



## APPENDIX A

# **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.