

HUGH L. CAREY BATTERY PARK CITY AUTHORITY
Meeting of the Members
200 Liberty Street, 24th Floor
New York, NY 10281
August 19, 2020

Members Present

Martha Gallo, Chairman (via video)
Louis Bevilacqua, Member (via video)
Donald Capoccia, Member (via video)
Catherine McVay Hughes, Member (via video)
Anthony Kendall, Member (via video)
Lester Petracca, Member (via phone)

Authority Staff in Attendance: Benjamin Jones, President and Chief Executive Officer (via video)
Gwen Dawson, Vice President, Real Property (via video)
Pamela Frederick, Chief Financial Officer/Treasurer (via video)
Abigail Goldenberg, General Counsel (via video)
Susie Kim, Deputy General Counsel (via video)
Eric Munson, Chief Operating Officer (via video)
Jahmeliah Nathan, Vice President of Administration (via video)
Nicholas Sbordone, Vice President of Communications and Public Affairs (via video)

Others in Attendance: Andrew Ligon, Hawkins Delafield & Wood LLP (via video)
Eric Petersen, Hawkins Delafield & Wood LLP (via video)
Joseph Sullivan, Hawkins Delafield & Wood LLP (via video)
Carl Weisbrod, HR&A Advisors (via video)

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:00 pm.

* * *

The first item on the agenda was the approval of the minutes of the July 29, 2020 meeting. Upon a motion made by Mr. Petracca and seconded by Ms. McVay Hughes, the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE JULY 29, 2020 MEETING

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on July 29, 2020 are hereby approved.

* * *

There were no presentations during the period of public comment.

* * *

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

Ms. Nathan reported the following for the month of July 2020: 28.91%, or approximately \$351,000.00 of the Authority's total qualifying expenditures of approximately \$1.2 million was paid to MWBEs. Of this amount, approximately 12% was paid to MBEs, 2.35% to MBE prime contractors, and 9.69% to MBE subcontractors. And of the 12 qualifying expenditures, 16.87% was paid to WBEs, 15.36% to WBEs as prime contractors, and 1.51% to WBE subcontractors

* * *

The next item on the agenda was the Resiliency Update, which included a presentation by Hawkins Delafield & Wood LLP (“Hawkins”).

Mr. Jones introduced Joe Sullivan from Hawkins to discuss BPCA’s newly acquired design-build authority, which was granted during the most recent New York State budget, and would be applied to several of the Authority’s ongoing resiliency projects. Mr. Sullivan noted that the BPCA Executive Team had worked with Hawkins to determine that the North and West resiliency projects would proceed on a progressive design-build basis and that the South project would continue as currently planned and with a traditional non-bid build delivery in order to maintain its current progress. He explained: the design-build process uses a single entity for design, construction, and construction management. The selected team uses a staged approach to finalize project design and establish a guaranteed maximum price, involves less contract administration for the Authority, and shortens project delivery time. Additionally, he noted that the basic performance risk under a design-build approach is transferred to an acceptance test where the design builder is required to demonstrate that the project works, not just that it has been built to specifications.

He further explained that the Authority would modify its procurements on projects that use a design-build approach, by first procuring a consulting engineer to provide overall advisory services to BPCA and serve as an owner representative throughout procurement and project implementation. Mr. Sullivan provided an overview of the project timelines and milestones and answered questions from the Members, noting that ongoing operations and maintenance of these projects cannot be included under the design-build contract and would have to be procured separately.

Mr. Jones then provided a general update on the progress of the South resiliency project, noting that the design was 75% complete. He, Mr. Sullivan, and Ms. Dawson noted that the Authority hoped to be in construction on that project by the time the Authority brings on the progressive design build contractor for the North and the West. In response to a questions about how fees and savings are negotiated in design-build contracts, Mr. Sullivan noted that the former would be part of a procurement and competitively bid and the latter would be negotiated during the contract phase. Additionally, he noted in response to a member question about the potential size of an applicant pool that there is a robust market for design-build entities either through a teaming arrangement or design-builders themselves. Ms. Dawson and Mr. Jones discussed conducting a market sounding survey to identify the universe of players that would be interested in these projects.

* * *

The next item on the agenda, presented by Ms. Dawson, was the approval of Fiscal Year 2020 spending authority increase for on-call general contractors.

