

**CITY OF BLOOMINGTON**

**2024 - 017**

**AN ORDINANCE AUTHORIZING A CONSTRUCTION CONTRACT WITH LANDMARK STRUCTURES I, L.P, FOR THE ENTERPRISE 1MG WATER TOWER CONSTRUCTION (BID #2024-31), IN THE AMOUNT OF \$7,485,010**

**Adopted by the City Council  
of the City of Bloomington  
on April 8, 2024**

Published in pamphlet form by authority of the City Council of the City of Bloomington, McLean County, Illinois, on April 15<sup>th</sup>2024.

STATE OF ILLINOIS            )  
  ) ss.  
COUNTY OF MCLEAN         )

CERTIFICATE

I, Leslie Smith-Yocum, certify that I am the duly appointed and qualified municipal clerk of the City of Bloomington, County of McLean, Illinois.

I further certify that on the Corporate Authorities of the above municipality passed and approved Ordinance No. 2024 - 017, entitled, an Ordinance Authorizing a Construction Contract with Landmark Structures I, L.P, for the Enterprise 1MG Water Tower Construction (Bid #2024-31), in the Amount of \$7,485,010, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of this Ordinance, including the Ordinance and cover sheet thereof, was prepared, and a copy of the Ordinance was posted in the municipal building, commencing on April 15 2024, and continuing for at least ten days thereafter. Copies of the Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Bloomington, Illinois, on 04/15/2024

*Leslie Smith-Yocum*

\_\_\_\_\_  
Leslie Smith-Yocum  
City Clerk



**ORDINANCE NO. 2024 - 017**

**AN ORDINANCE AUTHORIZING A CONSTRUCTION CONTRACT WITH LANDMARK STRUCTURES I, L.P, FOR THE ENTERPRISE 1MG WATER TOWER CONSTRUCTION (BID #2024-31), IN THE AMOUNT OF \$7,485,010**

**WHEREAS**, the City of Bloomington (“City”) is a home rule unit of local government with authority to legislate in matters concerning its local government and affairs; and

**WHEREAS**, subject to the provisions of the City Code, City staff is recommending a contract with Landmark Structures I, L.P (Contract) be approved for the Enterprise 1MG Water Tower Construction in the amount of \$7,485,010; and

**WHEREAS**, the Contract pertains to work necessary for the installation of a new water tower to maintain a more consistent water pressure zone, reduces shock wave throughout the zone introduced by rapid water demand changes, creates a more resilient system; and

**WHEREAS**, the City Council finds it in the best interest of the City to approve the contract.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS:**

**Section 1.** The above recitals are incorporated herein by this reference as if specifically stated in full.

**Section 2.** The City Manager, or designated representatives, are authorized to execute the Contract, and any other necessary documents to effectuate the purchase. The City Manager, or designee, is further authorized to approve any changes to the work or increases in the contract amount, up to the contingency amount set forth in the Contract, to the extent the City Manager finds such to be in the best interest of the City.

**Section 3.** In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

**Section 4.** The City Clerk is hereby authorized to publish this Ordinance in pamphlet form as provided by law.

**Section 5.** This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

**Section 6.** This Ordinance shall be effective immediately after its approval and publication as required by law.

**PASSED** this 8th day of April 2024.

**APPROVED** this 15th day of April 2024.

**CITY OF BLOOMINGTON**

*Mboka Mwilambwe*

Mboka Mwilambwe, Mayor

**ATTEST**

*Leslie Smith-Yocum*

Leslie Smith-Yocum, City Clerk



**CITY OF BLOOMINGTON AGREEMENT WITH  
LANDMARK STRUCTURES I, L.P.  
FOR  
ENTERPRISE 1MG ELEVATED WATER STORAGE TANK  
15th**

**THIS AGREEMENT**, dated this ~~XX~~ day of April, 2024, is between the City of Bloomington, IL (hereinafter "CITY") and Landmark Structures I, L.P. (hereinafter "VENDOR"). CITY and VENDOR may hereinafter collectively be referred to as the "PARTIES" and individually as the "PARTY".

**NOW THEREFORE**, the PARTIES agree as follows:

**Section 1. Recitals.** The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

**Section 2. Description of Services.** VENDOR shall provide the services/work identified on Exhibit A, attached hereto and incorporated herein.

