

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members
200 Liberty Street, 24th Floor
New York, NY 10281
March 26, 2019

Members Present

George Tsunis, Chairman
Louis Bevilacqua, Member
Martha Gallo, Member
Anthony Kendall, Member
Catherine McVay Hughes, Member
Lester Petracca, Member

Authority Staff in Attendance: Benjamin Jones, President and Chief Executive Officer
Debbie Addison, Director of Project Management and Planning
Sharmila Baichu, Vice President of Human Resources
Gwen Dawson, Vice President, Real Property
Pamela Frederick, Chief Financial Officer/Treasurer
James Gallagher, Associate General Counsel
Abigail Goldenberg, General Counsel
Nimisha Haribaran, Executive Assistant/Contract Manager
Susie Kim, Deputy General Counsel
Karl Koenig, Controller
Eric Munson, Vice President of Administration & Strategic Planning
Lauren Murtha, Paralegal/Assistant Corporate Secretary
Jahmeliah Nathan, Vice President of Administration
Robert Nesmith, Chief Contracting Officer
Anthony Peterson, Director of Diversity Programs
Bruno Pomponio, Director of Parks Operations
Jason Rachnowitz, Director of Financial Reporting
Nicholas Sbordone, Director of Communications and Public Affairs
Nicole Stallworth, Associate General Counsel
Markus Szejnberg, Special Counsel for Ethics, Risk and Compliance
Alexis Torres, Chief of Staff
Ryan Torres, Associate Director of Parks Operations

Others in Attendance: Timothy Sheehan, CBRE
Roger Bagley, Hawkins Delafield & Wood LLP
Olivia Moss, HR&A
Carl Weisbrod, HR&A
Bob Cheddar, PFM Asset Management
Steve Faber, PFM Asset Management
Samantha Meyers, PFM Asset Management
Ira Isaguirre, Ramirez Asset Management
David Glanz, Windels Marx Lane & Mittendorf, LLP
Andrew Rothbaum, Mohanty Gargiulo
Grace Chionuma, Morgan Stanley
Various Members of the Public

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:11 p.m.

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The first item on the agenda was the approval of the minutes of the February 12, 2019, February 26, 2019, and March 7, 2019 meetings. Upon a motion made by Mr. Kendall and seconded by Ms. Gallo the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE FEBRUARY 12, 2019, FEBRUARY 26, 2019, AND MARCH 7, 2019 MEETINGS

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on February 12, 2019, February 26, 2019 and March 7, 2019 are hereby approved.

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There was one individual who presented during the period of public comment.

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The next item on the agenda was the Investment Committee report presented by Ms. Frederick.

Ms. Frederick stated that the Investment Committee met earlier this morning for its quarterly meeting and in attendance were the Chair, Lester Petracca, Catherine McVay Hughes and Martha Gallo. Also in attendance were our investment advisors, PFM Asset Management as well as Ramirez Asset Management.

The committee reviewed the adjustment to the debt service reserve fund account. The actions were in anticipation of potential changes associated with the bond financing and it was decided that PFM will continue to suspend the long-term strategy in the debt service reserve fund to enable the Authority to prepare should they require liquidity given changes in the fund requirements. The Committee also reviewed the January 2019 quarter end investment report.

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The next item on the agenda was the M/WBE Utilization Report presented by Mr. Peterson.

Mr. Peterson reported that for the month of February, 2019, 30.90% or \$524,138.05 of the Authority's total allowable expenditures of \$1,696,003.59 was paid to M/WBEs. Of this total amount, \$393,287.66, or approximately 23%, was paid to MBEs, and \$130,850.39, or approximately 8%, was paid to WBEs. 27.83% (\$471,947.38) of these amounts were paid directly to M/WBEs - 22.92% (\$388,707.66) to MBEs and 4.91% (\$83,239.72) to WBEs. 3.08% (\$52,190.67) was paid to MWBEs as Sub-Contractors - 0.27% (\$4,580.00) to MBEs and 2.87% (\$47,610.67) to WBEs.

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The next item on the agenda was the Resiliency Update presented by Mr. Jones.

Mr. Jones began by briefly updating the Board on the highlights since the last meeting on resiliency. He mentioned that we have had two important milestones with the South Battery Park City and the Ballfields projects. He pointed out that our second community input sessions took place and at both we shared the results of our engineering analysis and coastal modeling to date. We received a lot of community input and positive feedback from the members of the community about our progress, and the measures we're contemplating, he stated. He also noted for the Board, that the Mayor's office is announcing that its downtown resiliency plan included our work and acknowledged that they are also now looking at some measures similar to what we are pursuing. In that regard, he said, Borough President Gale Brewer, was at the press conference, Gwen, Catherine and Nick were there too, and gave Battery Park City a shout out and said the Authority has not only come up with ideas, but that we have been very instrumental in bringing the community into that discussion, referencing us as a model for this work. And then finally he added, we are continuing to pursue a public-private partnership pathway to see how we might be able to further accelerate this work through either a design build or also maintenance and operations measures that we could bundle together in some fashion. He then thanked Gwen and her team who have been doing the heavy lifting that is really finally coming to fruition, and the community is recognizing it, and to Nick who has really continued to foster our relationships there. He ended stating we have made some good progress.

