



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, February 19, 2020

### Agenda Item

#### Item 7. B. - Dredge Management

#### Prepared By

Linda Loomis, Administrator

#### Summary

##### i. Funding for dredge material management

The LMRWD has received the award from the State of Minnesota for \$480,000 to be used for the construction project at the dredge site.

##### ii. Vernon Avenue Dredge Material Management site

The Contractor, Meyer Contracting, Inc. has provided all the documentation required by the LMRWD. The documentation has been reviewed by legal counsel and the contract is ready for signature.

All necessary permits have been received, so everything is in order to proceed with the project in the fall, provided the site is not too wet or flooded. The Board should authorize execution of the contract.

##### iii. Private Dredge Material Placement

There is no new information to report since last update.

#### Attachments

Notice of Award

Construction Contract

Attorney Opinion regarding review of Contract Bond and Insurance

#### Recommended Action

Motion to authorize execution of construction documents

**NOTICE OF AWARD**

**LMRWD DREDGE SITE PROJECT  
LOWER MINNESOTA RIVER WATERSHED DISTRICT  
SAVAGE, MINNESOTA**

Dated: January 20, 2020

**OWNER:** Lower Minnesota River Watershed  
District

**TO CONTRACTOR:** Meyer Contracting, Inc.  
11000 93<sup>rd</sup> Ave N  
Maple Grove, MN 55369

**CONTRACT FOR:** LMRWD Dredge Site Project

Owner has requested that we notify you that your Bid dated December 3, 2019 has been accepted and Meyer Contracting, Inc. has been awarded the contract to perform the Work. The Contract Price is stated in the Agreement.

Meyer Contracting, Inc. must comply with the following conditions precedent within ten (10) days of the date of this Notice of Award, that is by January 30, 2020.

1. Return to Owner three fully executed counterparts of the Agreement (attached).
2. Performance and Payment Bond
3. Certificate of Insurance and all other insurance documentation

Failure to comply with these conditions within the time specified will entitle Owner to consider your bid in default, to annul this Notice of Award and to declare your Bid Security forfeited.

OWNER: \_\_\_\_\_

By: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)

**ACKNOWLEDGEMENT OF NOTICE**

Meyer Contracting Inc.  
CONTRACTOR

By: Verlyn Schoep  
(AUTHORIZED SIGNATURE)

\_\_\_\_\_  
(TITLE) **Verlyn Schoep  
President/COO**

\_\_\_\_\_  
(DATE) 1/30/2020

**END OF DOCUMENT 00 51 00**



**SECTION 00 50 00**

**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT**

THIS AGREEMENT is by and between: Lower Minnesota River Watershed District (“Owner”) and Meyer Contracting, Inc. (“Contractor”).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents.

**ARTICLE 2 – THE PROJECT**

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: LMRWD Dredge Site Project

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by Barr Engineering Co. (“Engineer”).

3.02 The Owner has retained Engineer to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The number of calendar days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the Contract Times) are set forth in the Instructions to Bidders except as may be stated below:

No exceptions.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the



delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$250.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$25,000.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

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4.04 *Special Damages*

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

**ARTICLE 5 – CONTRACT PRICE**

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the unit prices stated in Contractor's Bid, attached hereto as an exhibit.
  - B. Quantities shown on the bid form are estimated. Actual quantities are expected to vary and may be adjusted by the Owner in the best interest of the project.

**ARTICLE 6 – PAYMENT PROCEDURES**

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.



6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1<sup>st</sup> day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
- a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, then the payments made to Contractor will amount to 95 percent of Work completed (with the balance being retainage).
- b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

**ARTICLE 7 – INTEREST**

- A. All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at one-and-one-half percent (1½%) per month or portion of a month.

**ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.



- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. Modifications (Change Orders, Field Orders and Work Change Directives)
  - 2. Notice to Proceed
  - 3. Agreement
  - 4. Addenda
  - 5. Completed Bid Form
  - 6. Instructions to Bidders
  - 7. Drawings





8. Technical Specifications
9. Appendices
10. Submittals
11. Payment Bond
12. Performance Bond
13. Insurance
14. Supplementary Conditions
15. Standard General Conditions (EJCDC C-700, 2007 Edition)
16. Advertisement for Bids

In the case of a discrepancy between or among any of the terms and conditions set forth in any of the Contract Documents, the order listed above shall be the order of precedence for resolving any such discrepancy in the terms and conditions of the Contract Documents, that is, the governing document shall be the Modifications (starting with the most recently dated first followed in descending chronological order by the remaining Modifications) followed by the Notice, and so on.

- B. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions, as amended by the Supplementary Conditions.
- C. Owner will furnish to the Contractor three copies of the Contract Documents. Additional copies beyond the three furnished sets will be provided at reproduction cost.

## **ARTICLE 10 – MISCELLANEOUS**

### 10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### 10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.



10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. This Agreement shall be governed by the laws of the State of Minnesota.
- B. There are no other provisions.

