

**MASSACHUSETTS WATER RESOURCES AUTHORITY**

Meeting of the Board of Directors

November 15, 2023

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A meeting of the Massachusetts Water Resources Authority (“MWRA”) Board of Directors was held on November 15, 2023 at MWRA’s headquarters at Deer Island in Boston, and also via remote participation.

Chair Tepper and Vice Chair Andrew Pappastergion presided from MWRA headquarters. Board Members Flanagan, Peña, Taverna, Jack Walsh, and White-Hammond also participated from MWRA headquarters. Board Members Vitale and Patrick Walsh participated remotely. Board Members Foti and Wolowicz were absent.

MWRA Executive Director Frederick Laskey; General Counsel Carolyn Francisco Murphy; Chief Operating Officer David Coppes; Deputy Chief Operating Officer Rebecca Weidman; Director of Finance Thomas Durkin; Director of Administration Michele Gillen; Special Assistant for Affirmative Action Patterson Riley; Human Resources Director Wendy Chu; Deputy Finance Director/Treasurer Matthew Horan; Director of Planning and Sustainability Stephen Estes-Smargiassi; Deer Island Treatment Plant Director David Duest; Procurement Director Douglas Rice; Director of Security Gary Cacace; MIS Director Paula Weadick; Director of Environmental Quality Betsy Reilley; Senior Program Manager, Environmental Quality Wendy Leo; Senior Program Manager, Environmental Monitoring David Wu; Deer Island Engineering Services Manager Rick Adams; Director of Construction Marty McGowan; Chief of Staff Katie Ronan; Associate General Counsel Kristen Schuler Scammon; and, Assistant Secretary Kristin MacDougall participated at MWRA headquarters.

Vandana Rao, EEA, and Matt Romero, MWRA Advisory Board, also participated at MWRA headquarters.

Chair Tepper called the meeting to order at 1:00pm.

**ROLL CALL**

MWRA General Counsel Francisco Murphy took roll call of Board Members in attendance and announced that Board Member Vitale was participating remotely. The Chair announced that the meeting was being held at MWRA’s headquarters at Deer Island and virtually, via a link posted on MWRA’s website. She added that the meeting would be recorded, and that the agenda and meeting materials were available on MWRA’s website. She also announced that individual roll call votes would be conducted after each motion was made and given an opportunity for discussion.

**APPROVAL OF OCTOBER 18, 2023 MINUTES**

**A motion was duly made and seconded to approve the minutes of the Board of Directors’ meeting of October 18, 2023.**

Chair Tepper asked if there was any discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		

P. Walsh

(Board Member Patrick Walsh abstained due to Webex technical issues.) (ref. I)

#### REPORT OF THE EXECUTIVE DIRECTOR

MWRA Executive Director Fred Laskey reported that MWRA held its annual Veterans Day ceremony and luncheon at Deer Island on November 8, 2023, and that the event was well attended by MWRA's veterans and Union representatives. Finally, he noted that MWRA had kicked off the second year of its Mentoring Program in November, adding that the program has proven to be successful in advancing MWRA's staff recruitment and retention efforts.

(Board Member White-Hammond joined the meeting during the report.) (ref. III)

#### EXECUTIVE SESSION

Chair Tepper requested that the Board move into Executive Session to discuss Real Estate and Litigation, since discussing such in Open Session could have a detrimental effect on the negotiating and litigating positions of the Authority. She announced that the planned topics for discussion in Executive Session were a watershed land acquisition, pending class action settlements with the 3M Company and DuPont entities, and a Chapter 21E Notice from Massachusetts Natural Fertilizer Company and others. She announced that the Board would return to Open Session after the conclusion of Executive Session.

**A motion was duly made and seconded to enter Executive Session for these purposes, and to resume Open Session after Executive Session adjournment.**

General Counsel Francisco Murphy reminded Board members that under the Open Meeting Law members who were participating remotely in Executive Session must state that no other 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 was called would also be deemed their statement that no other person was present or able to hear the Executive Session discussion.

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>
Tepper		
Flanagan		
Pappastergion		
Peña		

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Taverna		
Vitale		
J. Walsh		P. Walsh
White-Hammond		

**Voted: to enter Executive Session, and to resume Open Session after Executive Session adjournment.**

(Mr. Patrick Walsh abstained due to Webex technical issues.)

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

The meeting entered Executive Session at 1:04pm and adjourned at 1:55pm.

\*\*\* CONTINUATION OF OPEN SESSION \*\*\*

#### PERSONNEL AND COMPENATION

##### Approvals

##### PCR Amendments – November 2023

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

Wendy Chu, MWRA Human Resources Director, described three proposed PCR amendments, including a title and grade change to one filled position in the Administration Department; a salary adjustment to one filled position in the Waterworks Division, Metro Water Department; and a title and grade change to one vacant position in the Operations Division, Inspection-Water Department.