**Section 3. Incorporation of Bid/RFP/RFQ & Proposal Terms.** The following shall apply to this Agreement:

This Agreement was subject to the following procurement initiative by the CITY:  
**Enterprise 1MG Elevated Water Storage Tank Bid #2024-31** (hereinafter "REQUEST").  
Accordingly, the provisions of the REQUEST and the proposal submitted by VENDOR (hereinafter collectively referred to as "PROCUREMENT DOCUMENTS"), shall be incorporated into this Agreement by reference and made a part thereof and shall be considered additional contractual requirements that must be met by VENDOR. In the event of a direct conflict between the provisions of this Agreement and the incorporated PROCUREMENT DOCUMENTS, the provisions of this Agreement shall prevail. All PROCUREMENT DOCUMENTS are kept on file by CITY Legal Department and shall be made available upon request.

**Section 4. Payment.** For the work performed by VENDOR under this Agreement, the CITY shall pay VENDOR the fees as set forth in the Payment Terms, attached hereto as Exhibit B and incorporated herein.

**Section 5. Requirement for Payment & Performance Bond.** The following shall further apply to this Agreement:

- This Agreement is subject to bonding requirements.
- i. It is therefore understood that the VENDOR will furnish, at no expense to the CITY, Payment and Performance Bonds to the CITY in the amount of the contract as stated in Exhibit B executed by the VENDOR and at least two sureties as set forth under the Laws of the State of Illinois, as a guarantee that the VENDOR will timely and faithfully perform the work outlined herein.
  - ii. Said bond shall be conditioned to save and keep harmless the CITY from any and all claims, demands, losses, suits, costs, expenses, and damages which may be brought, sustained, or recovered against the CITY by reason of any negligence, default, or failure of the said VENDOR in designing, building, constructing, or completing said improvement and its appurtenances, or any part thereof, and that said improvement when constructed shall be free from all defects and remain in good order and condition for one year from its completion and acceptance by the CITY, ordinary wear and tear, and damage resulting

from accident or willful destruction excepted; which bond is attached hereto and made a part hereof.

**Section 6. Default.** Either PARTY shall be in default if it fails to perform all or any part of this Agreement. If either PARTY is in default, the other PARTY may terminate this contract upon giving written notice of such termination to the PARTY in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting PARTY shall be entitled to all remedies as set forth in Section 9 herein, upon the default or violation of this Agreement.

**Section 7. Termination for Cause.** The CITY may, at any time, terminate this Agreement, in whole or in part, for any of the following reasons effective immediately:

- i. VENDOR is found to be in violation of any term or condition of this Agreement.
- ii. VENDOR engages in any fraudulent, felonious, grossly negligent, or other illegal acts or behavior.
- iii. VENDOR declares bankruptcy or becomes insolvent.
- iv. CITY determines, in its sole discretion, that VENDOR is no longer able to fulfill VENDOR's obligations under this Agreement or PROCUREMENT DOCUMENTS.

Upon such termination, CITY shall be entitled to all remedies laid out in Section 9, as well as reimbursement of reasonable attorney's fees and court costs.

**Section 8. Force Majeure.** The CITY shall not be in default of this Agreement and shall not be held liable for any losses, failure, or delay in performance of its obligations under this Agreement or any Agreement, Amendment, Exhibit, or Attachment hereto arising out of or caused, directly or indirectly, by an event of Force Majeure. Force Majeure is defined as circumstances beyond the CITY's reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; strikes; epidemics; pandemics; riots; power failures; computer failure and any such circumstances beyond its reasonable control as may cause interruption, loss or malfunction of utility, transportation, computer (hardware or software) or telephone communication service; accidents; labor disputes; acts of civil or military authority; governmental actions; or inability to obtain labor, material, equipment or transportation.

**Section 9. Remedies.** In the event of a default or a violation of this Agreement, the non-defaulting PARTY shall be entitled to all remedies, whether in law or equity.

**Section 10. Indemnification.** To the fullest extent permitted by law, VENDOR shall indemnify and hold harmless CITY, its officers, officials, agents, and employees from claims, demands, causes of action, and liabilities of every kind and nature whatsoever arising out of or in connection with VENDOR's operations performed under this Agreement, except for loss, damage, or expense arising from the sole gross negligence or willful misconduct of the CITY or the CITY's agents, servants, or independent vendors who are directly responsible to CITY. This indemnification shall extend to all claims occurring after this Agreement is terminated as well as while it is in force. The indemnity shall apply regardless of any concurrent negligence, whether active or passive, of the CITY or CITY's officers, officials, agents, employees, or any other persons or entities. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

**Section 11. Reuse of Documents.** All documents, including but not limited to, reports, drawings, specifications, and electronic media furnished by VENDOR pursuant to this Agreement are instruments of the VENDOR's services. Nothing herein, however, shall limit the CITY's right to use the documents for municipal purposes, including but not limited to the CITY's right to use documents in an unencumbered manner for purposes

of remediation, remodeling, and/or construction. VENDOR further acknowledges any such documents may be subject to release under the Illinois Freedom of Information Act.

