake and Exhaust HVAC Conduits (HOBAS)
 - b) HVAC Vaults (Intake and Exhaust)
 - c) 42" Dewatering discharge to Flap Gate Structure and recycle line to Upflow Shaft
 - d) Siphon Conduit and Flap Gate Structure
 - e) Pump Building Bridge Crane Access Platform
 - f) Site Paving

Black and Veatch will assume design responsibility for these scopes of work as part of the final design. We will provide input during the design of these items to aid in maintaining their respective GMP budgets.

2. The design of the Siphon Conduit alignment has not been finalized. The GMP is based upon a conceptual alignment and design, which includes 598 tons of rebar, 5,029 cys of concrete, and 46,170 sf of sheeting. These amounts include the quantities for both the Siphon Conduit and Flap Gate Structure. It is assumed that the final design/alignment for this scope can be constructed at or below these quantities.
3. Payment and Performance bonds are included.
4. Permits costs are excluded.
5. Utilities installed by Salini-Lane JV will be removed by others when conflicting with our proposed work and without impacting our proposed schedule.
6. Backfill material for the conduit will be aggregate from the City's Stockpile of material generated from the tunnel project. The GMP includes the cost to haul the material from the City stockpile and incorporate it into the proposed work. Loading of the trucks at the stockpile is by others.
7. GMP includes an allowance of \$15,000 to furnish and install additional floor drains in the base mat due to the addition of the drainage curb around the perimeter.
8. Specification 03 30 00 section 3.2 requires ongoing testing of aggregate incorporated into the ready-mix concrete. The ready-mix suppliers cannot provide this material testing and it is excluded since it will increase the overall cost.
9. Our GMP includes an allowance of \$217,500 for all material testing (concrete, steel, masonry, compaction, etc.) as directed by the City. The prescribed testing frequency of materials may need modified to manage the cost for this work.
10. All electrical consumption and other utility costs are paid by the City. We have included the cost for electrical distribution on the site.
11. We have included the cost for BIM coordination for clash detection and subcontractor coordination only, which is up to a LOD 300 effort. Additional time/cost would be required to develop an asset level model (LOD 500).
12. Site security service will be provided by the owner after January 26, 2023 if required. A new site security fence is not required.
13. In the Pump Building there does not appear to be a platform to stand on above the ladder in order to access the bridge crane. We have included an allowance of \$30,000 for the material to construct this platform.
14. We are furnishing all field mounted instruments and devices. All I & C equipment in Section 40 70 00 (2.2) will be provided by the contractor (or manufacturer). All other panels and panel mounted instruments will be provided by the Owner's System Supplier.
15. Savings generated during the course of the work shall accrue as the Contractor's Construction Contingency to cover any project related cost.
16. The City is providing all off-road diesel for the project, including seasonal additives. The credit for this has been incorporated in the overall GMP.
17. Knife gate valves will be constructed with 304SS material in lieu of the 17-4 indicated in the specifications. The credit for this has been incorporated into the overall GMP.
18. As part of the cost reduction discussion, the Flap Gates were revised from four (4) 72"x96" gates to two (2) 120"x120" Coplastix Gates. This savings has been incorporated into the overall GMP.

19. The Pump Repair Kit described in the specification has been eliminated to reduce the GMP amount. This savings has been incorporated into the overall GMP.
20. The City will provide hydro-excavation equipment necessary for potholing along the alignment of the earth retention system. The saving associated with this have been incorporated into the overall GMP.
21. Billing rates for our management and supervision staff are identifeid below. The rates indciated are straight-time rates, excluding travel, and are firm for the duration of the project.
 - a. Project Manager - \$72.50/hr
 - b. Project Engineer - \$55.00/hr
 - c. Superintendent - \$75.00/hr
 - d. Site Safety Officer - \$55.00/hr
 - e. General Superintendnet - \$85.00/hr
 - f. Scheduler - \$55.00/hr
 - g. BIM Engineer - \$55.00/hr

EXHIBIT B

PROPOSAL & OPEN BOOK STRUCTURE

This is a "Cost Plus a Fixed Fee" proposal with a "Guaranteed Maximum Price (GMP)". In exchange for payment by the City to Contractor, Contractor shall complete, without exception, and shall furnish required, labor, supervision, materials, and equipment to accomplish the Project, including, without limitation, the following:

- B-1. **Cost of the Work:** The following project specific personnel costs including, but not limited to, Contract Manager, Project Manager, Project Engineer, Project Coordinator, Safety Manager, Corporate Safety Director (site visits only), General Superintendent (site visits only), Project Field Superintendent, Project Field Engineer are all eligible personnel. In addition the following project cost including, but not limited to, project materials, subcontracted work, heavy equipment usage, mobilization & demobilization costs, office/tool trailers, initial site surveying, construction laydown/parking area requirements, medium tools, dumpsters, drawing/specification, reproductions, subsistence and other travel expenses, and sanitary facilities are all eligible for reimbursement. Mobilization & demobilization is limited to 5% of construction cost on the schedule of values and the full amount will be billed in the first payment of application.
- B-2. **Fixed Contractor's Fee:** Contractor's lump sum fee for overhead and profit. The Contractor's Fee will appear as a line item on the schedule of values and will progress on a percentage basis of project completion. The Fixed Contractor's Fee is calculated as 5.0% of the estimated Cost of the Work.
- B-3. **Small Tools:** The lump sum payment for small tools is a lump sum payment for the purchase of any tools required by the work with a purchase price of \$1,500 or less. Any amount required in excess of this lump sum amount will be the Contractor's responsibility. Items required for the work with a purchase price greater than \$1,500 are classified as "Medium Tools" and will be billed as part of the Cost of the Work. The total amount for Small Tools will be paid 100% in the first pay application.
- B-4. **Consumables:** The lump sum payment for Consumables is a lump sum payment for the purchase of any field and office related consumables that are not directly integrated into the Work. These items include drinking water, phones, faxes, computers, printers, office furniture, safety vests, gloves, safety glasses, hard hats, and internet service. Office and tools trailers are considered the cost of the work. Electrical consumption charges are excluded and paid directly by the owner. Any amount required in excess of this lump sum amount will be the Contractor's responsibility. The total amount for Consumables will be paid 100% in the first pay application. The lump sum payment for Consumables is calculated as 1.0% of the estimated Cost of the Work.
- B-5. **Contractor's Construction Contingency:** The GMP Proposal contains, as part of the estimated Cost of the Work, the Contractor's Construction Contingency, a sum agreed upon to cover costs which are properly reimbursable as a Cost of the Work, whether or not such cost is the basis for a Change Order. This contingency amount is for the Contractor's sole use. Additional costs arising from changes in the design will be paid from the Owner's Contingency.
- B-6. **Owner's Allowances:** The GMP Proposal contains, as part of the estimated Cost of the Work, a sum stipulated by the City to cover costs which are associated with the Access Control System,

