

1 **BILL NO. G-13-11-12-(AS AMENDED)**

2 **GENERAL ORDINANCE NO. _____**

3 **AN ORDINANCE AMENDING CHAPTER 51 OF**
4 **THE CITY OF FORT WAYNE CODE OF LAWS**

5 **WHEREAS**, pursuant to Indiana Code 36-9-23-25, the Common
6 Council of the City of Fort Wayne has enacted a User Charge System and a
7 Sewer Use Ordinance as contained in Chapter 51 of the Fort Wayne Code of
8 Ordinances; and

9 **WHEREAS**, the Board of Public Works is charged with the
10 responsibility for the operation of Fort Wayne City Utilities including long-term
11 planning, engineering, financing and construction of sanitary sewer
12 infrastructure served by the Fort Wayne wastewater system; and

13 **WHEREAS**, the Board of Public Works passed Resolution No. 100-
14 11-6-13-05 regarding capital improvement surcharges and Resolution No.
15 100-11-6-13-4 regarding an area connection fee on November 6, 2013.
16

17
18 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
19 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

20
21 **SECTION 1.** That the following sections or subsections of Chapter 51
22 of the City of Fort Wayne Code of Laws be added or amended, as follows:

23
24 The following subsection of Sec. 51.001 shall be added to in accordance with
25 the following (additions and modifications shown in **underlined and bold**
26 type).
27
28
29
30

1 **AREA CONNECTION FEE.** An additional fee charged at the time of
2 connection to the sewer utility for users from any classification of
3 users discharging sewage to the water pollution control utility from a
4 geographic area designated responsible to contribute to the payment of
5 costs associated with installation, adjustment or other improvement to
6 the water pollution control utility intended to serve the area connection
7 fee area.

8 **AREA CONNECTION FEE AREA.** An area, system or subsystem
9 designated by the Board of Public Works wherein an area connection
10 fee may be collected.

11 The following subsection of Sec. 51.077(B) shall be added to in accordance
12 with the following (additions and modifications shown in underlined and
13 bold type, deletions shown in ~~strikethrough~~ type).

14 ***Capital Improvement***

<i>Surcharge Area</i>	<i>Dollars per ERU</i>	<i>Frequency</i>
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Deer Track Area	<u>42.00</u>	monthly
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(As designated by Board of Works Resolution 92-8-3-05-02 and as modified
by Board of Works Resolution 100-11-6-13-5)

Newuhaus Sewer Area	\$20.00	monthly
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(as designated by Board of Works Resolution 90-271-13)

Rothman East Area	\$22.50	monthly
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(as designated by Board of Works Resolution 92-4-20-05-03)

Southtown Center Area	\$4.00	monthly
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(as designated by Board of Works Resolution 92-5-25-05-02)

Tieman Shed B Area	\$22.50	monthly
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(as designated by Board of Works Resolution 91-223-70)

Upper Ely	\$20.00	monthly
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(as designated by Board of Works Resolution 99-12-19-12-1 and as
modified by Board of Works Resolution 100-11-6-13-5)

1 There are no other Capital Improvement Surcharge Areas.

2
3 **SECTION 2.** The following new section 51.076.5 shall be added to in
4 accordance with the following (additions and modifications shown in
5 underlined and bold type.)

6 **§ 51.076.5 AREA CONNECTION FEE.**

7
8 (A) All classifications of users subject to an area
9 connection fee shall pay the connection fee in addition to other
10 sewage service charges imposed by this chapter. Area connection
11 fees shall remain in effect until the cost of the intended installations,
12 adjustments or improvements to the water pollution control utility
13 has been retired and the area connection fee has been retired.

14 (B) Area Connection Fee Charges
15 Deer Track Area \$2,950 per ERU
16 (as designated by Board of Works Resolution 100-11-6-13-4)

17
18 **SECTION 3.** That the Monthly Capital Surcharges listed in Exhibit A in
19 Ordinance G-12-09 shall be amended with the attached Amended Exhibit A
20 to correct the scrivener's error in the unit of measure for Monthly Capital
21 Surcharges. The appropriate unit of measure is per Equivalent Residential
22 Unit ("ERU") as is presently listed in City Code Sec. 51.077. The attached
23 Amended Exhibit A is not intended to replace the Exhibit A in Ordinance G-
24 12-09 and is intended only to amend the sections referenced in Amended
25 Exhibit A.