Hearing no discussion or questions from the Board, Chair Tepper requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. V A.1)

Appointment of Manager, Transmission and Treatment, Western Operations

**A motion was duly made and seconded to approve the appointment of Mr. John Beckley to the position of Manager, Transmission and Treatment, Western Operations (Non-Union, Grade 14) in the Operations Division at the recommended annual salary of \$156,000 commencing on a date to be determined by the Executive Director.**

Ms. Chu summarized the position's duties, the job candidate selection process, and the recommended candidate's work history and qualifications.

There was brief general discussion about the recent vacancy of the Manager, Transmission and Treatment position. Board Member Vitale requested information about MWRA's policy regarding midyear across the board (ATB) raises for staff who are promoted internally to non-Union manager positions. Ms. Chu explained that staff who are promoted to non-union manager positions midyear receive raises according the same schedule as all other non-Union managers.

Hearing no further discussion or questions from the Board, Chair Tepper requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. V A.2)

Appointment of Assistant Director of Engineering, Operations Division

**A motion was duly made and seconded to approve the appointment of Ms. Ester Lwebuga to the position of Assistant Director of Engineering, Operations Division (Non-Union Grade 14) at an annual salary of \$158,000 commencing on a date to be determined by the Executive Director.**

Ms. Chu described the recommended candidate's work experience and qualifications.

Chair Tepper asked if there was any discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. V A.3)

#### ADMINISTRATION, FINANCE AND AUDIT

##### Information

##### Delegated Authority Report – October 2023

Michele Gillen, MWRA Director of Administration, invited Board Members' questions on the report.

Board Member Jack Walsh requested more information about the Report Item C-4: *Electrical Equipment Testing – Deer Island Treatment Plant* ("DITP"). David Coppes, MWRA Chief Operating Officer, explained that Item C-4 included a range of testing methods for DITP electrical gear, including infrared testing. There was brief discussion about Item C-4's scope and cost, and the contract's benefits for preventative maintenance. Mr. Walsh asked if the Item C-4 contract includes oil testing. David Duest, MWRA Deer Island Treatment Plant Director, advised that it does not.<sup>1</sup> There was brief, general discussion about oil testing.

Mr. Walsh then requested more information about the scope and cost of Report Item C-6: *Thermal and Hydro Power Plant Maintenance*. Mr. Coppes briefly described the scope and explained that the purpose of the contract extension is to complete necessary work on a DITP hydro turbine gear box.

Next, Mr. Walsh asked for more information about the cost of Report Item C-9: *Rehabilitation of Sections 23, 24 and 47 Water Mains – Boston and Newton*. Mr. Coppes explained that this amendment was executed on behalf of the City of Newton for work performed by MWRA under a Memorandum of Understanding (MOA). He further explained that the purpose of Item C-9 is to expand the limits of MWRA-installed bypass piping, and that per the MOA, the City of Newton would be responsible for the costs.

Mr. Pappastergion asked if permitting for Report Item C-7: *Quinapoxet Dam Removal* was complete. Mr. Laskey responded in the affirmative. Rebecca Weidman, MWRA Deputy Chief Operating Officer, added that MWRA holds all required permits for the dam removal project, and that construction is planned to start in fall, 2024. Mr. Laskey noted that MWRA staff are seeking funding for the project, and briefly described its scope and environmental benefits. Mr. Taverna requested information about the number of bids received for Item C-7. Ms. Weidman advised that MWRA received four bids, and that the lowest bidder, Lucianos Excavation, Inc. ("Lucianos Inc."), was selected. There was brief discussion about the price range of the bids. Ms. Weidman noted that Lucianos Inc. has extensive relevant experience and received very good recommendations. She discussed factors attributable to Lucianos Inc.'s low bid price,

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<sup>1</sup> Correction: There is certain specialty electrical oil testing performed under the November 13, 2023 Delegated Authority Report Item C-7: *Electrical Equipment Testing – Deer Island Treatment Plant*.

including local staff, ownership of all equipment, and the performance of work without subcontractors. Mr. Taverna asked about the terms of the contract. Mr. Coppes advised that Item C-7 is a lump sum contract. He added that the seasonal timing of the work may have also contributed to Lucianos Inc.'s relatively low price.

With regards to Report Item P-2: *Purchase Order for Three New Ford Transit Crew Vans*, Board Member Vitale asked why MWRA was purchasing Ford vans rather than Chevrolets, and why this purchase was not for electric vehicles (EVs). Ms. Gillen advised that Chevrolet does not produce a comparable model and explained that the Fords satisfy MWRA's need for vans that are capable of operating all day and running equipment. She further explained that while MWRA pursues opportunities to purchase EVs whenever feasible, EVs would not be practical in this case because of their limited abilities to operate for long periods of time without recharging.

