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CITY OF MANITOWOC

WISCONSIN, USA
www.manitowoc.org



082

February 4, 2014

TO: Mayor Justin M. Nickels
Common Council Members

FROM: Kathleen M. McDaniel, Interim City Attorney

RE: Newton Gravel Pit - Well Replacement Contract

Dear Mayor and Members of the Common Council,

Attached please find the original contract entered into with Weslow Water Systems, Inc. for the installation of a replacement potable well and associated pumping system for 3518 Hecker Road.

Wis. Stat. §62.15(1)(b) authorizes the waiving of public bidding requirements for the repair and reconstruction of public facilities when determined by resolution that the damage or threatened damage creates an emergency in which the public health or welfare of the City of Manitowoc is endangered in the Newton Gravel Pit area. The Board of Public Works declared the environmental remediation efforts at the Newton Gravel Pit to be an emergency in which the public health and welfare was endangered unless prompt action was taken.

I recommend that you accept this report and place this contract on file. Please contact me if you have any questions.

Best regards,

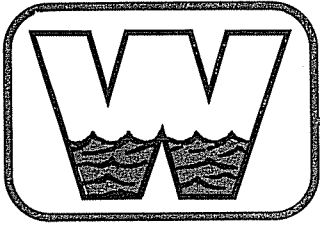
Kathleen M. McDaniel
Interim City Attorney

KMM:jr

P:\ATTORNEY\NEWTON GRAVEL PIT\Weslow Water Systems Inc\Mayor CC Weslow Water Cnt for well replacement 2-17-2014.docx

Interim City Attorney Kathleen M. McDaniel – Phone (920) 686-6990
CITY HALL • 900 Quay Street • Manitowoc, WI 54220-4543 • Fax (920) 686-6999



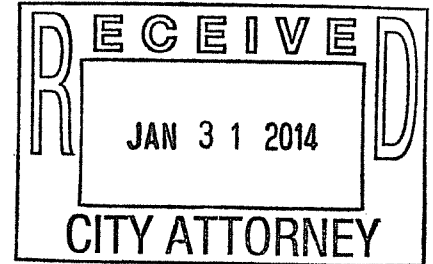


WESLOW WATER SYSTEMS, Inc.

1710 Flowing Wells Court • Suamico, WI 54173
920.434.1903 • 800.527.1810 • Fax: 920.434.1088

January 29, 2014

City of Manitowoc
900 Quay Street
Manitowoc, WI. 54220



ATTN: Kathleen McDaniel

Enclosed please find the original contract returned for your completion as requested.

Also enclosed is a copy of #1 change order that was e-mailed to Dan Koski and the cover letter explaining why it is needed. I was told it was approved but never received any documentation.

Drilling Update:

- 1) We have all material and supplies to drill this well in stock.
- 2) We have been watching the weather and do not see an opportunity even into next week.
- 3) At 1st opportunity, we will contact you with the revised schedule.

If you have any questions, please do not hesitate to call me.

Respectfully submitted,

Thomas A. Weslow
Weslow Water Systems, Inc

CONTRACT

This contract is made and entered into this 6 day of DECEMBER, 2013, by and between Weslow Water Systems, Inc. (hereinafter "Contractor"), located at 1710 Flowing Wells Ct., Suamico, Wisconsin 54173 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

WHEREAS, Weslow Water Systems, Inc. (hereinafter "Contractor"), located at 1710 Flowing Wells Ct., Suamico, Wisconsin 54173 intends to install a replacement potable well and associated pumping system for 3518 Hecker Road as outlined in "Exhibit A", Weslow Water Systems, Inc. quotation and "Exhibit B" Hecker Road Replacement Well Specifications.

WHEREAS, Weslow Water Systems, Inc. has the ability to perform the complete installation of the Potable Well and Pumping system for 3518 Hecker Road work as outlined in "Exhibit B" request for quote.

NOW, THEREFORE, in consideration of the mutual covenants and representations of the parties hereinafter set forth, the undersigned parties hereby agree as follows:

1. Recitals. The above recitals are deemed to be true and correct.
2. Scope of Work. The Contractor agrees to perform the following work and/or furnish the following labor and materials in accordance with the terms of this contract:

All work shall be performed in accordance with the City of Manitowoc's Standard Specifications for Public Works Construction.

See listing of tasks for this project. (Attached is "Exhibit A" and "Exhibit B", and it is incorporated into this Contract by reference).

