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2 **BILL NO. S-19-05-03**

SPECIAL ORDINANCE NO. S-54-1

3 AN ORDINANCE approving CONSTRUCTION  
4 CONTRACT - ARDMORE AVENUE WETLAND  
5 MITIGATION - RESOLUTION/WORK ORDER #0297P  
6 between WILLIAMS CREEK MANAGEMENT and the  
7 City of Fort Wayne, Indiana, in connection with the  
8 Board of Public Works.

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

11 **SECTION 1.** That the CONSTRUCTION CONTRACT - ARDMORE  
12 AVENUE WETLAND MITIGATION - RESOLUTION/WORK ORDER #0297P by  
13 and between WILLIAMS CREEK MANAGEMENT and the City of Fort Wayne,  
14 Indiana, in connection with the Board of Public Works, is hereby ratified, and  
15 affirmed and approved in all respects, respectfully for:

16 All labor, insurance, material, equipment, tools, power,  
17 transportation, miscellaneous equipment, etc., necessary for  
18 construction of an 8 acre wooded wetland site meeting the  
19 requirements of the United States Army Corp of Engineers;

20 involving a total cost of TWO HUNDRED THOUSAND EIGHT HUNDRED  
21 TWENTY-SEVEN AND 50/100 DOLLARS - (\$200,827.50). A copy of said  
22 Contract is on file with the Office of the City Clerk and made available for public  
23 inspection, according to law.  
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**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

  
Council Member

APPROVED AS TO FORM AND LEGALITY

  
Carol Helton, City Attorney





## Notice of Award

4/23/2019

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Project: Ardmore Avenue Wetland Mitigation

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Owner: City of Fort Wayne Board of Works

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Resolution/Work Order #0297P

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Bidder: Williams Creek Management Corporation

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Bidder's Address: 4620 S County Road 600 E

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Plainfield, IN 46168

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You are notified that your Bid dated 4/16/2019 for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for Ardmore Avenue Wetland Mitigation

The construction of an 8 acre wooded wetland site meeting the requirements of the United State Army Corp of Engineers.

The Contract Price of your Contract is \$200,827.50.

1 copy of the proposed Construction Contract (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within **[10]** days of the date you receive this Notice of Award.

1. Deliver to the Owner **[1]** fully executed counterparts of the Construction Contract.
2. Deliver with the executed Agreement the Contract security **[Bonds]** as specified in the Instructions to Bidders.
  - a. Performance Bond
  - b. Payment Bond
  - c. Certificates of Insurance
3. Deliver evidence of successful Bidder's Affirmative Action Plan; OR, executed City of Fort Wayne Affirmative Action Program document, pursuant to Article 19 of the Instructions to Bidders.
4. Deliver executed Drug Policy Acknowledgement Form. (For projects over \$150,000.00 a copy of your drug testing program is required.)
5. Deliver executed E-Verify Affidavit.



## Notice of Award

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited. Contractor will be allowed an additional 11 calendar days to submit Bonds.

Within thirty days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement.

**CITY OF FORT WAYNE  
BOARD OF PUBLIC WORKS**

Handwritten signature of Shan Gunawardena in black ink.

Shan Gunawardena, Chair

Handwritten signature of Kumar Menon in black ink.

Kumar Menon, Member

Handwritten signature of Mike Avila in black ink.

Mike Avila, Member

**ATTEST:**

Handwritten signature of Michelle Fulk-Vondran in black ink.

Michelle Fulk-Vondran, Clerk

Date: 4.23.19

cc: Project Manager

## CONSTRUCTION CONTRACT

**Resolution No. / Work Order 0297P**

THIS CONTRACT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between **WILLIAMS CREEK MANAGEMENT** herein called CONTRACTOR, and the **CITY OF FORT WAYNE, INDIANA**, an Indiana Municipal Corporation, acting by and through the **MAYOR** and the **Board of Public Works** ("Board"), herein called **OWNER**;

**WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agree as follows:**

### ARTICLE 1: SCOPE OF WORK

CONTRACTOR shall furnish all labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following: **ARDMORE AVENUE WETLAND MITIGATION**

All according to all provisions of **RESOLUTION NO. 0297P**, and do everything required by this contract and the other documents constituting a part hereof.

