

MINUTES OF MEETING OF THE BOARD OF COMMISSIONERS
of
JERICHO WATER DISTRICT

held at the office of the District in Syosset, Nassau County, New York, on the 1st day of November 2023, at 8:30 A.M.

Present:	Commissioners	Thomas A. Abbate James Asmus Patricia Beckerle
	Attorneys	Michael F. Ingham Gregory W. Carman Jr.
	Superintendent	Peter F. Logan
	Business Manager	Kathleen Cannon
	Asst. Business Manager	Amanda Blum
	Engineer	William D. Merklin

Commissioner Abbate called the meeting to order at 8:30 a.m.

Minutes of the previous meeting(s) were read and approved unanimously.

Monthly report of Engineer was read and ordered filed.

1. Well 20 & 21 AOP Treatment:
 - a. Construction Accident: Waiting for OSHA report regarding the accident on site. D&B has sent drawings for structural enhancements to PRI to address masonry cracking caused by falling trusses.
 - b. Construction related to site work, AOP, Well 21 and GAC buildings is ongoing.
 - c. Electrical equipment delivery date is currently scheduled for February 2024 which will result in a best-case substantial completion on May 1, 2024. The existing facility will remain operational until the new treatment is approved for operation.
2. Well 22 Facility Improvements & AOP Treatment: Waiting for NCDOH and NYSDOH approvals. Hazardous material abatement is complete. Building demolition was completed this week. Substantial completion date is September 24, 2024. This site is out of service until the new facility is complete.
3. Kirby Lane AOP: Trojan is completing the initial commissioning work this week. Initial testing and sampling will be scheduled in the next two weeks. The goal is to be substantially complete in March 2024. The initial proposal for a diffusion well to address on-site blowoff drainage issues is higher than expected. D&B

received a separate proposal from the Mechanical Contractor, which is currently being reviewed.

4. Southwoods Road - New Well and Treatment Facility:
 - a. Well Construction Contract: Layne repaired the top portion of the upper casing which was out of alignment. Layne performed the plumbness and alignment test. D&B is reviewing the results. D&B and JWD will be meeting with Layne on November 2nd to discuss the outstanding items.
 - b. Treatment Facility Contracts: D&B has addressed comments from NCDOH; approval is expected shortly. Large diameter piping and conduit installation underway. Masonry work to start in the coming weeks. Large equipment deliveries scheduled for January.
5. PTAS at the Wheatley Rd. Site (Well 6 & 16): D&B met with Contractor and MCC vendor. They have indicated that the equipment will be delivered in May. This is problematic considering that the facility is currently operating on temporary electrical equipment. Contractors are addressing punch list items and additional work requested by JWD.
6. Split Rock Tank Booster Station: The Contractor has indicated that the revised shipping date for the booster station is February 19, 2024.
7. Syosset Tank Replacement: Landmark is performing punch list activities. Convent Rd. patch to be redone because valves were covered. Demolition of the existing tank is underway. Will be switching some of the site restoration work from the Construction contract to the demolition contract which will be a future change modification.
8. Pump Rehabilitation Projects:
 - Well 18: D&B has requested a delivery date from the Contractor.
 - Well 19: D&B has requested an installation date from the Contractor.
 - Well 26: The initial pump test has been completed. D&B is reviewing and will update the design, if needed.
 - Well 30: Pump design has been finalized with the Contractor. D&B has requested a shop drawing submittal.
9. Convent Road Facility Architectural Improvements: A 90 percent draft has been submitted to JWD. Estimated bid date will be January 5, 2024.
10. Water Service Gooseneck Replacement: D&B is preparing updated public outreach documents to address NCDOH's verbal comments.
11. Water Main Improvements:

- LIE Service Road Connection: Working with property owner regarding water main location and easement. Design work will commence upon location approval by the property owner.
- National Grid Water Main Relocation: Work will commence upon completion of a developer's agreement and receipt of payment from National Grid.

