

HUGH L. CAREY BATTERY PARK CITY AUTHORITY
Meeting of the Members
200 Liberty Street, 24th Floor
New York, NY 10281
April 28, 2021

Members Present

George Tsunis, Chair (via video)
Louis Bevilacqua, Member (via video)
Donald Capoccia, Member (via video)
Anthony Kendall, Member (via video)
Catherine McVay Hughes, Member (via video)
Lester Petracca, Member (via video)

Authority Staff in Attendance: Benjamin Jones, President and Chief Executive Officer (via video)
Sharmila Baichu, Vice President of Human Resources (via phone)
Brett Beecham, Associate General Counsel (via phone)
Anthony Buquicchio, Senior Project Manager (via phone)
Rita Chadha, Assistant General Counsel (via phone)
Gwen Dawson, Vice President, Real Property (via video)
Claudia Filomena, Director of Capital Projects (via phone)
Pamela Frederick, Chief Financial Officer/Treasurer (via video)
Abigail Goldenberg, General Counsel (via video)
Craig Hudon, Vice President of Parks Programming (via phone)
Susie Kim, Deputy General Counsel (via phone)
Karl Koenig, Controller (via video)
Kevin McCabe, Chief Resilience Officer (via phone)
Eric Munson, Chief Operating Officer (via video)
Lauren Murtha, Paralegal/Assistant Corporate Secretary (via phone)
Jahmeliah Nathan, Vice President of Administration (via video)
Robert Nesmith, Chief Contracting Officer (via phone)
Bruno Pomponio, Vice President of Parks Operations (via phone)
Nicholas Sbordone, Vice President of Communications and Public Affairs (via video)
Alexis Torres, Chief of Staff (via phone)

Others in Attendance: Warren Ruppel, PFM Asset Management (via video)
Magdalena Czerniaw, PFM Asset Management (via video)

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:06 pm.

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The first item on the agenda was the approval of the minutes of the March 24, 2021 meeting. Upon a motion made by Mr. Bevilacqua and seconded by Ms. McVay Hughes, the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE MARCH 24, 2021 MEETING

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on March 24, 2021 are hereby approved.

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Next, there were no presentations during the period of public comment.

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The next item on the agenda was the M/WBE Utilization Report presented by Ms. Nathan.

Ms. Nathan reported that for the month of March 2021, 37.49% of the Authority's total qualifying expenditure of \$783,000.00 was paid to M/WBEs. Of this total amount, 11.25% was paid to MBEs, and approximately 26.23% was paid to WBEs. 14.85% of the total qualifying expenditures were paid directly to M/WBEs, with 6.95% to MBEs and 7.91% to WBEs. 22.64% was paid to MWBEs as subcontractors, with 4.31% to MBEs and 18.33% to WBEs.

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

Mr. Jones reported that the Ballfields Resiliency Project was underway with our contractor, SCS, securing the necessary permits in advance of fully mobilizing for construction and the revocable consent was in its final phase with the NYC Comptroller.

On the South Battery Park City Resiliency Project, the designs were being finalized and are on track for submission to the Public Design Commission later this month. Work on the EIS Chapters continues to be developed and submitted for review. Gwen Dawson met with the team at CB1 earlier this month and provided updates on the design. And the requirements for the interior drainage design was being finalized with DEP and the Mayor's office, and a resolution should be reached soon.

On the North and West BPC Resiliency Project, he reported that work continues with AECOM on finalizing the contract for the consulting engineer, and should wrap up in a few more weeks. He mentioned having found some cost saving opportunities along the way.

Finally, with regards to sustainability, he congratulated the team at the Authority which had been selected by the State Academy for Public Administration to receive the 2021 Team Public Service Excellence Award for their Zero Waste efforts. There will be a ceremony online at the end of May.

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

Ms. Dawson began by stating the Nicholson & Galloway contract was entered into in March of 2019, and entailed the removal of the terrace overburden and the re-waterproofing of the terrace area to

address water infiltration issues that had plagued the Community Center space for a number of years. At the time of the contract's inception, the only electrical work that had been contemplated for the project was the temporary removal of the existing conduit to allow for the waterproofing and then the reinstallation of that conduit and the light fixtures. However, after excavation and removal of the overburden, there were several conditions that were found to require additional electrical work.

