



Department of Engineering

March 12, 2019

Board of Public Works & Safety
10 South State Street
Greenfield, IN 46140

Dear Members,

Around 2004, Sawmill Section 1 was constructed with the intent to provide downstream drainage for Section 1 and future sections into Wilson Ditch. For a variety of reasons, Westport Homes never completed the portion south of US 40 that connects the dots between Sawmill Section and Wilson Ditch. Currently, the Sawmill ponds outfall to an existing legal drain that is over capacity but eventually leads to Wilson Ditch.

Around 2015, an agreement was made between Westport Homes and the City of Greenfield that gave the City approximately \$160,000 to complete the downstream outlet. We brought Wessler Engineering in to design the final solution for the entire watershed and the bids were received at the last Board with the results summarize below:

| Engineer's Estimate | \$ | % from EE |
|-----------------------|---------------|-----------|
| Indiana Excavating | \$ 289,007.00 | +62.4% |
| Kindred Excavating | \$ 125,000.00 | -29.8% |
| Millenium Contractors | \$ 283,000.00 | +59.0% |
| Morphey Construction | \$ 202,000.00 | +13.5% |
| Poindexter Excavating | \$ 323,300.00 | +81.6% |
| Smith Projects | \$ 258,843.50 | +45.4% |

We were concerned with the unusually low bid from Kindred, so we brought them in last week to discuss their bid and to see if they wanted to honor the stated price. They admitted that they missed some items but ultimately they decided to honor the price as bid. I've included an email confirmation of that for reference.

Therefore, I would like to ask for approval of the construction agreement with Kindred Excavating in the not-to-exceed amount of \$125,000.00 with an intermediate substantial completion date of May 15, 2019 (culvert work at the Pennsy Trail) and substantial completion date of August 2, 2019.

Sincerely,

Jason A. Koch, P.E.
City Engineer

AGREEMENT
City of Greenfield

THIS AGREEMENT is made and entered into as of the 12th day of March, 2019.

by and between

“OWNER”: City of Greenfield, Indiana, by and through its Board of Public Works
10 S. State Street, Greenfield, Indiana 46140

and

“CONTRACTOR”: Kindred Excavating Inc.
4231 South 800 W
New Palestine, IN 46163

concerning the following:

“PROJECT”: **19-ST-01: Sawmill Offsite Drainage Improvements**

“WORK”: **72-inch RCP culvert pipe, ditch grading, and all associated excavation, bedding, backfill, earthwork, testing, temporary and permanent erosion control, pavement repairs, and site restoration.**

“ENGINEER”: **Wessler Engineering, Inc.**

RECITALS:

- A. The OWNER has heretofore caused to be prepared certain plans, specifications and other “Contract Documents” as hereinafter listed pertaining to the above described Project and Work, and the CONTRACTOR has filed Proposal to furnish said labor, tools, material, equipment, services, and perform said Work upon the terms and for the price(s) therein fully stated and set forth;
- B. The said Contract Documents accurately and fully describe the terms and conditions upon which the CONTRACTOR is willing to furnish the labor, tools, material, equipment, services, and perform the Work called for by the Contract Documents and in the manner and time and for the price(s) set forth herein.

RE: Sawmill Downstream Bid

From : Jonathan Kindred <kindredexcavating@hotmail.com>

Fri, Mar 01, 2019 05:13 PM

Subject : RE: Sawmill Downstream Bid

To : Jason Koch <jkoch@greenfieldin.org>

Jason,

Kindred Excavating will honor our bid that was publicly opened at the Board of Public Works & Safety on 2/26/2019 and will execute the work per the as-bid set of plans and specifications.

Also the proof of insurance was included in the bid packet that I turned in. However if there is something else you need in reference to insurance please let me know.

I am working on the bond information with my insurance and will have that likely next week.