AMENDED EXHIBIT A

REV. 10-10-13

FORT WAYNE MUNICIPAL SEWAGE WORKS
Fort Wayne, IN

Amended Table of Sewage Works Rates and Charges (Monthly Capital Surcharges)

	Unit of Measure	Effective date:					
		July 1st <u>2009</u>	July 1st <u>2010</u>	July 1st <u>2011</u>	July 1st <u>2012</u>	July 1st <u>2013</u>	January 1st <u>2014</u>
Monthly Capital Surcharge							
Neuhaus Extension	per ERU	20.00	20.00	20.00	20.00	20.00	20.00
Tiernan Shed B	per ERU	22.50	22.50	22.50	22.50	22.50	22.50
Rothman Road	per ERU	22.50	22.50	22.50	22.50	22.50	22.50
Deer Track	per ERU	47.95	47.95	47.95	47.95	47.95	42.00
Southtown	per ERU	4.00	4.00	4.00	4.00	4.00	4.00
Upper Ely	per ERU	20.00	20.00	20.00	20.00	20.00	20.00

RESOLUTION OF THE BOARD OF PUBLIC WORKS

To Change the Deer Track Sanitary Sewer Area Connection Fee

Resolution No. 100-11-6-13-4

WHEREAS, on February 26, 2003, the Board of Public Works ("Board") approved Resolution No. 90-64-20 authorizing the establishment of cumulative funds for the deposit of sanitary sewer area connection fees collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within specific service areas; and

WHEREAS, studies indicate that the initial cost of sanitary sewer planning, engineering and construction projects in the northern area of City Utilities' service areas is more than \$20,000,000 with more than \$500,000 of such projects needed for the Deer Track sewer service area, generally shown in Exhibit A; and

WHEREAS, the Board finds that new customer connections to the sanitary sewer system in the Deer Track sanitary sewer service area, as generally shown on Exhibit A, should be assessed a portion of the costs necessary to fund the required improvements to the system; and

WHEREAS, on September 5, 2001, the Board approved, via resolution, and on April 9, 2003, the Board amended, via resolution, the Equivalent Residential Unit ("ERU") as an acceptable unit of measure for calculating sanitary sewer Area Connection Fees for real estate connecting to the City Utilities sanitary sewer system ("Sewer System"); and

WHEREAS, on August 3, 2005, the Board approved, via Resolution 92-8-3-05-1, an Area Connection Fee of \$5,000 (five thousand dollars) for new properties connecting to the Sewer System within the Deer Track Service Area as generally shown in Exhibit A; and

WHEREAS, on December 19, 2012, the Board approved Resolution 99-12-19-12-2 ("Upper Ely Resolution"), establishing a sanitary sewer area connection fee of \$2,000 per ERU for new customers connecting to the Sewer System within the Upper Ely Service Area, as defined in the Upper Ely Resolution; and

WHEREAS, the Upper Ely Resolution authorized the establishment of cumulative funds to hold specific sanitary sewer charges collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within the Upper Ely Service Area; and

WHEREAS, the Deer Track area is now located within the Upper Ely Service Area through a connection to the Upper Ely sanitary sewer pipe segments; and

WHEREAS, new customers are expected to connect to the Deer Track sanitary sewer system that were not contemplated when the City of Fort Wayne purchased the Deer Track sanitary sewer system in 2005, and those additional customers will share in the costs of necessary improvements, allowing the previously approved area connection fee to be reduced from \$5,000 (five thousand dollars) per ERU to \$2,950 (two thousand nine hundred fifty dollars) per ERU; and

WHEREAS, certain new customers making sanitary sewer connections to the Deer Track sanitary sewer service area may be of significant economic benefit to the Sewer Utility, the City, or region and may justify an adjustment of the sanitary sewer area connection fees in an effort to attract new customers to locate in the area and connect to the sewer system.