### ARTICLE 2: THE CONTRACT SUM

The **OWNER** shall pay **CONTRACTOR** for the performance of the contract the amount of **\$200,827.50**. In the event the amount of work is increased or decreased by **OWNER**, the contract sum shall be increased or decreased according to the unit price schedule set forth in the **CONTRACTOR'S Proposal**.

### ARTICLE 3: PROGRESS PAYMENTS AND RETAINAGE

The **CONTRACTOR** may submit requests for payments no more often than every thirty (30) days for work performed and accepted under the Contract. If the **CONTRACTOR** is in compliance with the provisions of the contract, the **Board** will make payments for such work performed and completed. However, in any such case, the **Board** will retain five percent (5%) of the total amount owing to insure **CONTRACTOR'S** compliance with the **E.B.E.** provisions in Article 17 attached to this contract. Payments to the **CONTRACTOR** are not to exceed 5% of the total Contract amount until the **OWNER** has verified that the **CONTRACTOR** has made good faith efforts to attain the **E.B.E.** goal stipulated in Article 17.

If the contract is in excess of \$100,000, the contract will be subject to the standard **Board** escrow agreement. However, payment of the final 5% of the total contract amount will be dependent upon good faith efforts to comply with the **E.B.E.** goals stipulated in Article 17 attached hereto, and subject to appropriate reduction in the event of non-compliance, as provided in paragraph 6 of the aforementioned Article 17.

### ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract, including the **E.B.E.** provisions in Article 17 attached hereto, is fully performed. Payments to the **CONTRACTOR** are not to exceed 95% of the total contract amount until the **OWNER** has verified that the **CONTRACTOR** has made good faith efforts to attain the **E.B.E.** goal stipulated in Article 17.

Upon filing of a Completion Affidavit by the CONTRACTOR that the work is ready for final inspection and acceptance, the Board will direct the Engineering Department of the OWNER to promptly make such inspection, and will direct the City's Office of Vendor Compliance Department of the OWNER to make a final recommendation on whether the CONTRACTOR made good faith efforts to attain the E.B.E. goal stipulated in Article 17.

When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board. Likewise, when the Vendor Compliance Department determines that the CONTRACTOR'S efforts constitute good faith efforts to attain the E.B.E. goal as agreed in Article 17 and that all required Vendor Compliance reports have been submitted, it shall so inform the Board of Public Works through an E.B.E. Compliance Final Report.

Upon receiving both the Engineering Department's and the Vendor Compliance Department's recommendations, the Board shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted, and further stating that the aforementioned E.B.E. goal in Article 17 has been met. Thereupon, the entire balance of the Contract sum shall be due and payable to the CONTRACTOR; provided only that CONTRACTOR shall first furnish OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid, and all required Vendor Compliance reports for this project have been submitted.

In the event that the Board determines that good faith compliance with the E.B.E. goals and provisions in Article 17 has not occurred, appropriate reduction in the final payment will be made, pursuant to paragraph 6 of the aforementioned Article 17 attached hereto. Said amount shall be added to the City E.B.E. Bond Guarantee Fund and the CONTRACTOR agrees to accept the reduced amount as full payment under the terms of his/her contract.

If the contract is in excess of \$100,000, the contract will be subject to the standard Board escrow agreement. However, payment of the final 5% of the total contract amount will be dependent upon good faith efforts to comply with the E.B.E. goals in Article 17, and subject to appropriate reduction in the event of non-compliance, as provided in paragraph 6 of the aforementioned Article 17 attached hereto.

