

METROPOLITAN SEWERAGE DISTRICT BOARD

OCTOBER 20, 1987

1. CALL TO ORDER AND ROLL CALL:

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration building at 2 p.m. on Tuesday, October 20, 1987. Chairman Smith called the meeting to order at 2:00 p.m.

Chairman Smith and the following members were present: Aceto, Batts, Boggs, Dent, Edwards, Pope, Williams and Waddey. Others present were: W. H. Mull, P.E., Engineer-Manager, John Stevens, General Counsel, Greg Hutchins with Roberts, Stevens & Cogburn, P.A., Bill Morris and Bob Holbrook, representatives of the Consulting Engineers, Michele Cox and William Pott with McGladrey Hendrickson & Pullen, Gary Shelton with Republic Contracting Corporation, and Armand Tetu with Ray Sturgill & Associates.

2. a. MINUTES OF SEPTEMBER 15, 1987:

Mr. Dent moved that the Board minutes of September 15, 1987 be approved as written. Mr. Edwards seconded the motion, and voice vote was unanimous in favor of the motion.

b. MINUTES OF SPECIAL BOARD MEETING - OCTOBER 2, 1987:

Mr. Aceto moved that the minutes of the October 2, 1987 Special Board Meeting be approved with the incorporation of the DECISION AND ORDER OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, UPON THE BID PROTEST OF REPUBLIC CONTRACTING CORPORATION. Mr. Dent seconded the motion. Mr. Boggs requested that the minutes of October 2, 1987 be amended to include Mr. Bogg's abstention from the vote under number 2. Mr. Aceto amended his motion and Mr. Dent agreed. Voice vote was unanimous in favor of the motion.

3. AUDIT REPORT FOR FISCAL YEAR 1986-87:

Mr. William Pott of McGladrey Hendrickson & Pullen reviewed the Financial Statement of the Metropolitan Sewerage District for Fiscal Year 1986-87 with the Board, along with the Compliance Report and Management Report. Mr. Pott stated that the District is in compliance with the Bond Order, and noted that the District did not have any Compliance findings for Fiscal Year 1986-87.

Mr. Mull was requested to compile a condensed list of the recommendations in the Management Report and present these at the next meeting, along with his recommendations as to which ones should be omitted from consideration.

4. REPORT OF ENGINEER-MANAGER:

a. RESULT OF BID OPENING (SEPTEMBER 28) - PICK-UP TRUCK FOR LABOR CREW:

Mr. Mull reported that the District received two bids on September 28, 1987 for a pick-up truck for the Labor Crew of the District. One bid was from Woodcock Motors in the amount of \$13,391.95 and the other from Pelle Chevrolet in the amount of \$13,039.00. Pelle Chevrolet is the apparent low bidder. Mr. Mull requested that the Board authorize the District to award the bid to Pelle Chevrolet in the amount of \$13,039.00. Mr. Waddey so moved and Mr. Williams seconded the motion. Roll call vote was unanimous in favor of the motion.

b. RESULTS OF BID OPENING READVERTISEMENT (SEPTEMBER 25) - SECTION 3, GENERAL WORK, SECTION 3B HVAC, AND SECTION 3C PLUMBING - PHASE III - MAIN PLANT EXPANSION:

Mr. Mull asked Bill Morris to review Hendon's letter dated October 20, 1987 concerning Sections 3, 3A, 3B and 3C - Phase III Main Plant Expansion with the Board.

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Section 3 General Work: Hendon Engineering Associates, Inc. recommends tentative award of the contract to Republic Contracting Corporation in the amount of \$11,164,000.00 subject to the approval of the North Carolina Department of Natural Resources and Community Development, Division of Environmental Management, and the U.S. Environmental Protection Agency.

Section 3A Electrical Equipment and Wiring: Hendon Engineering Associates, Inc. recommends tentative award of the contract to King Electric Company, Inc. in the amount of \$1,085,000.00 subject to approval of the North Carolina Department of Natural Resources and Community Development, Environmental Management Division, and the U.S. Environmental Protection Agency.