NOW THEREFORE BE IT RESOLVED, that the Board:

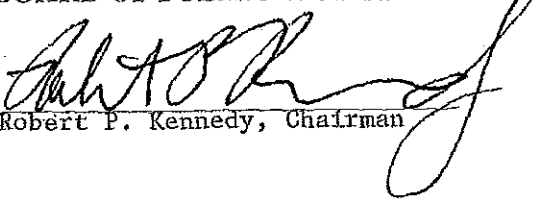
1. Reduces the Deer Track Sanitary Sewer Area Connection Fee from \$5,000 (five thousand dollars) to \$2,950 (two thousand nine hundred fifty dollars) per ERU for all new sanitary sewer connections for real estate located in the area shown on Exhibit A.
2. Requires City Utilities to collect the area connection fee prior to connection to the sanitary sewer system, unless otherwise approved by the Director of City Utilities or his/her appointee.
3. Shall place Area Connection Fees in the following cumulative funds, per ERU: \$2,000 (two thousand dollars) in the Upper Ely cumulative fund and \$950 (nine hundred fifty dollars) in the Deer Track cumulative fund.
4. Shall not allow City Utilities to assess an Area Connection Fee from properties connected to the Deer Track Sanitary Sewer System at the time of City Utilities' purchase of the system in 2005 so long as the ERUs from the property do not increase.
5. Reserves the right to adjust the Area Connection Fee annually for inflation, based on the All Urban Consumer Price Index, with approval by the Board.
6. Authorizes City Utilities, in the event of a substantial change in land use and/or a substantial increase in the volume of flow on existing real estate already connected to the sewer system, to assess additional Area Connection Fees, based on the proposed or actual increased flow to the sewer system as measured by ERUs.
7. Authorizes the Director of City Utilities or his/her designee to establish a procedure for determining and implementing an Area Connection Fee adjustment for projects that are of significant City Utilities, City or regional benefit.
8. Reserves the authority to establish additional specific sanitary sewer charges and fees as specific planning, engineering, financing and construction projects are identified to achieve the purposes of this Resolution to fund projects relating to sanitary sewer improvements within the Deer Track area.

This Resolution shall be in full force and effect on January 1, 2014.

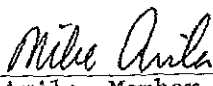
APPROVED THIS 6th **day of** November, 2013.

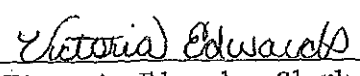
BOARD OF PUBLIC WORKS

BOARD OF PUBLIC WORKS


Robert P. Kennedy, Chairman

Kumar Menon, Member


Mike Avila, Member

Attest: 
Victoria Edwards, Clerk

ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

Before me, a Notary Public, in and for said County and State personally appeared
Robert Kennedy, Mike Avila, Victoria Edwards

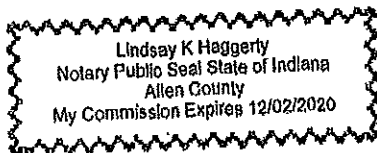
of the Board of Public Works of the City of Fort Wayne, and Clerk of the Board of Works and
acknowledged the execution of the foregoing Resolution as and for their voluntary act and deed for the
users and purposes therein contained.

WITNESS my hand and notarial seal this 6th day of November 2013.