**Section 12. Standard of Care.** Services performed by VENDOR under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the same or similar profession currently practicing under the same or similar conditions.

**Section 13. Time is of the Essence.** With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence. If no time period is set forth, the work must be pursued and completed in a commercially reasonable timeframe.

**Section 14. Representations of VENDOR.** VENDOR hereby represents it is legally able to perform the work that is subject to the Agreement.

**Section 15. Use of Name.** VENDOR shall have no right, express or implied, to use in any manner the name or other designation of the CITY or any other name or trademark, or logo of the CITY for any purpose in connection with the performance of this Agreement.

**Section 16. Compliance with Local, State, and Federal Laws.** VENDOR agrees that any and all work by VENDOR shall at all times comply with all laws, ordinances, statutes, and governmental rules, regulations and codes.

**Section 17. Compliance with Prevailing Wage.** The following shall apply to this Agreement:

This Agreement calls for the construction of "public works," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130.01 et seq. (hereinafter "ACT"). The ACT requires contractors and subcontractors to pay laborers, workers, and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus an amount for fringe benefits) in the county where the work is performed. The Illinois Department of Labor (hereinafter "DEPARTMENT") publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The DEPARTMENT revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the DEPARTMENT's website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the DEPARTMENT's website. All contractors and subcontractor rendering services under this Agreement must comply with all requirements of the ACT, including but not limited to all wage requirements and notice and record keeping duties.

**Section 18. Equal Opportunity Employment & Human Rights Guarantee.** The words used herein, and the requirements below shall be interpreted in accordance with and have the meaning ascribed to them as set forth in the City's Equal Opportunity in Purchasing Ordinance and the City's Human Rights Ordinance. During the performance of this Agreement, the VENDOR agrees as follows:

- (1) Non-discrimination pledge. VENDOR shall not discriminate against any employee during the course of employment or against an applicant for employment because of race, color, religion, creed, class, national origin, sex, age, marital status, physical or mental handicap, sexual orientation, gender identity, family responsibilities, matriculation, political affiliations, prior arrest record or source of income. The VENDOR shall make good faith efforts in accordance with its equal opportunity plan and utilization plan, if one is required to be submitted to and approved by the City, to achieve female and minority participation goals

by hiring and partnering with WBEs, MBEs, and female and minority workers. Good faith efforts are defined in Section 16-414 of the Bloomington City Code.

- (2) Notices. VENDOR shall post notices regarding nondiscrimination in conspicuous places available to employees and applicants for employment. The notices shall be provided by the City, setting forth the provisions of the non-discrimination pledge; however, VENDOR may post other notices of similar character supplied by another governmental agency in lieu of the City's notice. The VENDOR will send a copy of such notices to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding.
- (3) Solicitation and ads for employment. VENDOR shall, in all solicitations and advertisements for employees placed by or on behalf of VENDOR, state that all qualified applicants will receive consideration for employment as provided for in Section 22.2-104 of the City Code. An advertisement in a publication may state "This is an Equal Opportunity Employer," which statement shall meet the requirements of this section.
- (4) Access to books. VENDOR shall permit access to all books, records, and accounts pertaining to its employment practices by the City Manager or the City Manager's designee for purposes of investigation to ascertain compliance with this provision.
- (5) Reports. VENDOR shall provide periodic compliance reports to the City Manager, upon request. Such reports shall be within the time and in the manner proscribed by the City and describe efforts made to comply with the provisions of this provision entitled "Human Rights Guarantees."
- (6) Remedies. In the event that any contracting entity fails to comply with the above subsections, or fails to comply with its equal opportunity plan, utilization plan, or any provision of city, state or federal law relating to human rights, after the City has provided written notice to VENDOR of such failure to comply and provided VENDOR with an opportunity to cure the non-compliance, then the City, at its option, may declare VENDOR to be in default of this agreement and take, without election, any or all of the following actions: (i) cancel, terminate, or suspend the contract in whole or in part and/or (ii) seek other sanctions as may be imposed by the Human Relations Commission or other governmental bodies pursuant to law.