12. Main Plant SCADA Improvements: Contract close out underway. The last SCADA training with staff will be concluded today.

13. Transfer Switch Replacements: A punch list has been prepared and contract close out is underway.

14. Juneau Pump Station Improvements: MCC is scheduled for delivery and installation in January 2024. Security work is not in the contract documents and will be presented to the Commissioners as a change modification at a future meeting.

15. Wheatley Tank Altitude Valves: Mechanical work will be completed this week. Evaluating options to address SCADA connections with the temporary equipment installed at the PTAS. Will be completed by Spring 2024.

16. Grant Opportunities:

- a. Waiting for announcement on BIL funding for Lead Service Line Replacement (LSLRP)
- b. Waiting for responses on WIIA applications.

17. Wheatley Tank Anniversary Inspection: Contractor is pressure washing interior to allow better access for inspection work.

18. Requirements Contracts:

- a. Bids were received for the following requirements contract on October 20th:
 - i. GAC Vessel Pre-purchasing – Recommendation of Award
 - ii. Instrumentation and Controls – Recommendation of Award
 - iii. PBS/CBS Compliance – Recommendation of Award
 - iv. Hydrogen Peroxide Purchasing – D&B is evaluating bid results
- b. GAC Media Purchasing: D&B is preparing an updated draft.
- c. SCADA Managed Services will be negotiated as a professional service.

Mr. Merklin then presented to the Commissioners a letter from Anthony Eagan of D&B Engineers and Architects D.P.C. stating that he had reviewed the three (3) bid proposals received on October 20th, 2023 for Contract No. G1-24 Requirements Contract

for Chemical Bulk Storage & Petroleum Bulk Storage Tank Alarm Maintenance and Repairs. Eagle Control Corp was the low bidder for the contract with a total bid price of \$73,440.00. Each bidder was evaluated, Metro Environmental & Aventura Construction Corp.'s bids were adjusted but adjustments did not change whether or not either bidder was the low bidder and did not change bid results. Based on his findings of the contractor's past and present performance, and his review of the bid proposal, Mr. Eagan recommended the Commissioners award Contract No. G1-24 to Eagle Control Corp. of Yaphank, New York as the lowest bid price in the estimated amount of \$73,440.00 with an option to renew for two (2) additional years at a 3% increase per year (1/1/2025 - 12/31/2025 and 1/1/2026 - 12/31/2026). (The actual contract value will vary depending on the quantity of work orders performed during the contract duration and the actual quantity of each unit price item incurred during the performance of work.) After discussion, and upon motion duly made and seconded, it was

RESOLVED that Contract No. G1-24 Requirements Contract for Chemical Bulk Storage & Petroleum Bulk Storage Tank Alarm Maintenance and Repairs be awarded to Eagle Control Corp. of 23 Old Dock Road, Yaphank, New York, as the lowest responsible bidder with a bid that conforms with the bid specifications of the District.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Mr. Merklin then presented to the Commissioners a letter from Anthony Eagan of D&B Engineers and Architects D.P.C. stating that he had reviewed the two (2) bid proposals received on October 20th, 2023 for Contract No. G2-24 Requirements Contract for the Maintenance of Instrumentation and Controls. Lexington Technologies was the low bidder for the contract with a total bid price of \$114,368.00. Based on his findings of the contractor's past and present performance, and his review of the bid proposal, Mr. Eagan recommended the Commissioners award Contract No. G2-24 to Lexington Technologies, Inc. of Farmingdale, New York as the lowest bid price in the estimated amount of \$114,368.00 with an option to renew for two (2) additional years at a 1.5% increase per year (1/1/2025 - 12/31/2025 and 1/1/2026 - 12/31/2026). (The actual contract value will vary depending on the quantity of work orders performed during the contract duration and the actual quantity of each unit price item incurred during the performance of work.) After discussion, and upon motion duly made and seconded, it was

