

HUGH L. CAREY BATTERY PARK CITY AUTHORITY  
Meeting of the Members  
200 Liberty Street, 24<sup>th</sup> Floor  
New York, NY 10281  
February 24, 2021

Members Present

George Tsunis, Chair (via video)  
Louis Bevilacqua, Member (via video)  
Donald Capoccia, Member (via video)  
Martha Gallo, 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 video)  
Marie Baptiste, Deputy Treasurer (via phone)  
Anthony Buquicchio, Senior Project Manager (via phone)  
Gwen Dawson, Vice President, Real Property (via video)  
Jennifer Dudgeon, Director of Design (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 video)  
Karl Koenig, Controller (via video)  
Kevin McCabe, Chief Resilience Officer (via phone)  
Eric Munson, Chief Operating Officer (via video)  
Jahmeliah Nathan, Vice President of Administration (via video)  
Robert Nesmith, Chief Contracting Officer (via phone)  
Bruno Pomponio, Vice President of Parks Operations (via phone)  
Jason Rachnowitz, Director of Financial Reporting (via phone)  
Nicholas Sbordone, Vice President of Communications and Public Affairs (via video)  
Mimi Taft, Manager, Special Projects (via phone)  
Alexis Torres, Chief of Staff (via video)

Others in Attendance: Steve Faber, PFM Asset Management (via video)  
Warren Ruppel, PFM Asset Management (via video)

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:05 pm.

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The first item on the agenda was the approval of the minutes of the January 27, 2021 meeting. Upon a motion made by Ms. Gallo and seconded by Ms. McVay Hughes, the following resolution was unanimously adopted:

**APPROVAL OF MINUTES OF THE JANUARY 27, 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 January 27, 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 January 2021, 25.64 percent of the Authority's total qualifying spend of approximately \$693,000.00 was paid to MWBEs. Of this amount, 14.8 roughly was paid to MBEs, 2.15 percent to MBE primes and 12.64 to MBE subcontractors. And of that same spend 10.85 percent was paid to WBEs, 3.17 as prime contractors, and 7.68 to subcontractors.

She also updated the Board on New York State's Quarter 3 Service Disabled Veteran Owned Business Utilization Report for the Authority. She stated from October 2020 through December 2020, approximately \$1.8 million or 37 percent of BPCA's qualifying spend of that period was paid to New York State Certified SDVOB firms.

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

Mr. Jones expressed having some exciting news regarding the progress of the projects since the last meeting. On the Ballfields Resiliency Project, the revocable consent was successfully navigated with DOT, with the public hearing and the 10-day public comment hearing concluding. Now we are working with the Mayor's Office of Contract Services and the City Comptroller for issuance of that consent so we can begin the construction work in earnest. The contract with the vendor is set for execution and they will get started on tasks in March. It is expected construction work will begin at the end of the month. He mentioned being really excited to be on the cusp of our first resiliency construction project.

The South Battery Park City Resiliency continues diligently, he stated, with the environmental review underway. Also, various coordination meetings continue with DEP, SHPO, City Parks and other agencies working our way towards 95% design. He then mentioned Gwen and the AECOM team gave an excellent and very thorough update to the Community Board the previous Monday night and the link to that presentation was shared with the Members and will be on the Resiliency page of our website. He expressed being particularly excited about the action item Gwen would be presenting and noted that with the help of the Members we were on a path towards progressive design build combining both the North and West Resiliency Projects. A major milestone, he said, was onboarding a consulting engineer to guide our work and development of the program requirements and assisting us through the entirety of

the project. This recommendation for the Board involved a lot of work, from a lot of people from various departments and he was really grateful for the collaboration as we navigate this complicated project. He thanked Gwen and her team's hard work and noted Jim Gallagher, Associate General Counsel on Abby's team who served as the project manager for this procurement, and helped all of us navigate this process in conjunction with our alternate delivery specialists at Hawkins. So a team effort leading into this action item for your consideration.

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The next item on the agenda, presented by Ms. Dawson, authorization to enter into an agreement with AECOM USA Inc. for the Resiliency Project consulting engineer.

Ms. Dawson began by echoing B.J.'s excitement and comments about the level of effort that was devoted to this procurement. She wanted to recognize Jim Gallagher's efforts in managing the procurement, as well as Claudia Filomena, Director of Capital Projects, who has supported Jim in that effort and will be assuming primary project management responsibilities once we have a consulting engineer contract in place.

