

1316 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9251
FAX 574/ 235-9171

CITY OF SOUTH BEND JAMES MUELLER, MAYOR
BOARD OF PUBLIC WORKS

September 24, 2024

Mr. JP Wielgos, III
Heritage Townhomes, LLC
1130 South Bend Ave., Suite 350
South Bend, IN 46617
r.priest@presidiohills.com; bmcmmorrow@v3co.com

RE: Heritage Townhomes Water Service and Sewer Lateral Construction Agreement

Dear Mr. JP Wielgos, III:

At its September 24, 2024 meeting, the Board of Public Works approved the above referenced Agreement for the Heritage Townhomes in the estimated amount of \$40,699.55.

Enclosed please find a copy of the Agreement for your records.

If you have any further questions, please call this office at (574) 235-9251.

Sincerely,

/s/ Theresa Heffner

Theresa Heffner, Clerk

Enclosures
TH/hh



INTER-OFFICE MEMORANDUM

DEPARTMENT OF PUBLIC WORKS DIVISION OF ENGINEERING

TO: Theresa Heffner, Clerk
Board of Public Works

FROM: Charlotte Brach, P.E, Senior Engineer

SUBJECT: Heritage Townhomes Water Service and Sewer Lateral Construction Agreement

DATE: September 12, 2024

Attached for Board of Public Works review and approval is an agreement for the City to construct water services and sewer laterals for Heritage Townhomes as part of the City's construction contract for the Notre Dame to Downtown South Bend Trail and for the developer to reimburse the City for the cost of that construction.

Heritage Townhomes LLC is developing townhomes on several parcels along South Bend Avenue within the limits of the Notre Dame to Downtown South Bend Trail project. In order to get the water services and sewer laterals installed during road construction on South Bend Avenue and avoid cuts into the brand-new road after construction is completed, the City coordinated with the developer to include the water services and sewer laterals required for the development in the trail project. Developers are responsible for the cost of water service and sewer lateral installations for their development, and the developer will reimburse the City for the cost of this work. This mutually beneficial agreement allows for the City to ensure that the services are installed before the road construction is done and there will not be a need to cut into the new road, and also allows the developer to get the work done at a lower cost to them since the City is already reconstructing the road.

WATER SERVICE AND SEWER LATERAL CONSTRUCTION AGREEMENT

THIS WATER SERVICE AND SEWER LATERAL CONSTRUCTION AGREEMENT (“Agreement”) is entered into on this 24th day of September 2024, by the City of South Bend, Indiana, acting through its Board of Public Works (“City”) and Heritage Townhomes, LLC, an Indiana Limited Liability Company with an address of 1130 South Bend Avenue, Suite 350, South Bend, IN 46617 (the “Owner”), in order for the Owner to compensate the City for construction of water and/or sewer service connections in the public right-of-way (the “R.O.W.”) along South Bend Avenue within the City’s municipal boundaries (the “Project Area”).

WHEREAS, the City holds title to the Project Area, including the R.O.W. and desires to make improvements set forth in Exhibit A, which is attached hereto and incorporated herein by reference ; and

WHEREAS, Owner’s Project Site is located at the properties with addresses of 743, 749, 755, and 761 South Bend Avenue, and 707 St Peter Street within the City; and

WHEREAS, the City desires to make improvements in its R.O.W. and prevent pavement cuts to improved area during its useful life; and

WHEREAS, in connection with the needs of Owner’s project, Owner desires to establish or maintain water services and sewer laterals (“Private Utility Services”) to Owner’s project site; and

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

1. City agrees to construct Private Utility Services from the water and/or sewer main to the extent of the R.O.W. as shown in Exhibit A.
2. City also agrees to construct a small section of new sewer main in parallel with the existing sewer main in order to avoid additional excavation work to connect to the deep existing sewer main.
3. The Owner shall compensate the City for the construction of Private Utility Services and the additional parallel sewer main on the basis of linear feet of pipe, and each manhole constructed. The Owner shall pay these costs to the City as shown in Exhibit B. The Owner shall pay the City in full in no less than Sixty (60) days after the construction of Private Utility Services and receipt of an invoice from the City. The Owner shall not utilize the Private Utility Services until the payment is made. Costs outlined in Exhibit B are estimates and are subject to change once actual construction costs are determined.
4. The Owner is also responsible for any System Development Charges that apply to the project site for water and sewer usage. The Owner shall not utilize the Private Utility Services until the System Development Charges are paid.
5. City reserves the right to terminate this Agreement in its sole discretion, including due to cancellation of the project shown in Exhibit A. Should the City terminate this Agreement, it shall be the owner's sole responsibility to construct Private Utility Services in the R.O.W. in a manner consistent with the City's required specifications. Should the Owner terminate this Agreement, a lien will be applied to the Owner's Project Site stated above, and the Private Utility Services will not be allowed to be utilized.