The first condition, she explained, was that much of the electrical conduit work and fixture work, especially at the connecting points anywhere that metal had been exposed, was deteriorated beyond the possibility of reuse, and needed to be replaced. The second condition was that the connection from the conduits from the base building wall into the terrace was installed without protective sleeves and it had been installed at a level that penetrated the base flashing of the terrace waterproofing. If that condition was left in place at that location it would compromise the new waterproofing system. The manufacturer of the new waterproofing system indicated that they could not guarantee the ability to waterproof with that connection in place and as a result that required new connections to be made and the new layout of the electrical system in the terrace.

Ms. Dawson said the third condition was a lack of adequate lighting. The lighting that exists in the terrace was examined and measured during the course of the construction, especially in light of the fact that some of the dimensions of the planters had been changed and therefore there was more public pedestrian area adjacent to those planters than had previously been the case. And it was found that the lighting levels were not up to the industry standards, or the standards that had been established by the international electrical entity that establishes the lighting levels for public spaces in the United States. Therefore, she explained, it was decided to upgrade the lighting and to add some additional lighting in the form of a rail with new lighting and a conversion of the lighting fixtures to LED fixtures, which have higher quality lighting, but also much more energy efficient in keeping with our current sustainability objectives.

The change order proposal price of \$184,648.72 submitted by Nicholson & Galloway was negotiated by the construction manager LiRo and because this change order amount when combined with the previous approved change orders would constitute a combined increase in the contract value of more than \$500,000.00, it required Board approval.

Mr. Petracca asked if this was something the lighting consultant should have been able to foresee. Ms. Dawson said she believed that this was a potential design oversight and she didn't believe that Architectural Preservation Studio brought the lighting consultant on until this situation arose.

Upon a motion made by Mr. Capoccia and seconded by Ms. McVay Hughes, the following resolutions were unanimously adopted:

AUTHORIZATION TO EXECUTE AN AMENDMENT, IN THE FORM OF A CHANGE ORDER (THE "AMENDMENT"), WITH NICHOLSON & GALLOWAY, INC. FOR THE BATTERY PARK CITY COMMUNITY CENTER LEAK REMEDIATION & WATERPROOFING PROJECT

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 execute an amendment, in the form of a change order, to add the Additional Work to the Contract Scope of Work and to increase the value of the contract with Nicholson & Galloway, Inc. for the Battery Park City Community Center

Leak Remediation & Waterproofing Project by the lump-sum amount of \$184,648.72, from the lump-sum amount \$7,228,023.51 to the lump-sum amount of \$7,412,672.23; 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 Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment 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 Amendment; 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 the authorization to amend the construction management contract with LiRo Program and Construction Management, PE P.C. (“LiRo”) for the Community Center Leak Remediation.

Ms. Dawson mentioned this was part of the same Community Center Leak Remediation project and was a time extension amendment for LiRo who provides the construction management services. Since this extension would result in a date that is more than one year past the previously approved expiration date, it required Board approval. As previously discussed, there have been certain requirements for additional time associated with this project, including not getting the project started as anticipated. Over the course of time there were additional delays, including the COVID-19 construction pause and some construction delays that related to that pause, along with some change order work that required more time to perform. The request was for a nine-month extension from March 15th to December 15th which included a fee increase of \$270,262.00. The fee increase did not reach the threshold to require Board approval.

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

AUTHORIZATION TO EXECUTE AN AMENDMENT TO EXTEND THE TERM OF THE LIRO PROGRAM AND CONSTRUCTION MANAGEMENT, PE P.C. CONTRACT FOR THE COMMUNITY CENTER LEAK REMEDIATION AND WATERPROOFING PROJECT

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 execute an amendment to extend the term of its Contract with LiRo Program and Construction Management, PE P.C. from March 15, 2021 through December 15, 2021; 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 Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment 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 Amendment; 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 the authorization to extend the term of the contract with Deborah Bradley Construction & Management Services Inc. (“Deborah Bradley”) for the Rockefeller Park playground restoration.