RESOLVED that Contract No. G2-24 Requirements Contract for the Maintenance of Instrumentation and Controls be awarded to Lexington Technologies of 99 Rome Street, Farmingdale, New York, as the lowest responsible bidder with a bid that conforms with the bid specifications of the District.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
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Commissioner Abbate AYE
 Commissioner Asmus AYE
 Commissioner Beckerle AYE

Mr. Merklin then presented to the Commissioners a letter from Anthony Eagan of D&B Engineers and Architects D.P.C. stating that he had reviewed the two (2) bid proposals received on October 20th, 2023 for Contract No. C1-24 Requirements Contract for the Purchase of Granular Activated Carbon Absorption Systems. Calgon Carbon Corporation was the low bidder for the contract with a total bid price of \$486,255.00. Each bidder was evaluated, Calgon Carbon Corporation's bid was adjusted but adjustments did not change whether or not either bidder was the low bidder. Based on his findings of the contractor's past and present performance, and his review of the bid proposal, Mr. Eagan recommended the Commissioners award Contract No. C1-24 to Newterra Corporation, Inc. as the lowest bid price in the estimated amount of \$486,255.00 with an option to renew for two (2) additional years at a 5% increase per year (1/1/2025 - 12/31/2025 and 1/1/2026 - 12/31/2026). (The actual contract value will vary depending on equipment quantities actually purchased in the contract period.) After discussion, and upon motion duly made and seconded, it was

RESOLVED that Contract No. C1-24 Requirements Contract for the Purchase of Granular Activated Carbon Absorption Systems be awarded to Newterra Corporation, Inc. of 1555 Coraopolis Heights Rd., Coraopolis, Pennsylvania as the lowest responsible bidder with a bid that conforms with the bid specifications of the District.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
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Commissioner Abbate AYE
 Commissioner Asmus AYE
 Commissioner Beckerle AYE

19. PFAS Treatment at Wells 18, 19 & 29: A draft BODR will be submitted in the first half of this month.

20. Jericho Tank Rehabilitation: A 60 percent draft will be submitted in late November.

21. Evaluation of System Capacities: D&B is working with JWD to develop a detailed scope of work.

22. Election Database: Work will commence upon receipt of the updated database from Nassau County, which is expected on November 20th.

23. GIS Improvements: D&B is meeting with JWD to develop a scope of work and proposal for enhancements to the GIS database.

24. Wheatley Grading and Paving: D&B is preparing a proposal for design of final grading and paving of the site.

Status of Proposed Development Projects – Engineers Report

1. Engineers Country Club: D&B has started the additional evaluation work.
2. Country Club Developers: Contract documents are being updated for completion by November 17th. A bid date will be set.

Mr. Logan then requested that a bid date be set for Contract No. I1-23 Water Main Improvements for Country Club Developers. After discussion, the Commissioners set a bid date for Friday, November 17th, 2023 at 9:00AM.

3. Cove Edge Road Property Owners: D&B will commence work upon receipt of payment from the HOA.
4. Jericho Plaza Hotel: JWD has sent the letter of water availability.
5. Tam O'Shanter Development: JWD sent a conditional letter of water availability.
6. Marriott at Milleridge Inn Water Main: No action required.
7. Farnum Subdivision: JWD has sent a letter of water availability. Design of water mains and loop connections will be discussed as part of the developer's agreement.
8. Laurel Hollow Service Area Extension: No new activity since the last report.
9. Silver Path Estates Request for Water Availability: No new activity since the last report.
10. Aveley Residential Development: No new activity since the last report.

The Board went into Executive Session at 8:58 a.m. to discuss pending litigation matters and reentered at 9:20 a.m. with the following actions taken: District's counsel presented two Resolutions for the Board's consideration as follows:

Resolution to Approve Settlement with Merrick Utility Associates Inc.

