

The Narragansett Bay Commission  
One Service Road  
Providence, RI 02905

(401) 461-8848  
(401) 461-6540 FAX

Vincent J. Mesolella  
Chairman

Raymond J. Marshall, P.E.  
Executive Director



**OFFICIAL MINUTES OF:**

Meeting of:	CEO Committee Meeting
Date:	November 2, 2011
Time:	9:00 a.m.

**MEMBERS PRESENT:**

Michael Salvadore, CEO Chairman  
Vincent J. Mesolella  
Al Montanari  
Leo Thompson  
Richard Worrell

**MEMBERS ABSENT:**

Robert Andrade  
Jonathan Farnum  
John MacQueen  
Angelo Rotella

**STAFF AND GUESTS PRESENT:**

Raymond J. Marshall, Executive Director  
Deborah Samson, NBC  
Laurie Vernon, NBC  
Tom Uva, NBC  
Joe Pratt, Louis Berger Group  
Rich Bernier, NBC  
Karen Musumeci, NBC  
Linda George, RI Senate Policy Office  
Kathryn Kelly, NBC

Jennifer Harrington, NBC  
Karen Giebink, NBC  
Karen Giebink, NBC  
Sherri Arnold, NBC  
Mark Thomas, NBC  
Pam Duckworth, NBC  
Joanne Maceroni, NBC

**1. Call to Order**

Recognizing a quorum, CEO Chairman Salvadore called the November 2, 2011 Construction/Engineering/Operations (CEO) Committee Meeting to order at 9:22 a.m.

**2. Approval of Minutes – September 28, 2011 CEO Committee**

Chairman Salvadore asked for a motion to approve the September 28, 2011 CEO Committee Meeting minutes as written. Commissioner Worrell asked that the minutes be amended. At the September 28, 2011 Construction/Engineering/Operations Committee meeting Commissioner Worrell had recused himself from the vote for Resolution 2011:33; Award of Contract 809.00RS-Construction Related

Engineering Services for Bucklin Point Wastewater Treatment Facility Improvements, Construction Contract 809.00C (Amount \$3,150,000). He asked that the record reflect the reason for his recusal which was because of a possible conflict of interest as a result of his being a Trustee of the Conservation Law Foundation.

Commissioner Montanari moved to approve the minutes of the September 28, 2011 CEO Committee as amended. Commissioner Thompson seconded the motion. The vote taken by the CEO Committee was unanimous. The motion carries.

### **3. Items for Action**

#### **A. Review and Approval of Resolution 2011:40; Award of Contract 809.00C Bucklin Point Wastewater Treatment Facility Improvements Evaluation of Lower Bidder**

Mr. Marshall advised that six bids for construction Contract 809.00C Bucklin Point Wastewater Treatment Facility Improvements were received by the Commission's Procurement Section on September 29, 2011. The contractors and their bids are:

Walsh Construction Co. \$34,159,740  
Daniel O'Connell's Sons \$34,626,000  
Carlin Contracting Co. \$36,226,000  
J.L. Marshall & Sons \$38,354,000  
Barletta Heavy Division, Inc. \$39,155,280  
Hart Engineering \$49,837,000

Bid Objection – On September 30, 2011 Daniel O'Connell's Sons (DOC) objected to the bid because Walsh Construction Co. (Walsh) failed to submit a Bid Bond with their bid. The objection was reviewed by our Legal Department and it was determined that the bid by Walsh was non responsive. Walsh failed to provide the required Bid Bond with his sealed Bid package.

There were several discussions with NBC staff including legal counsel. We have considered all relevant procurement laws and regulations to determine which options are available to NBC under these circumstances. The options are:

1. Reject Walsh's bid and award it to the second low bidder.

Analysis: This option is the one that staff recommends. The NBC's Procurement Regulations directs NBC to award to the, lowest, responsive/responsible bidder. The bid by Walsh was non responsive. This makes the second low bidder the lowest responsive/responsible bidder.

2. Reject all bids and re-bid the project.

Analysis: The Rhode Island Department of Environmental Management (RIDEM) has required that the nitrogen removal portion of the work be completed in accordance with a strict schedule. If we were to re-bid the work, there is no way that the work could be completed in a timely enough manner to satisfy RIDEM requirements.

While we appreciate that no solution is perfect under these circumstances, we believe the first option is the Commission's best option.

Mr. Marshall advised that the existing treatment facility must reduce the discharge nitrogen limit to 5 mg/l as required by RIDEM. Additionally, a portion of the existing treatment equipment has reached its useful life spans and must be replaced. The completion of this Contract will satisfy those requirements.

Daniel O'Connell's Sons bid of \$34,626,000 was within 5% of the next low bidder and within approximately 13% of all but one bidder. This indicates to us that the bids accurately represent current market conditions. Additionally, the close proximity in bids is an indicator that the bidders interpreted the contract requirements in a similar manner. Our Engineer's estimate was \$46,000,000.

Daniel O'Connell's Sons was awarded our \$55,177,000 Contract 109.01C to provide nitrogen removal and update various mechanical equipment at our Fields Point Facility. This is very similar to the scope under Contract 809.00C. They are currently ahead of schedule and completing work in a professional manner with no significant problems.

The Contractor must comply with the Contract requirements for MBE/WBE compliance, including state approval of his MBE/WBE Plan. In his bid he listed the anticipated use of six companies with work estimated at \$3,500,000 or 10.1% of his bid.

We find that Daniel O'Connell's Sons is the lowest responsive and responsible bidder. We recommend that Contract 809.00C be awarded to Daniel O'Connell's Sons subject to the approval of the Contractor's MBE/WBE plan and EEO requirements by the Rhode Island Department of Administration.

Commissioner Montanari made a motion to approve Resolution 2011:40; Award of Contract 809.00C Bucklin Point Wastewater Treatment Facility Improvements Evaluation of Low Bidder. Commissioner Thompson seconded the motion and the vote taken by the CEO Committee was unanimous. The motion carries.

**4. Other Business**

None.

**5. Adjournment**

A motion to adjourn was made by Commissioner Montanari, seconded by Commissioner Worrell and the CEO Committee meeting adjourned at 9:33 a.m.

Respectfully submitted,



Raymond J. Marshall, P.E.

*Executive Director/Secretary*