Ms. Dawson noted that this item was being discussed in accordance with the Pre-Qualified Policy, which was presented to the Board in January 2020. At that time, the Board approved a \$1.5 million spending cap for the current fiscal year for the Authority's on-call general contractors. Since that time, the Authority needed to allocate on-call general contracting services that were either unexpected or for which the final amounts were unknown. Three of those projects were initiated by Governor Cuomo and had very tight timeframes: the Hurricane Maria memorial project; the Cabrini memorial, and the Empire Trail Gateway project. Those three contracts alone required an expenditure of about \$1.6 million in on-call general contractor funds.

Ms. Dawson continued: there are other on-call general contractor projects slated for the remainder of the fiscal year, so the Authority is proposing to increase the spending authority cap to \$2.9 million. She also noted that this increase in spending authority does not impact Real Property's budget, because each of these projects has a line item budget source of funds or an outside source of funds that are allocated to them.

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

APPROVAL OF FISCAL YEAR 2020 ON-CALL GENERAL CONTRACTOR SPENDING AUTHORITY

RESOLVED, the Fiscal Year 2020 annual spending maximum for the On-Call General Contractor Contracts is hereby increased from \$1,500,000 to \$2,900,000;

RESOLVED, that the President of the Authority or her/his designee(s) be, and each of them hereby is, authorized and empowered to execute any documents, file said budgeted and related information with all parties as required pursuant to all outstanding bond resolutions, agreements and requirements of law 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 resolution, 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.

* * *

The next item on the agenda, presented by Ms. Dawson, was an authorization to enter into a contract with Walker Diving Underwater Construction, LLC for the Phase 7 Pile Remediation – Marine Construction Services.

Ms. Dawson reminded the Members that the Authority has had a program to repair and encapsulate the 3,100 piles that exist under the Battery Park City esplanade since 2007 and that work on this program can only be performed during summer months, known as in-water season. She explained, this year starts Phase 7 of the pile remediation program, which will also include the early part of the South resiliency project. There will be a total of approximately 685 piles and work will start shortly before fall continuing through the in-water season in 2021, lasting around 18 months.

Ms. Dawson stated that five proposals were received and three were interviewed - D'Onofrio, Phoenix Marine, and Walker Diving. As a result of the interviews, the evaluation committee selected Walker Diving as the highest-rated technical proposer. They were the contractor for the Phase 6 project

last year, performed well, and finished early. They were also sensitive to noise issues in the community and have an interesting and refreshing waste disposal program associated with their work.

In evaluating the cost proposals, Walker Diving also provided the lowest cost proposal. As a result, we are recommending to the Board that the Authority enter into an 18-month contract with Walker Diving Underwater Construction in the lump sum amount of \$10,398,600.

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

AUTHORIZATION TO EXECUTE A CONTRACT WITH WALKER DIVING UNDERWATER CONSTRUCTION, LLC FOR THE PHASE 7 PILE REMEDIATION MARINE 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 eighteen (18) month contract with Walker Diving Underwater Construction, LLC in the lump-sum amount of \$10,398,600.00, to perform Marine Construction Services for Phase 7 of the Pile Remediation Project; 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.

* * *

The next item on the agenda, presented by Ms. Dawson, was an authorization to extend the term with Randolph, Carpenter & Mott Ltd., d/b/a Suzanne Randolph Fine Arts (“SRFA”) for the Hurricane Maria Memorial.

Ms. Dawson said that completing the Hurricane Maria Memorial had required the procurement of an arts consultant, SRFA. Delays associated with the project had postponed the dedication until March of 2021, which required the Authority to extend its contract with SRFA. The Board, therefore, was being asked to approve an extension of the Susanne Randolph Fine Arts contract through April 15, 2021 to allow for any project closeout.

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

AUTHORIZATION TO EXECUTE A TIME AMENDMENT WITH SUZANNE RANDOLPH FINE ARTS (“SRFA”) FOR HURRICANE MARIA MEMORIAL 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 the Contract with SRFA through April 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.

* * *

Mr. Petracca 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. The Members entered Executive Session at 3:10pm.

* * *

The Members exited Executive Session at 3:56pm

* * *

There being no further business, upon a motion made by Mr. Petracca and seconded by M Ms. McVay Hughes, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 3:56 pm.

Respectfully submitted,

Lauren Murtha
Assistant Corporate Secretary