the Controls for the project, and the Owner's Allowance for any revisions required by the final design. The Contractor shall use the funds only when directed by the City. In the event the actual cost for these items exceeds their combined total and the final Cost of the Work results in an exceedance of the GMP, then the City will reimburse the Contractor for the additional costs per Paragraph 9.01 of the Agreement.

- B-8. Final Report, Project Savings: At the time of Final Completion, the Contractor shall provide a Final Contract Price Report with an invoice to the City that includes the cost of Project to date. If at such time the Final Contract Price is less than the Guaranteed Maximum Price referenced in below, then the City shall keep 100% of the savings.

CONTRACTOR'S PRICING MODEL & PROPOSAL

PROJECT: FORT WAYNE DEEP DEWATERING PUMP STATION GUARANTEED SAVINGS CONTRACT PROJECT

Pricing is Composed of the Breakdown Summary Below and detailed on the Following Pages:

Cost of the Work	\$50,496,056.09
Contractor Fee (Lump Sum).....	\$2,342,498.35
Small Tools (Lump Sum)	\$150,000.00
Consumables (Lump Sum)	\$504,960.56
<u>Contractor's Construction Contingency:</u>	<u>\$700,000.00</u>
GUARANTEED MAXIMUM PRICE:	\$54,193,515.00

Contractor's Open Book Guaranteed Maximum Price

Fifty-four million one hundred and ninety-three thousand five hundred and fifteen dollars and zero cents.

Fort Wayne Deep Dewatering Pump Station
Guaranteed Savings Contract Project
Guaranteed Maximum Price Breakdown
June 10, 2021



