

1. OPENING & ROLL CALL

The Board met in special session on Monday, April 19, 2021 at 8:00 A.M. in the Emergency/Community Room, Mountrail County Courthouse, Stanley ND with Commissioners Joan Hollekim, Jason Rice, Wayne Olson, Trudy Ruland, and Daniel Uran present. Also present was States Attorney, Wade Enget.

Chairman Ruland called the meeting to order.

2. APPOINTMENT SCHEDULED

8:00 A.M.

Present were John Sauber with Sauber Engineering, Jana Hennessy, Road & Bridge Engineer, Attorney Brian Schmidt representing Mountrail County, Ryan & Allan Minnerath with Central Specialties Inc, Harley Neshem with Gratech, Dave Abel & Joe Mayer, Sundre Sand & Gravel Inc., Terry Burke with Gratech Company LLC, Corey Bristol, Sheriff, and Shane Hill.

Moved by Comm. Uran, seconded by Comm. Hollekim, to un-table the discussion for 74th Ave NW, CR 4 bids. Upon roll call, all present voted yes. Motion carried.

Wade Enget, State's Attorney discussed and presented the 70 page Memorandum dated April 19, 2021 that he prepared for the Mountrail County Commissioners regarding the 74th St NW, CR 4 Project. (A copy of the said part of the memo is posted on the Mountrail County website @ www.co.mountrail.nd.us under the County Commissioner heading and/or is available in the Auditors Office during normal business hours).

Discussion was held on the two options outlined in the U.S. District Court Order Case No: 1:21-cv-050 Granting Plaintiffs Motion for Preliminary Injunction which are to award the project to Central Specialties Inc. as the lowest responsible bidder or to exercise its discretion and reject any and all bids and rebid the project for 74th Ave NW, CR 4.

State's Attorney explained the five prior projects with Central Specialties Inc. in detail that the County perceived as non-satisfactory that are listed in the 4/19/2021 Memorandum, which includes:

- 1) CR 21-West Loop Road Project 92(02)12 Construction year 2013: Failure to resolve issues with Northern Aggregate (gravel pit supplier as chosen by Central Specialties Inc.) within a timely manner caused Mountrail County to lose \$7,848,968.25 of state funding from HB 1358 on this project. Project was constructed in 2013 and aggregate pit release was not resolved until 2018;
- 2) CR 7-Manitou Road-Project 07(02)3 Construction year 2014: Roadway closure during construction exceeding 14 days due to installation of French Drain, of which Central Specialties Inc. sent the crew home for 4-5 days. Road closure was to help speed the process of fixing the drainage problem, yet Central Specialties Inc. did not stay onsite to complete the work. Unsafe Roadway Barricade-Central Specialties Inc. placed 2 pieces of equipment to stretch across the roadway along with orange/white signs-then left the project. There was no traffic control in place, no flagger personnel to direct traffic or notify the public, lastly the barricade was not visible at night-all items caused unsafe travel conditions for the public, residents and industry alike. This 14 mile roadway section was designed for a 20 year lifespan. However, after just 7 years of roadway usage, Mountrail County is actively seeking pavement repair/reconstruction options due to the inferior quality of this roadway which is so bumpy the Road Department and Commissioners routinely receive calls regarding the unsafe travel;
- 3) CR 1-Tagus Spur-Project 01(61)16 Construction year 2016: Failing subgrade-October 2016. Slough Damage-pavement slough damage at 13 locations due to Central Specialties Inc. staff operating their grader on the slough. Project not completed-project location was cut off at RRX on project due to contractor inability to complete project within time frame-special commission meeting 10/21/2016. Project work was completed under a separate construction contract by a different contractor in 2018. Defective work-top lift of asphalt was determined by our engineering firm to have areas of defect. A corrective action plan was issued by our engineering firm on 10/28/16. This item was included a stop work order which was issued on 11/8/2016 by our engineering firm after proper materials were not provided in a timely manner;
- 4) CR 1 & CR 12-Plaza North, South, East-Joint Projects 01(64)15 & 12(42)16 Construction year 2016: Notice of Defective Work was issued on 12/12/2016 by engineering firm. This included pavement with foreign material present and embedded within the pavement surface, surface irregularities,

approaches with no drainage, and gouges in the asphalt. Contractor performed paving operations at night. Corrections to defective work not performed in a timely manner. Repairs were performed in late fall of 2017, almost a year after the Notice of Defective work was issued;

- 5) CR 9-101st Ave from US 2 to ND 1804-Project 09(04)13 Construction years 2019 & 2020; Subgrade Prep Type C-12 not performed according to contract. Central Specialties Inc. left project worksite from June 16, 2019 to August 24, 2019 (nine weeks of prime construction season) at their own discretion. Central Specialties Inc. failed to complete the 2019 construction work by the contract date of 10/31/2019. Central Specialties Inc. did not maintain the roadway to contract standards resulting in unsafe roadway conditions and extreme roadway restrictions and roadway closures. This impeded the public and resident's ability to access the roadway. Central Specialties Inc. was not in compliance with the proper erosion control measures. Mountrail County's engineering firm sent letters regarding the noncompliance items in July 2019. Central Specialties Inc. was in Litigation with Mountrail County on regarding items on this roadway project. Litigation was not settled until March 2, 2021.

Discussion was held on the letters received from Central Specialties Inc. dated April 13, 2021 and April 15, 2021. Discussion was also held on the email response from Harley Neshem with Gratech Company LLC stating with 73 years of business Gratech is not, and never has been, in bankruptcy.

Allan Minnerath, Central Specialties Inc. was not aware of the loss of funding on CR 21, West Loop Road, Project 92(02)12. Allan Minnerath stated that CR 7, Manitou Road Project 07(02)13 a break was taken over Labor Day and the statements of barricading are false. Ryan Minnerath, Central Specialties Inc. discussed CR 1 Tagus Spur, Project 01(61)16 regarding issues due to excessive rains. Allan Minnerath, Central Specialties Inc. on CR 9, 101st Ave commented CSI left the project site due to other commitments and delays after returning to the site were due to excessive rains. Chairman Ruland mentioned HDR Engineering were involved in the issues regarding the CR9 Project and were in contract with Central Specialties Inc; the contractors were well aware of the issues.

Comm. Hollekim and Comm. Rice stated they spoke with several landowners along this road. The landowners were all in agreeance that the road still needs to move forward this year. Comm. Hollekim stated if rebid she is concerned the bid would come in higher.

State's Attorney Enget discussed the Engineering bid sheet.

John Sauber, Sauber Engineering discussed the re-bid deadlines, and if the dates stay the same it will be at higher costs. Engineer Sauber discussed changing some milestone dates before bidding.

Moved by Comm. Hollekim, seconded by Comm. Uran, to approve and award bid to Central Specialties Inc. as the lowest responsible bidder in the amount of \$13,417,590.59 due to the April 12, 2021 Federal District Court Order signed by Judge Daniel L. Hovland in CSI v. Mountrail County, Case No 1:21-cv-050-LDH-CRH (Document 20), for the 74th Ave NW, CR 4, Project #04(74)19 and also due to concerns of meeting project timelines and increased costs if the project were rebid as the Engineer's Estimate was significantly higher than all bids supplied. Upon roll call, Rice, Ruland, Hollekim, Uran voted yes and Olson voted no. Motion carried

3. ADJOURN

The Board adjourned at 8:44 A.M. to meet in regular session on Tuesday, April 20, 2021 at 9:00 A.M. Accepted and approved this 20th day of April, 2021.

Trudy Ruland, Chairman

Mountrail County Commissioner

Stephanie A. Pappa

Mountrail County Auditor