

**WEST DEPTFORD TOWNSHIP**

**ORDINANCE 2024-02**

**AN ORDINANCE OF THE TOWNSHIP OF WEST DEPTFORD AUTHORIZING THE ESTABLISHMENT OF SPECIAL RESERVES IN THE TOWNSHIP'S MUNICIPAL UTILITY CAPITAL FUND FOR CERTAIN CAPITAL COSTS, CHANGE-OUT COSTS AND OPERATION AND MAINTENANCE COSTS RELATED TO TOWNSHIP PUBLIC WATER SYSTEM SUPPLY WELLS NOS. 3, 4, 5 AND 8.**

**WHEREAS**, SOLVAY SPECIALTY POLYMERS, USA, LLC, ("Solvay"), is a limited liability company formed under the laws of the State of Delaware and qualified to do business in the State of New Jersey; and

**WHEREAS**, Solvay and the Township of West Deptford ("Township") have agreed to enter into agreements entitled "Agreement Regarding West Deptford Supply Well No. 8" (the "Well 8 Agreement") and "Agreement Regarding Prepayment of Certain Capital and Other Costs Relating to West Deptford Public Water System Supply Well Nos. 3, 4 and 5" (the "Prepayment Agreement") in a form substantially as attached hereto as Exhibits A and B (together, the "Agreements"); and

**WHEREAS**, the Well 8 Agreement provides for the establishment of an interest-earning Special Reserve for O&M Costs in the Township's Municipal Utility Capital Fund to accept payments from Solvay to be used for certain filtration system change-out costs and operation and maintenance costs related to providing potable drinking water to the residents of the Township from Township Public Water System Supply Wells No. 8; and

**WHEREAS**, the Prepayment Agreement provides for the establishment of an interest-earning Special Reserve in the Township's Municipal Utility Capital Fund to accept payments from Solvay to be used for certain capital costs, and upon prior consent of Solvay, which shall not be unreasonably withheld, operation and maintenance costs, related to providing potable drinking water to the residents of the Township from Township Public Water System Supply Well Nos. 3, 4, 5.

**NOW THEREFORE BE IT ORDAINED** that the Township Committee does hereby authorize the establishment of a Special Reserve (hereinafter the "Special Reserve") and a Special O&M Reserve (hereinafter the "O&M Reserve") (together, the "Reserves") in the Municipal Utility Capital Fund for the purposes set forth in the respective Agreements.

**Section 1.** All payments from Solvay pursuant to the Well 8 Agreement attached hereto shall be retained in the O&M Reserve, along with interest earned on such amounts, less any payments made by the Township pursuant to the Well 8 Agreement.

**Section 2.** All payments from Solvay pursuant to the Prepayment Agreement attached hereto shall be retained in the Special Reserve, along with interest earned on such amounts, less any payments made by the Township pursuant to the Prepayment Agreement.

**Section 3.** The Township shall make payments from the O&M Reserve for eligible costs pursuant to the Well 8 Agreement and only for those purposes.

**Section 4.** The Township shall make payments from the Special Reserve for eligible costs pursuant to the Prepayment Agreement and only for those purposes.

**Section 5.** The funds in the respective Reserves shall be maintained and accounted for in the same fashion as all other capital accounts maintained by the Township. The Township employee responsible for maintaining and managing the Reserves shall discharge their duties with respect to the Reserves solely in the interest of ensuring that the respective Reserve assets will be used for the purposes set forth in the respective Agreements and shall act with the appropriate care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of and enterprise of like character.

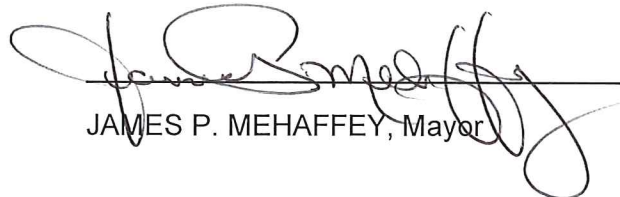
**Section 6.** Pursuant to and consistent with Sections 3 and 4 of this Ordinance, the Township may disburse funds from the applicable Reserve (a) for payment to contractors and vendors retained by the Township, under applicable procedures of municipal law, to perform services in furtherance of the purposes set forth in the applicable Agreement, and (b) to return unspent funds from the applicable Reserve to Solvay in the event of termination of the applicable Agreement.

**Section 7.** On an annual basis, at least 30 calendar days prior to the anniversary date of the establishment of each respective Reserve, the Township shall furnish to Solvay a statement confirming the balance in each respective Reserve and a description of the disbursements or payments made from each respective Reserve in the prior twelve-month period. Documents related to disbursements or payments from each respective Reserve, including but not limited to contracts with vendors for the performance of services or purchase of equipment, and invoices related to same, will be made available to Solvay for review upon request. Notwithstanding the reporting and availability of documents described in this Section 5, disbursements or payments from each respective Reserve shall be made in the sole discretion of the Township.

**Section 8.** This Ordinance shall take effect immediately upon final passage and publication pursuant to law.

**Section 9.** This Ordinance shall not be repealed or modified before such time as the Township and Solvay agree, and the New Jersey Department of Environmental Protection agrees, that remedial action for West Deptford Public Water System Supply Well Nos. 3, 4, 5 and 8 is no longer needed. Notwithstanding the foregoing, the Ordinance may be amended from time to time, with mutual consent of the Township and Solvay, with such consent not to be unreasonably withheld, in accordance with and consistent with the Purpose of the Agreements.

**TOWNSHIP OF WEST DEPTFORD**

  
JAMES P. MEHAFFEY, Mayor

Attest:



LEE ANN DEHART, Registered Municipal Clerk

**INTRODUCED** at a meeting of the Township Committee of the Township of West Deptford, held on January 31, 2024.

| ROLL CALL VOTE |      |      |         |        |
|----------------|------|------|---------|--------|
|                | AYES | NAYS | ABSTAIN | ABSENT |
| James Mehaffey | ✓    |      |         |        |
| Megan Kerr     | ✓    |      |         |        |
| Ashley Morrell |      |      |         | ✓      |
| Adam Reid      | ✓    |      |         |        |
| James Robinson | ✓    |      |         |        |
| <b>TALLY:</b>  | 4    |      |         | 1      |

**ADOPTED** at a meeting of the Township Committee of the Township of West Deptford, held on February 21, 2024.

| ROLL CALL VOTE |      |      |         |        |
|----------------|------|------|---------|--------|
|                | AYES | NAYS | ABSTAIN | ABSENT |
| James Mehaffey | ✓    |      |         |        |
| Megan Kerr     | ✓    |      |         |        |
| Ashley Morrell | ✓    |      |         |        |
| Adam Reid      | ✓    |      |         |        |
| James Robinson | ✓    |      |         |        |
| <b>TALLY:</b>  | 5    |      |         |        |