Water Main Extension Agreement
Citizens Water of Westfield, LLC

TABLE 1 – CONTRACT PROVISIONS		
The form and content of this contract are in accordance with Citizens Water of Westfield LLC's Terms and Conditions for Water Service and 170 IAC 6-1.5.		
PROJECT NUMBER:	**PROJECT/DEVELOPMENT NAME:**	
COUNTY: HAMILTON	**TOWNSHIP:**	**CONTRACT AUTHOR:**
REVIEW AND INSPECTION FEE: NA	**DATE APPROVED BY CITIZENS:**	
REVENUE ALLOWANCE: $_____ for each residential unit		
SUBSEQUENT CONNECTOR FEE: To be Determined at Project Completion		
MAINTENANCE AND REPAIR BOND: Three Years Duration Following In-Service Date 20% of Cost Shown on Final Actual Cost Summary		
OTHER PROVISIONS: A Subsequent Connector Fee of $ is required for Project Approval. Please submit payment with signed contract		
ATTACHMENTS:		

THIS AGREEMENT, entered into on the date indicated below, by and between: _____("Developer") and Citizens Water of Westfield, LLC ("Citizens") (individually a "Party," and collectively the "Parties"),

WITNESS THAT:

WHEREAS, Citizens owns, operates and maintains the water system serving the City of Westfield, Indiana and certain areas in the surrounding vicinity (the "Waterworks"); and

WHEREAS, the Developer is engaged in the project identified in Table 1 above, and has requested that Citizens provide water service to the development and to future customers within the development; and

WHEREAS, Developer has provided Citizens site plans that detail the desired water utility service, and Citizens is willing to provide such service upon the following terms and conditions; and

WHEREAS, The Parties agree that the Developer shall, at its own cost and expense, furnish the necessary design and engineering services, labor and materials, to install the Main Extension and obtain all necessary easements, permits, rights-of-way or other authority which is required to install the Main Extension and to provide water service to and throughout the development before the start of construction;

NOW, THEREFORE, in consideration of the premises, covenants, agreements and undertakings hereinafter provided, and each act to be performed pursuant hereto, the Parties agree that:

1. Site-Utility Plan. Developer shall provide Citizens, via both paper and AutoCAD or DXF disk, with layer description (if AutoCAD, include release number, a site-utility plan; paper drawings shall be on 24-inch by 36-inch sheets at 1"= 30' to 1"= 50' scale indicating water mains contemplated). All main extensions installed to provide domestic water service shall also be sized and designed provide fire protection service. The Main Extension will be designed to deliver domestic water service at a rate sufficient to serve the number of parcels abutting the Main Extension and public fire protection service at a minimum rate of 1,000 gallons per minute at 20 pounds per square inch residual pressure at the projected maximum daily usage rate. In addition to the above, Citizens will determine the size of main reasonably necessary to serve the applicant, consistent with maintaining the integrity of the overall distribution system.

2. Review of Site-Utility Plan. Citizens shall review and approve Developer's site-utility plan, offsite main installation plan, and easement drawings (if required), and calculate the appropriate size of the indicated water mains, and shall locate fire hydrants, valves and other appurtenances with respect to the site-utility plan and offsite in accordance with the standards and specifications currently in place for the Waterworks, provided, however, that Citizens may require mains larger than 12 inches in order to provide for future service. The additional cost of installing such larger mains shall be at Citizens' expense unless they are necessary for the development itself. Any additional cost for such oversizing shall be negotiated prior to execution of the contract.

The route and extension of any given water main shall be determined in accordance with 170 IAC 6-1.5-29 (Indiana Administrative Code governing water utility main extensions).

3. Contractor and Materials. Citizens shall return the site utility plan to Developer, marked either "Approved," "Approved as Noted," or "Rejected." Citizens and Developer shall promptly agree on any changes necessary to comply with Waterworks requirements. After approval, the Developer shall notify Citizens in writing of the installation contractor Developer seeks to engage. Citizens must approve the Developer's selected contractor, and Citizens may withhold approval in its sole discretion. Citizens shall inform Developer of any withheld approval within 14 days after Developer notifies Citizens of the intended contractor. Failing timely notification to the contrary, approval shall be deemed granted.

The Developer shall purchase and provide pipe, fittings, valves, and hydrants and other appurtenances ("Materials"). All Materials must meet or exceed Citizens' standards and specifications, and are subject to Citizens' approval.

4. Developer Installation. Upon approval of the contractor and the Materials, the Developer agrees to commence construction within one hundred and twenty (120) calendar days, and to prosecute construction to full completion in compliance with all applicable laws and governmental rules and regulations, with all reasonable diligence consistent with good business practices and the availability of required equipment, materials and labor. The Developer shall give Citizens a minimum of one week's notice prior to commencing construction.

