

EXECUTIVE COMMITTEE MEETING

9:30 A.M., Thursday, August 24, 2023

**Meeting Minutes**

**1) Open Meeting**

Voting Members in Attendance: Richard Williams, Sr. (Town of Patterson) for himself, and for Warren Lucas (Town of North Salem), and Tony Goncalves (Town of Lewisboro); JoAnne Daley as alternate for James Schmitt (Town of Pawling); Robert Scorrano (Town of Somers); Michael Cazzari (Town of Carmel)

Others in Attendance: Christine Chale (Corporate Counsel); Cassandra Britton (Corporate Counsel); Millie Magraw (Westchester County); Janet Anderson (Three Lakes) (NYCDEP); Keith Giguere (EOHWC); Cory Lapidus (EOHWC); Linda Matera (EOHWC)

**2) Approve Meeting Minutes of July 20, 2023**

Motion by Alternate Daley, seconded by Director Cazzari to approve the Executive Committee meeting minutes of July 20, 2023; all in favor.

**3) Financial Update**

Keith Giguere reported that there is \$13.8 million in total cash of which \$9.9 million is FAD money leaving only \$3.8 million to run the Corporation. \$90,000 of interest has been realized on an investment that matured last month. It has been renewed at a rate over 5%.

**4) Project Update**

Cory Lapidus presented the project update in Kevin Fitzpatrick's absence. Cory reported that there is not much going on other than that we are waiting for projects to wrap up with design. We are planning to go to construction bid on about 10 projects by the end of this year and into spring of 2024. We recently finished construction required for the catch basin inserts at Walter Panas High School (C-NC-1000) and are now waiting to get the catch basins manufactured and will try to get them in during the next extended school break. We will be doing the plantings for the Courtmel Road project in New Castle (NewC-NCR-801) and that project should be wrapped up in the next month or two. We will be awarding the construction for the John Simpson Road project (PC-MB-1000) at today's meeting.

**5) Lead Agency Declaration/Kent-MB-1000**

Cory explained that we are declaring ourselves lead agency on the Longfellow Road project in the Town of Kent for approximately 78.5 kilograms of phosphorus reduction. We will be installing filtration units, channel stabilization, large swales, and collecting all of the municipal discharge treating it before it gets into the Middle Branch Reservoir nearby. We are declaring ourselves lead agency for the purposes of the permitting process. Christine Chale said one change needs to be made

to the EAF because it says the disturbance area is 10.3 acres. The EAF as presented today doesn't reflect the modified acreage so it must be changed so that it's correct. Cory said it will be 9.9 acres instead of 10.3. Christine said the copy provided to Linda Matera should reflect the updated number. Cory said he will change it to approximately 9.9 or less acres of disturbance. Christine said that if something is over 10 acres it has to be treated as a Type 1 and it's a different process. She discussed the issue with Kevin and he prefers to go back and redesign it under 10 acres of disturbance because given the size of the site, it is feasible. Christine stated that we shall proceed with that understanding.

Motion by Director Scorrano, seconded by Alternate Daley to approve the resolution to declare East of Hudson Watershed Corporation lead agency on stormwater retrofit project Kent-MB-1000 with a modification to the EAF by Insite Engineering from 10.3 acres to approximately 9.9 acres of disturbance.

**WHEREAS**, EOHWC is proposing to undertake the installation of a stormwater retrofit project in the Town of Kent involving the stabilization and rerouting of multiple municipal outfalls which have created heavily eroded channels; and

**WHEREAS**, the project will be located on both private and municipal property at multiple locations along Longfellow Drive and a vacant lot located between Ludington Court and Longfellow Drive; and

**WHEREAS**, to facilitate the installation of said stormwater retrofit project, the EOHWC is also considering the acquisition of a permanent drainage easement over of the said vacant lot located between Ludington Court and Longfellow Drive, which is privately owned; and

**WHEREAS**, the Executive Committee has reviewed the short Environmental Assessment Form (EAF) dated August 8, 2023 and all relevant environmental information related to the proposed project; and

**WHEREAS**, the State Environmental Quality Review Act (SEQRA) requires that all proposed undertakings subject to environmental quality review be classified; and

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that:

1. Stormwater Retrofit Project Kent-MB-1000 is an unlisted action under SEQRA for which a coordinated review will be conducted; and
2. The Director of Engineering is directed to circulate a notice to all involved and interested agencies declaring EOHWC's intention to serve as lead agency in the environmental review of the stormwater retrofit project together with a copy of the EAF and requesting their consent or lack of consent within thirty days.