Item	Area	CSI Division	Description	Quantity	Unit	Cost of the Work	Contractor's Fee	Contractor's Fee Total	Notes
100110	10 - General Items	01 - General Items	Mobilization/Decontamination	1 LS		\$151,321.60	5.0%	\$7,566.08	
100115	10 - General Items	01 - General Items	Project Management	1 LS		\$1,267,550.00	5.0%	\$63,377.50	
100120	10 - General Items	01 - General Items	Supervision	1 LS		\$1,011,150.00	5.0%	\$50,557.50	
100125	10 - General Items	01 - General Items	Layout	1 LS		\$448,396.00	5.0%	\$22,419.80	
100130	10 - General Items	01 - General Items	Safety and Quality Control	1 LS		\$485,470.00	5.0%	\$24,273.50	
100135	10 - General Items	01 - General Items	Temporary Facilities	130 WKS		\$195,500.00	5.0%	\$9,775.00	
100140	10 - General Items	01 - General Items	Temporary Utilities	1 LS		\$127,383.98	5.0%	\$6,369.20	
100145	10 - General Items	01 - General Items	Bonds and Insurance	1 LS		\$575,701.00	5.0%	\$28,785.05	
100150	10 - General Items	01 - General Items	Site Security	68 WKS		\$0.00	5.0%	\$0.00	
100155	10 - General Items	01 - General Items	Equipment Rental and Misc.	1 LS		\$1,885,781.75	5.0%	\$94,289.09	
100160	10 - General Items	01 - General Items	Laydown Area	1 LS		\$42,800.00	5.0%	\$2,140.00	
100165	10 - General Items	01 - General Items	Miscellaneous	1 LS		\$34,867.40	5.0%	\$1,743.37	
100170	10 - General Items	01 - General Items	Shift Work Premium	1 LS		\$300,874.62	5.0%	\$15,043.73	
100175	10 - General Items	01 - General Items	Material Testing	1 LS		\$217,500.00	5.0%	\$10,875.00	
100180	10 - General Items	05 - Metals	Ductlet Fee from Misc. Metals						No markup applied to Misc. Metals materials since fabricated by a Wilhelm affiliated company (Poynter Sheet Metal). Costs are distributed across various items with installation.
100190	10 - General Items	01 - General Items	Owner's Allowance	5889.323.00 \$		\$544,466.15	0.0%	\$0.00	
202615	20 - Site Work	26 - Electrical	Ductbanks	3.506 LF		\$1,619,160.12	5.0%	\$80,958.01	
203125	20 - Site Work	31 - Earthwork	Erosion Control and Restoration	1 LS		\$276,921.45	5.0%	\$13,846.07	
203126	20 - Site Work	31 - Earthwork	Surface Demo - Area 2	1 LS		\$46,535.17	5.0%	\$2,326.76	
203127	20 - Site Work	31 - Earthwork	Restoration - Area 2	50.00		\$0.00	5.0%	\$0.00	Removed per discussion on 6/3/2021
203128	20 - Site Work	31 - Earthwork	Surface Demo - Area 3	1 LS		\$0.00	5.0%	\$0.00	Removed per discussion on 6/3/2021
203129	20 - Site Work	31 - Earthwork	Restoration - Area 3	1 LS		\$0.00	5.0%	\$0.00	Removed per discussion on 6/3/2021
203130	20 - Site Work	31 - Earthwork	Surface Demo - Area 1	3.082 SYS		\$57,668.56	5.0%	\$2,883.43	
203131	20 - Site Work	31 - Earthwork	Surface Demo - Area 1a	15.041 SYS		\$462,032.18	5.0%	\$23,101.61	
203230	20 - Site Work	32 - Exterior Improvements	Site Concrete	75 CYS		\$58,498.02	5.0%	\$2,924.90	
203236	20 - Site Work	32 - Exterior Improvements	Asphalt - Area 1	3.081 SYS		\$135,089.63	5.0%	\$6,754.48	
203241	20 - Site Work	32 - Exterior Improvements	Gravel Paving - Area 1a	15.041 SYS		\$177,765.87	5.0%	\$8,638.29	
203350	20 - Site Work	33 - Utility	Utility Relocations	1 LS		\$149,250.00	5.0%	\$7,462.50	
203355	20 - Site Work	33 - Utility	Water Lines	950 LF		\$157,971.08	5.0%	\$7,898.55	
300110	30 - DDPS Shaft	01 - General Items	Weather Protection Allowance	1 LS		\$40,000.00	5.0%	\$2,000.00	
300112	30 - DDPS Shaft	01 - General Items	Ventilation and Temp Heat	1 LS		\$246,686.40	5.0%	\$12,334.32	
300210	30 - DDPS Shaft	02 - Existing Conditions	Shaft Access for Labor	1 LS		\$503,381.30	5.0%	\$25,069.07	
300316	30 - DDPS Shaft	03 - Concrete	Operating Floor	232 CYS		\$228,132.00	5.0%	\$11,407.60	
300320	30 - DDPS Shaft	03 - Concrete	Pipe Supports	22 CYS		\$48,908.50	5.0%	\$2,445.43	
300324	30 - DDPS Shaft	03 - Concrete	Precast Stairs	1 LS		\$1,514,535.64	5.0%	\$75,726.78	
300524	30 - DDPS Shaft	05 - Metals	Stair Handrails	1 LS		\$280,532.41	5.0%	\$14,026.62	
300526	30 - DDPS Shaft	05 - Metals	Grating in Operating Floor	1 LS		\$12,534.60	5.0%	\$626.73	
300528	30 - DDPS Shaft	05 - Metals	Hatches in Operating Floor	2 EA		\$8,568.68	5.0%	\$428.43	
300530	30 - DDPS Shaft	05 - Metals	Access Platforms at Stairs	5 EA		\$130,609.85	5.0%	\$6,530.49	
300530	30 - DDPS Shaft	05 - Metals	Metal Pipe Supports - Material	1 EA		\$351,982.00	5.0%	\$17,598.10	
300934	30 - DDPS Shaft	09 - Coating	Pipe Coatings	1 LS		\$100,000.00	5.0%	\$5,000.00	
301436	30 - DDPS Shaft	13 - Special	Elevator	1 LS		\$487,435.84	5.0%	\$24,371.79	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
302238	30 - DDPS Shaft	22 - Plumbing	Floor Drains and Sump Pumps	1 LS		\$50,000.00	N/A	\$0.00	

**Fort Wayne Deep Dewatering Pump Station
Guaranteed Savings Contract Project
Guaranteed Maximum Price Breakdown
June 10, 2021**



Item	Area	CSI Division	Description	Quantity	Unit	Cost of the Work	Contractor's Fee	Contractor's Fee Total	Notes
302230	30 - DDPS Shaft	22 - Plumbing	Additional Drains in Base Slab - Allowance	1	LS	\$15,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
302240	30 - DDPS Shaft	22 - Plumbing	Water Piping	1	LS	\$45,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
302342	30 - DDPS Shaft	23 - HVAC	Ductwork	1	LS	\$1,111,103.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Poynter Sheetmetal).
302644	30 - DDPS Shaft	26 - Electrical	Power	1	LS	\$374,606.24	5.0%	\$18,730.31	
302646	30 - DDPS Shaft	26 - Electrical	Lighting	1	LS	\$104,133.94	5.0%	\$5,206.70	
302648	30 - DDPS Shaft	26 - Electrical	Communications	1	LS	\$389,413.90	5.0%	\$19,470.70	
302848	30 - DDPS Shaft	28 - Fire Protection	Fire Protection	1	LS	\$62,970.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (FSC Fire Protection).
304050	30 - DDPS Shaft	40 - Process	42" Pump Suction Piping and Fittings	38	LF	\$100,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304052	30 - DDPS Shaft	40 - Process	24" Pump Discharge Piping and Fittings	880	LF	\$1,179,700.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304054	30 - DDPS Shaft	40 - Process	20" Pump Suction Piping and Fittings	55	LF	\$68,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304055	30 - DDPS Shaft	40 - Process	8" Discharge Piping - Valve Material	4	EA	\$11,057.43	5.0%	\$552.87	
304056	30 - DDPS Shaft	40 - Process	8" Discharge Piping and Fittings - Installation	220	LF	\$75,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304058	30 - DDPS Shaft	40 - Process	Knife Gate Valve - Material	5	EA	\$247,710.60	5.0%	\$12,385.98	
304059	30 - DDPS Shaft	40 - Process	Knife Gate Valve - Installation	5	EA	\$10,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304060	30 - DDPS Shaft	40 - Process	Cone Valve - Material	4	EA	\$585,808.13	5.0%	\$29,290.41	
304061	30 - DDPS Shaft	40 - Process	Cone Valve - Installation	4	EA	\$5,500.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304064	30 - DDPS Shaft	40 - Process	2" Discharge Piping and Fittings - Installation	250	LF	\$25,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
304065	30 - DDPS Shaft	40 - Process	2" Discharge Piping - Valve Material	4	EA	\$8,858.21	5.0%	\$442.91	
304666	30 - DDPS Shaft	46 - Water and Wastewater Equipment	Tunnel Dewatering Pumps	4	EA	\$1,405,290.77	5.0%	\$70,264.54	
304668	30 - DDPS Shaft	46 - Water and Wastewater Equipment	Sump Sumps	2	EA	\$44,168.69	5.0%	\$2,208.43	
304670	30 - DDPS Shaft	46 - Water and Wastewater Equipment	Flood Pumps	2	EA	\$268,891.31	5.0%	\$13,444.57	
304671	30 - DDPS Shaft	46 - Water and Wastewater Equipment	Startup and Testing	1	LS	\$93,709.48	5.0%	\$4,685.47	
400210	40 - DDPS Building	02 - Existing Conditions	Slurry Wall Excavation Demo - Vault	1	LS	\$82,865.81	5.0%	\$4,143.29	
400211	40 - DDPS Building	02 - Existing Conditions	Slurry Wall Demo - For Foundations	1	LS	\$51,806.41	5.0%	\$2,590.32	
400312	40 - DDPS Building	03 - Concrete	Flow Control Vault	108	CYS	\$117,958.00	5.0%	\$5,897.90	
400314	40 - DDPS Building	03 - Concrete	Building Foundations	172	CYS	\$99,874.50	5.0%	\$4,993.73	
400316	40 - DDPS Building	03 - Concrete	Slab on Grade	527	CYS	\$249,184.00	5.0%	\$12,459.20	
400317	40 - DDPS Building	03 - Concrete	Concrete Guardrail	57	CYS	\$59,178.50	5.0%	\$2,958.98	



