

Cordry-Sweetwater Conservancy District
Board of Directors Special Meeting
October 1st, 2024

“DRAFT MINUTES UNTIL APPROVED”

1. **Board Members Present:** Mike Leavitt, Ted Adolay, Randy Brumfield, Jim Maulden, and Mark Rasdall
2. **Members Present Virtually:** Aaron Parris & Patrick Sherman
3. **Board Members Absent:** None

4. **Also, Present:**
 - a. **Staff:** Brittany Bay & Nick Johann
 - b. 3 Freeholders in attendance and numerous online viewers

5. **Call to order at 5:30 PM**

6. **Consider Action to Reject Bid for Cordry Spillway Project and Award Bid to Next Lowest Bidder:**
 - a. Mr. Leavitt asked Mr. Johann to give an update. Mr. Johann noted that the contractor that was awarded the bid for the Cordry Spillway project was not able to get a 150% bond within the timeframe, so the contractor was asked to get a 100% bond and given an extension to do such.
 - b. Jeff Fox, the engineer of record for the project, introduced himself. Mr. Fox noted the deadline for extension ended on September 24th, and after the deadline ended, they had received the contractor side of the 100% bond, and the agreement, which were two of the three post bid requirements; Mr. Fox noted that they are still waiting for insurance, which is the third. Mr. Fox noted that the bidder spoke with him about the insurance documentation and that he would require additional coverage outside of his current insurance. Mr. Fox noted that the bidder did not want to take on the additional cost for securing the additional coverage if the Board is prepared to move on with another bidder.
 - c. Mr. Young asked what the specific existing deficiencies are. Mr. Fox noted that at this point insurance is the only deficiencies. Mr. Fox discussed the specific insurance related deficiencies. Mr. Young asked if all the insurance requirements are customary and normal for public projects in the engineer’s experience. Mr. Fox confirmed that they were for a project like this.
 - d. Mr. Young asked if a pre-bid meeting was held and if this contractor came to the meeting, Mr. Fox confirmed that there was a meeting, and he did attend. Mr. Young then asked if the preconditions were explained at the meeting, and that the contractor was aware that he would be required to provide this documentation before this contractor submitted a bid, Mr. Fox noted that yes it was. Mr. Young asked the engineer to explain how the contractor would have known and how that information was conveyed. Mr. Fox explained that the requirements are clearly outlined in the bid documents which all bidders had prior to and at the pre-bid meeting. Mr. Young then asked the engineer if the bidder expressed any concerns or feedback over the requirements to the engineer prior to submitting the bid. Mr. Fox answered that the bidder did not express any concerns with regards to the insurance prior to submitting the bid. Mr. Fox noted that it is clear in the documents what is required, the amounts, the policies, everything is listed out. Mr. Young then noted that the bidder submitted his bid with full

understanding that he would be obligated to provide these items within the 14-15 day time frame and he chose to submit his bid.

- i. Mr. Leavitt noted that it appeared from recent conversations between the bidder and the engineer that the bidder would be willing to provide this information if the Board continues to move forward with him. Mr. Fox noted that was the impression he received from him, that if the Board wanted to move forward with this contractor that he would get the additional coverage from another a different agent.
- e. Mr. Maulden asked if the contractor was aware that this meeting was taking place tonight. It was noted that the meeting was advertised.
- f. Mr. Young noted that if the Board concluded the factual presentation then they now have 2 options; one option is to grant further extensions of time to Monroe or the other would be, and he believes the Board has sufficient evidence in the record to support the Board doing so, declare Monroe in default, the reasons have been stated, to annul the notice of award, to declare bid security forfeited, and the Board could consider accepting the next lowest bidder, then the Board could authorize officers of the District to execute all documents necessary in connection with proceeding forward with the project.
- g. Mr. Young noted that he had a comment and one way to look at this is, had the Board known this was going to happen at the time they were considering bids would the Board still have reached the conclusion that Monroe was a responsible contractor if they knew then what they knew now.
 - i. Mr. Maulden noted that it seems like the Board is having a lot of problems with this contractor before the work has even started, but it is \$800,000 more for the next contractor.
 - ii. Mr. Leavitt noted that it is a big amount to get the same product in the end. Mr. Leavitt noted that if they do go with the second lowest bidder, like Mr. Young stated they clearly have grounds to do so, then the 15-day clock starts again for that contractor to supply all the requirements, and then the question would be are they ready to start the work. Mr. Leavitt asked Mr. Fox if he had any discussions with them and if they were aware they could potentially be awarded the work, Mr. Fox noted that they are aware.
 - iii. Mr. Rasdall asked Mr. Young if the Board decided they wanted to give another extension to Monroe could they make a motion tonight to give Monroe a set time to have all documents in by and if he doesn't, he would be in default and the award could go to the next lowest bidder Millenium. Mr. Rasdall noted that his concern is almost \$1 million more to the freeholders to get the same product in the end, and then the time delay on initiating a new contractor. Mr. Young noted that the Board could make that motion, and if the Board decides to take this route then they would need to get ahold of the contractor and have them amend their bonds in terms of date of issuance, because their payment and performance bonds submitted are dated September 26th.
 - iv. There was discussion on the 60 days. Mr. Fox noted that the 60 days are up this week and that this allows the Board to hold the bidders' bid bonds up to 61 days from the actual bid due date. Mr. Fox noted that it would be 61 days from August 7th. Mr. Young noted that any bidder could agree to extend that, however it gives them the right to withdraw their bid without penalty if they choose too.
 - v. Mr. Brumfield noted the fact that the Board has given this contractor 30 days. Mr. Brumfield noted now he is wanting to discuss items with the Board but made no attempt to contact the Board prior to the extension deadline, he is in default, the Board is still waiting on requirements after 30 days, so Mr. Brumfield noted he

