


---

# MEMORANDUM

---

**DATE:** August 23, 2003  
**TO:** Council Members  
**FROM:** Rich Wells, PE-LS;  Randall Nelson, Engineering Division Manager  
**RE:** Recommendation for Bid Award for Arrowhead Detention Pond, DR03-1126  
**CC:** Mayor Shaw, Ted Vore

In a memo dated August 7, 2003, we recommended awarding the bid for the referenced project to Lind-Exco, Inc., the lowest, responsible bidder. Lind-Exco, Inc was the apparent low bidder based on bids received and read on 7-31-03. However, in reviewing the eight bids received by the City, we found that the bid submitted by Black Hills Excavating (BHE), signed by Mr. Mitch Morris, President, contained mathematical errors of approximately \$13,000 (see attached Bidder's Proposal). After those errors were corrected, BHE was low bidder by \$1403.43. In our 8/7/03 memo we recommended that BHE be considered a non-responsible bidder, in large part, based on Mr. Morris' performance on an earlier project, Skyview South Detention Pond, Project No. DR00-966.

As a result of Mr. Morris' performance on the Skyview project, BHE was considered a non-responsible bidder on another project, Knollwood Detention Pond, Project No. DR00-902, earlier this year. The contract for that project was awarded on April 7, 2003, to RCS Construction, the lowest, responsible bidder.

The issues related to the Skyview project which formed the basis for declaring BHE a non-responsible bidder on the Knollwood project were listed in our April 1, 2003, memo and are summarized below:

- 1) As a result of several requests for payment from sub-contractors and suppliers, and Mr. Morris' company's unresponsiveness, City staff spent numerous additional hours on the project, and ultimately found it necessary to obtain lien releases from all sub-contractors and suppliers at completion of the project;
- 2) To assure their payment, SD Concrete Products required that they be shown as a co-payee on checks issued by the City prior to supplying materials for the project;
- 3) BHE missed scheduled project progress meetings throughout the course of the project without prior notification to the City;
- 4) Although twelve days liquidated damages were assessed on the project, work still was still being performed approximately one year after substantial completion;
- 5) The contractor's bonding company, Flynn Insurance Company, notified the City to hold final payment due to unresolved financial issues.

On August 19, 2003, staff contacted Mr. Dennis Juliani with Flynn Insurance Company and found that Mr. Morris had not yet resolved all previous payment problems. The City continues to hold final payment on the Skyview project until all payment issues are resolved.

At the August 18, 2003, Council meeting, Mr. Morris explained that Morris Construction Company, not Black Hills Excavating, was the contractor on the Skyview project. However, Morris Construction Company's Bidder's Proposal for the Skyview project and BHE's Bidder's Proposals for the Knollwood and Arrowhead projects were all signed by Mr. Morris as President (see attached copies). Also, BHE paid sub-contractors on Morris Construction's Skyview project.

In view of Mr. Morris' past record of performance, as well as current unresolved financial problems, we have recommended that Black Hills Excavating be considered a non-responsible bidder on the Arrowhead Detention Pond project.

SECTION 4  
BIDDER'S PROPOSAL  
FOR  
FURNISHING LABOR AND MATERIALS  
FOR THE CONSTRUCTION OF

KNOLLWOOD DETENTION POND ELEMENT 310  
PROJECT NO. DR00-902

PLACE: City Finance Office in City/School Administration Center  
Rapid City, South Dakota

DATE & TIME: March 13, 2003 at 2:00 P.M.

TO: Rapid City Council  
Rapid City, South Dakota

Council Members:

In compliance with your invitation for bids to furnish all necessary labor, tools, materials, and equipment to construct complete in all detail,

KNOLLWOOD DETENTION POND ELEMENT 310  
PROJECT NO. DR00-902

complete and ready for use as shown on the detailed plans and specifications as prepared by the Engineering Division and now on file in the Office of the City Finance Officer, Rapid City, South Dakota, the undersigned Bidder:

- (1) A Corporation organized and existing under the laws of the State of SOUTH DAKOTA.
- (2) A Partnership consisting of \_\_\_\_\_.
- (3) An Individual trading as \_\_\_\_\_.
- Of the City of \_\_\_\_\_, State of \_\_\_\_\_.