John Kindred
Kindred Excavating
4231 South 800 West
New Palestine, IN 46163
317.750.8402
kindredexcavating@hotmail.com

From: Jason Koch <jkoch@greenfieldin.org>

Sent: Friday, March 1, 2019 12:10:25 PM

To: kindredexcavating; precisionestimations@gmail.com

Cc: Daniel Miller; Gregg Morelock

Subject: Sawmill Downstream Bid

Jake & John,

Thanks for taking the time to meet with us yesterday. As you noted at that meeting, you said that you may have left out certain items such as dewatering and underestimated the quantities for clearing of right-of-way and earthwork spoils. We left that meeting and I asked you to let us know by the end of the day today, 3/1/2019, if you'd still honor your pricing within the confines of the as-bid plans and specifications. Around 5:30 on 2/28/2019, Jake sent me a text saying that you would honor the pricing.

I would like you to reply to this email so that I can have an official paper trail to confirm that you will honor your bid that was publicly opened at the Board of Public Works & Safety on 2/26/2019 and that you will execute the work per the as-bid set of plans and specifications. I'll include this email reply into the Board award memo for the Board's reference.

I would also like to request that you provide the post-bid documents that include 1) the subcontractor and suppliers list for anything over \$10,000, 2) manufacturers list for all materials to be used in the work, and 3) e-verify enrollment documentation (pages POST-BID-1 to POST-BID-3 in the contact book). Attached is the agreement for your signature. I'll need this returned ASAP for inclusion in the Board award packet that is due on 3/7.

We'll also need, in accordance with the instruction to bidders (ITB) section 8, your proof of insurance coverage and the payment and performance bonds concurrently with the execution of the agreement on 3/12/2019. We'll need that before issuing the NTP and since the intermediate substantial completion date is 5/15/2019, the sooner you can deliver that information to release your NTP, the better. So if you decide to come to the Board meeting on 3/12, you might want to try to bring those documents with you. We'll be able to release your cashier's check for the bid bond at that time.

Thanks, and please let me know if you have any questions or need any additional information.

Jason

Jason A. Koch, PE

City Engineer

City of Greenfield

10 S. State Street

Greenfield IN 46140

o: 317-325-1322

c: 317-586-5589

jkoch@greenfieldin.org

www.greenfieldin.org

THE OWNER AND CONTRACTOR AGREE AS FOLLOWS:

1. Contract Documents

1.1 This Agreement consists of the following Contract Documents all of which are as fully a part of this Agreement as if set out verbatim herein or attached hereto and the same do in all particulars become the Agreement between the parties hereto in all matters and things set forth herein and described:

- .1 This Agreement;
- .2 All Addenda issued prior to receipt of Bids, whether or not receipt thereof has been acknowledged by CONTRACTOR in its Bid;
- .3 Special Conditions;
- .4 General Conditions;
- .5 CONTRACTOR's Itemized Proposal and Declarations;
- .6 Technical Specifications;
- .7 Plans;
- .8 City Standards and Specifications;
- .9 INDOT Standard Drawings;
- .10 INDOT Supplemental Specifications Section 200 Series through Section 900 Series;
- .11 INDOT Standard Specifications Sections 200 Series through Sections 900 Series;
- .12 Additional Requirements Section of the Bid Documents (change order forms, Indiana Code 5-16-13, etc.);
- .13 Instructions to Bidders;
- .14 Advertisement or Notice to Bidders; and
- .15 Performance, Payment and Warranty Bonds.

1.2 In resolving conflicts, errors, discrepancies and disputes concerning the nature, character, scope or extent of Work to be performed or furnished by the CONTRACTOR, or other rights and obligations of the OWNER and CONTRACTOR, arising from or prescribed by one or more of the Contract Documents, the following rules shall govern:

- .1 A requirement occurring in one Contract Document is as binding as though occurring in all Contract Documents;
- .2 Calculated dimensions shall govern over scaled dimensions;

- .3. The Contract Documents shall be given precedence in the order listed in Paragraph 1.1 above; and
- .4. In documents of equal priority, if any such conflict, error, discrepancy or dispute cannot be resolved or reconciled by application of the rules stated in Subparagraphs 1.2.1 through 1.2.3, then the provision expressing the greater quantity, quality, or scope of work, or imposing the greater obligation upon the CONTRACTOR or affording the greater right or remedy to the OWNER shall govern, without regard to the party who drafted such provision.

