

MINUTES OF A MEETING OF THE NEW YORK CITY WATER BOARD

A meeting of the New York City Water Board (the “Board”) was held on October 7, 2011 at 12:00 noon at the New York City Office of Management and Budget, 75 Park Place, Room 8-S1 and 2, New York, New York 10007. The following members of the Board were present:

Alan M. Moss,

Marcia Bystryn,

Donald A. Capoccia

Alfonso L. Carney, Jr.,

Mehul J. Patel,

Arlene M. Payne, and

Benjamin A. Tisdell;

constituting a quorum. Mr. Moss chaired the meeting, and Albert F. Moncure, Jr., served as secretary of the meeting.

Approval of Minutes of September 9, 2011 Meeting

The next item on the agenda was approval of the minutes of the Board’s previous meeting held on September 9, 2011. There being no discussion, upon motion duly made and seconded, the minutes of the meeting held on September 9, 2011 were unanimously adopted.

Acceptance of the Independent Auditors’ Report on the Audited Financial Statements of the System for the Fiscal Years ended June 30, 2011 and June 30, 2010 and authorization of the release of such Audited Financial Statements.

The next item on the agenda was the acceptance of the independent auditors’ report on the audited financial statements of the System for Fiscal Years 2011 and 2010 and the authorization to release such audited financial statements.

Steven Lawitts, the Board’s Executive Director, explained that the Joint Audit Committee of the Water Board and the New York City Municipal Water Finance Authority (the

“Authority”) had reviewed the auditors’ report and audited financial statements, met with the System’s auditors, and recommended to the Water Board and the Authority’s Directors that the auditors’ report and financial statements be accepted by the Water board and by the Authority. There being no discussion, upon motion duly made and seconded, the following resolution was unanimously adopted.

WHEREAS, the New York City Water Board (the "Board") and the New York City Municipal Water Finance Authority (the "Authority") established a joint Audit Committee in light of their joint role in the financial operations of the water and wastewater system of the City of New York (the “System”); and

WHEREAS, pursuant to the joint Audit Committee Charter and the Board resolution of January 25, 2008 establishing the joint Audit Committee, the Board and the Authority each acting separately, after receiving a recommendation from the joint Audit Committee, shall annually approve the audited financial statements of the System; and

WHEREAS, on October 7, 2011, the Audit Committee met with the independent auditors and reviewed their report on the System’s audited financial statements for the fiscal years ended June 30, 2011 and June 30, 2010; and

WHEREAS, the Audit Committee believes the independent auditors’ report and the financial statements are reasonable and appropriate and has recommended that the Board and the Authority accept the independent auditors’ report and authorize the release of the financial statements; and

WHEREAS, the Board of Directors of the Authority is expected to approve the independent auditors’ report and authorize the release of the financial statements on October 13, 2011, it is therefore

RESOLVED, that the Board hereby accepts the independent auditors’ report on the audited financial statements of the System for the fiscal years ended June 30, 2011 and June 30, 2010 and authorizes the release of such audited financial statements, provided that both the independent auditors’ report and the audited financial statements may be amended to reflect non-material changes acceptable to the Comptroller of the Authority.

Approval of Selection of Operational Efficiency Consultant and Contract Authorization

The next item on the agenda was the approval of the selection of an Operational Efficiency Consultant and contract authorization. Mr. Lawitts described the objective of the procurement. He explained that the System’s annual operating budget is \$1.2 billion or 36% of

the annual expenses of the System. DEP would like the System to operate more efficiently in order to moderate the increase in Water and Sewer rates. A 2% reduction in the operating budget, for example, would result in a 1% decrease in Water and Sewer rates

With this goal in mind, Board staff conducted a competitive request for proposals process to select a consultant to identify and implement efficiencies in the System's operating budget. Six proposals were received. Four of the respondents were interviewed, and three firms were short listed based on technical understanding, experience and price. The short-listed firms were then invited to submit best and final offers based on price. Veolia Water North America Operating Services, LLC ("Veolia") was the most highly rated respondent based on technical understanding and also proposed the lowest hourly price. Therefore, Board staff recommends award of the contract to Veolia.