Having examined the detailed plans and specifications and contract with bond hereto attached, and being fully advised of the materials to be furnished and the work to be done in the construction of said

KNOLLWOOD DETENTION POND ELEMENT 310  
PROJECT NO. DR00-902

does hereby propose to furnish all necessary labor, tools, materials, and equipment and do all the work as specified to fully complete said work as shown by said plans and specifications, and as shown in said Bidder's Proposal.



The within Bidder's Proposal is based upon conditions and stipulations within the Contract Documents and shall be considered a part of this Contract as if written herein at length.

All work shall be completed within seventy-five (75) calendar days and no later than July 18, 2003. Liquidated damages, as specified in the Standard Specifications, will be charged for failure to complete the project on or before the completion date.

The contract award will be based on the lowest bid price arrived at in accordance with the Bid Schedule set forth above.

The said Bidder further agrees and states that he has read the advertisement calling for bids, has studied the Contract Documents, is familiar with the terms and conditions stipulated therein, agrees to enter into the attached Contract, and acknowledges the receipt of the following Addenda.

BLACK HILLS EXC. INC  
NAME OF COMPANY  
Party of the Second Part

MITCH MORRIS  
AUTHORIZED REPRESENTATIVE  
(Please Print)

Mitch Morris  
AUTHORIZED SIGNATURE

President  
TITLE

DATE 3-13-2003

ADDRESS P.O. Box 8051  
RAPID CITY, S.D., 57709

ADDENDA NO.	DATED
_____	_____
_____	_____
_____	_____
_____	_____

**SECTION 4  
BIDDER'S PROPOSAL  
FOR  
FURNISHING LABOR AND MATERIALS  
FOR THE CONSTRUCTION OF**

**ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
PROJECT NO. DR01-1126**

**PLACE:** City Finance Office in City/School Administration Center  
Rapid City, South Dakota

**DATE & TIME:** July 31, 2003 at 2:00 P.M.

**TO:** Rapid City Council  
Rapid City, South Dakota

**Council Members:**

In compliance with your invitation for bids to furnish all necessary labor, tools, materials, and equipment to construct complete in all detail,

**ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
PROJECT NO. DR01-1126**

complete and ready for use as shown on the detailed plans and specifications as prepared by the Engineering Division and now on file in the Office of the City Finance Officer, Rapid City, South Dakota, the undersigned Bidder:

- (1) A Corporation organized and existing under the laws of the State of South Dakota
- (2) A Partnership consisting of \_\_\_\_\_
- (3) An Individual trading as \_\_\_\_\_  
Of the City of \_\_\_\_\_, State of \_\_\_\_\_

Having examined the detailed plans and specifications and contract with bond hereto attached, and being fully advised of the materials to be furnished and the work to be done in the construction of said

**ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
PROJECT NO. DR01-1126**

does hereby propose to furnish all necessary labor, tools, materials, and equipment and do all the work as specified to fully complete said work as shown by said plans and specifications, and as shown in said Bidder's Proposal.



The within Bidder's Proposal is based upon conditions and stipulations within the Contract Documents and shall be considered a part of this Contract as if written herein at length.

All work shall be completed by November 30, 2003. Liquidated damages, as specified in the Standard Specifications, will be charged for failure to complete the project on or before the completion date.

The contract award will be based on the lowest bid price arrived at in accordance with the Bid Schedule set forth above.

The said Bidder further agrees and states that he has read the advertisement calling for bids, has studied the Contract Documents, is familiar with the terms and conditions stipulated therein, agrees to enter into the attached Contract, and acknowledges the receipt of the following Addenda.