Hearing no further discussion or questions from the Board, Committee Vice Chair Flanagan moved to the next Information item. (ref. VI A.1)

#### FY24 Financial Update and Summary through October 2023

Thomas Durkin, MWRA Finance Director, summarized financial highlights for FY2024 through October 2023. He advised that the budget is progressing well despite ongoing challenges such as interest rates and associated impacts to expenses for chemicals and energy. He then reported that direct expenses were under budget, driven in part by continued underspending for wages and salaries. He noted that full time equivalency (FTE) counts had risen from 1,061 to 1,073 as of November 10, 2023. Next, Mr. Durkin reported that revenue was \$2.3 million over budget (0.8%), attributable to higher than budgeted interest rates on investments. He then reported 23.4% in underspending for the Capital Improvement Program (CIP) through October 2023. He explained that the CIP underspending is in line with historical budgetary patterns, and added that staff are using FY2024 budget results to prepare the FY2025 budget. Finally, Mr. Durkin noted that in his view, interest rates were settling down, and advised that staff will keep Board members apprised of any upcoming developments.

Mr. Vitale requested information about the yields of MWRA's Pension Trust Fund and Other Post-Employment Benefits (OPEB) Trust Fund. Matthew Horan, MWRA Deputy Finance Director/Treasurer, reported that yields through September 2023 were 3.5% for the Pension fund, and 4.6% for the OPEB fund.

Hearing no further discussion or questions from the Board, Mr. Flanagan moved to the next Information item. (ref. VI A.2)

#### FY2024 First Quarter Orange Notebook

Stephen Estes-Smargiassi, MWRA Director of Planning and Sustainability, updated the Board on the FY2024 First Quarter Orange Notebook. He briefly summarized the purpose of the Orange Notebook and discussed some key highlights, including continued low staffing levels and slightly accelerated hiring rates. Next, Mr. Estes-Smargiassi advised that the most notable recent trend in the current Orange Notebook is summer 2023's historic precipitation, which was approximately 50% higher than normal. He discussed some operational impacts related to the precipitation, including record high flows at DITP,

which resulted in higher rates of power and chemical use. He further explained that the high precipitation had increased tributary flows, which raised natural organic matter levels and affected reservoir operations and drinking water quality. Finally, Mr. Estes-Smargiassi reported that some MWRA communities had detected total coliform levels in drinking water that were higher than usual, attributable to factors related to the high precipitation.

Board Member Pappastergion asked for more information about the practice of blending at DITP. David Duest, MWRA Deer Island Treatment Plant Director, explained that blending can take place during significant rain events. He then summarized the steps, which include secondary treatment for as much influent as possible; followed by blending of primary effluent with the effluent that had received secondary treatment; and, finally, disinfection and dechlorination. There was brief, general discussion about the blending process; the short duration of a typical blending operation; the relative infrequency of blending operations; and, the low proportion of primary effluent (approximately 1-2%) in DITP's blended discharges.

Board Member Taverna asked if staff expect community coliform levels to stabilize in the upcoming months. Mr. Estes-Smargiassi explained that the levels are beginning to taper off, and noted that most of the communities' total coliform positives were one-time events that cleared on repeat testing. He advised that staff believe the increased number of community positives could be related to the historic precipitation levels. He further advised that staff currently believe that the treatment adjustments MWRA made in response to similar conditions in 2021 had improved the water quality levels vs. levels that would have been achieved without them. There was brief, general discussion about environmental factors that could have contributed to the recent community total coliform positives, including warmer temperatures; increased precipitation; and, low chlorine residuals in pipelines related to reduced water use. Mr. Jack Walsh asked if the recent community positives were geographically clustered. Mr. Estes-Smargiassi explained that they were geographically scattered. There was further discussion about potential factors related to the community total coliform positives, and steps that MWRA is taking to toward reducing the frequency of total coliform detections in the future.

Board Member Peña asked if community positives had triggered EPA Revised Total Coliform Rule ("RTCR") Level 2 Assessments. Mr. Estes-Smargiassi advised that staff track this data, and noted that Level 2 Assessments had been triggered for some of the affected communities. He provided brief background on RTCR Assessments and their inclusion in MWRA's Annual Water Quality Reports. Finally Mr. Estes-Smargiassi advised that he would provide more detailed information on recent community Level 2 Assessments as soon as possible. (Mr. Estes-Smargiassi followed up on Mr. Peña's question after the meeting.)

