

AGENDA

Red Run Intercounty Drain Drainage Board Macomb and Oakland Counties

January 19, 2022 – 9:30 a.m.

Office of the Oakland County Water Resources Commissioner
One Public Works, Building 95 West
Waterford, Michigan, and Microsoft Teams

1. Call meeting to order

Board Members:

Michael Gregg, Chair, Michigan Department of Agriculture and Rural Development
Candice Miller, Macomb County Public Works Commissioner
Jim Nash, Oakland County Water Resources Commissioner

2. Approval of the meeting agenda for January 19, 2022
3. Approval of Drainage District Board Meeting Minutes from December 15, 2021
4. Public Comment
5. Red Run Freedom Hill - Phase 1 update
 - a. Account of Project Standing
 - b. Construction Contract Administration Proposal
 - c. Notice to Tentatively award to low bidder
 - d. Present update on Agreement for Construction and Maintenance of Non-Motorized Waterfront Trail Agreement for approval
 - e. Agreement status discussion
6. Invasive species control
7. Present trial balance
8. Present for approval payment of invoices in the amount of \$142,429.17
9. Other business
10. Adjourn

Agenda Item No. 3

Board Meeting Minutes from
December 15, 2021

Minutes of the Meeting
of the Intercounty Drainage Board for the
Red Run Drain

December 15, 2021

A meeting of the Drainage Board for the Red Run Intercounty Drain was held via GoToMeeting on December 15, 2021 at 9:30 a.m.

Present: Michael Gregg, Chairperson and Deputy for Gary McDowell, Director of the Michigan Department of Agriculture and Rural Development; Brian Baker for Candice Miller, Member and Macomb County Public Works Commissioner; and Anne Vaara for Jim Nash, Secretary and Oakland County Water Resources Commissioner.

Also Present: Representing the office of the Macomb County Public Works Commissioner: Jeff Bednar and Danielle Devlin. Representing the office of the Oakland County Water Resources Commissioner: Steve Korth, George Nichols, Geoff Wilson, Kelsey Cooke, Sara Rubino, Stephanie Lajdziak, and Megan Koss. Others in attendance: Jamie Burton and Nancy Kolinski (Hubbell, Roth & Clark).

1. Call meeting to order.

Chairperson Gregg called the meeting to order at 9:56 a.m. The Chairperson made a brief statement regarding the ongoing COVID-19 pandemic and, as a result, the need for the meeting to be held virtually. He noted the meeting was being held electronically in accordance with PA 254 of 2020, per the state of emergency declared by Clinton Township, Michigan. Pursuant to the aforementioned, Commissioner Gregg indicated he was participating from Mason, Michigan, Commissioner Baker indicated he was participating from Clinton Township, Michigan and Commissioner Vaara indicated she was participating from Royal Oak, Michigan.

2. Agenda.

Motion by Vaara, supported by Baker, to approve the December 15, 2021 agenda as presented.

ROLL CALL VOTE:

GREGG: AYE

BAKER: AYE

VAARA: AYE

3. Minutes.

Motion by Vaara, supported by Baker, to approve the minutes of the November 17, 2021 meeting.

ROLL CALL VOTE:

GREGG: AYE

BAKER: AYE

VAARA: AYE

4. Public Comment.
None.

5. Freedom Hill – Phase 1 update.

- a) Mr. Burton and Ms. Kolinski provided an update regarding Phase 1 of the Freedom Hill project. A summary of the project schedule was given, and it was indicated that bids were received on December 14, 2021. Ms. Kolinski also updated the Board on the George W. Kuhn Drain basin site project that discharges into the Drainage District. This project will be funded through the Army Corps of Engineers and will improve the bank stabilization and sediment buildup.
- b) A memorandum from Sara Rubino, WRC Attorney, dated December 15, 2021, requesting the Board to approve the material terms and conditions of the draft Agreement for Construction and Maintenance of Non-Motorized Waterfront Trail and for the Chairperson to authorize execution of an agreement consistent with the same material terms and conditions, including any related documents, was presented. It was moved by Vaara, supported by Baker to approve the draft Agreement for Construction and Maintenance of Non-Motorized Waterfront Trail and authorize the execution of an agreement by the chairperson of the Board consistent with the same material terms and conditions as presented.

ROLL CALL VOTE:

GREGG: AYE

BAKER: AYE

VAARA: AYE

6. Special Assessment Roll

Mr. Nichols and Mr. Burton provided an update on the status of the bids and assessment amounts regarding the Drainage District. A detailed overview of the various allocations of the assessment was provided. The total of the assessment is currently at \$2,650,000, which is anticipated to last through 2022 for the communities. The assessment is expected to be submitted and collected by February 1, 2022. Mr. Nichols noted that none of the communities have reached out to him regarding concerns about paying the assessment. It was moved by Baker, supported by Vaara, to authorize the \$2,650,000 apportionment roll as presented.

ROLL CALL VOTE:

GREGG: AYE

BAKER: AYE

VAARA: AYE

7. Trial Balance.

Mr. Nichols presented the Trial Balance report dated December 9, 2021 (as attached) indicating a net cash balance of -\$100,667.41. It was moved by Vaara, supported by Baker, to receive and file the updated Trial Balance as provided.

ROLL CALL VOTE:

GREGG: AYE

BAKER: AYE

VAARA: AYE

8. Determine date of next meeting.

Two options for Drainage District meeting dates for 2022 (as attached) were presented. Motion by Baker, supported by Vaara, to approve the 2022 meeting dates that will occur on the third Wednesday of the month as presented.

ROLL CALL VOTE:

GREG: AYE
BAKER: AYE
VAARA: AYE.

9. Other Business.

None.

10. Adjourn.

Motion by Vaara, supported by Nash, to adjourn December 15, 2021 meeting at 10:42 a.m.

ROLL CALL VOTE:

GREGG: AYE
BAKER: AYE
MILLER: AYE

Next Regular Meeting: *Office of the Oakland County Water Resources Commissioner, One Public Works Drive, Building 95 West, Waterford, Michigan* and electronically at 9:30 a.m., Eastern Standard Time on January 19, 2022.



Anne Vaara, Acting Secretary
Red Run Intercounty Drain Drainage Board

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

I hereby certify that the foregoing is a true and complete copy of the minutes of the Red Run Intercounty Drain Drainage Board, at a meeting held on the 15th day of December, 2021 and that the meeting was conducted and public notice was given in compliance with the Open Meetings Act being Act 267, Public Acts of Michigan, 1976, as may be amended from time to time and that the minutes were kept and will be or have been made available to the public as required by the Act.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on this 15th day of December, 2021.



Anne Vaara, Acting Secretary
Red Run Intercounty Drain Drainage Board

Agenda Item No. 4

Public Comment

Agenda Item No. 5

Red Run Freedom Hill

Account of Project Standing

APS #: 13

Time Period: December 01, 2021 thru December 31, 2021

Prepared By: Nancy Kolinski

Date Issued: January 06, 2022

Project Task Summary:

Task 1 – Data Collection, Survey and Field Assessment – Complete

Task 2 – Soil Boring Analysis – Complete

Task 3 – Preliminary Plan Design – Complete

Task 4 - Final Design and Bid Documents – Complete

- Bids received December 14th
- 8 Bids received
- L.J. Construction Inc. low bid -\$1,337,163.00

Task 5 – Project Coordination – In Progress

- December Technical team meeting held
- Sent APS No. 12

Focus of Efforts in Next Period:

- Hold pre-award meeting with the low bid contractor
- Prepare a tentative notice to award

Critical Decisions Made:

- Sterling Relief and trail maintenance agreement scheduled for January 4th City Council meeting

Outstanding Critical Questions:

- Macomb County will amend the agreement with Consumers Energy

Client Assistance Needed:

- N/A

Schedule Concerns

- None at this time

Scope and/or Budget Concerns:

- N/A

Account of Project Standing

Red Run Drain Freedom Hill Supplemental Services

Project Task Summary:

Task 1 – Permitting- In Progress

- Submitted for SESC, minor revisions requested
- MCDR ROW and EGLE Joint Permit Application issued
- Submitted USACE Section 408 Certification - Clarifications requested and resubmitted

Task 2 – Drainage District Assistance- In Progress

- Assisted with the development of Agreements.
- Attend meetings held to discuss agreements
- Prepared jurisdictional maintenance exhibits

Task 3 – Monitoring Assistance- In Progress

Task 4– Grant Reporting- In Progress

- No work for this period

Task 5 – Meetings- No work requested under this task

Task 6 – USACE Phase 2 Coordination- No work requested under this task. USACE selected American Engineers.