**Fort Wayne Deep Dewatering Pump Station
Guaranteed Savings Contract Project
Guaranteed Maximum Price Breakdown
June 10, 2021**

Item	Area	CSI Division	Description	Quantity	Unit	Cost of the Work	Contractor's Fee	Contractor's Fee Total	Notes
400318	40 - DDPS Building	03 - Concrete	HVAC Structures	270	CYS	\$295,720.00	5.0%	\$14,786.00	
400420	40 - DDPS Building	04 - Masonry	Stair Enclosure	1	LS	\$69,510.00	5.0%	\$3,475.50	
400422	40 - DDPS Building	04 - Masonry	Masonry Windows	1	LS	\$132,596.00	5.0%	\$6,629.80	
400424	40 - DDPS Building	04 - Masonry	Electrical Room Wall	1	LS	\$50,232.00	5.0%	\$2,511.60	
400526	40 - DDPS Building	05 - Metals	Grating at Flow Control Vault	1	LS	\$135,065.96	5.0%	\$6,753.30	
400527	40 - DDPS Building	05 - Metals	Ladder to Bridge Crane	1	EA	\$65,021.90	5.0%	\$3,251.10	
400528	40 - DDPS Building	05 - Metals	Bullaris	4	EA	\$10,055.13	5.0%	\$502.76	
400830	40 - DDPS Building	08 - Opening	Overhead Doors	2	EA	\$47,496.50	5.0%	\$2,374.83	
400831	40 - DDPS Building	08 - Opening	FRP Doors	20	EA	\$100,573.30	5.0%	\$5,028.67	
400932	40 - DDPS Building	09 - Coating	Pipe Coatings	1	LS	\$79,000.00	5.0%	\$3,950.00	
401334	40 - DDPS Building	13 - Special	Pre Engineered Metal Building	1	LS	\$1,202,300.58	5.0%	\$60,115.03	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
402238	40 - DDPS Building	22 - Plumbing	Floor Drains	1	LS	\$85,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
402240	40 - DDPS Building	22 - Plumbing	Water Piping	1	LS	\$15,500.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
402242	40 - DDPS Building	22 - Plumbing	Flow Control Vault - Sump Pump	1	LS	\$21,534.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
402342	40 - DDPS Building	23 - HVAC	Slurry Wall Confinement - HVAC	3	EA	\$92,468.72	5.0%	\$4,623.44	
402344	40 - DDPS Building	23 - HVAC	Air Handling Equipment	1	LS	\$603,750.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Proyter Sheetmetal)
402346	40 - DDPS Building	23 - HVAC	HVAC Buried Ductwork & Vault	1	LS	\$1,117,886.15	5.0%	\$55,894.31	
402648	40 - DDPS Building	26 - Electrical	Power	1	LS	\$1,865,997.99	5.0%	\$93,299.90	
402650	40 - DDPS Building	26 - Electrical	Lighting	1	LS	\$100,387.71	5.0%	\$5,019.39	
402652	40 - DDPS Building	26 - Electrical	Communications	1	LS	\$193,163.14	5.0%	\$9,658.16	
402654	40 - DDPS Building	26 - Electrical	VFDs for HVAC	2	EA	\$73,859.01	5.0%	\$3,692.95	
402655	40 - DDPS Building	26 - Electrical	VFDs for Dewatering Pumps	4	EA	\$1,472,539.31	5.0%	\$73,626.97	
402756	40 - DDPS Building	27 - Communications	Access Control System - City Allowance	1	LS	\$35,000.00	5.0%	\$1,750.00	
403158	40 - DDPS Building	31 - Earthwork	DDPS SOG and Flow Control Vault Excavation	4,305	CYS	\$96,938.05	5.0%	\$4,846.90	
403160	40 - DDPS Building	31 - Earthwork	DDPS SOG and Flow Control Vault Backfill	2,435	CYS	\$155,226.61	5.0%	\$7,761.33	
404064	40 - DDPS Building	40 - Process	24" Pump Discharge Piping and Fittings	70	LF	\$64,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
404065	40 - DDPS Building	40 - Process	8" Discharge Piping Valve - Material	3	EA	\$7,934.54	5.0%	\$396.73	
404066	40 - DDPS Building	40 - Process	8" Discharge Piping and Fittings - Installation	20	LF	\$14,500.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
404067	40 - DDPS Building	40 - Process	42" Discharge Header - Valve Material	5	EA	\$36,608.90	5.0%	\$1,930.45	
404068	40 - DDPS Building	40 - Process	42" Discharge Header Piping and Fittings	16	LF	\$93,500.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
404070	40 - DDPS Building	40 - Process	Knife Gate Valve - Material	4	EA	\$174,214.24	5.0%	\$8,710.71	
404071	40 - DDPS Building	40 - Process	Knife Gate Valve - Installation	4	EA	\$5,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
404075	40 - DDPS Building	40 - Process	2" Discharge Piping Valve - Material	3	EA	\$6,834.94	5.0%	\$341.75	

