

**City Council
Agenda Memo**



TO: Larry D. Gilley, City Manager

**City Council
Meeting Date: 8-09-2012**

FROM: Megan R. Santee, Director of Public Works

SUBJECT: First Reading on an Ordinance Approving the Execution of a Developer Participation Agreement between the City of Abilene and Village Investment Partners, LP

GENERAL INFORMATION

Village Investment Partners, LP (Developer) is the owner of undeveloped land generally located in the area north of Abilene Regional Medical Center between Highway 83/84 and the established residential neighborhood. The undeveloped land is zoned to allow varying types of commercial development. Recently, changes were approved by the City Council to allow the location of a Sam's Club on a portion of the undeveloped land. The area Texas Department of Transportation office has announced plans to limit vehicular traffic on South Clack to one-way southbound traffic. The development of Memorial Drive, which is within our adopted Thoroughfare Plan, will alleviate concerns expressed by the Developer, area residents, and Sam's Club regarding traffic flow and congestion that could occur without the construction of Memorial Drive. The attached Developer Participation Agreement formalizes this arrangement and outlines the responsibilities of both the Developer and the City.

On past occasions, the City has utilized Chapter 212 of the Local Government Code to partner with private developers to construct public improvements that benefit the general public. The City is typically limited in its participation to 30% of the total project costs and 100% of oversizing, but this is based on a project where the Developer would otherwise have full responsibility. The statute states that the agreement should reflect either a percentage of the total cost or a lump sum. The City and Developer have opted for a lump sum because in this instance, due to the manner in which the right of way was acquired in years past, the City has almost all of the responsibility for the future construction of Memorial. The Staff believes it is in the best interest of the City to enter a Developer Participation Agreement with Developer to construct Memorial Drive at this time.

FUNDING/FISCAL IMPACT

The City will be responsible for up to \$200,000.00 of the project cost, as well as engineering, bidding and construction oversight, and right-of-way acquisition, if necessary.

STAFF RECOMMENDATION

Staff recommends approval of the attached ordinance on first reading and setting a second reading for August 23rd.

ATTACHMENTS

Ordinance, Developer Participation Agreement

Prepared by:

Megan R. Santee
Director of Public Works

Item No. 6.1

Disposition by City Council

- Approved Ord/Res#
- Denied _____
- Other

City Secretary

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE EXECUTION OF A DEVELOPER PARTICIPATION AGREEMENT BETWEEN THE CITY OF ABILENE (CITY) AND VILLAGE INVESTMENT PARTNERS, LP (DEVELOPER) FOR THE PURPOSE OF MAKING CERTAIN PUBLIC IMPROVEMENTS AS AUTHORIZED BY LAW.

WHEREAS, Chapter 212 of the Local Government Code allows a municipality to enter an agreement with a developer of land to construct public improvements related to the development, and;

WHEREAS, the improvements cannot include the construction of buildings, and the municipality may not participate at a level that would exceed thirty percent of the total project cost and/or one-hundred percent of any oversizing costs, for portions of the public improvement the municipality would not otherwise be solely responsible for anyway, and;

WHEREAS, Developer is planning to construct a new thoroughfare that is part of the adopted Thoroughfare Plan that will provide additional vehicular circulation options for local residents that currently reside nearby or would travel to future commercial development in the immediate area (Project); and

WHEREAS, in order to construct the Project now rather than at some undetermined time in the future, Developer requested participation from City in a lump sum amount that is less than what the City would otherwise be responsible for in the future, and;

WHEREAS, the City and Developer agree it is in the best interest of both entities to enter into a participation agreement at this time to complete the Project.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City Manager is authorized to execute a Developer Participation Agreement between the City and Developer for the purpose of allowing the City to participate in the Project, as set out in Exhibit "A", attached hereto and made a part of this Ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PASSED ON FIRST READING this 9th day of August, A.D., 2012.

PASSED ON SECOND AND FINAL READING this 23rd day of August, A.D., 2012.

ATTEST:

City Secretary

Mayor

APPROVED:

City Attorney

DEVELOPER PARTICIPATION AGREEMENT

This Agreement is entered into this the ___ day of August, 2012 between the City of Abilene (City) and Village Investment Partners, LP(Developer).