Task 7 – Project Signage- No work requested under this task

Miscellaneous:

- GWK Outfall project: A pre-application meeting with EGLE held Wednesday, December 01, 2021. Wetland determination completed on December 17th. Wetlands exist on north bank. Review of 65% plans completed. Design is continuing. This is informational with no cost to the District.

Critical Decisions Made:

- N/A

Outstanding Critical Questions:

- Agreements

Client Assistance Needed:

- Agreements

Schedule Concerns

- N/A

Scope and/or Budget Concerns:

- N/A

January 07, 2022

Drainage Board for the Red Run Intercounty Drain
c/o Oakland County Water Resources Commissioner
One Public Works Drive
Building 95 West
Waterford, Michigan 48328

Attn: Mr. George P. Nichols, P.E. Civil Engineer III

Re: Red Run Drain Freedom Hill Restoration – Phase 1
Construction Contract Administration Services

HRC Job No. 20200852

Dear Mr. Nichols:

The project team (Team) of Hubbell, Roth & Clark, Inc. and the Spicer Group, Inc. is pleased to offer Construction Contract Administration Services to the Red Run Intercounty Drain Drainage Board for the subject project. On October 21, 2020, the ICDB approved utilizing funds from the National Fish and Wildlife Foundation (NFWF) Southeast Michigan Resilience Fund and local Act 51 funding to proceed with Phase 1 of the Red Run Drain Freedom Hill Restoration project, as well as administer the associated NFWF grant work for the design and construction of a trail and plantings along the Sterling Relief Drain and Freedom Hill Park. The design and bidding process has been completed with the project being ready to award to LJ Construction for \$1,337,163.00.

The tentative start of construction is March 2022. Our team is ready to provide contract construction administration services for this project. We are hereby requesting a not to exceed budget of \$120,000.00.

Construction Administration Services will include the following:

The Team will coordinate, attend, and summarize the pre-award, pre-construction meeting, and bi-weekly progress meetings.

The Team will perform construction layout and testing services as needed. Some of this may overlap with the construction observation role and budget to be determined.

The Team will advise and consult project objectives, manage contract changes and modifications, interpret Contract Documents and maintain project record drawings throughout construction.

The Team will review shop drawings submittals to assure they comply with Contract requirements and maintain a log of the submittals and status for the duration of the project.

HRC will review, coordinate and process all pay requests and develop the pay application documentation.

The Team will facilitate record keeping, documentation, certifications etc. for the NFWF grant.

Please note construction observation has not been included since it has not been determination who will be providing construction observation. If HRC/Spicer staff are required for this service, a separate proposal will be provided.

Delhi Township
2101 Aurelius Rd.
Suite 2A
Holt, MI 48842
517-694-7760

Detroit
535 Griswold St.
Buhl Building, Ste 1650
Detroit, MI 48226
313-965-3330

Grand Rapids
1925 Breton Road SE
Suite 100
Grand Rapids, MI 49506
616-454-4286

Howell
105 W. Grand River
Howell, MI 48843
517-552-9199

Jackson
401 S. Mechanic St.
Suite B
Jackson, MI 49201
517-292-1295

Kalamazoo
834 King Highway
Suite 107
Kalamazoo, MI 49001
269-665-2005

Lansing
215 S. Washington SQ
Suite D
Lansing, MI 48933
517-292-1488

If you deem our proposal acceptable, please sign and return to our office. We sincerely appreciate our relationship and your consideration of this proposal. If you have any questions or require any additional information, please contact the undersigned.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.



James F. Burton, P.E.
Vice President

JFB/njk

pc: HRC; File
S. Roznowski, Spicer Group

Accepted By:

Signature: _____

Written Name: _____

Title: _____

Dated: _____

January 07, 2022

Drainage Board for the Red Run Intercounty Drain
c/o Oakland County Water Resources Commissioner
One Public Works Drive
Building 95 West
Waterford, Michigan 48328

Attn: Mr. George P. Nichols, P.E. Civil Engineer III

Re: Red Run Drain Freedom Hill Restoration – Phase 1
Notice to Tentatively Award

HRC Job No. 20200852

Dear Mr. Nichols:

The project team (Team) of Hubbell, Roth & Clark, Inc. and the Spicer Group, Inc. has reviewed the bids received on December 14, 2021 for the Red Run Drain Freedom Hill Restoration – Phase 1 project.

There were eight (8) bidders, ranging from a low bid of \$1,337,163.00, to a high bid \$2,636,913.00. The lowest responsive bid was submitted by L.J. Construction, Inc. whose office is located at 5863 S. Kingston Road, Clifford, Michigan 48727 (989) 761-0131. A copy of the bid tab is enclosed for your reference and distribution. L.J. Construction, Inc's bid is below the Engineer's opinion of probable cost.

L.J. Construction, Inc. has satisfied the requirements of the specifications and had submitted all the necessary information for the bid proposal to be considered complete and responsive. In addition, our office has checked the submitted information and found it to be acceptable. L.J. Construction, Inc. has successfully completed similar projects in other communities.

Based on the above, we recommend the award for the Red Run Drain Freedom Hill Restoration – Phase 1 project in the amount of \$1,337,163.00, subject to the Contractor supplying the required bonds and insurance certificates to L.J. Construction, Inc.

We also recommend that the Board authorize the Secretary to sign the contract books when executed by the Contractor and verified by our offices. If you have any questions or require any additional information, please contact the undersigned.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.



