

**MASSACHUSETTS WATER RESOURCES AUTHORITY**

Meeting of the Board of Directors

January 19, 2022

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A meeting of the Massachusetts Water Resources Authority (“MWRA”) Board of Directors was held on January 19, 2022. The meeting was conducted virtually, pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency. Chair Theoharides presided remotely. Also participating remotely from the Board were Messrs. Cook, Flanagan, Foti, Pappastergion, Peña, Vitale, J. Walsh, and P. Walsh, and Ms. Wolowicz. Mr. Carroll was absent.

MWRA staff in attendance virtually included Frederick Laskey, Executive Director; Carolyn Francisco Murphy, General Counsel; David Coppes, Chief Operating Officer; Carolyn Fiore, Deputy Chief Operating Officer; Thomas Durkin, Director of Finance; Michele Gillen, Director of Administration; Kathy Murtagh, Director, Tunnel Redundancy; Charles Ryan, Director, Wastewater Operations and Maintenance; David Duest, Director, Deer Island Treatment Plant; John Colbert, Chief Engineer; Matthew Horan, Deputy Director of Finance/Treasurer; Stephen Estes-Smargiassi, Director, Planning and Sustainability; Lisa Hamilton, Assistant Director, Engineering; Andrea Murphy, Director, Human Resources; Rebecca Weidman, Director, Environmental and Regulatory Affairs; Cori Barrett, Director, Construction; Michael Cole, Director, Budget; Paula Weadick, Director, MIS; Douglas Rice, Director, Procurement; and Assistant Secretaries Ria Convery and Kristin MacDougall. Vandana Rao, Executive Office of Environmental Affairs (EEA), and Joseph Favaloro, MWRA Advisory Board, were also in attendance virtually.

Chair Theoharides called the meeting to order at 12:34pm. MWRA General Counsel Francisco Murphy took roll call of Board Members in attendance. The Chair announced that except for Executive Session, the meeting was open to the public virtually, via a link posted on MWRA’s website ([www.mwra.com](http://www.mwra.com)). She added that the meeting would be recorded, and that the agenda and meeting materials were available on MWRA’s website.

All motions were individually made and presented for discussion and deliberation. MWRA General Counsel Francisco Murphy explained that all motions would be individually presented and given an opportunity for discussion and deliberation; further, that after discussion and deliberation, any Board member could request an individual roll call vote on that motion, where Board Members could vote affirmatively or in the negative, or abstain from voting. She also said that if no request for an individual vote were made or concerns raised, the motion would advance for an omnibus roll call vote at the conclusion of all the presentations.

**APPROVAL OF DECEMBER 15, 2021 MINUTES**

A motion was duly made and seconded to approve the minutes of the Board of Directors’ meeting of December 15, 2021. Chair Theoharides called for any questions, discussion, or objections. Hearing none, she referred the motion to an omnibus roll call vote. (ref. I)

### REPORT OF THE CHAIR

Chair Theoharides announced that EEA had unveiled its online Massachusetts Drought Dashboard, to provide regularly updated information for the indices outlined in the Massachusetts Drought Management Plan. She described the dashboard's detail pages and noted that the dashboard features products from federal agencies, such as monthly and seasonal drought outlooks, temperature, and snow departure maps. The Chair added that the tool would support the projection of 21st century climate and hydrologic characteristics in Massachusetts using a weather generator. She said that the dashboard was a collaborative effort with the US Geological Survey, Cornell University, Tufts University, the EEA climate team, and Resilient MA. Finally, Chair Theoharides thanked Vandana Rao, the dashboard team and the MWRA staff who participated in the Task Force for their contributions to the project. (ref. II)

### REPORT OF THE EXECUTIVE DIRECTOR

MWRA Executive Director Fred Laskey updated Board members on MWRA staff Covid-related absences, which to date had dropped to 27 from a peak of 100. He explained the latest MWRA Biobot wastewater coronavirus tracking results and history of the Biobot program's development. Mr. Laskey thanked Steve Rhode, MWRA's Director of Lab Services and MWRA lab staff for their instrumental contributions to the Biobot program. Mr. Laskey also thanked Secretary Theoharides and Board members for their continued support. Mr. Laskey then noted that an important driver for MWRA staff's decision to go forward with the Biobot program was the potential to save lives.

Board Member Wolowicz commended MWRA staff for their work on the Biobot program, adding that it was a useful tool for predicting Covid surges in Massachusetts communities.

Next, Mr. Laskey reminded Board members that the MWRA Advisory Board was assembling a working group to lobby for federal Infrastructure Act funding and to prioritize eligible projects. He encouraged Board members to join the work group and invited MWRA Advisory Board Executive Director Joseph Favaloro to provide an update.

