

## Recommendations from the Independent Sewer Project Panel to the Town of Henderson Town Board

Resolution 2024-07-10-043 established an independent expert panel with the charter to “provide guidance and recommendations to the town board on the best path forward for the successful completion of the sewer project.”

The following recommendations were developed following a review of the project and are based upon the collective experience of the panel members:

### Assuming Funding is obtained for original district

1. Prior to re-bidding for construction contracts, utilize the Price Analysis methodology on the previous bids for all three bid specifications (Collection, WTP, and Electrical) for opportunities to improve the specification. Validate the use of predetermined costs for Mobilization and Miscellaneous Work and Maintenance and Protection of Traffic.  
  
BASIS: Price Analysis is a tool for validating the Independent Cost Estimate (ICE) (upon which the project budget is based), validating the quality of the specification (for purposes of mitigating post-award performance risk and contract change orders), and determining that award at the prices that were bid, will result in award at fair and reasonable prices.
2. Consider in the rebid process of the current design, alternate design features that would result in revised project cost. Incorporate lessons learned from other municipalities that have recently installed STEP system. (ie Red Hook NY) in the rebid specification.
3. Prior to any re-bid, complete legal review of the existing contract with the engineer and provide recommendations.
4. Provide legal review (independent from town attorney, potentially utilize AOT resources) of the following:
  - a. existing contract between the Town of Henderson and Engineer (GYMO) to verify if standard protocol for addendums and lineouts were met.
  - b. methods to recover design costs due to potential need for significant redesign to meet budget or project cancellation.
  - c. district and/or system(s) design modification due to unsuccessful completion of original scope. What are the implications of not serving the original district or providing alternate disposal (ie individual systems that meet DOH requirements)?
  - d. Can grant or apparent cost reduction money be used for redesign, assuming previous design costs can not be recovered or the current lump sum contract cannot be enforced for scope changes?

- e. Obtain independent legal opinion on timeframe to complete Eminent Domain process that would allow construction start..

5, Obtain all design documents produced in development of the contract documents, including, but not limited to, collection system hydraulics, process design loading and treatment calculations, geologic testing/borings results, survey data and drawing files in .DWG format.

6. Seek other options for Project Management services that better align with the needs and performance expectations of the project owner (Town of Henderson), and that they are competitively bid.

BASIS: Basic project management tools such as status reports, schedules, contingent planning, etc have not been consistently utilized.

7. Develop clear expectations and roles to be used once construction phase of the project starts. Such as:

- a. Meeting intervals and agenda between Owner, Engineer and Contractor.
- b. Daily reports including completed work, delays, property access, design concerns, etc., should be maintained and provided to the Town Board upon request.
- c. Contract should include the Board and Engineer's review and signature of any change orders before they are given to the Contractor.
- d. Contract should include the Board and Engineer's review and approval of progress payments, and retainage should be held if contractor is not on schedule.
- e. Contract should include the Board and Engineer's review and approval of Substantial Completion and Punch List.
- f. Contract should include the Board and Engineer's review and approval of Final Acceptance

8. Develop contingency design options for collection and treatment system, for current and revised district, in the event sufficient funding is not obtained. Evaluate excessive cost per parcel and determine if these outliers can be removed from district or alternate individual systems utilized to meet DOH requirements.

- a. Include individual stub out laterals for every parcel. (this should be reviewed by the Town Board for project even if we use the existing design)
- b. Recommend using an independent engineering firm to evaluate the life cycle cost analysis and determine the optimum design to be pursued.

9. Recommend a complete independent financial audit be conducted from district formation to present. Audit for potential occurrence of double billing.

BASIS: See Appendix A

10. Review potential for any discounts the town could receive if the town procured and shipped STEP system instead of the construction contractor.
11. Evaluate bid alternatives to the specified STEP components, ie are there other manufacturers who can supply equivalent components more cost effectively.
12. Recommend the town board proactively institute a permissive referendum so that the town board receive confirmation of acceptance of residents to the new funding and cost structure. If the law allows, this should occur prior to construction rebid.

Elements of the referendum should include acceptance of the technology of the original design

13. Prior to any re-bid - all necessary easements must be obtained to ensure the most cost-effective bid process. (this would eliminate any contractor "padding" in anticipation of delays to construction start)
14. Perform engineering study to determine if design is vulnerable to freezing.

Independent Expert Panel members:

Terry Brown

Mark Ditch

Roy Navik (review limited to the bid specifications and contract content)

Gary White

Colman McGann

Appendix A: Data Supporting Recommendation Financial Audit of Sewer District Project

1. supporting info for potential “double billing” of \$22,500 in 2017 and 2018 for product “Map, Plan and Engineering Report”

-Feb 22, 2017 Minutes Resolution 2017-02-22-034

Authorized GYMO to prepare “Map, Plan and Engineering Report”. Authorized lump sum \$22,500

Below are vouchers to GYMO for all of 2017

5/11/2017 5971 GYMO / INV 201700264 - VOUCHER 172565 \$4,500.00

7/13/2017 6187 GYMO / INV 201700419 - VOUCHER 172702 \$4,500.00

10/12/2017 6582 GYMO / INV 201700722 - VOUCHER 172953 \$9,000.00

11/9/2017 6679 GYMO / INV 201700876 - VOUCHER 173055 \$2,250.00

-Mar 14, 2018 minutes Resolution 2018-03-14-044

Appropriated \$22,500 “to pay the cost of preparing a map, plan and report, together with documentation for compliance with the SEQRA...”

Below are vouchers to GYMO for all of 2018

5/10/2018 7388 GYMO / INV 201800428, 201800515 - VOUCHER 173503 \$12,077.50

7/12/2018 7607 GYMO / INV 201800556 - VOUCHER 173661 \$8,370.00

11/15/2018 8092 GYMO / INV 201800728, 201800806 - VOUCHER 173815, 173901 \$20,165.00

11/15/2018 8093 GYMO / INV 201800986 - VOUCHER 174044 \$2,632.50

12/12/2018 8200 GYMO / INV 201801235 - VOUCHER 174064 \$2,460.00

-May 9, 2018 minutes Resolution 2018-05-09-056

“...increase account number A4010.41 Public Health-Sewer district startup by \$10,000...”

Below are vouchers to GYMO for all of 2019

1/10/2019 8334 GYMO / INV 201801330 - VOUCHER 174206 \$1,445.00

2. Amendment #1 to GYMO Engineers and Surveyors subconsultants provided additional Engineering and related professional services that were not in the June 2021 Contract. Written authorization provisions per the contract were not followed for authorizing this additional work.

-The period of work performed was approximately from 2022 into 2024.

-Amendment #1 for \$483,000 was approved by the Town Board on April 9, 2024 with a vote result of 3 yea and 2 no.