3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract the sum of **\$16,200.00**
4. Schedule. Contractor agrees to commence work under this Contract upon its execution and complete performance of this contract in accordance with the City of Manitowoc's Standard Specifications, which are made part of this Contract and are incorporated by reference. The contract completion date shall be **December 18, 2013**. Contractor shall not go on to any property outlined in this contract or in the request for proposals without consent of the City. If contractor violates this clause, payment shall be reduced by \$500.00 for each violation.
5. Payment Schedule. Requests for payment shall be made to the Assistant City Attorney, Kathleen McDaniel. The Director of Public Infrastructure shall make a recommendation on the payment request. Contractor shall be entitled to payment within 30 days following approval by the Director of Public Infrastructure.
6. Assignment and Subcontracting. Contractor shall not be permitted to sign or subcontract any of the work other than the cement grout and concrete driveway replacement hereunder without the prior written consent of the City.
7. Insurance and Bonding. Prior to commencing work hereunder, Contractor shall

provide City, for approval by the City Attorney, a Certificate of Insurance showing proof of General Liability Insurance in amounts not less \$1,000,000.00 per person per occurrence, \$2,000,000.00 in the aggregate, property damage limits of not less than \$500,000.00 per occurrence, and shall carry the statutory amounts for worker's compensation insurance. Contractor shall include with the Certificate of Insurance two endorsements, one endorsement naming the City of Manitowoc as an additional insured, and a second endorsement giving City thirty (30) days prior notice of non-renewal, modification or cancellation.

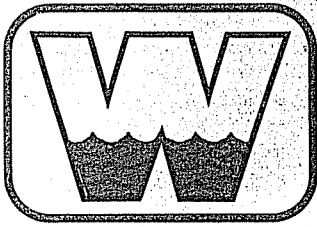
8. Applicable Statutes. Any provisions of the Wisconsin Statutes, Federal Law or local ordinances applicable to the work performed hereunder are deemed to be incorporated by reference and made a part of this contract.
9. Contract Notice. The City of Manitowoc Board of Public Works passed a resolution authorizing remediation under Wisconsin State Statutes 62.15 (1b).
10. Other Indebtedness to City. It is understood and agreed by the parties hereto that whenever a contractor is for any reason indebted to the City of Manitowoc, the contractor consents that the City of Manitowoc through its officials shall and may, deduct and retain, any such balance out of the money or monies which may be due or become due to the contractor under this contract.
11. Indemnify. Contractor shall defend, indemnify and hold harmless the City of Manitowoc, its officials, officers, employees, representatives and agents against any and all liability, claims, costs, demands, losses, damages, expenses and attorney fees of any kind on account of any injury, damage, or death to any person or property that may arise directly caused by or resulting from the work performed under this Contract where the injury, damage, or death is caused by negligence or willful misconduct on the part of the Contractor, subcontractor, officers, employees, or agents.
12. Default. In the event of default or breach in the performance of any of the obligations, covenants, representations or duties under the terms of this Contract by either party, the non-defaulting party shall forward written notice to the defaulting party outlining such default. The defaulting party shall cure such default within thirty (30) days of receiving written notice from non-defaulting party, except that the cure period may be extended to a reasonable time to cure any default that cannot reasonably be cured with the thirty (30) day period, provided that the defaulting party has commenced to cure within the thirty (30) day period and diligently pursues a cure at all times thereafter until the default is cured. The defaulting party shall be responsible for the payment to the non-defaulting party of any outstanding fees, charges or expenses that were incurred by the non-defaulting party on behalf of the defaulting party.
13. Permits. No Permits are anticipated for this project.
14. Termination. Either party may terminate this Contract with ten (10) days written notice to the other party.
15. Notice and Demands. A notice, demand or other communication under this Contract by any party to the other party shall be sufficiently given or delivered and deemed delivered as of the date such notice is delivered to the party intended, if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally and addressed to or personally delivered to:

CITY: City Clerk
900 Quay Street
Manitowoc, WI 54220

CONTRACTOR: Weslow Water Systems, Inc.
1710 Flowing Wells Ct.
Suamico, WI 54173

Notice and demand given shall be effective only if and when received by the party intended and acknowledged by receipt. The above addresses may be changed at any time by any party by giving written notice in the manner provided above.

16. Assignment. This Contract is not assignable without prior written consent of City.
17. Severability. If any provision of this Contract is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and such remainder would then continue to conform to the requirements of applicable laws.
18. Amendments. This Contract can only be amended or modified in writing and signed by the parties involved.
19. Integration. This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to matters covered hereunder.
20. Survival of Provisions. All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
21. Choice of Law. This Contract shall be governed by and construed in accordance with the laws of the State of Wisconsin. All actions or proceedings relating directly or indirectly, to this Contract, whether sounding in contract or tort, shall be litigated only in the circuit court located in Manitowoc County, Wisconsin. All parties to this Contract hereby subject themselves to the jurisdiction of the circuit court for Manitowoc County, Wisconsin.
22. Heading. The section titles have been inserted in this Contract primarily for convenience, and do not define, limit or construe the contents of such paragraphs. If headings conflict with the text, the text shall control.
23. Remedies Cumulative. All rights and remedies hereunder are cumulative, and not exclusive, and shall be in addition to all other rights and remedies provided by applicable law. Failure to exercise or delay in exercising any right or remedy hereunder shall not operate as a waiver thereof, nor excuse future performance. No waiver discharge or renunciation of any claim or right arising out of a breach of these terms and conditions shall be effective unless in writing signed by the party so waiving. Any waiver of any breach shall be a waiver of that breach only and not of any other breach, whether prior to subsequent thereto.
24. Construction. All parties have contributed to the drafting of this Contract. In the event of a controversy, dispute or contest over the meaning, interpretation, validity of enforcement of this document or any of its terms or conditions, there shall be no inferences, presumption or conclusion drawn whatsoever against any party whatsoever by virtue of that party having drafted the document or any portion thereof.