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The next item on the agenda, presented by Ms. Goldenberg, was an approval of the Pre-Qualified Panel to provide legal services.

Ms. Goldenberg began explaining that in January of this year the legal department did a request for proposals with the objective of creating and broadening our current panel of prequalified attorneys. She noted the legal department sought proposals from seven substantive practice areas for qualified counsel and really focused not only on making sure that our RFP adequately described the nature of work to be done, but also made extra efforts to do outreach to get as broad an applicant pool as possible, both in the legal community in general and of course obviously in the MWBE and SDVOB firms. As a result of that, she noted, a record number of proposals were received that were interested in being counsel to the Authority as needed. Ms. Goldenberg mentioned we got 46 proposals and reviewed those proposals very carefully coming up with the proposed list, attached to the materials, in those seven substantive areas. In accordance the Authority's policy on prequalification of vendors, the Board was asked to approve the list of pre-qualified vendors, for a term of three years, with an option to extend the panel for an additional year and for approval to enter into retainer agreements with firms on an as-needed basis for an aggregate amount of up to whatever the line item in our annual budget, as approved by the Board, is.

Upon a motion made by Mr. Petracca and seconded by Bevilacqua, the following resolution was unanimously adopted:

APPROVAL OF PRE-QUALIFIED PANEL TO PROVIDE LEGAL SERVICES

BE IT RESOLVED, that in accordance with the materials submitted at this Board meeting, the President and Chief Executive Officer (the "President") of the Battery Park City Authority or his/her designee(s) be, and each of them hereby is, authorized and empowered to approve the panel of pre-qualified law firms described on Appendix A attached hereto, for a period of three (3) years, with the option to extend the approval period for up to one (1) additional year at the discretion of the General Counsel, during which time the Authority will enter into retainer agreements (the "Agreements") with

firms on an as-needed basis, in accordance with the requirements of the Authority's Pre-Qualified Vendor Policy; and be it further

RESOLVED, that the President or his/her designee(s), and each of them hereby is, authorized and empowered to execute and deliver the Agreements on behalf of the Authority, subject to such changes as the officer or officers executing the Agreements shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence by the execution and delivery of the Agreement; and be it further

RESOLVED, that the President or his/her designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified, and any actions hereafter taken are confirmed and approved.

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The next item on the agenda, presented by Ms. Goldenberg, was an authorization to amend retainer agreements for legal services.

Ms. Goldenberg stated that now that the Board approved the new panel of firms, the next item was to bridge any gap that might exist in regards to the retainer agreements with any firm with whom we have ongoing work. She mentioned we currently have 10 attorneys under contract with the Authority, and the request was to enter into time extensions with those 10 firms for up to six months. She added that she did not anticipate actually needing six months but thought the request should be as conservative as possible during which time we will enter into new contracts under the new prequalified list for the firms that we have ongoing and current work.

Upon a motion made by Mr. Petracca and seconded by Mr. Bevilacqua, the following resolution was unanimously adopted:

AUTHORIZATION TO AMEND LEGAL RETAINER AGREEMENTS FOR TIME EXTENSIONS

BE IT RESOLVED, that in accordance with the materials submitted at this Board meeting, the President and Chief Executive Officer (the "President") of the Battery Park City Authority or his/her designee(s) be, and each of them hereby is, authorized and empowered to enter into time extension amendments (the "Amendments"), up to six months, with the following legal firms: Carter Ledyard & Milburn, Colon & Peguero, Couch White, Hoguet Newman & Regal, Holland & Knight, Schiff Hardin, Schoeman Updike & Kaufman, LLP, Sive Paget Riesel, Wilson Elser Moskowitz Edelman & Dicker LLP and Windels Marx Lange & Mittendorf LLP; and be it further

RESOLVED, that the President or his/her designee(s), and each of them hereby is, authorized and empowered to execute and deliver the Amendments on behalf of the Authority, subject to such changes as the officer or officers executing the Amendments shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence by the execution and delivery of the Amendments; and be it further

RESOLVED, that the President or his/her designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further

actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified, and any actions hereafter taken are confirmed and approved.

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The next item on the agenda, presented by Mr. Jones, was an approval for increase to FY19 Budget for real estate advisory services.

Mr. Jones requested an increase of \$589,000 to the fiscal year operating budget in order to enable our continued efforts with regards to analyzing and addressing lease term and lease re-set concerns, and to also help us in taking advantage of opportunities related to preserving and increasing affordability, and enhancing sustainability and resiliency in this neighborhood. He added that the nature of our work is largely subject to nondisclosure agreements, but you are aware of our efforts to date. Mr. Jones further explained that this involves continuing our policy work and overall strategy development as well as financial modeling and assistance with building assessments, particularly with regards to capital needs and plans, sustainability and resiliency improvements. This budget request, he noted, was in tandem with the next item, pending approval, which is to retain a panel of real estate advisors as we get into the nitty gritty of the work.