#### **ARTICLE 5: WORKMEN'S COMPENSATION ACT**

The CONTRACTOR will furnish upon request a certificate from the Worker's Compensation Board of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of the State of Indiana and Ordinances of the City of Fort Wayne. No work contemplated by this Contract shall commence prior to Owner receiving a certificate of insurance verifying the coverage provided herein.

Any judgment rendered against the City in any suits for damages for injury to real or personal property, or for injury sustained by any person growing out of any act or doing of CONTRACTOR, or its agents, employees or workmen or any judgment of any court or award of any Board of Arbitrators or of the Worker's Compensation Board of Indiana rendered against the City in any suit or claim arising under said Workmen's Compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor(s) in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said CONTRACTOR, shall be conclusive against CONTRACTOR as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that CONTRACTOR indemnify and hold harmless OWNER in the premises.

**ARTICLE 6: NONDISCRIMINATION OF LABOR**

The CONTRACTOR further agrees to 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. The successful bidder shall file a Manpower Utilization Report for this project with the Office of Compliance within ten (10) days after completion of construction or upon request of the Office of Compliance.

**ARTICLE 7: [Reserved]**

**ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT**

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- a. Notice to Contractors for Resolution 0297P.
- b. Instructions to Bidders for Resolution 0297P.
- c. Contractor's Proposal dated 4/16/2019.
- d. Fort Wayne Engineering Department Drawing Number ST-0297P.
- e. Supplemental Specifications for Resolution 0297P.
- f. Workmen's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.
- g. Non-Discrimination of Labor, Chapter 93.036, Code of City.
- h. [Reserved]
- i. Performance and Guaranty Bond, if required.
- j. Labor and Material Payment Bond, if required.
- k. Right-of-Way Cut Permit.
- l. Comprehensive Liability Insurance Coverage.
- m. Form 96.
- n. Article 17: Emerging Business Enterprise
- o. Vendor Compliance Reports.
- p. Vendor Disclosure Form.
- q. E-Verify Affidavit.
- r. Drug Policy Acknowledgement Form (Contract less than \$150,000) or Written Drug Testing Plan (Contract \$150,000 or more)
- s. Completion Affidavit

**ARTICLE 9: GUARANTEE OF WORKMANSHIP**

At the time of execution of this contract, if required by the terms of the Notice to Contractors, the CONTRACTOR shall furnish a Performance and Guaranty Bond in favor of the City in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of TWO (2) YEARS following written acceptance of the work by the OWNER. "The requirement of a Performance/Payment and Guaranty Bond shall be waived for EMERGENCY projects under TEN THOUSAND DOLLARS (\$10,000)."

**ARTICLE 10: INDEMNITY**

CONTRACTOR shall furnish to OWNER, within ten (10) days of the date hereof, a certificate from an

insurer acceptable to OWNER showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to OWNER and in accordance with the Indiana law.

**ARTICLE 11: ADJUSTMENTS OF DISPUTES**

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Chairman of Board of Public Works of the OWNER, and his/her decision shall be final and conclusive upon the parties. Provided, however, no changes in the plans, specifications, or other phases of work covered by this Contract will be permitted except on prior written authorization by the Board.

**ARTICLE 12: COMPLETION DATE**

The CONTRACTOR agrees to complete the work specified in the contract within/by the substantial completion date of 10/25/2019 and the final completion date of 11/25/2019 after having been ordered by the OWNER to commence work under this contract.

**ARTICLE 13: COUNCILMANIC APPROVAL**

This Contract, although executed on behalf of the OWNER by the MAYOR and Board of Public Works of the City shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the contract within ninety (90) days after the date of the bid opening, then the contractor shall not be bound to the contract unless he/she/it elects to be so bound.

