LAKE AGASSIZ WATER AUTHORITY

SPECIAL MEETING
BOARD OF DIRECTORS

Video Conference
October 26, 2023

A special meeting of the Lake Agassiz Water Authority (LAWA) board of directors was held by video conference on October 26, 2023. The meeting was called to order by Chair Mahoney at 1:00 p.m.

BOARD MEMBERS PRESENT

Chair Timothy Mahoney
Vice Chair Ken Vein
Director LaVonne Althoff
Director Rick Bigwood
Director Bill Bohnsack
Director Dave Carlsrud
Director Tom Erdmann
Director Mark Johnson
Director Keith Nilson
Director Jim Schmaltz
Director Travis Schmidt
Associate Member Bernie Dardis
Secretary Duane DeKrey

Garrison Diversion staff and others attended. A copy of the registration sheet is attached to these minutes as Annex I.

The meeting was recorded to assist with compilation of the minutes.

RED RIVER VALLEY WATER SUPPLY PROJECT TRANSMISSION PIPELINE EAST

Contract 5C

Paul Boersma, Black & Veatch, addressed the LAWA board members, stating the award for Red River Valley Water Supply Project (RRVWSP) Transmission Pipeline East, Contract 5C, has become complicated. He stated the basic underlying principals and reasoning for making the award recommendation are not that difficult, adding Black & Veatch's recommendation remains unchanged from the recommendation made to the Garrison Diversion board on October 19.

Mr. Boersma added since October 19, there have been a number of letters received from attorneys with a number of points raised. These points will be reviewed today to help LAWA make the best decision in awarding Contract 5C.

Mr. Boersma said LAWA is free to approve or not approve the recommendation made by Black & Veatch.

Tami Norgard, Vogel Law Firm, reminded the board members of their motion at the October 11, 2023, LAWA board meeting deferring the decision to award Contract 5C to the Garrison Diversion board. Under the cooperation agreement between LAWA and Garrison Diversion, generally, Garrison Diversion has the decision making power to award and enter into contracts with input from LAWA. In this case, Garrison Diversion would like LAWA to receive the information in its entirety regarding the award of this contract since some of the information was still under review on October 11 and was not discussed at that meeting.

Ms. Norgard reviewed the underlying principles of the law according to Noth Dakota statute (N.D.C.C. § 48-01.2.07) when awarding public contracts.

Mr. Boersma reviewed the prequalification process that took place over the summer. Eight companies submitted prequalifications for general contracting. Seven of the eight were selected as being prequalified. Prequalifying is not a requirement.

Bid Tab Summary

Mr. Boersma reviewed the bid tabulation summary for Contract 5C, stating SJ Louis had the lowest base bid at $69,135,254, and Oscar Renda was the second lowest at $76,663,355. A copy of the bid tab summary is attached to these minutes as Annex II.

Mr. Boersma reported SJ Louis chose not to complete the prequalification process so all their qualifications were submitted with the bid documents. This includes minimum requirements, which are things the contractor needed to demonstrate, such as technical competence, project experience, license and security, etc. Other considerations consist of legal, environmental compliance, and safety.

Mr. Boersma stated SJ Louis met the minimum technical requirements. Other considerations were:

- In the past five years, has an owner filed a claim against your company in court or in arbitration (amounts greater than $500,000)?
- In the past five years, has your company made a claim against any owner concerning work on a project or payment for a contract filed in court or arbitration (amounts greater than $500,000)?

Black & Veatch and Vogel Law Firm found three significant claims/lawsuits made either by or against SJ Louis for three owners, which qualified under these considerations and should have been disclosed.

Mr. Boersma commented that the existence of claims/lawsuits are not a disqualifier. The concern with SJ Louis is inaccurate representation of their company in the qualifications submitted based upon the responses to the two bulleted questions above.

Mr. Boersma said based on SJ Louis not accurately representing their legal history in their qualifications document, Black & Veatch recommends SJ Louis' qualification be considered nonresponsive, and SJ Louis is not the lowest responsible bidder. Therefore, Black & Veatch recommends against awarding Contract 5C to SJ Louis and instead awarding the contract to Oscar Renda.