Mr. Pappastergion asked why MWRA's leak detection and valve replacement programs were below target in FY2024. Mr. Estes-Smargiassi explained that the program was below target due to staffing and scheduling issues. Mr. Coppes added that MWRA had recently hired a new member of the leak detection team. Mr. Estes-Smargiassi advised that MWRA is meeting operability targets for valves. Hearing no further discussion or questions from the Board, Mr. Flanagan moved to Contract Awards. (ref. VI A.3)

Contract Awards

Security Equipment Maintenance and Repair Services: Viscom Systems, Inc., Contract EXE-047

**A motion was duly made and seconded to approve the award of Contract EXE-047, Security Equipment Maintenance and Repair Services, to the lowest responsible bidder, Viscom Systems, Inc., and to authorize the Executive Director, on behalf of the Authority, to execute said contract in the bid amount of \$2,395,680.05 for a contract term of 1095 days from the Notice to Proceed.**

Douglas Rice, MWRA Procurement Director, summarized a proposed security equipment and repair services contract. He noted that proposed contract EXE-047 is one of two contracts for MWRA security maintenance and repair that are being procured under Commonwealth of Massachusetts State Blanket Contracts, and that State Contract ITC-71: *Security, Surveillance, Monitoring, and Access Control Systems* was utilized for this first procurement. Mr. Rice then explained that the two security services contracts represent a repackaging of a larger, single contract in response to feedback received at the October 18, 2023 Board of Directors meeting.

Next, Mr. Rice reported that while the procurement of EXE-047 had generated interest from several vendors, the only firm to submit a bid was Viscom Systems, Inc. (“Viscom”). He noted that MWRA has had a strong working relationship with Viscom on prior iterations of the contract, and are confident that the relationship will continue. Finally, Mr. Rice advised that staff plan to solicit the second security services blanket contract for award under delegated authority later in 2023.

Mr. Pappastergion requested the cost of Viscom’s prior three-year contract. Gary Cacace, MWRA Director of Security, explained that nationwide wage inflation and cost increases for the replacement of security equipment such as cameras were factored into the proposed new contract, and that staff would provide more details about the previous contract’s cost as soon as possible.

Chair Tepper asked if there was further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VI B.1)



Contract Amendments/Change Orders

Maximo Lawson Interface Enhancements: Starboard Consulting, LLC, Contract No.7649 - Amendment 3

**A motion was duly made and seconded that the Executive Director, on behalf of the Authority, approve Amendment 3 to Contract 7649, Maximo Lawson Interface Enhancements, with Starboard Consulting, LLC, to extend the contract term by six months from December 26, 2023 to June 26, 2024 at no additional cost to the Authority.**

Paula Weadick, MWRA MIS Director, invited questions from Board Members.

Mr. Jack Walsh requested the reasons for the proposed amendment for a contract time extension. Ms. Weadick explained that the first contract amendment was needed to conduct an additional workshop, and the second amendment was needed to accommodate concurrent internal upgrades to MWRA's Maximo system. She then advised that Contract 7649 was entering the testing phase and nearing completion. There was brief, general discussion about the cost of the contract, the payment schedule for deliverables, and potential impacts of contract delays.

Hearing no further discussion or questions from the Board, Chair Tepper requested a roll call vote.

Mr. Vitale asked if Contract 7649 time extensions have caused any negative impacts to MWRA. Ms. Weadick advised that there have been no negative impacts, and that Maximo Lawson continues to be functional and usable. She explained that the scope of work under the time extension includes routine error fixes, and advised that protracted contract delays could impact the schedules of other MIS systems upgrade projects.

Hearing no further discussion or questions from the Board, Chair Tepper requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VI C.1)

Delta Dental of Massachusetts, Inc., d/b/a Delta Dental of Massachusetts, Contract A631, Amendment 2

**A motion was duly made and seconded to approve Amendment 2 to Contract A631 with Delta Dental of Massachusetts, Inc., d/b/a Delta Dental of Massachusetts, exercising the second option to renew, increasing the contract amount by \$240,000 for a total not-to-exceed amount of \$764,000, and extending the term by 12 months from January 1, 2024 to December 31, 2024 for a total contract term of 36 months.**

Ms. Chu briefly discussed a proposed renewal of a dental services provider contract.

Hearing no discussion or questions from the Board, Chair Tepper requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VI C.2)

#### WASTEWATER POLICY AND OVERSIGHT

##### Information

##### MWRA Comment Letter on the Deer Island Wastewater Treatment Plant Draft National Pollutant Discharge Elimination System (NPDES) Permit and Draft State Surface Water Discharge Permit

Staff presented an overview of MWRA's comments on the Draft National Pollutant Discharge Elimination System (NPDES) Permit for MWRA's Deer Island Treatment Plant ("DITP"). Betsy Reilley, MWRA Director of Environmental Quality, began with a summary of the Draft Permit's timeline. She noted that it was issued by EPA and the Massachusetts Department of Environmental Protection (DEP) on May 31, 2023, that its comment period closes on November 28, 2023. She advised that MWRA will submit extensive comments, which is necessary in order for MWRA to request changes to certain elements, and to reserve its right to appeal.

