

**CONSTRUCTION CONTRACT
COMMITTEE MEETING
September 10, 2020 at 8:00 AM**

Present in the District Office: Administrator Jamie Beyer. Participated remotely pursuant to Minn. Stat. § 13D.021: President Linda Vavra; Board Managers Doug Dahlen, Jason Beyer and Ben Brutlag; Engineer Technician Troy Fridgen; District Engineer Chad Engels; Engineers James Guler and Brady Woodard; District Attorney Lukas Croaker. Also in attendance remotely: Big Stone County Commissioner Jay Backer.

Update for the Improvement of Wilkin County Ditch #9

The final punchlist for Riley Bros Construction requires completion of:

- Seeding
- Repair of a wash-out in the southwest corner of Section 33 in Bradford Township (210+00)
- Removal of excessive silt accumulation at various channel bottom locations

Seeding. Should be completed next week.

Repair of One Wash-Out & Silt Removal. The project includes several existing off-set box culverts; one site suffered severe erosion from a July 8, 2020, storm event. Following the storm event, Riley Bros Construction was notified by the District's engineers of a wash-out located at southwest corner of Section 33 in Bradford Township (210+00). To date, the wash-out has not been repaired. The contractor was notified several times prior to the wash-out event that the construction site lacked contractual stormwater management requirements, namely the establishment of vegetation. A June 22, 2020, Notice of Defective work was submitted to the contractor with regard to the establishment of vegetation. The project completion date, November 28, 2019, has since expired. The District has been tracking liquidated damages on the project and has the authority to assess a \$1,000/day liquidated damages penalty to the contractor. The contractor has submitted one construction pay estimate to date.

On August 31, 2020, John Riley, on behalf of Riley Bros Construction, provided a quote to District Engineer Engels, via text, in the amount of \$125,600 to repair the erosion site. On September 8, 2020, Riley Bros Construction provided a letter detailing the scope of work associated with the \$125,600 quote. This quote was based on assumptions by the contractor to import a significant volume of good clay and compact in lifts. The District's engineer has developed a less costly method, which will be communicated to Riley Bros Construction, using on-site dirt and clay materials to rebuild the wash-out area to grade. In addition to the earthwork, District Engineer Engels proposed that the following additional work be done at the site as winter is approaching (displayed below is the estimated cost):

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
Clay Fill	CY	230	20	\$ 4,600.00
30. Rip Rap Class IV	CY	170	\$ 70.00	\$ 11,900.00
31. Rip Rap Filter Fabric	SY	255	\$ 3.00	\$ 765.00
38. Erosion Control Blanket - Category 3N	SY	688 8888889	\$ 1.00	\$ 688.89
41. Seeding - Type III	AC	1	\$ 710.00	\$ 710.00
Total Construction				\$ 18,663.89

Because the project does not currently meet specifications as a result of the erosion issue, District Engineer Engels prepared a Notice of Defective Work (the "Notice"). The Construction Committee agreed that the project fund should pay for all items associated with the repair except the earthwork. The Notice contains two deadlines: September 18, 2020, for repair of the washout and October 2, 2020, for removal of excessive silt accumulation from several locations of the channel bottom.

If the erosion issue is left unresolved, the District may file a claim with the contractor's bonding company or terminate the contract for cause and assess liquidated damages against the contractor so the District may hire another contractor to finish the repair. Due to the cost of the repair, bidding would not be required pursuant to Minn. Stat. § 471.345. It is also possible, following the Notice, that the contractor will complete the required tasks, but may later submit a change order for payment that the Board will need to consider. The Board has not discussed the amount of associated engineering and inspection fees related to the delay in project close-out that has accrued since the expiration of the substantial completion date on November 28, 2019.