Mr. Boersma informed the LAWA board that the Garrison Diversion board met October 19 and approved awarding Contract 5C to Oscar Renda contingent upon approval by the LAWA board.

Chair Mahoney asked for comments from John Shockley, Ohnstad/Twichell, legal counsel for LAWA.

Mr. Shockley said he has spoken with Ms. Norgard and reviewed the case law. Garrison Diversion would be the owner under the contract. Under the cooperation agreement, LAWA's role is either to approve or not approve the action taken by Garrison Diversion or recommend some other course of action.

Mr. Shockley said he concurs with what was represented in the bid specifications. Under the bid specifications, it did require SJ Louis submit the information. It also provided the bidders an opportunity to ask the owner's representative questions regarding any ambiguities in the bid specifications; therefore, if the bidder did have questions regarding how to answer questions, there was ample opportunity provided to the bidder. One of the defining cases in North Dakota law in determining the lowest responsible bidder is a case out of Grand Forks, which was cited in a memo prepared by Vogel Law Firm. Essentially, it allows these sorts of issues to be considered in determining whether or not a bidder is responsible and truthful in their representations.

Mr. Shockley stated from a legal perspective, an owner could certainly make the decision to award to SJ Louis or to omit SJ Louis from consideration. It comes down to a policy decision as to how the boards would like to proceed.

Correspondence Regarding SJ Louis Construction

Mr. Boersma referred to the letter submitted to the LAWA board members from SJ Louis' attorney dated October 23, 2023. A copy of the letter was also included with the board meeting materials.

Mr. Boersma reviewed and addressed each of the questions/challenges posed by SJ Louis.

Engineer's Recommendation

Mr. Boersma stated Black & Veatch stands by its recommendation to award Contract 5C to Oscar Renda. Oscar Renda has been prequalified as a general contractor and has provided valid references. They did not show one successfully completed tunnel in glacial geology with their bid submittal. Oscar Renda was afforded the opportunity to amend that, which they have done.

A copy of Black & Veatch's letter of recommendation dated October 18, 2023, is attached to these minutes as Annex III.

Comments from SJ Louis

Jaime Woods, Chief Financial Officer, SJ Louis, clarified SJ Louis had no issue disclosing legal matters, and there was no intentional deceit.

Steve Kuechle, SJ Louis, stated essentially, SJ Louis is looking for a fair shake on Contract 5C, and he believes they are the right contractor for the job. SJ Louis did not intentionally

leave anything out of their bid. He hopes the board looked through the letter from SJ Louis' attorney and weighed out the contents.

Approval to Award

Chair Mahoney asked what is the recommendation from Garrison Diversion on awarding Contract 5C and how much was budgeted for this project.

Kip Kovar, Deputy Program Manager for RRVWSP Engineering, reported the Garrison Diversion board passed two motions. One to award the RRVWSP Transmission Pipeline East, Contract 5C, in the amount of $76,663,355 to Oscar Renda contingent upon Series D funding approval. The second motion authorized the general manager to move forward with the notice to proceed on Contract 5C pending the submittal of the contractor's documentation and contingent upon LAWA approval.

Mr. Kovar stated he stands by the motions passed by the Garrison Diversion board. He added the RRVWSP program budget for construction on Contract 5C was $59 million.

Mr. Shockley stated if the LAWA board agrees, a motion can be made to concur with the award.

Motion by Director Nilson to concur with the Garrison Diversion Board of Directors on the award of RRVWSP Transmission Pipeline East, Contract 5C, in the amount of $76,663,355 to Oscar Renda. Second by Vice Chair Vein. Upon roll call vote, the following directors voted aye: Vein, Schmidt, Schmaltz, Nilson, Mahoney, Johnson, Erdmann, Carlsrud, Bohnsack, Bigwood and Althoff. Those voting nay: none. Motion carried.

Chair Mahoney stated a lot of lessons were learned on this contract and suggested the program budget be discussed at the next LAWA board meeting.