James F. Burton, P.E.
Vice President

NJK/njk

pc: HRC; File
S.Roznowski, Spicer Group

Delhi Township
2101 Aurelius Rd.
Suite 2A
Holt, MI 48842
517-694-7760

Detroit
535 Griswold St.
Buhl Building, Ste 1650
Detroit, MI 48226
313-965-3330

Grand Rapids
1925 Breton Road SE
Suite 100
Grand Rapids, MI 49506
616-454-4286

Howell
105 W. Grand River
Howell, MI 48843
517-552-9199

Jackson
401 S. Mechanic St.
Suite B
Jackson, MI 49201
517-292-1295

Kalamazoo
834 King Highway
Suite 107
Kalamazoo, MI 49001
269-665-2005

Lansing
215 S. Washington SQ
Suite D
Lansing, MI 48933
517-292-1488

BID TABULATION					Bids Due: Tuesday, December 14, 2021 at 10:00 a.m.					
RED RUN DRAIN, STERLING RELIEF DRAIN AND FREEDOM HILL RESTORATION					HRC Job # 20200852					
MACOMB COUNTY, MICHIGAN										
					L.J. Construction, Inc.		Anglin Civil		T.R. Pieprzak Co., Inc.	
					5863 S. Kingston Road		13000 Newburgh		6267 St. Clair Highway	
					Clifford, MI 48727		Livonia, MI 48150		China Township, MI 48054	
					(989) 761-0131		(734) 464-2600		(810) 329-4027	
Item	Quantity	Unit	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
1. Mobilization (5% max)	1	Lsum	\$57,000.00	\$57,000.00	\$80,000.00	\$80,000.00	\$62,450.00	\$62,450.00		
2. Tree, Rem, 6 Inch to 18 Inch (as-needed)	3	Ea	\$800.00	\$2,400.00	\$701.50	\$2,104.50	\$750.00	\$2,250.00		
3. Permits (Allowance)	1	Dlr	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00		
4. Prevent Spreading of Invasive Species Control Measures	1	Lsum	\$8,000.00	\$8,000.00	\$54,900.00	\$54,900.00	\$50,165.00	\$50,165.00		
5. Erosion Control, Gravel Access Approach	2	Ea	\$4,250.00	\$8,500.00	\$6,710.00	\$13,420.00	\$14,000.00	\$28,000.00		
6. Erosion Control, Turbidity Curtain, Deep, Modified	1	Lsum	\$18,000.00	\$18,000.00	\$9,150.00	\$9,150.00	\$15,000.00	\$15,000.00		
7. Erosion Control, Silt Fence	5,500	Ft	\$2.36	\$12,980.00	\$3.48	\$19,140.00	\$2.00	\$11,000.00		
8. Fence, Rem	40	Ft	\$25.00	\$1,000.00	\$15.25	\$610.00	\$14.00	\$560.00		
9. HMA Surface, Rem	205	Sy	\$10.00	\$2,050.00	\$18.30	\$3,751.50	\$10.00	\$2,050.00		
10. Sidewalk, Rem	27	Sy	\$37.00	\$999.00	\$18.30	\$494.10	\$10.00	\$270.00		
11. Culv, Rem, 24 Inch to 48 Inch, Modified	1	Ea	\$1,000.00	\$1,000.00	\$6,100.00	\$6,100.00	\$540.00	\$540.00		
12. Minor Bank Grading (as needed)	7,500	Syd	\$2.67	\$20,025.00	\$3.66	\$27,450.00	\$2.70	\$20,250.00		
13. Culv, Cl A, 12 Inch, Tr Det B, Modified	59	Ft	\$91.00	\$5,369.00	\$67.10	\$3,958.90	\$152.00	\$8,968.00		
14. CMP, Gauge 16, 12 Inch, Modified	142	Ft	\$98.00	\$13,916.00	\$45.75	\$6,496.50	\$69.00	\$9,798.00		
15. Dr. Structure, 24 Inch Dia, Modified	2	Ea	\$3,000.00	\$6,000.00	\$4,575.00	\$9,150.00	\$3,190.00	\$6,380.00		
16. Dr. Stand Pipe, 24" Dia, CMP, Gauge 16	1	Ea	\$2,570.00	\$2,570.00	\$6,710.00	\$6,710.00	\$5,350.00	\$5,350.00		
17. Site Preparation	23	Ac	\$1,086.00	\$24,978.00	\$9,150.00	\$210,450.00	\$1,000.00	\$23,000.00		
18. Stone Toe	2,710	Cyd	\$121.00	\$327,910.00	\$152.50	\$413,275.00	\$190.00	\$514,900.00		
19. J Hooks	3	Ea	\$95,000.00	\$285,000.00	\$73,200.00	\$219,600.00	\$130,050.00	\$390,150.00		
20. Excess Sediment Removal	1,000	Cyd	\$25.00	\$25,000.00	\$12.20	\$12,200.00	\$7.00	\$7,000.00		
21. Shared Use Path, Grading, Special	5,650	Ft	\$23.00	\$129,950.00	\$12.20	\$68,930.00	\$48.00	\$271,200.00		
22. Aggregate Base, 6 Inch, 21AA	140	Sy	\$39.00	\$5,460.00	\$24.40	\$3,416.00	\$18.00	\$2,520.00		
23. Aggregate Surface Cse, 3.5 Inch, Modified	1,100	Ton	\$45.45	\$49,995.00	\$39.04	\$42,944.00	\$41.00	\$45,100.00		
24. Subgrade Undercutting, Type II (as-needed)	251	Cy	\$44.00	\$11,044.00	\$42.70	\$10,717.70	\$25.00	\$6,275.00		
25. Geotextile, Stabilization (as-needed)	600	Sy	\$2.50	\$1,500.00	\$5.49	\$3,294.00	\$4.00	\$2,400.00		
26. Sidewalk, Conc, 6 Inch, Modified	1,225	Sft	\$12.24	\$14,994.00	\$9.76	\$11,956.00	\$11.00	\$13,475.00		
27. HMA, 13A, 3 Inch	1,850	Sft	\$7.00	\$12,950.00	\$9.15	\$16,927.50	\$5.00	\$9,250.00		
28. Bollards, Collapsible	2	Ea	\$1,150.00	\$2,300.00	\$3,050.00	\$6,100.00	\$3,780.00	\$7,560.00		
29. Fence, Modified	48	Ft	\$125.00	\$6,000.00	\$61.00	\$2,928.00	\$120.00	\$5,760.00		
30. Mulch Blanket, High Velocity	9,000	Sy	\$2.86	\$25,740.00	\$5.49	\$49,410.00	\$2.12	\$19,080.00		
31. Restoration - Turf	5	Ac	\$3,000.00	\$15,000.00	\$79.30	\$396.50	\$3,670.00	\$18,350.00		
32. Restoration - Native Prairie Mix	7	Ac	\$4,185.00	\$30,969.00	\$10,467.00	\$77,455.80	\$1,687.00	\$12,483.80		
33. Restoration - Lo Prairie Mix	10.3	Ac	\$5,000.00	\$51,500.00	\$7,930.00	\$81,679.00	\$2,866.00	\$29,519.80		
34. Restoration - Stormwater Mix	2.0	Ac	\$1,248.00	\$2,496.00	\$11,590.00	\$23,180.00	\$1,992.00	\$3,984.00		
35. Shrub Plantings	2,500	Ea	\$6.95	\$17,375.00	\$9.76	\$24,400.00	\$7.71	\$19,275.00		
36. Bare Root Trees	325	Ea	\$31.00	\$10,075.00	\$40.26	\$13,084.50	\$22.85	\$7,426.25		
37. Plugs Planting	4,000	Ea	\$4.36	\$17,440.00	\$6.95	\$27,800.00	\$4.16	\$16,640.00		
38. Celtis Occidentalis, 2 Inch	6	Ea	\$635.00	\$3,810.00	\$744.20	\$4,465.20	\$465.00	\$2,790.00		
39. Liriodendron Tulipifera, 2 Inch	9	Ea	\$557.00	\$5,013.00	\$652.70	\$5,874.30	\$465.00	\$4,185.00		
40. Platanus x Occidentalis (native), 2 Inch	6	Ea	\$555.00	\$3,330.00	\$652.70	\$3,916.20	\$484.00	\$2,904.00		
41. Platanus x Acerifolia, 2 Inch	10	Ea	\$536.00	\$5,360.00	\$628.30	\$6,283.00	\$495.00	\$4,950.00		
42. Tilia americana, 2 Inch	10	Ea	\$655.00	\$6,550.00	\$763.72	\$7,637.20	\$453.00	\$4,530.00		
43. Ulmus X, 2 Inch	9	Ea	\$635.00	\$5,715.00	\$744.20	\$6,697.80	\$430.00	\$3,870.00		
44. Traffic Control	1	Lsum	\$11,000.00	\$11,000.00	\$6,100.00	\$6,100.00	\$38,000.00	\$38,000.00		
45. Signage (Allowance)	1	Dlr	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00		
46. Sign Installation	1	Dlr	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00		
47. Audio Video Survey	1	Lsum	\$5,000.00	\$5,000.00	\$1,647.00	\$1,647.00	\$2,480.00	\$2,480.00		
48. Erosion Control, Inlet Filter	5	Ea	\$200.00	\$1,000.00	\$152.50	\$762.50	\$155.00	\$775.00		
49. Stone Rip Rap	445	Cyd	\$120.00	\$53,400.00	\$67.10	\$29,859.50	\$189.00	\$84,105.00		
TOTAL BID AMOUNT				\$1,337,163.00		\$1,646,322.20	*	\$1,806,468.85		
ENGINEER: Nancy Kolinski, P.E.										
Hubbell, Roth & Clark, Inc.										
555 Hulet Drive										
Bloomfield Hills, MI 48303										

BID TABULATION						Bids Due: Tuesday, December 14, 2021 at 10:00 a.m.							
RED RUN DRAIN, STERLING RELIEF DRAIN AND FREEDOM HILL RESTORATION						HRC Job # 20200852							
MACOMB COUNTY, MICHIGAN													
						L.J. Construction, Inc.		Anglin Civil		T.R. Pieprzak Co., Inc.			
						5863 S. Kingston Road		13000 Newburgh		6267 St. Clair Highway			
						Clifford, MI 48727		Livonia, MI 48150		China Township, MI 48054			
						(989) 761-0131		(734) 464-2600		(810) 329-4027			
Item						Quantity		Unit		Unit Price		Total Cost	
Corrected by Engineer*													
Other Bidders													
M.L. Chartier Excavating, Inc. (4th bidder) - \$1,908,384.00													
TSP Services, Inc. (5th bidder) - \$2,145,739.09													
Gibraltar Construction Co. (6th bidder) - \$2,741,368.00 *													
L. D'Agostini and Sons, Inc. (7th bidder) - \$2,770,195.65													
Erie Construction, LLC (8th bidder) - \$2,636,913.00 *													

**OAKLAND COUNTY
WATER RESOURCES COMMISSIONER****MEMORANDUM**

TO: Michael Gregg, Chairperson
Red Run Intercounty Drain Drainage Board

FROM: Sara Rubino, WRC Attorney

SUBJECT: Update Regarding Agreement for Construction and Maintenance of Non-Motorized Waterfront Trail

DATE: December 19, 2021

On December 15, 2021, this Board approved the material terms and conditions of an Agreement for Construction and Maintenance of Non-Motorized Waterfront Trail (the "Agreement"), along with any other related necessary documents or agreements. In addition to the Red Run Intercounty Drain, the other parties to the Agreement are: (1) the Sterling Relief Drain Drainage District; (2) Macomb County and (3) the City of Sterling Heights. The final and complete Agreement, with all exhibits, is attached hereto.