WHEREAS, the District awarded Contract No. C4-17 for the directional drilling of raw water main between Plants 14 and 9 to Merrick Utility Associates Inc. ("Merrick") on or about July 1, 2017; and

WHEREAS, the subcontractor encountered subterranean boulders on or about October 20, 2017; and

WHEREAS, the Project encountered further delays until December 7, 2017 when, after a meeting at the District's Headquarters, a new bore path for the subcontractor was resolved; and

WHEREAS, because of inclement weather the subcontractor did not return to the job site until on or about April 15, 2018; and

WHEREAS, the raw watermain was approved by the Nassau County Department of Health on or about August 15, 2018; and

WHEREAS, the Project was ultimately finalized by Merrick on or about November 13, 2023; and

WHEREAS, disputes arose between Merrick and the District regarding delay damages and extra work; and

WHEREAS, the District countered with substantial Liquidated Damages for delay; and

WHEREAS, Merrick commenced suit against the District in Nassau County Supreme Court on or about December 18, 2018; and

WHEREAS, pretrial proceedings and document discovery ensued entailing over a dozen depositions; and

WHEREAS, the District duly filed a motion for Summary Judgment premised upon Liquidated Damages and the failure of Merrick and its subcontractor to secure a requisite "Liquidating Agreement" between themselves; and

WHEREAS, Supreme Court Judge Driscoll denied the District's request for Summary Judgment; and

WHEREAS, the District filed a Motion in Limine seeking to preclude Merrick from offering its subcontractor's claim without first establishing the requisite evidentiary foundation of a valid Liquidating Agreement ; and

WHEREAS, Merrick's counsel responded by producing a new valid Liquidating Agreement on the eve of trial; and

WHEREAS, Judge Driscoll allowed the submission of this new document wholly unsupported by prior case law which unfortunately would entail a lengthy appeal; and

WHEREAS, the Parties appeared for a pretrial settlement conference before Judge Driscoll on Monday, September 25, 2023 wherein Merrick substantially reduced its original demand for damages; and

WHEREAS, the District's counsel prepared a detailed Settlement Memorandum on September 27, 2023; and

WHEREAS, subsequent telephone discussions between the District's trial counsel James Carman and Merrick's counsel, Merrick further reduced their demand for damages; and

WHEREAS, at the Board's regular meeting of October 4, 2023, the District authorized a settlement of all Merrick's claims in the total sum of \$975,402.50 comprised of the balance of the Contract price at \$625,402.50 and additional contract work in the amount of \$350,000; and

WHEREAS, said Settlement Offer was contingent upon Merrick providing to the District all documents requisite to a standard project close out; and

WHEREAS, said close out documents were provided to the District on or about October 30, 2023; and

WHEREAS, District's counsel reported that all settlement documents had been properly executed by Merrick including appropriate releases to the District and a Stipulation discontinuing Merrick's action with prejudice; and

WHEREAS, the parties attorneys are holding said documents in Escrow until the settlement payment is received by Merrick:

NOW THEREFORE, in recognition of the above recitals, it is

UNANIMOUSLY RESOLVED as follows:

FIRST, the Business Manager is directed to prepare the Town of Oyster Bay claim form for presentation to the Board of Commissioners;

SECOND, once executed by the Board, the claim shall be submitted to the Town with instructions to remit the check to the District for photocopying;

THIRD, once the settlement check is received by the Business Manager, she will notify Merrick of its availability;

FOURTH, once the settlement check is received by Merrick, counsel will release the documents from Escrow and District's counsel will file the Stipulation of Discontinuance with prejudice with the Court.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Resolution to Participate in the Class Action Settlement reached through the AFFF MDL with Defendant 3M Company and Class Action Settlement reached through the AFFF MDL with Defendant(s) E.I. DuPont de Nemours and Company, The Chemours Company, Corteva, Inc., and DuPont de Nemours, Inc

WHEREAS, in August 2020 the New York State Department of Health formally adopted new Maximum Contaminant Levels (“MCLs”) for per- and polyfluoroalkyl substances (“PFAS”) at 10 parts per trillion; and

