



TO: Mayor
Members of the City Council

FROM: Stefanie Stalheim, City Attorney

DATE: February 20, 2024

**SUBJECT: Contract Attorney, Storm Sewer District 121
Swanson & Warcup, Ltd.**

I. RECOMMENDED ACTION

Approve contract with Swanson & Warcup, Ltd. for eminent domain legal services related to completion of Storm Sewer District 121, and authorize the Mayor to sign the attached contract.

II. DEPARTMENT CONTACT PERSONS

Lance Meyer, City Engineer
Stefanie Stalheim, City Attorney

III. DESCRIPTION

A. Background

Storm Sewer District 121 follows Puppy Dog Coulee, located generally in the area of 16th Street SW and 10th Street SW, through and around the Dakota Square Mall. The project is aimed to improve flooding conditions on 16th street and through the mall area during 10-year storm events, and neighborhood flooding for several homes and businesses impacted on 25-year storm events and larger. The improvements will replace some 40+ year old storm sewer pipes that are aging and at risk of collapse, which in turn will increase transportation access since 16th street is a primary north/south arterial to SW Minot and a primary emergency route to Trinity Hospital.

B. Proposed Project

The project for the most part is moving along smoothly. The City and its engineers are in the process of securing temporary and permanent easements for the project. Most property owners understand the need for the infrastructure improvements and negotiate freely with the City, but one property owner has secured counsel and has remitted a demand to the City for over a million dollars in exchange for the necessary easements.

C. Consultant Selection

Swanson & Warcup has assisted the City with property acquisitions for flood control for the past decade. They are familiar with the City and its policies and procedures in relation to property acquisitions; have successfully represented the City in property acquisitions, inverse condemnation proceedings, and eminent domain proceedings; and are willing to assist with property acquisitions for this Project at their regular City of Minot rate.

IV. IMPACT:

A. Strategic Impact:

Retaining Swanson & Warcup to assist with these proceedings will hopefully help the City continue to advance the Storm Sewer District 121 project at a reasonable pace.

B. Service/Delivery Impact:

See paragraph A

C. Fiscal Impact:

The City has budgeted funding for this project through the use of ARPA funds and City Storm Sewer Development funding. Attorney fees will be paid from City Storm Sewer Development Funding.

Project Costs

Attorney	\$290/hr.
Paralegal	\$200/hr.
Research Assistant	\$135/hr.
Clerical Service	\$125/hr.

Project Funding

Storm Sewer Development Fund

V. CITY COUNCIL ASPIRATIONS

Approving this item aligns with the City Council's 'resilient and prepared' aspiration.

VI. ALTERNATIVES

- A. The City Council could decline to approve this item, which would result in the City Attorney Office staff handling this matter and any litigation stemming therefrom – which would delay other matters delegated to our office;
- B. The City Council could direct the City Attorney's Office contact other law offices for additional quotes for services;
- C. The City Council could direct the City Attorney's Office to draft and advertise a Request for Qualifications seeking proposals from law offices interested in providing these services to the City.

VII. TIME CONSTRAINTS

Timely approval will allow Swanson & Warcup to begin reviewing the file and commencing engagement with appropriate property owners to keep the project moving forward. Delay in approval will result in delays in a response and potential delay of the project.

VIII. LIST OF ATTACHMENTS

- A. Contract for Legal Services 021324