

BILL NO. S-15-12-02

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving POTABLE WATER CONTRACT - WHISPER ROCK OFFSITE EAST - CONTRACT NO. 2014-W-0063 - WORK ORDER NO. 66384 between TWIN EAGLES DEVELOPMENT II, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

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

SECTION 1. That the POTABLE WATER CONTRACT - WHISPER ROCK OFFSITE EAST - CONTRACT NO. 2014-W-0063 - WORK ORDER NO. 66384 by and between TWIN EAGLES DEVELOPMENT II, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for Water Main: Begin by connecting to an existing 12" line valve located within an easement adjacent to the east property line of Whisper Rock Section I and Villas at Whisper Rock; thence north and east within an easement 2801±-L.F. of 12" AWWA C900 PVC water pipe terminating by connecting to an existing 12" line valve located within the west right of way of Copldwater Road. Said water line to include: 2802±-L.F. of 12" AWWA C900 PVC water pipe, (2) fire hydrant assemblies:

involving a total cost of ONE HUNDRED EIGHT-FIVE THOUSAND NINE HUNDRED TWENTY-SIX AND 06/100 DOLLARS - (\$185,926.06). A copy of said Contract is on file with the Office of the City Clerk and made available for

1 public inspection, according to law.
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3 **SECTION 2.** That this Ordinance shall be in full force and effect
4 from and after its passage and any and all necessary approval by the Mayor.
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7 _____
8 Council Member

9 APPROVED AS TO FORM AND LEGALITY
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12 _____
13 Carol Helton, City Attorney
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POTABLE WATER CONTRACT

CONTRACT NO. 2014-W-0063

WORK ORDER NO. 66384

THIS POTABLE WATER CONTRACT ("Contract") is made and entered into this 2 day of December 2015, by and between Twin Eagles Development II, LLC ("Contributor") and the City of Fort Wayne Board of Public Works ("City"), for the following and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, to wit:

The said Contributor and the City for consideration hereinafter named, agree as follows:

1. That the City and the Contributor shall proceed dependent upon procurement of materials and labor and with reference to other similar work of said parties, or as approved by the City, to construct a local water system to serve Whisper Rock Offsite East, located in Section 16 of Perry Township, T32n, R12E of Allen County, Indiana as follows:

Water Main:

Begin by connecting to an existing 12" line valve located within an easement adjacent to the east property line of Whisper Rock Section I and Villas at Whisper Rock; thence north and east within an easement 2802±L.F. of 12" AWWA C900 PVC water pipe terminating by connecting to an existing 12" line valve located within the west right of way of Coldwater Road.

Said water line to include: 2802±L.F. of 12" AWWA C900 PVC water pipe, (2) fire hydrant assemblies.

2. It is agreed that all service connections as defined in Paragraph 1 shall be installed by the Contributor or its agent. If subsequent to its installation and prior to the establishment of a water service account with City, any part of the service connection, excepting the water tap, cannot be located, is damaged or fails, it shall be the responsibility of the owner of record of the real estate served by the service connection to either locate, repair, or replace same. In the event the City is requested to locate, repair, or replace any part of the aforementioned service line, excepting the water tap, the owner of record of the real estate shall pay the City all costs associated with the location, repair, or replacement of same. Once an initial water service account has been established with the City, the location, repair, or replacement of said service connection shall be the responsibility of the City.
3. That said water main system shall be constructed according to the standards, plans, and specifications of the City or approved by the City, which are on file in the office of the Water Resources Department of the City, and by reference are incorporated herein and made a part thereof.
4. Said City shall furnish water to its customers through said system, when complete, in accordance with rules and regulations of said City and the laws, ordinances and regulations applicable to the City's service of water to its customers, now in force, or that may hereafter be adopted; however, it is understood and agreed that notwithstanding the system being accepted by said City, the City will not furnish water through any part or parts of the water main covered hereunder unless and until the entire system shall have been tested, disinfected and placed in service. Contributor agrees that acceptance of the water main covered hereunder shall not waive City's rights to require testing and disinfecting of said water main prior to same placed in service.
5. It is understood and agreed by and between the parties to this Contract, that the Contributor shall furnish and pay for all materials, contractual labor, equipment, permits, carrying costs and/or licenses required for the construction of said water main system using Fox Contractors Corporation with a total cost of \$173,475.00 (One hundred seventy-three thousand four hundred seventy-five dollars and no cents). The City shall provide the necessary inspecting, pressure-testing, disinfection, and engineering services, estimated at a cost of \$12,451.06 (Twelve thousand four hundred fifty-one dollars and six cents). Therefore, the total value of said water main system is \$185,926.06 (One hundred eighty-five, nine hundred twenty-six dollars and six cents).

