MINUTES OF THE MEETING OF THE NEW YORK CITY WATER BOARD

December 6, 2022

A meeting of the New York City Water Board (the "Board") was held on Tuesday December 6, 2022 at 255 Greenwich Street, Manhattan, New York in the 8th floor conference room, beginning at approximately 9:00 a.m. The following members of the Board attended the meeting:

Alfonso Carney,

Evelyn Fernandez-Ketcham,

Adam Freed,

Jonathan Goldin, and

Daniel Zarrilli

constituting a quorum. Mr. Carney chaired the meeting and Albert Rodriguez served as Secretary of the meeting.

Approval of the Minutes

The first item on the agenda was approval of the minutes of the Board's previous meeting held on October 13, 2022. Upon motion duly made and seconded, the minutes of the meeting held on October 13, 2022 were put to the members for a voice vote. Chairman Carney and Members Fernandez-Ketcham and Zarrilli indicated a vote in favor of the minutes. Member Freed indicated that since he did not attend the October 13 meeting, he would abstain from voting on the minutes. Member Goldin stated that since he also did not attend the October 13 meeting, he would abstain from voting as well. The three members in attendance not abstaining from the vote voted to approve the minutes by a unanimous voice vote.

Three Proposals for Addressing Accounts Receivable

The Department of Environmental Protection ("DEP") presented the Board with an update

on water and wastewater accounts receivable and three proposed billing policies, which were described as intended to address the amount of accounts receivable attributable to customers with unpaid water and wastewater bills and to incentivize digital billing and payment methods. DEP Commissioner Rohit Aggarwala opened the presentation, and was joined in the presentation by DEP Deputy Commissioner of Customer Services Jeff Lynch, Chief of Revenue Protection and DEP Counsel Andrew Rettig, and DEP Director of Business Services Albert Kramer. Commissioner Aggarwala started the presentation by introducing the presenters to the Board, as well as DEP's newly hired Deputy Commissioner for Public Affairs and Communications Beth DeFalco, who was also in attendance.

Commissioner Aggarwala explained that the customer proposals being presented to the Board were intended to maintain the system's financial strength despite a growing accounts receivable balance and the inability to conduct sales of water and wastewater liens due to the sunset of the City's authority to sell tax liens. The proposals would be implemented during the first quarter of calendar year 2023, and would offer an incentive for customers to reduce their receivables balance, and would be followed by stronger enforcement activities, including placing individual liens and conducting water shut-offs, following the conclusion of the customer proposals. The Commissioner identified the policy objectives underlying the proposals, which included bringing customers into a more financially stable current standing, ensuring that the next water rate increase would be kept to a minimum, and demonstrating that the water system is managed in a financially responsible way.

Chairman Carney noted the rapid pace of the proposed implementation of the plans, and asked DEP to explain how the policies could be made available to customers in a short amount of time. Deputy Commissioner DeFalco replied that multiple channels would be used, including media and direct outreach to customers, such as robo-calls. Deputy Commissioner Lynch added

that DEP also uses direct mail and digital outreach to reach customers, as well as providing information directly through its call center, which typically receives 1,500 to 2,000 inbound calls per day from customers. Commissioner Aggarwala added that DEP is in touch with the City's Department of Small Business Services to cooperate in addressing commercial account delinquencies.

Commissioner Aggarwala noted that after a twenty-four month pause, DEP restarted its collection enforcement efforts in March and April of 2022. The Commissioner noted that while the number of delinquent accounts has decreased, the amount of past due dollars has continued to grow, reflecting the dual trends of fewer delinquencies among single-family residences, at the same time that more delinquencies are appearing among commercial properties, notwithstanding that the majority of the delinquent balances are among residential accounts. Commissioner Aggarwala described DEP's current strategy for delivering affordability, involving payment agreements and the existing \$30 million package of affordability programs, and noted that while DEP has some discretion under existing authorizations to negotiate payment plans with customers, the agency's current strategy is mainly focused on informing customers about payment plan options, requiring that the customer take a proactive step to contact DEP after receiving information about a delinquent balance. The Commissioner expressed his belief that the invitation to contact DEP about payment plans would be a more attractive invitation if the range of available payment plan terms was more clearly presented to customers in the agency's communications. Commissioner Aggarwala reminded the Board that the water and wastewater lien sale as traditionally administered jointly with the City is currently unavailable as a revenue collection tool to the Board. In the meantime, DEP is working with a third-party law firm as an additional collection enforcement tool. In response to a question by Chairman Carney, Deputy Commissioner Lynch explained to the Board that there are approximately 9,500 payment agreements in effect, and that approximately 85% of payment agreement enrollees are able to remain current on their payment agreements.

