

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
December 12, 2017

The Richland County Water Resource Board (RCWRB) met December 12, 2017 at 9:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

THOSE PRESENT: Managers Arv Burvee, Gary Friskop, James Haugen, Don Moffet, and Robert Rostad, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf.

THOSE ABSENT: None

Minutes

The November 28, 2017 minutes were presented. A motion was made by Mgr. Rostad and seconded by Mgr. Burvee to approve the November 28, 2017 minutes as presented. The motion carried unanimously.

Financial Matters

A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to accept the November 2017 financial reports as presented. The motion carried unanimously.

Mail

- 1.) Bank of New York Mellon- Pledged securities totaled \$5,488,228.06 on November 30, 2017.
- 2.) Red River Retention Authority- Minutes of the August 31, 2017 meeting and agenda for the December 14, 2017 meeting.
- 3.) NRCS- Notification that Debra Walchuk has been appointed as the USDA-NRCS Red River Basin Coordinator effective October 29, 2017.
- 4.) Mike Bassingthwaite, Interstate Engineering- Recommendation for replacing and extending the culvert in Proj #55, located in the NECR Section 13, Summit West. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad authorizing Ehlert Excavating to replace the existing 48 inch cmpa with an equivalent 48 inch cmp, and lengthen as required. Work at Proj #55 expense. The motion carried unanimously. (Miller/Pausch #17-062)

Matter of the Complaint of Illegal Drainage filed by John Nagel against Steve Mauch and MC LLLP (South Half of Section 30 Antelope Township)

The Managers were informed that Steve Mauch notified the Office of completion of all work under his State Surface Drain Permit #4874. (The work under said permit was to settle John Nagel drainage complaint #15-194.) At the request of Office Staff, Mike Bassingthwaite, of Interstate Engineering, inspected Mr. Mauch's work and provided his report to the Board. Mr. Bassingthwaite's report confirmed the work was completed. He indicated "the only minor concern is the ditch block that they built in the SECR Section 30 just outside the County Road ROW that forces all the water to the south. This wasn't discussed in the permit however I do not believe it is a problem since the field approach culvert on the ¼ has a screw gate on the west side." After reviewing Mr. Bassingthwaite's report, the Managers concluded that Mr. Mauch has complied with the Board's ORDER on Mr. Nagel's complaint.

The Board directed Sean Fredricks to prepare the requisite **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** for the Board's review at their December 26, 2017 meeting. Mgr. Moffet has a conflict in the matter and did not participate, in accordance with the Board's previous conflict analysis. (Nagel #15-194/Mauch #15-169)

RCPD Committee Meeting Report

Mgrs. Moffet, Friskop, and Technician Johnson reported on the RCPD meeting held November 29, 2017. Another meeting is scheduled for January 8, 2018.

The Managers discussed payment to Mgr. Moffet for use of his shop for the Committee meetings. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to make payment to Mgr. Moffet for rental of his shop for the Committee meetings at a rate of \$25/meeting. Upon roll call vote, Mgrs. Burvee, Rostad, Friskop, and Haugen voted in favor of said motion; Mgr. Moffet abstained from voting. The motion carried. (RCWRD #16-017)

Request for Proposals (RFQ) for Engineering Services – Agency Selection Committee

RICHLAND COUNTY WATER RESOURCE DISTRICT AGENCY SELECTION COMMITTEE - FINAL REPORT December 12, 2017

In accordance with the NORTH DAKOTA STATE WATER COMMISSION'S COST-SHARE POLICY, PROCEDURE, AND GENERAL REQUIREMENTS (the "SWC Policy"), and in accordance with Chapter 54-44.7 of the North Dakota Century Code, the Richland County Water Resource District (the "District") previously prepared and approved an INITIAL REPORT dated October 10, 2017. In the INITIAL REPORT, the District appointed all five of its members as the "Agency Selection Committee" for purposes of conducting the requisite engineering selection process (as specifically required under Section I(C) of the SWC Policy and under N.D. Cent. Code § 54-44.7-03(1)). The Committee developed the following "description for the proposed project" as required under Section 54-44.7-03(2)(a):