Sections 3B and 3C: Hendon Engineering Associates, Inc. recommends that these sections be readvertised for bids in late Spring 1988.

c. CONSIDERATION OF RESOLUTIONS TO AWARD SECTION 3 GENERAL WORK, AND SECTION 3A ELECTRICAL EQUIPMENT AND WIRING - PHASE III, MAIN PLANT EXPANSION:

Mr. Mull reviewed the bid tabulation with the Board concerning Phase III of the Main Plant Expansion:

Section 3A Electrical Equipment and Wiring: King Electric is the apparent low bidder with a total base bid of \$1,085,000.00. The second low is M.B. Haynes with a total base bid of \$1,640,000.00, and the third bidder is Star Electric with a total base bid of \$1,648,000.00.

Section 3 General: Powell Construction Company submitted a total base bid of \$11,292,000.00. The apparent low bidder, Republic Contracting Corporation submitted a total base bid of \$11,164,000.00 and Crowder Construction Company submitted a total base bid of \$11,992,673.00.

Mr. Mull stated all bids have been reviewed by MSD's General Counsel and found to be in order.

Mr. Waddey moved and Mr. Edwards seconded that the Board adopt the following Resolution: NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF REPUBLIC CONTRACTING CORPORATION AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY APPROVAL AND GRANT AWARD; and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina. Roll call vote carried unanimously in favor of the motion.

Mr. Waddey moved and Mr. Dent seconded that the Board adopt the following Resolution: NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF KING ELECTRIC COMPANY, INC. AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY APPROVAL AND GRANT AWARD; and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina. Roll call vote was unanimous in favor of the motion.

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d. STATUS OF CONTRACT TO RAISE DIKE AROUND SLUDGE LAGOON:

Mr. Mull asked Bill Morris with Hendon Engineering Associates, Inc. to give the status of this project. Bill reported that additional information has been requested by the State, which is being prepared in accordance with the State's request. Bill stated it will probably take approximately 3 weeks for the State's response, but noted that Hendon will be in contact with the State next week to get an updated report.

e. STATUS OF CONTRACT TO INSTALL HYDRO INTAKE SCREEN RAKE:

Mr. Mull reported to the Board that the District has issued the notice to proceed to Acme Engineering Company. The projected completion date for this project is February 29, 1988, subject to receipt of Labor & Materials Bonds and Performance Bonds. These Bonds have been received by the District and reviewed by the MSD General Counsel and found to be in order. Shop drawings have been submitted by Acme Engineering Company and are being reviewed by Hendon Engineering Associates, Inc.

f. STATUS OF BID OPENING READVERTISEMENT (OCTOBER 15) - CARRIER BRIDGE PUMPING STATION MODIFICATIONS:

Mr. Mull asked Bill Morris with Hendon Engineering Associates, Inc. to review the bid opening results with the Board. As reported by Bill Morris, the first bid opening on the Carrier Bridge Pumping Station Modifications was held on September 29, 1987, but the District was unable to open bids as the minimum three bids were not received on either the general or electrical work. The District readvertised and opened two bids on October 15, 1987. The apparent low bidder for Section 1 General Work is Crowder Construction Company with a total base bid of \$567,850.00. The second low bidder is Republic Contracting Corporation with a total base bid of \$848,000.00. These bids have been reviewed by MSD General Counsel and found to be in order. It is the recommendation of Hendon Engineering Associates, Inc. that the bid for Section 1 General Work be awarded to Crowder Construction Company in the amount of \$567,850.00.

Two bids were received on Section 1A Electrical. The apparent low bidder is Brevard Electric with a total base bid of \$42,490.00, and the second low bidder is M. B. Haynes Electric Corporation with a total base bid of \$46,200.00. Hendon Engineering Associates, Inc. would concur with the Board to award the contract for Section 1A Electrical to Brevard Electric Company.

Mr. Williams moved and Mrs. Pope seconded, that the Board adopt the following Resolution: NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF CROWDER CONSTRUCTION COMPANY AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT APPROVAL, and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina. Roll call vote was unanimous in favor of the motion.