WHEREAS, Chapter 212 of the Local Government Code allows a municipality to enter an agreement with a developer of land to construct public improvements related to the development, and;

WHEREAS, the improvements cannot include the construction of buildings, and the municipality may not participate at a level that would exceed thirty percent of the total project cost and/or one-hundred percent of any oversizing costs, for portions of the public improvement the municipality would not otherwise be solely responsible for anyway, and;

WHEREAS, Developer is planning to construct a new thoroughfare that is part of the adopted Thoroughfare Plan that will provide additional vehicular circulation options for local residents that currently reside nearby or would travel to future commercial development in the immediate area (Project); and

WHEREAS, in order to construct the Project now rather than at some undetermined time in the future, Developer requested participation from City in a lump sum amount that is less than what the City would otherwise be responsible for in the future, and;

WHEREAS, the City and Developer agree it is in the best interest of both entities to enter into a participation agreement at this time to complete the Project.

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

DEVELOPER RESPONSIBILITIES

1. Developer shall be responsible for the entire up front expense of the public improvements associated with the Project including all engineering services.
2. The public improvements for the Project shall be designed by engineers to the plans and specifications for the construction of such public improvements as approved by City and in accordance with the Land Development Code, including the design of any pedestrian facilities that will be constructed by the City at a later date.
3. The Developer will designate a contact person available to answer questions on behalf of Developer. The contact person for this Agreement is Tony Conder. The secondary contact person for this Agreement is Don Whitehead.

4. The Developer will execute a performance bond in accordance with Section 212.073 of the Local Government Code.

CITY RESPONSIBILITIES

1. Upon completion of the project and acceptance of the improvements by the City, the City shall reimburse Developer \$200,000.00 of the construction costs for the public improvements, and up to \$50,000.00 of the cost for engineering services (surveying, design, bidding, construction, inspection and testing).

2. The City shall acquire all necessary right-of-way to construct the Project. However, if any portion of the right of way may not be acquired without the use of eminent domain, the City, with the consent of Developer, may request Developer to construct the Project in a manner that does not require the acquisition of additional right of way, if such design and construction is possible and in compliance with generally accepted engineering principles.

3. Because of the need to construct the Project in an expeditious manner for impending and future development in the area to alleviate the anticipated traffic congestion that could be created, the City shall accept the responsibility for the construction of any required sidewalks, hike and bike trails or other related facilities or improvements, to manage Project costs at this time.

4. The City will designate a contact person available to answer questions on behalf of the City. The contact person for this Agreement is Megan Santee, Director of Public Works. The secondary contact person for this Agreement is Jon James, Director of Planning and Development Services.

5. Upon completion of the Project, the City will own and maintain the public improvements.

MISCELLANEOUS TERMS

1. Indemnity

The Developer must indemnify, hold harmless, and defend the City, its officers, agents and employees, from and against liability for any claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorneys' fees and other reasonable costs arising out of the Developer's work and activities conducted in connection with this Contract, including all causes of action based upon common, constitutional, or statutory law, or based in whole or in part upon negligent or intentional acts or omissions of Developer, its officers, agents, employees, sub-contractors, licensees, invitees, and other persons.

Developer must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, sub-contractors, licensees, invitees and other persons, as well as their property, while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Developer, its officers, agents, employees, sub-contractors, licensees, invitees, and other persons.

The City assumes no responsibility or liability for harm, injury, or any damaging events, which are directly or indirectly attributable to premise defects, whether real or alleged, which may now exist or which may hereafter arise upon the premises, responsibility for all such defects being expressly assumed by the Developer. The Developer agrees that this indemnity provision applies to all claims, suits, demands, and actions arising from all premise defects or conditions over which Developer has dominion and control, but not otherwise.

The City and Developer must provide the other prompt and timely notice of any event covered which in any way affects or might affect the Developer or City, and the City has the right to compromise and defend the same to the extent of its own interests.

2. Venue and Choice of Law

Venue for any cause of action arising under this Agreement is Taylor County, Texas. This Agreement is governed by the laws of the State of Texas both as to interpretation and performance. This Agreement shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

3. Assignment

The Developer may not assign in whole or in part any rights, duties, obligations or interest arising from this Agreement without the City's prior written consent, and such consent will not be unreasonably withheld.