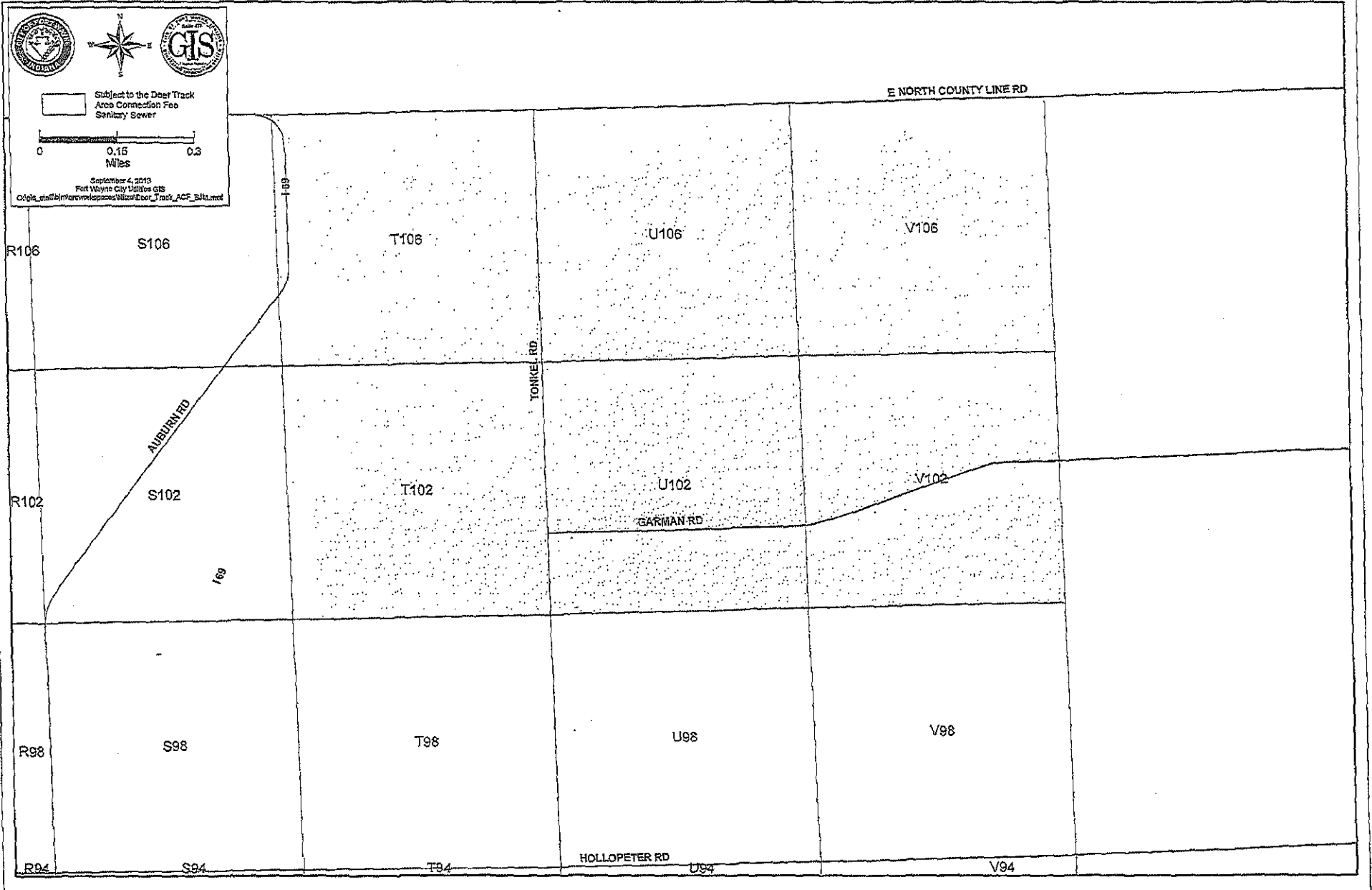
My Commission Expires:

12/02/2020

Lindsay K. Haggerty
Notary Public
Resident of Allen County
Lindsay K. Haggerty
Printed Name of Notary



Deer Track Area Connection Fee - Sanitary Sewer Exhibit A



RESOLUTION OF THE BOARD OF PUBLIC WORKS

To Clarify Sanitary Sewer Capital Improvement Surcharges and Modify Deer Track Sanitary Sewer Capital Improvement Surcharge

Resolution No. 100-11-6-13-5

WHEREAS, on August 13, 2003, the Board of Public Works ("Board") approved Resolution 90-261-13, authorizing the establishment of cumulative funds to hold certain sanitary sewer charges collected within specific sewer service areas for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within specific sewer service areas; and

WHEREAS, on September 5, 2001, the Board approved, via resolution, and on April 9, 2003, the Board amended, via resolution, the Equivalent Residential Unit (ERU) as an acceptable unit of measure for calculating sanitary sewer use for real estate connecting to the City Utilities sanitary sewer system; and

WHEREAS, studies indicate that the cost of sanitary sewer planning, engineering and construction projects in the northern area of City Utilities' service areas is more than \$20,000,000 with more than \$500,000 of such projects needed for the Deer Track sewer service area, generally shown in Exhibit 1; and

WHEREAS, on May 6, 2009, the Board changed the Water Pollution Control Utility's rates, via Resolution 96-5-6-09-1 ("Sewer Rates Resolution") and its attached exhibit of Table of Sewage Works Rates and Charges ("Table"), and recommended the Common Council of the City of Fort Wayne ("Common Council") amend Chapter 51 of the Fort Wayne Code of Ordinances to reflect the changes within the Table to provide sufficient income for the operation, maintenance and capital improvements of the Utility; and

WHEREAS, the Table contained a scrivener's error for the unit of measure for the Monthly Capital Surcharges for the service areas of Neuhaus Extension, Tiernan Shed B, Rothman East, Deer Track, Southtown and Upper Ely by listing the charge as "per connection" instead of "per ERU per month"; and