The Agreement authorized the Red Run Intercounty Drain to construct a waterfront trail, in conjunction with the current project located near the Michigan Lottery Amphitheater at Freedom Hill, along the riparian edges of the Sterling Relief Drain and the Red Run Intercounty Drain. The Agreement also memorialized which parties would be responsible for future maintenance of waterfront trail upon completion of the construction.

On January 4, 2022, the City of Sterling Heights approved the Construction and Maintenance Agreement, in addition to a related Temporary Construction Easement for certain real property which the City of Sterling Heights owns and that Sterling Relief Drain is an easement holder of. A copy of the Temporary Construction Easement is also attached hereto.

Macomb County's approval of the Agreement is pending, along with approval of a related Grant Agreement, and Temporary Use / Ingress and Egress Agreement for Construction Purposes.

The Sterling Relief Drain Board previously approved the Agreement; however, the final Agreement is being presented for signature this week.

Requested Action:

Execute the final Agreement for Construction and Maintenance of Non-Motorized Waterfront Trail and Temporary Construction Easement.

**AGREEMENT FOR CONSTRUCTION AND MAINTENANCE
OF NON-MOTORIZED WATERFRONT TRAIL**

This Agreement for Construction and Maintenance of Non-motorized Waterfront Trail (“Agreement”) is entered into this ____ day of _____, 2021 by the **Red Run Intercounty Drain Drainage District**, (“Red Run Drainage District”), by and through the Red Run Intercounty Drain Drainage Board (“Red Run Drainage Board”), whose address is One Public Works Drive, Building #95W, Waterford, Michigan 48328, the **Sterling Relief Drain Drainage District**, (“Sterling Relief Drainage District”), by and through the Sterling Relief Drainage Board (“Sterling Relief Drainage Board”), whose address is 21777 Dunham Road, Clinton Township, Michigan, the **Charter County of Macomb**, a Michigan charter county, whose address is 1 South Main, 8th Floor, Mount Clemens, Michigan 48043 (“Macomb County”), and the **City of Sterling Heights**, a Michigan municipal corporation, whose address is P.O. Box 8009, 40555 Utica Road, Sterling Heights, MI 48311-8009 (“City”). Each party to this Agreement may individually be referred to as a “Party” or collectively referred to as the “Parties”.

WHEREAS, the Red Run Intercounty Drain (“Red Run Drain”) is an intercounty drain servicing Macomb County and the County of Oakland, Michigan (“Oakland County”), established under Chapter 21 of the Michigan Drain Code, Public Act 40 of 1956, as amended (the “Drain Code”), and under the jurisdiction of the Red Run Drainage Board;

WHEREAS, the Sterling Relief Drain (“Sterling Relief Drain”) is an intracounty drain servicing Macomb County, established under Chapter 20 of the Drain Code, and under the jurisdiction of the Sterling Relief Drainage Board;

WHEREAS, Macomb County is a charter county organized under the laws of the State of Michigan,

WHEREAS, the City and Macomb County own certain property within the City of Sterling Heights where part of the Red Run Drain and part of the Sterling Relief Drain are located upon which easements have been granted to allow the construction and operation of the Red Run Drain and the Sterling Relief Drain, which property is referred to in this Agreement as the “Real Property”;

WHEREAS, Macomb County, the Red Run Drainage District, the Sterling Relief Drainage District, and the City are interested in restoring and enhancing the natural habitat along the Red Run Drain and the Sterling Relief Drain by establishing a non-motorized trail within the Red Run Drain and Sterling Relief Drain easements between Schoenherr Road and Metropolitan Parkway (the “Waterfront Trail”), installing grassy shoulders adjacent to the Waterfront Trail (“Grassy Areas”), and planting native plantings (“Native Plantings”) on the slopes of the Red Run and Sterling Relief Drains within the City as described and depicted in the Concept Plan (which identifies the Waterfront Trail as a “Connector Trail”), attached hereto as **Exhibit A**;

WHEREAS, the Red Run Drainage Board is in the process of implementing a multimillion-dollar project for the repair, maintenance, and management of the Red Run Drain near Freedom Hill County Park at 15000 Metropolitan Parkway in Sterling Heights, Macomb County, Michigan (the “Project”);

WHEREAS, in connection with the Project, Macomb County obtained a grant from the National Fish and Wildlife Foundation (the “NFWF Grant”) in the amount of Three Hundred Thousand and 00/100 (\$300,000.00) Dollars to increase the habitat complexity and biodiversity, connect habitat corridors, benefit native pollinators, control invasive species, reduce erosion, increase riparian canopy, and develop the Waterfront Trail for public access, also known as a non-motorized pathway for over 1.35 miles of riparian areas along the Sterling Relief Drain and the Red Run Intercounty Drain (the “Grant Work”) as detailed and described further in the NFWF Grant Project Narrative, attached hereto as **Exhibit B**;

WHEREAS, Macomb County and the Red Run Drainage District have entered into a Grant Agreement dated _____, 20__, (the “Grant Agreement”) which is incorporated by reference into this Agreement, wherein the Red Run Drainage District has agreed to perform the Grant Work, including, but not limited to, construction of the Waterfront Trail portion of the Grant Work as part of the Project, and Macomb County has agreed to transfer the NFWF Grant funds to the Red Run Drainage District to be used to offset the costs of the Grant Work;

WHEREAS, pursuant to the Grant Agreement, Macomb County has agreed to contribute additional funding, separate from the NFWF Grant funds, through the Macomb County Department of Roads, in the amount of Three Hundred and Thirteen Thousand and 00/100 (\$313,000.00) Dollars to partially defray the cost of constructing the Waterfront Trail;

WHEREAS, the Waterfront Trail consists of a ten-foot-wide, gravel trail with six (6) foot Grassy Areas on either side of the Waterfront Trail within the Red Run Drain and Sterling Relief Drain, commencing at the easterly right-of-way line of Schoenherr Road, and adjacent to the north bank of the Sterling Relief Drain, then following the north bank of the Red Run Drain, and terminating at the southerly right-of-way line of Metropolitan Parkway, as described and depicted in the Waterfront Trail diagrams, attached hereto as **Exhibit C**, and the Planting Plans, attached hereto as **Exhibit D**;

WHEREAS, using funding from Macomb County and the NFWF Grant, and other sources, the Red Run Drainage District agrees to install the Waterfront Trail, the Grassy Areas, and the Native Plantings, as described and depicted in the attached **Exhibits C and D**, and in accordance with certain plans and specifications dated November 17, 2021, and prepared by Hubbell, Roth & Clark, Inc. (the “Plans and Specifications”) the final version of which is on file with the office of the Red Run Drainage District, and which Plans and Specifications are incorporated by reference into this Agreement.

WHEREAS, the Parties acknowledge that construction and maintenance of the Waterfront Trail will provide the general public with recreational opportunities for pedestrian, bicycle, and non-motorized travel within the City.