Next, Wendy Leo, MWRA Senior Program Manager, NPDES Compliance, explained that the Draft Permit includes important positive elements, including a seasonal *Enterococcus* limit, no nitrogen limits, and the elimination of the Outfall Contingency Plan. Ms. Leo then discussed staff's review of the Draft Permit, and their assessment of the Permit's potential impacts to MWRA operations with respect to compliance, operations and cost.

Next, Ms. Leo discussed significant issues with the Draft Permit, including its exclusion of blending, which is important to maximize MWRA's ability to protect DITP, handle incoming flows and prevent combined sewer overflows ("CSOs"); the Draft Permit's inclusion of co-permittees, which would require MWRA sewer community compliance with certain sections; and, major storm event planning/adaption requirements for MWRA and all sewer communities, which would entail a significant level of effort that is out of balance with other operational needs. She noted that EPA had recently modified language for the storm planning requirements in recent permits.

Ms. Leo then described some Draft Permit requirements of concern with respect to compliance, including limits for activations and volumes at each CSO outfall and required additional monitoring for nuisance and harmful algal blooms. She advised that the required algal bloom monitoring would be costly and has no clear connection to the DITP outfall in staff's view. She further advised that the Draft Permit's Pretreatment Program reporting schedule and deadlines were also of concern because they disregard MWRA's longstanding reporting schedule and fail to recognize the scale and complexity of MWRA's Pretreatment Program.

Dr. Reilley continued the discussion about elements of concern in the Draft Permit, including a strict acute toxicity test limit that does not recognize the high level of dilution provided by the MWRA outfall's diffusers; a challenging seasonal event CSO sampling program; a costly outfall tunnel video inspection requirement that is unnecessary and not as accurate as MWRA's existing monitoring methods; and a vague generic narrative requirement that could make MWRA vulnerable to inadvertent noncompliance.

Dr. Reilley then described the next steps in the Draft Permit process. She explained that after the comment period closes, EPA will develop responses to all comments submitted, and potentially make language changes as appropriate before issuing the Final Permit. Dr. Reilley advised that there is no set timeline for EPA to issue the Final Permit, and that the process could take months or years. She further advised that the Final Permit requirements were expected to take effect 60 days after issuance. She explained that MWRA would have 30 days to file an appeal with the EPA's Environmental Appeals Board if it opposes any of the Final Permit requirements. Finally, Dr. Reilley advised that filing an appeal with the First Circuit Court of Appeals or DEP's Office of Appeals and Dispute Resolution could also be necessary, and that any items not appealed would take effect.

Board Member White-Hammond asked if any particular events at MWRA had prompted the changes to the Draft Permit for DITP, and if NPDES permits for other wastewater service providers were being similarly changed. Dr. Reilley explained that permits for some other wastewater providers were also being changed, and that factors such as MWRA's ongoing Long-Term CSO Control Program and associated monitoring data could have contributed to the new Draft Permit changes. Ms. Leo added that MWRA's current Permit was issued 23 years ago, and explained that some of the proposed changes are intended to bring MWRA's Permit up to date with more recent water quality standards. She further explained that certain Draft Permit requirements that are new to MWRA are the standard for Permits issued more recently to other service providers. Finally, Ms. Leo noted that MWRA's NPDES Permit has historically tended to include exceptions to the broader standard because MWRA is by far the largest permittee.

Mr. Jack Walsh requested more information about the Draft Permit's DITP secondary process limit of at least 700 million gallons per day (mgd), and asked why a secondary process limit was not maintained or referenced in the Draft Permit. Dr. Reilley explained that the 700 mgd limit was determined through MWRA testing and agreed upon as a Stipulation and Order entered in the Boston Harbor Case in 2008. Mr. Walsh asked if DITP could comfortably surpass 700 mgd limit. Dr. Reilley explained that MWRA testing had determined that 700 mgd was the achievable maximum, and advised that the absence of the stipulated secondary process limit in the Draft Permit is of concern to staff.

Matt Romero, Executive Director of the MWRA Advisory Board advised that the Advisory Board had engaged outside counsel to review the Draft Permit, with particular focus on its inclusion of MWRA's sewer communities as co-permittees, and its requirements with respect to these newly named co-permittees, climate adaptation and storm preparedness. He thanked MWRA staff for their help in putting together their comments on the Draft Permit. He then noted that the Boston Water and Sewer Commission's outside counsel had joined a common interest agreement with MWRA and the Advisory Board and it has been a great working relationship. He then advised that the MWRA Advisory Board membership would meet to review and discuss the Draft Permit, and take an endorsing vote on the Advisory Board's comments. Finally, Mr. Romero congratulated MWRA staff for preparing thorough and thoughtful comments.