Black Hills Excavating  
NAME OF COMPANY  
Party of the Second Part

MITCH MORRIS  
AUTHORIZED REPRESENTATIVE  
(Please Print)

Mitch Morris  
AUTHORIZED SIGNATURE

President  
TITLE

DATE 7-31-2003

ADDRESS P.O. Box 8051  
Rapid City, S.D. 57709

ADDENDA NO.	DATED
<u>1</u>	<u>July 25</u>
<u>2</u>	<u>July 28</u>

SECTION 5  
CONTRACT BETWEEN  
CONTRACTOR AND  
CITY OF RAPID CITY

THIS AGREEMENT, made this 11th day of April, 2001, by and between Morris Construction Company (Contractor), hereinafter called the Party of the Second Part, and the City of Rapid City, South Dakota, hereinafter called the Party of the First Part, WITNESSETH: That the Party of the Second Part and the Party of the First Part, for the consideration hereinafter named, agree as follows:

**ARTICLE 1. SCOPE OF WORK**

The Party of the Second Part shall furnish all of the materials and labor and perform all of the work as described in the specifications for the project

**SKYVIEW SOUTH DETENTION POND  
PROJECT NO. DR00-966**

prepared by the Engineering Division of Rapid City, South Dakota, and shall do everything required by this Contract, Notice, Instructions, Special Conditions, Special Provisions, Detailed Specifications, Detailed Plans, General Conditions, and Standard Specifications which are hereby made a part of the Contract, including the following Addenda:

ADDENDUM NO.

DATED

#1

March 9, 2001

**ARTICLE 2. TIME OF COMPLETION**

All work shall be completed in sixty (60) working days. Liquidated damages will be charged for failure to complete the project on or before the completion date as specified in the Contract Documents. All time extensions will be issued by the Owner through the Engineer and will be granted only for good cause beyond the control of the Contractor.

**ARTICLE 3. CONTRACT SUM**

The Party of the First Part shall pay the Party of the Second Part for the performance of the Contract, subject to additions and deductions provided therein, in current funds as follows:

One hundred seventy-four thousand nine hundred ninety and 30/100 Dollars  
(\$174,990.30)



ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Upon completion of all work under this Contract, the Individual or Department specified in Article 2 for making time extensions shall satisfy himself by examination that the test work has been finally and fully completed in accordance with the Specifications and Contract and report such completion to the Owner. The Contractor must complete and return a proper City voucher, and payment will be made on said voucher as soon as possible after approval by the Council.

ARTICLE 5. THE CONTRACT DOCUMENTS

The Notice for Bids, Instructions to Bidders, Proposal, Performance Bond, Insurance, Special Provisions, Special Conditions, Addenda, and the Plans and Specifications, together with this Agreement, form the Contract, and all are as fully a part of the Contract as if hereto attached or herein repeated.

The said Party of the Second Part further agrees and states that he has studied the detailed specifications and that he is familiar with the terms and conditions stipulated therein.

IN WITNESS WHEREOF: The City of Rapid City, South Dakota, Party of the First Part, its Council having duly approved this Contract, has caused this Contract to be executed in its behalf by its Mayor, thereunto duly authorized, attested thereto by its Finance Officer and has hereto attached its corporate seal this 11 day of April, 2001.

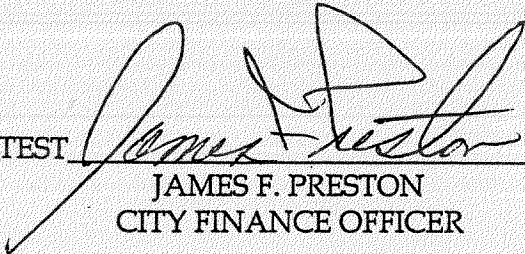
THE CITY OF RAPID CITY, SOUTH DAKOTA

BY



JIM SHAW, MAYOR  
Party of the First Part

ATTEST



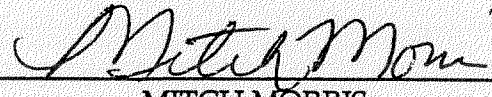
JAMES F. PRESTON  
CITY FINANCE OFFICER

Morris Construction Company

NAME OF COMPANY

Party of the Second Part

BY



MITCH MORRIS

President

TITLE

DATE

4/17/2001

ADDRESS

PO Box 867

Rapid City, SD 57709-0867

SEAL

BIDDER'S PROPOSAL  
 ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
 PROJECT NO. DR01-1126  
 LET: JULY 31, 2003