Director Carlsrud thanked everyone who provided the research on this contract award on behalf of LAWA.

The meeting adjourned at 1:38 p.m.

Timothy Mahoney, Chair

Duane DeKrey, Secretary

REGISTRATION

LAWA Special Board Meeting
Video Conference
October 26, 2023

NAME	ADDRESS
Duane DeKrey	Garrison Diversion
Kip Kovar	Garrison Diversion
Lisa Schafer	Garrison Diversion
Merri Mooridian	Garrison Diversion
Kimberly Cook	Garrison Diversion
Marc Pritchard	Moorhead Public Service
Paul Boersma	Black & Veatch
Bruc Grubb	City of Fargo
Tami Norgard	Vogel Law Firm
Jeremy Schuler	Northeast Regional Water Dist
Steve Burian	Burian & Associates
Nick Suma	Vogel Law Firm
Mike Tweed	Garrison Diversion
Shawn Gaddie	Advanced Engineering
Neal Kelemen	Northwest Pipe
Zoe Zauner	American Pipe
Greg Bischoff	Garrison Diversion
Brent Erickson	Advanced Engineering
John Pennekamp	SJ Louis
Steve Kuechle	SJ Louis
Jaime Woods	SJ Louis
Kurt Ronnekamp	Black & Veatch
Steve Hansen	Southeast Water Users Dist
Jerry Blomeke	Cass Rural Water Users Dist
Todd Feland	City of Grand Forks
Dan Portlock	City of Fargo
Bernie Dardis	Lake Agassiz Water Authority
Troy Hall	City of Fargo
Terry Effertz	Effertz Law Firm

BID TABULATION SUMMARY

Red River Valley Water Supply Project
Transmisson Pipeline East
Bordulac to James River, Foster County, ND
Contract 5C, Task Order 5533

Bid Opening 2:00 p.m. CST, Thursday, September 21, 2023

			Env 1							Env 2					
No.	Bidder	Attended Pre-bid Conference	Bid Bond Included in the Amount of 5 percent of Bid	Contractor's License or Certificate of Renewal Included	Non-Collusion Affidavit Included and Completed	EJCDC C-451 Qualifications Statement Completed	Meets General Contractor Qualification Requirements	Meets Tunneling Contracor Qualification Requirements	Proposed Subcontractors, Suppliers, and Manufacturers Questionnaire Included and Completed	Acknowledged Addendum No. 1	Acknowledged Addendum No. 2	Acknowledged Addendum No. 3	Base Bid	Additive Bid Alternate No. 1	Total of Base Bid and Alternate No. 1
1	Thalle Construction	X	✠	✠	✠	✠	✠	✠	✠	✠	✠	✠	$78,308,327.00	$3,740,043.00	$82,048,370.00
2	Oscar Renda	X	✠	✠	✠	✠	✠	✠	✠	✠	✠	✠	$76,663,355.00	$3,009,230.00	$79,672,585.00
3	Harper Brothers	X	✠	✠	✠	✠	✠	✠	✠	✠	✠	✠	$79,086,646.00	$3,310,153.00	$82,396,799.00
4	SJ Louis	X	✠	✠	✠	✠	✠	✠	✠	✠	✠	✠	$69,135,254.00	$2,020,483.00	$71,155,737.00
5															
6															
7															
	Engineer's Estimate	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	$80,002,065.00	$4,298,900.00	$84,300,965.00

Garrison Diversion Conservancy District
PO Box 140
Carrington, ND 58421
701-652-3194

Kip Kovar, PE
District Engineer / Deputy Director of RRVWSP for Engineering
September 21, 2023

Annex II
23-93

BLACK & VEATCH CORPORATION
11401 LAMAR AVE, OVERLAND PARK, KANSAS
913-458-2000 | BOERSMAPM@BV.COM

October 18, 2023

Garrison Diversion Conservancy District
Red River Valley Water Supply Project
Transmission Pipeline East
Bordulac to James River, Foster County, ND
Task Order 5533, Contract 5C