Mr. Favaloro noted that the Infrastructure Act offered MWRA and its service communities a once in a generation opportunity to package regional and local water and sewer projects to maximize funding. He reported that preliminary meetings were underway and invited Board members to participate in the working group and offer suggestions.

Chair Theoharides thanked MWRA staff for the innovation and boldness of the nation leading Biobot program. (ref. III)

### ANNUAL MEETING OF THE MWRA BOARD OF DIRECTORS

Chair Theoharides moved to designate the January 19, 2022 meeting as the Annual meeting which, as provided in the Authority's By-Laws, would be deemed a special meeting of the Board for the purpose of election of officers. She also moved to elect John Carroll as Vice Chairman of the Board; to appoint Andrew Pappastergion as Secretary of the Board and Rose Marie Convery and Kristin MacDougall as Assistant Secretaries; to appoint Matthew Horan as Treasurer, Thomas Durkin as Retirement Board Member; Robert Belkin and Michael Cole as Assistant

Treasurers; and, to ratify the appointments of Board members to standing Committees, as set forth in the January 19, 2022 Staff Summary and presented and filed with the records of the meeting. Chair Theoharides noted that these appointments would take effect at the next Board Meeting.

The motion was seconded.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. II A)

## WASTEWATER POLICY AND OVERSIGHT

### Approvals

#### Memorandum of Agreement with Boston Water and Sewer Commission for the Union Park Detention/Treatment Facility Amendment No. 3

A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to approve Amendment No. 3 to the Memorandum of Agreement between the Boston Water and Sewer Commission and the Massachusetts Water Resources Authority governing the design, construction, operation, maintenance and costs of the Union Park Detention/Treatment Facility and associated equipment, substantially in the form attached to the January 19, 2022 Staff Summary and filed with the records of the meeting.

MWRA Chief Operating Officer David Coppes gave a presentation that included an overview of the Union Park CSO Facility, and the history of the MOA between MWRA and the Boston Water and Sewer Commission. He explained that the MOA sets out the ownership and financial responsibilities for the joint operations of the facility, and that the purpose of the proposed amendment was to streamline the invoicing process.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. IV A.1)

### Contract Awards

#### Management, Operation, and Maintenance of the Union Park Pump Station/CSO Facility and the Unstaffed Pump Stations: Woodard & Curran, Inc., Contract S606

A motion was duly made and seconded to approve the award of Contract S606, Management, Operation, and Maintenance of the Union Park Pump Station/CSO Facility and the Unstaffed Pump Stations, to the lowest responsible and eligible bidder, Woodard & Curran, Inc., and to authorize the Executive Director, on behalf of the Authority, to jointly execute said contract along with the Boston Water and Sewer Commission for a contract service fee amount of \$6,181,262, of which MWRA will pay \$1,668,940.74 (27%) and Boston Water and Sewer Commission will pay \$4,512,321.26 (73%), plus a funding allowance amount of \$1,050,000 for preventative and corrective maintenance and repairs (which includes \$300,000 for MWRA and \$750,000 for Boston Water and Sewer Commission), for a total contract amount not to exceed \$7,231,262, and for a contract term of three years, from March 1, 2022 through February 28, 2025, with options to extend the term for up to two additional years, subject to future Board approval.

MWRA Director of Wastewater Operations and Maintenance Charles Ryan presented an overview of the Union Park CSO facility's treatment process, location, tributary area, Environmental Justice service population, and discharge frequency. He summarized the scope and terms of the proposed contract. Finally, Mr. Ryan explained that the proposed contract represents a 46% increase in costs for additional maintenance, services, and staffing.

Chair Theoharides asked for more details on the increased contract cost. Mr. Ryan explained that cost increases included cybersecurity, electrical system maintenance and staffing. Mr. Ryan described industry-wide challenges in recruiting and maintaining qualified licensed operators. Chair Theoharides noted that staffing and supply side cost increases were recurring issues, and recommended that MWRA staff conduct a longitudinal analysis of inflationary increases across contract categories.

There was discussion about the bidding process, specialized facility operations and maintenance staff requirements, Woodard & Curran's qualifications and experience, and the reasons for the proposed labor rate increases, which reflected industry trends.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. IV B.1)

#### Contract Amendments/Change Orders

##### Chemical Tank Relining & Pipe Replacement, Deer Island Treatment Plant: Walsh Construction Company II, LLC, Contract 7373, Change Order 5

A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to approve Change Order 5 to Contract 7373, Chemical Tank Relining and Pipe Replacement, Deer Island Treatment Plant, with Walsh Construction Company II, LLC, for a lump sum amount of \$112,167.20, increasing the contract amount from \$8,698,340.69 to \$8,810,507.89, with no increase in contract term; further, to authorize the Executive Director to approve additional change orders as may be needed to Contract 7373 in an amount not to exceed the aggregate of \$50,000, in accordance with the Management Policies and Procedures of the Board of Directors.