ITEM NO.	DESCRIPTION OF ITEM	UNIT	QTY	UNIT PRICE IN WORDS	UNIT COST	EXTENDED COST
1	MOBILIZATION	LS	1	<del>Twenty nine thousand one hundred</del> ninety cents	29,700.00	29,700.00
2	SALVAGE TOP SOIL (EMBANKMENT & SPILLWAY)	CY	8,000	25/100	.90	7,200.00
3	PLACE TOPSOIL (EMBANKMENT & SPILLWAY)	CY	8,000	One Dollar 19/100	1.25	10,000.00
4	UNCLASSIFIED EXCAVATION (SPILLWAY & POOL AREA)	CY	59,000	One Dollar 19/100	1.19	70,210.00
5	EMBANKMENT COMPACTED FILL	CY	26,200	Twenty six cents	.26	6,812.00
6	60" OUTLET STRUCTURE STAND PIPE	LS	1	Five thousand one hundred 00/100	5,000.00	5,000.00
7	60" OUTLET STRUCTURE TRASH RACK	EA	1	Four thousand five hundred	4,500.00	4,500.00
8	18" CL2 RCP	LF	12	Fifty al 00/100	50.00	600.00
9	18" FLARED END & TRASH RACK	EA	1	Eight hundred sixty five	865.00	865.00
10	48" CL4 RCP	LF	205	One hundred al 00/100	100.00	20,500.00
11	48" FLARE END, & TRASH RACK	EA	1	Two thousand one hundred 00/100	2,100.00	2,100.00
12	10'X 8' CONCRETE BOX	LF	170	Four hundred fifty seven 59/100	457.52	77,777.60
13	BOX END SECTION, 10X8	EA	2	Five thousand nine hundred ninety seven al 00/100	5,997.00	11,994.00



BIDDER'S PROPOSAL  
 ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
 PROJECT NO. DR01-1126  
 LET: JULY 31, 2003

ITEM NO.	DESCRIPTION OF ITEM	UNIT	QTY	UNIT PRICE IN WORDS	UNIT COST	EXTENDED COST
14	10X8 BOX CUT-OFF WALL	EA	1	Nine hundred 00/100	900.00	900.00
15	CABLE CONCRETE, CC-45, POND OUTLET	SF	2,560	Form and 75/100	4.75	12,160.00
16	CABLE CONCRETE, CC-45, CHANNEL	SF	6,800	Form and 75/100	4.75	32,300.00
17	TREE REMOVAL	LS	1	Seven thousand seven hundred	7,700.00	7,700.00
18	SEEDING, MULCHING & FERTILIZER	ACRE	12	One thousand two hundred thirty three	1,233.33	14,799.96
19	EROSION CONTROL	LS	1	Four thousand nine hundred	4,900.00	4,900.00
20	PP-5 PERMANENT TURF REINFORCEMENT MATTING	SY	2,200	Five at 00/100	5.00	11,000.00
21	CONSTRUCTION SURVEYING	LS	1	Five thousand seven hundred 00/100	5,700.00	5,700.00
22	INCIDENTALS	LS	1	One thousand five hundred	1,500.00	1,500.00
23	REMOVE & RESET BARB WIRE FENCE	LF	600	Two and 50/100	2.50	1,500.00
24	CONCRETE BOLLARD	EA	24	Sixty five 00/100	65.00	1,560.00
<b>TOTAL BASE BID</b>						<b>347,178.00</b>

14796.00  
12700

BIDDER'S PROPOSAL  
 ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
 PROJECT NO. DR01-1126  
 LET: JULY 31, 2003