BV Project 188972/415094
BV File 55.5533.3

Mr. Duane DeKrey, General Manager
PO Box 140
Carrington, ND 58421

Dear Mr. DeKrey:

This letter provides the bid results of the bid opening held at Garrison Diversion Conservancy District's Carrington Office on September 21, 2023, at 2 p.m. local time. A total of four bids were received for the Transmission Pipeline East, Contract 5D project (the Project): all four bids were opened and read aloud. The bid results are as follows:

Table 1 – Bid Tabulation Summary

No.	Bidder	Base Bid	Differences Between Low Base Bid	Additive Bid Alternate No. 1	Total of Base Bid and Alternate No. 1	Differences Between Low Base Bid Plus Alternate No. 1
1	SJ Louis	$69,135,254	$0	$2,020,483	$71,155,737	$0
2	Oscar Renda	$76,663,355	$7,528,101	$3,009,230	$79,672,585	$8,516,848
3	Thalle	$78,308,327	$9,173,073	$3,740,043	$82,048,370	$10,892,633
4	Harper Brothers	$79,086,646	$9,951,392	$3,310,153	$82,396,799	$11,241,062
Engineer's Estimate		$80,002,065	$10,866,811	$4,298,900	$84,300,965	$13,145,228

SJ Louis Construction, Inc. of Rockville, Minnesota (SJ Louis) submitted both the apparent low Base Bid and the apparent low Base Bid plus Additive Bid Alternates No. 1. Oscar Renda Contracting, Inc. of Grapevine, Texas (Oscar Renda) submitted the second low bid in both cases. Thalle Construction Company, Inc. of Hillsborough, North Carolina (Thalle) submitted the third low bid in both cases.

Before providing a recommendation, this letter addresses the following considerations:

- Evaluation of the bids,
- Required qualifications for general contracting,
- Required qualifications for tunnel subcontracting, and
- Prequalification process for pipeline general contractors.

EVALUATION OF THE BIDS

A comparison of the Base Bid of the apparent low bidder and second low bidder shows a difference of $7,528,101 or approximately ten percent. In general, the bids fell into two categories – the low bid of SJ Louis and the other three bidders and the Engineer's estimate. While ten percent lower is notable, it is within the range of common bidding variability. The Engineer's opinion of probable construction cost prepared by Black & Veatch was $80,002,065, which was slightly higher than the four bidders. There were no other irregularities found in the apparent low bidder's Bid Form and its bidding documents.

REQUIRED QUALIFICATIONS FOR GENERAL CONTRACTING

To demonstrate a general contractor's qualifications to perform the work contemplated in the plans and specifications, Specification Section 00 45 20 – General Contractor Qualifications Submittal Package required general contractors to have the following minimum qualifications:

- A minimum of 10 years of experience installing large diameter steel pipe.
- At least three successfully completed projects within the last 10 years with these characteristics:
  - Projects must each have been at least 10,000 feet in length.
  - They must each have included installation of 42-inch or larger diameter pipe.
  - Projects must each have included steel pipe handling and installation.

The requirements of the General Contractor Qualifications Submittal Package included in the bidding documents were the same as those developed and required of the pipeline general contractor prequalification process undertaken earlier this year by Garrison Diversion.

REQUIRED QUALIFICATIONS FOR TUNNEL SUBCONTRACTING

In addition, a critical part of the Work is the trenchless crossings. Due to this fact, Specification Section 00 45 21 – Tunneling Contractor Qualifications Form was included in the specifications requiring the tunneling contractor/ subcontractor to have the following minimum qualifications:

1. At least 10 years of experience tunneling using similar equipment to that specified for this Project.
2. Two successfully completed projects within the last 10 years with these characteristics:
   - Must have each been at least 300 feet long,
   - Must have each included installation of 72-inch or larger diameter casing pipe, and
   - Must have each used similar machines to what is required for this project.
3. One successfully completed project in glacial geology within the last 10 years with these characteristics:
   - Must have been at least 300 feet long,
   - Must have included installation of 72-inch or larger diameter casing pipe, and
   - Must have used a similar machine to what is required for this project.