WHEREAS, on December 19, 2012, the Board approved Resolution 99-12-19-12-1 ("Upper Ely Resolution"), authorizing the establishment of cumulative funds to hold specific sanitary sewer charges collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer related projects within the Upper Ely Service Area, as defined in the resolution; and

WHEREAS, the Upper Ely Resolution established the Upper Ely capital improvement surcharge, however the resolution did not clearly state that the surcharge would be \$20.00 (twenty dollars and zero cents) per ERU per month; and

WHEREAS, the Board wishes to clarify its intent that the Upper Ely capital improvement surcharge be assessed per ERU, per month to customers within the Upper Ely Service Area; and

WHEREAS, the Board finds that all customers in the Deer Track sewer service area, generally shown in Exhibit 1 attached hereto, should be assessed a portion of the costs necessary to fund the required improvements to the sewer system; and

WHEREAS, on August 3, 2005, the Board approved Resolution 92-8-3-05-02 ("Deer Track Resolution"), authorizing the establishment of cumulative funds to hold specific sanitary sewer charges collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within the Deer Track area, as defined in the Deer Track Resolution; and

WHEREAS, the Deer Track area is now located within the Upper Ely Service Area because of a connection to the Upper Ely sanitary pipe segments; and

WHEREAS, the Common Council, on August 23, 2005, approved Ordinance G-15-05 for a capital improvement surcharge for the Deer Track area of \$47.95 (forty-seven dollars and ninety-five cents) per ERU per month; and

WHEREAS, new customers are expected within the Deer Track area that were not contemplated in 2005, and those additional customers will share in the costs of necessary improvements, allowing the previously approved capital improvement surcharge to be reduced to \$42.00 (forty-two dollars and zero cents) per ERU per month, consisting of \$20.00 (twenty dollars and zero cents) for the Upper Ely cumulative fund and \$22.00 (twenty-two dollars and zero cents) for the Deer Track cumulative fund; and

WHEREAS, the Board desires to adjust the Deer Track monthly capital improvement surcharge for new customers who will connect to and existing customers presently connected to the City's sewer facilities in the Deer Track area as a means to defray the costs of constructing the necessary sewer facilities; and

WHEREAS, certain new customers making sanitary sewer connections to the Deer Track sanitary sewer service area may be of significant economic benefit to the Utility, the City, or region and may justify an adjustment of the sanitary sewer capital improvement surcharge in an effort to attract new customers to locate in the area and connect to the sewer system.

NOW THEREFORE BE IT RESOLVED, that the Board:

1. Corrects the scrivener's error contained in the Table attached to Resolution 96-5-6-09-1 from "per connection" to "per ERU per month" for Capital Improvement Surcharges to be charged in the service areas of Neuhaus Extension, Tiernan Shed B, Rothman East, Deer Track, Southtown and Upper Ely and as shown in the Table listed in Amended Exhibit A attached hereto. No changes, other than those listed in this Resolution, are made to the Sewage Works Rates and Charges attached to the Sewer Rates Resolution.
2. Clarifies the Board's intent that the Upper Ely Capital Improvement Surcharge shall be \$20.00 (twenty dollars and zero cents) per ERU per month to be charged

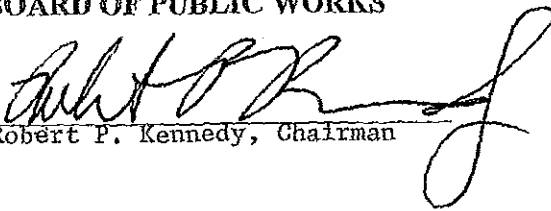
to customers who connected in that service area as defined in the Upper Ely Resolution January 1, 2013, or later.