The Commissioner described the amnesty program, the first of the proposed program resolutions before the Board, noting that approximately 53,000 customers with larger delinquent balances would be eligible to participate, in addition to 143,000 customers with smaller delinquencies. The amnesty program would be available to all customers with a delinquent balance in excess of \$1,000, without regard to the type of property or income level. The Commissioner further explained that eligible customers would have three options for participation: a full payment toward the balance on the account would warrant the forgiveness of all late interest on the account; a 50% payment would warrant forgiveness of 75% of the associated late interest; and a 25% payment would warrant forgiveness of 50% of the associated late interest on the account; in the event that a customer elected the 50% or 25% payment options, they would also be required to enter into a payment agreement with DEP. The Commissioner explained to the Board that customers with smaller delinquencies of less than \$1,000 would be eligible for the program, but only if they participated in the 100% payment category, since it would not be cost effective for DEP to process a large number of payment agreements involving small dollar amounts.

The Commissioner proceeded to explain the second proposed customer program, a \$40 million funding allocation of which \$10 million would be directed toward multi-family properties providing affordable housing to tenants with lower incomes, such as HDFCs, and the other \$30 million of which would be funds to provide account benefits to DEP customers that previously participated in the Federal Low Income Homeowner Water Assistance Program ("LIHWAP"), which provided water and wastewater bill assistance on an income-tested basis with New York State administering the program. Deputy Commissioner Lynch noted that between 9% and 10% of DEP accounts receiving an LIHWAP benefit under the Federal program still had some delinquent balance left on the account after receiving the maximum benefit under the program. The

Commissioner noted the program could be suitable for customers with small delinquencies that may not have the financial resources to make a 100% payment toward their account balance, and that the additional LIHWAP funding would get the majority of the remaining lower income accounts receiving LIHWAP credits back into good standing. Member Freed asked that since there is a maximum allowable benefit under the LIHWAP fund, whether the proposed Board funds would be in addition to the allowable LIHWAP benefit. Commissioner Aggarwala confirmed this was the case, characterizing the additional funding DEP would make available as top-up funding. Member Evelyn-Fernandez Ketcham inquired what income limits would be in place for the additional \$40 million of funding. Deputy Commissioner Lynch explained that the income limits are based on the limits in place for other programs, naming the Federal HEAP and Senior Citizens Property Tax Exemption (SCHE), and citing a household income limit of approximately \$58,000 to \$70,000. Member Zarrilli then asked if the proposed LIHWAP would be used to fund the Board's existing \$30 million of customer programs, in response to which Deputy Commissioner Lynch explained that the \$40 million of requested funding would be in addition to the existing \$30 million of customer program funding. Member Zarrilli then asked how income verification would work for the programs, and whether a household could qualify for one or both of the funding pools. Deputy Commissioner Lynch explained that the \$30 million included the Leak Forgiveness Program, as well as other programs that relied on lists provided by other agencies which were responsible for performing the income verification, including the Department of Finance and the Human Resources Administration.

Member Goldin asked if there was an estimate of the potential cash inflow from customers participating in the interest forgiveness program, and how the estimate would compare to the expected cost of the program. Commissioner Aggarwala stated that the agency had not sponsored a program of this type in a long time, and as such the available estimates were imprecise.

Commissioner Aggarwala and Deputy Commissioner Lynch advised that while recovery of the \$40 million program cost would be contingent, given the low income profile of the typical beneficiary household, the program is structured to incentivize participation in the Federal LIHWAP program, and that the top-up funding under the proposed program would become available only after an account had received a Federal LIHWAP benefit, and affirmed Member Goldin's understanding that in total the cash receipts from customers enrolling in the programs were expected to exceed the cost of the any adjustments made to the account balances under the program. Member Zarrilli asked if DEP had considered making the amnesty program available for more than the expected few months, whether it would make sense to systematize the payment plan programs, given the effectiveness of the payment plans, and what the agency would view as success for the programs; Commissioner Aggarwala described his concern that were an amnesty program to become a longterm recurring program, it could create an incentive for customer non-payment, while agreeing that DEP needed to focus on ways to ensure that customers remain current on their bills, such as by leveraging the new billing system or looking at expanding monthly billing. The Commissioner also provided his estimate that if the proposed programs generated \$50 to \$100 million in additional cash receipts, the programs could be considered a success.