MWRA Deer Island Treatment Plant Director David Duest explained that pinhole voids in two chemical tanks were discovered while performing liner replacement and tank inspection. Mr. Duest added that the voids could cause the new liner to fail, and that an alternatives evaluation determined that the application of steel field epoxy putty would be the most cost-effective means of filling the pinhole voids.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. IV C.1)

##### Remote Headworks Upgrade: Arcadis U.S., Inc., Contract 7206, Amendment 8

A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to approve Amendment 8 to Contract 7206, Remote Headworks Upgrade Design and

Construction Administration, with Arcadis U.S., Inc., increasing the contract amount by \$148,000, from \$10,754,831 to \$10,902,831, with no increase in contract term.

MWRA Chief Engineer John Colbert summarized the reason for the proposed amendment. He explained that the substantial completion of Chelsea Creek Headworks construction was declared four months later than anticipated, requiring additional out of scope work to provide daily support and engineering services.

There was brief discussion about the condition of the chain that had previously been replaced in the grit collectors.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. IV C.2)

## WATER POLICY AND OVERSIGHT

### Information

#### Wachusett Watershed Railroad Update

MWRA Deputy Director of Finance/Treasurer Matthew Horan presented an update on the status of negotiations with CSX Transportation (“CSXT”) related to improvements to the Worcester Main Line. He reported that CSXT had agreed to all MWRA terms, including track upgrades from FRA Class 1 to Class 3; significantly reduced (25 mph) track speed limits within the Wachusett watershed; the prohibition of parking or idling of trains and equipment within the watershed except in limited, safety-related circumstances; the installation of monitoring equipment; the distribution of hazardous materials and derailment notices; and, the provision of hazardous material information on a monthly basis. Mr. Horan noted that the Surface Transportation Board (“STB”) was expected to issue a ruling on CSXT’s application to purchase Pan Am in April, 2022; if approved, the agreement terms would become part of the STB order.

Mr. Laskey thanked Mr. Horan for his tenacity. He provided Board members with historical context about the railroad’s significance to the Wachusett watershed. Finally, Mr. Laskey thanked Secretary Theoharides, Board members, and Massachusetts Bay Transportation Authority and Massachusetts Department of Transportation staff for their assistance and support.

Chair Theoharides commended MWRA staff for conducting successful negotiations.

Committee Chair Peña asked if there was further discussion or any objections. Hearing none, he proceeded to the next agenda item. (ref. V A.1)

#### Update on Revisions to EPA’s Lead and Copper Rule

MWRA Director of Planning and Sustainability Stephen Estes-Smargiassi presented an overview of the EPA’s revisions to the Lead and Copper Rule (“LCR”). He noted that the major parts of the revision would go forward with a compliance date of October of 2024. Mr. Estes-Smargiassi highlighted the changes that would most effect MWRA water customer communities. He explained that MWRA and the MWRA Advisory Board had conducted LCR training sessions for

MWRA service communities in May, 2021 and would provide additional training when EPA issues new guidance. He added that MWRA would continue to provide laboratory services and zero interest lead service line replacement loans for communities. Finally, Mr. Estes-Smargiassi noted that staff would provide future updates to Board members as program guidance was developed.

Committee Chair Peña asked if there was any discussion or objections. Hearing none, he proceeded to the next agenda item. (ref. V A.2)

#### Contract Awards

##### Wachusett Dam Bastion Improvements — Resident Engineering Services: Kleinfelder Northeast, Inc., Contract 7716

A motion was duly made and seconded to approve the recommendation of the Consultant Selection Committee to award Contract 7716, Wachusett Dam Bastion Improvements Resident Engineering Services, to Kleinfelder Northeast, Inc., and to authorize the Executive Director, on behalf of the Authority, to execute said contract in an amount not to exceed \$435,044 for a contract term of 15 months from the Notice to Proceed.

Mr. Colbert summarized the proposed contract to provide resident engineering services for the Wachusett Dam Bastion Improvements project.

There was brief discussion about the preparation of the Engineer's Estimate.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. V B.1)

##### John J. Carroll Water Treatment Plant Chemical Feed System Improvements: Walsh Construction Co. II, Contract 7598

A motion was duly made and seconded to approve the award of Contract 7598, John J. Carroll Water Treatment Plant Chemical Feed System Improvements, to the lowest responsible and eligible bidder, Walsh Construction Company II, LLC, and to authorize the Executive Director, on behalf of the Authority, to execute said contract in the bid amount of \$2,479,000, with a contract term of 457 calendar days from the Notice to Proceed.

