Hugh L. Carey Battery Park City Authority

Annual Post-Audit Report to the Audit and Finance Committee (Under AICPA AU-C Section 260)

For the Audit Year Ended October 31, 2021

MARKS PANETH

ACCOUNTANTS & ADVISORS

Marks Paneth LLP
685 Third Avenue
New York, NY 10017
P 212.503.8800
F 212.370.3759
markspaneth.com

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ACCOUNTANTS & ADVISORS

January 17, 2022

To the Audit and Finance Committee and the Members of the
Hugh L. Carey Battery Park City Authority

In accordance with auditing standards generally accepted in the United States of America ("U.S. GAAS"), Marks Paneth LLP ("Marks Paneth" or "us" or "we" or "our") is pleased to provide this communication in compliance with the American Institute of Certified Public Accountants ("AICPA") Auditing Standards AU-C Section 260 "*The Auditor's Communication with Those Charged with Governance*." In your case, the Audit and Finance Committee (or "you"), on behalf of the Members, the party charged with governance, has the responsibility to oversee the external audit of the Hugh L. Carey Battery Park City Authority (the "Authority") and the Battery Park City Parks Conservancy (the "Conservancy"), collectively referred to as the "Organization." Marks Paneth has a responsibility to bring to the attention of the Members, through the Audit and Finance Committee, any accounting, auditing, internal control, or other related matters that we believe warrant their consideration or action. Matters in this communication are concerning the completion of the October 31, 2021 financial statement audit.

This report is intended solely for the information and use of the Audit and Finance Committee, Members and management of the Organization, and is not intended to be and should not be used by anyone other than those specified parties, unless permission is granted.

Very truly yours,

Marks Paneth LLP

MARKS PANETH LLP

Attachment:

- Draft management representation letter

Morison KSi
Independent member

Hugh L. Carey Battery Park City Authority
Annual Post-Audit Report to the Audit and Finance Committee
For the Audit Year Ended October 31, 2021

1. Auditors' Responsibility

Our responsibility as the independent auditors is to express an opinion on the Organization's financial statements as of and for the year ended October 31, 2021 based on our audit. Also, it must be emphasized that our audit does not relieve management, and those charged with governance, of their responsibilities.

Our audit was conducted in accordance with auditing standards generally accepted in the United States of America ("U.S. GAAS") and was designed to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. Our audit included tests of the accounting records of the Organization and other procedures we considered necessary to enable us to express an unmodified opinion that the financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP"). In addition, we conducted our audit of the Organization under standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States ("GAS").

Based on our audit, we are prepared to issue an **unmodified** opinion on the financial statements, subject to the following open items being cleared:

A) Receipt of legal representation letter from Schoeman Updike Kaufman & Gerber LLP.
B) Receipt of confirmation of Interest Rate Swap Agreements from Bank of America.
C) Receipt of signed management representation letter.
D) Acceptance of the draft financial statements by the Members.
E) Review by Marks Paneth's Professional Standards Group.
F) Additional post balance sheet review by Marks Paneth.

2. Timing and Meetings Relative to the Engagement

I. Interim Review – April 30	**2021**	**2020**
a. Review fieldwork start	June 21, 2021	June 22, 2020
b. Exit meeting and draft deliverables discussion with management	September 2021	October 2020
c. Presentation of draft review report to the Audit and Finance Committee	September 30, 2021	October 28, 2020
d. Issuance of review report	October 15, 2021	December 22, 2020
II. Audit – October 31		
a. Engagement letter issued	September 23, 2021	June 15, 2020
b. Presentation of preliminary audit plan to the Audit and Finance Committee	September 30, 2021	October 28, 2020
c. Audit fieldwork start	December 13, 2021	December 7, 2020
d. Exit meeting and draft deliverables discussion with management	January 2022	January 2021
e. Presentation of draft financials to the Audit and Finance Committee and Members	January 25, 2022	January 25, 2021
f. Issuance of signed financials	By January 31, 2022	January 29, 2021

3. Management's Responsibility

The Organization's management is responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. We have advised you about appropriate accounting principles and their application and assisted in the preparation of your financial statements, but the responsibility for the financial statements remains with you.

The management of the Organization is responsible for establishing and maintaining internal controls. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of the controls. The objectives of internal controls are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorizations and recorded properly to permit the preparation of financial statements in accordance with U.S. GAAP.

In addition, management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Organization involving (a) management, (b) employees who have significant roles in internal control, and (c) others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of their knowledge of any allegations of fraud or suspected fraud affecting the Organization received in communications from employees, former employees, regulators, or others. In addition, management is responsible for identifying and ensuring that the Organization complies with applicable laws and regulations.