Ms. Dawson stated that although the Rockefeller Park Playground project was substantially completed last fall, and the playground was reopened to the public in October, there was one component of the playground equipment that could not be secured and installed prior to the time of substantial completion and that was one of the slides. Deborah Bradley's representative contacted the original manufacturer of the slides and learned that the manufacturer had taken the position that it no longer liked to sell its playground equipment to be incorporated with other manufacturer's equipment. They instead wanted to sell the entire system. As a result, they would not sell the slide to Deborah Bradley unless the Authority signed a hold harmless agreement by which the Authority agreed to release and waive any claim against the manufacturer that may result from the incorporation of their slide with other equipment. The negotiations took some time, but ultimately, she stated, an agreement that satisfied the manufacturer was reached and allowed us to get the original slide, and to protect our rights against the contractor.

However, Ms. Dawson continued, by the time that agreement was finalized they could no longer deliver the slide in accordance with the existing construction schedule. It was delivered in the winter and did not allow for the required cutting and patching of the existing rubberized play surface, which could only be done in warmer temperatures, and as a result could not be completed until this spring. The contract expired in December after the rest of the work was completed and so this extension through May 31st would allow for Deborah Bradley to install that slide.

Upon a motion made by Mr. Petracca and seconded by Ms. McVay Hughes, the following resolutions were unanimously adopted:

AUTHORIZATION TO EXTEND THE TERM OF THE DEBORAH BRADLEY CONSTRUCTION & MANAGEMENT SERVICES INC. CONTRACT FOR THE ROCKEFELLER PARK PLAYGROUND RESTORATION PROJECT

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 execute an amendment to extend the term of its Contract with Deborah Bradley Construction & Management Services Inc. for the Rockefeller Park Playground Restoration Project from November 15, 2020 through May 31, 2021; 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 Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment 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 Amendment; 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 the authorization to extend the term of the contract with Dewberry Engineers, Inc. for the peer review services for South and North Battery Park City Resiliency

Ms. Dawson began by stating in March of 2020, the Authority entered into a contract with Dewberry Engineers, Inc. to perform peer review services in connection with the North BPC and South BPC resiliency projects. They essentially reviewed the designs and the work products that AECOM established and generated in connection with the resiliency projects to make sure that no items were being overlooked, or to raise questions with respect to any concerns. The contract was for a term of only nine months because it was anticipated being far enough along with both projects to have that peer review be completed. Since that time, the underlying projects were extended and additional time was required for the South project. The North project was also extended to some degree but is now being folded in with our combined North and West progressive design build project. Since the full scope of work that was contracted with Dewberry could not be completed within the time allowed, and because the extension is a date that would be more than a year since inception, it required Board approval.

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

AUTHORIZATION TO EXECUTE AN AMENDMENT TO BATTERY PARK CITY AUTHORITY' S CONTRACT WITH DEWBERRY ENGINEERS, INC. FOR PEER REVIEW SERVICES FOR THE SOUTH AND NORTH BATTERY PARK CITY RESILIENCY PROJECTS

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 execute an amendment to extend the term of the Contract with Dewberry Engineers, Inc. for the Peer Review Services for the South and North Battery Park City Resiliency Projects through September 24, 2021; 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 Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment 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 Amendment; 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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Mr. Tsunis made a motion to enter Executive Session, which was seconded by Mr. Bevilacqua, to discuss matters regarding proposed, pending or current litigation. The Members entered Executive Session at 2:37 p.m.

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The Members exited Executive Session at 3:16 p.m.

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Mr. Kendall asked if we could combine the approvals for contract extension items and group together in a single vote. Mr. Munson explained that because the contracts are on different terms that the need to extend them comes up at different times, and so to the extent that we have multiple contract extensions for the same Board meeting we could probably do that, but he did not think that we could necessarily anticipate them, with the exception perhaps of the COVID-19 related extensions because of the construction pause. He further explained that each justification for the need for the extension is sort of unique but he would look into this.

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There being no further business, upon a motion made by Ms. McVay Hughes and seconded by Ms. Petracca, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 3:21 p.m.

Respectfully submitted,

Lauren Murtha
Assistant Corporate Secretary