MWRA Assistant Director of Engineering Lisa Hamilton explained that the plant's fluoride and soda ash chemical feed equipment and piping were 15 to 20 years old and beyond their useful lives, and that associated control panels and components were obsolete.

Board Member Vitale requested further specifics on a 2018 OSHA violation cited in the Staff Summary, the number of MWRA staff who had attended OSHA 30 training, and the number of staff who had been OSHA 30 certified. Mr. Colbert and Ms. Hamilton responded that they would provide those details after the meeting.

There was discussion about the procurement process, the Engineer's Estimate, and the bid prices of the selected and non-selected contracting firms.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. V B.2)

John J. Carroll Water Treatment Plant Chemical Feed System Improvements – Resident Engineering Services: CDM Smith, Contract 7972

A motion was duly made and seconded to approve the recommendation of the Consultant Selection Committee to award Contract 7972, John J. Carroll Water Treatment Plant Chemical Feed System Improvements Resident Engineering Services, to CDM Smith Inc. and to authorize the Executive Director, on behalf of the Authority, to execute said contract in an amount not to exceed \$331,713, with a contract term of 15 months from the Notice to Proceed.

Ms. Hamilton summarized the scope of the proposed resident engineering contract.

There was discussion about the proposed resident engineer's hourly rates, qualifications, and experience.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. V B.3)

PERSONNEL AND COMPENSATION

Approvals

PCR Amendment – January 2022

A motion was duly made and seconded to approve the amendment to the Position Control Register (PCR) as presented and filed with the records of this meeting.

MWRA Human Resources Director Andrea Murphy briefly summarized the proposed PCR amendment for the creation of a new position in the Operations Division, Metro Maintenance Department.

There was brief discussion about the position's job duties and work location.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VI A.1)

Appointment of Program Manager, Environmental Compliance and Monitoring, ENQUAL

A motion was duly made and seconded to approve the appointment of Ms. Maret Smolow to the position of Program Manager, Environmental Compliance and Monitoring, ENQUAL Wastewater (Unit 9, Grade 29) at an annual salary of \$105,752.38, commencing on a date to be determined by the Executive Director.

Ms. Murphy summarized the proposed candidate's work history, experience, education, and qualifications.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VI A.2)

Appointment of Program Manager, Environmental Compliance and Monitoring, ENQUAL

A motion was duly made and seconded to approve the appointment of Ms. Andrea Adams to the position of Program Manager, Structural Engineering (Unit 9, Grade 29) in the Engineering and Construction Department at an annual salary of \$128,958.93, commencing on a date to be determined by the Executive Director.

Ms. Murphy summarized the proposed candidate's work history, experience, education, and qualifications.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VI A.3)

Contract AwardsWorkers' Compensation Third Party Administrator Services: USI Insurance Services, LLC d/b/a FutureComp, Contract A633

A motion was duly made and seconded to approve the recommendation of the Consultant Selection Committee to award Contract A633, Workers' Compensation Third Party Administrator Services, to USI Insurance Services, LLC d/b/a FutureComp and authorize the Executive Director, on behalf of the Authority, to execute said contract in a not-to-exceed amount of \$135,975 and for a contact term from March 15, 2022 through March 31, 2025.

Ms. Murphy summarized the proposed contract's scope and the bidding process.

Board Member Vitale noted that the vendor had performed excellent work for the BWSC.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VI B.1)

ADMINISTRATION, FINANCE AND AUDITInformationUpdate on New Environmental Justice Initiatives

MWRA staff presented an update on MWRA's Environmental Justice (EJ) initiatives. MWRA Director of Administration Michele Gillen described the Authority's robust Diversity, Equity and Inclusion program that includes new EJ initiatives developed under the guidance of EEA staff. Next, MWRA Director of Environmental and Regulatory Affairs Rebecca Weidman reported that MWRA serves a significant number of communities with EJ populations. She described MWRA's process to initiate several EJ initiatives, which began in 2021 with the submittal of a draft Environmental Justice Strategy to EEA. Ms. Weidman noted that staff were working to ensure compliance with revisions to the Massachusetts Environmental Protection Act (MEPA) regulations, which were effective January 1, 2022. Finally, Ms. Weidman reported that staff had performed an initial review of current and potential projects expected to undergo MEPA review in 2022, and that staff were developing guidelines for outreach and education, and methods for analyzing impacts of those projects to EJ populations.