WHEREAS, the Parties want to establish an agreement as to which Parties will be responsible for (a) initial construction of the Waterfront Trail, (b) installation of the Grassy Areas and planting of the Native Plantings, and (c) maintaining the Waterfront Trail, the Grassy Areas, and Native Plantings after completion of the construction of the Waterfront Trail, installation of the Grassy Areas, and planting of the Native Plantings by the Red Run Drainage District; and

NOW THEREFORE, in consideration of the foregoing Recitals and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree to the following:

1. Agreement.

a. The Red Run Drainage District, with funding from Macomb County pursuant to the Grant Agreement, agrees to construct the Waterfront Trail, install the Grassy Areas, and plant the Native Plantings as described and depicted in the attached **Exhibits C and D**, and in accordance with the Plans and Specifications.

b. Upon completion of the construction of the Waterfront Trail, installation of the adjacent Grassy areas, and planting of the Native Plantings, the maintenance responsibilities of the respective Parties, if any, related to the Waterfront Trail, the Grassy Areas, and/or the Native Plantings, as well as, the manufacturing, installation and maintenance of markings and wayfaring signs, are set forth in the attached **Exhibit E**, and further depicted on the Waterfront Trail Diagrams, attached as **Exhibit C**. The Parties acknowledge and agree to the respective duties and obligations related to the continued maintenance of the Waterfront Trail, the Grassy Areas, and/or the Native Plantings as described in **Exhibit E** and depicted in **Exhibit C** and incorporate the same into this Agreement. The Red Run Drainage District, Sterling Relief Drainage District, Macomb County, and the City, and each of their respective employees, contractors, agents, consultants and other authorized individuals shall have access to the Waterfront Trail, Grassy Areas, and Native Plantings in order to perform (i) initial construction of the Waterfront Trail, and installation of the Grassy Areas and Native Plantings, (ii) inspections of the areas for compliance with the terms of this Agreement, (iii) their respective maintenance responsibilities under this Agreement, and (iv) any other task reasonably related to this Agreement or their responsibilities under it. The intention of the Parties is to cooperatively construct and maintain the Waterfront Trail, install the adjacent Grassy Areas and plant the Native Plantings, so that (i) members of the general public and others authorized by Macomb County and the City may use the Waterfront Trail for pedestrian, bicycle, and non-motorized travel, and (ii) the Parties and their respective employees, contractors agents, consultants and other authorized individuals shall have access to the Waterfront Trail, Grassy Areas, and Native Plantings in order that the Waterfront Trail can be initially constructed and installed, and upon completion maintained and repaired as set forth in this Agreement.

c. During the time that the Waterfront Trail is being prepared or staged for construction, or construction activities undertaken by the Red Run Drainage District, the Red Run Drainage District shall install and maintain appropriate safety barriers and/or fences, and take other precautionary actions so that potential risk of harm in the area where the Waterfront Trail is to be constructed or is being constructed and the Grassy Areas and Native Plantings

installed will be mitigated during the pre-construction or initial construction phase. In addition, the Red Run Drainage District shall comply with the specifications to protect employees, contractors, inspectors, and the public. During the initial construction of the Waterfront Trail, the Red Run Drainage District and its contractors shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and materials.

d. The Parties shall at all times have the right to inspect the Waterfront Trail, Grassy Areas, and Native Plantings to determine that the Parties are fulfilling their respective obligations under this Agreement.

2. Purposes, Conditions and Restrictions.

a. The Waterfront Trail is intended for quiet, non-motorized, pedestrian travel, such as walking, jogging, running, bicycling, e-biking with Class 1 e-bikes, and similar recreational activities. The City may, but shall not be required to, regulate and restrict the use of the Waterfront Trail within their respective ownership or control, and may take enforcement action as they deem appropriate in their sole judgment, if at all, in the event of any unsafe or unauthorized use by any member of the public.

b. The City shall initially install uniform style, mutually agreeable markings and wayfaring signage along the Waterfront Trail that do not constitute permanent structures (no footings) that have the approval of the Macomb County Department of Roads, Macomb County Planning Department, City of Sterling Heights Engineering Department, and Parks and Recreation Department. In the event that the Red Run Drainage District or the Sterling Relief Drainage District requires non-emergency access and/or use of the Waterfront Trail subsequent to the initial construction or installation of the same for any purpose related to the Drain under their respective jurisdictions that may require closure or partial blockage of the Waterfront Trail, the Drainage District desiring access shall provide the Sterling Heights Parks and Recreation Director at least forty-eight (48) hours advance written, or email notice before undertaking any minor work in the Real Property, and at least fourteen (14) days advance written, or email notice before any more intense work is undertaken to ensure the safety of Waterfront trail users. In the event that the Red Run Drainage District or the Sterling Relief Drainage District requires more immediate access to the Waterfront Trail for any emergency purpose related to the Drain under their respective jurisdictions, the Sterling Heights Parks and Recreation Director will be provided immediate notification of the emergency by email, text message, and/or telephone and advised if the emergency may require any closure or partial blockage to the Waterfront Trail.

c. Due to the flood plain and bank full water elevation, no permanent structures (defined as structures that have footings) shall be erected by any Party unless otherwise approved by the Parties and all appropriate state and local agencies. Macomb County, the City, and others authorized by them, may install signage as necessary to ensure the Waterfront Trail is safe, accessible, and available for its intended use by general public,(including restricting winter usage of the Waterfront Trail, if necessary), and may place temporary, portable signs and cones necessary to promote and conduct organized activities along the Waterfront Trail, such as, but not limited to, fun walks and runs, and other organized bicycle rides and events, and other similar activities approved by the City.

d. The Red Run Drainage District and the Sterling Relief Drainage District reserve the right to utilize the Waterfront Trail as access to the Drain under their jurisdiction for operation, maintenance, and improvement purposes. If any damage is caused to the Waterfront Trail, the Grassy Areas, or the Native Plantings as a result of the activities of the Drainage District undertaking the Drain operation, maintenance, or improvement, the Drainage District which caused the damage shall promptly restore the Waterfront Trail, Grassy Areas, or Native Plantings to the same or better condition than existed prior to their use and access of the Waterfront Trail for operation, maintenance, or improvement of the Drain.

3. Maintenance, Liability, and Insurance.

a. After the Waterfront Trail is constructed by the Red Run Drainage District, the maintenance of the Waterfront Trail, markings and wayfaring signage, as depicted on **Exhibit C** and set forth in **Exhibit E**, shall not be less than those for other gravel trails and signage used in recreational areas operated by the City within City of Sterling Heights. No Party shall be responsible for any required maintenance or repair of the Waterfront Trail, the Grassy Areas, or the Native Plantings except as depicted on **Exhibit C** and set forth on **Exhibit E**, or as otherwise agreed in writing among all Parties, provided, however, that any damage caused to the Waterfront Trail, the Grassy Areas, or the Native Plantings due to the activities of a Party or its contractors or agents, shall be repaired by the Party (or the contractor or agent) which caused the damage.

b. The Red Run Drainage District, or its contractors, shall obtain and pay for any permits, fees, licenses, and inspections by governmental agencies necessary for proper execution and completion of the initial construction of the Waterfront Trail, and the installation of the Grassy Areas and Native Plantings. All work performed by the Red Run Drainage District, or its contractors and agents shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

c. The Red Run Drainage District, or its contractors, shall obtain at its sole expense any payment bonds, performance bonds, or performance guarantees required for public projects of this nature and scope.

d. The Red Run Drainage District, or its contractors, shall promptly pay for all materials, labor, and other expenses associated with the initial construction of the Waterfront Trail and installation of the Grassy Areas and Native Plantings and, upon reasonable request, which will not be unreasonably withheld, will provide proof of payment to the Macomb County Department of Roads and Sterling Heights' Engineering Department, and shall not allow any liens to attach to the Real Property upon which the work is performed.

e. The Red Run Drainage District agrees to indemnify and hold the other Parties harmless from any and all claims, damages, costs and expenses whatsoever, including reasonable and necessary attorney fees, arising from the use of the Waterfront Trail by the Red Run Drainage District, its agents, employees and contractors, during construction of the Waterfront Trail.

f. The Sterling Relief Drainage District agrees to indemnify and hold the other Parties harmless from any and all claims, damages, costs and expenses whatsoever, including reasonable and necessary attorney fees, arising from the use of the Waterfront Trail by the Sterling Relief Drainage District, its agents, employees and contractors to the extent permitted by law.

g. Macomb County agrees to indemnify and hold the other Parties harmless from any and all claims, damages, costs and expenses whatsoever, including reasonable and necessary attorney fees, arising from the use of the Waterfront Trail by Macomb County, its agents, employees and contractors.

h. The City agrees to indemnify and hold the other Parties harmless from any and all claims, damages, costs and expenses whatsoever, including reasonable and necessary attorney fees, arising from the use of the Waterfront Trail by the City, its agents, employees and contractors.

i. The Red Run Drainage District, or its contractors, shall carry general liability insurance to cover any actions, claims, liability, or damages caused to others arising out of the initial construction of the Waterfront Trail, and/or the planting and subsequent maintenance of the Native Plantings by the Red Run Drainage District, its agents, employees, and contractors as depicted in **Exhibit C**, set forth in **Exhibit E**, or provided for in the Plans and Specifications. The Red Run Drainage District, or its agents, shall cause Macomb County and the City to be listed as an additional insured parties on the general liability insurance policy. The Red Run Drainage District, may satisfy its insurance obligation under the subparagraph by participation in a reputable, established pooled risk fund program, provided it supplies current evidence of participation in such program at the time of its participation and at the time of any change in participation.