Addressing his next topic, the Commissioner described some of the enforcement tools that DEP expected to use for any delinquent accounts that did not participate in the proposed programs, and remained significantly delinquent after the completion of the amnesty and customer relief programs. Water service shut-offs were the first option the Commissioner described, as well as pursuing lawsuits against delinquent properties or taking steps to record liens against specific properties in City property databases, beyond relying the existing statutory basis of the lien.

Commissioner Aggawala described the third and final of the proposed customer programs, which he explained was being proposed under the Autopay name. The Commissioner explained

the program, which was designed to offer a one-time billing benefit of \$100 per account to customers enrolling in the Autopay program during a ninety-day enrollment period, with the benefit remaining in place after the initial ninety day enrollment period but in the dollar amount of \$50 per account thereafter. The Commissioner described the agency's request for timing flexibility in terms of when in Fiscal Year 2023 the Autopay account benefit would be made available to customers.

Member Zarrilli asked to clarify under what circumstances DEP would seek to take the additional steps to record liens against properties, remarking that the additional lien recordings could be a cost effective way to address the accounts receivable. Commissioner Aggarwala responded that DEP was still establishing the circumstances under which steps would be taken to carry out the additional lien recording measures. Deputy Commissioner Lynch added that DEP's liens against the properties are automatic based on the amounts on the bills.

Member Fernandez-Ketcham asked the next question, requesting that DEP explain how the press rollout and communication of the programs would be managed, including accessibility options, and how any additional demands on DEP such as increased call center volumes would be addressed. Commissioner Aggarwala described the range of language accessibility options DEP offers to the public when making public information resources available, as well as DEP's intent to use direct marketing, emails, robocalls, earned media, and to explore partnering with the City Council and elected officials to ensure that information about the programs is shared widely, given the universe of 200,000 accounts that could participate. Deputy Commissioner DeFalco emphasized that social media would also be part of the outreach and emphasized the need for the communications materials to be clear and informative, for the method of contacting DEP to be clearly stated in the materials, and that the outreach efforts cover the full range of communities that could benefit from participation in the proposed customer programs and to ensure that customers understand the available benefits as well as consequences for non-payment. Deputy Commissioner

Lynch added that DEP can adjust job responsibilities to ensure that staffing levels are appropriate when upticks in customer outreach occur, such as by assigning more staff to work in the call center at times of increased demand. Commissioner Aggarwala noted that when DEP's Bureau of Customer Services had implemented its recent collection outreach programs, customer notices were mailed in a way designed to manage potential increases in inquiries, explaining that when delinquency notices were resumed, DEP mailed the notices over a period of time in order to ensure that increased call and inquiry volumes did overwhelm the call center and borough offices.

Member Freed asked why it would be the case that fewer than 9% of HDFC and HDC properties are enrolled in payment agreements, if the payment agreements have been a successful tool for restoring customers with delinquencies into good standing. Deputy Commissioner Lynch explained that the most common way properties sign payment agreements is through large agency programs such as the lien sale. Member Goldin asked if DEP could provide a cost-benefit perspective on the proposed Autopay program. Deputy Commissioner Lynch presented a slide showing DEP's mailing costs and overhead expenses involved in producing paper bills, explaining that the costs that would be avoided by customers enrolling in Autopay would justify the dollar value of the customer benefit. Commissioner Aggarwal mentioned that customers enrolled in automatic payments and electronic billing rarely call DEP.