Mr. Dent moved and Mr. Aceto seconded, that the Board adopt the following Resolution: NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF BREVARD ELECTRIC COMPANY AND

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AWARD THE CONTRACT TO SAID BIDDER, PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT APPROVAL, and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina. Roll call vote was unanimous in favor of the motion.

h. VIOLATION OF SEWER USE ORDINANCE - GERBER PRODUCTS COMPANY:

Mr. Mull reported last month that the District was out of Compliance at the Wastewater Treatment Plant with BOD and Fecal Coliform in August, 1987. This was traced to a depletion of dissolved oxygen which occurs annually at this time of the year for the past several years since the Plant has reached its design capacity. This has been traced to the processing of peaches and apples at Gerber.

Mr. Mull reviewed a letter written to Gerber Products on September 18, 1987, outlining the violations with respect to BOD, SS and pH, and what needs to be done to correct these violations in accordance with MSD's Sewer Use Ordinance.

A meeting was held with representatives of Gerber on September 18, 1987, and a response was received from Gerber concerning the Notice of Violation on September 23, 1987. Gerber agreed that what was outlined at the meeting with Gerber representatives is a necessity of reducing the BOD and SS concentration and to bring the pH into control. Gerber has retained Consulting Engineers to look into their problem and advise them on what needs to be done to provide pretreatment. Subsequent to the meeting with Gerber, the District met with the State Department of Natural Resources & Community Development regarding the Violation. As a result, Gerber's permit has been modified to incorporate slightly lower BOD numbers than Gerber's prior permit had and the same numbers as far as pH, and discussed this via telephone with them, and advised Gerber that they need to stay within the parameters to avoid another upset at the Treatment Plant. The District has offered to meet with Gerber's Consulting Engineers to review past data with them, and attempt to assist Gerber's Consulting Engineers in evaluating their proposals to the District.

5. REPORT OF OFFICERS:

None.

6. REPORT OF COMMITTEE:

a. SEWER SYSTEM CONSOLIDATION COMMITTEE REPORT:

Mr. Aceto reported that the Sewer System Consolidation Committee met at 1:00 p.m. today, to review the status of negotiations and agreements and documentation which have been prepared by MSD's General Counsel. These draft documents are ready for submission to the municipalities.

Mr. Aceto moved that in accordance with recommendations of the Sewer System Consolidation Committee that MSD General Counsel be directed to write a letter to the Asheville City Manager requesting the City's position on Consolidation within 30 days, and to direct to all Municipalities of the District a letter advising them of the District's readiness to proceed, advising them of the City's position as it is related to the District, and advising them that the District would like the Agreements executed by year-end, with use charges to be initiated by 1 July 1988, and transfer the system 1 July 1989. Mr. Batts seconded the motion and voice vote was unanimous in favor of the motion.

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7. UNFINISHED BUSINESS:

a. CONSIDERATION OF RESOLUTION SUBMITTED TO THE DISTRICT BY SANDRA CHAPIN - BUNCOMBE COUNTY EROSION CONTROL ORDINANCE:

Mr. Mull reported a letter had been received from Sandra Chapin, representing a group called Sediment Control, requesting that the District adopt a resolution requesting that the County Commissioners enforce the County's Erosion Control Ordinance. The Board feels this is out of MSD's jurisdiction.

Mr. Boggs moved that the Board refrain from acting on this matter. Mr. Batts seconded, and voice vote carried unanimously in favor of the motion.

b. CONSIDERATION OF RESOLUTION COMMENDING FRENCH BROAD RIVER FOUNDATION ON THE 1987 RIVERFEST:

Mr. Mull stated the Board asked the General Counsel to prepare a Resolution commending the French Broad River Foundation on the 1987 Riverfest. A letter was received by the District from the French Broad River Foundation dated October 6, 1987 expressing the Foundation's appreciation for MSD's continued commitment and support toward the Riverfest.