(Mr. Peña left and returned to the meeting during the discussion.)

Hearing no further discussion or questions from the Board, Committee Chair Jack Walsh moved to Contract Awards. (ref. VII A.1)

#### CONTRACT AWARDS

Harbor and Outfall Monitoring, 2024-2027: Battelle Memorial Institute, Contract OP-466

**A motion was duly made and seconded to approve the recommendation of the Consultant Selection Committee to award Contract OP-466, Harbor and Outfall Monitoring 2024-2027, to Battelle Memorial Institute and to authorize the Executive Director, on behalf of the Authority, to execute said contract in the bid amount not to exceed \$3,581,397.74 for a contract term of 48 months from the Notice to Proceed.**

David Wu, MWRA Senior Program Manager, Environmental Monitoring, briefly described the scope of a proposed contract to perform Boston Harbor and Deer Island Outfall monitoring as required by MWRA's NPDES permit. He explained that the recommended vendor, Battelle Memorial Institute ("Battelle"), is the incumbent consultant and the sole bidder on the contract. Mr. Wu noted that staff had presented the annual Outfall Monitoring Review for 2022 at the October 18, 2023 Board of Directors Meeting, and that monitoring results continued to show no adverse environmental impacts from the Outfall. Finally, he noted that the proposed contract includes contingencies to address known potential changes to the NPDES Permit requirements.

Mr. Jack Walsh requested the cost of the previous Harbor and Outfall Monitoring contract. Mr. Wu explained that historically the contract amount for analysis tasks had increased incrementally by approximately 2%, and that the new, proposed contract includes a more significant increase for field tasks, likely due to rising fuel costs. There was brief, general discussion about Battelle's staffing and subcontracting practices.

Chair Tepper requested confirmation that the proposed contract is expected to cover any potential changes in the Final NPDES Permit. Mr. Wu explained that staff believe that all known potential changes would be covered, but could not guarantee coverage for unanticipated changes. Chair Tepper asked if it was unlikely that there would be a circumstance in which Battelle would increase the contract price, given the current conditions of the Draft Permit. Mr. Wu responded in the affirmative.

With regards to Mr. Jack Walsh's earlier question about the cost of the previous contract, Mr. Rice advised that the prior amount was approximately \$2.3 million, and noted that the proposed new contract amount is approximately \$3.5 million. There was brief, general discussion about the cost of the proposed contract.

Hearing no further discussion or questions from the Board, Chair Tepper requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VII B.1)

Roofing Replacement at Various Buildings, Deer Island Treatment Plant: Greenwood Industries, Inc., Contract 7734

**A motion was duly made and seconded to approve the award of Contract 7734, Roofing Replacement at Various Buildings, Deer Island Treatment Plant to the lowest eligible and responsible bidder, Greenwood Industries, Inc. and to authorize the Executive Director, on behalf of the Authority, to execute said contract in the amount of \$8,873,000 for a contract term of 365 calendar days from the Notice to Proceed.**

Mr. Duest summarized the scope and procurement process for a contract to replace the roofs of nine process buildings at DITP. He noted that the new ethylene propylene diene monomer (EPDM) roofs are expected to last for approximately 20 years. He explained that the existing roofs are nearing the end of their useful lives, and briefly described the scope of the roof removal and replacement work. Finally, Mr. Duest discussed the contract procurement process. He advised that the recommended contractor, Greenwood Industries, Inc. was the lowest bidder, at 7.5% below the Engineer's Estimate, and noted the three bids received were within 3% of each other.

Mr. Taverna requested more information about the terms of the contract. Rick Adams, MWRA Deer Island Engineering Services Manager, explained that proposed contract 7734 was a lump sum contract for all nine buildings. Board Member Flanagan asked if all of the existing roofs that are part of this contract will be removed. Mr. Adams responded in the affirmative. There was brief, general discussion about the lowest bid, and the conditions of the existing roofs. Mr. Duest explained that the Cryogenics Compressor Building and the Thermal/Power Plant roofs have experienced multiple failures; therefore, they will be replaced via a "built-up roof system" consisting of layers of thicker, reinforced material. Mr. Adams added that the built-up roofs would be comprised of two or three separate layers of EPDM and a

gravel top layer for added protection. There was brief, general discussion about characteristics and construction methods for EPDM roofs. Mr. Flanagan asked for more information about the warranties for the new roofs. Mr. Adams explained that the roofs have a 30-year manufacturer's warranty, and that the contractor's warranties are five years for single ply, and three-years for triple-ply roofs. Mr. Jack Walsh asked if the existing roofs' damage was caused by sun exposure. Mr. Adams explained that most of the damage has been caused by other environmental factors, such as high winds and ocean storms.