WHEREAS the Jericho Water District (“District”) is now required to install treatment equipment on impacted water wells to remediate the PFAS in its raw water to achieve compliance with these MCL regulations; and

WHEREAS the District filed suit on May 25, 2023 against 3M Company (“3M”) and E.I. DuPont de Nemours and Company, The Chemours Company, Corteva, Inc., and DuPont de Nemours, Inc. (“DuPont”) arising out of contamination of its water sources with PFAS substances (“PFAS Litigation”); and

WHEREAS on August 22, 2023, the AFFF MDL Court preliminarily approved a settlement class for claims against Defendants DuPont for certain water providers throughout the country, of which, the District is a qualifying class member;

WHEREAS on August 29, 2023, the Court in the Aqueous Film-Forming Foam Multidistrict Litigation No. 2873 (“AFFF MDL”) preliminarily approved a settlement class for claims against Defendant 3M for certain water providers throughout the country, of which, the District is a qualifying class member; and

WHEREAS, the District has undertaken, with its counsel and its outside litigation counsel (Sher Edling), projections of an estimated recovery for the District from both the 3M and DuPont settlements and such estimates are based upon a number of variable factors which cannot be fully ascertained until all class action claims are submitted to the Class Action Administrator; and

WHEREAS, the District has been informed of and has assessed the potential risks, benefits, pros, and cons of continued litigation and of participating in the settlements; and

WHEREAS, the Board of Commissioners duly acknowledges that it has reviewed, with its counsel and outside counsel, the proposed class action settlements and has diligently evaluated the provisions and potential risks and benefits of participation in the settlement; and

WHEREAS, on October 25, 2023, Sher Edling attended an Executive Session with the Board to review the proposed settlements and address all relevant questions;

Now therefore, be it RESOLVED that the District elects to participate in the class action settlement reached through the AFFF MDL with Defendant 3M Company; and be it

FURTHER RESOLVED that the Authority elects to participate in the action settlement reached through the AFFF MDL with Defendants E.I. DuPont de Nemours and Company, The Chemours Company, Corteva, Inc., and DuPont de Nemours, Inc.; and be it

FURTHER RESOLVED, that the District authorizes its outside litigation counsel, Sher Edling LLP, to take all action necessary to effectuate the District's participation and receipt of funds from the settlements, including but not limited to, working with the District to confirm and gather additional information that may be needed through the claims process, completion of claim forms on behalf of the District, communicating with Class Counsel,

Defendants, and/or the Claims Administrator and Special Master, and all other necessary communication, evaluation, and action through the settlement process.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Mr. Logan reported that all analysis of wells and bacteriological sampling for the period October 18, 2023 to October 31, 2023 had been completed and all were within state and federal standards.

Mr. Logan then presented to the Commissioners Contract Modification No. 4 from WEB Construction Corp for Contract No. C4-22 AOP at Merry Lane – General Construction for additional material for two (2) 208-volt electric unit heaters for the chemical room in the not to exceed amount of \$3,864.00. After discussion, and upon motion duly made and seconded, it was

RESOLVED that the Commissioners approved Contract Modification No.4 from WEB Construction Corp. for Contract No. C4-22 AOP at Merry Lane – General Construction in the amount of \$3,864.00 to be charged to the general allowance line in the contract.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Mr. Logan then informed the Commissioners that he had reviewed the seven (7) bid proposals received on October 20th, 2023 for Contract No. G10-22 Roof Repair at District Headquarters. Long Island Roofing was the low bidder for the contract with a total bid price of \$39,500.00. Based on his findings of the contractor's past and present performance, and his review of the bid proposal, Mr. Logan recommended the Commissioners award Contract No. G10-22 to Long Island Roofing of Bellmore, New York in the amount of \$39,500.00. After discussion, and upon motion duly made and seconded, it was