Mr. Dent moved that the Board approve the Resolution commending the French Broad River Foundation and those involved with the 1987 Riverfest. Mr. Williams seconded and voice vote was unanimous in favor of the motion.

c. LETTER FROM NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT DATED OCTOBER 2, 1987 REGARDING MINIMUM FLOWS BETWEEN THE DAM AND POWERHOUSE:

Mr. Mull reviewed a letter from the State Department of Natural Resources and Community Development, Division of Water Resources, dated October 2, 1987. Mr. Mull stated the Department of Water Resources is requiring the District to maintain the 7-day 10-year low flow in the river bed outside the flume, whereas our plant discharge goes into the flume. The dilution is required in the flume to protect fish that are in the flume and tailrace. Mr. Mead's letter states that the Division of Water Resources did not intend to give the District the impression that the 460 cfs is based on protecting water quality in the diverted reach of the natural channel. Now the Division of Water Resources is saying that it was recommended to provide aquatic habitat in the natural channel in lieu of a site-specific study. The letter also informs the District that the Division of Water Resources has received the report and additional information from RMC Environmental Services and have begun their review.

Mr. Mull stated that he had written the letter to the State Division of Water Resources, to request that they allow the District to maintain a 7-day 10-year low flow in the flume, and they have not addressed this at all. Mr. Mull said he would follow-up with the Division of Water Resources in response to a reply to his previous letter.

Hendon Engineering Associates, Inc. was awarded the Grand Conceptors Award of the American Consulting Engineers Council of North Carolina, for the Craggy Dam Hydro Project. Chairman Smith commended Hendon Engineering Associates, Inc. for a job well done on behalf of the District Board.

At this time, Chairman Smith appointed a Committee, the purpose of which is to review the methodology used to calculate user charges insofar as it pertains to the division of costs between domestic and industrial users, with the possibility of having a seminar with various industries, if they are interested in so

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doing, to see if the District's method of billing should be changed, or if the District's rate structure should be changed. The Committee will consist of Mr. Edwards, Chairman, Mr. Batts, and Mr. Dent.

8. NEW BUSINESS:

Mr. Mull reported that the Water Pollution Control Federation and American Water Works Association annual meeting will be held November 15 thru 18 at Pinehurst, North Carolina. Mr. Mull encouraged all Board members to attend, and requested that the Board approve attendance of any Board members who wish to attend the annual meeting. Mr. Boggs so moved and Mr. Edwards seconded the motion. Voice vote was unanimous in favor of the motion.

9. DATE OF NEXT REGULAR MEETING - NOVEMBER 10, 1987 (MOVED UP ONE WEEK DUE TO AWWA AND WPCA ANNUAL MEETING NOVEMBER 15-18, 1987)

10. ADJOURNMENT:

There being no further business, the meeting of the District Board was adjourned at 4:00 p.m.



SECRETARY/TREASURER

MSD Metropolitan Sewerage District of Buncombe County, North Carolina.

W. H. Mull, P.E., Engineer-Manager
P. O. Box 8969, Asheville, N.C. 28814
Telephone: Area Code 704-254-9646

John S. Stevens, General Counsel



Frank S. Smith III, Chairman
M. Leon Williams, Vice-Chairman
Steven T. Aceto
Walter T. Batts
Walter J. Boggs
Charles M. Dent
E. Charles Dyson
M. Wayne Edwards
George E. Ivey
Jackie W. Pope
Marvin E. Waddey

I, Jackie W. Pope, Assistant Secretary/Treasurer to the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, do hereby certify that the attached is a true and correct copy of the Resolution to accept the bid of Republic Contracting Corporation and award the contract to said bidder pending and subject to the North Carolina Department of Natural Resources and Community Development and the United States Environmental Protection Agency approval and grant award, adopted by the Metropolitan Sewerage District Board at its regular meeting held October 20, 1987.

WITNESS my hand and seal of said District this 20th day of October, 1987.