6. The Owner agrees and undertakes to indemnify and hold City, and its respective agents, employees, successors, and assigns, harmless from any liability, loss, costs, damages or expenses, including attorneys' fees, which City may suffer or incur as a result of any claims or actions which may be brought by any person or entity arising out of this Agreement. If any action is brought against City or its respective agents, employees, successors, or assigns, in connection with this Agreement, the Owner agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.
7. This Agreement may not be assigned by the Owner without the express written consent of City which such consent may be withheld for any reason. Any violation of this limitation shall terminate this Agreement and forfeit the Owner's rights under this Agreement.
8. This Agreement shall be construed and interpreted according to the laws of the State of Indiana.
9. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them.
10. The person signing on behalf of the Owner represents that he/she has been duly authorized to execute this Agreement on behalf of the Owner.

IN WITNESS WHEREOF, City and the Owner, through their duly authorized representatives, have caused this Agreement to be executed as of the day and year first written above. The parties have read and understand the foregoing terms of this Agreement and do, by their respective signatures hereby agree to its terms.

Date: 9/4/2024

HERITAGE TOWNHOMES, LLC

Signed by:


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JP Wielgos, III
Its Registered Agent

**CITY OF SOUTH BEND, INDIANA
BOARD OF PUBLIC WORKS**



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Joseph R. Molnar, Vice President



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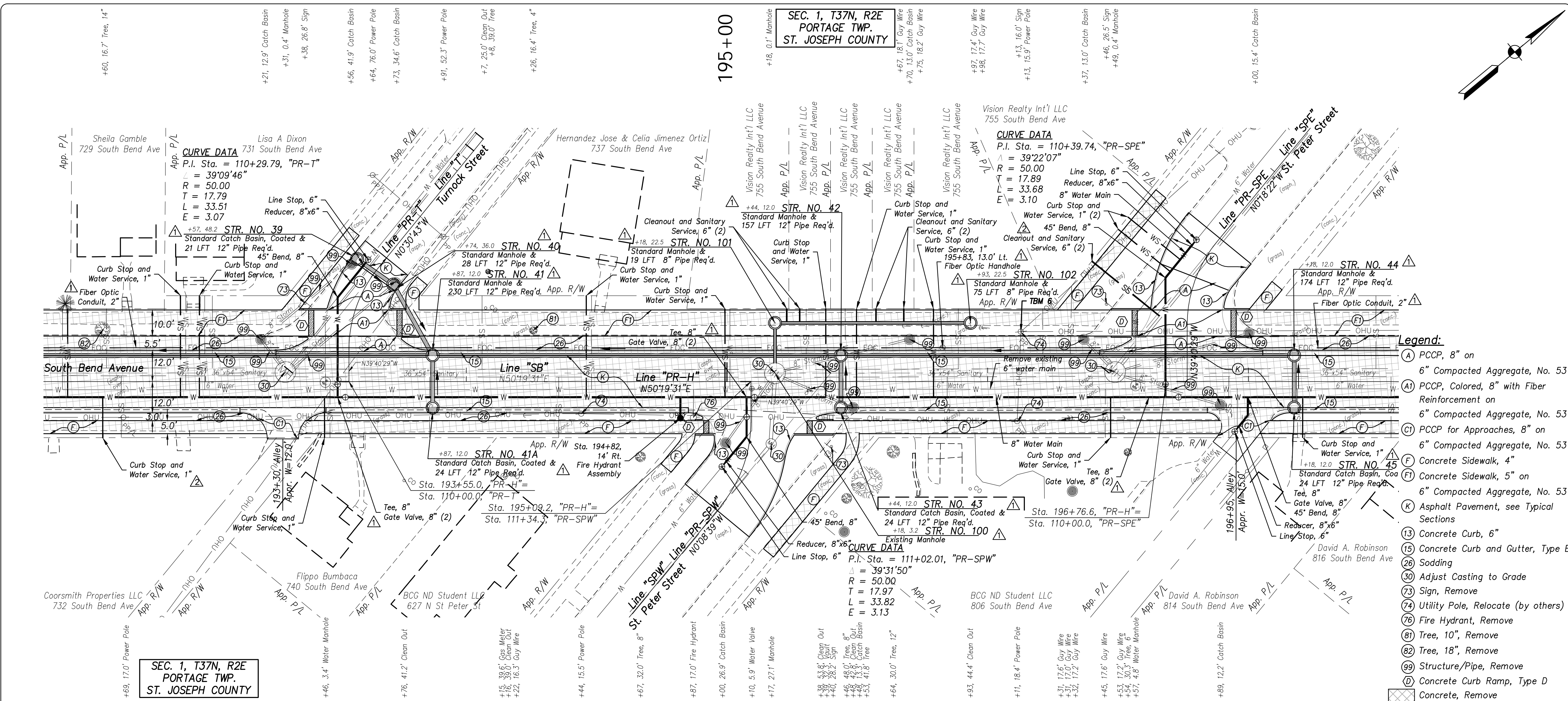
ATTEST:



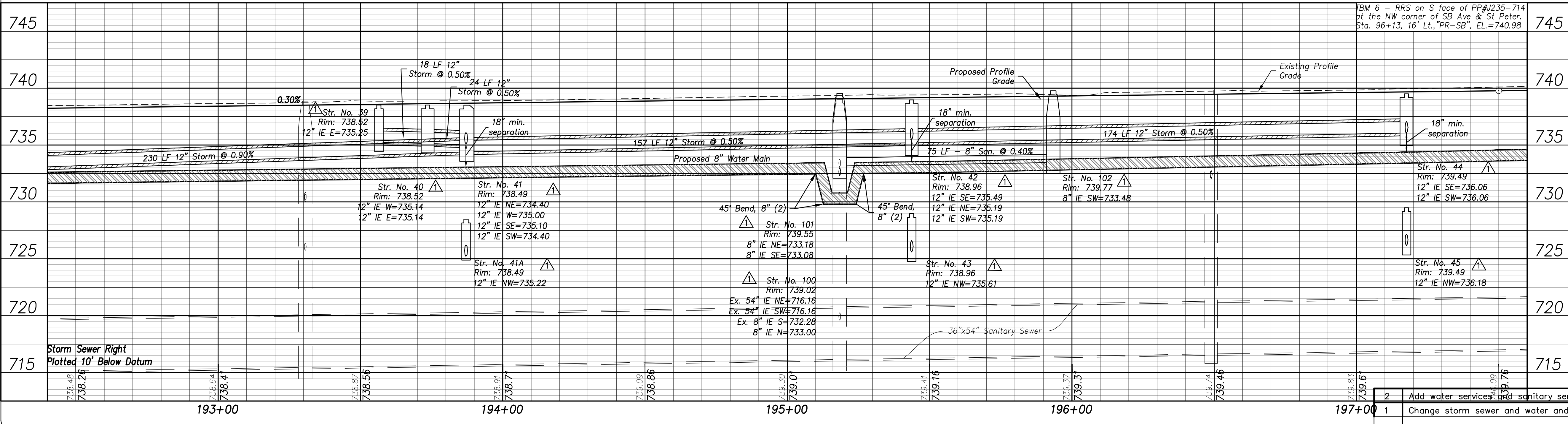
Theresa M. Heffner, Clerk

Date: September 24, 2024

EXHIBIT "A": PROJECT AREA IMPROVEMENTS



- Legend:**
- (A) PCCP, 8" on 6" Compacted Aggregate, No. 53
 - (AI) PCCP, Colored, 8" with Fiber Reinforcement on 6" Compacted Aggregate, No. 53
 - (C) PCCP for Approaches, 8" on 6" Compacted Aggregate, No. 53
 - (F) Concrete Sidewalk, 4"
 - (FI) Concrete Sidewalk, 5" on 6" Compacted Aggregate, No. 53
 - (K) Asphalt Pavement, see Typical Sections
 - (13) Concrete Curb, 6"
 - (15) Concrete Curb and Gutter, Type B
 - (26) Sodding
 - (30) Adjust Casting to Grade
 - (73) Sign, Remove
 - (74) Utility Pole, Relocate (by others)
 - (76) Fire Hydrant, Remove
 - (81) Tree, 10", Remove
 - (82) Tree, 18", Remove
 - (99) Structure/Pipe, Remove
 - (D) Concrete Curb Ramp, Type D
 - (X) Concrete, Remove



- Notes:**
1. All topography and existing R/W described from Line "SB", unless otherwise noted.
 2. Line "PR-H" to be constructed.
 3. Maintain 10 feet of horizontal separation between sewer and water.