**Fort Wayne Deep Dewatering Pump Station
Guaranteed Savings Contract Project
Guaranteed Maximum Price Breakdown
June 30, 2021**



Item	Area	CSI Division	Description	Quantity	Unit	Cost of the Work	Contractor's Fee	Contractor's Fee Total	Notes
404076	40 - Process Building	40 - Process	3" Discharge Piping and Fittings - Installation	40 LF		\$8,500.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
404078	40 - Process Building	40 - Process	Controls - Programming - City Allowance	1 LS		\$380,000.00	5.0%	\$19,000.00	
404080	40 - Process Building	40 - Process	Controls - Hardware/PLC	1 LS		\$70,000.00	5.0%	\$3,500.00	
404082	40 - DDPS Building	40 - Process	Devices Installation	1 LS		\$7,500.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
404184	40 - DDPS Building	14 - Conveying	Bridge Crane	1 LS		\$300,043.00	5.0%	\$15,002.15	
404386	40 - DDPS Building	46 - Water and Wastewater Equipment	Air Compressor - Material	1 LS		\$13,152.00	5.0%	\$607.60	
500310	50 - Upflow Shaft	03 - Concrete	GROUT	113 CYS		\$22,974.00	5.0%	\$1,148.70	
500311	50 - Upflow Shaft	03 - Concrete	Raker CID Guide Supports	521 CYS		\$535,129.00	5.0%	\$26,756.45	
500312	50 - Upflow Shaft	03 - Concrete	Raker Support Beams and Cap	23 CYS		\$39,156.50	5.0%	\$1,957.83	
500313	50 - Upflow Shaft	03 - Concrete	CIP Liner Remaining	634 CYS		\$166,295.00	5.0%	\$18,314.75	
500515	50 - Upflow Shaft	05 - Metals	Rake Guide Steel	1 LS		\$54,356.63	5.0%	\$2,717.83	
600210	60 - Screening Building	02 - Existing Conditions	Slurry Wall Cut/Removal	1 LS		\$47,656.41	5.0%	\$2,382.82	
600312	60 - Screening Building	03 - Concrete	Foundations	76 CYS		\$58,987.00	5.0%	\$2,949.35	
600314	60 - Screening Building	03 - Concrete	Slab on Grade	230 CYS		\$119,137.00	5.0%	\$5,956.85	
600418	60 - Screening Building	04 - Masonry	Building Windows/roofs	1 LS		\$37,162.00	5.0%	\$1,858.10	
600520	60 - Screening Building	05 - Metals	Shaft Grating	1 LS		\$109,661.81	5.0%	\$5,483.09	
600522	60 - Screening Building	05 - Metals	Boilrads	8 EA		\$20,700.34	5.0%	\$1,035.02	
600524	60 - Screening Building	05 - Metals	Dumpper Plates	1 LS		\$33,665.68	5.0%	\$1,683.28	
600828	60 - Screening Building	08 - Opening	Overhead Doors	2 EA		\$47,096.50	5.0%	\$2,354.83	
600829	60 - Screening Building	08 - Opening	FRP Doors	2 EA		\$15,285.44	5.0%	\$764.27	
600930	60 - Screening Building	09 - Coating	Coatings	1 LS		\$80,000.00	5.0%	\$4,000.00	
601332	60 - Screening Building	13 - Special	Pre-Engineered Metal Building	1 LS		\$492,317.54	5.0%	\$24,615.88	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
602234	60 - Screening Building	22 - Plumbing	Floor Drains	1 LS		\$20,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
602236	60 - Screening Building	22 - Plumbing	Water System	1 LS		\$5,000.00	N/A	\$0.00	No markup applied since work will be subcontracted to a Wilhelm affiliated company (Freitag-Weinhardt).
602638	60 - Screening Building	26 - Electrical	Electrical	1 LS		\$145,986.91	5.0%	\$7,299.35	
603140	60 - Screening Building	31 - Earthwork	Foundation Excavation and Backfill	1,035 CYS		\$42,231.76	5.0%	\$2,111.64	
603242	60 - Screening Building	32 - Exterior Improvements	Fencing	1 LS		\$17,500.00	5.0%	\$875.00	
604644	60 - Screening Building	46 - Water and Wastewater Equipment	Raker System	1 LS		\$4,116,735.29	5.0%	\$205,836.76	
700210	70 - Siphon Conduit	02 - Existing Conditions	Demo Slurry Wall at Impacted Soil Monitoring Allowance	1 LS		\$206,949.27	5.0%	\$10,447.46	Eliminated Per Discussion 6/3/2021
703114	70 - Siphon Conduit	31 - Earthwork	Impacted Soil Disposal	1 LS		\$0.00	5.0%	\$0.00	Converted to an Allowance Per Discussion on 6/3/2021
703115	70 - Siphon Conduit	31 - Earthwork	Earth Retention System	1 LS		\$5,263,339.31	5.0%	\$263,166.97	
703118	70 - Siphon Conduit	31 - Earthwork	Excavation & Backfill	36,100 CYS		\$1,875,903.72	5.0%	\$98,795.19	Credit is not included in the Earth Retention System Cost as part of the subcontractor proposal received from Hardiman.
703119	70 - Siphon Conduit	31 - Earthwork	Sheeting Credit at Completion	1,318 TONS		\$0.00	5.0%	\$0.00	
703120	70 - Siphon Conduit	31 - Earthwork	Dewatering System	1 LS		\$699,356.45	5.0%	\$34,967.82	
703323	70 - Siphon Conduit	03 - Concrete	Siphon Conduits - CIP	4,429 CYS		\$3,856,962.12	5.0%	\$192,848.11	
703324	70 - Siphon Conduit	33 - Utility	48" Gravity to Siphon Conduit Structure	430 LF		\$280,095.63	5.0%	\$14,004.78	
703325	70 - Siphon Conduit	33 - Utility	48" Gravity to Shaft for Pump Operation	180 LF		\$187,438.29	5.0%	\$9,371.91	
800310	80 - Flip Gate Str	03 - Concrete	Flip Gate Structure	845 CYS		\$787,700.00	5.0%	\$39,389.00	



