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DEBBIE A. REUTER

August 10th, 2022

Lynn Jackson Attorneys
Attn: Kraig L. Kronaizl
110 N. Minnesota Ave., Suite 400
Sioux Falls, SD 57104

RE: Elliot Construction, Inc. & Lake Madison Sanitary District

Dear Mr. Kronaizl:

I am the attorney that has been retained to provide legal services to the Lake Madison Sanitary District. Please direct all future written correspondence to my office.

The Board of the District is in receipt of the written correspondence from ECI which was sent on or about June 7th, 2022 and it is my understanding that the Board's decision regarding that letter has been communicated to agents of ECI by Scott Johnson, employee for the Lake Madison Sanitary District.


Regarding the "arrangement" which was worked out between the ECI, through its president Keith Toczek, and myself, as the attorney for Lake Madison Sanitary District, I believe you have been misinformed or, at the very least, that situation has been mischaracterized. I have included with this letter a copy of my last correspondence sent to Mr. Toczek which fully provides in substance this "agreement". As you will see from the letter sent to Mr. Toczek dated September 27th, 2021 the Board provided a response to Mr. Toczek's demands and laid out how the District would be handling the situation but certainly made no agreement with Mr. Toczek nor did the District admit any fault or liability and in fact explicitly denied the same.

Regarding the additional claims for damages which have arisen in the last year and provided to the Board for review, it is my understanding that these situations are

completely different than the situations previously addressed as these were done at completely different times as well as the fact that these were clearly marked. In fact, Scott Johnson has pictures showing that the proper markings were done prior to excavation by your client. Given that the proper markings were provided, there would be no liability on the part of the District for damages caused by the excavator or negligent workmanship or defective products and materials used. Given that this is a wholly different situation, to which the district is clearly not liable and fully complied with 811 One Call and South Dakota State Law the Board has decided that the District will not be providing any funds for the damages caused by your client. Given that no agreement has been reached and that there are no terms in which the District is not honoring, no actions of the District, nor the Board for the District, would constitute a fraud as it pertains to the matters discussed herein.

Sincerely,

LAMMERS, KLEIBACKER,
DAWSON & MILLER, LLP

By 

Cody J. Miller

CJM/sm

Enc.