4. Amendment or Modification

This Agreement, including schedules and attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent, which are not contained in this Agreement, are of no effect. This Agreement may not be amended or modified except by both parties' written consent.

5. Compliance with Laws, Charter, Ordinances

Developer, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus

and agencies. Developer must obtain all necessary permits and licenses required in completing the work contracted for in this Agreement.

6. Notice

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party.

IN WITNESS HEREOF the parties have executed this Agreement.

CITY OF ABILENE

DEVELOPER

By: _____
Larry Gilley, City Manager

By: _____
Tony Conder, Managing Partner

ATTEST:

City Secretary

APPROVED:

City Attorney

**City Council
Agenda Memo**



**City Council
Meeting Date: Aug 9, 2012**

TO: Larry D. Gilley, City Manager

FROM: Rodney Taylor, Assistant Director of Water Utilities

SUBJECT: Award of Bid for the Northeast Water Treatment Plant Electrical Improvements Project

GENERAL INFORMATION

On July 11, 2012 the City of Abilene received bids for the Northeast Water Treatment Plant Electrical Improvements project, which involves the replacement of capacitors and the installation of new surge protection devices at the NWTP facilities. Three bids were received. The low bid was submitted by Abilene Electrical Contractors, Inc. (AEC) of Abilene, TX in the amount of \$207,439.00. The Engineer, after evaluating the bid submittal and investigating AEC, does recommend awarding the bid to the low bidder.

Electrical power providers now penalize commercial and industrial electrical customers that have low power factor. A capacitor bank was previously installed at the NWTP to correct low power factor. The capacitor bank failed and now must be replaced in order to avoid additional power factor penalties. There is also a need to protect NWTP electrical equipment from occasional power surges. Power surges can cause catastrophic failure of process and pumping equipment, and it can also shorten the life of that equipment. The surge protectors will be installed in certain electrical circuits of the NWTP.

FUNDING/FISCAL IMPACT

The City Council has previously approved CIP Project 8040-03-12 (NE WTP Electrical Upgrades) in the amount of \$250,000 identified for CY 2012, and coming from Water Department Fund Balance.

STAFF RECOMMENDATION

Staff recommends that the City Council award the bid for Northeast Water Treatment Plant Electrical Improvements project to AEC \$207,439, and to authorize the City Manager or his designee to execute all necessary documents related to the contract.

ATTACHMENTS

Engineer's Letter of Recommendation and Bid Tab Sheet

Prepared by:

Name Rodney Taylor

Title Asst. Water Director

Item No. _6.2_____

Disposition by City Council

- Approved Ord/Res#
- Denied _____
- Other

City Secretary



July 24, 2012

Via Email; Original via Mail

City of Abilene
209 East Highway 80
Abilene, TX 79601
Attn: Mr. Rodney Taylor, Assistant Director of Water Utilities

**Re: Recommendation of Award
Northeast Water Treatment Plant Electrical Improvements
Abilene, Texas**

Dear Mr. Taylor:

Bids for the referenced project were opened on Wednesday, July 11, 2012. A total of three (3) bids were received, and I have attached a copy of the Bid Tabulation. The apparent low bidder was Abilene Electrical Contractors, Inc. (AEC).

Enrotec / Hibbs & Todd, Inc. (eHT) has evaluated the responsiveness of AEC for conformity with all material conditions of the Advertisement for Bids and the Information for Bidders. Additionally, we have evaluated the responsibility of AEC from information and references provided by AEC.

Based on our evaluation, eHT recommends award of the construction contract to AEC, for the Northeast Water Treatment Plant Electrical Improvements, as the lowest responsive and responsible bidder. AEC's base bid totaled \$207,439.00.

We look forward to working with the City of Abilene as this project moves into the construction phase.