Jackie W. Pope, Assistant Secretary/Treasurer
Metropolitan Sewerage District of Buncombe
County, North Carolina

(SEAL)

RESOLUTION

WHEREAS, the Metropolitan Sewerage District of Buncombe County, North Carolina, desires to expand and improve its sewerage system in the interest of the public health; and

WHEREAS, competitive bids have been solicited and three bids received on September 25, 1987, for Project 703, Section 3, General Work, Wastewater Treatment Plant Additions; and

WHEREAS, the following bid has been reviewed by Hendon Engineering Associates, Inc. and found to be responsible:

Republic Contracting Corporation
Post Office Box 9167
Columbia, South Carolina 29290

\$11,164,000.00

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF REPUBLIC CONTRACTING CORPORATION AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY APPROVAL AND GRANT AWARD; and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina.

This Resolution shall be effective upon its adoption.

READ, APPROVED AND ADOPTED THIS 20TH DAY OF OCTOBER, 1987.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

BY: 

Chairman of the Board

BY: 

Secretary

MSD Metropolitan Sewerage District of Buncombe County, North Carolina.

W. H. Mull, P.E., Engineer-Manager
P. O. Box 8969, Asheville, N.C. 28814
Telephone: Area Code 704-254-9646

John S. Stevens, General Counsel



Frank S. Smith III, Chairman
M. Leon Williams, Vice-Chairman
Steven T. Aceto
Walter T. Batts
Walter J. Boggs
Charles M. Dent
E. Charles Dyson
M. Wayne Edwards
George E. Ivey
Jackie W. Pope
Marvin E. Waddey

I, Jackie W. Pope, Assistant Secretary/Treasurer to the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, do hereby certify that the attached is a true and correct copy of the Resolution to accept the bid of King Electric Company, Inc., and award the contract to said bidder pending and subject to the North Carolina Department of Natural Resources and Community Development and the United States Environmental Protection Agency approval and grant award, adopted by the Metropolitan Sewerage District Board at its regular meeting held October 20, 1987.

WITNESS my hand and seal of said District this 20th day of October, 1987.

Jackie W. Pope, Assistant Secretary/Treasurer
Metropolitan Sewerage District of Buncombe
County, North Carolina

(SEAL)

RESOLUTION

WHEREAS, the Metropolitan Sewerage District of Buncombe County, North Carolina, desires to expand and improve its sewerage system in the interest of the public health; and

WHEREAS, competitive bids have been solicited and three bids received on September 3, 1987, for Project 703, Section 3A, Electrical Work, Wastewater Treatment Plant Additions; and

WHEREAS, the following bid has been reviewed by Hendon Engineering Associates, Inc. and found to be responsible:

King Electric Company, Inc.
Post Office Box 3310 CR5
Johnson City, Tennessee 37602

\$1,085,000.00

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF KING ELECTRIC COMPANY, INC. AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY APPROVAL AND GRANT AWARD; and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina.

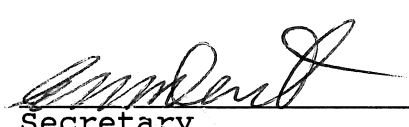
This Resolution shall be effective upon its adoption.

READ, APPROVED AND ADOPTED THIS 20TH DAY OF OCTOBER, 1987.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

BY: 
Chairman of the Board

BY:


Secretary

MSD Metropolitan Sewerage District of Buncombe County, North Carolina.

W. H. Mull, P.E., Engineer-Manager
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Frank S. Smith III, Chairman
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Steven T. Aceto
Walter T. Batts
Walter J. Boggs
Charles M. Dent
E. Charles Dyson
M. Wayne Edwards
George E. Ivey
Jackie W. Pope
Marvin E. Wadley

I, Jackie W. Pope, Assistant Secretary/Treasurer to the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, do hereby certify that the attached is a true and correct copy of the Resolution to accept the bid of Crowder Construction Company and award the contract to said bidder pending and subject to the North Carolina Department of Natural Resources and Community Development approval, adopted by the Metropolitan Sewerage District Board at its regular meeting held October 20, 1987.

WITNESS my hand and seal of said District this 20th day of October, 1987.