personally has lost confidence. Mr. Brumfield noted that they are having problems in the beginning stages of this project with this contractor and if they break ground, they are stuck with this. Mr. Parris agreed with Mr. Brumfield; he has also lost confidence.

- vi. Mr. Adolay discussed delaying the project until next year. There was discussion over the pricing increase, and interest payments if the project is delayed. There was discussion over the contractors being bound to time frames because they turned bids in.

MOTION: Mr. Brumfield motioned to declare Monroe in default for the reasons stated by Jeff Fox, the engineer on record, seconded by Mr. Adolay.

Discussion: Mr. Sherman asked about past jobs for the contractors. Mr. Leavitt noted that it was due to some of their diligence that the engineers looked at past jobs and contacted references. Mr. Fox noted that they were thorough with references for the 3 lowest bids. Mr. Rasdall asked how that fared. Mr. Fox noted that it is documented in their review and asked what specifics they wanted to know. Mr. Rasdall specified projects being completed on time and specifications of projects. Mr. Fox noted that regarding Monroe there were some concerns with the work that was completed, questioning of the project documents, and feedback from references that was concerning. Mr. Fox noted that regarding Millenium it was positive feedback, no concerns for completing on time or budget. Mr. Maulden asked about quality, Mr. Fox noted no concerns about quality or not standing up to expectations. Mr. Fox noted that he had the specifics in the review packet that was sent over. Mr. Fox noted that they looked at contacts, owners of the projects, contract values, and comparable projects.

Roll Call:

**Randy Brumfield:
Mark Rasdall: Aye
Ted Adolay: Aye
Jim Maulden: Aye
Aaron Parris: Aye
Patrick Sherman: Aye
Michael Leavitt: Aye**

Motion passed unanimously.

MOTION: Mr. Brumfield motioned to annul notice of the of award for Monroe LLC, seconded by Mr. Rasdall. Roll Call:

**Randy Brumfield:
Mark Rasdall: Aye**

**Ted Adolay: Aye
Jim Maulden: Aye
Aaron Parris: Aye
Patrick Sherman: Aye
Michael Leavitt: Aye**

Motion passed unanimously.

MOTION: Mr. Brumfield motioned to declare the bid security forfeited seconded by Mr. Maulden. Roll Call:

**Randy Brumfield:
Mark Rasdall: Aye
Ted Adolay: Aye
Jim Maulden: Aye
Aaron Parris: Aye
Patrick Sherman: Aye
Michael Leavitt: Aye**

Motion passed unanimously.

MOTION: Mr. Brumfield motioned to accept the bid of Millenium in the amount of \$2,094,196, seconded by Mr. Parris. Roll Call:

**Randy Brumfield:
Mark Rasdall: Aye
Ted Adolay: Aye
Jim Maulden: Aye
Aaron Parris: Aye
Patrick Sherman: Aye
Michael Leavitt: Aye**

Motion passed unanimously.

MOTION: Mr. Sherman motioned to approve authorizing the officers of the corporation to execute documents as necessary to proceed forward with the project, specifically but not limited to the construction contract seconded by Mr. Rasdall. Roll Call:

**Randy Brumfield:
Mark Rasdall: Aye
Ted Adolay: Aye
Jim Maulden: Aye
Aaron Parris: Aye
Patrick Sherman: Aye
Michael Leavitt: Aye**

Motion passed unanimously.

7. Board Member Comments:

- a. Mr. Maulden noted that one thing freeholders are going to want to know is when do they have to have their watercraft out by. Mr. Leavitt noted until there is a discussion with the contractor, they will not know that.
- b. Mr. Rasdall noted that this was not without concern for everyone on Cordry Lake, the use of the lake and the tax burden for everyone because of the increase in the contract. Mr. Rasdall noted he agreed with Mr. Maulden it would be devastating if they entered the original contract and if something happened and the lake was not accessible.
- c. Mr. Young noted one good positive is that the financing is sized to accept that second lowest bid. Mr. Leavitt gave Mr. Sherman some credit for the bond issuance work.

8. Adjourn (6:03 PM)

MOTION: Mr. Rasdall moved to adjourn, seconded by Mr. Adolay. Motion passed unanimously.

Respectfully submitted,



Ted Adolay, Board Secretary
Date Submitted:

