

# METRO WATER RECOVERY

## Minutes of the Regular Meeting of the Board of Directors

November 15, 2022

The Board of Directors of Metro Water Recovery, in the Counties of Adams, Arapahoe, Douglas, Jefferson, and Weld, and the City and County of Denver, State of Colorado, met in regular session at 6450 York Street, Denver, Colorado, Tuesday, November 15, 2022 at 5:30 p.m. in the Boardroom.

Chair Johnston called the meeting to order.

### 1. ROLL CALL

Secretary Pro Tem Smith called the roll.

#### Officers Present:

Andrew Johnston, Denver  
Sarah Niyork, South Adams  
Jo Ann Giddings, Aurora\*  
Del Smith, Bancroft-Clover

Chair  
Chair Pro Tem  
Secretary  
Treasurer

#### Directors Present:

Curt Aldstadt, Westminster  
Greg Baker, Aurora  
Phil Burgi, Wheat Ridge\*  
Nadine Caldwell, Aurora  
John Chavez, Berkeley  
David Councilman, Pleasant View  
Deborah Crisp, East Lakewood  
Clark Davenport, Northwest Lakewood  
James DeHerrera, Aurora  
Robert Duncanson, Denver\*  
Mary Gearhart, Denver  
Joan Iler, Westridge  
Janet Kieler, Denver  
Craig Kocian, Arvada  
Laura Kroeger, Lakewood\*  
Kathy Laurienti, Crestview

Doug Lazure, Denver\*  
Bob LeGare, Aurora  
Charles Long, Thornton  
Charlie Miller, Fort Lupton\*  
Jamie Miller, North Table Mountain  
Steve Pott, Applewood\*  
Bill Ray, Arvada\*  
Bob Roth, Aurora  
Greg Sekera, Lakewood  
Peter Spanberger, Denver  
Mary Beth Susman, Denver  
Amerigo Svaldi, North Washington Street  
Dennis Towndrow, North Pecos  
Scott Twombly, Thornton  
Jennifer Williams, Denver  
Ronald Younger, Denver

#### Directors Absent:

Peter Baertlein, Denver  
Marv Falconburg, Brighton  
\*Attended virtually

Martin Majors, Fruitdale

#### Others Present:

Mickey Conway\*  
Emily Jackson\*  
Liam Cavanaugh  
Ruth Kedzior  
Yvonne Kohlmeier  
Lydia Nkem

Chief Executive Officer (CEO)  
General Counsel  
Deputy CEO/Chief Operating Officer (COO)  
Assistant to the CEO  
Senior Administrative Assistant  
Executive Assistant

## **2. PUBLIC COMMENT**

There was no comment.

## **3. APPROVAL OF MINUTES**

### **3.a Minutes of the Board of Directors Meeting on October 18, 2022**

Chair Johnston asked if there were any corrections, deletions, or additions to the minutes of the Regular Meeting of the Board of Directors held October 18, 2022

Director Iler moved and Director Younger seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held October 18, 2022.

The motion carried unanimously.

## **4. PROGRESS AND PROJECTION REPORTS**

### **4.a Report by CEO**

Deputy CEO Cavanaugh reviewed the written report, appreciating Director and Metro Water Recovery staff veterans, and highlighted the Town Hall held November 9th, the great work being done by staff, and the Second Creek Interceptor and Sand Creek Interceptor Project (PAR 1232) change order. He answered questions on the polymer concrete manholes.

### **4.b Report by General Counsel**

General Counsel Jackson provided an update on the recent developments, stating the Donald Temples case hearing is scheduled in Denver District Court on November 22nd. She encouraged Directors to read the comments Metro Water Recovery submitted to the Environmental Protection Agency (EPA) proposed rule to designate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic Acid (PFOS) as hazardous substances and answered a question on EPA's possible response timeline.

Ms. Jackson answered questions on the mediation process on the South Headworks and Grease Processing Improvements Project (PAR 1225) and the move to record Executive Sessions digitally.

CEO Conway commented on Ms. Jackson's involvement as co-chair for a legal seminar of the National Association of Clean Waters Agency (NACWA) and the successful effort being done at the NACWA conference in their leadership roles.

## **5. REPORTS OF OFFICERS AND COMMITTEES**

### **5.a Meeting Minutes**

Director Kroeger stated the Strategic Planning Committee has scheduled workshops in January 2023.

Director Spanberger gave an overview of the November 3 Audit Committee meeting.

Audit Committee  
Operations Committee  
Finance Committee  
Executive Committee

April 7, 2022  
November 1, 2022  
November 3, 2022  
November 8, 2022

## 6. NEW BUSINESS

### Consent Agenda

#### 6.a Consideration of North Secondary Upgrades and Intensification (PAR 1411) Engineering Agreement and Appropriation

Director Aldstadt moved and Director Twombly seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of Metro Water Recovery, hereinafter referred to as “Metro,” to enter into an Agreement for Professional Services to provide design phase services for the North Secondary Upgrades and Intensification Project (PAR 1411) (Project); and

WHEREAS, the North Secondary Complex (NSEC) was part of the original “Central Treatment Plant” construction in the mid-1960s; and

WHEREAS, the NSEC is approaching its process capacity due to higher wastewater loading which necessitates increasing the treatment capacity; and

WHEREAS, a study phase determined densified activated sludge (DAS), also referred to as “densification,” will increase the NSEC treatment capacity without constructing additional aeration basins and clarifiers; and

WHEREAS, in addition, several fixed assets which require replacement have been identified and included in the Project; and

WHEREAS, the Project is intended to be delivered through the Construction Manager-At-Risk (CMAR) delivery approach; and

WHEREAS, on June 30, 2022, Metro posted a Request for Proposals on the Rocky Mountain E-Purchasing site (*BidNet*) for the design phase services for the Project, and received five proposals on August 15, 2022; and

WHEREAS, through a standard CMAR selection process, the proposals were reviewed by Metro staff, and two firms were invited to participate in interviews on September 8, 2022, with a Selection Committee of Metro staff and Board Directors; and

WHEREAS, the Selection Committee recommended selecting Stantec Consulting Services, Inc. (Stantec) to provide design phase services for the Project and, on behalf of the Board of Directors, Directors on the Selection Committee instructed staff to negotiate an agreement; and

WHEREAS, Metro staff has negotiated an agreement with Stantec in the amount of \$19,765,200, to provide design phase services for the Project; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into an Agreement for Professional Services with Stantec in the amount of \$19,765,200 to provide design phase services for the Project, and appropriate \$20,160,000 from the Fixed Asset Replacement Fund Capital Project Account and \$2,240,000 from the General Fund Capital Project Account; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into an Agreement for Professional Services with Stantec Consulting Services, Inc. in the amount of \$19,765,200 to provide design phase services for the North Secondary Upgrades and Intensification Project (PAR 1411); and

BE IT FURTHER RESOLVED the sum of \$20,160,000 (90 percent) from the Fixed Asset Replacement Fund Capital Project Account and \$2,240,000 (10 percent) from the General Fund Capital Project Account be and hereby is appropriated for this Project.

The motion carried unanimously.

**6.b Consideration of Land Rights Related Matters Associated with the Fort Lupton Connection Project (PAR 1421)**

Director Aldstadt moved and Director Twombly seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of Metro Water Recovery, hereinafter referred to as "Metro," to transfer land rights associated with the Fort Lupton Connection Project (PAR 1421) (Project); and

WHEREAS, Metro will need to grant an easement to the city of Fort Lupton to connect a 20-inch forcemain to the South Platte Interceptor (SPI), which will be located on property owned by Metro at the Northern Treatment Plant; and

WHEREAS, Metro will also receive land rights at the Fort Lupton Wastewater Treatment Plant for a new metering station and sampling site; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to grant an easement to Fort Lupton associated with the Project; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to grant an easement to Fort Lupton associated with the Fort Lupton Connection Project (PAR 1421).

The motion carried unanimously.

## 6.c Consideration of Analytical Services Contracts for Per- and Polyfluoroalkyl Substances

Director Aldstadt moved and Director Twombly seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of Metro Water Recovery, hereinafter referred to as “Metro,” to enter into Analytical Services Contracts with several laboratories; and

WHEREAS, in addition to analytical work performed in Metro’s internal laboratory, Metro also uses external environmental laboratories for analysis of samples for various purposes; and

WHEREAS, Metro received an unexpected, draft modification to the discharge permit from the state for the Robert W. Hite Treatment Facility (RWHTF) which would require Metro to use a new, draft analytical method for Per- and Polyfluoroalkyl Substances (PFAS) different than the one currently included in the RWHTF permit; and

WHEREAS, the new, draft method is more complex than the method Metro is currently required to use and has additional quality control requirements which not all laboratories can meet; and

WHEREAS, in the event the state finalizes the modification, Metro will need to modify its approach to outside analytical services by expanding the labs contracted to perform analytical services; and

WHEREAS, pursuant to Metro’s *Purchasing and Contracting Policies*, Metro obtained pricing and qualifications for external analytical services from five qualified laboratories; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into five-year PFAS Analytical Services Contracts with

- Bureau Veritas Canada Inc.,
- Eurofins Environment Testing Northern California, LLC,
- ALS Environmental,
- SGS AXYS Analytical Services, and
- Pace Analytical

to provide analytical services; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into five-year PFAS Analytical Services Contracts with

- Bureau Veritas Canada Inc.,
- Eurofins Environment Testing Northern California, LLC,
- ALS Environmental,

- SGS AXYS Analytical Services, and
- Pace Analytical

to provide analytical services.

The motion carried unanimously.

#### **6.d Consideration of Chemical Contract for Sodium Bisulfite Solution**

Director Aldstadt moved and Director Twombly seconded the motion to adopt the following resolution:

WHEREAS, it is necessary Metro Water Recovery, hereinafter referred to as "Metro," purchase a supply of peracetic acid (PAA) for its disinfection system at the Robert W. Hite Treatment Facility (RWHTF); and

WHEREAS, pursuant to Metro's *Purchasing and Contracting Policies*, notification of the Request For Proposal (RFP) was received by 51 firms, 12 of which downloaded the bid documents, and three of which submitted a bid but only two were responsive; and

WHEREAS, Metro staff evaluated the two responsive proposals; and

WHEREAS, Enviro Tech Chemical Company (Enviro Tech) was chosen as the primary supplier of PAA to provide chemical, storage, and maintenance at a price of \$6.02 per gallon, while Brainerd Chemical Company was chosen as a backup supplier for PAA at a price of \$6.4938 per gallon; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend the Board of Directors authorize the Chief Executive Officer to enter into a one-year contract with Enviro Tech for the supply of the PAA chemical, storage, and maintenance at a price of \$6.02 per gallon; with Brainerd Chemical Company as a backup supplier of the PAA chemical at a price of \$6.4938 per gallon; and enter into additional contract periods, not exceeding a total of five years, if he deems such extensions to be in the best interest of Metro; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into a one-year contract with Enviro Tech Chemical Company for the supply of peracetic acid chemical, storage, and maintenance at a price of \$6.02 per gallon and enter into a one-year contract with Brainerd Chemical Company as a backup supplier of the peracetic acid chemical only at a price of \$6.4938 per gallon; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized to enter into additional contract periods for the aforementioned contracts, not exceeding a total of five years, if he deems such extensions to be in the best interest of Metro.

The motion carried unanimously.

## **Roll Call Agenda**

Director Davenport moved and Director Susman seconded to put items 6.e and 6.f on the floor:

Chair Johnston stated the Board of Directors would enter executive session to address Roll Call Agenda items 6.e and 6.f.

Chair Johnston stated, "This discussion will be conducted in executive session as authorized by C.R.S. 24-6-402(4)(f)(I) which authorizes executive sessions for determining personnel matters. The matter to be discussed in this executive session is the Performance Appraisal for the Chief Executive Officer and General Counsel and 2023 Salary Recommendation. Pursuant to Colorado's Open Meetings Law, the executive session will be electronically recorded. As a reminder, no formal action may be taken in executive session. Additionally, the discussion must be confined to this topic."

Director Smith moved and Director Younger seconded the motion to enter executive session. The motion carried unanimously, and the Committee entered executive session at 5:51 p.m. All Metro Water Recovery staff members left the meeting.

Chair Johnston reconvened the regular meeting at 6:29 p.m. Metro Water Recovery staff members Kedzior, Kohlmeier, and Nkem rejoined the meeting.

### **6.e Consideration of the Chief Executive Officer's Salary**

WHEREAS, Metro Water Recovery, hereinafter referred to as "Metro," is required by C.R.S. § 32-4-510(1)(aa) to fix compensation of employees at prevailing rates of pay for equivalent work; and

WHEREAS, the Board Chair of Metro after having reviewed the salary survey information, Director performance evaluations, and current salary of the Chief Executive Officer, recommends to the Board of Directors the salary of the Chief Executive Officer for the period January 1, 2023 through December 31, 2023 be established at \$289,549, a component of the prevailing rate of pay for equivalent work; and

WHEREAS, the Board Chair of Metro, after having reviewed the survey information and the current monthly automobile stipend of the Chief Executive Officer, recommends to the Board of Directors the monthly automobile stipend of the Chief Executive Officer for the period January 1, 2023 through December 31, 2023 be unchanged and maintained at the monthly 2022 rate, which is also a component of the prevailing rate of pay for equivalent work; and

NOW, THEREFORE, BE IT RESOLVED the salary of the Chief Executive Officer for the period of January 1, 2023 through December 31, 2023 be and hereby is established at \$289,549 to be paid at Metro's regular pay periods in equal installments; and

BE IT FURTHER RESOLVED the monthly automobile stipend of the Chief Executive Officer for the period of January 1, 2023 through December 31, 2023 is maintained at the monthly 2022 rate.

Chair Johnston called for a roll call vote which carried with 35 Directors voting Yes with one virtual Director unavailable to vote:

Curt Aldstadt	Andrew Johnston	Bill Ray
Greg Baker	Janet Kieler	Bob Roth
Nadine Caldwell	Craig Kocian	Greg Sekera
John Chavez	Laura Kroeger	Del Smith
David Councilman	Kathy Laurienti	Peter Spanberger
Deborah Crisp	Doug Lazure	Mary Beth Susman
Clark Davenport	Bob LeGare	Amerigo Svaldi
James DeHerrera	Charles Long	Dennis Towndrow
Robert Duncanson	Charlie Miller	Scott Twombly
Mary Gearhart	Jamie Miller	Jennifer Williams
Jo Ann Giddings	Sarah Niyork	Ronald Younger
Joan Iler	Steve Pott	

#### **6.f Consideration of the General Counsel's Salary**

WHEREAS, Metro Water Recovery, hereinafter referred to as "Metro," is required by C.R.S. § 32-4-510(1)(aa) to fix compensation of employees at prevailing rates of pay for equivalent work; and

WHEREAS, the Board Chair of Metro after having reviewed the salary survey information, Director performance evaluations, and current salary of the General Counsel, recommends to the Board of Directors the salary of the General Counsel for the period January 1, 2023 through December 31, 2023 be established at \$252,355 the prevailing rate of pay for equivalent work; and

WHEREAS, the Board Chair of Metro, after having reviewed the survey information and the current monthly automobile stipend of the General Counsel, recommends to the Board of Directors the monthly automobile stipend of the General Counsel for the period January 1, 2023 through December 31, 2023 be unchanged and maintained at the monthly 2022 rate, which is also a component of the prevailing rate of pay for equivalent work; and

NOW, THEREFORE, BE IT RESOLVED the salary of the General Counsel for the period of January 1, 2023 through December 31, 2023 be and hereby is established at \$252,355 to be paid at Metro's regular pay periods in equal installments.

BE IT FURTHER RESOLVED the monthly automobile stipend of the General Counsel for the period of January 1, 2023 through December 31, 2023 is maintained at the monthly 2022 rate.

Chair Johnston called for a roll call vote which carried with 35 Directors voting Yes with one virtual Director unavailable to vote:

Curt Aldstadt	Andrew Johnston	Bill Ray
Greg Baker	Janet Kieler	Bob Roth
Nadine Caldwell	Craig Kocian	Greg Sekera
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Deborah Crisp	Doug Lazure	Mary Beth Susman
Clark Davenport	Bob LeGare	Amerigo Svaldi



James DeHerrera  
Robert Duncanson  
Mary Gearhart  
Jo Ann Giddings  
Joan Iler

Charles Long  
Charlie Miller  
Jamie Miller  
Sarah Niyork  
Steve Pott

Dennis Towndrow  
Scott Twombly  
Jennifer Williams  
Ronald Younger

**7. INDIVIDUAL DIRECTOR COMMENTS**

There was none.

**8. OTHER INFORMATION**

There was none.

**9. ADJOURNMENT**

Chair Johnston adjourned the meeting at 6:36 p.m.

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