3. Reduces the Capital Improvement Surcharge designated for the Deer Track Capital Surcharge Sanitary Sewer area to \$42.00 (forty-two dollars and zero cents) per ERU per month, until otherwise modified, to all new and existing retail sanitary sewer customers in the area generally shown on Exhibit 1 and described as transporting sanitary sewage through the Deer Hollow Sanitary Sewer Force-Main or Sewer Structure U90 003, as shown on Exhibit 2.
4. Recommends the Common Council adopt the Table shown in Amended Exhibit A for Chapter 51 of the Fort Wayne Code of Ordinances, to reflect the per ERU per month method of calculation for the Capital Improvement Surcharges.
5. Recommends the Common Council reduce the Deer Track Capital Improvement Surcharge to \$42.00 (forty-two dollars and zero cents) per ERU per month.
6. Shall distribute \$20.00 (twenty dollars and zero cents) per ERU of the Deer Track Capital Improvement Surcharge in the Upper Ely Cumulative Fund each month, with the remaining \$22.00 (twenty-two dollars and zero cents) per ERU placed in the Deer Track Cumulative Fund each month.
7. Authorizes City Utilities, in the event of a substantial change in land use and/or a substantial increase in the volume of flow on existing real estate in the Deer Track area already connected to the sewer system, to assess the applicable capital surcharge for the customer, based on the proposed or actual increase in flow to the sewer system, as measured by ERUs.
8. Recognizes certain new customers making sanitary sewer connections to the Deer Track sanitary sewer service area may be of significant economic and/or environmental benefit to the Sewer Utility, the City, or region by encouraging new customers to locate in the service area and/or eliminate existing septic systems and which may justify an adjustment of the sanitary sewer capital improvement surcharge and/or ERU value and authorizes the Director of City Utilities or his/her designee to establish a procedure to determine the applicability of such adjustment.
9. Reserves the authority to establish, as specific planning, engineering, financing and construction projects are identified to achieve the purposes of this Resolution, additional specific sanitary sewer charges and area connection fees to fund projects relating to sanitary sewer improvements within the Deer Track area.

This Resolution shall be in full force on the first day of the City Utilities billing cycle(s) for all sewer customers within the aforementioned named areas starting January 1, 2014, and shall be in full force on the sewer account initiation date for all new sewer connections in the aforementioned named areas made starting January 1, 2014.

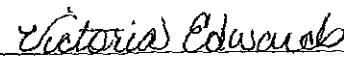
APPROVED by the Board of Public Works on November 18 2013.

BOARD OF PUBLIC WORKS


Robert P. Kennedy, Chairman

Kumar Menon, Member


Mike Avila, Member

Attest: 
Victoria Edwards, Clerk

ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

Before me, a Notary Public, in and for said County and State personally appeared Robert Kennedy, Mike Avila, Victoria Edwards of the
Board of Public Works of the City of Fort Wayne, and Clerk of the Board of Works and
acknowledged the execution of the foregoing Resolution as and for their voluntary act
and deed for the users and purposes therein contained.

WITNESS my hand and notarial seal this 6th day of November 2013.

My Commission Expires:

12/02/2020

Lindsay K. Haggerty
Notary Public
Resident of Allen County
Lindsay K. Haggerty
Printed Name of Notary