Fort Wayne Deep Dewatering Pump Station
Guaranteed Savings Contract Project
Guaranteed Maximum Price Breakdown
June 10, 2021

Item	Area	CSI Division	Description	Quantity	Unit	Cost of the Work	Contractor's Fee	Contractor's Fee Total	Notes
800515 80 - Flap Gate Str	05 - Metals		Metal Grating and Misc.	1 LS		\$81,450.91	5.0%	\$4,072.55	
800516 80 - Flap Gate Str	05 - Metals		Bollards	4 EA		\$10,350.17	5.0%	\$517.51	
800625 80 - Flap Gate Str	46 - Water and Wastewater Equipment		Flap Gates	4 EA		\$223,304.52	5.0%	\$11,165.23	
900210 90 - Siphon Junction Str	02 - Existing Conditions		Demo Wall at Siphon Str	1 LS		\$85,902.76	5.0%	\$4,295.11	
900215 90 - Siphon Junction Str	02 - Existing Conditions		Demo of Fillet in Siphon Str	1 LS		\$37,216.05	5.0%	\$1,860.83	
900220 90 - Siphon Junction Str	02 - Existing Conditions		Flow Control	1 LS		\$44,730.90	5.0%	\$2,236.55	
900230 90 - Siphon Junction Str	02 - Existing Conditions		Clear and Grub	1 LS		\$11,648.91	5.0%	\$582.45	
900340 90 - Siphon Junction Str	03 - Concrete		Grout Fills	133 CFS		\$27,553.00	5.0%	\$1,377.75	
900545 90 - Siphon Junction Str	05 - Metals		Precast Slab for Access	1 LS		\$62,166.94	5.0%	\$3,108.35	
903150 90 - Siphon Junction Str	31 - Earthwork		Excavation & Backfill	150 CFS		\$5,673.33	5.0%	\$283.66	
						Estimated Cost of the Work		\$50,496,056.09	
						Fixed Contractor's Fee (5.0% of Cost of the Work, but adjusted for 0% Markup on Affiliated Company Work)		\$2,342,498.35	
100010 100 - Contractor's Fee	01 - General Items Items		Small Tools Lump Sum	1 LS		\$150,000.00			
1100110 110 - Negotiated Items	01 - General Items Items		Consumables Lump Sum (1.0% of Estimated Cost of the Work, Max)	1 LS		\$504,960.56			
1100120 110 - Negotiated Items	01 - General Items Items		Contingency	1 LS		\$700,000.00			
1100130 110 - Negotiated Items	01 - General Items Items								
						Guaranteed Maximum Price		\$54,193,515.00	

EXHIBIT C
PERFORMANCE GUARANTEE

PROJECT JUSTIFICATION

SAVINGS GUARANTEE

F.A. Wilhelm Construction Company, Inc. guarantees that the program described in the Guaranteed Energy Savings Performance Contract (the "Agreement") to which this Performance Guarantee is attached as Exhibit C will recover a total of \$90,245,995 in energy savings, operational and avoided capital expenditures during the first twenty (20) years of operation, beginning on the first day of the month following completion and final acceptance by the City regarding the installation of the equipment provided under the Agreement. The Performance Guaranteed is based upon Stipulated savings that are agreed to be satisfied throughout the term of this performance guarantee. This guarantee, whether or not exercised, is F A Wilhelm Construction Co., Inc's sole liability with respect to any claim of energy savings.

METHODOLOGY

The savings are calculated with all assumptions, variables, and equations are shown on each page. The total annual savings, including energy, water and operational, are stipulated between the City and F.A. Wilhelm Construction Company, Inc. in the Agreement. The Tables below summarize the guaranteed annual savings from the calculations. This saving guarantee is dependent upon these conditions being met. All parties, upon execution of this agreement, accept the methodology utilized to calculate the savings and that they will be realized over the life of the project.