The Richland County Water Resource District (the "District") is seeking general engineering services and consulting to assist, advise, and act on behalf of the District regarding all proceedings and projects of the District, including regular attendance at meetings of the District; surveys; inspection and maintenance of existing projects, including assessment projects, drains, and retention projects; development, study, survey, design, bidding, contract administration, and right of way acquisition regarding new projects, improvements to the District's existing projects, and snagging and clearing projects; administration and negotiation of land and right of way acquisition on behalf of the District; assistance regarding permit administration, including surface drainage, subsurface drainage, dam, and dike permitting; investigation and assistance regarding administration of dike, dam, drainage, and obstruction complaints; assessment district development; negotiation with road authorities, railroads, and other entities on the District's behalf; regular cooperation and interaction with the District's staff, legal counsel, and other consultants; and otherwise performing all other tasks as necessary to act on the District's behalf.

In accordance with the Committee's INITIAL REPORT and SECOND REPORT, and as required under the SWC Policy and Chapter § 54-44.7 of the North Dakota Century Code, the Committee performed the following tasks:

1. the Committee developed and approved "a formal invitation to firms for submission of information" (a Request for Qualifications) as required under Section 54-44.7-03(2)(c);
2. the Committee concluded a single publication in the *Richland County Daily News* appropriately, adequately, and sufficiently invited Qualification Statements;
3. the Committee procured publication of its invitation/RFQ in the *Richland County Daily News* on October 13, 2017;

4. the Committee's invitation/RFQ set the deadline for submitting Qualification Statements as 4:30 p.m. on November 6, 2017;
5. the Committee accepted timely-submitted Qualification Statements from the following firms:
 - a. Houston Engineering, Inc
 - b. Moore Engineering, Inc
 - c. Interstate Engineering, Inc
6. the Committee set November 21, 2017, at the office of the Richland County Water Resource District as the date and place of the firms interview with the Committee; and
7. the Committee authorized an invitation to interview, and the District's staff subsequently mailed interview invitations to Houston, Moore, and Interstate engineering firms.

Interviews:

The Committee conducted separate interviews with representatives from Houston and Moore Engineering on November 21, 2017 and with Interstate Engineering on November 28, 2017, all at the offices of the Richland County Water Resource District.

Post-Interview Evaluations

In accordance with the SWC Policy and Chapter § 54-44.7 of the North Dakota Century Code, the Committee evaluated and analyzed the firms interviewed on the basis of the following criteria:

1. Professional qualifications necessary for satisfactory performance of requested services, including past performance on behalf of the District and on similar projects;
2. Qualifications of personnel;
3. Ability and willingness to meet time and budget requirements;
4. Location, with higher priority given to firms headquartered in North Dakota;
5. Recent, current, and projected workloads;
6. Related experience on similar projects; and
7. Recent and current work for the District.

Under Section 54-44.7-03(5), the Committee must select the three most qualified firms and must rank those three firms in priority order. The Committee's rankings must include data substantiating its rankings. In this case, the Committee provides the following rankings and related data to support the rankings:

1. Top-ranked Firm: Interstate Engineering, Inc
 - a. Data and rationale to support ranking:

Interstate Engineering, Inc. has engineers on staff with the "PE" designation who have proven through past performance to be qualified to provide requested services. They have vast historical and current knowledge of all of the legal drains, creeks, and rivers, from their many years of service to the District. They are well versed on the problem areas throughout the County and are familiar with most of the landowners in Richland County. Interstate Engineering, Inc. has an office located in Wahpeton, North Dakota. Richland County Water Resource District has a long standing working relationship with Interstate Engineering,

Inc. and is very familiar with the company and their qualifications.

2. Second-ranked Firm: Houston Engineering, Inc
 - a. Data and rationale to support ranking:

Houston Engineering, Inc. has engineers on staff with the “PE” designation who have proven through past performance to be qualified to provide requested services. They have some historical knowledge and familiarity of some of the legal drains, creeks, and rivers, in Richland County. Houston Engineering, Inc. has an office located in Fargo, North Dakota and an engineer who has a local familiarity with a portion of Richland County. They have experience with similar projects through other Water Resource Districts in North Dakota.
3. Third-ranked Firm: Moore Engineering, Inc
 - a. Data and rationale to support ranking:

Moore Engineering, Inc. has engineers on staff with the “PE” designation who have proven through past performance to be qualified to provide requested services. They have some knowledge of the Antelope Creek and Wild Rice River watersheds in Richland County. Moore Engineering, Inc. has an office located in Fargo, North Dakota. They have experience with similar projects through other Water Resource Districts in North Dakota.