AMENDED EXHIBIT A

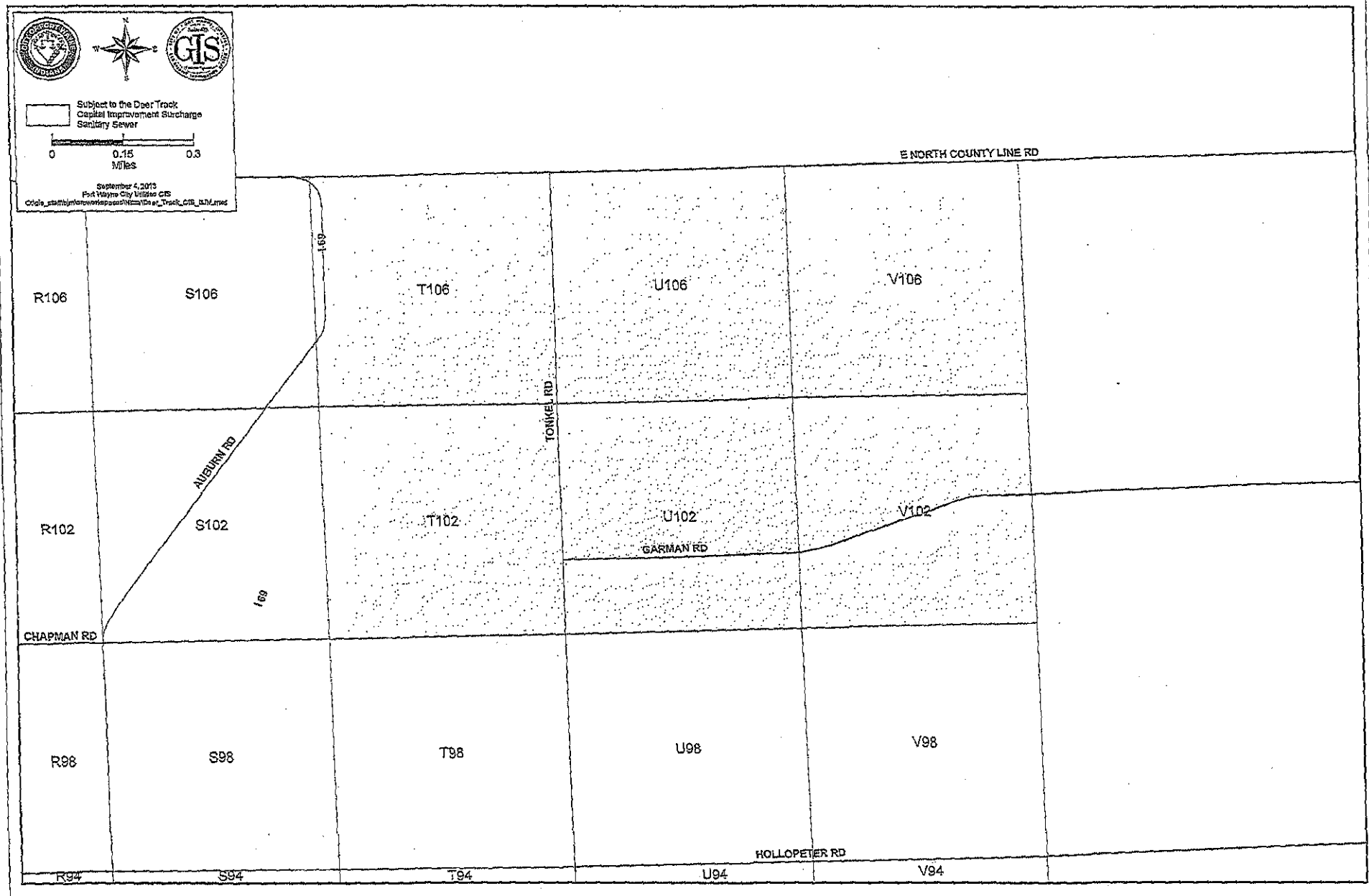
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FORT WAYNE MUNICIPAL SEWAGE WORKS
Fort Wayne, IN