4. Selection, Application or Changes in Significant Accounting Principles

The Authority follows specific accounting policies for reporting on its net position, valuation of investments, postemployment benefits, long-term debt and the recognition of revenue. The principles are discussed in detail in Note 2 to the financial statements.

There were no changes in accounting principles or new standards adopted in the current year that had a significant effect on the Authority's financial statements.

Based upon our audit, the financial statement disclosures are neutral, consistent and clear.

5. Significant Management Judgments and Accounting Estimates

The preparation of financial statements requires the use of accounting estimates, by which management uses its best judgment in the determination of certain amounts to be recorded in those statements. These amounts are calculated using all information available at the time and applying the knowledge and expertise of management. These amounts are subject to revision as time passes and more information becomes available.

Matters to note are as follows:

A) Fair Value of Interest Rate Swap Agreements

On August 6, 2019, the Authority refunded its 2013 Series C, 2013 Series D, and 2013 Series E variable-rate Junior Revenue Bonds and issued 2019 Series D and 2019 Series E variable-rate bonds.

The interest rates on these bonds were hedged by interest rate swaps, which were bifurcated as of the date of the refunding. As defined by GASB Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments* ("GASB 53"), debt-type instruments (swaps) with market exposure are accounted for by bifurcating the transaction between a borrowing and an embedded derivative. The fair values of each element of the bifurcation can be made by estimating the fair value of the instrument (swaps) less the fair value of the borrowing. GASB 53 requires that associated interest swaps be tested for hedge effectiveness to qualify for the application of hedge accounting. On August 6, 2019, the associated interest swaps were tested and qualified for hedge accounting. Accordingly, the fair value of the interest rate swaps on August 6, 2019 of negative $80 million was recorded as an imputed borrowing and a deferred outflow of resources by the Authority. These amounts are being amortized on a straight-line basis over the remaining life of the swaps and were $66.1 million at October 31, 2021. Apart from the imputed borrowing, the interest rate swap agreements, which continue in effect and continue as a hedge, had a negative fair value of $4.3 million at October 31, 2021. This negative fair value is recorded as a deferred outflow of resources and a liability on the Authority's statement of net position (deficit).

The fair value was provided by the Organization's financial advisor and was derived from financial models based upon reasonable estimates about relevant market conditions. Based on the procedures performed, the fair value of the Swaps recorded by the Organization appears reasonable.

B) OPEB Liability and Expense

The Organization provides other postemployment benefits ("OPEB") to its employees and retirees through the New York State Health Insurance Program (the "Program"). In accordance with GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions* ("GASB 75"), the Organization recognizes a net OPEB liability measured as the portion of the present value of projected benefit payments to be provided to current active and inactive employees that is attributed to those employees' past periods of service (total OPEB liability), less the amount of the OPEB plan's fiduciary net position. The total OPEB liability is determined through an actuarial valuation. As no assets are accumulated in a trust for such OPEB benefits, the total OPEB liability is equal to the Organization's net OPEB liability. As of October 31, 2021, the Organization recognized a net OPEB liability of approximately $45.5 million.

Based on our audit procedures and evaluation of such assumptions and estimates used by the actuary to calculate the OPEB costs and liabilities, management's estimates of the liability appear reasonable and in accordance with the provisions of GASB 75.

C) Recoverability Period of Project Assets

Depreciation of project assets is being provided for by the straight-line method over the estimated useful lives of the related assets, which are the remaining lease years (to 2069) for site improvements, 50 years for residential building and through the first appraisal date of each lease for condominium units. The recoverability periods used by management appears to be reasonable.

D) Pension Benefits

The Organization's eligible employees are eligible for pension benefits through the New York State and Local Retirement System ("NYSLRS"), a cost-sharing multiple employer defined benefit pension plan.

Employers participating in cost-sharing plans are required to recognize their proportionate share of the collective pension amounts for all benefits provided through the plan based on an allocation methodology. In determining the amount of expense and liability to be recorded for NYSLRS, the NYSLRS' actuary makes assumptions or estimates for rates of return on assets, future compensation increases, etc. Based on these estimates, the Organization records its proportionate share of the expense and liability for these benefits. As of October 31, 2021, the Organization's proportionate share of the net pension liability for NYSLRS amounted to approximately $30,000 (the prior year net pension liability was $7.8 million). The significant decrease in the liability is primarily a function in the increase in the funded status of the plan from 86.4% as of the prior period measurement date (March 31, 2020) to 99.95% as of the current period measurement date (March 31, 2021).