2	Add water services and sanitary service	ZDH	5/23/24
1	Change storm sewer and water and add sanitary	ZDH	4/04/24

ABONMARCHÉ
 Registered Professional Engineer
 315 W. Jefferson Blvd.
 South Bend, IN 46601
 Phone: 1-574-252-8100
 Fax: 1-574-252-8100
 Email: abonmarche.com

PROJECT:
 DOWNTOWN SOUTH BEND
 TO NOIRE DAME TRAIL
 HILL STREET AND SOUTH BEND AVENUE
 CITY PROJECT NO. 122-040B

PLAN AND PROFILE:
 SOUTH BEND AVENUE
 STA. 192+50 TO STA. 197+50

SHEET TITLE:
 DRAWN BY: ZDH
 DESIGNED BY: ZDH
 PM REVIEW: CAK
 QA/QC REVIEW:
 DATE: MARCH 2024
 SEAL: CHAD A. KNIE, REGISTERED PROFESSIONAL ENGINEER, STATE OF INDIANA, No. 10300109
 SIGNATURE:
 DATE: 02-21-2024
 SCALE:
 HORZ: 1"=20'
 VERT: 1"=5'
 ACI JOB #:
 23-1310
 SHEET NO:
 17 of 91

EXHIBIT "B": ESTIMATED CHARGES TO OWNER

Item No.	Description	Quantity	Unit	Unit Price	Total Amount
1	WATER SERVICE CONSTRUCTION	190	LFT	\$96.86	\$18,403.40
2	SEWER LATERAL CONSTRUCTION	50	LFT	\$166.44	\$8,322.00
3	SANITARY SEWER PIPE, 8"	95	LFT	\$49.37	\$4,690.15
4	SANITARY SEWER MANHOLE, TYPE A	2	EA	\$4,642.00	\$9,284
TOTAL					<u>\$40,699.55</u>

**BOARD OF PUBLIC WORKS
AGENDA ITEM REVIEW REQUEST FORM**

Date: 9/12/24
 Name: Charlotte Brach Department of Public Works – Engineering Division
 BPW Date: 9/24/24 Phone Extension: 9246

Required Prior to Submittal to Board

BPW Attorney	<input checked="" type="checkbox"/>	Attorney Name	_____
Dept. Attorney	<input type="checkbox"/>	Attorney Name	_____
Purchasing	<input type="checkbox"/>		_____

Check the Appropriate Item Type – Required for All Submissions

- | | | |
|---|--|---|
| <input type="checkbox"/> Professional Services Agreement | <input type="checkbox"/> Contract | <input type="checkbox"/> Proposal |
| <input type="checkbox"/> Open Market Contract | <input type="checkbox"/> Amendment/Addendum | <input type="checkbox"/> Special Purchase, QPA |
| <input type="checkbox"/> Bid Opening | <input type="checkbox"/> Bid Award | <input type="checkbox"/> Req. to Advertise <input type="checkbox"/> Title Sheet |
| <input type="checkbox"/> Quote Opening | <input type="checkbox"/> Quote Award | <input type="checkbox"/> Reject Bids/Quotes |
| <input type="checkbox"/> Proposal Opening | <input type="checkbox"/> C/O & PCA No. _____ | <input type="checkbox"/> PCA |
| <input type="checkbox"/> Chg. Order, No. _____ | <input type="checkbox"/> Traffic Control | <input type="checkbox"/> Resolution |
| <input checked="" type="checkbox"/> Other: <u>Water Service and Sewer Lateral Construction Agreement</u> | | <input type="checkbox"/> Ease./Encroach |

Required Information

Company or Vendor Name	<u>Heritage Townhomes, LLC</u>
New Vendor	<input type="checkbox"/> Yes <input type="checkbox"/> If Yes, Approved by Purchasing <input type="checkbox"/> No
MBE/WBE Contractor	<input type="checkbox"/> MBE <input checked="" type="checkbox"/> Completed E-Verify Form Attached <input type="checkbox"/> Yes <input type="checkbox"/> WBE <input type="checkbox"/> No
Project Name	<u>Heritage Townhomes</u>
Project Number	<u>DP24-024</u>
Funding Source	<u>Developer</u>
Account No.	<u>PR/PO # N/A</u>
Amount	<u>\$40,699.55 (estimate, paid by the developer to the City)</u>
Terms of Contract	<u>N/A</u>
Special Contract Provisions	<u>N/A</u>
Purpose/Description	<u>Agreement for the developer of the Heritage Townhomes on South Bend Ave to reimburse the City for water services and sewer laterals installed for the development as part of the ND-DTSB Trail project.</u>

For Change Orders Only

Amount of	<input type="checkbox"/> Increase	\$ _____
	<input type="checkbox"/> Decrease	(\$ _____)
Previous Amount		\$ _____
	Increase	_____ %
Current Percent of Change:	Decrease	(_____ %)
New Amount		\$ _____
	Increase	_____ %
Total Percent of Change:	Decrease	(_____ %)
Time Extension Amount:		_____
New Completion Date:		_____