

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING MINUTES
April 9, 2024**

Sacandaga Field Office
737 Bunker Hill Road
Mayfield, NY 12117

3920 Ocean Pearl Clubhouse, Fort Pierce, FL
54 Cedar Dunes Drive, New Smyrna Beach, FL
4 Computer Drive W, Albany, NY

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CALL TO ORDER

Chair Mark Finkle called the meeting to order at 10:37 A.M.

ROLL CALL

Present: Board Chair Mark M. Finkle; Board Members Albert J. Hayes, Richard Bird, and Timothy J. Reagan; Executive Director John C. Callaghan, General Counsel Robert P. Leslie, Chief Engineer Robert S. Foltan, Chief Fiscal Officer Timothy M. Maniccia and Director of Administrative Services Stephanie V. Ruzycky.

Video Feed: Board Members Kenneth F. DeWitt (travel); Alfred J Candido Jr (travel) and Nicole T. Allen (travel)

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chair Finkle asked for a motion to adopt or revise the meeting agenda. Mr. Reagan moved to adopt the agenda. Mr. Bird seconded. The Board approved the motion in a unanimous vote.

PUBLIC COMMENT

Chair Finkle opened the meeting to public comment; hearing none.

APPROVAL OF THE MARCH 12, 2024 REGULAR BOARD MEETING MINUTES

Chair Finkle asked for a motion to adopt the March 12, 2024 regular board meeting minutes. Mr. DeWitt advanced the motion to approve the regular meeting minutes. Mr. Hayes seconded. The Board approved the motion by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Callaghan presented his report to the Board. Mr. Callaghan noted that, the NYS Legislature continues its effort to arrive at a budget and that elements of the Governor's proposed budget, important to the Regulating District, remain under consideration. He noted that staff will continue to advocate on those issues. Mr. Callaghan reported on the Regulating District's preparations to host Safe Boating Week events on May 16th as part of the Safe Lake Initiative and the Joint Law Enforcement training exercise on May 23rd. Both events garner widespread community support. The Regulating District is proud to provide facilities and logistical support.

CONTRACTS

RESOLUTION TO EXTEND CONTRACT C022021 AWARDED WORK TO PERFORM A LIGHT DETECTION AND RANGING (LIDAR) SURVEY PROGRAM AT CONKLINGVILLE DAM TO MJ ENGINEERING AND LAND SURVEYING, P.C.

Mr. Foltan introduced a resolution to extend contract C022021 with MJ Engineering and Land Surveying, P.C. He noted that in January 2020, Mr. Adam Jones, P.E., of Henningson, Durham & Richardson Architecture and Engineering, P.C., Inc. (HDR), the Regulating District's consultant for the 4th Part 12D inspection at Conklingville, recommended in his safety inspection report (2019-08) that the Regulating District implement a LiDAR (Light Detections and Ranging) survey program to verify the crest elevation of the embankment at Conklingville and to identify and monitor subsidence and changes which may occur in the surface of the embankment. Mr. Foltan explained that the Federal Energy Regulatory Commission (FERC) thereafter required the completion of such recommendation and, consistent with state procurement guidelines and Section 136-a of the State Finance Law, staff requested and received annual statements of qualification and performance data from several professional engineering and surveying firms. Staff evaluated three of the most qualified firms, and thereafter determined MJ Engineering and Land Surveying, P.C. to be the highest qualified firm to complete the work on the project. Mr. Foltan further explained that pursuant to Resolution 21-21-06 the Regulating District Board authorized the Executive Director to enter into Contract C022021 with MJ Engineering and Land Surveying, P.C. to establish survey control points, conduct a laser scan survey (LiDAR) of the Conklingville Dam, develop surface mapping, imagery, and sections of the embankment dam in an initial survey in 2021, and update such survey annually in 2022 and 2023, for a not-to-exceed fee of \$19,500. He noted that MJ Engineering and Land Surveying, P.C. has completed the work effectively and responsibly and, due to the continuing FERC requirement, staff recommend extending the contract with MJ Engineering and Land Surveying, P.C. to continue annual LiDAR survey work for 2024 to 2026. MJ Engineering and Land Surveying, P.C. proposes to conduct a laser scan survey (LiDAR) of the Conklingville Dam, and develop surface mapping, imagery, sections of the embankment dam, and provide digital and

paper images of the surface mapping and sections annually in 2024, 2025, and 2026, for a not-to-exceed fee of \$22,500.