Hearing no questions or discussion, Committee Chair Vitale proceeded to the next agenda item. (ref. VII A.1)

#### Change Order and Amendment Statistics

MWRA Director of Construction Cori Barrett presented a change order and amendment statistics analysis. She reported that 91 (5.92%) of MWRA's 134 construction contracts had change orders during the last ten-year period. Of those, 28 were for Chapter 30 (horizontal) projects; 63 were for Chapter 149 (vertical) projects; 43 projects had no change orders. Ms. Barrett then presented a review of MWRA projects that required change orders due to unforeseen conditions. She then explained that the MWRA consultant performance review committee may also seek cost recovery. Next, Ms. Barrett presented an eleven-year analysis of design amendments. She reported that of 67 total design contracts, 27 (9.05%) had amendments. She noted that of those 27 amendments, 7 were for Chapter 30 projects, while 37 were for Chapter 149 projects; 40 projects had no amendments. Finally, Ms. Barrett presented a review of MWRA projects that triggered design amendments for project enhancements such as zero net energy and flood protection.

There was discussion about the financial impact of time extensions on design and construction contracts, and MWRA staff's plans to incorporate lessons learned from the analysis.

Hearing no further questions or discussion, Mr. Vitale proceeded to the next agenda item. (ref. VII A.2)

#### Delegated Authority Report – December 2021

Committee Chair Vitale invited questions or comments from Board Members.

Hearing no questions or discussion, Mr. Vitale proceeded to the next agenda item. (ref. VII A.3)

#### Update on HEEC Cross-Harbor Cable Funding

Mr. Durkin updated Board Members on the funding of the Harbor Electric Energy Company (HEEC) cross harbor cable. He reported that the capacity support charge was in place following the Massachusetts Department of Public Utilities (DPU) December, 2021 approval of HEEC's proposed Final Tariff Addendum submission for recovery of project costs. Mr. Durkin described MWRA staff's successful negotiation of key financing points for the benefit of ratepayers. He reported that a financial resolution had been reached, and that the cost to the MWRA would be approximately \$6 million per year for 30 years. Finally, Mr. Durkin noted that the HEEC project, which required dredging of the Boston Harbor, was beneficial to shipping access, adding that the largest ship ever (Evergreen's Ever Fortune) was recently able to enter Conley Terminal.

There was brief comment about the priority and success of the dredging project.

Hearing no further questions or discussion, Committee Chair Vitale proceeded to the next agenda item. (ref. VII A.4)

FY2022 Financial Update and Summary as of December 2021

Mr. Durkin summarized financial results for FY22 through December 2021. He reported that overall the budget had a \$12.8 million positive surplus, attributable to revenue and direct expenses. He noted that direct expenses were 9.2% under budget, due in large part to underspending related to nationwide staffing challenges; that indirect expenses were 0.2% under budget, primarily due to lower watershed reimbursements, with higher spending for insurance payments/claims and HEEC costs; and, that debt services expenses were on budget after a transfer to the defeasance account. Finally, Mr. Durkin noted that MWRA staff planned to request another defeasance in spring 2022.

There was general discussion about the hypothetical impact of projected federal interest rate increases on MWRA budgets, wages and salaries and the potential budgetary impacts of rising fuel and utilities costs.

Hearing no further questions or discussion, Mr. Vitale proceeded to the next agenda item. (ref. VII A.5)

ApprovalsTransmittal of the FY2023 Proposed Capital Improvement Program

A motion was duly made and seconded to approve the transmittal of the FY23 Proposed Capital Improvement Program to the Advisory Board for its 60-day review and comment period.

MWRA staff presented an overview of the FY23 Capital Improvement Program for transmittal to the MWRA Advisory Board for review. Mr. Durkin described the FY19-23 base line cap, and the process of calculations and adjustments. MWRA Budget Director Michael Cole presented a list of MWRA's top twelve spending construction projects, excluding community loans, in FY23, and the top ten projected contract awards. Mr. Cole then highlighted the MWRA Facilities Management Office Space Modification project (\$13.8 million), with an expected Notice to Proceed in August, 2022. Mr. Horan presented a summary of capital spending and debt service from FY86, noting that as of December 31, 2021, MWRA's total indebtedness was \$4.7 billion. He explained that the debt peak had been lowered by \$117 million in six years through prudent structuring of debt and application of defeasances. Mr. Durkin then explained that MWRA's capital spending was expected to focus on asset protection and redundancy. Finally, he noted that inflation, federal stimulus and grant programs, and fiscal uncertainty due to the ongoing Covid pandemic could potentially impact the capital budget.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VII B.1)

Proposed Amendments to the Management Policies of the Board of Directors

After staff presented a summary of the proposed amendments and there was discussion about the existing and proposed delegations of authority the item was postponed. (ref. VII B.2)

Legal Services Furnished by Special Assistant Attorney General Jonathan Ettinger/Foley Hoag LLP in the Boston Harbor Case, U.S. v. MDC, et al., USDC No. 85-0489-RGS

A motion was duly made and seconded that the Board approve an increase of the hourly rate at which the Authority compensates Foley Hoag LLP for the legal services furnished by Attorney Jonathan Ettinger in his capacity as a Special Assistant Attorney General in the Boston Harbor case from \$700 an hour to \$790 an hour for CY2022, \$850 an hour CY2023 and \$950 an hour CY2024.