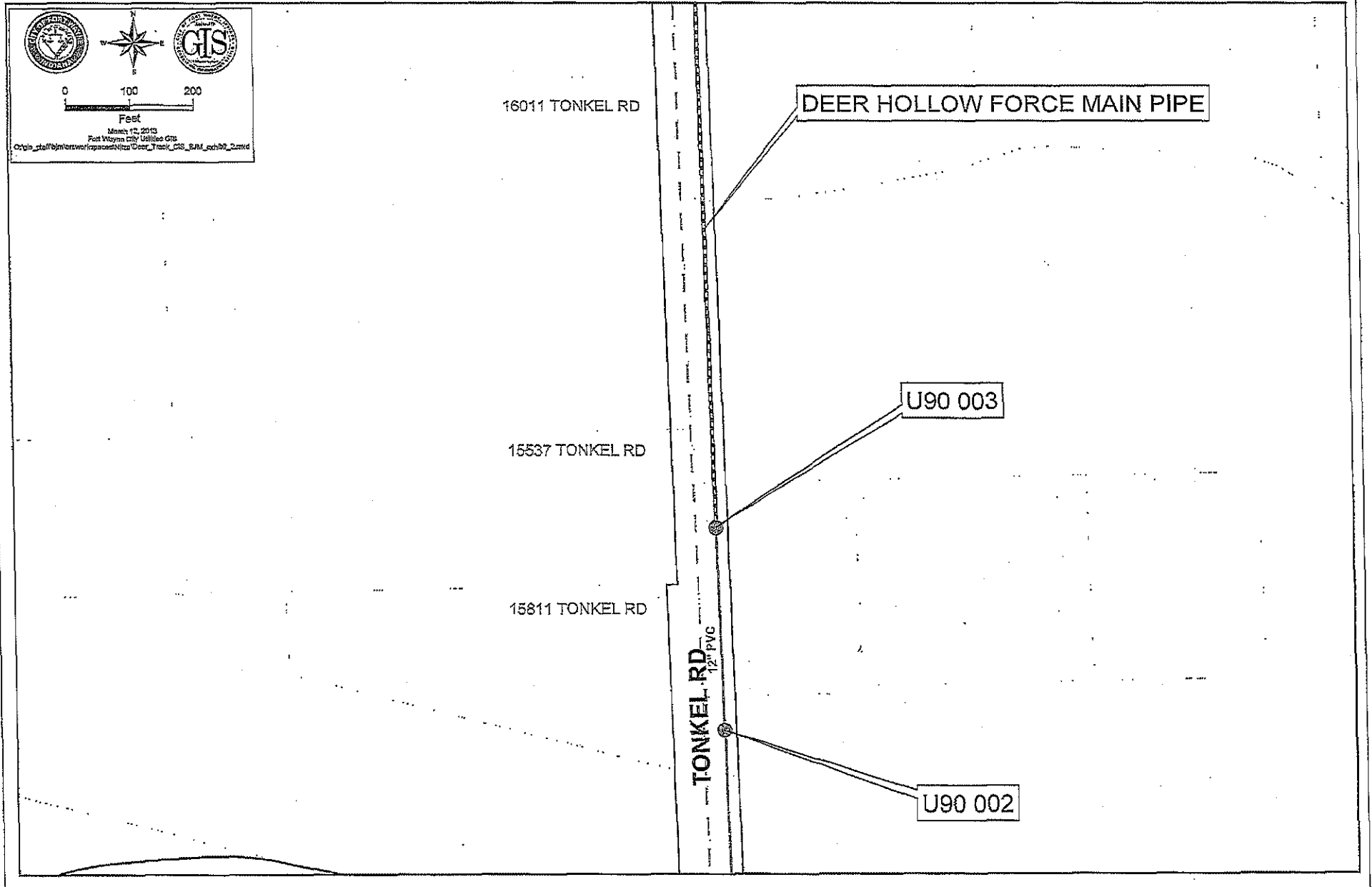
Amended Table of Sewage Works Rates and Charges (Monthly Capital Surcharges)

	Unit of <u>Measure</u>	Effective date:					
		July 1st <u>2009</u>	July 1st <u>2010</u>	July 1st <u>2011</u>	July 1st <u>2012</u>	July 1st <u>2013</u>	January 1st <u>2014</u>
Monthly Capital Surcharge							
Neuhaus Extension	per ERU	20.00	20.00	20.00	20.00	20.00	20.00
Tieman Shed B	per ERU	22.50	22.50	22.50	22.50	22.50	22.50
Rothman Road	per ERU	22.50	22.50	22.50	22.50	22.50	22.50
Deer Track	per ERU	47.95	47.95	47.95	47.95	47.95	42.00
Southtown	per ERU	4.00	4.00	4.00	4.00	4.00	4.00
Upper Ely	per ERU	20.00	20.00	20.00	20.00	20.00	20.00

**Deer Track
Capital Improvement Surcharge - Sanitary Sewer
Exhibit 1**



Deer Track Capital Improvement Surcharge - Sanitary Sewer Exhibit 2



Interoffice Memo

Date: November 14, 2013
To: Common Council Members
From: Kumar Menon, Director of Utilities *KM / HN*
RE: **Ordinance Amending Chapter 51: Sewers
City of Fort Wayne Code of Laws
Reducing One (1) Capital Improvement Surcharge
Reducing One (1) Area Connection Fee
Correcting scrivener's error.**

On November 6, 2013, the Board of Works approved modifying the capital improvement surcharge for the Deer Track area down from \$47.95 to the lower amount of \$42.00 per month per equivalent single customer. In addition, the Board of Works approved to reduce the area connection fee for the same area from \$5,000 to the lower amount of \$2,950 per equivalent single customer. These reductions are made possible due to increased demand for housing in this area providing for a larger base of customers to distribute the cost of the necessary improvements. Lastly, the Board approved to correct a scrivener's error contained in a Board of Works Resolution regarding a listing of other existing capital improvement surcharges.

The Board of Works and City Utilities seeks the Council's concurrence and approval with the Board's action and recommendations so that a capital improvement surcharges and the area connection fee may be reduced and remaining surcharges be clarified.

CC: BOW
Diane Brown