There being no further discussion, upon motion duly made and seconded, the chair requested that the members consider and vote on the three resolutions before the Board, each resolution describing and authorizing the three proposed new billing programs – a customer amnesty program, an Autopay incentive program, and funding to provide assistance to customers receiving benefits under the Federal LIHWAP program or that are HDC or HDFC buildings located in the City. Each of the three resolutions was duly presented to the Board and, upon seconding, each of the three resolutions was unanimously approved by the Board, beginning with the first resolution describing

the customer amnesty program:

RESOLUTION

WHEREAS, the New York City Department of Environmental Protection ("DEP") is the billing and customer service agent for the New York City Water Board (the "Board"), and in that capacity oversees the issuance and administration of water and wastewater bills and customer relations on behalf of the Board; and

WHEREAS, DEP on behalf of the Board records and monitors accounts receivable balances, and when warranted undertakes notification and enforcement action with respect to unpaid customer balances; and

WHEREAS, the Board and DEP have undertaken extensive analysis of water and wastewater account balances, and determined that the absence of a lien sale since 2019, and the difficulty of undertaking other collection enforcement methods during the ongoing Covid-19 pandemic, has resulted in a significant and sustained increase in the dollar amount of the unpaid water and wastewater account balances; and

WHEREAS, the Board believes it is reasonable and in the interest of the water and wastewater system to generate additional revenues by sponsoring a temporary program that offers an economic incentive for customers with a delinquent account balance who pay all or a portion of their delinquency through cash payments and/or a payment agreement for any remaining account balance; and

WHEREAS, the Board has determined that such a program has practical value with respect to (i) incentivizing the payments required to fund the system; and (ii) reducing delinquent balances; it is therefore

RESOLVED, that the Board hereby approves the Fiscal Year 2023 Customer Amnesty Program (the "Amnesty Program"), in accord with the following program parameters, as well as other program requirements as may be deemed necessary and appropriate by the Commissioner of the DEP and the Executive Director of the Board; and it is

RESOLVED further, that the Amnesty Program shall:

- Be made available to customers making a qualifying payment to the Water Board during an
 enrollment period occurring prior to the end of Fiscal Year 2023 based on the account's
 accumulated charges;
- Make account benefits available on the basis of eligibility criteria that include, but are not limited to:
 - Remitting a qualifying payment (as described below) toward a delinquent account balance to the Board;
 - Executing a payment agreement upon request by DEP for any outstanding account balance remaining after the application of the cash payment and any Amnesty Program benefit amount described below;
 - Excluding from the Amnesty Program accounts with charges or notices on their account that relate to improper or insufficient metering such as an unresolved denial of access fee or notice, unresolved theft of service fee or notice, ongoing estimated or attributed consumption charges, absence of an automatic meter reader, or other facts or circumstances leading to irregular water and wastewater billing except where the customer requests, during the Amnesty Program term, an inspection or otherwise takes the necessary steps to resolve the issues to the satisfaction of the Commissioner of the DEP and Executive Director of the Board;

- Group accounts into one of two available eligible account categories, with the account's classification determining the available program benefits:
 - O Group 1 "Serious Delinquency": defined as an account balance delinquency of more than \$1,000 that is overdue by more than one year. Accounts in this Group are entitled to the following schedule of prospective Program benefits:
 - A payment of 100% of the unpaid utility usage charges on the account will result
 in the cancellation of 100% of the accrued late interest charges on the account;
 or
 - A payment of between 50% and 99% of the unpaid utility usage charges on the account will result in the cancellation of 75% of the accrued late interest charges on the account; or
 - A payment of between 25% and 49% of the unpaid utility usage charges on the account will result in the cancellation of 50% of the accrued late interest charges on the account;
 - o Group 2 "Other Delinquency": defined as all qualifying delinquent accounts not included within Group 1. Accounts in Group 2 will have the option of making a payment of 100% of the unpaid utility charges on the account, resulting in the cancellation of 100% of the accrued late interest charges.