10.07 *Records Retention*

- A. Contractor will maintain all records pertaining to the Work for six years from the date of the completion of the Work. Contractor agrees that any authorized representative of the Owner or the State Auditor may examine, audit, and copy any such records during normal business hours.

10.08 *Equal Opportunity*

- A. In its performance of the Work, Contractor will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status of national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination. Contractor will not, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color. The Contract





may be canceled or terminated, and all money due, or to become due under the Contract, may be forfeited for a second or any subsequent violation of these terms.

10.09 *Nonresident or foreign contractor*

- A. If Contractor or a subcontractor is a nonresident person or foreign corporation as defined in Minnesota Statutes section 290.01, subdivision 5, Contractor or the subcontractor will be subject to the requirements of Minnesota Statutes section 290.9705.

10.10 *Minnesota Data Practices Act*

- A. If Contractor receives a request for data pursuant to the Data Practices Act, Minnesota Statutes chapter 13 (DPA), that may encompass data (as that term is defined in the DPA) Contractor possesses or has created as a result of this agreement, it will inform Owner immediately and transmit a copy of the request. If the request is addressed to Owner, Contractor will not provide any information or documents, but will direct the inquiry to Owner. If the request is addressed to Contractor, Contractor will be responsible to determine whether it is legally required to respond to the request and otherwise what its legal obligations are, but will notify and consult with Owner and its legal counsel before replying. Nothing in the preceding sentence supersedes Contractor's obligations under this agreement with respect to protection of Owner data, property rights in data or confidentiality. Nothing in this section constitutes a determination that Contractor is performing a governmental function within the meaning of Minnesota Statutes § 13.05, subdivision 11, or otherwise expands the applicability of the DPA beyond its scope under governing law.

10.11 *Prevailing Wages*

- A. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry (provided in Exhibit C attached to and made part of this agreement). Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties. Owner shall demand and the Contractor and all subcontractors shall furnish to the contracting agency, copies of any or all payrolls not more than 14 days after the end of each pay period.

10.12 *Notice of Certification of Truck Rental Rates*

- A. The Department of Labor and Industry Labor Standards Unit Notice of Certification of Truck Rental Rates and Effective Date Pursuant to Minnesota Rules, Part 5200.1105 shall apply to this Contract. A copy (provided in Exhibit D attached to and made part of this agreement) shall apply.



IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on 1/30/2020 (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Lower Minnesota River Watershed District

MEYER CONTRACTING INC.

By: \_\_\_\_\_

By: Verlyn Schoep

Title: \_\_\_\_\_

Title: VERLYN SCHOEP, PRESIDENT/COO

*(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest: \_\_\_\_\_

Attest: Michelle Becker

Title: \_\_\_\_\_

Title: PROJECT COORDINATOR

Address for giving notices:

Address for giving notices:

112 5<sup>th</sup> Street E., Suite 102

11000 93RD AVE N

Chaska, MN 55318

MAPLE GROVE, MN 55369

License No.: NA





**RINKE NOONAN**  
*attorneys at law*

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1015 W. St. Germain St., Ste. 300, P.O. Box 1497  
St. Cloud, Minnesota 56302-1497  
Telephone 320-251-6700, Fax 320-656-3500

**Office Memorandum**

To: Lower Minnesota River Watershed District Board of Managers  
From: John C. Kolb (320) 656-3503  
Re: Contract, Bond and Insurance Review; Spoil Management Site Improvement Project  
Date: February 3, 2020

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I have reviewed the contract documents, contractor's insurance certificate and both performance and payment bonds for the Spoil Management Site Improvement Project.

**Based on my review of the contract documents, the performance and payment bonds and the certificate of insurance, I am comfortable advising the Board to execute the construction contract upon receipt of the following:**

**Evidence, in the form of a revised certificate of insurance and copies of all endorsements providing additional insured status of the Owner, Engineer and City of Savage and demonstrating clear compliance with the requirements of Supplementary Conditions 5.03 and 5.04 as referenced herein.**

**Review Discussion:**

Article 5 (parts 5.01-5.04) of the general conditions of the contract requires the following:

- Contractor shall furnish performance and payment bonds, each in an amount at least equal to the contract price.
- Contractor shall deliver to owner certificates of insurance.

Sections 5.03 and .04 of the Supplementary Conditions (SC) set forth additional insurance requirements, including the minimum coverage amounts and insurance types. There are additional details within the individual requirements.

Regarding the bonds. The bonds are sufficient. The contractor has provided both a payment and performance bond in the amount of the contract price. The Surety on each bond meets the qualification requirements of the contract documents.

Absent any substantial change orders increasing the contract price, the bond amounts should be sufficient to secure the drainage authority for the project. The Board should consider, in consultation with the engineer, whether and when an increase in the bond amounts is warranted based on approved change orders. The bonds are to continue in effect for 120 days beyond the correction period in the contract (one year after final payment becomes due under the contract). Neither bond specifies an expiration date. However, the bonds do bind the contractor and the surety to the contract terms. This means that the right to discharge the bond rests with the owner and that the bond must remain in place per the contract.