Hearing no further discussion or questions from the Board, Chair Tepper requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VII B.2)

Operations and Maintenance of the Fore River Pelletizing Plant: New England Fertilizer Company, Contract S592

**A motion was duly made and seconded to approve the recommendation of the Selection Committee to award Contract S592, Operations and Maintenance of the Fore River Pelletizing Plant, to the New England Fertilizer Company and to authorize the Executive Director, on behalf of the Authority, to execute said contract for the base amount of \$229,289,350 plus escalation, cost of excess quantities and, if necessary, additional costs associated with alternate disposal, with a contract term of ten years from January 1, 2024 through December 31, 2033.**

(Mr. Pappastergion temporarily left the meeting during the motion.)

Mr. Duest presented an overview of the scope and procurement process for an Operations and Maintenance ("O&M") contract for the Fore River Pelletizing Plant ("Pellet Plant"). He provided a brief history of Pellet Plant O&M contracts since the facility's startup in 1991, and described the process of processing digested, liquid sludge from DITP into pellets for use as fertilizer.

Next, Mr. Duest discussed the scope of work for MWRA's Pellet Plant O&M contractors, which includes receiving and storing digested sludge; dewatering the sludge with centrifuges; drying it with thermal dryers; and, producing fertilizer pellets. He advised that the contractor is required to landfill all product that is out of compliance for any reason.

Mr. Duest then outlined additional terms of proposed Contract S592, which is scheduled to start on January 1, 2024 for a duration of 10 years, with an expected production rate of 105 dry tons per day and

a base rate of 95 dry tons per day. He explained that the goal of the pelletizing process is beneficial use as fertilizer, and advised that because of PFAS concerns, proposed Contract S592 includes a landfill contingency for PFAS. He further advised that the proposed contract stipulates the option for MWRA to exit the beneficial use market and switch to landfill-only operations. Mr. Duest noted that all capital projects would be covered by MWRA and subject to Board approval. He then advised that the distribution of MWRA's fertilizer pellets within Massachusetts has decreased significantly due to PFAS concerns.

Next, Mr. Duest discussed the procurement process for proposed Contract S592. He explained that the RFQ/P was issued in April 2023, and that 10 firms had requested RFQ documents. He noted that three firms submitted qualification statements, and two firms were deemed qualified to receive the RFP. He explained that the two final firms were then invited to comment on the draft scope of services and contract agreements with the goal of engaging a contractor that would perform the work and sign the contract agreement with no changes. Mr. Duest then noted that over 150 questions were received and answered, and that many of the questions were related to title retention, liability and indemnification. He advised that one of the final two firms withdrew its bid near the end of the procurement process, citing risk allocation concerns, leaving one remaining bidder for the contract.

Mr. Duest then summarized the proposal for the remaining bidder, New England Fertilizer Company ("NEFCo"). He reported that the proposal price of approximately \$229 million does not include the cost of estimated excess quantities, index adjustments, or alternative disposal options. Finally, he advised that the estimated total contract cost is approximately \$340 million over a 10-year period.

(Mr. Pappastergion returned to the meeting during the presentation.)

Mr. Peña asked if PFAS concerns or the reduced local distribution of MWRA's fertilizer pellets were factors in proposed Contract S592's higher overall cost vs. that of the previous contract. Mr. Duest explained that the price of electricity represented the largest cost difference, noting that marketing and disposal costs had also increased by 20%. He further explained that the new contract includes measures to temper market volatility, such as a Change of Law provision to allow MWRA to renegotiate further as needed, as well as the previously discussed landfill contingency. Mr. Peña asked if the proposed new contract includes any changes to the indemnification language. Mr. Duest advised that the indemnification language had not changed.

Chair Tepper requested further information about proposed Contract S592's landfill contingency. Mr. Duest explained that the contract stipulates that MWRA would be responsible if pellets exceed EPA compliance standards, and that NEFCo would be responsible if combined materials were out of compliance. Chair Tepper asked how the landfill contingency would work with regards to PFAS. Mr. Duest explained that a potential new EPA standard for PFAS in fertilizer pellets would qualify as a Change in Law that would prompt contract renegotiation. Mr. Laskey noted MWRA may need to identify and secure new landfill space if a PFAS standard were issued. Mr. Duest added that proposed Contract S592 includes requirements for the contractor to provide up to one year of landfiling, and noted that the contract also stipulates that MWRA may cease pellet distribution and switch to landfill-only operations at its discretion.