Vendor shall automatically include the provisions of the foregoing paragraphs in every construction subcontract so that the provisions will be binding upon each construction subcontractor.

**Section 19. Access to Records.** The following access to records requirements apply to this Agreement:

- i. The VENDOR agrees to provide CITY, or any of their authorized representatives access to any books, documents, papers, and records of the VENDOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The VENDOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

**Section 20. Compliance with FOIA Requirements.** VENDOR further explicitly agrees to furnish all records related to this Agreement and any documentation related to CITY required under the Illinois Freedom of Information Act (ILCS 140/1 et seq.) (hereinafter "FOIA") request within five (5) business days after CITY issues notice of such request to VENDOR. VENDOR agrees to not apply any costs or charge any fees to the CITY regarding



the procurement of records required pursuant to a FOIA request. VENDOR agrees to defend, indemnify, and hold harmless CITY, and agrees to pay all reasonable costs connected therewith (including, but not limited to, reasonable attorney’s and witness fees, filing fees, and any other expenses) for CITY to defend any and all causes, actions, causes of action, disputes, prosecutions, of conflicts arising from VENDOR actual or alleged violation of FOIA, or VENDOR failure to furnish all documentation related to a request within five (5) business days after CITY issues notice of request. Furthermore, should VENDOR request that CITY utilize a lawful exemption under FOIA in relation to any FOIA request, thereby denying that request, VENDOR agrees to pay all costs connected therewith (such as reasonable attorney’s and witness fees, filing fees, and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. VENDOR agrees to defend, indemnify, and hold harmless CITY, and agrees to pay all costs connected therewith (such as reasonable attorney’s and witness fees, filing fees, and any other expenses) to defend any denial of a FOIA request by VENDOR request to utilize a lawful exemption to CITY.

**Section 21. Notices.** All legal notices given in connection with this Agreement shall be made in writing and deemed complete by way of (a) hand delivery; (b) registered mail, postage prepaid; or (c) electronic mail with notice of receipt by the other PARTY at the following addresses or at such other address for a PARTY as shall be specified by like notice:

**If to VENDOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If to CITY:**

City of Bloomington  
Attn: City Manager  
115 E. Washington St., Suite 400  
Bloomington, IL 61701  
[admin@cityblm.org](mailto:admin@cityblm.org)

Copy to:

City of Bloomington  
Attn: Legal Department  
115 E. Washington St., Suite 403  
Bloomington, IL 61701  
[legal@cityblm.org](mailto:legal@cityblm.org)

**Section 22. Insurance.** VENDOR shall, at a minimum, maintain insurance as required in the PROCUREMENT DOCUMENTS and at or above the limits stated on the Certificate of Insurance, where CITY shall be named as additional insured under the policy(ies), which is attached hereto as Exhibit C and incorporated herein.

**Section 23. Assignment.** No PARTY may assign this Agreement, or the proceeds thereof, without prior written consent of the other PARTY.

**Section 24. Changes or Modifications.** This Agreement, its method of completion, its scope of work, nor its pricing may be modified or changed in any manner without the express written consent of both PARTIES via an Amendment fully executed by both PARTIES.

**Section 25. Governing Law.** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois, County of McLean.

**Section 26. Joint Drafting.** The PARTIES expressly agree that this Agreement was jointly drafted, and that both had the opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either PARTY but shall be construed in a neutral manner.

**Section 27. Attorney's Fees.** In the event that any action is filed in relation to this Agreement, the unsuccessful PARTY in the action shall pay to the successful PARTY, in addition to all the sums that either PARTY may be called on to pay, a reasonable sum for the successful PARTY's attorney's fees (including expert witness fees).

**Section 28. Paragraph Headings.** The titles to the paragraphs of this agreement are solely for the convenience of the PARTIES and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

**Section 29. Term.** The term of this Agreement shall be as set forth on the attached Exhibit A, Description of Services. Notwithstanding anything herein, the provisions in Sections 10 and 19 shall survive termination.

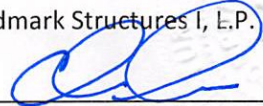
**Section 30. Counterparts.** This Agreement may be executed in any number of counterparts, including electronically, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the date first above written.

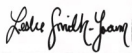
CITY OF BLOOMINGTON

By:   
Its City Manager


Landmark Structures I, L.P.