Table 1

Annual Energy Savings Summary	
Component	Annual Energy Savings
Reduction in Pumped Flow by Constructing the Siphon Conduits	\$28,540
Utilizing LED Fixtures in lieu of Metal Halide	\$2,606
Total Energy Savings	\$31,146

Table 2

Annual Operational Savings Summary	
Component	Annual Operational Savings
Historical Cost for Similar Project of Similar Scope (Avoided Cost)	\$4,481,154
Total Operational Savings	\$4,481,154

Table 3: Savings Summary

Description	Annual Savings	Total Guaranteed Savings (20 Years)
Operational Saving Summary (Table 2)	\$4,481,154	\$89,623,071
Energy Savings (Table 1)	\$31,146	\$622,924
Total Guaranteed Savings	\$4,512,300	\$90,245,995

Table 4: Annual Guaranteed Savings by Year of Contract

Contract Year	Calendar Year	Total Annual Savings
1	2024	\$4,512,300
2	2025	\$4,512,300
3	2026	\$4,512,300
4	2027	\$4,512,300
5	2028	\$4,512,300
6	2029	\$4,512,300
7	2030	\$4,512,300
8	2031	\$4,512,300
9	2032	\$4,512,300
10	2033	\$4,512,300
11	2034	\$4,512,300
12	2035	\$4,512,300
13	2036	\$4,512,300
14	2037	\$4,512,300
15	2038	\$4,512,300
16	2039	\$4,512,300
17	2040	\$4,512,300
18	2041	\$4,512,300
19	2042	\$4,512,300
20	2043	\$4,512,300
Total		\$90,245,995

ENERGY SAVINGS CALCULATIONS (2 Total)

OPERATIONAL AVOIDED CAPITAL EXPENDITURE SAVINGS CALCULATION (1 Total)

EXHIBIT D
SUPPORT SERVICES

ENERGY AUDITS

As part of the Energy Guarantee, F.A. Wilhelm Construction Company, Inc. agrees to complete the annual report to be filed with the Department of Local Government Finance.

EXHIBIT E

3RPORT DDPS PROJECT SITE ACCESS COORDINATION FIGURE

EXHIBIT F
PROJECT ELEMENT NOTICE OF RELEASE

PROJECT ELEMENT NOTICE OF RELEASE

Three Rivers Protection and Overflow Reduction Tunnel (3RPORT) Deep Dewatering Pump Station (DDPS) (WO 76793)

Release Reference #:	
Released Work:	
Owner:	City of Fort Wayne
Contractor:	F.A. Wilhelm
Engineer:	Wessler Engineering
Designer:	Black and Veatch
Scope of Released Work:	Scope of released work includes the following: 1.
Project Element Release Date:	

Engineer and Designer Release:

The Engineer here by releases the above referenced scope of Work for construction or procurement. The Designer here by releases the above referenced drawings and specifications for construction or procurement of the Released Work. The released documents include additions and revisions to existing Contract Documents, as detailed in the referenced Contract Addendum, and made part of the Contract Documents, per Article 11.01.A.21 of the Owner Contractor Agreement.

NAME (ENGINEER) By: Title:	NAME (DESIGNER) By: Title:
---	---

Owner and Contractor Acceptance:

IN WITNESS WHEREOF, on the _____ day _____ of 20__ (“Effective Date”), the parties have executed the Project Element Notice of Release, which is hereby incorporated by reference as part of the Agreement between the City of Fort Wayne, Indiana and F.A. Wilhelm dated the _____ day _____ of 20__.

City of Fort Wayne By: Title:	F.A. Wilhelm By: Title:
--	--------------------------------------

CITY OF FORT WAYNE, INDIANA

F. A. Wilhelm Construction Co., Inc.
(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. **FINANCIAL INTERESTS;**
2. **POTENTIAL CONFLICTS OF INTEREST;**
3. **CURRENT AND PENDING CONTRACTS OR PROCUREMENTS**

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$50,000 or more. Vendors shall disclose their financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration for a contract awarded by the City. This Disclosure Statement must be completed and submitted together with the Vendor's contract, bid, proposal or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1: Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (i) Equity ownership exceeding 5%
- (ii) Distributable income share exceeding 5%
- (iii) Not Applicable (If N/A, go to Section 2)

Name: _____ Name: _____

Address: _____ Address: _____

b. For each individual listed in Section 1a. show his/her type of equity ownership:

sole proprietorship stock
partnership interest units (LLC)
other (explain) _____

c. For each individual listed in Section 1a. show the percentage of ownership interest in Vendor (or its parent):
ownership interest:

Name: _____ %

Name: _____ %

Section 2: Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a, check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

- a. City employment, currently or in the previous 3 years, including contractual employment for services:
Yes _____ No X

Not Applicable

- b. City employment of "Member of Immediate Family" (defined herein as: *Spouse, Child, Step Child, Parent or Step Parent, Father-in-law or Mother-in-law, Brother or Sister, Step Brother or Step Sister, Half Brother or Half Sister, Brother-in-law or Sister-in-law, Son-in-law or Daughter-in-law, Grandparent or Step Grandparent, Grandparent or Step Grandparent of Spouse, Grandchild*)
Including contractual employment for services in the previous 3 years:

Yes _____ No X

Not Applicable

- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years: Yes _____ No X

Not Applicable

Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have **current** contracts (including leases) with the City? Yes X No _____

If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact below (attach additional pages as necessary).

Water Pollution Control Plant Digester Feed & Withdrawal Piping Improvements Contract/Resolution
Number 76580

- b. Does Vendor have **pending** contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes _____ No X

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

c. Does vendor have any existing employees that are also employed by the City of Fort Wayne?

Yes _____ No X

If "Yes", provide the employee's name, current position held at vendor, and employment payment terms (hourly, salaried, commissioned, etc.).