Ms. Francisco Murphy explained that MWRA had last increased the rate in 2019, and that the proposed rates through 2024 were below Attorney Ettinger's non-discounted, current billable rate of \$980 per hour. She noted that MWRA staff worked closely with Attorney Ettinger on the Boston Harbor case and performed as much work as possible to help keep costs down. Finally, Ms. Francisco Murphy commented that the Foley Hoag provides excellent representation, and that staff considered the proposed rate increases to be reasonable.

Board Member Vitale noted that the Attorney Ettinger and Foley Hoag had performed excellent work for the BWSC.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VII B.3)

Contract Awards

Financial and Swap Advisory Services: PFM Financial Advisory LLC, Contract F264

A motion was duly made and seconded to approve the recommendation of the Consultant Selection Committee to award Contract F264 for financial and swap advisory services to PFM Financial Advisors LLC and to authorize the Executive Director, on behalf of the Authority, to execute Contract F264 in an amount not to exceed \$632,925 for a term of four years from the notice to proceed.

Mr. Durkin described the purpose of financial and swap advisory services. Next, Mr. Horan summarized the bidding process, noting that PFM offered a strong team with considerable experience at a significantly lower cost than the second-ranked bidder.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VII C.1)

Purchase of 45 Cisco Switches, Installation Services and a Five-Year Maintenance Service Agreement: ePlus Technology, Inc., WRA-5053Q, State Contract ITT50

A motion was duly made and seconded to approve the award of Purchase Order Contract WRA-5053Q for 45 Cisco switches, installation services and a five-year maintenance service agreement to the lowest responsive bidder, ePlus Technology, Inc., and to authorize the Executive Director, on behalf of the Authority, to execute said Purchase Order Contract in the bid amount of \$484,163.00.

MWRA MIS Director Paula Weadick summarized the procurement for replacement network switches at MWRA's Deer Island and Southborough facilities. She explained that the existing switches were over five years old, beyond useful life, and were no longer supported by the hardware manufacturer. Ms. Weadick noted that this contract was phase three of a project to replace network switches at all MWRA facilities.

There was discussion about costs for hardware and labor. There was also discussion about the lack of bidder competition in this procurement, Cisco's preferred vendor policy, MWRA's standardization on the Cisco platform at all facilities, and MWRA's procurement best practices.

Chair Theoharides noted that the proposed award was an example of the need to update MWRA's approval authority. She suggested that the Board vote on the proposed award and encouraged staff to review procurement guidance.

Chair Theoharides asked if there was further discussion or any objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VII C.2)

#### Delegation of Authority to Execute Contracts for the Purchase and Supply of Electric Power for the MWRA Interval Account

A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to execute a contract for the supply of electric power to the Interval Accounts, consisting of the Carroll Water Treatment Plant and the larger Field Operations and Facility Management Accounts, and a contract to purchase additional Renewable Energy Credits to voluntarily increase the percentage of the energy supply for the Interval Accounts to be 100% renewable, with the lowest responsive and responsible bidder(s) for the period and pricing structure selected, as determined by staff to be in MWRA's best interest, and for a contract supply term not to exceed 37 months. This delegation of authority is necessary because MWRA will be required to notify the selected bidders within a few hours of bid submittal to lock in the bid prices in a constantly changing market. (ref. VII C.3)

MWRA Program Manager, Energy and Environment Denise Breiteneicher summarized the process to solicit and accept bids for electric power supply for MWRA's Interval Accounts. She explained that the proposed contracts were to supply power for MWRA's Carroll Water Treatment Plant, Clinton treatment facility, other large water and wastewater pump stations, MWRA's largest CSO facilities, and Chelsea facility. She noted that staff were adding a component to seek price offers on enough renewable energy certificates from the New England sources to drive the Interval Account energy supply to 100% renewable. Finally, Ms. Breiteneicher explained that MWRA staff could accept or decline offers relative to pricing.

Chair Theoharides asked if there was any discussion or objections. Hearing none, she advanced the motion to an omnibus roll call vote. (ref. VII C.3)

#### OMNIBUS ROLL CALL VOTE

Chair Theoharides called for an omnibus roll call vote on the motions made and seconded.