**ARTICLE 14: CITY OF FORT WAYNE ALCOHOL AND DRUG POLICY**

The City of Fort Wayne has in place an Alcohol and Drug Policy that also applies to any Contractors doing business with the City when the Contract is less than \$150,000. A copy of this policy is available for inspection in the office of Risk Management, 200 East Berry Street, Suite 470 or on the City of Fort Wayne website at: <http://www.cityoffortwayne.org/finance/purchasing/drugpolicy.htm>. The successful bidder will be furnished a copy of said policy and, as a condition of being awarded any contract, the successful bidder shall execute an acknowledgment of receipt of said policy and agree to be bound by those provisions of the policy that may be applicable. A copy of this form will be retained by the Risk Management Department of the City of Fort Wayne.

Pursuant to IC 36-1-12-24, when the contract is at least \$150,000, the CONTRACTOR shall implement the employee drug testing program submitted as part of its Bid. Owner may cancel this Contract if it determines that the CONTRACTOR:

- A: Has failed to implement its employee drug testing program during the term of this Contract;
- B: Has failed to provide information regarding implementation of the Contractor's employee drug testing program at the request of Owner; or
- C: Has provided to the OWNER false information regarding the CONTRACTOR'S employee drug testing program.

## **ARTICLE 15: EMPLOYMENT ELIGIBILITY VERIFICATION**

Pursuant to IC 22-5-1.7, CONTRACTOR shall enroll in and verify the work eligibility status of all hired employees of CONTRACTOR through the E-Verify Program ("Program"). CONTRACTOR is not required to verify work eligibility status of all hired employees through the Program if the Program no longer exists.

CONTRACTOR and its subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that CONTRACTOR or its subcontractor subsequently learns is an unauthorized alien. If CONTRACTOR violates this Section 16.23, OWNER shall require CONTRACTOR to remedy the violation not later than thirty (30) days after OWNER notifies CONTRACTOR. If CONTRACTOR fails to remedy the violation within the thirty (30) day period, OWNER shall terminate the contract for breach of contract. If OWNER terminates the contract, CONTRACTOR shall, in addition to any other contractual remedies, be liable to OWNER for actual damages. There is a rebuttable presumption that CONTRACTOR did not knowingly employ an unauthorized alien if CONTRACTOR verified the work eligibility status of the employee through the Program.

If CONTRACTOR employs or contracts with an unauthorized alien but OWNER determines that terminating the contract would be detrimental to the public interest or public property, OWNER may allow the contract to remain in effect until OWNER procures a new contractor.

CONTRACTOR shall, prior to performing any work, require each subcontractor to certify to CONTRACTOR that the subcontractor does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. Contractor shall maintain on file a certification from each subcontractor throughout the duration of the Project. If CONTRACTOR determines that a subcontractor is in violation of this section, CONTRACTOR may terminate its contract with the subcontractor for such violation. Such termination may not be considered a breach of contract by CONTRACTOR or the subcontractor.

In addition, prior to commencing performance of the Contract, each Contractor and Subcontractor(s) shall submit to Owner the E-Verify case verification number for each individual required to be verified under IC 22-5-1.7. An individual may not commence performance of the Contract if the individual's final case result is "Final Nonconfirmation." If OWNER suspects violations of this requirement, OWNER is required to refer the matter to the Indiana Department of Labor.

## **ARTICLE 16:**

This contract shall be governed in accordance with the laws of the state of Indiana. The venue for disputes hereunder shall be exclusive to local and federal courts of Allen County, Indiana.

## **ARTICLE 17: EMERGING BUSINESS ENTERPRISE**

THIS CONTRACT made and entered into by and between the CITY OF FORT WAYNE, hereinafter referred to as OWNER and WILLIAMS CREEK MANAGEMENT, hereinafter referred to as CONTRACTOR,

### **WITNESSETH:**

**WHEREAS**, the CONTRACTOR is the apparent low bidder on construction project commonly referred to as the ARDMORE AVENUE WETLAND MITIGATION, which project was bid under Resolution Number 0297P; and

**WHEREAS,** CONTRACTOR agrees that the goal for qualified Emerging Business Enterprises, hereinafter sometimes referred to as E.B.E.'s as subcontractors on this project is 10% of the contract amount; and

**WHEREAS, OWNER** has, pursuant to Executive Order 90-01 (as amended 05-08-06), adopted a goal of at least 10% of the contract amount to Emerging Business Enterprises as defined under said Executive Order (as amended 05-08-06); and

**WHEREAS,** said Executive Order (as amended 05-08-06) states:

"Section 2, Paragraph C. Each contractor shall be required to make a good faith effort to subcontract 10% of the contract amount to Emerging Business Enterprises on each construction contract he/she is awarded.