j. The Sterling Relief Drainage District, or its contractors, shall carry general liability insurance to cover any actions, claims, liability, or damages caused to others arising out of the maintenance work relating to the Waterfront Trail, the Grassy Areas, or the Native Plantings performed by the Sterling Relief Drainage District, its agents, employees, and contractors. The Sterling Relief Drainage District, or its agents, shall cause Macomb County and the City to be listed as an additional insured parties on the general liability insurance policy. The Sterling Relief Drainage District, may satisfy its insurance obligation under the subparagraph by participation in a reputable, established pooled risk fund program, provided it supplies current evidence of participation in such program at the time of its participation and at the time of any change in participation.

k. Macomb County, or its contractors, shall carry general liability insurance to cover any actions, claims, liability, or damages caused to others arising out of the maintenance work relating to of the Waterfront Trail, the Grassy Areas, or the Native Plantings performed by Macomb County, its agents, employees, and contractors. Macomb County, or its agents, shall cause the City to be listed as an additional insured on the general liability insurance policy. Macomb County may satisfy its insurance obligation under the subparagraph by participation in a reputable, established pooled risk fund program, provided it supplies current evidence of

participation in such program at the time of its participation and at the time of any change in participation.

l. The City shall carry general liability insurance to cover any actions, claims, liability, or damages caused to others arising out of the maintenance work relating to the Waterfront Trail, the Grassy Areas, or the Native Plantings performed by the City, its agents, employees, and contractors. The City shall cause Macomb County, the Sterling Relief Drainage District, and the Red Run Drainage District, to be listed as an additional insured on the general liability insurance policy. The City may satisfy its insurance obligation under the subparagraph by participation in a reputable, established pooled risk fund program, provided it supplies current evidence of participation in such program at the time of its participation and at the time of any change in participation.

m. The Parties agree that time is of the essence and anticipate that the Red Run Drainage District shall commence and complete construction of the Waterfront Trail within the 2022 construction season. Macomb County and the City shall have the right to inspect, or to have the City Engineer or their consulting engineers inspect, the work undertaken by the Red Run Drainage District and its contractors to construct the Waterfront Trail, install the Grassy Areas, and plant the Native Plantings to determine that the same was done in compliance with the Plans and Specifications. The Red Run Drainage District or its contractors shall correct any deficiencies related to construction of the Waterfront Trail, installation of the Grassy Areas, or planting of the Native Plantings that are not in compliance with the Plans and Specifications. Construction of the Waterfront Trail, installation of the Grassy Areas, or planting of the Native Plantings shall not be deemed complete until the same are determined to be in compliance with the Plans and Specifications, unless otherwise agreed to in writing by the Parties.

4. Nonexclusive Use.

This Agreement in no way affects ownership of the Real Property by Macomb County or the City, and Macomb County and the City maintain their absolute right to operate and maintain the Real Property under their ownership and/or control subject to any easements granted to the Red Run Drainage District and Sterling Relief Drainage District. It is understood that the rights and privileges granted herein are nonexclusive, and Macomb County and the City reserve and retain the right to convey easements and rights to such other persons as they may deem proper relating to the Real Property under their respective ownership or control. Further, it is understood that this Agreement in no way affects any existing easements or rights to the Real Property currently held by the Red Run Drainage District and Sterling Relief Drainage District.

5. Diagrams of Waterfront Trail and Planting Plans.

The diagrams of the Waterfront Trail and Planting Plans, which are respectively attached hereto as **Exhibit C**, and **Exhibit D** are incorporated by reference into this Agreement.

6. Notices.

All notices and other communications required or permitted under this Agreement will be in writing and will be deemed given when delivered personally or by registered or certified mail (return receipt requested), addressed as follows (or any other address that is specified in writing by either party):

If to the Red Run Drainage District:

Red Run Intercounty Drain Drainage District
One Public Works Drive, Building #95W
Waterford, Michigan 48328

with a copy to:

Sara Beth Rubino
Oakland County Water Resources Commissioner
One Public Works Drive
Waterford, MI 48328

If to Sterling Relief Drain Drainage District:

Sterling Relief Drain Drainage District
27777 Dunham Road
Clinton Township, Michigan 48038
Attn: Candice S. Miller, Chairperson

with a copy to:

Office of Corporation Counsel
1 South Main, 8th Floor
Mount Clemens, Michigan 48043
Attn:

If to County of Macomb:

County of Macomb
1 South Main, 8th Floor
Mount Clemens, Michigan 48043
Attn: County Executive

with a copy to:

County of Macomb
1 South Main, 8th Floor
Mount Clemens, Michigan 48043
Attn: Corporation Counsel

If to City of Sterling Heights:

City of Sterling Heights
P.O. Box 8009
40555 Utica Road
Sterling Heights, MI 48311-8009
Attn: City Manager

with a copy to:

O'Reilly Rancilio P.C.
12900 Hall Road, Suite 350
Sterling Heights, MI 48313
Attn: City Attorney

7. Successors and Assigns.

This Agreement shall bind and run with the Real Property and shall be binding upon and inure to the benefit of Sterling Heights and its, successors, and assigns.

8. No Third-Party Beneficiary Rights; No Waiver or Diminution of Governmental Immunity.

This Agreement shall not be construed as creating or conferring any third-party rights or benefits in or to any person or entity, except as otherwise expressly provided in this Agreement. This Agreement shall not be construed as creating or conferring any third-party rights or benefits in or to any person or entity, except as otherwise expressly provided in this Agreement. In addition, nothing in this Agreement shall constitute or be construed as a waiver or diminution of any governmental immunity, as provided by statute or common law, on the part of the Parties, elected or appointed officials, agents or employees.

9. Termination and Modification.

a. If Macomb County or the City determines at any time prior to the completion of the construction of the Waterfront Trail that it is no longer in the best interest of the County or the City, as the case may be, their respective residents, or the public to have or use the Waterfront Trail on their Real Property within the City of Sterling Heights, Macomb County or the City may terminate this Agreement by giving not less than sixty (60) days written notice of its intention to terminate this Agreement. After the Waterfront Trail is initially constructed, and the Grassy Areas and Native Plantings installed, no Party may terminate this Agreement within two (2) years of the date that the Grant funding has been released. In the event that Macomb County or the City decides to terminate that the Waterfront Trail, it shall record a notice of termination signed by an authorized representative of such Party with the Macomb County Register of Deeds.

b. If the Red Run Drainage District is no longer obligated to perform construction of the Waterfront Trail portion of the Grant Work, then the Red Run Drainage District may terminate this Agreement by giving not less than sixty (60) days written notice of its intention to terminate this Agreement to all Parties and shall restore the Real Property to the same condition of the Real Property immediately before commencement of the construction of the Waterfront Trail. In the event that Drainage District decides to terminate the Agreement, it shall record a notice of termination with the Macomb County Register of Deeds.

c. This Agreement may only be modified or amended by written instrument executed by the Parties, or their successors in interest and recorded with the Macomb County Register of Deeds.

10. Default.

a. If a nondefaulting Party (“Nondefaulting Party”) believes the other Party (“Defaulting Party”) is not performing its obligations in accordance with the terms of this Agreement, the Nondefaulting Party shall give the Defaulting Party notice and an opportunity to cure before any further remedial action is taken in accordance with the following:

If the alleged default constitutes a public safety risk:

Electronic or telephonic notice specifying the specific default and giving a twenty-four (24) hour notice to cure:

If the alleged default relates to other performance:

Written notice in accordance with Section 6 specifying the specific default and giving ten (10) days notice to cure.

b. The Parties shall have the right to terminate this Agreement as provided in Section 9 without there being a default on the part of any party.

c. If any Nondefaulting Party takes action to enforce its rights against a defaulting Party, and prevails in that proceeding, the Defaulting Party shall promptly reimburse the Nondefaulting Party for reasonable and necessary attorney fees incurred by the Nondefaulting Party to enforce its rights under this Agreement.

11. Entirety of Agreement.

Any oral representations or modifications concerning this instrument shall be of no force and effect. Any modification of this Agreement must be in writing and must be signed by the Party to be charged.