An omnibus roll call vote was taken in which the members were recorded as follows:

| <u>Yes</u>    | <u>No</u> | <u>Abstain</u> |
|---------------|-----------|----------------|
| Theoharides   |           |                |
| Cook          |           |                |
| Flanagan      |           |                |
| Foti          |           |                |
| Pappastergion |           |                |
| Peña          |           |                |
| Vitale        |           |                |
| J. Walsh      |           |                |
| P. Walsh      |           |                |
| Wolowicz      |           |                |

Voted: to approve the minutes of the Board of Directors' meeting of December 15, 2021 (ref. I);

Further, voted: to designate this January 19, 2022 meeting as the Annual meeting, which, as provided in the Authority's By-Laws, will be deemed a special meeting of the Board for the purpose of election of officers; further, voted: to elect John Carroll as Vice Chairman of the Board; to appoint Andrew Pappastergion as Secretary of the Board and Rose Marie Convery and Kristin MacDougall as Assistant Secretaries; to appoint Matthew Horan as Treasurer, Thomas Durkin as Retirement Board Member; Robert Belkin and Michael Cole as Assistant Treasurers; and, to ratify the appointments of Board members to standing Committees, as set forth in the January 19, 2022 Staff Summary presented and filed with the records of the meeting; further, these appointments will take effect at the next Board Meeting; (ref. II.A)

Further, voted: to authorize the Executive Director, on behalf of the Authority, to approve Amendment No. 3 to the Memorandum of Agreement between the Boston Water and Sewer Commission and the Massachusetts Water Resources Authority governing the design, construction, operation, maintenance and costs of the Union Park Detention/Treatment Facility and associated equipment, substantially in the form attached to the January 19, 2022 Staff Summary and filed with the records of the meeting; (ref. IV A.1)

Further, voted: to approve the award of Contract S606, Management, Operation, and Maintenance of the Union Park Pump Station/CSO Facility and the Unstaffed Pump Stations, to the lowest responsible and eligible bidder, Woodard & Curran, Inc., and to authorize the Executive Director, on behalf of the Authority, to jointly execute said contract along with the Boston Water and Sewer Commission for a contract service fee amount of \$6,181,262, of which MWRA will pay \$1,668,940.74 (27%) and Boston Water and Sewer Commission will pay \$4,512,321.26 (73%), plus a funding allowance amount of \$1,050,000 for preventative and corrective maintenance and repairs (which includes \$300,000 for MWRA and \$750,000 for Boston Water and Sewer Commission), for a total contract amount not to exceed \$7,231,262, and for a contract term of three years, from March 1, 2022 through February 28, 2025, with options to extend the term for up to two additional years, subject to future Board approval; (ref. IV B.1)

Further, voted: to authorize the Executive Director, on behalf of the Authority, to approve Change Order 5 to Contract 7373, Chemical Tank Relining and Pipe Replacement, Deer Island

Treatment Plant, with Walsh Construction Company II, LLC, for a lump sum amount of \$112,167.20, increasing the contract amount from \$8,698,340.69 to \$8,810,507.89, with no increase in contract term; further, voted: to authorize the Executive Director to approve additional change orders as may be needed to Contract 7373 in an amount not to exceed the aggregate of \$50,000, in accordance with the Management Policies and Procedures of the Board of Directors; (ref. IV C.1)

Further, voted: to authorize the Executive Director, on behalf of the Authority, to approve Amendment 8 to Contract 7206, Remote Headworks Upgrade Design and Construction Administration, with Arcadis U.S., Inc., increasing the contract amount by \$148,000, from \$10,754,831 to \$10,902,831, with no increase in contract term; (ref. IV C.2)

Further, voted: to approve the recommendation of the Consultant Selection Committee to award Contract 7716, Wachusett Dam Bastion Improvements Resident Engineering Services, to Kleinfelder Northeast, Inc., and to authorize the Executive Director, on behalf of the Authority, to execute said contract in an amount not to exceed \$435,044 for a contract term of 15 months from the Notice to Proceed; (ref. V B.1)

Further, voted: to approve the award of Contract 7598, John J. Carroll Water Treatment Plant Chemical Feed System Improvements, to the lowest responsible and eligible bidder, Walsh Construction Company II, LLC, and to authorize the Executive Director, on behalf of the Authority, to execute said contract in the bid amount of \$2,479,000, with a contract term of 457 calendar days from the Notice to Proceed; (ref. V B.2)

Further, voted: to approve the recommendation of the Consultant Selection Committee to award Contract 7972, John J. Carroll Water Treatment Plant Chemical Feed System Improvements Resident Engineering Services, to CDM Smith Inc. and to authorize the Executive Director, on behalf of the Authority, to execute said contract in an amount not to exceed \$331,713, with a contract term of 15 months from the Notice to Proceed; (ref. V B.3)

Further, voted: to approve the amendment to the Position Control Register (PCR) as presented and filed with the records of this meeting; (ref. VI A.1)