Jackie W. Pope, Assistant Secretary/Treasurer
Metropolitan Sewerage District Board of
Buncombe County, North Carolina

(SEAL)

RESOLUTION

WHEREAS, the Metropolitan Sewerage District of Buncombe County, North Carolina, desires to expand and improve its sewerage system in the interest of the public health; and

WHEREAS, competitive bids have been solicited and two bids received on October 15, 1987, for Project 722, Section 1, General Work, Carrier Bridge Pumping Station Expansion; and

WHEREAS, the following bid has been reviewed by Hendon Engineering Associates, Inc. and found to be responsible:

Crowder Construction Company
Post Office Box 30007
Charlotte, North Carolina 28230-0007

\$567,850.00

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF CROWDER CONSTRUCTION COMPANY AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT APPROVAL; and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina.

This Resolution shall be effective upon its adoption.

READ, APPROVED AND ADOPTED THIS 20TH DAY OF OCTOBER, 1987.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

BY: 

Chairman of the Board

BY: 

SECRETARY

MSD Metropolitan Sewerage District of Buncombe County, North Carolina.

W. H. Mull, P.E., Engineer-Manager
P. O. Box 8969, Asheville, N.C. 28814
Telephone: Area Code 704-254-9646

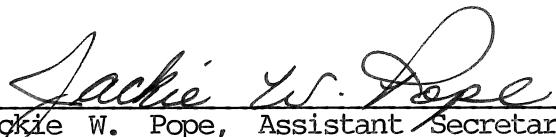
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Charles M. Dent
E. Charles Dyson
M. Wayne Edwards
George E. Ivey
Jackie W. Pope
Marvin E. Wadley

I, Jackie W. Pope, Assistant Secretary/Treasurer to the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, do hereby certify that the attached is a true and correct copy of the Resolution to accept the bid of Brevard Electric Company and award the contract to said bidder pending and subject to the North Carolina Department of Natural Resources and Community Development approval, adopted by the Metropolitan Sewerage District Board at its regular meeting held October 20, 1987.

WITNESS my hand and seal of said District this 20th day of October, 1987.



Jackie W. Pope, Assistant Secretary/Treasurer
Metropolitan Sewerage District Board of
Buncombe County, North Carolina

(SEAL)

RESOLUTION

WHEREAS, the Metropolitan Sewerage District of Buncombe County, North Carolina, desires to expand and improve its sewerage system in the interest of the public health; and

WHEREAS, competitive bids have been solicited and two bids received on October 15, 1987, for Project 722, Section 1A, Electrical Work, Carrier Bridge Pumping Station Expansion; and

WHEREAS, the following bid has been reviewed by Hendon Engineering Associates, Inc. and found to be responsible:

Brevard Electric Company
Post Office Box 1262
35 Rosman Highway
Brevard, North Carolina 28712

\$42,490.00

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, TO ACCEPT THE BID OF BREVARD ELECTRIC COMPANY AND AWARD THE CONTRACT TO SAID BIDDER PENDING AND SUBJECT TO THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT APPROVAL; and

BE IT FINALLY RESOLVED that Mr. W. H. Mull, Engineer-Manager of the Metropolitan Sewerage District of Buncombe County, North Carolina, is authorized to execute all contracts and documents relating to this Project on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina.

This Resolution shall be effective upon its adoption.

READ, APPROVED AND ADOPTED THIS 20TH DAY OF OCTOBER, 1987.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

BY: 
Chairman of the Board

BY: 
SECRETARY

RESOLUTION

WHEREAS, the French Broad River is one of the most valuable resources of Western North Carolina, providing a source of water for domestic, agricultural and industrial uses as well as being an important scenic and recreational resource; and

WHEREAS, the Metropolitan Sewerage District of Buncombe County, North Carolina, is continuing its 20-year successful effort to keep clean the waters of the French Broad River through the activity of its waste treatment facility; and

WHEREAS, the French Broad River Week Task Force, in cooperation with the Land-Of-Sky Regional Council and The French Broad River Foundation, sponsored the 11th Annual French Broad River Week and "Riverfest" on September 5 through September 13, 1987; and

WHEREAS, French Broad River Week and "Riverfest" were highly successful in promoting awareness of the critical importance of the French Broad River to the citizens of this area; Now, therefore, be it resolved:

That the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, extends its sincere congratulations to the co-chairman and members of the French Broad River Week Task Force and to the Land-Of-Sky Regional Council and the French Broad River Foundation for their efforts in conducting a highly important and successful French Broad River Week and "Riverfest."