In the event a contractor is unable to subcontract 10% of the contract amount or secure services of an Emerging Business Enterprise, he/she will be required to submit a completed Request for Waiver form on which he/she will provide a written description of the efforts taken to comply with the participation goals."

**NOW, THEREFORE,** in consideration of the foregoing and of the mutual agreements hereinafter contained, the sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. **Conditional Award** - Subject to approval by the Common Council of the City of Fort Wayne as stipulated in the construction contract to which this Article is attached, OWNER awards the construction contract to the CONTRACTOR.
2. **E.B.E. Retainage requirements** - If the CONTRACTOR is in compliance with the provisions of the construction contract to which this Article is attached, the OWNER will make payments for such work performed and completed. However, in any such case, the OWNER will retain five percent (5%) of the total amount owing to insure compliance with this Article. Upon final inspection and acceptance of the work, and determination by the Board that the CONTRACTOR has made a good faith effort to subcontract 10% of the contract amount to emerging business enterprises, the contractor will be paid in full.

In the event there is a determination that good faith compliance with this Article has not occurred, appropriate reduction in the final payment pursuant to paragraph 6 of this Article will be made.

If the contract is in excess of \$100,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the CONTRACTOR are not to exceed 95% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in this Article.

Payment of the final 5% of the total contract amount will be dependent upon good faith efforts to comply with this Article, and subject to reduction in the event of non-compliance as provided in paragraph 6 of this Article

3. **Request for Waiver** - If, at the time final payment application is made, contractor has

not attained the ten 10% E.B.E. goal, contractor shall file with the final payment application a "Request for Waiver." Said Request for Waiver shall contain a written description of the efforts taken by CONTRACTOR to attain the 10% E.B.E. goal.

4. **Determination of Waiver Requests** – The City’s Office of Vendor Compliance Department shall examine all Requests for Waiver to determine if Contractor's efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board.
5. **Good Faith Per Se.** - In any case, a CONTRACTOR shall be deemed to have made good faith efforts at compliance where E.B.E.'s have subcontracted for every sub-contract for which there are qualified E.B.E.'s available.
6. **Consequence of noncompliance** - In the event the Board approves a recommendation that contractor failed to make good faith efforts at compliance, the contract shall be reduced by the amount calculated as the difference between 10% and the percentage level met. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and CONTRACTOR agrees to accept the reduced amount as full payment under the terms of his/her contract.
7. **Waiver approved** - In the event the Board determines that a good faith effort to comply with this Article has been made, the contract shall not be reduced, and the balance owing to the contractor shall be paid in full.

#### **ARTICLE 18: PREMATURE WORK COMMENCEMENT**

CONTRACTOR shall not commence any work or operation as described in these Project Specifications and/or Project Bid items, in part or whole, prior to the Notice-to-Proceed. Work performed prior to the date of the Notice to Proceed shall be considered work outside of the scope of the contract for purposes of payment. CONTRACTOR agrees that any work or operation, as described in the Project Specifications and/or Project Bid Items, in part or whole, prior to the Notice to Proceed shall be deducted from the project Bid Quantities and Project Cost. CONTRACTOR agrees that such action is at the CONTRACTOR’S risk and without liability on the part of the City.