The Developer hereby agrees that during installation of the Main Extension, Citizens will have the authority to inspect the installation for compliance with Citizens' standards at Citizens' convenience and discretion, provided such inspection will not delay or impede the installation work. Citizens shall have authority to halt construction if the installation is not consistent with the approved site plan, materials list, or generally accepted industry practices. Should the conditions along the proposed route of the water main be materially different from those indicated in the site plan or reasonably anticipated, the Developer further agrees to cooperate with Citizens in modifying the actual construction to render the most efficacious result.

5. Unforeseen Circumstances. Citizens reserves the right to terminate this agreement, without prejudice to Citizens, in the event contaminated soil, significant archaeological material, or any other supervening underground inclusion is encountered. In such an event, Citizens shall notify Developer of the termination in writing and may then propose (but is not required to) an alternative route or the use of substitute pipe materials and appurtenances as the situation, in Citizens' sole discretion, requires. Developer assumes any and all risk of additional cost, fines, penalties, or assessments relating to the uncovering, handling, transporting, environmental testing, or disposing of contaminated soils in the course of construction.

6. Other Requirements of Developer. Coincident with delivery of the Transfer of Ownership (as hereinafter defined), and other documents required from the Developer to Citizens, there shall also be delivered to Citizens by the Developer:

a) All required permits, and any other information pertaining to the Main Extension requested by Citizens;

b) Copy of the final platted map that is to be recorded for the development and/or address listing;

c) Copies of any easements, rights of way, deeds, options, and so forth, obtained by Developer to facilitate the Main Extension(s).

d) Waivers of lien rights executed by all material suppliers, subcontractors, and contractors;

e) Three (3) year Maintenance and Repair Bond on Main Extension for materials and workmanship. The Maintenance and Repair Bond shall be in an amount equal to twenty percent (20%) of the total project cost as indicated on the Final Actual Cost Form as submitted by Developer. Repair work performed during the warranty period must be coordinated with and inspected by Citizens. Customers are to be notified prior to interruption of service. In emergency situations, the customers are to be notified of the approximate length of service interruption. Emergency repairs may be performed by Citizens, and the Developer/bonding company will be billed the cost of the repair; and

f) Total itemized project costs, specifying pipe, valve, hydrant size, any engineering design costs, and any land rights (easements), certified by the Developer as being accurate; and

g) "As built" drawings including materials listing, manufacture, and locations; and

h) All fees due to Citizens, and any previous main extension subsequent connector fees, if applicable; and

i) Recorded final platted map of the development, when available, from the County Recorder. However, if platted map has lot line changes that require Citizens' facilities to be relocated (mains, hydrants, blowoff, etc.) the Developer will be responsible for the cost of those relocations.

j) Copy of all permit closures or acceptance from applicable agencies.

NOTE: All Citizens materials removed at time of connection (sleeves, tees, blow off, valves, etc.) are to be returned to Citizens' Store Room before taps will be made.

7. **Hydrostatic Testing and Disinfection.** The installed water mains ("System") shall be hydrostatically tested by Developer's contractor to manufacturer's recommended specifications. Upon satisfactory completion of the hydrostatic testing, and deliverance of all items required under Sections 6 and 9, Citizens shall disinfect the System.

8. Initiation of Water Service. Upon determination by Citizens that installation has been in accordance with the approved plans and specifications, and after Developer conveys title to Citizens by the execution and delivery of a Transfer of Ownership of the main extension and related easements, if applicable, ("Transfer of Ownership"), and delivery of all items required by Section 6, water service shall be initiated by Citizens.

9. Timely Submittal of Transfer of Ownership. If the Developer fails to provide Citizens with the Transfer of Ownership and all items required in Sections 6 and 8 within ninety (90) days following the completion of hydrostatic testing and disinfection, Developer shall be required to pay the cost for a new hydrostatic test, re-chlorination, and flushing of the main extension. Said cost will be on a time and materials basis and shall be paid to Citizens concurrently with the Transfer of Ownership.

10. Ownership of Main Extension. Upon conveyance of the Main Extension by Developer to Citizens (including all mains, fire hydrants, easements and other equipment), it shall become the sole property of Citizens. After transfer, the Developer shall be responsible for maintenance of the System for 3 years from the date the System is placed in service ("In Service Date"), at Developer's sole expense. Thereafter, Citizens shall be responsible for the maintenance and repair of the same.

The Developer shall have no residual property right or interest in the Main Extension or any part thereof by reason of or on account of the Developer having furnished a part or all of the funds used in the purchase of materials and equipment for, or the employment of labor in connection with, the construction of the Main Extension.