The Board then considered and unanimously approved the second resolution, the Autopay program:

RESOLUTION

WHEREAS, the New York City Department of Environmental Protection ("DEP") is the billing and customer service agent for the New York City Water Board (the "Board"), and in that capacity oversees the issuance and administration of water and wastewater bills and customer relations on behalf of the Board; and

WHEREAS, DEP on behalf of the Board, manages computer billing systems, a call center, retail branch locations, and mailroom facilities for the purpose of billing and collecting revenues for the use of the water and wastewater system of the City of New York; and

WHEREAS, the Board and DEP have seen an ongoing migration of customers to digital payment methods in place of paper payment methods; and

WHEREAS, the Board believes it is reasonable and in the interest of the water and wastewater system to incentivize customers to receive their water bill via electronic means, as well as to enroll in automatic account payments via digital payment channels, for the reasons that (i) automatic payments minimize the likelihood of customers forgetting to pay their bill, (ii) digital payments are less likely to experience delivery disruptions, and (iii) electronic bills do not involve the costs of printing and postage; and

WHEREAS, the Board's existing \$10 bill credit offered to accounts enrolling in electronic bills on a monthly billing frequency has incentivized a portion of the Board's customers to elect for monthly electronic billing, a significant portion of the customer base is still enrolled in paper billing and remits bill payments manually; it is therefore

RESOLVED, that the Board hereby approves the Automatic Payment Plus

Billing Incentive (the "Autopay Plus" program), in accord with the following program parameters,

as well as other program requirements as may be deemed necessary and appropriate by the Commissioner of DEP and the Executive Director of the Board; and it is

RESOLVED further, that the Autopay Plus program shall:

- Be launched in Fiscal Year 2023, in an initial amount of \$100 per qualifying water and
 wastewater billing customer for a limited term, through an opt-in date and end date, to be
 determined by Commissioner of DEP and the Executive Director of the Board pursuant to the
 conditions set below; and
- Be made available, on an ongoing basis following the expiration in the initial Autopay Plus
 term, to customers in a reduced dollar amount of \$50 per qualifying water and wastewater
 billing customer, pursuant to the terms set below; and
- Be made available only to customers that undertake all three of the following actions
 in connection with their water and wastewater account:
 - o Enroll their DEP customer account in automatic electronic bill pay;
 - Enroll their DEP customer account in electronic billing, in lieu of receiving paper bills; and
 - Elect for a monthly billing frequency.
- Be limited to customer accounts that are not already enrolled in automatic electronic payments after a date determined by Commissioner of DEP and the Executive Director of the Board;
- Qualifying customers must be in, and remain in, good standing, as defined by the

 Commissioner of DEP and the Executive Director of the Board for the first six bills issued after
 the date on which the customer is granted a bill credit in the amount specified above; should
 any of the first six bills issued after the grant date of the bill credit not be paid in a timely
 manner, the bill credit will be reversed;

Be subject to any other program terms and requirements to be determined by the
 Commissioner of DEP and the Executive Director of the Board.

The Board then considered and unanimously approved the third resolution, including exhibit 1, describing the affordability resolutions concerning LIHWAP customers and HDFC and HDC properties:

RESOLUTION

WHEREAS, the New York City Department of Environmental Protection ("DEP") is the billing and customer service agent for the New York City Water Board (the "Board"), and in that capacity oversees the issuance and administration of water and wastewater bills and customer relations on behalf of the Board; and

WHEREAS, the Board, along with many other water utilities, has implemented customer programs that further the important policy goal of customer affordability, and in accord with the Board's policy of weighing affordability as a factor in evaluating its policies and programs, on the basis that it is reasonable and in the interest of the water and wastewater system to sponsor customer affordability programs that can both reach those segments of the Board's customer base requiring assistance and be administered cost-effectively; and

WHEREAS, the State of New York Office of Temporary Disability Assistance ("OTDA") has implemented a water bill assistance program for low-income customers, specifically the Low-Income Home Water Assistance Program ("LIHWAP"), wherein OTDA reviews and verifies the income status of the applicants and approves customer assistance requests, and upon approval submits direct payments to the Water Board for customers in the City of New York; and

WHEREAS, the Board desires to incentivize additional customers to participate in the OTDA's program to generate additional revenues and leverage the OTDA's eligibility determinations as a basis to provide additional City payments to assist LIHWAP recipients; and

WHEREAS, the Board also desires to create a separate affordability program directed to Housing Development Fund Corporation cooperatives ("HDFCs") and properties that receive financing from the New York City Housing Development Corporation, ("HDCs"), collectively ("the HDFC/HDC Affordability Program") to further advance the Board's goals in promoting customer affordability; and

WHEREAS, the Board previously authorized the Executive Director of the Board by resolution passed on June 17, 2005 (attached as Exhibit 1 hereof) to settle and adjust claims related to water and sewer billing in amounts up to \$1,000,000 per claim, it is therefore,