#### **ARTICLE 19: FINDING DETERMINATION OF RESPONSIBILITY FOLLOWING COMMENCEMENT OF WORK**

A determination of responsibility may be made after work has commenced if the CONTRACTOR fails to remedy certain violations under IC 5-16-13 within thirty (30) days. For purposes of this determination, the term “contractor” refers generally to a contractor in any contractor tier. For example, a contractor may be found not responsible for a period up to forty-eight (48) months if one of the following occur:

- (1) The contractor does not maintain general liability insurance in the amount of \$1,000,000 for each occurrence and \$2,000,000 for the general aggregate;
- (2) The Tier 1 contractor does not contribute 15% of the contract in work, materials, or services;
- (3) The contractor does not fit within the “contractor tier” structure, as that term is defined under IC 5-16-13-4;
- (4) The contractor pays cash to any individual for work performed in connection with the contract; or
- (5) The contractor fails to provide the City with the E-verify case verification number for those

individuals required to be verified prior to beginning work on the contract.

When making a determination of responsibility after work has commenced, the severity of the violation will be taken into consideration when determining the length of time the contractor will be found not responsible. The period during which the contractor is considered not responsible begins on the date of substantial completion of the public works project.

**ACKNOWLEDGMENT**

STATE OF INDIANA)

SS: )

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared the within named \_\_\_\_\_ who being by me first duly sworn upon his oath says that he is the \_\_\_\_\_ of \_\_\_\_\_ 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 \_\_\_\_\_ County.

**ACKNOWLEDGMENT**

STATE OF INDIANA )

SS: )

COUNTY OF ALLEN )

BEFORE ME, a Notary Public, in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared the within named **Thomas C. Henry, Shan Gunawardena, Kumar Menon, Mike Avila, 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, 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.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT the day and year first above written.

**CONTRACTOR**

**CITY OF FORT WAYNE**

**BY:** \_\_\_\_\_  
WILLIAMS CREEK MANAGEMENT

**BY:** \_\_\_\_\_  
THOMAS C. HENRY, MAYOR

**BOARD OF PUBLIC WORKS**

**BY:** \_\_\_\_\_  
SHAN GUNAWARDENA, CHAIR

**BY:** \_\_\_\_\_  
KUMAR MENON, MEMBER

**BY:** \_\_\_\_\_  
MIKE AVILA, MEMBER

**ATTEST:** \_\_\_\_\_  
MICHELLE FULK-VONDRAN, CLERK

CITY OF FORT WAYNE, INDIANA

WILLIAMS CREEK MANAGEMENT CORP  
(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: NEIL MYERS Name: THEODORE BLANK

Address: 2812 N AUDUBON ROAD, INDIANAPOLIS, IN 46250 Address: 5500 POTTER PIKE, INDIANAPOLIS, IN 46254

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: NEIL MYERS 49.21 %

Name: TED BLANK 49.21 %

**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

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- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years:  
Yes  No

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

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

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**Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION**

- a. Does Vendor have current contracts (including leases) with the City? Yes  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).

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

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).

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

Yes \_\_\_\_\_ No

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

Name / Position / Payment Terms:

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Name / Position / Payment Terms:

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Name / Position / Payment Terms:

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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: \_\_\_\_\_

Company / Name / Payment Terms: \_\_\_\_\_

#### 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

Williams Creek Management Corp  
 (Name of Vendor)

4620 S. COUNTY ROAD COOK, PLAINFIELD, IN 46168

Address  
317 838 9810  
 Telephone

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) Neil B Myers Title President

Signature  Date 8-8-19

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

# COUNCIL DIGEST SHEET

Enclosed with this introduction form is a tab sheet and related material from the vendor(s) who submitted bid(s). Purchasing Department is providing this information to Council as an overview of this award.