Sincerely,

eHT


Jordan Hibbs

Attachment: Bid Tabulation

c: Tommy O'Brien, P.E., Director of Water Utilities
Project File: 5253

P:\Projects\Abilene, City of\5253 NEWTP Electrical Improvements\4. Bidding Phase\Bidder Evaluation\NEWTP Electrical Improvements Recommendation of Award.docx
Environmental, Civil & Geotechnical Engineers

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402 Cedar
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Plano Office
One Preston Park
2301 Ohio Drive, Suite 105
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www.e-ht.com

PG Firm Registration No. 50103
PE Firm Registration No. 1151

Enprotec / Hibbs & Todd, Inc., 402 Cedar Street, Abilene, Texas 79601
 City of Abilene, Texas

TABULATION OF BIDS FOR: Northeast Water Treatment Plant Electrical Improvements, City of Abilene, Texas
 BIDS RECEIVED: 07/11/2012
 PE Firm Registration No. 1151

Item No.	Quantity	Unit	Item	Abilene Electrical Contractors, Inc.		Dowtech Specialty Contractors		Fostech Services, Inc.	
				Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount
1	1	LS	Improvements at High Service Pump Station & WTP	\$ 182,439.00	\$ 182,439.00	\$ 200,000.00	\$ 200,000.00	\$ 219,922.00	\$ 219,922.00
2	1	LS	Allowance for work directed by City	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
TOTAL BASE BID PRICE (Items 1 thru 2)				\$	\$ 207,439.00	\$	\$ 225,000.00	\$	\$ 244,922.00

I, SCOTT F. HIBBS, P.E., #63462, DO HEREBY CERTIFY THAT THE ABOVE REFERENCED BIDS WERE RECEIVED, IN ACCORDANCE WITH THE ADVERTISED PROCEDURES, OPENED, AND READ ALOUD. THE BID TABULATION HEREIN IS A TRUE AND ACCURATE REPRESENTATION OF THE BIDS READ ALOUD.

Scott F. Hibbs
 SCOTT F. HIBBS, P.E., #63462



**City Council
Agenda Memo**



**City Council
Meeting Date: Aug 9, 2012**

TO: Larry D. Gilley, City Manager

FROM: Rodney Taylor, Assistant Director of Water Utilities

SUBJECT: Award of Bid for the Raw Water Flow Meter Replacements project

GENERAL INFORMATION

On July 11, 2012 the City of Abilene received bids for the Raw Water Flow Meter Replacements project, which involves the installation of four new raw water flow meters (meters) at water production and water treatment facilities. A total of three bids were received. The low bid was submitted by Purcell Contracting, Ltd. (Purcell) of Meridian, TX in the amount of \$268,000.00. The Engineer, after evaluating the bid submittal and investigating Purcell, does recommend awarding the bid to the low bidder.

The new meters will replace four existing units that have been in place for many years. The old meters are not reliable and do not meet the current requirements for accuracy. The new meters utilize modern technology and meet the accuracy requirements. The Texas Commission on Environmental Quality requires that flow measuring devices shall be provided to measure the raw water supplied to the treatment plant, as well as other process points in the treatment plant and in the distribution system. Mandated water conservation plans require that drinking water suppliers must include metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply. The new meters will satisfy those requirements.

The project involves installing a new meter on each of the two parallel water pipelines of the Lake Fort Phantom Hill Raw Water Intake Pump Station and a new flow meter at each of the Grimes Water Treatment Plant and the Northeast Water Treatment Plant.

FUNDING/FISCAL IMPACT

Funding will consist of \$200,000 included in the FY2012 Water Department Operating Budget and \$68,000 from the Water Department's "Unrestricted, designated for capital projects" Fund Balance.

STAFF RECOMMENDATION

Staff recommends that the City Council award the bid for Raw Water Flow Meter Replacements project to Purcell in the amount of \$268,000.00, and to authorize the City Manager or his designee to execute all necessary documents related to the contract.

ATTACHMENTS

Engineer's Letter of Recommendation and Bid Tab Sheet

Prepared by: Name <u>Rodney Taylor</u> Title <u>Asst. Water Director</u>	Item No. <u>6.3</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary
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July 24, 2012

Via Email; Original via Mail

City of Abilene
209 East Highway 80
Abilene, TX 79601
Attn: Mr. Rodney Taylor, Assistant Director of Water Utilities

**Re: Recommendation of Award
Raw Water Flow Meter Replacements
Abilene, Texas**

Dear Mr. Taylor:

Bids for the referenced project were opened on Wednesday, July 11, 2012. A total of three (3) bids were received, and I have attached a copy of the Bid Tabulation. The apparent low bidder was Purcell Contracting, LTD. (Purcell) out of Meridian, TX.