Ms. Dawson then reminded the Members that back in the fall it was agreed to proceed with a progressive design build approach to the combine North and West project. This is in recognition that we received design build authority for the first time last spring, and went through an extensive business case study analysis to determine what the approach should be. The conclusion was that we should take the North project, which was already in process to a point of about 30 percent design, and combine it with the West project, which had not yet begun. This would create a combined opportunity for a progressive design build project delivery approach. She then explained the sequencing and how this works: bringing on the consulting engineer which helps to define the project, create a project definition as well as technical requirements for the project that will be sufficient enough for our progressive design build contractor to bid on, and will help us then bring on the progressive design build contractor which we anticipate happening in about a year. At that point, the progressive design build contractor will complete the design, get us to a point of about 60 percent design, at which point we will hopefully be able to reach an agreement on a guaranteed maximum price for the ultimate delivery of the project. And then we'll continue with the construction and completion of the project. The consulting engineer's role is quite critical in all of this and is a constant presence throughout the project from inception through the point of completion of the project, and the ultimate acceptance and testing of the infrastructure that has been constructed. The consulting engineer will create a project definition for the project and a concept design for the project that will inform the progressive design build contractor. The consulting engineer will likewise oversee, manage the environmental review, the EIS process, the community engagement process up until the contractor is onboard, some of the permitting processes, the actual procurement for the progressive design build contractor and the selection of that design build contractor. This consulting engineer will then oversee the design process for the progressive design build contractor and the negotiations for the guaranteed maximum pricing. As the project proceeds into construction the consulting engineer will then oversee the construction. In this approach we will not as we have in the past typically retain a separate construction manager. The consulting engineer will assume that responsibility. And then they will oversee the completion of the project and all testing.

Ms. Dawson then explained at the very completion of the construction there will be a series of tests that need to be performed to make sure that the infrastructure that has been installed and constructed meets the requirements and the operational and technical requirements that the Authority has imposed upon it. There will also be operations and management and maintenance components of the program

that we will require the consulting engineer's expertise because once we get this in place, there will need to be coordination that is done not only with the Battery Park City Authority projects, but also with the City's projects to make sure that there is a process for deployment of any measures that need to be deployed, and the integration of all of these systems once they are in place so that they work well together. That is the role of the consulting engineer. Ms. Dawson expressed that this was obviously a very broad scope of work that the consulting engineer is taking on, and that's what part of the reason, the primary reason that the procurement for this role was involved and we wanted to make sure that we took the adequate amount of care to make the selection for this contract.

Ms. Dawson continued to explain the procurement process: We issued an RFP for the consulting engineer back in November. In December we received six proposals each from very reputable firms. We decided that we would interview all six firms. After the interviews were conducted, the Evaluation Committee determined that the four lowest scoring proposers should be eliminated from further consideration. While their proposals were competent in light of the broad requirements, their cumulative requirements for the breadth of the services that were required really were not on a par with the top two scoring proposers which were Dewberry and AECOM. So we pushed those two proposals forward. We decided to do a second round of technical interviews for those two proposers. And then subsequently looked to the cost proposals to determine best value. We went through a series of questions that we posed to the two remaining proposers about their cost proposals. We had another round of interviews that was intended to focus on clarifying certain elements of the cost proposals. We wound up touching on some additional technical matters in that third round of interviews. And so we decided that we would conduct another round of technical scores.

Ms. Dawson further explained that the final technical scoring placed AECOM above Dewberry, and there were several reasons for that, and Ms. Dawson emphasized that these were excellent proposals, and both teams were excellent teams, but there were certain things that wound up we found being differentiators. One was the approach to the timing of the preparation of their concept plan, and we were more comfortable with AECOM's approach of arriving at that concept plan and those initial program requirements earlier in the project than Dewberry had projected. In addition, we felt that AECOM's approach to the operating and maintenance elements of the project was a little more thorough and complete than Dewberry's, and then finally there was a difference between the diversity scoring among the two remaining proposers. That put us then in the position of deciding which of the two remaining proposers represented the best value for the project given the project's requirements, and as you recall this is a two-part process. We score technically and then we evaluate the cost proposals to determine in the final analysis which is the better value.

Ms. Dawson said they evaluated the cost proposals and ultimately the committee determined that AECOM even though their cost proposal was higher than Dewberry's by a few percentage points, but given the value of the contract, that amounts to an insignificant amount of money, that despite the fact that they were more expensive we determined that they did represent the better value, and that is based on several factors. One is that we felt that Dewberry's cost proposal likely did not adequately cover the initial stages of the project definition. That their cost proposal on that portion of the project was a little low, and that they had not also incorporated enough to address the operating and maintenance needs of the project that we would require of them.

On the other hand, the Evaluation Committee felt that AECOM even though they were higher we had an opportunity to perhaps achieve some reductions in their cost. And we do anticipate that there will be a negotiation period that is associated with the project once the project is awarded, but before we sign a contract because again the breadth of the project and the depth of the project gives us some

opportunity during negotiations to try to better define exactly what the assumptions and expectations are and we believe that in the early tasks associated with the project, the initial project definition and technical requirements that we can reduce the amount of the costs that AECOM has proposed for those specific tasks.

Ms. Dawson stated that we also have received from AECOM some additional areas where they believe there's some opportunity for cost reduction prior to signing a contract. So I have forwarded some of this specific information specifically to Don and Lester separately, and would certainly love to have their advice and if time is available for them to participate in some of those discussions with us so that we make sure that when we sign the contract we have adequately explored the potential cost reductions that are available to us.

And finally, Ms. Dawson reminded the Board that this is a not to exceed contract, so it is for a term of 56 months, so nearly five years. Over the course of the contract and the project, we will obviously be looking for opportunities as we proceed to reduce costs as we go, and that opportunity is always available to us. As a result of the analysis that we have gone through, and the conclusions that the committee has come to, we now ask the Board to approve a contract with AECOM USA, Inc. in the total not to exceed amount of \$23,550,010.00 for a 56-month contract for the consulting engineer work on the combined north-west progressive design build project.

Ms. Dawson then answered some of the Board's questions. Mr. Capoccia asked if AECOM was handling the entire A&E for this project and Ms. Dawson stated yes. She clarified that the design part includes the consulting engineer scope including initial project definition and the technical requirements. Once the progressive design build contractor for the first segment or first phase of the PDB contracts, then there will be actual design. They will then advance the initial concept design and the consulting engineer will be the owner's representative on our behalf overseeing the process and making sure the contractor's design process meets the original requirements. She then explained that when we get to about a 60 percent design then we will engage with the PDB contractor for of course a maximum price for the delivery, the ultimate delivery of the project. And again, the consulting engineer will serve as our owner's rep during the course of those negotiations.

Mr. Capoccia asked if this meant two contractual relationships; one with AECOM and another one with the general contractor. Ms. Dawson confirmed that this was the case through the entire project and there will be two separate contracts then.

Mr. Capoccia asked about the project cost of this for the overall project. Ms. Dawson explained that the project cost at this point, again, given the fact that we don't have much in the way of a design concept on the west yet, is somewhere between \$250 - \$300 million for the combined project. Ms. Dawson confirmed that this would mean a 7 to 8 percent fee for this team.

Mr. Capoccia asked Ms. Dawson if we were comfortable that AECOM was not going to be returning to the Authority and claiming it was so much more complicated than we originally thought and that there's no question that these people are fully prepared to eat whatever they have to eat in order to deliver to us under that contract. Ms. Dawson stated that she felt very comfortable that we have covered the scope. Ms. Dawson told the Board that we have definitely learned a lot from our experience with the south project thus far. And so we're going into this now with the expectation that there is an EIS whereas we went into the south project with the expectation that we would not need to do an EIS. And we're going into this project with our sustainability requirements that have been created through our sustainability plan already factored in and incorporated into this. Ms. Dawson felt very comfortable that

we have captured the necessary scope. Ms. Dawson said she can't guarantee that there won't be surprises, but that she felt very comfortable.

Mr. Capoccia asked Ms. Dawson if they lined out and value each one of the tasks that you and your team believe are comprehensive. Ms. Dawson answered yes. Mr. Capoccia states that it seems that by combining this there's a lot of opportunity for efficiency and savings and that's the whole point of having this team together at the outset. Ms. Dawson agreed saying they are a very qualified team across the board, and she felt very comfortable with the expertise and the opportunities for achieving efficiencies.

Mr. Capoccia asked for confirmation that when AECOM is at 60 percent complete on their tasks that's the point which they will bring on a GC or some entity to do the contracting. Ms. Dawson explained that there were several steps before that. One of the first things that they will do is that they will create an initial project definition, and this is something that we will then use to issue a request for qualifications from potential progressive design build contractors. And we plan to do that as early as this spring so that we can then identify a short list of qualified PDB contractors so that later this year we can issue an actual request for proposals from. And that will be based on the final project definition, and the technical specifications that the consulting engineer derives from their process. Then that will then allow us to identify the progressive design build contract which we expect that will happen in just about a year from now. At that point, the progressive design build contractor takes over the design reigns from the consulting engineer and advances the design under the oversight of the consulting engineer to a point of about 60 percent at which time then we have the negotiation of the gross maximum price, otherwise known as GMP. Ms. Dawson confirmed for the Board that AECOM is ultimately the construction manager or the owner's representative.

Ms. McVay Hughes asked when there will be shovel in the ground and when it might be complete. Ms. Dawson replied that, right now, we're anticipating that we would be able to begin construction in, again, it will depend a little bit on how things progress design-wise, probably early 2023 with a targeted completion of late 2025. Ms. Dawson confirmed it would take two years to complete, likely a little more than that, but falling within the 56 month contract.

Ms. McVay Hughes stated that it looks like there's an efficiency of speed in addition to management and financial. Ms. Dawson confirmed that explaining the part that we had to kind of slow down on is this first part to get ourselves in a position to bring on the consulting engineer and then bring on the progressive design build contractor. That then will lead us to the ability to move faster as the further we get along the project the more efficiencies of time will be created.

Mr. Capoccia explained that the conventional relationship between a CM and subcontractor or owner's rep and GC with the design party sitting out there it's kind of like a third party. You know, you can reach a point where you get prices and you've blown your budget totally and now you're going to have to back in a project of this size and scope I'm guessing under that scenario, you'd probably have to return back, start doing some value engineering. Under the conventional scenario, there would be time burn.

Ms. Gallo expressed that she could not get her head around \$23 million in five years. Ms. Gallo asked if we are by selecting AECOM for these multiple roles if we are satisfied that we're not losing some kind of check and balance that could be happening along the way if there were more parties involved. She also asked when it gets to actually execution are they (AECOM) not able to bid for pieces of the real work as a company.

Ms. Dawson stated that AECOM by virtue of their role as consulting engineering and their prior role in the projects will not be eligible to participate as part of the progressive design build contracting team. And so that there will definitely be a different party involved in the design, which would offer the opportunity for different points of view and checks and balances in that respect. Ms. Dawson reminded the Board that up until now also with the work that AECOM has done, the design work that they have already completed on the south and the north, we do have a peer review contract with Dewberry. And so Dewberry has been serving as a peer reviewer on that design. So we have provided for the opportunity for checks and balances and additional eyes on the project in that respect.

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

**AUTHORIZATION TO EXECUTE A CONTRACT WITH AECOM USA, INC. FOR THE COMBINED NORTH/WEST BATTERY PARK CITY PROGRESSIVE DESIGN-BUILD RESILIENCY PROJECT -- CONSULTING ENGINEER 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 on behalf of the Authority, a fifty-six (56) month contract with AECOM USA, Inc. in the not-to-exceed amount of \$23,550,010, which includes \$305,000 in reimbursable expenses, to perform the Consulting Engineer Services associated with the Combined North/West Battery Park City Resiliency 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.

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The next item on the agenda, presented by Ms. Dawson, was the approval of the Fiscal Year 2021 spending authority increase for on-call general contractors.

Ms. Dawson reminded the Members that in December the approval of the spending authority cap for the on-call GC contracts was presented. The amount at that time was \$3.1 million, and since that time we have made kind of a reappraisal of what the demands may be for on-call general contracting. Over the past several years the utilization of our on-call general contractors has been a very productive and successful way for us to address our projects that are not large and that have very strict time constraints associated with them. We are anticipating that a greater percentage of our overall capital projects will likely be completed through our on-call general contractors and we are requesting that the

Board increase the spending authority for our on-call general contractors by \$2.5 million from \$3.1 million to \$5.6 million. She reiterated that this does not change the budget, any of the projects that are being performed by our on-call general contractors, she explained, are already funded through our budget or through other outside funding sources, there is no impact on our budget.

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

**APPROVAL OF FISCAL YEAR 2021 ON-CALL GENERAL CONTRACTOR SPENDING AUTHORITY**

RESOLVED, the Fiscal Year 2021 annual spending maximum for the On-Call General Contractor Contracts is hereby increased from \$3,100,000 to \$5,600,000;

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.

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Mr. Capoccia made a motion to enter Executive Session, which was seconded by Ms. Gallo, 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 to discuss the employment history of certain persons. The Members entered Executive Session at 2:42 p.m.

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The Members exited Executive Session at 3:45 p.m.

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There being no further business, upon a motion made by Ms. Capoccia and seconded by Ms. McVay Hughes, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 3:45 p.m.

Respectfully submitted,

Lauren Murtha  
Assistant Corporate Secretary