## RFPs & BIDS

Bid/RFP #	0297P
Awarded To	William Creek Management
Amount	200,827.50
Conflict of interest on file?	<input type="checkbox"/> Yes <input type="checkbox"/> No n/a
Number of Registrants	8
Number of Bidders	4
Required Attachments	Bid Tab Analysis Sheet, Award Approval, Proposed Contract

## EXTENSIONS

Date Last Bid Out	N/A
# Extensions Granted To Date	N/A

## SPECIAL PROCUREMENT

Contract #/ID <i>(State, Federal, Piggyback--Authority)</i>	0297P
Sole Source/ Compatibility Justification	N/A

## BID CRITERIA *(Take Buy Indiana requirements into consideration.)*

Most Responsible, Responsive Lowest	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If no, explain below</i>
If not lowest, explain	N/A

# COUNCIL DIGEST SHEET

## COST COMPARISON

<i>Increase/decrease amount from prior years For annual purchase (if available).</i>	N/A
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## DESCRIPTION OF PROJECT / NEED

<i>Identify need for project &amp; describe project; attach supporting documents as necessary.</i>	See attached Common Council Supplemental

## REQUEST FOR PRIOR APPROVAL

<i>Provide justification if prior approval is being requested.</i>	N/A

## FUNDING SOURCE

<i>Account Information.</i>	
	CEDIT



FW PUBLIC WORKS

# Board of Public Works

*In Your Neighborhood*

COMMON COUNCIL DIGEST SHEET – SUPPLEMENTAL

## ARDMORE AVENUE WETLAND MITIGATION

### Action Requested:

Requesting an Ordinance approving the **ARDMORE AVENUE WETLAND MITIGATION** project pursuant to Board of Works resolution **0297P** and an award to **Williams Creek Management** in the amount of **\$200,827.50**.

### Description and Scope of the Work:

The construction of an 8 acre wooded wetland site meeting the requirements of the United State Army Corp of Engineers.

**BILL NO. S-19-05-03**

**REPORT OF COMMITTEE ON PUBLIC WORKS  
May 21, 2019**

***Glynn Hines Chair***

***Paul Ensley Co-Chair***

***All Council Members***

An Ordinance approving Construction Contract – Ardmore Avenue Wetland Mitigation - Resolution/Work Order #0297P between Williams Creek Management and the City of Fort Wayne, Indiana, in connection with the Board of Public Works

*Involving a total cost of \$200,827.50*



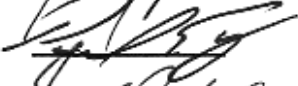
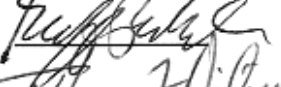
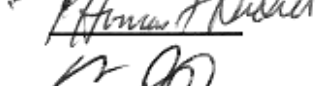
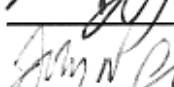
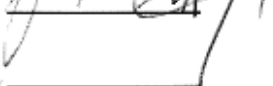
**COMMITTEE ON PUBLIC WORKS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said ordinance**

DO PASS

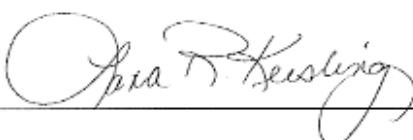
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**LANA R. KEESLING CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Hines.

Read the second time by title and referred to the Public Works Committee.

Read the third time in full and on motion by Councilman Hines, 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"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>

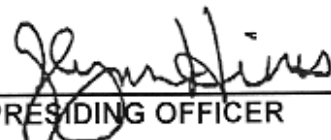
DATED: May 28, 2019

  
LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Special Ordinance No. S-19-05-03 on the 28th day of May, 2019

  
LANA R. KEESLING  
CITY CLERK

  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 30th of May 2019, at the hour of 8:50 o'clock A.M. E.S.T.

  
LANA R. KEESLING, CITY CLERK

Approved and signed by me this 31<sup>st</sup> day of MAY

2019, at the hour of 10:00 o'clock AM E.S.T.

FORT WAYNE, INDIANA  
**RECEIVED**  
**MAY 31 2019**  
LANA R. KEESLING  
CITY CLERK

  
THOMAS C. HENRY, MAYOR