That copies of this Resolution be distributed to the co-chairman and members of the French Broad River Week Task Force and to the Land-of-Sky Regional Council and French Broad River Foundation.

Duly adopted this 20th day of October, 1987.

METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA

BY: 

Secretary

METROPOLITAN SEWERAGE DISTRICT BOARD

SPECIAL MEETING

October 2, 1987

A special meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration Building at 9:00 a.m. on Friday, October 2, 1987, the purpose of which is to consider a bid protest by Republic Contracting Corporation.

1. CALL TO ORDER AND ROLL CALL:

Vice-Chairman Williams called the meeting to order at 9:25 a.m. with the following members present: Aceto, Batts, Boggs, Dent, and Edwards. Others present were: W. H. Mull, P.E., Engineer-Manager, Walter L. Currie, General Counsel, Bill Morris from Hendon Engineering Associates, Mr. Bill Parrish and Mr. Al Derr with Hi-Ran Systems, Mr. Gary W. Shelton with Republic Contracting Corporation, and Mr. L. Franklin Elmore, Attorney representing Republic Contracting Corporation.

2. PRESENTATION OF BID PROTEST BY REPRESENTATIVES OF REPUBLIC CONTRACTING CORPORATION:

The Bid Protest hearing, which was transcribed by Western Carolina Reporters, Inc., is attached herewith.

The Board entered into Executive Session at approximately 10:05 a.m. The regular meeting was reconvened at approximately 10:30 a.m.

Mr. Aceto moved, based on the evidence presented to the Board at this hearing by Republic Contracting Corporation and on behalf of the Board by its' Counsel, that the Board reject the bid protest of Republic Contracting Corporation. Mr. Dent seconded the motion. Roll call vote was as follows: 5 in favor, 1 abstention, and 0 Nays.

A copy of the DECISION AND ORDER OF THE METROPOLITAN SEWRAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA, UPON THE BID PROTEST OF REPUBLIC CONTRACTING CORPORATION is attached herewith and made a part of these minutes.

3. ADJOURNMENT:

Vice-Chairman Williams adjourned the meeting at 11:15 a.m.



 SECRETARY/TREASURER

DECISION AND ORDER OF THE METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA, UPON THE BID PROTEST
OF REPUBLIC CONTRACTING CORPORATION

A hearing was held before the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, (referred to as MSD in this decision) on October 2, 1987, at 9:00 a.m. at the Administrative Offices of MSD with regard to the bid protest of Republic Contracting Corporation (referred to as Republic in this decision) dated September 23, 1987, and filed with MSD on September 23, 1987. Republic's protest is with regard to action taken by MSD at its regular meeting on September 15, 1987, rejecting all bids for Section 3, General Work, for Project No. 703, Section 3, Additions to Wastewater Treatment Plant (referred to as the Project in this decision). Present at the hearing were a quorum of the MSD Board, Mr. William H. Mull, Engineer-Manager of MSD, Mr. William Morris of Hendon Engineering Associates, engineering consultants to MSD, Mr. Walter L. Currie, Attorney for MSD, Mr. L. Franklin Elmore, attorney for Republic, a representative of Republic, Ms. L. Shayne Spearman, notary public and professional court reporter, and members of the general public.

MSD and Republic stipulated to the facts set forth later in this decision, MSD and Republic offered documentary evidence to the MSD Board, and counsel for MSD and Republic made oral arguments to the Board. The Board has considered the protest, the stipulated facts, the documentary evidence, the statements of counsel, and the law applicable to the protest, and finds the following facts:

1. MSD duly advertised an invitation to bid on the Project.
2. On August 18, 1987, the date for receipt and opening of bids on the Project, bids were received, opened, and read aloud as follows:

Powell Construction Company, Inc.-
\$11,355,000.00.

Republic Contracting Corporation-
\$11,707,000.00.