Mr. Lawitts said the consultant's work would be divided into two phases. In phase one, the consultant would identify proposed operational efficiencies; and in phase two, the recommended efficiencies selected would be implemented. The consultant's compensation for phase one would be a fixed fee of \$4 million. Phase two compensation would be an incentive-based percentage of realized savings below a baseline established by DEP's proposed annual operating budget at the start of phase two. Phase two compensation would be capped at \$32 million.

Discussion ensued among Board Members about how cost savings would be quantified for purposes of calculating the contractor's incentive compensation and what termination options would be available to DEP. Mr. Lawitts said, that for incentive compensation purposes, savings would have to be documented for an entire fiscal year and would have to be sustainable, not just a one-time cost reduction. Mathilde McLean, the Board's Treasurer, added that DEP would apply a rigorous analysis to any determination of savings. Ms.

McLean said that if the consultant is not retained for phase two, the consultant would be entitled to a fee (capped at \$6 million) determined pursuant to a formula based on the realized savings, if DEP implements any of the consultant's recommended initiatives without retaining the consultant for phase two. Mr. Capoccia observed that any savings would have to be net of DEP implementation costs. Responding to a question from Mr. Carney, Mr. Lawitts said that DEP could terminate the contract for convenience. Mr. Moss expressed reservations about DEP's ability to administer this type of contract and indicated concern about potential opposition to any proposed operational efficiencies from organized labor. However, he said his objections were largely satisfied by the remarks of Mr. Lawitts and Ms. McLean. Mr. Tisdell asked for a status report at the end of the first six months of phase one, and Mr. Moss asked for monthly progress reports during the term of the contract. Mr. Lawitts agreed to both requests.

There being no further discussion, the following resolution was adopted by the affirmative votes of all members present, with the exception of Mr. Capoccia, who abstained:

WHEREAS, pursuant to Section 1045-g(8) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board is authorized to enter into contracts and to retain private consultants on a contract basis for the purpose of obtaining professional or technical services to assist the Board in carrying out its responsibilities; and,

WHEREAS, the Board's primary duty under the Act is to establish and collect water and wastewater rates and charges in an amount sufficient to place the water supply and wastewater systems (the "System") of the City on a self-sustaining basis; and

WHEREAS, the System is operated and maintained by the Department of Environmental Protection of the City of New York ("DEP"); and

WHEREAS, in the interest of optimizing the operation and maintenance ("O&M") of System assets and reducing costs borne by ratepayers while maintaining or improving the current level of service, the Board and DEP seek to procure the services of a firm(s) that will provide consulting services focused on improving DEP's O&M performance, while reducing costs and enhancing operational efficiencies; and

WHEREAS, on April 14, 2011, Board staff commenced a competitive solicitation process for said O&M consulting services with the advertisement of a

Request for Proposals (“RFP”) in the City Record, the New York Daily News, and on the Board’s website; and

WHEREAS, five conforming technical proposals and cost proposals were received for consideration and review; and

WHEREAS, a Technical Evaluation Committee (“the Committee”), consisting of seven qualified persons, rated and ranked each technical proposal and statement of qualifications received in accordance with the criteria stated in the RFP; and

WHEREAS, the four proposing teams, which the Committee ranked most highly based on the technical proposal and qualifications criteria set forth in the RFP, were invited to interview with the Committee; and

WHEREAS, the top three teams based on the Committee evaluations and interviews were invited to submit a best and final offer price proposal; and

WHEREAS, the Committee determined that the proposal and presentation by Veolia Water North America Operating Services, LLC (“Veolia”), was the most highly-rated on technical approach and qualifications and, after consideration of the cost proposals, determined that its cost proposal was fair and reasonable; and

WHEREAS, the Board has reviewed a memorandum dated September 30, 2011 from the Executive Director of the Board, Steven W. Lawitts,¹ on behalf of the Committee, which summarizes the RFP and evaluation process and sets forth a recommendation that the Board authorize the Executive Director to enter into a two-phase agreement with Veolia to provide O&M consulting services to the Board, with Phase I involving the review of DEP’s operations in the development of operational efficiency recommendations, and Phase II involving the implementation of Phase I recommendations; and,