PREQUALIFICATION PROCESS FOR PIPELINE GENERAL CONTRACTORS

Garrison Diversion undertook a general contractor Prequalification Process earlier this year, which concluded on July 24, 2023. Through this process, seven general contractors were prequalified for the Owner's pipeline projects. Three bidders for this project (Oscar Renda Contracting, Thalle Construction, and Harper Brothers Construction) were prequalified having successfully demonstrated their qualifications and experience. Hence, a general contractor qualification submittal was not required of those three bidders.

SJ Louis did not participate in the Prequalification Process, so they were required to submit the same information with their bid that was required of the other general contractors. An evaluation of the qualifications SJ Louis submitted with its bid is provided below.

Evaluation of the Apparent Low Bidder, SJ Louis Construction, Inc.

The required general contractor qualifications had two levels of criteria. The first is minimum required criteria that must be met. These criteria included:

1. Does the Contractor have a minimum of 10 years of experience on steel pipeline projects using similar types of equipment?
2. Has the Contractor completed three projects of at least 10,000 linear feet on 42-inch diameter pipeline in the past 10 years?
3. Has the Contractor's license been revoked in the past five years?
4. Has a surety company completed a project for the Contractor in the past five years because the Contractor was in default?
5. At the time of bid, was the Contractor ineligible to bid on a public works contract in any State?
6. At the time of the bid, has any of the company's officers been convicted of a crime regarding the award or performance of a government contract?

Upon review of the information submitted with the bid, it was determined that SJ Louis met the required 10 years of experience for general contracting (Item No. 1 above). SJ Louis responded "No" to Item Nos. 3, 4, 5 and 6; BV has no available information indicating otherwise.

The apparent low bidder, SJ Louis, provided with its bid a list of four projects to demonstrate it met requirement No. 2. BV subsequently determined, through contact interviews and review of letters from project contacts provided by SJ Louis, that three of the referenced projects met the qualification requirements and one did not. See Table 2 for the evaluation of projects submitted. Three qualifying projects were required by the specifications, so SJ Louis does meet the specified minimum required general contractor qualification requirements.

In addition to the required minimum requirements, the qualifications requested information that would be considered in making an award. Table 3 provides a summary of the additional information that would be considered and BV's evaluation of the submitted materials:

Table 2 – SJ Louis' Referenced Projects for Demonstration of Qualifications

Summary of Qualifications Required	Referenced Project	Engineer's Evaluation of Acceptability
General Contractor Qualifications At least three successfully completed projects within the last 10 years with these characteristics: • Each project must have been at least 10,000 feet in length. • They must have included installation of 42-inch or larger diameter pipe. • Projects must have included steel carrier pipe handling and installation.	1. City of Columbus, OH, Upground Reservoir Project: Engineer was able to verify project information and successful completion with contact provided. 2. City of Gillette, WY; Madison Pipeline Project: Engineer verified technical project information through contact provided. 3. Canadian River Municipal Water Authority, Sanford, TX; Aqueduct Pipe Repairs: Engineer was able to verify project information and successful completion with contact provided. 4. East Kern Water Agency, Palmdale, CA; Antelope Valley Steel Underground Utility Project; Reference was not contacted as project did not meet time requirements.	1. Valid project reference. Project met time, material, size, and length requirements. 2. Valid project reference. Project met time, material, size, and length requirements per a letter previously provided by the City of Gillette City dated February 25, 2022. The Gillette City Attorney's letter of February 25, 2022, indicated the referenced project was completed, work performed by SJ Louis was of high quality, and the project was completed within budget. In a subsequent October 10, 2023, discussion between Attorney Norgard and the Gillette City Attorney, the City Attorney noted the project was not completed on time. However, we do not believe this factor by itself is sufficient to disqualify the project as a reference. 3. Valid project reference. Project met time, material, size, and length requirements. 4. Not a valid project reference. Information submitted by SJ Louis indicates project met size, length, and material requirements; however, the project is outside the 10-year window of September 21, 2013, to September 21, 2023, having been completed in April 2011 per SJ Louis' information.