RESOLVED that Contract No. G10-22 Roof Repair at District Headquarters be awarded to Long Island Roofing, Inc. of 2490 Charles Court, Bellmore, New York as the lowest responsible bidder with a bid that conforms with the bid specifications of the District in the bid amount of \$39,500.00 to be charged to H-8397-848-2102 Roof Repairs at District Headquarters. It was

FURTHER RESOLVED, that the Commissioners approve a budget transfer in the amount of \$10,000.00 from H-8397-888-2102 Well No. 14 PH Interior (excess from transfer from Operating) to H-8397-848-2102 Roof Repairs at District Headquarters.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Mr. Logan then discussed with the Commissioners a request from Jeffrey Alessio of Alessio Pipe and Construction for Contract No. C3-21 Water Service Gooseneck Replacement to return the performance and payment bond as well as a letter from the District stating the project was cancelled with no work performed. After discussion, the Commissioners authorized Mr. Logan to submit the letter and return the performance and payment bond to the insurance company.

Miss Cannon then presented and reviewed with the Commissioners a Cash Balance/Cash Deposit report as of October 30, 2023. After discussion, the report was ordered filed.

Miss Cannon then presented and reviewed with the Commissioners a Purchase Order by Expense Account Report listing all purchase orders issued between October 17, 2023 and October 30, 2023. After discussion, the report was ordered filed.

Miss Cannon reported that the CPI-U for the Northeast Region was up 3% from a year ago in September 2023. This metric will be used to calculate employee salaries for January 1, 2024 as per the employee contract.

Miss Cannon then requested authorization for Ms. Blum to participate in a NYS GFOA on-demand online seminar for Advanced Internal Controls (GFI) in the amount of \$170.00. After discussion, the Commissioners authorized Ms. Blum to take the class.

Miss Cannon then presented to the Commissioners a calculation of the accrual payout for Joseph Boccafola who retired retroactively from the District on September 30, 2022 in the amount of \$129.40. Miss Cannon reported that Mr. Boccafola will be paid on November 10th, 2023. After discussion, and upon motion duly made and seconded, it was

RESOLVED, that the Commissioners authorize the accrual payout in the amount of \$129.40 be made to Joseph Boccafola on the pay date of November 10th, 2023.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			

Commissioner Beckerle

AYE

Miss Cannon then reported to the Commissioners that the District amended their 2023/2024 Tax Roll to include two additional parcels that were coded as part of a PILOT program in the amount of \$2,520.81. Per Nassau County these parcels could not be added to the tax roll without first contacting them to receive payment. The property owners were contacted several times with no payment received by the District. The total unpaid balances as of May 31, 2023 reported to the Nassau County Department of Assessment after this change was \$368,625.20 for the inclusion in the 2023/2024 Tax Roll. The Town of Oyster Bay was notified.


Miss Cannon then informed the Commissioners that the District had removed a parcel (Account No. 21151268-0), 162 Hegemans La, Old Brookville in the amount of \$2,050.64 as per Nassau County due to the inability to lien the parcel. The District has an irrigation agreement with Hegemans Lane LLC however, the balance due exceeded the \$1,500.00 deposit on file in the agreement. Since this service was an irrigation only service, the District shut off the service until payment is received. Miss Cannon stated that the District has a balance of \$13,113.32 in the developer's installation fund deposit for this developer and inquired if the unpaid water bill could be deducted from this account. Mr. Ingham confirmed that it could. Mr. Logan will verify that the water main project is complete. In addition, Mr. Ingham will draft a new sprinkler agreement to increase the amount on deposit if future bills go unpaid.

Mr. Logan then provided the Commissioners with an update on the Merry Lane AOP project with H2M. Mr. Logan informed the Commissioners that the project is moving along, and the new facility should be up and running by the end of this year.

Pending agenda items list was read and filed.

The following claims were then audited and approved for payment: General Fund #27897 to #27929 and Construction Fund #2691 to #2693.

There being no further business, the meeting was, upon motion duly made and seconded and adjourned.


Secretary