Chair Finkle called for a motion to adopt the resolution authorizing the Executive Director to accept MJ Engineering and Land Surveying, P.C.'s January 24, 2024 proposal and to execute an amendment to Contract C022021 for completion of the amended scope of work, covering all three years, for an amount not-to-exceed \$22,500.00 bringing the total contracted not-to-exceed price to \$42,000. Mr. Reagan so moved. Mr. Bird seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION AUTHORIZING THE EXPENDITURE OF \$6,178.78 FOR REPAIR OF CATERPILLAR BACKHOE LOADER

Mr. Callaghan presented a resolution authorizing an expenditure for repair of the Hudson River Area's Caterpillar backhoe loader. He explained that the 1997 Caterpillar Backhoe Loader is used regularly for a host of operational and maintenance activities and that, while performing such a job at the Conklingville Dam, the right rear outrigger pin broke off resulting in damage to the ear that holds the hydraulic ram. Mr. Callaghan noted that repairs are necessary to ensure the safe and productive operation of the backhoe loader and cannot be made by Regulating District operations and maintenance staff. Milton Cat provided an estimate of \$1,000 to repair the backhoe loader based on that description, but upon physical inspection after Regulating District operations and maintenance staff delivered the backhoe loader to Milton Cat, hidden damage to the barrel of the stabilizer and rod that was not visible during the initial inspection by Regulating District operations and maintenance staff was discovered, resulting in a revised quote of \$6,178.78. Mr. Callaghan noted that, consistent with Section VI of the Regulating District's Procurement Policy, expenditure of amounts \$5,000 or more are subject to approval by the Regulating District Board.

Chair Finkle called for a motion to adopt the resolution authorizing the expenditure of \$6,178.78 for this necessary repair. Mr. DeWitt so moved and Mr. Reagan seconded. The Board adopted the resolution through unanimous vote.

STAFF/COMMITTEE REPORTS

AUDIT COMMITTEE REPORT

RESOLUTION TO AWARD INDEPENDENT AUDIT SERVICES WORK TO EFPR GROUP LLP

Mr. Hayes asked Mr. Maniccia to present the resolution to award independent auditing services work to EFPR Group LLP. Mr. Maniccia noted that in January staff had caused to be published a Request for Proposals (RFP) for Independent Audit Services in accordance with Public Authorities Law Section 2802(4) requiring rotation of auditors every five years. The Regulating District received three proposals and, after careful evaluation based on the technical and cost criteria set forth in the RFP, a committee consisting of the Regulating District staff members that work most closely with independent auditors, namely, the Chief Fiscal Officer, Administrative

Officer II and Administrative Officer I determined that the firm of EFPR Group LLP received the highest total score. Mr. Maniccia recommended that the Board conditionally award Independent Audit Services work to EFPR Group LLP for the next three fiscal years with two one-year renewal options, starting with the fiscal year ended June 30, 2024, upon the successful negotiation of contract terms and conditions. He noted that EFPR Group LLP proposed to complete the work for \$26,000 for the FY ending June 30, 2024, plus disbursements with subsequent year fees not-to-exceed \$26,800 in 2025 and \$27,600 in 2026 (plus approved disbursements). Mr. Maniccia noted that the contract is subject to review and approval by the New York State Attorney General.

Chair Finkle asked for a motion. Mr. Reagan moved to approve the resolution authorizing the Executive Director to enter into a contract with EFPR Group LLP to perform audit services for an amount not to exceed \$26,000.00 in the FY ending June 30, 2024; \$26,800 for FY ending June 30, 2025 and \$27,600 for FY ending June 30, 2026, plus expenses each year up to \$1,200.00; with two one-year renewal options. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

FINANCE COMMITTEE REPORT

RESOLUTION APPROVING THE FINANCING OF THE COST OF RECONSTRUCTING, REHABILITATING AND MODERNIZING THE INDIAN LAKE DAM THROUGH THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION CLEAN WATER STATE REVOLVING FUND PROGRAM; THE ISSUANCE OF A HUDSON RIVER BLACK RIVER REGULATING DISTRICT SERIES 2024 BOND ANTICIPATION NOTE (THE “2024 BAN”) TO SECURE CONSTRUCTION FINANCING AND A SERIES OF LONG-TERM, FIXED RATE BONDS TO REFINANCE THE 2024 BAN ON A PERMANENT FINANCING BASIS (THE “SERIES 2025 BONDS”); ADOPTING AND AUTHORIZING THE EXECUTION OF A SECOND SUPPLEMENTAL INDENTURE PROVIDING FOR THE ISSUANCE AND DELIVERY OF THE 2024 BAN AND THE SERIES 2025 BONDS; AND APPOINTING MANUFACTURERS AND TRADERS TRUST COMPANY TO SERVE AS TRUSTEE FOR THE 2024 BAN AND THE SERIES 2025 BONDS