WHEREAS, in accordance with the Water Board’s Policy on the Procurement of Goods and Services, in particular, Section 4 (selection based on the best combination of technical merit and price) and Section 5.i (prior approval of contracts where the cumulative value exceeds \$100,000), the Board finds the selection of Veolia appropriate; it is, therefore,

RESOLVED, that the Executive Director is hereby authorized and directed to execute an agreement with Veolia to provide O&M consulting services to the Board, for a one-year term for Phase I of the agreement, which may also include an option for one additional one-year extension at the Board’s option, and a four-year term for Phase II of the agreement, with two additional one-year extensions at the Board’s option, upon such terms and conditions as the Executive Director may deem reasonable and appropriate; and be it further

¹ Filed with Minutes of the meeting.

RESOLVED, that the total compensation for services performed, including fixed fee and incentive components, shall not exceed \$4,000,000 of Board funds for Phase I of the agreement, unless a Phase II is not undertaken but Phase I initiatives are implemented and realized, in which case up to \$6,000,000 of additional compensation may be due, and shall not exceed \$32,000,000 for Phase II of the agreement. In no event shall the total compensation due exceed \$36,000,000.

Update on Natural Gas Drilling

Ms. Bystryn asked for an update on the status of DEC's Draft Generic Environmental Impact Statement with respect to natural gas drilling in the upstate Marcellus Shale rock formation. Mr. Lawitts said that Commissioner Strickland testified before a Committee of the New York State Assembly that the proposed 1000 foot buffer zone adjacent to the upstate watershed, in which drilling would be prohibited, may not be adequate to protect the water supply. Because of horizontal drilling techniques used in hydro-fracturing, groundwater may be adversely impacted by drilling even at this distance from a water source.

Financial Update

The next item on the agenda was a financial update from Mr. Lawitts. Revenue is 0.1% higher than the Plan target amount for the first three months of the Fiscal Year. During this period, DEP distributed 3.9% less water to customers than during the same period in the prior fiscal year; and metered consumption, year-over-year, continued to fall in September. However, DEP billed 5.4% more on a year-over-year basis for the third month of Fiscal Year 2012. Revenue results have also been favorably impacted by the so-called "halo effect" from this year's lien sale, whereby delinquent customers are incentivized to pay by notice of inclusion in the lien sale. The lien sale was delayed this year from the spring to late summer because of a delay in the City Council's approval of the new lien sale legislation.

Mr. Lawitts next discussed three recent events which have resulted in extraordinary expenditures: the North River Wastewater Treatment Plant (WWTP) fire, the Jerome Avenue water main break, and hurricane Irene.

The North River WWTP fire occurred in July 2011. As a result of the blaze, the WWTP was offline for 41 hours, during which time untreated sewage was discharged into the Hudson River. DEC issued a Notice of Violation for this release. The cause of the fire is still under investigation. \$10 million in operating costs were incurred, and a projected \$32 million in capital expenditures will be required to restore the damage.

The water main under Jerome Avenue in the Bronx also broke in July 2011, resulting in \$22,000 in operating costs and \$962,000 in capital expenditures.

Hurricane Irene is projected to have caused approximately \$50 million in damage to DEP infrastructure in the upstate watershed, including access roads to wastewater treatment plants, a covered bridge, and a concrete manufacturing plant supporting rehabilitation of Gilboa Dam. With the City Comptroller's cooperation, emergency contracts were let to address the immediate damage. Responding to Mr. Capoccia, Mr. Lawitts explained that most of the damage is not covered by insurance since the City is self-insured. The Board's risk management consultant will re-evaluate this practice in light of recent events. Additionally, FEMA reimbursement is expected for a large portion of the costs.

Adjournment

There being no further business to come before the Board, upon motion duly made and seconded, the meeting was duly adjourned.

SECRETARY