Table 3 – Evaluation of SJ Louis' Other Responses in Its Qualifications Package

Evaluation Criteria	SJ Louis Response	BV Evaluation
Was your company in bankruptcy at any time in the past five years?	No	BV has no information to indicate otherwise.
In the past five years, has a stop work order been issued against your company on a construction project?	Yes	BV concurs with the answer provided by SJ Louis, and BV is aware of at least one stop work order that occurred in Waukesha, Wisconsin.
In the past five years, has a claim against your company been filed in court or in arbitration (amounts greater than $500,000).	No	The answer is erroneous based upon a review of public records: 1. Water District No. 1 of Johnson County, Kansas v. S.J. Louis Construction, Inc., Case No. 2:21-CV-02070, Filed 2/9/21, US District Court, District of Kansas. Contracts - STIPULATION OF DISMISSAL 4/8/22. 2. Water District No. 1 of Johnson County, Kansas v. S.J. Louis Construction, Inc., Case No. 21CV00176, Filed 1/13/21, Kansas District Court. Contracts – TERMINATED. 3. Plaintiff North Texas Municipal Water District, Defendants SJ Louis Construction of Texas, Ltd. et. al., Filed 11/25/2019, Collin County District Courts, Collin, Texas.
In the past five years, has your company made a claim against any owner concerning work on a project or payment for a contract filed in court or arbitration?	No	This answer is erroneous based upon a review of public records: 1. Lewis & Clark Rural Water System, Filed 1/7/2020, Plaintiff SJ Louis Construction, Inc., $1.7 million in dispute. 2. Water District No. 1 of Johnson County, Decided 4/30/2021, Court of Appeals of Kansas, Appellant SJ Louis Construction, Inc.
In the past five years, has any insurance carrier, for any form of insurance, refused to renew the insurance for your company?	No	BV has no information to indicate otherwise.
Has a State OSHA cited and assessed penalties against your company for any serious, willful, or repeat violations of its health or safety regulations in the past five years?	No	BV has no information to indicate otherwise.

Evaluation Criteria	SJ Louis Response	BV Evaluation
Has the federal OSHA cited and assessed penalties against your company for any serious, willful, or repeat violations of its health or safety regulations in the past five years?	Yes – the response identifies one incident.	Information obtained from the OSHA website indicates a more extensive record of OSHA actions than SJ Louis' information and answer suggests: 1. Yankton, SD, 10/12/2018, serious violation with $12,935 penalty assessed by OSHA. 2. Waukesha, WI, 4/6/2021, marked as open, current penalty of $28,131 for two serious violations and two other violations as per OSHA, formal settlement. 3. Mansfield, TX, 6/16/2021, violations removed, and no penalty assessed, formal settlement. 4. New Berlin, WI, 7/30/2021, violations removed, and no penalty assessed, formal settlement. 5. Franklin, WI, 10/22/2021, marked as open, current penalty of $25,918 for two serious violations and one other violations as per OSHA, formal settlement. 6. Franklin, WI, 10/22/2021, marked as open, current penalty of $25,918 for two serious violations and one other violations as per OSHA, formal settlement. 7. Muskego, WI, 10/22/2021, marked as open, current penalty of $23,378 for one serious violation, one repeat violation, and one other violation as per OSHA, formal settlement. 8. Franklin, WI, 4/4/2022, marked as open, current penalty of $3,170 for one other violation as per OSHA, formal settlement.
Has the North Dakota Department of Environmental Quality, EPA or any Air Quality Management Owner or any Regional Water Quality Control Board cited and assessed penalties against either your company or the Owner of a project on which your company was the Contractor in the past 5 years?	No	BV has no information to indicate otherwise.
List your company's experience rating for each of the past five years.	2018 – 0.80 2019 – 0.76 2020 – 0.87 2021 – 0.73 2022 – 0.83	
Within the past five years, was there ever a time when your employees were without workers compensation or state approved self-insurance?	No	BV has no information to indicate otherwise.