Committee Chair DeWitt called upon Mr. Maniccia to present the resolution authorizing the issuance of 2024 BAN and the Series 2025 Bonds (to refinance the 2024 BAN) in an aggregate principal amount outstanding at any time not to exceed \$10,400,000 (the “Bond Resolution”). Mr. Maniccia explained since the pricing of the BAN will not occur until later this year, and the pricing of the Series 2025 Bonds will not occur until late in 2024 or 2025, the Board is being asked to approve a maximum net interest cost of 5% and a maximum maturity of five years for the 2024 BAN, and a maximum net interest cost of 7% and a maximum maturity of 30 years from the date of issuance for the Series 2025 Bonds (collectively, the “Maximum Board Parameters”). The 2024 BAN would finance the cost to reconstruct, rehabilitate, and modernize the Indian Lake Dam and the Series 2025 Bonds would serve as the permanent financing for the project. He noted that the Bond Resolution also (A) authorizes the approval of the form of a Second Supplemental Indenture with changes, additional provisions, terms and conditions as the Chief Fiscal Officer shall approve prior to the date of issuance of the 2024 BAN and the Series 2025 Bonds, provided however, any such changes shall not contravene the Maximum Board Parameters; (B) the execution and delivery

of the Second Supplemental Indenture; (C) the issuance and delivery of (1) the 2024 BAN to the Environmental Facilities Corporation (“EFC”) in connection with the construction financing of the Project and (2) the Series 2025 Bonds in connection with the permanent financing of the Project and the refinancing of the 2024 BAN; (D) the appointment of Manufacturers and Traders Trust Company to serve as Trustee under the Second Supplemental Indenture; (E) the Chief Fiscal Officer to make changes to the Second Supplemental Indenture prior to date of issuance of the 2024 BAN or the Series 2025 Bonds provided such changes do not contravene the Maximum Board Parameters noted above, and (F) the Chief Fiscal Officer, to execute such documents, instruments, etc. as may be necessary or desirable in connection with the issuance of the 2024 BAN or the Series 2025 Bonds. Finally, Mr. Maniccia noted that the Bond Resolution itself is subject to approval by the New York State Department of Environmental Conservation pursuant to paragraph (f) of subdivision 4 of Section 2.00 of the Local Finance Law.

Chair Finkle asked for a motion adopting the Bond Resolution authorizing: the Regulating District’s issuance of 2024 BAN and the Series 2025 Bonds in an aggregate principal amount not to exceed \$10,400,000 outstanding at any time subject to the Maximum Board Parameters; the approval of the form of a Second Supplemental Indenture with such changes, additional provisions, terms and conditions as the Chief Fiscal Officer shall approve prior to the date of issuance of the 2024 BAN and Series 2025 Bonds, provided however, any such changes shall not contravene the Maximum Board Parameters; authorizing the execution and delivery of the Second Supplemental Indenture, authorizing the issuance and delivery of the 2024 BAN to the Environmental Facilities Corporation (“EFC”) in connection with the construction financing of the Project and the Series 2025 Bonds in connection with the permanent financing of the Project and the refinancing of the 2024 BAN; and authorizing the appointment of Manufacturers and Traders Trust Company to serve as Trustee under the Second Supplemental Indenture. Mrs. Allen so moved. Mr. Hayes seconded and the Board approved the motion adopting the Bond Resolution by unanimous vote.

Chair Finkle asked for a motion approving and adopting the Second Supplemental Indenture in the form presented to the Board (the “Second Supplemental Indenture”) to implement the authorizations contained in the Bond Resolution. Mr. Reagan so moved. Mr. Hayes seconded and the Board approved the motion adopting the Second Supplemental Indenture by unanimous vote.