11. Determination of Cost of Main Extension. In accordance with the Terms and Conditions for Water Service and 170 IAC 6-1.5-31, Citizens and Developer agree that the Cost of Main Extension shall be the amount appearing on the Final Actual Cost Summary Form rendered by Developer to Citizens.

12. Citizens' Fees. The fees payable to Citizens related to the Main Extension shall be in an amount as indicated in Table 1 per lineal foot of main appearing on the Transfer of Ownership form, to cover sizing, hydraulics, engineering, administrative costs, legal costs, direct labor costs, overhead and transportation costs.

13. Revenue Allowance. Citizens agrees that for a period of ten (10) years after the date the main is in service, Citizens will make one (1) revenue allowance payment as indicated in Table 1 to the Developer for each residential or commercial customer who becomes directly or indirectly connected to the Main Extension and begins to receive water service, if any ("Revenue Allowance Payment"). For residential customers, such payment, if any, shall be no less than one time per year and shall be the product of the following: (i) the revenue allowance as indicated in Table 1; and (ii) the number of customers who became directly or indirectly connected to the main extension and begins to receive water service, if any, since: (a) the date the main was placed in service; or (b) the date of the most recent annual revenue allowance payment; whichever is later. For commercial customers, the revenue allowance shall be calculated on actual usage at the facilities served, and shall be the product of the following: (i) the projected water revenue from the particular commercial customer; and (ii) three. In no event shall the aggregate Revenue Allowance Payment to the Developer exceed the total project cost.

14. Subsequent Connector Fees. If the owner or occupant of any unconnected lot abutting the main ("Owner"), requests water service any time within ten years after the completion date of the Main Extension, the Owner will be obliged, prior to Citizens permitting the connection of said lot to the main, to pay to Citizens a "subsequent connector's fee" for each lot for which service is requested. The amount of the subsequent connector's fee will be the cost of the Main Extension divided by the number of lots (or lot equivalents as provided in 170 IAC 6-1.5-30) abutting the main.

If the owner of land which abuts the Main Extension and said land was unplatted on the completion date of the Main Extension and said owner or his heirs, successors or assigns (hereinafter, collectively the "owner") subdivides said land within 10 years after the completion date of the Main Extension in such a manner that some or all of the lots will not require service directly from the Main Extension, and the owner requests a lateral Main Extension from the Main Extension to serve such land, the owner will be obliged to pay to Citizens a subsequent connector's fee for each lot abutting the earlier Main Extension, regardless of whether such lots are to be served by the earlier Main Extension or by the lateral Main Extension.

Applicants for service connections for lots within the Developer's subdivision shall not be required to pay a subsequent connector's fee. The subsequent connector's fee shall be in addition to any other charges which the subsequent connector must pay to Citizens in order to connect to and receive service from Citizens.

The subsequent connector fee, if any, will be determined once the cost of Main Extension has been submitted to Citizens along with the Transfer of Ownership by the Developer. Citizens will issue a letter to the owner (with a copy to the Developer) specifying the amount of this subsequent connector's fee. Refunds shall be paid by Citizens to Developer as provided in 170 IAC 6-1.5-36. Developer, at its sole discretion, may request that Citizens reduce or waive the subsequent connector fee. This waiver or reduction in the subsequent connector fee must be in writing and submitted to Citizens.

15. Set Off. Citizens shall have the right to set off against any funds due the Developer in connection with Revenue Allowances and Subsequent Connector Fees for any actual or anticipated losses and/or expenses related to any claims, demands, causes of action, liabilities, losses, damages, penalties, costs or liens asserted by any party against Citizens or its properties for which the Developer is required to defend, indemnify, hold harmless and protect Citizens under the terms of paragraph 19 herein.

16. Connection to Main Extension. After the date the main is in service the Developer shall have the right to connect customers to the Main Extension in accordance with Citizens' rates, rules and regulations, as approved by the Indiana Utility Regulatory Commission and in effect from time to time, without further installation charge. The cost of the service pipes from the Main Extension to the individual premises of the Developer or lot owner shall be borne by the Developer or lot owner as a separate expense, such service pipes shall remain the customer's property. The service taps to the Main Extension shall be made by Citizens and owned by Citizens.

17. No Refunds Based Upon Other Main Extension. Notwithstanding any other provisions of this Agreement, Citizens shall have the absolute right at any time to construct and install other main extensions and appurtenant facilities connecting to the Main Extension, provided service to the subject Main Extension is not impaired. Neither the connection of any such other main extension nor any service furnished by or from such other main extensions shall be subject to or in any manner affect this Agreement, and the Developer shall not be entitled to any revenue allowance refund or other payment by reason of the connection of such other main extensions or connections for service therefrom.