12. Governing Law.

This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

13. Contractual Terms.

It is further understood and agreed between the Parties that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter hereof, except as expressly stated herein.

14. Validity and Enforcement.

If any provision of this Agreement, or its application to any person or circumstance, shall, to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

15. Conditions and Terms.

It is understood and agreed between the Parties that a failure, by any Party, to fulfill a condition or term set forth in this Agreement, shall not result in extinguishment of the rights granted in this Agreement or constitute a waiver of such term or condition.

16. Signatories.

Each signatory to this Agreement represents that they have the authority to enter into this Agreement and that they are authorized to sign on behalf of the entity which they represent. As evidence by their signatures hereunder, the Parties acknowledge they have read the Agreement and agree to the mutual understandings as set forth herein.

17. Counterparts.

This Agreement may be executed in any number of counterparts and by the Parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

18. No Construal Against Drafter.

The Parties acknowledge that each of them has had an adequate opportunity to review each and every provision contained in this Agreement and the Exhibits, have negotiated and contributed to the final Agreement and the Exhibits, and have submitted the same to their legal

counsel for review and comment. Based upon the foregoing, the terms and provisions of this Agreement and the Exhibits shall not be construed against the drafter.

[Signatures on following pages]

**RED RUN INTERCOUNTY
DRAIN DRAINAGE DISTRICT**

By: RED RUN INTERCOUNTY DRAIN
DRAINAGE BOARD

Date: _____

By: _____
Michael R. Gregg
Its: Chairperson

Approved at a meeting of the Red Run Drainage District Board on _____,
2021.

**STERLING RELIEF DRAIN
DRAINAGE DISTRICT**

By: STERLING RELIEF DRAIN
DRAINAGE BOARD

Date: _____

By: _____
Candice S. Miller
Its: Chairperson

Approved at a meeting of the Sterling Relief Drainage District Board on
_____, 2021.

CHARTER COUNTY OF MACOMB

Date: _____

By: _____
Mark A. Hackel
Its: County Executive

Approved at a meeting of the Board of Commissioners of Macomb County on
_____, 2021.

CITY OF STERLING HEIGHTS

Date: _____

By: _____

Mark Vanderpool

Its: City Manager

Approved at a meeting by the City Council of the City of Sterling Heights on December 21, 2021.

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement is made this ___ day of _____, 2021 between the City of Sterling Heights, a Michigan municipal corporation, P.O. Box 8009, 40555 Utica Road, Sterling Heights, Michigan 48311-8009, Sterling Relief Drain Drainage District, through the Sterling Relief Drain Drainage Board of 21777 Dunham Road, Clinton Township, Michigan 48236, (collectively “Grantor”) and the Red Run Intercounty Drain Drainage District, through the Drainage Board for the Red Run Intercounty Drain, One Public Works Drive, Building #95W, Waterford, Michigan 48328 (“Grantee”).

Recitals

A. Grantor is the owner and/or easement grantee of certain land in the City of Sterling Heights, Macomb County, Michigan upon which the Sterling Relief Drain has been established and is operated, as described on **Exhibit A** (“Grantor’s Property”).

B. Grantee is in the process of implementing a multimillion-dollar project for the repair, maintenance, and management of the Sterling Heights Relief Drain near the Michigan Lottery Amphitheatre at Freedom Hill in Sterling Heights, Macomb County (the “Project”).

C. Macomb County obtained a grant from the National Fish and Wildlife Foundation (the “NFWF Grant”) in the amount of Three Hundred Thousand and 00/100 (\$300,000.00) Dollars to increase the habitat complexity and biodiversity, connect habitat corridors, benefit native pollinators, control invasive species, reduce erosion, increase riparian canopy, and develop a waterfront trail for public access, also known as a non-motorized pathway (the “Waterfront Trail”), for over 1.35 miles of riparian areas along the Sterling Relief Drain (a Macomb County drain formed under Chapter 20 of the Drain Code) and the Red Run Intercounty Drain (the “Grant Work”).

D. Grantee has agreed to construct the Waterfront Trail partly on Grantor’s Property and Grantee’s Property pursuant to the terms of a certain Agreement for Construction and Maintenance of Nonmotorized Waterfront Trail between Grantee and Grantor dated _____, 2021 (the “Construction/Maintenance Agreement”).

E. In order for Grantee to construct the Waterfront Trail on Grantor’s Property, Grantor must grant Grantee a temporary construction easement.

F. Grantor is willing to grant Grantee a temporary construction easement on Grantor’s Property in accordance with the terms of this Temporary Construction Easement.

Now, therefore, Grantor and Grantee enter into this Temporary Easement Agreement to facilitate the construction of the Waterfront Trail in accordance with plans and specifications prepared by Hubbell, Roth & Clark, Inc. dated November 21, 2021 (the “Plans and Specifications”).

1. **Grant of Temporary Construction Easement.** Grantor grants Grantee, its agents, employees, and/or its contractor(s) to enter Grantor’s Property for the purpose of (a) providing access and staging for, and the initial construction of the Waterfront Trail on Grantor’s Property for the Project, located within or adjacent to the property as shown on the attached **Exhibit A**. The Temporary Construction Easement shall be appurtenant to Grantor’s Property.

2. **Duration of Temporary Construction Easement.** The Temporary Construction Easement shall begin on the date that staging or actual construction begins and end when the construction of the Waterfront Trail on Grantor’s Property has been completed and the restoration activities of Grantee have been completed to the satisfaction of the City of Sterling Heights Engineering Department. If Grantor terminates the Construction/Maintenance Agreement with Grantee, this Temporary Construction Easement shall be terminated, except that Grantee shall be given 14 days to remove its materials, equipment, and stored items from Grantor’s Property.

3. **Restoration of Disturbed or Damaged Areas.** Upon completion of the Project, Grantee its agents, employees, and/or its contractor(s) shall restore the premises as follows:

- a. All established lawn area damaged, if any, shall be restored with topsoil, seed and mulch.
- b. Any portion of the existing drive damaged, if any, will be repaired and restored with like materials and to matching thickness meeting the requirements of the City of Sterling Heights Engineering Department’s standards.
- c. Trees and/or landscaping, if any, removed or damaged due to construction or other activities of Grantee shall be restored with standard nursery stock of like or similar species being 6’-8’ tall coniferous species and/or 2 ½ inch diameter deciduous species.

Grantor:
CITY OF STERLING HEIGHTS, a
Michigan municipal corporation

Date: _____

By: _____
Mark Vanderpool
Its: City Manager

Approved at a City Council meeting of the City of Sterling Heights on
_____.

Grantee:

**RED RUN INTERCOUNTY
DRAIN DRAINAGE DISTRICT**

By: RED RUN INTERCOUNTY DRAIN
DRAINAGE BOARD

Date: _____

By: _____

Michael Gregg

Its: Chairperson

Approved at a meeting of the Drainage District Board on _____.

Red Run Intercounty Drain
Regular Meeting – Wednesday, January 19, 2022

Agenda Item No. 6

**OAKLAND COUNTY
WATER RESOURCES COMMISSIONER****MEMORANDUM**

TO: Michael Gregg, Chairman of the Drainage Board for the Red Run Drain

FROM: George P. Nichols, P.E., Civil Engineer III, Oakland County Water Resources Commissioner (WRC) *GPN*

SUBJECT: Great Lakes Restoration Initiative (GLRI) Grant – Press Release

DATE: January 19, 2022

As mentioned during the previous Drain Board Meeting, Six Rivers Land Conservancy was awarded a grant totaling \$50,000 from the U.S. Forest Service Great Lakes Restoration Initiative (GLRI). This grant will support ongoing invasive species management and initiate restoration activities along the Red Run Drain. With the award of this grant, a press release is submitted as a communication to educate the public of the project scope and improvements. As noted in the attached Press Release, detailed information is outlined regarding the services that will be administered along the Red Run Drain.

At the request of the Drainage Board, the Press Release is being provided for your review and approval prior to being published.

Requested Action

Approval from the Red Run Drainage Board for Six Rivers to publish the attached Press Release regarding the award of the U.S. Forest Service Great Lakes Restoration Initiative (GLRI) grant.



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WE LIVE SPECIAL.