Crowder Construction Company-
\$11,894,000.00.

The bid of Republic Contracting Corporation was \$352,000.00 higher than the bid of Powell Construction Company, Inc.

3. The bids were reviewed by Hendon Engineering Associates and counsel for MSD.

4. The MSD Board held its regular meeting on September 15, 1987, and at that meeting all bids for the project were recorded in the minutes of the meeting. At the meeting, counsel for MSD advised the MSD Board that the bid bond of Powell Construction Company, Inc. did not comply with the requirements of North Carolina law, that North Carolina law required three competitive bids before the MSD Board could award the contract for the project, and that North Carolina law required that no bid should be considered or accepted unless it was accompanied at the time of its filing by a bid bond in lieu of the minimum five percent bid security required by North Carolina law.

5. The invitation for bids published by MSD reserved to MSD the right to reject any or all bids as required by North Carolina law.

6. The bid bonds of Republic Contracting Corporation and Crowder Construction Company complied with North Carolina law.

7. The MSD Board rejected all bids for Section 3, General Work, for the Project at its meeting on September 15, 1987, and authorized readvertisement of an invitation for bids for that portion of the Project.

8. Republic, Powell Construction Company, Inc., and Crowder Construction Company were notified in writing that their bids had been rejected and Republic received its notice on September 16, 1987.

9. MSD published an invitation for bids for Section 3, General Work, for the Project in The Asheville Citizen and The Asheville Times, newspapers of general circulation in Buncombe County, North Carolina, on September 17, 1987. The invitation advised prospective bidders that bids would be received until 2:00 P.M. local time on September 25, 1987, at which time and place all bids would be publicly opened and read aloud.

10. Republic filed a protest of the action taken by MSD at its September 15, 1987 meeting on September 23, 1987.

11. On September 25, 1987, at 2:00 P.M. MSD received a second group of bids for the general work of the Project, which bids were received, opened, and read aloud, and Republic submitted a bid in the amount of \$11,164,000.00. No action has been taken upon such second group of bids, including the bid of Republic

Contracting Corporation, as of the date of this decision.

BASED ON THE FOREGOING FINDINGS OF FACT, THE BOARD CONCLUDES AS FOLLOWS:

1. MSD possessed sound business reasons, including, but not limited to, the fact that the bid of Republic was \$352,000.00 higher than the bid of Powell Construction Company, Inc., in rejecting all bids for the general work of the project at the meeting of MSD held on September 15, 1987.

2. North Carolina General Statute Section 143-132 provides that no contract to which North Carolina General Statute 143-129 applies for construction shall be awarded unless at least three competitive bids have been received. North Carolina General Statute Section 143-129 provides that no proposal for construction requiring the estimated expenditure of public money in an amount equal to or more than \$50,000.00 shall be considered or accepted unless at the time of its filing it is accompanied by a deposit of not less than five percent of the proposal in cash, cashier's check, or certified check, or in lieu of cash deposit, a bid bond in the same amount. The bid bond of Powell Construction Company, Inc. did not comply with the requirements of North Carolina General Statute Section 143-129 and a bid bond complying with that Statute was essential as a pre-requisite to consideration or acceptance of the bid of Powell Construction Company, Inc. The bid of Powell Construction Company, Inc. was not a competitive bid because the bid as submitted could not be considered or accepted by MSD and did not conform to state law or the contract documents for the Project.

3. The invitation for bids for the general work of the Project which were received on August 18, 1987, reserved the right to MSD to reject any or all bids, as required by North Carolina General Statute Section 143-129.

4. The bid of Republic submitted on September 15, 1987, in response to the second advertisement for the general work for the Project constitutes a waiver of Republic's protest.

5. The rejection of bids and the rejection of this protest does not prejudice or exclude out of state bids.

Based upon the above findings and conclusions, it is the decision and order of the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, that the bid protest of Republic Contracting Corporation filed on September 23, 1987, is without merit and is rejected.

Date: October 2, 1987

METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA

BY:

M. Leon Williams
M. Leon Williams, Vice Chairman