BLACK & VEATCH

The following observations are made regarding the other information provided by SJ Louis:

- The first general category of other considerations is safety. A review of OSHA violations by SJ Louis in the public record suggests there are more violations than they have reported. However, at the same time, their Experience Modification Rate (EMR) is reasonable by industry standards. Of these two criteria, the EMR is a better representative of their actual safety record. BV considers their safety record, based on the EMR, to be acceptable.

- The second category of other considerations is SJ Louis's record of either having claims being made against it by a project owner or making claims against the project owner. They answered "No" to these questions. In reality, there are claims being made both by project owners against SJ Louis and by SJ Louis against project owners. BV finds this a significant misrepresentation by SJ Louis. Underground construction is inherently risky and recent claims, by or against a construction company, should not by itself be a reason for disqualification. However, misrepresenting the claims speaks to the trustworthiness of a construction company.

In addition to the pipeline general contractor qualifications, bidders were also required to demonstrate tunneling qualifications. SJ Louis is subcontracting the tunneling work to Minger Construction (Minger) per the information shown on Specification Section 00 43 36 - Proposed Subcontractors, Suppliers, and Manufacturers Questionnaire and Section 00 45 21 Tunneling Contractor Qualifications Form each submitted with the bid. Minger has been previously qualified for the tunneling work and has performed all tunneling work to date on RRVWSP transmission pipeline projects.

Article 3 – Qualifications of Bidders of Section 00 21 13 – Instructions to Bidders of the project specifications address the qualifications of Bidders and the required accuracy of information provided on the qualification forms. Specifically, Articles 3.04 and 3.05 state the following:

> "3.04. Bidder shall attest that all information supplied on the qualification forms by the Bidder is true and correct under penalty of perjury.
>
> 3.05. Project references provided by the apparent low Bidder will be contacted to verify information supplied by Bidder is accurate and correct. Any false statements or inaccurate information included in the qualification's forms may deem the Bidder to be non-responsive. Furthermore, false statements on any of the qualification forms will be considered by Owner in the award of this bid and future bids."

Recommended Action. Based on the misrepresentations included in SJ Louis's qualifications submittal discussed above and Article 3 – Qualifications of Bidders, which have been partially excerpted above, SJ Louis is deemed non-responsive, and SJ Louis is not considered the lowest, **responsible** bidder. Therefore, BV recommends against making the award to SJ Louis.

Evaluation of the Apparent Second Low Bidder, Oscar Renda Contracting, Inc.

As noted previously, Garrison Diversion undertook a general contractor Prequalification Process earlier this year. Through this process, general contractors were prequalified for the Owner's pipeline projects. Oscar Renda was among those firms prequalified having successfully demonstrated their qualifications and experience. Hence, a general contractor qualification submittal was not required of Oscar Renda for this bid.

Oscar Renda intends to subcontract the tunneling work to Southland Contracting, Inc. (Southland) per the information shown on Specification Section 00 43 36 - Proposed Subcontractors, Suppliers, and Manufacturers Questionnaire and Section 00 45 21 Tunneling Contractor Qualifications Form each

submitted with the bid. Southland provided a list of five tunneling projects to demonstrate their tunneling qualifications, which are shown in Table 4 below. References for the five Southland projects were contacted: two provided positive responses and one response was troublesome, as it included a tunnel collapse. BV was unable to reach two of the references after multiple attempts. BV subsequently determined two projects met the specification requirements; two qualifying projects were required so Southland met this portion of the qualification requirements.

In addition to the two representative tunneling projects, one additional project reference demonstrating tunneling in glacial geology was required. Criteria and projects submitted by Southland are shown in Table 4. Two project references were located in Texas, one project was in Nevada, one project was in Hawaii, and one project was in Colorado. Glacial geology is not present in any of these states, so none of the five projects submitted by Oscar Renda, as representative projects, met this requirement. Southland does not, therefore, meet the specified tunneling subcontractor qualifications requirements by information submitted with its bid.