Based on our audit procedures and evaluation of such assumptions and estimates used to calculate benefit costs and liabilities, management's estimates of the net pension liability appear reasonable.

E) Allowance for Doubtful Rents and Other Receivables

Management determined that an allowance for doubtful rents and other receivables of approximately $11.4 million was necessary at October 31, 2021 (the prior year allowance was approximately $2.2 million).

Management calculates an allowance for doubtful receivables based on management's assessment of the aged basis of its receivables, creditworthiness of tenants, current economic conditions and historical information. The details of the rents and other receivables and allowance for doubtful receivables were as follows as of October 31:

	2021	2020
Rents Receivable	$ 15,800,238	$ 7,771,711
Interest Receivable	780,091	606,592
Miscellaneous Receivables	109,539	108,612
Total Rents and Other Receivables	16,689,868	8,486,915
Less Allowance for Doubtful Accounts	(11,426,385)	(2,240,375)
Rents and Other Receivables, Net	$ 5,263,483	$ 6,246,540
Allowance for Doubtful Accounts, End of Year	$ (11,426,385)	$ (2,240,375)
Allowance for Doubtful Accounts, Beginning of Year	(2,240,375)	(1,803,872)
Net Increase in Allowance	(9,186,010)	(436,503)
Direct Write-Offs of Receivables	(110,590)	-
Provision for Doubtful Accounts	$ (9,296,600)	$ (436,503)

Rents and other receivables days outstanding were as follows as of October 30:

Days Outstanding:		
	10/31/21	**10/31/21**
Rents and Other Receivables, Net of Allowance	$ 5,263,483	$ 6,246,540
Revenue from Ground Leases	364,011,034	348,356,749
Days Outstanding	5	7

Our audit procedures are designed to determine whether management's estimate for uncollectible receivable is reasonable. Based on our audit procedures which included a review of subsequent cash receipts as well as a discussion with management, the estimate appears reasonable.

6. Significant Recorded and Proposed Unrecorded Audit Adjustments

We are required to inform the Audit and Finance Committee about adjustments or misstatements arising from the audit that could, in our judgment, either individually, or in the aggregate, have a significant effect on the Organization's financial reporting process.

Adjusting journal entries recorded:

There was one entry recorded subsequent to the receipt of the Organization's initial trial balance that decreased the change in net position by approximately $933,000. This entry was proposed by the Organization and was to accrue a liability for advances received from the Federal Emergency Management Agency in excess of eligible expenditures incurred.

In the prior year, there were two entries recorded subsequent to the receipt of our initial trial balance that had no effect on the net position

Uncorrected misstatements due to non-materiality:

There were none.

7. Significant Issues Discussed, or Subject to Correspondence, with Management

Throughout the year, routine discussions regarding the application of accounting principles or auditing standards were held with management in connection with transactions that have occurred, transactions that are contemplated, or reassessment of current circumstances. In our judgment, such discussions were not held in connection with our retention as auditors.

8. Disagreements with Management and Audit Difficulties

For purposes of this report, professional standards define a disagreement with management as a financial accounting, reporting or auditing matter, whether or not resolved to our satisfaction that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit. We received the full cooperation of management and staff throughout the process of performing our audit procedures.

9. Fraud or Likely Illegal Acts/Conflict of Interest Matters/Other Governance Issues

Our audit procedures did not detect any such items. We advise all our clients that there is always a risk that fraud or illegal acts may exist and not be detected by any audit firm in performing an audit.

We understand that the Organization has adopted a Code of Ethics for its employees and its Members, and there is an Ethics Officer whose responsibility is to ensure compliance with the Code of Ethics.

Additional Cash and Other Procedures:

We performed certain procedures that are not required under U.S. GAAS. Among these procedures were the following:

- For the entire year, we looked for checks payable to cash and key employees and looked for the support of the business purpose.
- We went through credit card payments on a test basis for key employees to ensure the business purpose appeared appropriate.
- Lastly, we looked for who reviewed the expenses. If the expense originated from the top employee of the organization, we looked for after the fact approvals by a designated Board member or officer.

Based on these procedures, **we did not identify any items to report to the Audit and Finance Committee**.

Data Analytics

We extracted data from the Organization's accounts payable and payroll systems and used data analytics software to perform certain procedures including the following:

- We searched for any cash disbursements processed during non-business hours.
- We searched for duplicate checks.
- We searched for multiple vendors with similar names or addresses.
- We searched for duplicate employees with the same or similar employee identification numbers.
- We searched for employees with similar names or addresses.
- We compared the vendor database with the payroll database to determine if there were employees and vendors with similar names and addresses.
- We performed journal entry testing to identify unusual items (such as entries made during non-business hours from a remote location, etc.)