RESOLVED, that the Board hereby approves a Fiscal Year 2023 LIHWAP Plus Funding Program for Low Income Household Water Assistance Program Recipients (the "LIHWAP Plus Program"), in accordance with the following program parameters, as well as other program requirements as may be deemed necessary and appropriate by the Commissioner of the DEP and the Executive Director of the Board; and it is

RESOLVED further, that the LIHWAP Plus Program shall:

- Be made available only to recipients of LIHWAP program payments received by DEP prior to the end of Fiscal Year 2023;
- Be made available to all recipients that execute a payment agreement upon request by DEP for the outstanding balance;
- DEP accounts identified as eligible to receive a benefit under the LIHWAP Plus Program will receive a credit to their account on the outstanding balance remaining on the account after the

- application of any LIHWAP benefit payments to the account, in an amount that is equal to the lesser of (i) the total amount owed on the account, or (ii) \$5,000;
- Provide benefits to accounts receiving a credit under the LIHWAP Plus that in aggregate may not exceed thirty-million dollars (\$30 million dollars).

RESOLVED, further, that the Board hereby approves a Fiscal Year 2023 HDFC/HDC Affordability Program to incentivize payments within the parameters set forth in the previous resolution of the Board dated June 17, 2005, as well as other program requirements as may be deemed necessary and appropriate by the Commissioner of the DEP and the Executive Director of the Board; and it is

RESOLVED further, that the HDFC/HDC Affordability Program shall:

- Be made available only to delinquencies associated with either (i) the account of a Housing

 Development Fund Corporation ("HDFC"), within the meaning of Article 11, Section 573 of

 Chapter 44-B of the New York State Private Housing Finance Law; or (ii) an account

 associated with a property that is a project sponsored by the New York City Housing

 Development Corporation (HDC) that have identified an economic hardship as defined by the

 Commissioner of DEP and the Executive Director of the Board;
- Be made available to all recipients that remit a qualifying payment to the Board, as defined by the Commissioner of DEP and the Executive Director of the Board, and/or execute a payment agreement upon request by DEP for the outstanding balance on the water and wastewater account;
- The benefits available to accounts receiving an adjustment pursuant to the HDFC/HDC
 Affordability Program, within the meaning of this resolution, may not exceed ten-million
 dollars (\$10 million dollars) in aggregate.

Exhibit 1

NEW YORK CITY WATER BOARD

June 17, 2005

RESOLUTION

WHEREAS, pursuant to Section 1045-v(3) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board has the power to settle or adjust all claims in favor of or against the Board; and

WHEREAS, on August 13, 1992, the Board authorized the Executive Director to act in the name of and on behalf of the Board with respect to the settlement or adjustment of claims in favor of or against the Board which had been filed pursuant to Section 1045-v of the New York City Municipal Water Finance Authority Act or which were pending in a court of competent jurisdiction in amounts up to and including \$25,000 per claim; and

WHEREAS, the Board wishes to amend the August 13, 1992 Resolution; it is therefore RESOLVED, that the Executive Director is hereby authorized to act in the name of and on behalf of the Board with respect to the settlement or adjustment of personal injury and property damage claims in favor of or against the Board which have been filed pursuant to Section 1045-v of the New York City Municipal Water Finance Authority Act or which are pending in a court of competent jurisdiction in amounts up to and including \$100,000 per claim; and it is further

RESOLVED, that the Executive Director is hereby authorized to act in the name of and on behalf of the Board with respect to the administrative settlement or adjustment of all water and sewer billing disputes; and it is further

RESOLVED, that the Executive Director is hereby authorized to act in the name of and on behalf of the Board with respect to the settlement or adjustment of water and sewer billing claims in favor of or against the Board which have been filed pursuant to Section 1045-v of the New York City Municipal Water Finance Authority Act or which are pending in a court of competent jurisdiction in amounts up to and including \$1,000,000 per claim regarding accounts for

premises located either within the City of New York or for municipalities and water districts located outside the City of New York; and it is further

RESOLVED, that all actions previously taken by the Executive Director with respect to the settlement or adjustment of water and sewer claims in favor of or against the Board are hereby ratified, approved and adopted.

Adjournment

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

/S/ SECRETARY