Name / Position / Payment Terms:

Not applicable

Name / Position / Payment Terms:

Not applicable

Name / Position / Payment Terms:

Not applicable

d. Does vendor's representative, agent, broker, dealer or distributor (if applicable) have any existing employees that are also employed by the City of Fort Wayne? For each instance, please provide the name of the representative, agent, broker, dealer or distributor; the name of the City employee, and the payment terms (hourly, salaried, commissioned, etc.).

Company / Name / Payment Terms: Not applicable

Company / Name / Payment Terms: Not applicable

Section 4: CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same

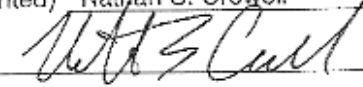
elements as the offense of bid-rigging or bid-rotating

- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

<u>F. A. Wilhelm Construction Co., Inc.</u>	<u>3914 Prospect Street, Indianapolis, IN 46203</u>
(Name of Vendor)	Address
	<u>(317) 359.5411</u>
	Telephone
	<u>NateCrowell@fawilhelm.com</u>
	E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) <u>Nathan S. Crowell</u>	Title <u>VP Preconstruction Services</u>
Signature <u></u>	Date <u>June 11, 2021</u>

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

Interoffice Memo

Chris Ravenscroft
6/15/2021

Date: June 15, 2021
To: Common Council Members
From: Chris Ravenscroft, Project Manager, City Utilities Engineering
RE: Contract Title: Three Rivers Protection & Overflow Reduction Tunnel (3RPORT) Deep Dewatering Pump Station Construction. W.O. #76793

Council District: City Wide

Project Description:

The contractor shall furnish all labor, insurance, equipment, materials and power for the completion of the project: "Three Rivers Protection & Overflow Reduction Tunnel (3RPORT) Deep Dewatering Pump Station Construction". Improvements include constructing the Deep Dewatering Pump Station (DDPS) adjacent to the City's Water Pollution Control Plant as part of the 3RPORT Program. The DDPS will utilize two vertical, below-grade shafts to serve as the Pump Station Shaft and Upflow Shaft. The initial excavation of the shafts and connecting tunnel, including shaft lining, are being performed by others as part of the 3RPORT Tunnel and Shafts Package. The DDPS project will consist of furnishing and installing equipment within the shafts; above grade structures, gravity sewers, and appurtenances.

This project provides many benefits. It will support compliance with regulatory requirements mandated by the EPA. In addition to meeting our mandates, it is also matching our community's priorities to improve water quality in river areas and promote riverfront development by reducing the number of Combined Sewer Overflows. Other benefits include improvements to sewer system performance, helping with reductions in basement backups and street flooding in combined sewer system areas, and improved flood fighting abilities when rivers are high.

Implications of not being approved: This project completes the connection of the 3RPORT tunnel to the near surface storage and treatment facilities as required by Control Measure 11 of the Consent Decree (CD). Work must be done by the December 31, 2023 deadline. The timely completion of the work requires the contractor and designers to work together on an aggressive timetable. A delay in the contracting may threaten achieving the CD completion date or require changes to the construction schedule that would add increased costs to the project.

If Prior Approval is being Requested, Justify: N/A

This project was advertised to contractors on: April 10, 2020 and April 17, 2020 in the Journal Gazette.

The contract awarded to F.A. Wilhelm company for \$54,193,515 was the best value of the 2 final proposals and 9% above the Engineer's estimate of \$49,886,000. Proposals were evaluated based upon relevant experience, personnel, schedule and risk mitigation, and cost. Both firms were aligned in the projected cost of construction and F.A. Wilhelm's fees were the lowest by 3.5%. The Board of Public Works approved the contract on Tuesday June 22, 2021.

The cost of said project funded by SRF Sewer Bonds.

Council Introduction Date: June 22, 2021

CC: BOW
Matthew Wirtz
Jill Helfrich

REPORT OF COMMITTEE ON CITY UTILITIES

July 6, 2021

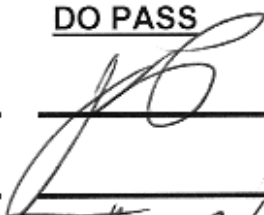
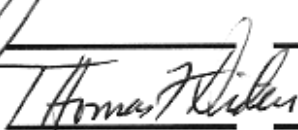

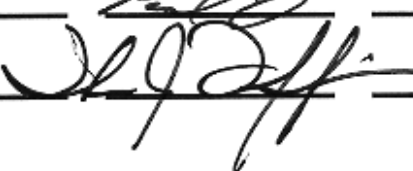
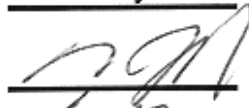

Michelle Chambers Chair

Thomas Didier Co-Chair

All Council Members

An Ordinance approving Construction Contract – Three Rivers Protection and Overflow Reduction Tunnel (3RPORT) Deep Dewatering Pump Station (DDPS) Project - Work Order #76793 - between F.A. Wilhelm Construction Co., Inc. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works - Involving a total cost of \$54,193,515.00

COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
ARP			
CHAMBERS			
DIDIER			
ENSLEY			
FREISTROFFER			
HINES			
JEHL			
PADDOCK			
TUCKER			

**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilperson Didier.

Read the second time by title and referred to the City Utilities Committee.

Read the third time in full and on motion by Councilperson Chambers, placed on passage by the following vote:


<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: July 13, 2021


LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
Special Ordinance No. S-21-06-32 on the 13th day of July, 2021

ATTEST:


LANA R. KEESLING
CITY CLERK


PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th
of July 2021, at the hour of 10:30 o'clock A.M. E.S.T.


LANA R. KEESLING, CITY CLERK

Approved and signed by me this 14TH day of JULY 2021, at the
hour of 4:00 o'clock PM E.S.T.




THOMAS C. HENRY, MAYOR