Upon a motion made by Mr. Kendall and seconded by Ms. Gallo, the following resolution was unanimously adopted:

**APPROVAL OF INCREASE TO AUTHORITY BUDGET FOR FISCAL YEAR ENDING
OCTOBER 31, 2019**

BE IT RESOLVED, that the operating budget of the Authority for the fiscal year ending October 31, 2019, approved at the October 29, 2018 meeting, be, and hereby is, approved to be amended by an increase of \$589 thousand for real estate advisory services and ordered filed with the records of the Authority; and be it further

RESOLVED, that the President and Chief Executive Officer of the Authority or his designee(s) be, and each of them hereby is, directed to file said budget and related information with all parties as required pursuant to all outstanding bond resolutions, agreements and requirements of law.

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The next item on the agenda, presented by Ms. Goldenberg, was an approval of Pre-Qualified Panel to provide real estate consultant services.

Ms. Goldenberg added to what B.J. had presented, explaining that a lot of work is being done and similar to having a panel of qualified counsel on board and able to meet the on-call needs of the Authority, it was crucial to also make sure that we had as robust a panel of real estate consultants as possible. With that in mind, she continued, we issued an RFP to empanel pre-qualified real estate consultant services and recommend the five consultants listed in the materials, two of whom are the talented firms that we have worked with previously, CBRE and HR&A, and the other three firms would be newly added to our panel of pre-qualified real estate consultants to be used in accordance with the pre-qualified policy. This panel would be approved for a period of five years, with the ability to enter into contracts on an as-needed basis for up to the now approved line item for real estate consultant services.

Upon a motion made by Mr. Bevilacqua and seconded by Ms. McVay Hughes, the following resolution was unanimously adopted:

AUTHORIZATION TO PRE-QUALIFY FIRMS FOR REAL ESTATE CONSULTANT SERVICES

BE IT RESOLVED, that in accordance with the materials submitted at this Board meeting, the President and Chief Executive Officer (the "President") of the Battery Park City Authority or his/her designee(s) be, each of them hereby is, authorized and empowered to pre-qualify the real estate advisors listed on Attachment A for real estate consultant services on a per assignment basis for a term of five (5) years, with an annual, aggregate cap equal to the approved budgeted amount for real estate advisory services; and be it further

RESOLVED, that the President or his/her designee(s), and each of them hereby is, authorized and empowered to execute and deliver the Contract on behalf of the Authority, subject to such changes as the officer or officers executing the Contract shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence by the execution and delivery of the Contract; and be it further

RESOLVED, that the President or his/her designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified, and any actions hereafter taken are confirmed and approved.

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The next item on the agenda, presented by Ms. Frederick, was a declaration of intent to reimburse interim funding of capital projects with bond proceeds.

Ms. Frederick explained that this item is being brought to the Board for approval to reimburse the Authority for any interim funds that are used to pay for 2019 capital plan projects assuming, she added, that they are initiated or incurred prior to the bond actually closing. At a prior Board meeting we approved the ability to use up to \$10 million of the contingency reserves to fund the projects and so those funds would then be reimbursed from bond proceeds once the bond closes.

Upon a motion made by Mr. Kendall and seconded by Mr. Bevilacqua, the following resolution was unanimously adopted:

Resolution Declaring Intent to Reimburse Interim Funding of Costs of Capital Projects from Proceeds of Tax-Exempt Bonds

WHEREAS, the Battery Park City Authority (the "Authority") expects to utilize internal reserve funds to pay for certain expenditures associated with the Authority's capital projects that need to be paid on an interim basis prior to the issuance of the 2019 bonds (the "Reimbursable Capital Projects"). Such expenditures generally include capital expenditures associated with the design and/or construction of various planned resiliency, infrastructure, and facilities projects.

The Reimbursable Capital Projects more specifically include without limitation:

- (1) Resiliency Projects: The design and construction of resiliency projects for South Battery Park City, North Battery Park City, and the Battery Park City Ballfield/Community Center;
- (2) Infrastructure Projects: The installation of a new play surface for the Kowsky Plaza Playground, the repaving of certain north Battery Park City streets, the restoration of the Rockefeller Park Playground and related equipment, the restoration of granite blocks, mortar and replacement of expansion joints within the southern half of the Battery Park City Esplanade, the restoration and landscaping of the PS 89 Playground, and asphalt and stone remediation throughout Battery Park City; the South Cove Jetty restoration, the design and construction of an expansion to the NYC Police Memorial and the construction of the New York State Empire Trail gateway marker; and
- (3) Facilities Projects: The capital repair and replacement of building components within and improvements to certain Authority-controlled building facilities within Battery Park City, including the Parks Headquarters facility at 75 Battery Place, the Parks Department programming facility at 6 River Terrace, and the Battery Park City Community Center (operated by Asphalt Green) at 212 North End Avenue.