18. Developer Safety Measures. The Developer and its contractor(s) shall take all steps necessary to ensure the safety of any Citizens inspector or other employee at the worksite. Citizens shall have no responsibility for identifying, eliminating or otherwise abating any safety, health, or environmental hazard created or otherwise resulting at the worksite from the activities of the Developer or any other person. Nothing in this Agreement shall be construed or interpreted, directly or indirectly, as requiring that Citizens undertake any legal duty of the Developer or contractor (s) to the Developer's or contractor's employees, invitees or licensees or to any federal, state or local government agency.

19. Liability and Indemnity. The Developer and its contractor(s) shall be solely responsible for all labor, materials, equipment and work at the worksite. The Developer shall defend, indemnify, hold harmless and protect Citizens, their affiliates, employees, agents, officers, and directors (the "Citizens Indemnified Parties"), from and against any and all claims, demands, causes of action, liabilities, losses, damage, penalties, liens asserted by any party against the City, the Citizens Indemnified Parties, or their properties, costs (including reasonable attorneys' fees), and suits, including without limiting the generality of the foregoing, those claims, demands, causes of action, liabilities, losses, damage, penalties, liens, costs (including reasonable attorneys' fees), and suits for which the Citizens Indemnified Parties may be, or may be claimed to be, liable through negligence or otherwise, for death, personal injury, illness or loss or damage to property, or economic loss alleged to arise out of, result from, relate to, or be in any manner connected with activities of the Developer or the services provided by the Citizens Indemnified Parties under this Agreement. The Developer shall provide such defense and indemnity whether the claim, demand, cause of action, lien, or suit alleges that the occurrence, omission, action, liability, loss, or damage was caused or contributed to by the concurrent, joint comparative, active or passive negligent act or omission of any Citizens Indemnified Party, except that the Developer assumes no liability for the negligent acts or omissions of any Citizens Indemnified Party, their employees, agents, officers, and directors, which, without contributory fault on the part of the Developer, its contractor(s), subcontractor(s), or their employees, agents, officers, or directors, is the sole cause of loss, damage to person or property, or injury to or death of any person.

The Citizens Indemnified Parties shall give the Developer prompt written notice of any lien or claim for which indemnification is sought hereunder. The Developer shall at its own expense assume the defense of such lien or claim with counsel selected in consultation with the Citizens Indemnified Parties; provided, however, that the Developer shall not be entitled to settle any lien or claim against the Citizens Indemnified Parties without the prior written consent of the Citizens Indemnified Parties, which consent shall not be unreasonably withheld. The Citizens Indemnified Parties shall have the right, but not the duty, to employ, at its expense, its own counsel in any such case.

20. Insurance. The Developer and its contractor/subcontractors shall add the Citizens Indemnified Parties as additional insureds on a primary and non-contributory basis under all of the Developer's liability insurance policies covering work at the worksite. As additional insureds, the Citizens Indemnified Parties shall be provided the same extent and quality of coverage as the Developer and any other primary insured party. The Developer shall provide the Citizens Indemnified Parties a certificate of insurance evidencing such coverage prior to Citizens' performance of any services under this Agreement. Such liability insurance coverage shall remain in full force and effect until the In-Service Date.

21. Citizens Employees. Under no circumstances shall Citizens employees be deemed employees, agents or representatives of the Developer. Nor shall this Agreement be deemed to constitute any Party hereto as the agent or representative of another Party.

22. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, including any subsequent connectors, and their respective successors and assigns.

23. Indiana Utility Regulatory Commission. This Agreement is entered into in conformity with the rules and regulations of the Indiana Utility Regulatory Commission and Citizens' Terms and Conditions for Water Service on file with and approved by such Commission. In the event of any conflict between the terms of this Agreement and the rules and regulations of such Commission and Citizens' Terms and Conditions for Water Service, the rules and regulations of such Commission and the Citizens' Terms and Conditions for Water Service shall control and shall supersede any inconsistent terms herein. The respective obligations of each of the Parties hereunder shall be subject to all applicable laws, rules and regulations.

IN WITNESS WHEREOF, the Parties have properly executed this Agreement or caused the same to be properly executed as of the date herein below set forth.

CITIZENS WATER OF WESTFIELD, LLC

By: _____

Printed Name: _____

Title: _____

Date Signed: _____

DEVELOPER

Firm Name: _____

By: _____

Printed Name: _____

Title: _____

Taxpayer ID #: _____

Daytime Telephone Number: _____

Mailing Address: _____

_____

_____

Project Location: _____

_____

Date Signed: _____