GOVERNANCE COMMITTEE REPORT

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AGREEMENT BY AND BETWEEN THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., AFSCME LOCAL 1000, AFL-CIO, HUDSON RIVER-BLACK RIVER REGULATING DISTRICT LOCAL 120

Mr. Callaghan presented a resolution through which the Board would ratify the Executive Director’s execution of a Memorandum of Agreement with representatives of the Regulating District’s CSEA, AFSCME, Local 1000, AFL-CIO unit memorializing a negotiated employment agreement for the period July 1, 2024 through June 30, 2027.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Hayes made a motion to adopt the resolution ratifying the memorandum of agreement with the CSEA bargaining unit. Mr. Bird seconded and the Board adopted the motion by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report. Mr. Leslie reminded the Board and Senior Staff that Financial Disclosure Statements are due May 15th. Next, he reported that he continues to engage with the General Recoveries Unit of the OAG's Civil Recoveries Bureau regarding the commencement of an affirmative case seeking redress against Erie Boulevard Hydropower, L.P. in the state and/or federal court system. The General Recoveries Unit delivered its own demand to Erie on March 15, 2024; to be followed in several months, barring Erie's payment of the \$1,877,249.97 demanded (nine twelfths of \$2,503,000) with a Summons and Complaint. Mr. Leslie provided that he, the Executive Director, and the Chief Fiscal Officer continue to engage representatives from Stillwater Associates LP regarding contractual language memorializing the Regulating District's purchase of the hydroelectric plant at Stillwater. Staff will participate in a site visit with the New York State Power Authority relative to the Stillwater plant's utility to other potential operators. Counsel continues to work with staff to craft an RFP seeking entities willing and capable of running the plant once the State takes ownership. Finally, Mr. Leslie noted that he provided advice and counsel on various contracting, contract payment, bonding and permitting matters.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky reported completion of HRAO and BRAO quarterly compliance audits and daily online payment verification/reconciliation for the permit database. She noted that the Regulating District has received an "A" on its second and third quarter MWBE report card.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of March 31, 2024, the general fund balances for the HRA and BRA were approximately \$6,616,510 and \$1,666,862 respectively. When combined (in the amount of \$8,283,372), this total is \$160,078 or 2.0% more than the same period last year. Year-to-date Regulating District Revenue exceeded Expenses by \$298,701. This amount is \$1,660,000 less than the Jul 2022-Mar 2023 period. Not collecting nearly \$1,151,396 from Erie Boulevard Hydropower that the Regulating District would have collected during the first nine months of this fiscal year had the agreement been renewed is a driver of this variance. Significant disbursements for the period include: Payroll, Health Insurance, ESG, and CD Perry. Mr. Maniccia reported that the Regulating District's transactional processing and reporting are current.

Mr. Foltan presented the Chief Engineer's report. Therein Mr. Foltan noted that the March average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 2,240 cubic feet per second (cfs). Precipitation during the month of March was above normal across the Great Sacandaga Lake watershed and above normal in the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 148% and 154% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 108% and 70% of historic average, respectively.

The March average daily release from Stillwater Reservoir was approximately 290 cfs. Monthly total precipitation measured 79%, 70%, and 83% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of March 19th. Precipitation in the month of March was below average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 106% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.16 and 0.35 billion cubic feet, respectively, in March. Release of water from Stillwater Reservoir averaged 70% of historic discharge.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE MAY 14, 2024 REGULAR BOARD MEETING

Chair Finkle asked for a motion to adopt a resolution setting the date, time and location for the next regular Board meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, May 14, 2024 at the Regulating District's Black River Area Office, 317 Washington Street, Suite 612, Watertown, NY 13601 at 10 AM.

Mr. Hayes moved to adopt the resolution setting the date, time and location of the Regular meeting. Mr. Bird seconded and the Board adopted the resolution by unanimous vote.

ADJOURNMENT

Chair Finkle called for a motion to adjourn the meeting. Mr. Reagan advanced the motion. Mr. Hayes seconded. The meeting adjourned at 11:00 A.M.

24-19-04 RESOLUTION TO EXTEND CONTRACT C022021 AWARDED WORK TO PERFORM A LIGHT DETECTION AND RANGING (LIDAR) SURVEY PROGRAM AT CONKLINGVILLE DAM TO MJ ENGINEERING AND LAND SURVEYING, P.C.