Further, voted: to approve the appointment of Ms. Maret Smolow to the position of Program Manager, Environmental Compliance and Monitoring, ENQUAL Wastewater (Unit 9, Grade 29) at an annual salary of \$105,752.38, commencing on a date to be determined by the Executive Director; (ref. VI A.2)

Further, voted: to approve the appointment of Ms. Andrea Adams to the position of Program Manager, Structural Engineering (Unit 9, Grade 29) in the Engineering and Construction Department at an annual salary of \$128,958.93, commencing on a date to be determined by the Executive Director; (ref. VI A.3)

Further, voted: to approve the recommendation of the Consultant Selection Committee to award Contract A633, Workers' Compensation Third Party Administrator Services, to USI Insurance Services, LLC d/b/a FutureComp and authorize the Executive Director, on behalf of the Authority, to execute said contract in a not-to-exceed amount of \$135,975 and for a contract term from March 15, 2022 through March 31, 2025; (ref. VI B.1)

Further, voted: to approve the transmittal of the FY23 Proposed Capital Improvement Program to the Advisory Board for its 60-day review and comment period; (ref. VII B.1)

Further, voted: that the Board approve an increase of the hourly rate at which the Authority compensates Foley Hoag LLP for the legal services furnished by Attorney Jonathan Ettinger in

his capacity as a Special Assistant Attorney General in the Boston Harbor case from \$700 an hour to \$790 an hour for CY2022, \$850 an hour CY2023 and \$950 an hour CY2024; (ref. VII B.3)

Further, voted: to approve the recommendation of the Consultant Selection Committee to award Contract F264 for financial and swap advisory services to PFM Financial Advisors LLC and to authorize the Executive Director, on behalf of the Authority, to execute Contract F264 in an amount not to exceed \$632,925 for a term of four years from the notice to proceed; (ref. VII C.1)

Further, voted: to approve the award of Purchase Order Contract WRA-5053Q for 45 Cisco switches, installation services and a five-year maintenance service agreement to the lowest responsive bidder, ePlus Technology, Inc., and to authorize the Executive Director, on behalf of the Authority, to execute said Purchase Order Contract in the bid amount of \$484,163.00; (ref. VII C.2)

Further, voted: to authorize the Executive Director, on behalf of the Authority, to execute a contract for the supply of electric power to the Interval Accounts, consisting of the Carroll Water Treatment Plant and the larger Field Operations and Facility Management Accounts, and a contract to purchase additional Renewable Energy Credits to voluntarily increase the percentage of the energy supply for the Interval Accounts to be 100% renewable, with the lowest responsive and responsible bidder(s) for the period and pricing structure selected, as determined by staff to be in MWRA's best interest, and for a contract supply term not to exceed 37 months. This delegation of authority is necessary because MWRA will be required to notify the selected bidders within a few hours of bid submittal to lock in the bid prices in a constantly changing market. (ref. VII C.3)

#### CORRESPONDENCE TO THE BOARD

There was no correspondence to the Board.

#### OTHER BUSINESS

There was no other business.

#### EXECUTIVE SESSION

Chair Theoharides requested that the Board move into Executive Session to discuss litigation, since open session may have a detrimental effect on the litigating position of the Authority. She announced that the scheduled topics of discussion were Prison Point Contract 7462 and Annual Litigation and Claim Summary. She announced that the Board would not return to Open Session and would adjourn the meeting from Executive Session. A motion was duly made and seconded to enter Executive Session, and adjourn the meeting from Executive Session.

General Counsel Francisco Murphy reminded Board members that under the Open Meeting Law members who are participating remotely in Executive Session must state that no person is present or able to hear the discussion at their remote location. A response of "yes" to the Roll Call to enter Executive Session when their name is called would also be deemed their statement that no other person is present or able to hear the session discussion.

(Ms. Wolowicz briefly left the meeting.)

Upon a motion duly made and seconded, a roll call vote was taken in which the members were recorded as follows:

| <u>Yes</u>    | <u>No</u> | <u>Abstain</u> |
|---------------|-----------|----------------|
| Theoharides   |           |                |
| Cook          |           |                |
| Flanagan      |           |                |
| Foti          |           |                |
| Pappastergion |           |                |
| Peña          |           |                |
| Vitale        |           |                |
| J. Walsh      |           |                |
| P. Walsh      |           |                |

Voted: to enter Executive Session, and to adjourn the meeting from at the conclusion of Executive Session.

The Board moved to Executive Session to discuss litigation since discussing such in Open Session could have a detrimental effect upon the litigating position of the Authority.

(Ms. Wolowicz returned to the meeting after Roll Call was conducted.)

\*\*\* EXECUTIVE SESSION \*\*\*

The meeting adjourned at 3:19pm.

Approved: February 16, 2022

Attest:

 for  
\_\_\_\_\_  
Andrew M. Pappastergion, Secretary