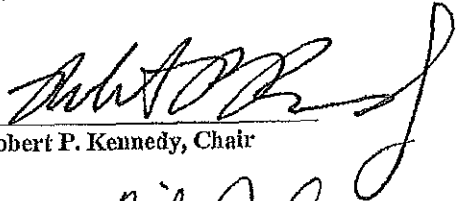
6. Therefore, it is agreed that upon completion and acceptance of said water main system by said City, the City will pay to said Contributor, as set forth below, an amount of \$185,926.06 and be called the "Total Amount" shall be paid in the manner described in the following paragraph.
7. The payment of the Total Amount shall be made within 30 days after approval of this Contract by the Board of Public Works, and, if required by Fort Wayne Code of Ordinances 37.18, approval by the Common Council of Fort Wayne.
8. The City may approve the extension of additional water mains from the water main(s) covered in this Contract without incurring any financial obligations to the Contributor under this Contract except it is understood and agreed that the City will not permit any future customers of water on property contiguous to the water main subject to this Contract to make a service connection tap into any lateral extension from this main so as to avoid payments of the aforesaid share of the installation cost of this main.
9. It is further understood and agreed that, upon completion of said water main system but prior to its testing and disinfecting by City for purposes of allowing said system to be placed in service, the Contributor or its contractor shall file a Completion Affidavit and a Maintenance Bond with the Board of Public Works of the City, and shall take such action as is necessary to transfer all rights, title and interest in said system to the City. The Maintenance Bond shall run for a minimum of one (1) year from the date of acceptance of said system of the City and shall be in the minimum amount of \$37,467.50 (Thirty Seven thousand four hundred sixty seven dollars and fifty cents).
10. Upon receipt of the Completion Affidavit and Maintenance Bond, and being provided with proof of dedicated easements or recorded easements as required, the City will make final inspection of the project. Upon finding the project to be acceptable and in full compliance with the Standards and Specifications of the Water Resources Department and the Board of Public Works, the City through its Board of Public Works will issue a Letter of Acceptance of the project to Fox Contractors Corporation and to the Contributor. Upon issuance of the Letter of Acceptance, and in accordance with the terms of said letter, the water main and fittings installed under this Contract shall form and be a part of the water works system of said City, and all rights, title, and interest whatsoever in said water main system shall become and remain in the City of Fort Wayne, Indiana.
11. It is further understood and agreed that if the work described above is not initiated within twelve (12) months after the date of this Contract, said Contract shall be null and void.
12. E-Verify Affidavit. Pursuant to Indiana Code 22-5-1.7, Contributor agrees and shall enroll in and verify the work eligibility status of all newly hired employees of the Contributor through the E-Verify program. E-Verify means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). Contributor is not required to verify the work eligibility status of all newly hired employees of Contributor through the E-verify program if the E-Verify program no longer exists.

IN WITNESS WHEREOF, the parties have subscribed to the instrument the day and year first above written.

CITY OF FORT WAYNE, INDIANA
BOARD OF PUBLIC WORKS

CONTRIBUTOR
Twin Eagles Development II, LLC

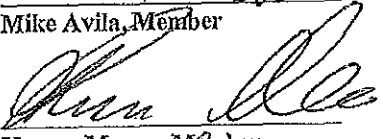
By


Robert P. Kennedy, Chair

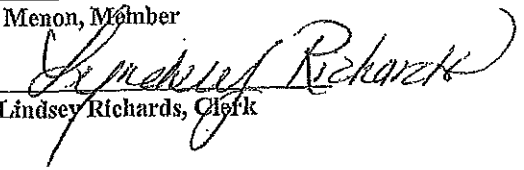
By


Mike Avila, Member

By


Kumar Menon, Member

ATTEST:


Lindsey Richards, Clerk

By


Jeffrey M. Thomas
Managing Member
1020 East Dupont Road
Fort Wayne, IN 46825
260/489-2000

ACKNOWLEDGEMENT
CONTRIBUTOR

STATE OF Indiana)
) SS
COUNTY OF Allen)

Before me, a Notary Public in and for said State and County personally appeared Jeffrey M. Thomas as Managing Member for Twin Eagles Development, II LLC, and acknowledged the execution of the foregoing Contract as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 16th day of November 20 15.

My Commission Expires: 11/8/2017

Stacey C Herbst
Notary Public Signature

Resident of Allen County

Stacey C Herbst
Printed Name



ACKNOWLEDGEMENT
CITY

STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

Before me, a Notary Public in and for said State and County personally appeared Robert P. Kennedy, Mike Avila and Kumar Menon as Members of the Board of Public Works, and Lindsey Richards, Clerk of the Board, and acknowledged the execution of the foregoing Contract as and for their voluntary act and deed for the uses and purposes therein contained.

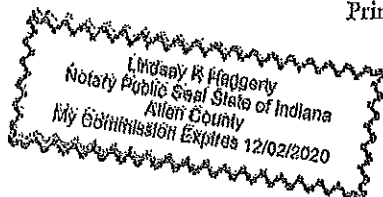
WITNESS my hand and notarial seal this 2 day of December 20 15.

My Commission Expires: 12/02/2020

Lindsey K Haggerty
Notary Public Signature

Resident of Allen County

Lindsey K Haggerty
Printed Name



I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. This instrument prepared by Thomas T. Ntza Jr., P.E. for Fort Wayne City Utilities, October 28, 2015.

Interoffice Memo

Date: December 2, 2015
To: Common Council Members
From: Mike Kiester, City Utilities Engineering
RE: Potable Water Contract – Whisper Rock Offsite East # 2014-W-0063

On December 2, 2015, the Board of Public Works entered into an agreement with the Twin Eagles Development II, LLC (TED II) for the construction and provision of drinking water service to a development area near the intersection of Coldwater Road and Gump Road. TED II is led by Mike and Jeff Thomas of Mike Thomas and Associates. City Utilities is partnering with TED II to accomplish regional goals for the overall sizing of facilities to accommodate further economic development throughout this area. The contract provides for the added sizing of a drinking water facilities to service anticipated growth areas at the northern edge of the service area of City Utilities. The Board's participation in this project amounts to \$185,926.06.

This new infrastructure will accomplish several important objectives. It will provide drinking water service for a new growth area to the north of the city, make improvements to existing facilities for existing customers and offer the opportunity to provide access for private well relief to already developed areas.

The Board of Works and City Utilities seeks the Council's concurrence with the Board's action so that we may proceed with this significant system improvement.

CC: BOW
Diane Brown
Chrono
File