ITEM NO.	DESCRIPTION OF ITEM	UNIT	QTY	UNIT PRICE IN WORDS	UNIT COST	EXTENDED COST
<b>SCHEDULE A</b>						
25	MOBILIZATION	LS	1	Fifteen thousand per lot	15,000 <sup>00</sup>	15,000 <sup>00</sup>
26	EROSION CONTROL	LS	1	Two thousand one hundred	2,100 <sup>00</sup>	2,100 <sup>00</sup>
27	CONSTRUCTION SURVEYING	LS	1	One thousand seven hundred	1,750 <sup>00</sup>	1,750 <sup>00</sup>
28	TREE REMOVAL	LS	1	Twenty five per hundred	2,500 <sup>00</sup>	2,500 <sup>00</sup>
29	INCIDENTALS	LS	1	One thousand five hundred	1,500 <sup>00</sup>	1,500 <sup>00</sup>
30	SEEDING, MULCHING & FERTILIZER	ACRE	6	Nine hundred fifty	950 <sup>00</sup>	5,700 <sup>00</sup>
31	STORM SEWER 36" RISER MATERIAL, CL 2	LF	16	One hundred and 00/100	100 <sup>00</sup>	1,600 <sup>00</sup>
32	SALVAGE TOP SOIL	CY	5,000	ninety cents	.90	4,500.00 16,920 <sup>00</sup>
33	PLACE TOPSOIL	CY	5,000	One Dollar and 25/100	1.25	6,250 <sup>00</sup>
34	OFF-SITE COMPACTED FILL	CY	45,000	Thirty one cents	.35	15,750.00 15,750 <sup>00</sup>
35	UNCLASSIFIED EXCAVATION	CY	12,600	One Dollar and 19/100	1.19	14,994 <sup>00</sup>
36	CHANNEL COMPACTED FILL	CY	1,800	One Dollar and 1/100	1.00	1,800 <sup>00</sup>



BIDDER'S PROPOSAL  
 ARROWHEAD BASIN DETENTION POND, ELEMENT 302  
 PROJECT NO. DR01-1126  
 LET: JULY 31, 2003

ITEM NO.	DESCRIPTION OF ITEM	UNIT	QTY	UNIT PRICE IN WORDS	UNIT COST	EXTENDED COST
37	SMALL POND EMBANKMENT COMPACTED FILL	CY	550	Two Dollar and 50/100	2.50	1,375.00
38	60" OUTLET STRUCTURE, SMALL POND, STAND PIPE	EA	1	Three thousand 00/100	3000.00	3000.00
39	OUTLET STRUCTURE, 36" CL3 RCP	LF	230	Septy one and 00/100	61.00	14,030.00
40	OUTLET STRUCTURE, TRASH RACK	EA	1	Four thousand five hundred 00/100	4500.00	4500.00
41	OUTLET STRUCTURE, 36" FLARE END, & TRASH RACK	EA	1	One thousand seven hundred 00/100	1750.00	1750.00
42	STORM SEWER 36", CL 2	LF	288	Fifty seven and 00/100	57.00	16,416.00
43	STORM SEWER 36", CL 3	LF	95	Septy four and 00/100	64.00	6,080.00
44	STORM SEWER 36" X 36" TEE (FOR RISER)	EA	1	One thousand nine hundred	1600.00	1,600.00
45	STORM SEWER 36" 30 DEGREE BEND	EA	1	One thousand one hundred fifty	1150.00	1150.00
46	STORM SEWER 36" 7.5 DEGREE BEND	EA	1	Three hundred fifty and 00/100	350.00	350.00
47	SMALL POND, SAND SEEP COLLAR	EA	1	One thousand five hundred	1500.00	1500.00
48	TYPE III RIP RAP	TON	30	Thirty two and 00/100	32.00	960.00
49	NEEHAN R-792-HL	EA	2	Five hundred and 00/100	500.00	1000.00

**BIDDER'S PROPOSAL**  
**ARROWHEAD BASIN DETENTION POND, ELEMENT 302**  
**PROJECT NO. DR01-1126**  
**LET: JULY 31, 2003**

ITEM NO.	DESCRIPTION OF ITEM	UNIT	QTY	UNIT PRICE IN WORDS	UNIT COST	EXTENDED COST
50	REMOVE & RESET BARB WIRE FENCE	LF	200	Two Dollars at 50/100	2.50	500.00
51	CABLE CONCRETE, CC-35, CHANNEL	SF	576	Five at 09/100	5.00 6.00	2880.00 3456.00
	TOTAL SCHEDULE A					128.735.00 145,537.00
	TOTAL BASE BID PLUS SCHEDULE A (WORDS AND FIGURES)				480,010.40 498,709.00	