WHEREAS, the Authority reasonably expects to issue one or more series of tax-exempt bonds to finance on a long-term basis all or a portion of the costs of the Reimbursable Capital Projects (the "Bonds");

WHEREAS, the Authority reasonably expects the Bonds will include either the issuance of one or more series of tax-exempt bonds, or bonds of such a series, exclusive of related reserves and costs of issuance, specifically for the Reimbursable Capital Projects in the maximum principal amount of \$59,750,000.00 (the "Bonds");

WHEREAS, the Authority has used \$265,110.57 and reasonably expects that it will also use operating contingency reserve funds of the Authority in an amount up to \$10 million as authorized by the Members at the January 29, 2019 board meeting (the "Interim Funds") to pay, on an interim basis, all or a portion of the costs of the Reimbursable Capital Projects prior to the issuance of the Bonds;

NOW THEREFORE, BE IT RESOLVED by the Members of the Authority as follows:

The Authority hereby declares its intent to reimburse the Interim Funds from the proceeds of the Bonds after the Bonds have been issued. The foregoing declaration of intent is made pursuant to § 1.150-2 of the United States Department of the Treasury regulations adopted under the Internal Revenue Code of 1986, as amended (the "Code"), in order to permit such reimbursement, when made, to be treated as an expenditure of proceeds of the Bonds for arbitrage and rebate purposes under Section 148 of the Code. All costs to be reimbursed pursuant hereto will be capital expenditures of the Reimbursable Capital Projects. No tax-exempt obligations, including the Bonds, will be issued by the Authority in furtherance of this resolution after a date which is later than 18 months after the later of (1) the date the Reimbursable Capital Projects' expenditures are paid or (2) the date on which the Reimbursable Capital Projects, or the component of the Reimbursable Capital Projects with respect to which such expenditures were made, is placed in service. The foregoing notwithstanding, no tax-exempt obligations, including the Bonds, will be issued pursuant to this resolution more than three years after the date any expenditure for the Reimbursable Capital Projects which is to be reimbursed is paid.

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The next item on the agenda, presented by Ms. Frederick, was a request to adopt an amendment of guidelines for the use of interest rate exchange agreements and the selection and use of a Qualified Independent Representative (QIR).

Ms. Frederick explained that the Authority has an existing policy for Swap agreements or interest rate exchange agreements basically referred to as interest rate Swaps that has been in place since 2003 and unchanged since that time when those Swaps were initially put in place. She explained that there has been a fair amount of regulatory change since that time including that of Dodd Frank, so those new requirements includes the need for a qualified independent representative, referred to as a QIR. They will provide the required representations that are needed to give to our underwriter, Morgan Stanley as we start to work towards structuring and amending a bond and the associated swaps. She explained we took this opportunity to make a couple of changes to the policy that were needed. One was increasing the concentration limit to 40% and that would be consistent with our existing swaps and we are also correcting a S&P rating reference to equate it to the same references as Moody's. We also make note that BofA/Merrill fell below the minimum rating, but because we have no credit exposure to any of the swap providers that did not make our ratings trigger. The ratings trigger would have required collateral if we had credit exposure to them. Since we actually are the ones with the negative mark-to-market, meaning if the Swaps unwound we would owe money, so we have credit exposure to the dealers but we're not required to provide collateral. She explained if the opposite were true and they had credit exposure to us then we would require them to post collateral if they did not meet our ratings requirements. So the other thing I'll make note just sort of tied to that just for information is that as of March 15th, our mark to market was negative \$56 million. Given the rally in the market over the last few weeks that's gone up to about a negative \$64 million as of today. We had the Swap provider, Mohanty provide that.

Ms. Frederick further explained that when you have a Swap even though you have a negative mark what the Swap does is provide you a fixed rate, and that fixed rate on our Swap is 3.452 which falls within the range of the fixed rate debt that we pay as well which is 3-5%. The Authority also selected Mohanty Gargiulo as our Swap advisor. They are a WBE. They will provide us an analysis of the Swap portfolio. They also provide ongoing credit monitoring of our counter-parties and they will analyze any Swap restructuring that we intend to do which they've started some of that work.

Upon a motion made by Mr. Petracca and seconded by Mr. Bevilacqua, the following resolution was unanimously adopted:

APPROVAL OF THE AMENDED GUIDELINES FOR THE USE OF INTEREST RATE EXCHANGE AGREEMENTS

BE IT RESOLVED, that the amended Guidelines for the Use of Interest Rate Exchange Agreements (the "Guidelines") of the Hugh L. Carey Battery Park City Authority (the "Authority") in the form presented to this meeting, be, and hereby is approved; and be it further

RESOLVED, that the Treasurer of the Authority be, and hereby is, directed to include said Guidelines with the monthly report it submits to: (1) NYS Division of the Budget; (2) NYS Department of Audit and Control; the Chairman of the (3) New York State Senate Finance Committee; and (4) New York State Assembly Ways and Means Committee, as required by subdivision 3 of Section 69-d of the State Finance Law, regarding the Authority's existing interest rate exchange agreements; and be it further

RESOLVED, that the Assistant Corporate Secretary of the Authority be, and hereby is, directed to file said Guidelines with the minutes of this meeting; and be it further

RESOLVED, that any and all actions taken by any officer of the Authority in connection with the negotiation or preparation of such policies and procedures are hereby ratified, confirmed and approved.

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The next item on the agenda, presented by Ms. Dawson, was an authorization to enter into a contract with AECOM for the North BPC Resiliency Project: Design Services.

Ms. Dawson began by stating that as B.J. mentioned earlier this is the third of our four planned resiliency projects, and this project will address the area that runs essentially from the north promenade just west of Stuyvesant High School, eastward across Route 9A and eastward from there to about West Broadway. This will address one of the top two points of vulnerability for storm inundation that we have in Battery Park City.

Ms. Dawson mentioned an RFP was issued in December and eight proposals were received. After an initial scoring the top four scoring proposers were interviewed. Those were AECOM, Arup, Jacobs and Stantec. After the interviews she said they took the top two of those proposers who seem to have a better understanding and a better approach to the project: AECOM and Jacobs. Those two proposers scored less than a point away from each other, AECOM coming in at 90.4 and Jacobs coming in at 89.63. They then evaluated the cost proposals and found that AECOM's cost proposal was significantly lower than that of Jacobs, there was about a \$2.7 million or 38% difference between the two. She mentioned it also appeared that Jacobs' cost proposal had not included a couple of the items that were required for the scope of work which would indicate that their cost would go even higher, and so given that AECOM had the slightly higher technical score and a significantly lower cost proposal, which the evaluation committee determined was reasonable for the services provided the evaluation committee recommends that the Authority enter into a 33-month contract with AECOM in the not to exceed amount of \$6,475,386 plus \$665,040 in reimbursable expenses for a total of \$7,140,426.

Upon a motion made by Mr. Kendall and seconded by Ms. McVay Hughes, the following resolution was unanimously adopted:

AUTHORIZATION TO EXECUTE A CONTRACT WITH AECOM FOR THE NORTH BATTERY PARK CITY RESILIENCY PROJECT: DESIGN SERVICES

BE IT RESOLVED, that in accordance with the materials submitted at this Board meeting, the President and Chief Executive Officer (the "President") of the Battery Park City Authority (the "Authority") or his/her designee(s) be, and each of them hereby is, authorized and empowered to enter into a thirty-three (33) month contract (the "Contract") with AECOM in the not-to-exceed amount of \$7,140,426.00, including reimbursable expenses of \$665,040.00, to perform the North Battery Park City Resiliency Project: Design Services; and be it further,

RESOLVED, that the President or his/her designee(s), and each of them hereby is, authorized and empowered to execute and deliver the Contract on behalf of the Authority, subject to such changes as the officer or officers executing the Contract shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence by the execution and delivery of the Contract; and be it further,

RESOLVED, that the President or his/her designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified, and any actions hereafter taken are confirmed and approved.

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The next item on the agenda, presented by Ms. Dawson, was an authorization to enter into a contract with Nicholson & Galloway, Inc. for the Community Center Leak Remediation.

Ms. Dawson began by mentioning that the Community Center Leak Remediation project was before the Board a few months ago for the approval of a construction management contract. Being presented today was a proposal for the authorization to enter into a contract for the general contractor to perform the project. She then reminded the Members that way back in 2006, Milstein Properties was designated the developer of Sites 23/24, currently known as 200 and 300 North End Avenue, as part of their ground lease they were obligated to provide to the Authority the core and shell of a 50,000 square foot community center space. Milstein bore the responsibility for the core and shell while the Authority assumed responsibility for the interior fit out of the project as well as for the construction of the terrace above the community center.

Ms. Dawson further explained that while the construction was in progress there were problems noted by the Authority that there were some leaks and some water infiltration that was experienced which was brought to the attention of the base building's contractor. However, there were no efforts to address those problems, and if there were they were unsuccessful because the leaks persisted even after the opening of the facility by Asphalt Green in 2013. In 2013 and 2014, the Authority retained WJE Associates, an engineering firm, to perform an assessment and analysis of the problems with the space and the water infiltration that was being experienced. The conclusion was there was a waterproofing failure at the expansion joint between the two buildings, above the community center but below the finished terrace and a waterproofing failure at the eastern façade of the community center.

She continued to explain that the reports that came out of that process were forwarded to Milstein in 2013/2014 and negotiations ensued between the Authority and Milstein for rectification of these issues which did not lead to a mutually agreeable resolution, and it was subsequently determined that the Authority would proceed with correcting the problem, which would require the removal of the terrace and re-waterproofing of the area above and repairs to the deficiencies in the waterproofing on the eastern façade subject to a subsequent negotiation with Milstein once all of the facts were known to determine a proper allocation of financial responsibility.

The scope of the project will include a complete removal of the terrace overburden of the terrace above the community center, a re-waterproofing of the terrace, a replacement of the expansion joints, repairs to and restoration of certain elements of the eastern façade storefront fenestration system, and installation of a new terrace surface and seating. The Authority issued an RFP in February and received four proposals. One of those proposals one was eliminated from eligibility because they failed to provide all of the required documentation. The three remaining proposers were interviewed and following the interviews, one of those proposers was determined not to have sufficient expertise to perform the project, and so the cost proposals of the remaining two were evaluated: Nicholson & Galloway and Related Services. Both of those proposers were qualified, capable, and had significant experience in waterproofing and masonry restoration.

Nicholson & Galloway's technical score was higher, they were at 81.8 and Related was at 73.5. In evaluating the cost proposals there was a great divergence in the cost proposals of those two proposers, and Nicholson & Galloway was at \$7.3 million, Related was at \$11.5 million. Ms. Dawson explained we were a little concerned about that discrepancy in the cost proposals so we questioned both of the proposers at length about their cost proposals and determined that it was likely that Related had made some calculation errors in their proposal. Consequently we issued a request for a best and final offer from both proposers, and we received best and final offers which then brought them much more closely in line with each other. Nicholson & Galloway at \$7.298 million and Related at \$7.639 million.