Upon advice of Garrison Diversion legal counsel, Vogel Law, and direction from Garrison Diversion management staff, BV reached out to Oscar Renda after the bid to determine if they could provide a tunneling project reference meeting the glacial geology requirements of the Specifications. Oscar Renda subsequently provided information about a project in Mississauga, Ontario, Canada. The name of the project provided is the Hanlan Feedermain and Mississauga City Centre Watermain (Contract 3) project, which was tunneled in shale and soft ground. Upon review of the information provided, including a geotechnical baseline report, BV determined the project met technical requirements of the Tunneling Subcontractor Qualifications Form. In addition, the Owner reference (Region of Peel) contacted by BV provided a positive response of the work completed by Southland. Therefore, the sixth project reference (received after the bid opening) demonstrates Oscar Renda, in conjunction with its tunneling subcontractor, Southland, meets the tunneling qualification requirements.

Recommended Action. Award the Bid to the second low bidder, Oscar Renda Contracting, Inc., as they are a prequalified pipeline general contractor. Their tunneling subcontractor, Southland, has demonstrated its tunneling qualifications meet requirements, and Oscar Renda has no other irregularities with their bidding documents or bid.

Table 4 – Southland Contracting, Inc. Projects for Demonstration of Tunneling Qualifications

Summary of Qualifications Required	Referenced Project	Engineer's Evaluation of Acceptability
Tunneling Qualifications Two successfully completed projects within the last 10 years with these characteristics: 1. Must have been at least 300-ft long, 2. Must have included installation of 72-inch diameter or larger casing pipe, and 3. Must have used similar machines to what is required for this Project. One successfully completed project in glacial geology within the last 10 years with these characteristics: 1. Must have been at least 300-ft long, 2. Must have included installation of 72-inch diameter or larger casing pipe, and 3. Must have used similar machines to what is required for this Project.	1. North Texas Municipal Water District, Wylie, TX; CMAR Garney Companies, Inc.; Segment E – Bois d'Arc East Fork Trinity River. 2. Tarrant Regional Water District, Fort Worth, TX; IPL Section 17 Trinity River Tunnel. 3. City and County of Honolulu, HI; Kaneohe-Kailua Sewer Tunnel Project. 4. Clark County Water Reclamation District, Las Vegas, NV; Paradise Whitney Interceptor Phase 3. 5. City of Greeley, CO; Bellevue Transmission Pipeline North Segment. *6. Region of Peel, Mississauga, Ontario, Canada; Hanlan Feedermain & Mississauga City Centre Watermain (Contract 3).*	1. Valid project reference. The project met length, diameter, and time criteria. Tunneling was not in glacial geology. 2. Invalid project reference. The project met length, diameter, and time criteria. However, initial tunnel collapsed, and work had to be restarted. Tunneling was not in glacial geology. 3. Invalid project reference. The project met length, diameter, and time criteria. Tunneling was not in glacial geology. BV was unable to reach this project reference after multiple attempts, so this referenced project is not accepted. 4. Valid project reference. The project met length, diameter, and time criteria. Tunneling was not in glacial geology. 5. Invalid project reference. The project met length, diameter, and time criteria. Tunneling was not in glacial geology. BV was unable to reach this project reference after multiple attempts, so this referenced project is not accepted. *6. Valid project reference. The project met length, diameter, and time criteria. Tunneling was in glacial geology.* Notes: • None of the five referenced projects the Bidder originally submitted with its Bid were completed in glacial geology, which was a tunneling qualification criterion as identified in column 1 to the left. • *The sixth project listed above and to the left was completed in glacial geology, but the information was submitted after the bid upon the request of Garrison Diversion and BV.*

BLACK & VEATCH

That concludes our bid evaluation and recommendation of award. If you have any questions concerning this recommendation for the subject project, please contact us,

Sincerely,

BLACK & VEATCH CORPORATION

Paul Boersma
Associate Vice President

BLACK & VEATCH CORPORATION

Kurt A. Ronnekamp
Sr. Project Manager

KAR/la

Enclosure(s):

cc: Mr. Kip Kovar, GDCD
Ms. Tami Norgard, Vogel Law
File