Based on the rankings above, the Committee recommends Interstate Engineering, Inc. as the most qualified firm.

Report Approval and Notice of Decision

The Committee and the District both approve this Final Report, including the final recommendation regarding Interstate Engineering, Inc. as the most qualified firm. The District will provide written notice of its decision, including the priority order of the firms, to all firms that submitted Qualification Statements. In addition, the District will provide a copy of this FINAL REPORT to the North Dakota State Engineer.

The District will commence negotiations with Interstate Engineering, Inc. and will ultimately enter into a written agreement with the firm if the parties can agree on a compensation that is reasonable and fair to the District. If the parties cannot negotiate a satisfactory agreement, the District will terminate negotiations and will commence negotiations with the second-ranked firm. If the District cannot negotiate a satisfactory agreement with the second-ranked firm, the District will otherwise continue its selection process as required under Section 54-44.7-03(7).

Proj #63

Mgr. Rostad and Mr. Johnson reported that they met with Dallas Loff and Gordie Olson at the site of Proj #63 to discuss the landowners concerns over drainage issues. It was suggested a survey be completed on the legal drain to pinpoint the problem areas. Estimated cost for Interstate Engineering to do a survey is approximately \$1,200 to \$1,500. A motion was made by Mgr. Rostad and seconded by Mgr. Burvee authorizing Interstate Engineering to survey Proj #63 and provide a report to the Board. The motion carried unanimously. (Loff #15-054)

Applications

Appl #17-097, 5K Farms LLLP: NE1/4 Section 21, Antelope Township

Applicant seeks to install a subsurface water management system (“drain tile”) in the NE1/4 Section 21, Antelope Township, Richland County, North Dakota. The project will include a single pump outlet located in the NECR NE1/4 Section 21,

which will discharge water directly into the county road ditch and through a diagonal culvert into the township road ditch in the SW1/4 Section 15. The water will flow in the township road ditch on the west side of the SW1/4 where it will then enter a natural channel, known as Antelope Creek.

Along with the application, the Applicant submitted a "signed and notarized letter of approval" from Charles Breuer, who is the downstream landowner within one mile of the outlet and to the point of the water entering Antelope Creek. Mr. Breuer agreed to waive his right to A THIRTY-DAY NOTICE and to waive his right to submit technical evidence, as that phrase is defined under Section 61-32-03.1, to demonstrate Applicant's project will result in adverse impacts to his property. The Applicant also submitted an approved permit from the Richland County Highway Department for discharging the water into the county road ditch.

According to records on file with the Richland County Recorder's Office, 5K Farms LLLP owns the NE1/4 Section 21, where Applicant intends to install the tile system. Further, Charles Breuer owns the SW1/4 Section 15, Antelope Township. The Board's understanding is the Applicant will construct the project on property owned only by the Applicant.

A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve the application with conditions. Upon roll call vote, Mgrs. Haugen, Friskop, Burvee, and Rostad voted in favor of said motion; Mgr. Moffet against the motion. The motion carried to approve *Application to Install a Subsurface Water Management System #17-097* subject to the following conditions:

- 1) That Applicant notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicant turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the District.
- 3) That Applicant will not install Applicant's tile system within 20 feet, on either side, of Southeast Rural Water Users rural water line on the NE1/4 Section 21; and
- 4) That all work be done in a neat and professional manner;

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District recommends Applicant consider complying with the following:

- 1) That Applicant notify the Richland County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submit an additional permit application; and
- 2) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Appl #17-098, Bob & Ann Helbling: NE1/4 Section 23, Barrie Township A motion was made by Mgr. Haugen and seconded by Mgr. Burvee to approve the application for installation of two culverts at no cost to the drain. The motion carried unanimously.

Technician's Report

Mr. Johnson provided an update on various projects. Dirt work has concluded for the year due to weather conditions. Mr. Johnson will be working with the local contractors on removal of beaver dams and bids for removal of trees in the legal drains.

Adjournment

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 12:00 Noon.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Gary Friskop
Gary Friskop
Chairman of the Board