During the course of the interviews, she mentioned, some slight modifications were identified that we could make in the scope that would create opportunities for some cost savings. Both of the proposers were asked to give us alternate costs for those potential changes in scope, but we wound up with the same result and that is that Nicholson & Galloway has a higher technical score and a lower cost proposal, a total of \$6,855,646 compared to Related's \$7,533,420.

Consequently, the Board was asked to approve entering into a 15-month contract with Nicholson & Galloway in a lump sum amount of \$6,905,646, which includes a \$50,000 allowance to cover rat mitigation work as maybe determined to be necessary once we get the cover removed from the terrace. She noted that Nicholson & Galloway was the contractor that performed the Irish Hunger Memorial waterproofing and restoration work and we had a very positive experience with them.

Upon a motion made by Mr. Petracca and seconded by Ms. Gallo, the following resolution was unanimously adopted:

**AUTHORIZATION TO EXECUTE A CONTRACT WITH NICHOLSON & GALLOWAY
FOR THE COMMUNITY CENTER LEAK REMEDIATION/WATERPROOFING PROJECT:
GENERAL CONTRACTOR CONSTRUCTION SERVICES**

BE IT RESOLVED, that in accordance with the materials submitted at this Board meeting, the President and Chief Executive Officer (the "President") of the Battery Park City Authority (the "Authority") or his/her designee(s) be, and each of them hereby is, authorized and empowered to enter into a fifteen (15) month contract (the "Contract") with Nicholson & Galloway in the lump-sum amount of \$6,905,646.00 to perform the Community Center Leak Remediation/Waterproofing Project: General Contractor Construction Services; and be it further,

RESOLVED, that the President or his/her designee(s), and each of them hereby is, authorized and empowered to execute and deliver the Contract on behalf of the Authority, subject to such changes as the officer or officers executing the Contract shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence by the execution and delivery of the Contract; and be it further,

RESOLVED, that the President or his/her designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified, and any actions hereafter taken are confirmed and approved.

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The next item on the agenda, presented by Mr. Pomponio, was a request for approval to enter into an agreement with WEX Bank for fuel card services.

Mr. Pomponio explained that the parks operation department vehicles and equipment require fuel and are necessary for park operations. The NYS Office of Governmental Service has a contract with WEX Bank which allows NYS authorized users to purchase fuel for NYS vehicles at retail fuel locations. He requested approval was to enter into an agreement with WEX Bank through the use of the NYS Office of Governmental Services, contract number PS67946, Group 79008, Award 23062 for a not-to-exceed amount of \$30,000 during the contract term of June 22, 2018 through June 21, 2021. He mentioned that the contract will be utilized for an execution of BPCA's own agreement with WEX Bank until the expiration of the contract.

Upon a motion made by Ms. Gallo and seconded by Mr. Petracca, the following resolution was unanimously adopted:

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH WEX BANK TO PROVIDE FUEL CARD SERVICES

BE IT RESOLVED that in accordance with the materials presented to this meeting, the President and Chief Executive Officer of the Hugh L. Carey Battery Park City Authority (the "President") or her/his designee(s) be, and each of them hereby is, authorized and empowered to enter into an agreement with WEX Bank to provide fuel card services for a not-to-exceed amount of \$30,000.00 for the remaining duration of the Office of General Services contract PS67946 which expires on June 21, 2021, and be it further

RESOLVED, that the President or her/his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the contract on behalf of the Hugh L. Carey Battery Park City Authority, subject to such changes as the officer or officers shall, with the advice of counsel, approve as necessary and appropriate and in the best interests of the Authority, such approval to be conclusively evidenced by the execution and delivery of the contract; and be it further

RESOLVED, that the President or her/his designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents and to take all such other and further actions as may be necessary, desirable or appropriate in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other further actions heretofore taken are hereby ratified and any actions hereafter taken are confirmed and approved.

* * *

Ms. Gallo made a motion to enter Executive Session, which was seconded by Ms. McVay Hughes, to discuss the negotiations related to the lease of real property, the publicity of which could substantially affect the value of the relevant properties and additional litigation issues. The Members entered Executive Session at 3:00 p.m.

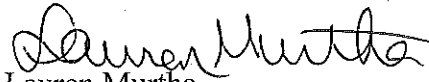
* * *

Upon a motion made by Ms. Gallo and seconded by Ms. McVay Hughes. The Members exited Executive Session at 5:02 p.m.

* * *

There being no further business, upon a motion made by Mr. Petracca and seconded by Ms. McVay Hughes, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 5:02 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lauren Murtha". The signature is fluid and cursive, with the first name "Lauren" written in a larger, more prominent script than the last name "Murtha".