FOR IMMEDIATE RELEASE

February #, 2022

Contact:

McKenzi Waliczek

Chris Bunch

LSC CISMA Coordinator

Six Rivers Executive Director

248-504-4315

248-762-6231

mwaliczek@sixriversrlc.org

cbunch@sixriversrlc.org

Six Rivers Land Conservancy Receives Grant to Fund Invasive Species Control

Six Rivers Land Conservancy was awarded a grant totaling \$50,000 from the U.S. Forest Service Great Lakes Restoration Initiative (GLRI). This grant will support ongoing invasive species management and initiate restoration activities along the Red Run Drain in the City of Warren and Sterling Heights. The Lake St. Clair Cooperative Invasive Species Management Area (CISMA) will manage the two-year-project starting March 1, 2022. Project stakeholders include Macomb County Public Works Office, Oakland County Water Resources Commissioner, and the Red Run Inter-County Drainage Board. Six Rivers Land Conservancy is the fiduciary for the Lake St. Clair CISMA.

This project will help reduce ecological threats imposed by invasive species, enhance wildlife habitat, educate surrounding landowners, and restore resilient native communities along the 8.2-mile-long-stretch of Red Run Drain easement. The Red Run drains areas of both Macomb and Oakland counties and the entire drainage area is approximately 91,145 acres of southeast Michigan. The goal is to restore resiliency to Red Run Drain by providing invasive species prevention, detection, and control which will help increase biodiversity and enhance watershed stability and wildlife habitat for species such as, the Great Blue Heron and Northern Map Turtle.

This project heightens stakeholders' ability to perform long-term invasive species control, monitoring, and restoration activities. "As one of the stakeholders in this project,



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our office is eager to partner with Six Rivers Land Conservancy in its important efforts targeting invasive species. This project will improve the ecology of the Red Run Drain including water quality,” Macomb County Public Works Commissioner Candice S. Miller said.

In addition, this project will engage the local communities surrounding Red Run through education and outreach activities about invasive species identification, impacts, management, and restoration. Outreach efforts will be focused on residents adjacent to project boundaries. Integrated best management practices, prevention, and identification resources will be made available to keep a broader network of citizens engaged and knowledgeable in practical applications to strengthen their natural communities.

Chris Bunch, Six Rivers Land Conservancy’s Executive Director continues: “Invasive species degrade natural habitat. Through its support of the Lake St. Clair CISMA, Six Rivers is improving the natural value of lands in southeastern Michigan. Thanks to this funding, the Lake St. Clair CISMA will continue to expand the reach of the program and educate the public about invasive species impacts.”

The state of Michigan and the U.S. Forest Service awarded a total of \$5.5 million in grants to 47 projects across 7 states to combat invasive species through the GLRI program in 2022. Specifically, the projects are expected to:

- Plant more than 118,000 trees and shrubs in urban and rural landscapes
- Mitigate invasive insect and disease species impacts on over 1,200 acres
- Support 10 locally-led projects to recover from emerald ash borer impacts
- Intercept an estimated 9 million gallons of stormwater annually
- Restore 1,500 acres of coastal, riparian and shoreline habitats
- Manage invasive plant infestations by treating over 1,800 acres and surveying 50,000 acres
- Reach over 16,000 people in education, training and stewardship activities
- Engage volunteers in an estimated 19,000 hours of service

The Lake St. Clair Cooperative Invasive Species Management Area (LSC CISMA) is a partnership of local and state governments, non-profits, and property owners founded in



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2015. United in their goal to prevent, detect, and control priority invasive species, the CISMA operates within the boundary of the vast, 2,100 square mile, Lake St. Clair Watershed. For more information, visit us at <https://www.sixriversrlc.org/lsc-cisma>. The LSC CISMA is funded by the Michigan Invasive Species Grant Program (<https://www.michigan.gov/invasives>).

Six Rivers Land Conservancy is a 501 (c)(3) nonprofit located in Oakland Township whose mission is to conserve, sustain, and connect natural areas, lands, and waters that make the places we live special. We have currently protected over 2,000 acres in Oakland, Macomb, St. Clair, Lapeer, and Genesee Counties. If you'd like more information about our work, volunteer opportunities, or to make a donation, please visit <https://www.sixriversrlc.org>.

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Agenda Item No. 7

Trial Balance

Run By: 27706

Run: 01/13/2022 at 11:00 AM

Scope: 82902 Red Run Federal Drain Ch21

YTD Trial Balance
Fund: 82902 Red Run Federal Drain Ch21
As of Fiscal Period: Month 4, 2022

ACCOUNT		Fiscal Year BEG BAL	Current FY Net Activity	ENDING BAL
100100	Cash - Operating	22,903.13	501,400.05	524,303.18
104100	Accrued Interest on Investment	4,678.07	14.73	4,692.80
115005	Accounts Receivable AR Control	0.00	149,725.00	149,725.00
126105	Due from Municipalities-AR Con	60,000.00	1,879,511.00	1,939,511.00
126505	Due from State of Michigan-AR	0.00	79,500.00	79,500.00
201210	Vouchers Payable AP Cont	(60,229.86)	(21,094.14)	(81,324.00)
211100	Due to Primary Government	0.00	(91,583.17)	(91,583.17)
228100	Deposits	(26,244.40)	0.00	(26,244.40)
230852	Accounts Payable	(89,347.55)	89,347.55	0.00
	Revenues	0.00	(2,650,101.91)	(2,650,101.91)
	Expenditures	0.00	63,280.89	63,280.89
	Special Items- Uses	0.00	0.00	0.00
381350	FB Restricted Programs	88,240.61	0.00	88,240.61
		0.00	(0.00)	(0.00)

	Cash	\$ 524,303.18
	Permit Deposit Held	(26,244.40)
	Vouchers Payable AP	(81,324.00)
	Due to Primary Government -DRF reimbursement	(91,583.17)
Special Assessment	Due from Municipalities-AR Con	1,939,511.00
	Accounts Receivable AR Control	149,725.00
	Due from State of Michigan-AR	79,500.00
	Total Cash Available	\$ 2,493,887.61

Agenda Item No. 8

Invoices

MEMO TO: Mr. Jim Nash, Chairman
of the Intercounty Drainage Board for the RED RUN FEDERAL DRAIN

FROM: Shawn Phelps, Chief of Fiscal Services
OCWRC Accounting *SjPhelps*

DATE: January 19, 2022

SUBJECT: Request for Approval of Invoices

Request for Board approval of payment of the following invoices:

Date	Ref No.	Paid To	For	Amount
1/9/2022	V # 1579620	Hubbell, Roth, & Clark Inc	Inv # 0182507 - Contracted Services - 09/30/20 - Proj# 1-2895	\$ 5,510.21
11/24/2021	V # 1568787	Hubbell, Roth, & Clark Inc	Inv # 0190766 - Contracted Services - 09/04/21 - Proj#1-2895	3,231.25
11/30/2021	V # 1573168	Six Rivers Land Conservancy	Inv # 1323 - Contracted Services - Proj# 1-2895	30,478.00
			Project # 1-2895 Subtotal	39,219.46
1/9/2022	V # 1579726	Hubbell, Roth, & Clark Inc	Inv # 0193263 - Contracted Services - 12/11/21 - Proj # 1-3356	31,941.43
1/9/2022	V # 1579729	Hubbell, Roth, & Clark Inc	Inv # 0193264 - Contracted Services - 12/11/21 - Proj # 1-3356	13,394.36
11/24/2021	V # 1568789	Hubbell, Roth, & Clark Inc	Inv # 0190768 - Contracted Services - 09/04/21 - Proj # 1-3356	10,906.66
11/24/2021	V # 1568803	Hubbell, Roth, & Clark Inc	Inv # 0190769 - Contracted Services - 09/04/21 - Proj # 1-3356	23,050.23
11/24/2021	V # 1568804	Hubbell, Roth, & Clark Inc	Inv # 0190770 - Contracted Services - 09/04/21 - Proj # 1-3356	2,681.41
11/26/2021	V # 1568805	Hubbell, Roth, & Clark Inc	Inv # 0191123 - Contracted Services - 09/30/21 - Proj # 1-3356	12,884.30
11/26/2021	V # 1568806	Hubbell, Roth, & Clark Inc	Inv # 0191131 - Contracted Services - 09/30/21 - Proj # 1-3356	605.79
11/26/2021	V # 1568807	Hubbell, Roth, & Clark Inc	Inv # 0191811 - Contracted Services - 10/16/21 - Proj # 1-3356	7,745.53
			Project # 1-3356 Subtotal	103,209.71
			Grand Total	\$ 142,429.17

Agenda Item No. 9

Other Business

Agenda Item No. 10

Adjourn