By:   
Christopher Lamon  
Its CEO of Landmark Structures  
Management LLC

ATTEST:

By:   
Its City Clerk



By:   
Linda E. Santiago  
Its Pre-Construction  
Coordinator

**This Written Consent is applicable to all corporate signatures provided within**

**WRITTEN CONSENT  
OF  
THE GENERAL PARTNER  
OF  
LANDMARK STRUCTURES I, LP**

April 30, 2022

Pursuant to the provisions of the Delaware Revised Uniform Limited Partnership Act, the undersigned, being the general partner (the "General Partner") of Landmark Structures I, LP, a Delaware limited partnership (the "Partnership"), does hereby consent to, adopt, approve and authorize the following resolutions and each and every action effected thereby:

WHEREAS, the General Partner is authorized under the Amended and Restated Limited Partnership Agreement of Landmark Structures I, LP, dated April 12, 2022, to manage the business and affairs of the Partnership and execute and deliver any document on behalf of the Partnership; and

WHEREAS, Christopher Lamon and William Fields (each, an "Officer" and together, the "Officers") have been appointed as Chief Executive Officer and Chief Financial Officer of the General Partner, respectively, and have been authorized and empowered to take all such further actions, including, but not limited to, (a) the execution of such agreements, amendments, supplements, reports, documents, instruments, applications, forms, notes or certificates currently unknown but which may be required, (b) the execution of such changes and additions to any agreements, amendments, supplements, reports, documents, instruments, applications, forms, notes or certificates currently existing, (c) the delivery and filing (if applicable) of any of the foregoing on behalf of the General Partner.

WHEREAS, for the avoidance of doubt, the General Partner wishes to confirm authority to each of the Officers to take such action without the necessity of the joinder of the other in submitting bids and negotiating contracts and entering into contracts on behalf of Landmark Structures I, LP.

NOW, THEREFORE, BE IT RESOLVED, that for the avoidance of doubt, the Officers be, and each hereby is, authorized, empowered, and directed, for and on behalf of the General Partner, to execute and deliver any and all documents or instruments, perform all acts, do all things, and pay or cause to be paid all liabilities, expenses, and costs as may be by any of them deemed necessary, appropriate, or advisable in order to carry out the purposes of the Partnership;

FURTHER RESOLVED, for the avoidance of doubt, the Officers acting without the joinder of the other, are authorized as follows:

- (a) To submit bids and/or to negotiate contracts and/or to enter into contracts for an on behalf of Landmark Structures I, LP; and
- (b) To execute and deliver such documents and to take such actions as he considers necessary or advisable to give effect to this resolutions and the transactions provided for herein.

FURTHER RESOLVED, that all actions of the Officers, taken on behalf of the Partnership, prior to the date hereof that would have been authorized by these resolutions but for the fact that such actions were taken prior to the date hereof, be, and hereby are, approved, authorized, adopted, ratified, and confirmed in all respects as the actions of the Partnership.

*[The remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned, being the General Partner of the Partnership, has executed this written consent and made it to be effective as of the date written above.

GENERAL PARTNER:

LANDMARK STRUCTURES MANAGEMENT LLC

By:  \_\_\_\_\_

Name: Christopher Lamon

Title: Chief Executive Officer

**EXHIBIT A**  
**DESCRIPTION OF SERVICES/WORK PROVIDED**

Construction of a 1-million-gallon elevated pillar type steel water storage tank, including site work, yard piping, grading, structural, architectural, process piping, plumbing, heating, electrical, and instrumentation and control as outlined in the Specifications of the Procurement Documents.

**EXHIBIT B  
COSTS/FEES**

<b>Bid #2024-31 Enterprise 1MG Elevated Water Storage Tank</b>				<b>Landmark Structures I, L.P.</b>	
<b>Line Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit of Measure</b>	<b>Unit Cost</b>	<b>Total</b>
1	All Sections - All work except for Bid Items #2 & #3.	1	LS	\$900,000.00	\$900,000.00
2	Section - 33 16 11 - Elevated Composite Water Storage Tank	1	LS	\$6,367,000.00	\$6,367,000.00
3	Section 01 21 00 - 3% Contingency based on Line Items #1 & #2 total - The contingency item included in the bid shall be used for unforeseen issues which may arise during the project. Use of the contingency item shall be at the City's sole discretion. All work must be pre-approved.	1	LS	\$218,010.00	\$218,010.00
	<b>Total</b>				<b>\$7,485,010.00</b>