Lauren Murtha
Assistant Corporate Secretary

Public Comment
March 26, 2019 Board Meeting

1. **Ms. Ann Schwalbenberg**: I am here to have a request about the curb cuts. Too many of the current curb cuts are below the grade of the street next to the curbs, which means that the water that comes or the snow that melts all go back into the curb cut and there are as much as 4-6" of slush. And when it's really freezing then it freezes up over the edge. So the people who clean the streets think it's wonderful to not worry about the corners and so they just don't do anything about pushing it out a little bit further so that the water doesn't go back into the curb cuts. So it affects me, I don't know if any of you have seen me with my walker. It affects carriages, it affects strollers, it affects the dogs. And whatever it is, whoever goes through there. Anybody who doesn't have boots but I can't put a boot on what I need. So when you're redoing South End Avenue would you please make a point of telling DOT or whoever is going to be doing South End Avenue, to make sure that the curb cuts are higher than the drains, so that the water will run into the drain as opposed to the drain stuff coming into the curb cuts. That's the major request that I have.

I do have one other comment, and that is I'm also visually impaired and as well as having a walker, when it gets to be dusk and especially if it's nighttime we have to cross West Street. We do not have here, and this is a DOT issue also, and as far as I know it's not on their agenda, and particularly if you're up by the Chamber Street and you're changing the lanes, you know, for turning and all kinds of things like that, it would be extremely helpful to have the walk thing that has the buzzer on there or whatever it is. They have them all over the city, but the DOT isn't planning to do anything here that I'm aware of, and so it would be really helpful on Chamber Street and a couple of other places if we, because there aren't that many people who are, you know I ask all the time when I go, but there aren't that many people crossing the street, especially in the winter when it starts getting dark and it's like 8:00 at night, you're not necessarily going to find somebody who's crossing the street. And so you say well take the bridge. Well I can't walk upstairs, and particularly here, you know, in fact Liberty Street and a few other places where there's a big crosswalk, you know. It would be very helpful to have on the light poles a walk so that you can hear it because my vision goes down dramatically in the dark. It's not too great in the day, but it's really bad at night. And if there's nobody there I'm out of luck.



HUGH L. CAREY

BATTERY PARK CITY AUTHORITY (THE "AUTHORITY")

**GUIDELINES FOR INTEREST RATE EXCHANGE AGREEMENTS
AND THE USE OF A QUALIFIED INDEPENDENT REPRESENTATIVE ("QIR")**

1. Conditions under which Contracts can be Entered Into.

The conditions under which the Authority may enter into an interest rate exchange agreement are threefold:

- The swap transaction must meet the terms of these Guidelines.
- The Authority shall have received the legal opinion of a nationally recognized bond counsel firm that the interest rate exchange agreement is a legal, valid and binding obligation of the Authority.
- The Members shall have adopted a resolution authorizing the execution and delivery of the interest rate exchange agreement.

2. Methods for Contract Solicitation and Procurement.

The Authority may procure interest rate exchange agreements either through a competitive bidding process or through negotiation with one or more counterparties—

- Competitive – Minimum number of counterparties solicited and bidding shall be three. Authority may allow one or more counterparties to match winning bid up to a predetermined level of notional amount. Bids shall be obtained through a bid process prepared by the Authority's swap advisor.
- Negotiated – The Authority's swap advisor shall determine the mid-market swap rate on day of contract execution and shall negotiate dealer profit with counterparties designated by resolution of the Members.

With both competitively bid and negotiated interest rate exchange agreements, the Authority's swap advisor shall render its written fair market price opinion following execution.

3. Form and Content of Contracts.

The form and content of the interest rate exchange agreements will be governed by—

- ISDA Master Agreement, the standard swap document negotiated among all counterparties;
- ISDA Schedule, which details the general provisions of the swaps between the Authority and a particular counterparty (and may include a Credit Support Annex specifying particular details of any collateralization); and

- ISDA Confirmation, which will detail the actual trade terms.

The Members will approve the ISDA Master Agreement, Schedule and Credit Support Annex (if any). The individual swap confirmation will be approved by a designated officer of the Authority subject to parameters approved by the Members.

4. **Risk Exposure of Contracts.**

The Authority shall not enter into an interest rate exchange agreement that will result in the Authority having credit exposure to a single counterparty exceeding the greater of (i) 40% of the total counter-party exposure or (ii) \$300 million in notional amount.

5. **Standards and Procedures for Counterparty Selection.**

The standards for selection of counterparties for negotiated transactions as well as for solicitation of candidates for solicitation of competitive bids are:

- Counterparty shall have a long-term credit rating from at least one nationally recognized rating agency that is within its two highest investment grade categories and a long-term credit rating from any other rating agency that is within its three highest investment grade categories.
- Counterparty should have substantial and significant experience in the derivatives market.
- Counterparty should have a substantial and significant position in the municipal bond market.
- Counterparty should run a two-way derivatives book that facilitates hedging.

6. **Procurement of Enhancement.**

Credit enhancement will be procured for the underlying bonds and for the interest rate exchange agreement from experienced, nationally recognized providers of such products. A credit enhancement will be utilized only if it enhances the overall economics of the transaction for the Authority.

7. **Collateralization for Securing Financial Interests in Contracts.**

The Authority will require collateralization by the counterparty if its long-term credit rating from either Moody's or S&P falls below Aa3/AA-. The Authority will consider bilateral and symmetrical collateral-posting provisions when swap insurance is not obtained and such provisions are in the best interest of the Authority.