Motion passed; all in favor.

R-0824-01

## **6) Award Construction**

### **a) L-MU-1017**

Cory reported that last week we received bids for L-MU-1017. The two bids submitted were much

higher than expected. They are about 50-100% higher than the estimated project costs, therefore we will be rejecting all bids submitted. Some of the contractors gave us advice on how to cut back the cost. We will continue to work with Insite to reduce the cost and go out to rebid in a couple of weeks. Cory said we get an estimate from a firm, and we do our own estimate as well. Our estimate came in in-line with the engineering firm's estimate. The contractors came out much higher than the engineers because of the tight construction space we are working with. It is too difficult to maneuver large concrete structures in that space. It will work better if we do a more natural practice using sandbags or something similar to stabilize the area. We will try to find a way to make that happen. Director Williams questioned if there were any other projects coming up that are similar to this. Cory said this project is actually a pilot program for our tiered bio-filtration system. It was expected that there would be difficulties with the execution of it, but we know that we can figure them out and get this project in the ground and working. Director Williams asked if there was a project review done with the town. Cory said the town is aware of the design. Director Williams expressed concern with us having blown the engineering estimate and ended up designing a project that's way too expensive to build. Cory said the engineering estimate for the project isn't off, it's that the contractors added a high constructability cost. There were 15 contractors at the pre-bid meeting and only two submitted bids. Director Williams said a lot of bidders likely weren't even interested in bidding because they saw the project as being too complicated. Cory indicated that there was also an issue going on with the insurance documentation that lined up at the same time. Christine asked if an addendum was issued. Cory said yes but it was sent out on Tuesday evening and the bids were due on Thursday so there may not have been enough time to get the documentation in place. Director Williams expressed concern that we are designing projects that are overly complex. In his previous experience, engineers that don't build, are not concerned about what is going to be involved in building. Then, the towns have to take over and maintain something that is overly complex. As an example, he referred to North Salem who is dealing with the high cost to replace the filters in the catch basin inserts. This is something that should have been considered going into the project. We need to be a bit more diligent about the practices that we're approving. None of the directors are seeing the actual designs. Cory said that one of the things they pay close attention to when designing a project is that we are working towards maintainability because we know the municipalities do not have the budgets to maintain very complex projects, so we try to simplify everything to the best of our ability. This project has a single cleanout at the top of the hill that will basically do what it is supposed to. Long-term maintenance won't be necessary as long as it is maintained consistently. Director Scorrano added that oftentimes there are engineers who have one specific way of doing things and they don't look at other options or alternatives. There could be other resources available, but they just apply what they know. Consequently, it ends up being more expensive so that when we go out to bid, the people that are actually doing the job end up having to increase the estimate which results in a high bid price. Director Williams said that it could also be that the engineer is trained in designing this kind of a project and the people who are building it have never seen anything like it and it scares them away. Lastly, Cory pointed out that the other issue is that we work with engineers who are generally civil-based, so when we try to produce more environmental-based designs, they don't really have the skill set or the experience to do it in a cost-effective and manufacturable manor. We are learning in this process, and are trying to do it better each time.

Motion by Director Cazzari, seconded by Director Scorrano to reject all construction bids for stormwater retrofit project L-MU-1017.