2. Contract Price

- 2.1 The CONTRACTOR shall, in strict conformity with the Contract Documents, furnish all labor, tools, materials, equipment, services, assume and fulfill all obligations and perform all Work required to construct, complete, and make ready for use by the OWNER for the lump sum of One-Hundred Twenty-Five Thousand and 00/100 Dollars (\$125,000.00).
- 2.2 The above stated Contract Sum will be paid to the CONTRACTOR in the manner and at such times as set forth in the Contract Documents.

3. Contract Time

- 3.1 It is hereby understood and mutually agreed, by and between the CONTRACTOR and OWNER, that the date of commencement and the time for completion of the Work as specified in the Contract Documents are ESSENTIAL CONDITIONS of this Agreement.
- 3.2 The CONTRACTOR agrees that the Work shall be commenced no later than the date indicated in the Notice to Proceed and that the Work shall be prosecuted regularly, diligently and uninterruptedly at such a rate of progress as will insure **Substantial Completion on or before August 2, 2019, and Final Completion on or before September 2, 2019**. The **Intermediate Substantial Completion date of May 15, 2019** shall be defined as completion of all work that requires closure of the Pennsy Trail including all surface restoration within 15' of the centerline of the trail so that the trail can be opened safely for public use. HMA completion is not required for Intermediate Substantial Completion, however any temporary trail surface must be ADA compliant and maintained in good condition until the final HMA installation; the cost of such temporary surface will be included in the cost of other items. The following items from the Schedule of Values shall be completed by the Intermediate Substantial Completion Date:

10. Concrete Anchor, 72"

11. Culvert Pipe, 72" RCP

- 3.3 The CONTRACTOR and OWNER acknowledge and agree that the time allotted by this Agreement for the performance and completion of the Work is reasonable and takes into account any and all risks and adverse conditions assumed by CONTRACTOR hereunder.

4. Liquidated Damages

The CONTRACTOR and OWNER recognize and contemplate that unexcused failure by the CONTRACTOR to complete the Work within the Contract Time will cause the OWNER and the Public to suffer financial losses or inconvenience the full and exact extent and character of which cannot be measured as a basis for recovery by the OWNER of actual damages, and that

liquidated damages as prescribed in the Contract Documents represent a fair, reasonable and appropriate estimate thereof. Accordingly, the CONTRACTOR agrees that such liquidated damages may be assessed and recovered by the OWNER, as against CONTRACTOR and its Surety, in the event of delayed completion and without the OWNER being required to present any evidence of the amount or character of actual damages sustained by reason thereof. **Such liquidated damages shall be assessed and recovered at the rate of \$500.00 per day for delay in achieving Intermediate Substantial Completion and Substantial Completion and at the rate of \$100.00 per day in achieving Final Completion of the Work.**

5. Effective Date

This Agreement shall be deemed effective as of the date and year first above written notwithstanding the date on which this Agreement has been executed by the respective parties or their representatives as stated below.

[REST OF PAGE INTENTIONALLY LEFT BLANK]


“CONTRACTOR” SIGNATURE:

IN TESTIMONY THEREOF, the CONTRACTOR has hereunder set his hand this 1 day of March, 2019.

Firm Name Kindred Excavating Inc.

Address 4231 South 800 W, New Palestine, IN 46163

Telephone No. (317) 750-8402 Fax No. _____

By: 
Signature

Printed: Jonathan Kindred

Title: Owner

“OWNER” SIGNATURES:

IN WITNESS WHEREOF, the OWNER does hereby accept the foregoing Agreement, and has herewith set his/her hand this _____ day of _____, 20____.

For and on behalf of the City of Greenfield by its Board of Public Works.

Chuck Fewell, Mayor,

Kelly McClarnon, Member

Larry J. Breese, Member

Katherine N. Locke, Member

Glenna Shelby, Member

ATTEST:

Lori Elmore, Clerk Treasurer

Date: _____