

DOWNERS GROVE SANITARY DISTRICT
GENERAL MANAGER'S REPORT
September 7, 2018

September 10 Special Board Meeting

Copies of the following items are enclosed for the September 10, 2018 special meeting:

- 1) Proposed Agenda
- 2) Confidential briefing on potential litigation *under separate cover*
- 3) Memo and proposal for emergency repair of CHP No. 2

cc: WDVB, ASK, PWC, BOLI, TTC, WCC, MGP

**DOWNERS GROVE SANITARY DISTRICT
BOARD OF TRUSTEES SPECIAL MEETING
SEPTEMBER 10, 2018 – 6:00 PM**

PROPOSED AGENDA

- I. PUBLIC COMMENT
- II. EXECUTIVE SESSION – POTENTIAL LITIGATION
- III. NEW BUSINESS
 - A. APPROVE EMERGENCY REPAIR – CHP NO 2

This attachment has been removed for its contents are currently confidential.

Board of Trustees
Wallace D. Van Buren
President
Amy S. Kovacevic
Vice President
Paul W. Coultrap
Clerk



General Manager
Nicholas J. Menninga

Legal Counsel
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Providing a Better Environment for South Central DuPage County

Memo

To: Board of Trustees

From: Nick Menninga, General Manager

Date: September 5, 2018

Subject: Repair of CHP No. 2

On August 13, the subject equipment experienced a catastrophic failure of the gas engine. The manufacturer, Nissen Energi Teknik (Nissen), was able to visit the plant and begin assessing the damage and scope of repair on August 14. The recommended scope of repair is to replace the destroyed engine with a new factory-built engine. Nissen has managed to fast-track procurement of a replacement engine with their supplier, MAN, and has offered services needed to install the new engine. Attached is Nissen's proposal for the recommended work, which includes an assessment of the cause of the failure by MAN at their facility. The replacement engine is expected to be provided with a 2-year/10,000 hour warranty from MAN.

This equipment is covered under a guarantee provided by the installation contractor, Joseph J. Henderson & Son, Inc (JJH), who provided a signed a 2-year equipment guarantee to the District with a starting date of May 5, 2017. JJH also provided a warranty bond to the District for the amount of \$67,115. It appears that JJH did not obtain from Nissen a similar underlying warranty, with Nissen indicating that its warranty provided to JJH covers only a single year.

The District has notified JJH of its warranty demand under the 2-year equipment guarantee and permitted JJH to conduct the inspections that it has requested thus far. JJH, however, has notified the District that they do not intend to honor the guarantee, refusing to issue a purchase order directly to Nissen for the work. Their stated reasons are that they believe Nissen provided a 2-year warranty to JJH, and that the District improperly operated and maintained the equipment. Nissen has indicated that if they believed they had provided a 2-year warranty, they would proceed with the recommended repair without the need for a purchase order. Regardless of the length of warranty provided by Nissen to JJH, that is for JJH to pursue, not the District.

The District has engaged Seyfarth Shaw LLP to press our claim with JJH under the written guarantee. Our counsel has advised that as long as we provide JJH with ample opportunity to inspect and assess the cause of the damage, an effort by us to fund the repair so it can be made in a timely manner would not impair our ability to press our claim to recover the associated costs with JJH.

Under the circumstances and given the proprietary nature of the equipment, there is no other practical source available from which to obtain the required repairs.

I discussed the equipment outage with the Illinois Clean Energy Community Foundation, with whom we have an active grant agreement for operating a net-zero energy wastewater treatment plant. The grant administrator there has indicated that the Foundation remains interested in providing the grant, and is investigating how best to modify, supplement, or interpret our grant agreement to sustain our eligibility for the \$500,000 grant. I indicated that the District is working expeditiously to restore the equipment and return to net-zero energy operation.

The District's General fund includes an \$820,000 replacement reserve as part of its fund balance, available to temporarily cover this sort of expense.

I will be seeking approval from the Board for the repair proposed by Nissen Energi Teknik needed to return the CHP No. 2 to operation, with a not-to-exceed cost estimate of \$189,000, and permission for the general manager to issue an associated purchase order.

C: BOLI, JPB, WCC, MGP

Nick Menninga

From: Nick Menninga
Sent: Friday, September 7, 2018 9:37 AM
To: Nick Menninga
Subject: FW: DGSD- CHP 2 Engine Breakdown

From: Michael B. Nissen [mailto:mbn@nissenenergiteknik.dk]
Sent: Friday, September 7, 2018 9:28 AM
To: Nick Menninga <nmenninga@dgsd.org>
Cc: Thorvald Pedersen <tp@nissenenergiteknik.dk>
Subject: SV: DGSD- CHP 2 Engine Breakdown

Hi Nick

We have in based on the estimated delivery time for a new engine set up this timeline for exchanging the damaged engine:

1. New engine is ready from production and will need to be packed for transport. The engine will be flown in to Chicago, ORD and are expected
2. Removing the old engine and cleaning the bedframe etc. from September 17th to September 21st
3. Estimated arrival of new engine on site September 20st
4. Installation of new engine from September 24th to September 28th

This week will end with the engine being taken into operation again

5. October 1st to October 6th there will be a technician from NISSEN to check up on the operation and make sure everything is finally adjusted.
6. October 6th returning the damaged engine back to factory for further investigation.

Below you will find our calculated the cost for delivery of the new engine, change it over with the damaged engine, start up and check operation condition before hand over.

Price including import duty USD 189,000.-
Excl. Vat

Our financial department is looking into the hours spend on site so the wages for this can be reported and will get back to you on that.

Please provide us with your PO for the repair for us to proceed the planning and preparation.

Hope to have informed you well. If you have any questions please do not hesitate to contact us

Best Regards
Michael B. Nissen

CTO



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