WESLOW WATER SYSTEMS, Inc.

1710 Flowing Wells Court • Suamico, WI 54173
920.434.1903 • 800.527.1810 • Fax: 920.434.1088

December 17, 2013

COPY

City of Manitowoc
900 Quay Street
Manitowoc, WI. 54220

ATTN: Dan Koski

Job: 3518 Hecker Rd

As you may know, we have had a problem with a void in the top bedrock formation. This void caused a loss of drilling mud and collapsed the hole locking our drill equipment in the hole. We managed to get it out. We thought by cementing the caving formation we would be able to continue to drill but this will not totally solve the problem and the risk is too high of losing our string of tools with another cave in.

The solution is to abandon this hole and start over in another spot. A 12" hole will be drilled down to the top of the rock. 10" steel well casing will be set and grouted in place using the Braden Head method.

A 10" hole will then be advanced in the rock to a level of 250'. We know that within 5' of the top of the rock there is a void which will need to be grouted off to continue down the hole. What we do not know, is how many more voids there may be and how much cement grout it will take to fill them.

The reality is we have a considerable amount invested in this project to date. It is obvious it will not be completed by the end of the year.

All responsible parties and the DNR will need to approve what we plan to do and then I can order the material to complete this job. The 10" casing will need to be shipped in along with a new bit to be used on all three jobs.

The weather has not been our friend lately, and we typically have to pick and choose our drill days in January. Maybe since we have had January weather in December, we will have December weather in January.

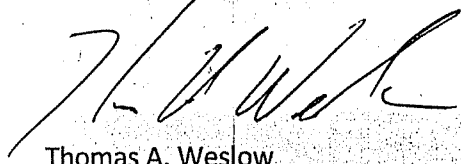
A new spot has been picked out just southeast of the original spot. The original drill hole has been abandoned and filled per WI State Code.

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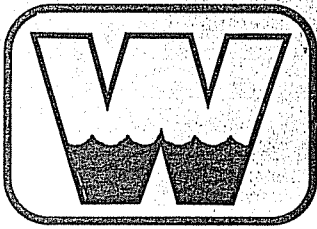
Attached is our estimate of what will be needed to get this job done. This extra cost can be expected for the other 2 future wells as well.

If you have any questions, please do not hesitate to call me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. A. Weslow', written in a cursive style.

Thomas A. Weslow
Weslow Water Systems, Inc.



WESLOW WATER SYSTEMS, Inc.

1710 Flowing Wells Court • Suamico, WI 54173
920.434.1903 • 800.527.1810 • Fax: 920.434.1088

COPY

December 19, 2013

City of Manitowoc
900 Quay Street
Manitowoc, WI. 54220

ATTN: Dan Koski

Job: 3518 Hecker Rd

The work completed to date and the breakdown of addition work because of the caving formation is as follows. We will need 10 days to 2 weeks to put this material together and begin drilling again. Of course we are at the mercy of the weather and holidays this time of year.

<u>Original Contract:</u>		\$16,200.00
<u>Change Order #1:</u>		
120' 12" drilling	\$ 4,800.00	
126' 10" steel casing	\$ 4,284.00	
1- 10" drive shoe	\$ 440.00	
90 bags extra cement grout @ \$26.00 bag	\$ 2,340.00	
1/3 share of 12" bit	\$ 1,200.00	
TOTAL CHANGE ORDER REQUEST	\$13,064.00	\$13,064.00

WORK COMPLETED TO DATE:

120' of 10 drilling	\$ 3,600.00
24 Bags cement grout	\$ 624.00
15 bags q gel drilling clay	\$ 164.00
12 bags hole plug	\$ 120.00
Abandonment of existing well	\$ 700.00
TOTAL	\$ 5,208.00

The amount of Neat Cement Grout will change up or down based on how many voids we encounter that need plugging. This is why I priced the per bag price.

If you have any questions, please do not hesitate to call me.

Respectfully submitted,

Thomas A. Weslow
Weslow Water Systems, Inc.