**WHEREAS**, EOHWC is undertaking a stormwater retrofit project involving the reestablishing a new drainage pipe for large flows while directing smaller stormwater flows to a tiered biofiltration system (the "Project") in Lewisboro between properties at 66 and 78 Upper Lake Shore Drive, Katonah, NY

10536 (collectively, the "Property"); and

**WHEREAS**, David Adam Neuburger and Cheryl Rushton Neuburger are the owners of certain property known as 66 Upper Lake Shore Drive, Katonah, NY 10536 Tax Lot 41.6-1-26-553000 where a portion of the Project is located; and

**WHEREAS**, Gregory N. Andrew and Tina Andrew are the owners of certain property known as 78 Upper Lake Shore Drive, Katonah, NY 10536 Tax Lot Sec. 41.6-1-25-553000 where a portion of the Project is located; and

**WHEREAS**, the Project consists of a storm water retrofit, in accordance with plans prepared by Insite Engineering, Surveying & Landscape Architecture, P.C. ("Insite Engineering"); and

**WHEREAS**, the Project was publicly advertised on the website as well as in the standard local print publication and 2 bids were received and publicly read aloud at the East of Hudson Watershed Corporation ("EOHWC") offices at 2 Route 164, Suite 2, Patterson, NY 12563 on August 17, 2023, and

**WHEREAS**, the EOHWC Director of Engineering the bids and recommended the rejection of all bids and the redesign of the Project; and

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of EOHWC's Board of Directors rejects all bid submissions on this project and authorizes the engineer to redesign the requirements and rebid this project.

Motion passed; all in favor.

R-0824-02

**b) PC-MB-1000**

Cory presented the resolution to award construction for PC-MB-1000 for the installation of an infiltration basin and channel stabilization along John Simpson Road in the banks of the Middle Branch Reservoir. The approximate phosphorus reduction is 8.63. Construction is expected to start this fall. It will need to be scheduled around the presence of bats on-site. Ten bids were received ranging from \$245,721 to \$599,100. Insite has recommended awarding the contract to WD Excavation and Contracting, Inc. in the amount of \$245,721.

Motion by Director Scorrano, seconded by Alternate Daley to award the construction contract for stormwater retrofit project PC-MB-1000 to WD Excavation & Contracting, Inc. in the amount of \$245,721.00.

**WHEREAS**, EOHWC is assisting its member municipalities, of which County of Putnam (the "Municipality") is one, in complying with the New York State Department of Environmental Conservation ("NYSDEC") Municipal Separate Storm Sewer Systems General Permit No. GP-0-15-003 ("MS4 Permit") by the design and installation of stormwater retrofit projects approved by NYSDEC; and

**WHEREAS**, the Project consists of the stabilization of two drainage channels and installation of an infiltration basin to provide treatment and pollutant removal prior to discharge into the Middle

Branch Reservoir (the “Project”) near the intersection of John Simpson Road and Route 6 on certain property identified as tax map number SBL 45.107.2 (the “Property”), all in accordance with plans prepared by Insite Engineering, Surveying & Landscape Architecture, P.C. (“Insite Engineering”); and

**WHEREAS**, the Project was publicly advertised on the website as well as in the standard local print publication and 10 bids were received and publicly read aloud at the East of Hudson Watershed Corporation (“EOHWC”) offices at 2 Route 164, Suite 2, Patterson, NY 12563 on August 3, 2023, and

**WHEREAS**, the phosphorus removal of 8.63 kilograms for this Project has an efficiency of approximately \$35,000 Kg P-removed; and

**WHEREAS**, Insite Engineering has reviewed all bids and found the lowest responsible bid to be WD Excavation & Contracting, Inc. with a bid in the amount of \$245,721.00; and

**WHEREAS**, Insite Engineering contacted the references for WD Excavation & Contracting, Inc. and contacted WD Excavation & Contracting, Inc. directly and was assured that they can complete the Project for the amount bid; and

**WHEREAS**, Insite Engineering has recommended that EOHWC accept WD Excavation & Contracting, Inc. as lowest responsible bidder for the Project and proceed with contracts pending the submission of bonds and insurance by the contractor; and

**WHEREAS**, the EOHWC Executive Committee reviewed all available evidence and resolved that the Project would not have an adverse impact on the environment and that a draft environmental impact statement would not be prepared.

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of EOHWC’s Board of Directors that it accepts WD Excavation & Contracting, Inc. as lowest responsible bidder in the amount of \$245,721.00 for the Project and authorizes the President or Vice President of EOHWC to execute the construction contract with WD Excavation & Contracting, Inc. subject to the following conditions:

1. Submission of bonds and insurance by the contractor as required by the construction contract for the Project;
2. Approval and execution by EOHWC’s President or Vice President of an installation and maintenance agreement between WD Excavation and Consulting, EOHWC, and the County;
3. Review of the construction contract and installation agreement by EOHWC’s Counsel.

