

Barnes County Water Resource District

PO Box 306

Valley City ND 58072

701-845-8508

November 1, 2017

SPECIAL MEETING

Hobart Lake Outlet Project

MEMBERS PRESENT: Chairman Hieb, (via phone) – Manager Bruce Anderson, Manager Bret Fehr, Manager Shawn Olason, Mike Opat & Josh H. (Moore Eng.), Sean F. (Ohnstad Twichell)

ABSENT: Manager Dale Jorissen

Chairman Hieb called the meeting to order at 11:17 a.m.

He stated the discussion will be on the changes in construction for the Hobart Drain. Mike O. started with a rundown, the BCWRD approved a Change Order a couple weeks ago the contractor (ESA) had verbally agreed to this. Before he signed and sent it back he checked with his subcontractor's, and found out his boring subcontractor had all his manpower walk away from the company. That left him in a tough spot of having no one to do it, ordinarily in most situations that would have been his own problem. However, since the contract was in default he wasn't the only one accountable that is the way we understand it. ESA got ahold of the company with the second lowest quote from when he bid this out, unfortunately that one is significantly higher than the first company. Josh H. & Mike O. (Moore Eng.) have been working with ESA to find the cheapest way to resolve this. They have talked with different boring contractor's, the elevator, and RR to see about open cutting through the tracks – which was a possibility, but that still left boring to be done under the county road. In the end, it was not cost effective to do this. Josh H. and Mike O. worked with ESA and found his change proposal for the added costs of going with the next closest competitor, as far as a boring subcontractor and that it is someone who can not only do it – but do it this fall yet reasonable. It was stated that it took some work to get ESA's paperwork to an acceptable level, as far as all the justifications. Josh H. & Mike O. worked to try to verify the cost increase they are asking for. So, the proposal that was presented is the best we could do on BCWRD behalf and with ESA to try to get this done this fall. Unfortunately, it is another tough position that the state ended up putting us (WRD) in - indirectly with the delays on the permit. But it is a way to move forward, and that is what needs to be discussed.

Josh H. stated that the open cutting was an option but had to many extra costs that came along with it, and that just wasn't as practical as what is in the Change Order that is presented today. He had reached out to five different contractor's that do boring work, he had gotten responses from three of them. Some contractor's had issues with the water around the county road, another one did boring that is not

spring time installation would be cheaper than a fall installation, he found out that spring time installation is more expensive due to the re-mobilizing of equipment for the company.

Mike O. noted that when ESA put together this piece they asked for additional money, but **not** for additional time, that was included in Change Order No. 1. So, it appears they are indicating they will have the boring done by Nov. 15th, if they don't they would be subject to liquidated damages. Chairman Hieb asked what the liquidated damages cost was? It was stated that it was \$3,500 and now after Change Order No. 1 it is at \$500 per day. Chairman Hieb also stated that with this increase of \$39,448.95 and if this is accepted today, that puts the new contract price at \$373,032.60 which is still below the next lowest bidder from the original bids. There was short discussion on the extra costs of legal and engineering, because of the extension not getting done in time.

Manager Anderson stated some concern with this increase, then asked what the original estimate was back in 2015? It was stated in 2015 the estimate was \$500,000 with the boring being at \$450 per foot, we are well under that price with this increase proposal. Chairman Hieb stated the savings was in the cost of the pipe. Manager Anderson asked what was included in the Nov. 15 Milestone? Josh H. stated the two RR borings are required to be done, along with the topsoil stripping and installation of 24" pipe. He also stated that it sounds as though the boring of the county road will be done before they leave also, but reminded the board that the county road is not on the Nov.15 Milestone. There was discussion on the coordination with the RR as far as their trains are concerned, and the intent with the Nov. 15 Milestone was to make sure the contractor gets out there this fall as opposed to pushing it to next spring.

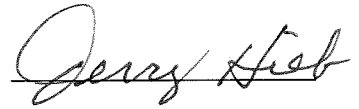
Manager Olauson stated who knows what spring will bring and we can't keep pushing this back. He is also concerned if ESA has other subcontractors with this project that we might have problems with in the future. It was stated that ESA has subcontracted out the seeding and boring parts of this contract. Mike O. stated that we should be clear, that Mr. Cook (ESA) should have asked for that specific when he negotiated Change Order No. 1 and by asking for the 10% increase overall that should already be covered. To me, he covered all his basis with Change Order No. 1 it is too late to ask for more now. Manager Anderson asked how soon will the boring start? It was stated the company is wrapping up a job in Fargo, then headed right to the project site. There is around 12 days to do the work, specs need to get to BNSF for submittal and approval by the company.

Chairman Hieb stated basically if we do this Change Order No. 2, everything else will be up to Mr. Cook (ESA) to get done the way it is supposed to be. After discussion, it was decided yes.

Manager Olauson made a motion to sign Change Order No. 2. Seconded by Manager Fehr. Upon roll call vote motion carried unanimously.

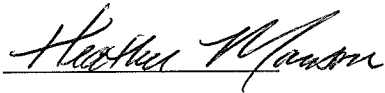
Meeting was adjourned at 11:35 a.m.

APPROVE:

A handwritten signature in cursive script, reading "Jerry Hieb".

Jerry Hieb, Chairman

ATTEST:

A handwritten signature in cursive script, reading "Heather Manson".

Heather Manson
Secretary-Treasurer