Mr. Jack Walsh requested the proposed contract's maximum cost. Mr. Duest explained that the maximum cost would be approximately \$340 million if pellets are produced for beneficial use and approximately \$360 million if all pellets are landfilled. There was brief discussion about the contract's maximum cost. Mr. Walsh asked for clarification on the proposed contract's Original Equipment Manufacturer ("OEM") costs. Mr. Duest explained that staff have seen an approximate 7% index adjustment in the last four years, and an adjustment of less than 3% for earlier contracts. Mr. Walsh asked why proposed contract S592 was for ten years, rather than a shorter duration. Mr. Duest explained that pelletizing firms prefer longer-term contracts because they spread risk over time and support staff recruitment and retention. There was brief, general discussion about the risk of PFAS, and the potential impacts of rising electricity costs on NEFCo's operations.

Mr. Vitale requested information about the maximum contract term allowed per Massachusetts procurement law. Mr. Rice explained that there are no statutory limits on the length of this type of O&M contract, and that MWRA staff procure contracts in accordance with MWRA's policies and procedures and in the interest of MWRA and its ratepayers. General Counsel Francisco Murphy added that there may be certain constraints regarding the length of certain contracts from other sources.

(Chair Tepper left the meeting during the discussion.)

Vice Chair Pappastergion asked if there was any further discussion or questions from the Board. Hearing none, he requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VII B.3)

## WATER POLICY AND OVERSIGHT

### Information

#### Update on Lead and Copper Rule Compliance – Fall 2023

Mr. Estes-Smargiassi presented the fall 2023 update on MWRA's Lead and Copper Rule compliance. He provided a brief overview of MWRA's program to perform lead and copper testing on drinking water samples taken from homes that are likely to have elevated lead levels due to lead service lines or lead solder. He noted that the testing takes place in MWRA's fully-supplied water service communities served by the Carroll Water Treatment Plant every September and October, and briefly described the testing protocols.

Next, Mr. Estes-Smargiassi reported that during the most recent sampling round, the MWRA water



system's preliminary 90th percentile lead value was 10.8 parts per billion ("ppb"), which is well below the 90% Lead Action Level of 15 ppb. He advised that while the fall 2023 results were below the Action Level, they were higher than those of previous years, due to factors discussed in this agenda item's Staff Summary. Mr. Estes-Smargiassi then reported that six MWRA communities were above the Action Level, and were therefore required to issue public notices within 24 hours of the results. He noted that in general, the public notices' resulting press coverage generally focused on lead service lines and communities' lead service line removal programs. Mr. Estes-Smargiassi explained that communities that test above the Lead Action Level were also required to issue a mailing to every local customer, with MWRA assistance as needed, and to continue to replace local lead service lines. Finally, Mr. Estes-Smargiassi advised that 31 of the 35 samples that were above the Lead Action Level for fall 2023 were taken from homes with lead service lines, and that lead levels for homes with lead service lines are three to five times higher than homes with only copper pipe and lead solder.

(Mr. Peña briefly left and returned to the meeting during the presentation.)

On behalf of the Boston Water and Sewer Commission (BWSC), Mr. Vitale thanked Mr. Laskey and Mr. Estes-Smargiassi for being tremendous resources for MWRA's customer communities. Mr. Laskey acknowledged the work and expertise of MWRA staff and advised that staff expect that an expansion of MWRA's Lead Service Line Replacement Loan Program may be necessary in the future.

Hearing no further discussion or questions from the Board, Committee Chair Vitale moved to Contract Amendments/Change Orders. (ref. VIII A.1)

#### Contract Amendments/Change Orders

**A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to approve Change Order 5 to Contract 7117, Northern Intermediate High Section 89 Replacement Pipeline, with P. Gioioso & Sons, Inc. for an amount not to exceed \$2,000,000, increasing the contract amount from \$33,309,138.83 to \$35,309,138.83, with no increase in contract term.**

**Further, a motion was duly made and seconded to authorize the Executive Director to approve additional change orders as may be needed to Contract 7117 in an amount not to exceed the aggregate of \$1,000,000 in accordance with the Management Policies and Procedures of the Board of Directors.**

Marty McGowan, MWRA Director of Construction, invited Board Members' questions regarding a proposed change order to the Northern Intermediate High Section 89 Pipeline project.

Hearing no discussion or questions from the Board, Vice Chair Pappastergion requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Flanagan		
Pappastergion		
Peña		

Taverna  
Vitale  
J. Walsh

P. Walsh

White-Hammond

(Mr. Patrick Walsh abstained due to Webex technical issues.) (ref. VIII B.1)

CORRESPONDENCE TO THE BOARD

There was no correspondence to the Board. (ref. IX)

OTHER BUSINESS

There was brief discussion about the schedule of the MWRA Board of Directors meetings, and potential adjustments to the meetings’ times and/or format. (ref. X)

ADJOURNMENT

**A motion was duly made and seconded to adjourn the meeting.**

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

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Flanagan		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. XI)

The meeting adjourned at 3:18pm.

Approved: December 13, 2023

Attest: *Kristin MacDonnell* for  
 Brian Peña, Secretary