Based on these procedures there **were no items to report except that we noted that the Authority's vendor listing included duplicate vendors and addressees (see Tab 4).**

10. Internal Controls: Control and Significant Deficiencies and Material Weaknesses

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis.

A deficiency in *design* exists when a control necessary to meet the control objective is missing; or an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met.

A deficiency in *operation* exists when a properly designed control does not operate as designed; or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

We did not observe any material weaknesses as a result of our audit (see Tab 3). However, we made certain recommendations and suggestions, which, if implemented, could further strengthen the internal controls and business practices. We communicated these matters in the separately issued letters disclosing the observations and recommendations relating to the Organization (see Tabs 4 and 5).

11. Consultation with Other Accountants

We are not aware of any other consultations with other accountants about auditing and accounting matters, except that the Organization has engaged Crowe LLP to provide internal audit and consulting services, during the year ended October 31, 2021.

12. Auditor Independence

We affirm that Marks Paneth is independent with respect to the Organization in accordance with the AICPA's *Code of Professional Conduct.*

13. Future Deliverables to be Issued and Other Matters

A) Future Deliverables to be Issued

Form 990: The original due date for the Conservancy's Federal Form 990 is March 15, 2022, and we anticipate the Form 990 will be filed with the Internal Revenue Service prior to the initial due date. We expect to issue a draft Form 990 to the Conservancy for its review in February 2022 provided that the necessary tax return information is received from the Conservancy's management.

B) Other Matters

I. Contingencies

The Organization's management, general counsel and outside legal counsel have advised us that the Organization is a party to litigation and claims in the ordinary course of its operations. The Organization's financial statements do not reflect any provision for these matters as it is the Organization's opinion that such matters will not have an adverse effect on the financial position of the Organization, and that any potential losses would be covered by the Organization's various insurance policies.

II. Supplementary Information

With respect to the supplementary information accompanying the financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with U.S. GAAP, the method of preparing it has not changed from the prior period and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

III. Other

We have read certain tax and other government filing items to ensure that they have been filed timely, including the payroll tax filings (IRS Forms 941, W-2 and 1099). However, we caution you that it is not our practice to look at all potential filings the Organization may be required to complete. We are unaware of any tax or other governmental filing exposure items.

C) COVID-19

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus ("COVID-19") as a pandemic, which continues to spread throughout the United States. The Organization could be materially and adversely affected by the risks, or the public perception of the risks, related to an epidemic, pandemic, outbreak, or other public health crisis, such as the recent outbreak of COVID-19. The ultimate extent of the impact of any epidemic, pandemic or other health crisis on the Organization's programs, financial condition and results of operations will depend on future developments which are highly uncertain and cannot be predicted, including new information that may emerge concerning the severity of such epidemic, pandemic or other health crisis and actions taken to contain or prevent their further spread, among others. Accordingly, the Organization cannot predict the extent to which its financial condition and results of operations will be affected.

As a result of COVID-19 there were no audit scope limitations which caused the need for us to modify our audit procedures in order to obtain reasonable assurance that the financial statements are free from material misstatement.

14. <u>New Accounting and Auditing Matters on the Horizon</u>

See the pre-audit presentation on September 23, 2021 for discussion of new accounting and auditing matters. Also, refer to Note 3(n) to the draft financial statements in Tab 6 for a further discussion of GASB pronouncements required to be adopted by the Organization.

In addition, while not a change in accounting standards it should be noted that in May 2019 the American Institute of Certified Public Accountants ("AICPA") issued Statement on Auditing Standards ("SAS") No. 134, *Auditor Reporting and Amendments, Including Amendments Addressing Disclosures in the Audit of Financial Statements*. SAS No. 134 revised the form and content of auditor's reports on the financial statements of nonpublic entities and is effective for audits of financial statements for periods ending on or after December 15, 2021.

SAS No. 134 significantly changes the form and content of the auditor's report. The most significant changes to the report relate to the placement of the opinion in the first paragraph of the report, followed immediately by a "Basis for Opinion" paragraph. The section on "Auditor's Responsibility" (now entitled "Auditor's Responsibilities for the Audit of the Financial Statements") has been significantly expanded to be more descriptive of our role and responsibilities.

SAS No. 134 also added AU-C 701, *Communicating Key Audit Matters in the Independent Auditor's Report*, and amended various other auditing standards, including AU-C 570, The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern. In addition, SAS No. 134 expanded the description of auditor's responsibilities, including those related to professional judgment and skepticism and communications with those charged with governance about the significant risks identified by the auditor.

****END****