Chair Finkle called for a motion to adopt the resolution authorizing the Executive Director to accept MJ Engineering and Land Surveying, P.C.'s January 24, 2024 proposal and to execute an amendment to Contract C022021 for completion of the amended scope of work for an amount not-to-exceed \$22,500.00 bringing the total contracted not-to-exceed price to \$42,000. Mr. Reagan so moved. Mr. Bird seconded and the Board adopted the resolution by unanimous vote.

24-20-04 RESOLUTION AUTHORIZING THE EXPENDITURE OF \$6,178.78 FOR REPAIR OF CATERPILLAR BACKHOE LOADER

Chair Finkle called for a motion to adopt the resolution authorizing the expenditure of \$6,178.78 for this necessary repair. Mr. DeWitt so moved and Mr. Reagan seconded. The Board adopted the resolution through unanimous vote.

24-21-04 RESOLUTION TO AWARD INDEPENDENT AUDIT SERVICES WORK TO EFPR GROUP LLP

Chair Finkle asked for a motion. Mr. Reagan moved to approve the resolution authorizing the Executive Director to enter into a contract with EFPR Group LLP to perform audit services for an amount not to exceed \$26,000.00 in the FY ending June 30, 2024; \$26,800 for FY ending June 30, 2025 and \$27,600 for FY ending June 30, 2026, plus expenses each year up to \$1,200.00; with two one-year renewal options. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

24-22-04 RESOLUTION APPROVING THE FINANCING OF THE COST OF RECONSTRUCTING, REHABILITATING AND MODERNIZING THE INDIAN LAKE DAM THROUGH THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION CLEAN WATER STATE REVOLVING FUND PROGRAM; THE ISSUANCE OF A HUDSON RIVER BLACK RIVER REGULATING DISTRICT SERIES 2024 BOND ANTICIPATION NOTE (THE “2024 BAN”) TO SECURE CONSTRUCTION FINANCING AND A SERIES OF LONG-TERM, FIXED RATE BONDS TO REFINANCE THE 2024 BAN ON A PERMANENT FINANCING BASIS (THE “SERIES 2025 BONDS”); ADOPTING AND AUTHORIZING THE EXECUTION OF A SECOND SUPPLEMENTAL INDENTURE PROVIDING FOR THE ISSUANCE AND DELIVERY OF THE 2024 BAN AND THE SERIES 2025 BONDS; AND APPOINTING MANUFACTURERS AND TRADERS TRUST COMPANY TO SERVE AS TRUSTEE FOR THE 2024 BAN AND THE SERIES 2025 BONDS

Chair Finkle asked for a motion adopting the Bond Resolution authorizing: the Regulating District’s issuance of 2024 BAN and the Series 2025 Bonds in an aggregate principal amount not to exceed \$10,400,000 outstanding at any time subject to the Maximum Board Parameters; the approval of the form of a Second Supplemental Indenture with such changes, additional provisions, terms and conditions as the Chief Fiscal Officer shall approve prior to the date of issuance of the 2024 BAN and Series 2025 Bonds, provided however, any such changes shall not contravene the Maximum Board Parameters; authorizing the execution and delivery of the Second Supplemental Indenture, authorizing the issuance and delivery of the 2024 BAN to the Environmental Facilities Corporation (“EFC”) in connection with the construction financing of the Project and the Series 2025 Bonds in connection with the permanent financing of the Project and the refinancing of the 2024 BAN; and authorizing the appointment of Manufacturers and Traders Trust Company to serve as Trustee under the Second Supplemental Indenture. Mrs. Allen so moved. Mr. Hayes seconded and the Board approved the motion adopting the Bond Resolution by unanimous vote.

24-23-04 RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AGREEMENT BY AND BETWEEN THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., AFSCME LOCAL 1000, AFL-CIO, HUDSON RIVER-BLACK RIVER REGULATING DISTRICT LOCAL 120

Chairman Finkle asked for a motion adopting the Resolution. Mr. Hayes made a motion to adopt the resolution ratifying the memorandum of agreement with the CSEA bargaining unit. Mr. Bird seconded and the Board adopted the motion by unanimous vote.

**24-24-04 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE
MAY 14, 2024 REGULAR BOARD MEETING**

Mr. Hayes moved to adopt the resolution setting the date, time and location of the May 14, 2024 regular Board meeting. Mr. Bird seconded and the Board adopted the resolution by unanimous vote.

Robert P. Leslie
Secretary

Mark M. Finkle
Board Chairman