Motion passed; all in favor.

R-0824-03

## **7) SEQRA Negative Declaration Approval/L-CR-1001**

Cory explained that this project is for the installation of bio-infiltration on the Town of Lewisboro’s right-of-way on Perch Bay Road near Lake Waccabuc. Most of the project is being installed in the town right-of-way but we will have some piping required on private property. It will account for approximately 1.42 kilograms of phosphorus reduction. There will be no negative impacts to the

environment from the installation of this project and it is not in a critical area of concern. The only issue is that there are damselfly concerns, but the New York State Department of Environmental Conservation (NYSDEC) has not given us any ways to mitigate that damage and therefore it is not a concern for this project.

Motion by Director Cazzari, seconded by Director Scorrano to approve the SEQRA Negative Declaration for stormwater retrofit project L-CR-1001.

**WHEREAS**, EOHWC is considering undertaking the installation of a stormwater retrofit project on lands owned by the Waccabuc Country Club in the Town of Lewisboro involving the installation of an infiltration system on the Town of Lewisboro right of way along Perch Bay Road to treat stormwater runoff prior to discharge into Lake Waccabuc (the "Project"); and

**WHEREAS**, the Executive Committee of EOHWC has reviewed the Short Environmental Assessment Form dated April 12, 2023 and all relevant environmental information related to the proposed project; and

**WHEREAS**, the Executive Committee of EOHWC has reviewed Part 2 and Part 3 of a Short Environmental Assessment Form and considered the potential impacts of the proposed project described therein;

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it:

1. Confirms the classification of the Project as an unlisted action under SEQRA; and
2. Determines that the proposed action will not result in any significant adverse impacts on the environment and that a Draft Environmental Impact Statement will not be prepared.

Motion passed; all in favor.

R-0824-04

### **8) Approve Installation Agreement/L-CR-1001**

Cory explained that this installation agreement is for the property owner with whom we will be piping the water out to, which is Waccabuc Country Club. The agreement includes the Town of Lewisboro.

Motion by Director Scorrano, seconded by Alternate Daley to authorize the execution of the installation agreements for stormwater retrofit project L-CR-1001.

**WHEREAS**, EOHWC is considering undertaking the installation of a stormwater retrofit project on lands owned by the Waccabuc Country Club in the Town of Lewisboro involving the installation of an infiltration system on the Town of Lewisboro right of way along Perch Bay Road to treat stormwater runoff prior to discharge into Lake Waccabuc (the "Project"); and

**WHEREAS**, the Waccabuc Country Club is the owner of certain property known as 18 Perch Bay Road, Waccabuc, NY 10597 Tax Lot 32.4-3-14 (the "Property"); and

**WHEREAS**, the EOHWC, Municipality, and the Owner of the Property wish to enter into an agreement regarding the installation of the Project at the Property (the "Installation Agreement") and EOHWC has received drafts of said Installation Agreement, copies of which are on file with the office of EOHWC; and

**WHEREAS**, the EOHWC has considered the proposed Installation Agreement, and all other relevant information and believes that entering into the Installation Agreement is in the best interest of the Corporation; and

**WHEREAS**, on August 24, 2023, by Resolution No. R-0824-04, the EOHWC Executive Committee reviewed all available evidence and resolved that the Project would not have an adverse impact on the environment and that a draft environmental impact statement would not be prepared.

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of EOHWC as follows:

1. The execution and delivery of the Installation Agreement is hereby approved. The President of the EOHWC is hereby authorized to execute and deliver the Installation Agreement on behalf of the EOHWC, in substantially the form on file in the offices of the EOHWC, with such changes as may be approved by the party executing the same on behalf of the EOHWC.
2. The officers, employees and agents of the EOHWC are hereby authorized and directed for and in the name and on behalf of the EOHWC to do all acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution.

Motion passed; all in favor.