8. **Consideration of Long-Term Implications.**

The Members shall not authorize any interest rate exchange agreement without understanding and evaluating all associated risks and determining that the benefit such agreement offers more than offsets any risks incurred under such agreement. As part of the process of Member approval for each swap transaction, Authority staff shall present to the Members an overall plan of finance incorporating the proposed swap transaction which evaluates and quantifies, to the greatest extent possible, the risks and benefits of entering into the interest rate exchange agreement.

9. **Reflection of Contracts in BPCA Financial Statements.**

Pursuant to GASB, the interest rate exchange agreements will be reflected in the Authority's annual financial statements.

10. **Financial Monitoring.**

Staff will prepare and deliver monthly reports including the following information covering each of the interest rate exchange agreements to which the Authority is a party, all to the extent required by subdivision 1977-a(4) of the Public Authorities Law:

- (i) a description of the contract, including a summary of the terms and conditions, rates, maturity, the estimated market value of each agreement, and other provisions thereof and the method of procurement;
- (ii) any amounts which were required to be paid and received, and any amounts which actually were paid and received thereunder;
- (iii) any credit enhancement, liquidity facility or reserves associated therewith including an accounting of all costs and expenses incurred, whether or not in conjunction with the procurement of credit enhancement or liquidity facilities;
- (iv) a description of each counterparty; and
- (v) an assessment of the counterparty risk, termination risk, and other risks associated therewith.

11. **Selection and Use of a Swap Advisor.**

The Authority will utilize a swap advisor ("Swap Advisor") to assist with the evaluation and execution of swap transactions, as well as with the ongoing monitoring and valuation of its derivatives portfolio. The Swap Advisor will meet all the necessary registration, qualification and other requirements as set by the appropriate rules and regulations of the swap markets and swap market participants. In addition, the Swap Advisor selection criteria will be set so that the Authority is in a position to make any necessary representations related to its Swap Advisor under the ISDA documentation. The Authority will periodically update its swap policy to reflect any changes and additions to such rules and regulations affecting the requirements related to swap advisors.

1. Minimum Qualifications of QIR:

a) The principals and/or senior staff of the Swap Advisor providing services to the Authority will have a demonstrated specialized derivatives expertise allowing them to evaluate derivative transactions and related risks.

(i.) Principals and/or senior staff will have at least 10 years of prior derivatives experience

b) The Swap Advisor will have all required industry and regulatory registrations/licenses, including those required with the Securities and Exchange Commission and the Municipal Securities Review Board, and will not be subject to any statutory disqualifications related to such registrations.

(i.) QIR meets the requirements of CFTC Regulation 23.450(b)(1).

(ii) Principals and staff performing analytical and advisory work will hold Series 50 Certifications and others as may be required based upon regulatory requirements.

(iii.) A QIR has not been subject to any adverse findings from its regulators.

2. Role and Responsibilities/Duties:

a) The Swap Advisor will have models and access to historic and live market data necessary to price derivative transactions in real-time, perform historic and prospective risk analyses, and provide portfolio reporting and monitoring, independent of dealers and counterparties.

b) The Swap Advisor will be independent of any swap dealer or a major swap participant that may be acting as a derivatives counterparty in a transaction with the Authority. As such:

(i.) The Swap Advisor's employee(s) representing the Authority is not, and will not have been within one year of representing the Authority, associated with any swap dealer or major swap participant in a capacity that involved solicitation or acceptance of swaps or supervision of person(s) involved in such activities.

(ii.) There is no principal relationship between the Swap Advisor and any swap dealer or major swap participant.

(iii.) The Swap Advisor will disclose, in a timely manner, any conflicts of interest that could reasonably affect its judgment or decision making with respect to its obligations to the Authority. The Swap Advisor will have policies and procedures designed to manage and mitigate any conflict of interests.

(iv.) The Swap Advisor is not affiliated with, is not directly or indirectly controlled by, in control of, or under common control of any swap dealer or major swap participant.

(v.) The Swap Advisor was not referred, recommended, or introduced to the Authority by any swap dealer or major swap participant within one year of the Swap Advisor's representation of the Authority in connection with a swap.

c) The Swap Advisor will agree to undertake a duty to act in the best interest of the Authority.

d) For each transaction, the Swap Advisor will provide a detailed memo outlining the benefits and risks of the transaction, and evaluate the appropriateness and fair pricing in accordance with guidelines provided by the Authority.

e) The Swap Advisor will be subject to restrictions on certain political contributions imposed by the CFTC, the SEC, or a self-regulatory organization subject to the jurisdiction of the CFTC.

f) The Swap Advisor must meet all QIR requirements as set forth in the CFTC's Business Conduct Rules and the applicable representations in 17 C.F.R. § 23.450(d)(ii), including that it has policies and procedures reasonably designed to ensure it meets the

applicable requirements for a QIR, meets the independence test, and is legally obligated to comply with the applicable requirements for a QIR.

3. Periodic Evaluation:

The Authority will periodically evaluate the performance and services of the Swap Advisor.

12. **Other Matters Deemed Important.**

The staff will also keep informed regarding any new developments in the swap market and report them to the Board.