Enrotec / Hibbs & Todd, Inc. (eHT) has evaluated the responsiveness of Purcell for conformity with all material conditions of the Advertisement for Bids and the Information for Bidders. Additionally, we have evaluated the responsibility of Purcell from information and references provided by Purcell.

Based on our evaluation, eHT recommends award of the construction contract to Purcell, for the Raw Water Flow Meter Replacements, as the lowest responsive and responsible bidder. Purcell's base bid totaled \$268,000.00.

We look forward to working with the City of Abilene as this project moves into the construction phase.

Sincerely,

eHT

Jordan Hibbs

Attachment: Bid Tabulation

c: Tommy O'Brien, P.E., Director of Water Utilities
Project File: 4568, Task 10

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Environmental, Civil & Geotechnical Engineers

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www.e-ht.com

PG Firm Registration No. 50103
PE Firm Registration No. 1151

Enprotec / Hibbs & Todd, Inc., 402 Cedar Street, Abilene, Texas 79601

TABULATION OF BIDS FOR: Raw Water Flow Meter Replacements, City of Abilene, Texas

BIDS RECEIVED: 07/11/2012

PE Firm Registration No. 1151

Item No.	Quantity	Unit	Item	Purcell Contracting, LTD.		Morton Irrigation		Dewtech Specialty Contractors	
				Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount
1	1	LS	Mobilization, bonds & insurance	\$ 12,000.00	\$ 12,000.00	\$ 15,000.00	\$ 15,000.00	\$ 12,000.00	\$ 12,000.00
2	1	LS	Trench Safety	\$ 500.00	\$ 500.00	\$ 13,000.00	\$ 13,000.00	\$ 1,500.00	\$ 1,500.00
3	1	LS	Raw Water Flow Meter Replacements	\$ 230,500.00	\$ 230,500.00	\$ 270,000.00	\$ 270,000.00	\$ 285,000.00	\$ 285,000.00
4	1	LS	Allowance Project Related Issues	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
TOTAL BASE BID PRICE (Items 1 thru 4)				\$ 268,000.00	\$ 268,000.00	\$ 323,000.00	\$ 323,000.00	\$ 323,000.00	\$ 323,000.00

I, SCOTT F. HIBBS, P.E., # 63462, DO HEREBY CERTIFY THAT THE ABOVE REFERENCED BIDS WERE RECEIVED, IN ACCORDANCE WITH THE ADVERTISED PROCEDURES, OPENED, AND READ ALOUD. THE BID TABULATION HEREIN IS A TRUE AND ACCURATE REPRESENTATION OF THE BIDS READ ALOUD.


SCOTT F. HIBBS, P.E., #63462





City Council
Agenda Memo

TO: Larry D. Gilley, City Manager **City Council Meeting Date: 08/09/12**
FROM: Mindy Patterson, Director of Finance
SUBJECT: Award of Bid – Crane Truck for Wastewater

GENERAL INFORMATION

Fleet Management seeks approval to purchase a Crane Truck to be assigned to the Wastewater Division of the Water Utilities Department. The unit is to replace a truck that is worn out and no longer cost effective to maintain. The truck will be utilized by work crews to lift and carry tools, parts and other gear to job sites.

Advertisements were published on June 24, 2012 and July 1, 2012. Bids were opened on July 10, 2012 at 11:00 A.M. Seventeen (17) bid invitations were requested with two (2) vendors submitting a bid.

SPECIAL CONSIDERATIONS

All bidding vendors met specifications. Arrow Ford of Abilene, Texas was the lowest responsive bidder.

FUNDING/FISCAL IMPACT

Funds for this purchase are to be provided by the Fleet Replacement Fund.

STAFF RECOMMENDATION

It is recommended that Bid CB-1231 be awarded to Arrow Ford of Abilene, Texas.

BID TABULATION

See attached.

Prepared By: Name <u>Cheri Carter</u> Title <u>Fleet Analyst</u>	Item No. <u>6.4</u>	Disposition by City Council <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Other Ord/Res # _____ _____ City Secretary
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