R-0824-05

#### **9) Legacy Change Order/C-NC-1000**

Cory presented the change order for Walter Panas High School from Legacy Supply. Legacy subcontracted out to someone to manufacture the molds for the catch basin replacements. They accidentally made them too small. Because of the project timeline and the need to get them in before the school year starts, we had to go with the smaller catch basin system which resulted in a decrease of \$8,700 in the contract price. We are still able to install our catch basin inserts that are going inside them and it shouldn't have a significant impact on the phosphorus reduction, but we are still waiting on a final confirmation from Insite Engineering for the final phosphorus reduction value. Director Scorrano asked for clarification as to whether the concrete basins were cast too small. Cory said they were cast smaller than ordered but we are working with Fabco to make it work. Fabco indicated that it should have no bearing on the project and the filters will be installed properly. Director Cazzari asked if the replacement filters will cost more now that it's a custom size. Cory said they should not. Director Scorrano expressed concern with the same issue that Director Cazzari pointed out. Cory said we are saving money on the buildout costs and that the maintenance cost will be the same as what we have at all existing catch basin projects. After this, we are getting a purchase order from Fabco to install the actual filtration units and that is a blanket purchase order and should not be altered. Director Williams pointed out that if it works this way at less of a cost, it makes you wonder why we didn't do it this way in the first place. If you're reducing the hydraulic capacity of the structure, it will likely create flooding. Cory confirmed that Insite verified that it is acceptable in this situation because the existing ones were already oversized to begin with. Christine asked if we have that in writing from Insite. Cory said we do not, but he will reach out to them to get it in writing. Christine further pointed out that a design change of that nature should be in writing, and it should be signed by Insite. Director Scorrano and Cazzari expressed serious concern over the possibility of flooding the parking lot or the field of Walter Panas High School. Cory said where we are installing

the catch basin inserts is nowhere near that part of the property. It is at the top of a hill which runs off into wetlands. Discussion ensued and members agreed that it should be approved, subject to written verification from the design engineer, that the hydraulic capacity of the design change won't cause damage to the property. Cory said he will get written confirmation.

Motion by Director Cazzari, seconded by Director Scorrano to approve the change order submitted by Legacy Supply, LLC for a decrease in the amount of \$8,700 to adjust the scope of the project, reducing the contract amount from \$58,675 to \$49,975, subject to written verification from the design engineer that the change in design will not damage the property.

**WHEREAS**, pursuant to a request for proposals dated March 3, 2023 and as authorized by the Executive Committee of the Board of Directors on May 25, 2023, EOHWC entered into an construction contract ("Agreement") with Legacy Supply, LLC ("Contractor"); and

**WHEREAS**, the Agreement consists of the installation of 11 catch basin filter units within the existing paved areas in the project area to treat stormwater runoff prior to discharge into the New Croton Reservoir, all in accordance with plans prepared by Insite (the "Project"); and

**WHEREAS**, Contractor submitted a change order request dated August 9, 2023, which would adjust the scope of the Project to include the additional removal/installation of asphalt, installation of concrete curbing and catch basin replacement.; and

**WHEREAS**, this change order, if approved, would decrease the construction costs by \$8,700, from a total of \$58,675 to a total of \$49,975 to complete the Project.

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation, that the change order request from Legacy Supply, LLC. dated August 9, 2023 for a decrease of \$8,700 for C-NC-1000 is approved subject to written verification from the design engineer that the hydraulic capacity of the design won't cause damage to the property.

Motion passed; all in favor.

R-0824-06

#### **10) O&M Program Update**

Cory reported that the summer intern has returned to school. Before leaving she was able to collect a bunch of data on all the retrofit projects. Inspections have been done on all projects except for those on school property, which we are not typically able to access. The summer O&M update report is currently being worked on. All towns should receive their reports over the next couple of weeks. We are expecting towns to address all O&M requirements before the fall, prior to winter inspections. Nearly everything needs to be inspected and cleaned in some capacity. Please address the O&M on your town's retrofits if you haven't done so already.

#### **11) Checks & Vouchers**

Monthly vouchers were signed. No action taken.

#### **12) Other business**

No other business was brought forward.



**13) Adjournment - Motion to adjourn by Director Cazzari, seconded by Director Scorrano; all in favor. Adjourned 9:49 AM.**

DRAFT