Regarding insurance: The specifications require insurance in excess of that provided in the certificate provided by the contractor. Below is a comparison of what is required and what has been provided in the certificate:

<b>Insurance type</b>	<b>Amount required by contract</b>	<b>Amount provided</b>
Commercial General Liability (CGL) Each Occurrence	1,500,000	1,000,000
CGL Personal Injury	1,500,000	1,000,000
CGL General Aggregate	1,500,000	2,000,000
CGL Products	1,500,000	2,000,000
Auto Bodily Injury Person	1,500,000	1,000,000* *combine single limit for each accident.
Auto Bodily Injury Accident	1,500,000	1,000,000
Auto Property Damage	1,500,000	1,000,000
Auto Aggregate	2,000,000	1,000,000
Workers Compensation	Statutory Requirements	Statutory Requirements

<b>Insurance type</b>	<b>Amount required by contract</b>	<b>Amount provided</b>
Employer Liability (EL) Accident	100,000	1,000,000
EL Disease (employee)	500,000	1,000,000
EL Disease (policy limit)	100,000	1,000,000

For auto coverage the contractor has provided a coverage limit of \$1,000,000 as combined single limit per accident. I believe this covers both the Person and Accident bodily injury requirements. Additionally, the contractor has an umbrella policy in the amount of \$10,000,000. As an alternative to meeting the amounts required by the contract for Commercial General Liability and Auto coverage, the Owner may accept an umbrella or excess coverage policy of at least sufficient value to cover the difference in coverage. Excess Liability coverage must include employer's liability claims. (SC 5.04A.4). The proffered umbrella policy meets this requirement in the amount only. It is unclear whether the other requirements related to the identification of additional insureds is met.

The Certificate states the following disclaimers:

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

Additional Insured only if required by written contract with respect to General Liability, Automobile Liability and Umbrella/Excess Liability applies on a primary basis and the insurance of the additional insured shall be non-contributory: Certificate Holder, Project Owner and Others as required by written contract.

Waiver of Subrogation only if required by written contract with respect to General Liability, Automobile Liability, Workers Compensation and Umbrella/Excess Liability applies in favor of: Certificate Holder, Project Owner and Others as required by written contract.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

To meet the contract requirements, the Contractor or its insurer must provide the Owner and all additional insureds with evidence of coverage. The umbrella policy and base coverage must list the Owner, Engineer and City of Savage as additional insureds. The Contractor, or its insurer, must provide a certificate of insurance and a copy of all endorsements evidencing the additional insured status of each of the above entities.

Though the suite of coverage evidenced in the certificate of insurance meets the contract requirements of coverage amounts (with addition of the umbrella coverage), the Contractor has not provided the coverage evidence required by the contract – specifically the additional insureds' status. Below are specific requirements that should be communicated to the Contractor and its insurer. The requirements should be clearly articulated in the certificate and all endorsements.

The certificate(s) must indicate unconditionally that the insurance company will provide to Owner and City, in the same manner as to Contractor, notice in the event of cancellation, non-renewal or any material modification or change in the policies and/or coverages thereunder. (SC 5.03)

The certificate must state that Owner and Engineer are additional insureds under the general and automobile liability policies, and that the City is an additional insured under the general liability policy. (SC 5.03)

The additional insured coverage must be on a primary and noncontributory basis, and the endorsement must provide for same and must include coverage for complete operations. (SC 5.03)

Excess Liability coverage must include employer's liability claims. (SC 5.04A.4)

The insurance policy or policies required by this Paragraph 5.04 of the General Conditions shall include the interests of the Owner, City and the Engineer, each of which shall be additional insured parties with primary coverage as provided by paragraph SC-5.03. (SC 5.04A)

Contractor must furnish with the certificate(s) of insurance copies of all endorsements providing additional insured status of Owner, City and Engineer. (SC 5.04A)

The policy of general liability insurance to be purchased and maintained will: contain a provision or endorsement that notice of a cancellation, or modification of coverage afforded will be provided to additional insured(s) identified in the Supplementary Conditions to whom a certificate of insurance has been issued on the same basis as is provided under the policy to the insured (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide); "...under Paragraphs 6.07.B, 6.11, and 6.20. (SC 5.04B.4)



For your reference, see the attached article by the LMCIT risk manager/attorney. Though written from a city perspective, the article is equally applicable to the Watershed District. The risk manager identifies coverage limitation issues and provides guidance from the insurance trust's perspective.

I note as an initial but correctable concern that several of the proposed policies expire on April 1, 2020. We will need an updated certificate upon renewal or replacement with like/kind policies.

Finally, I have reviewed the content of the contract documents – specifically provisions related to dispute resolution, prompt pay and subcontractor payment and find them to be consistent with the requirements of Minnesota law.

**Based on my review of the contract documents, the performance and payment bonds and the certificate of insurance, I am comfortable advising the Board to execute the construction contract upon receipt of the following:**

**Evidence, in the form of a revised certificate of insurance and copies of all endorsements providing additional insured status of the Owner, Engineer and City of Savage and demonstrating clear compliance with the requirements of Supplementary Conditions 5.03 and 5.04 as referenced herein.**