

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members
200 Liberty Street, 24th Floor
New York, NY 10281
October 26, 2022

Members Present

Martha Gallo, Acting Chair
Louis Bevilacqua, Member
Donald Capoccia, Member
Anthony Kendall, Member
Catherine McVay Hughes, Member
Lester Petracca, Member

Authority Staff in Attendance: Benjamin Jones, President and Chief Executive Officer
Sharmila Baichu, Vice President of Human Resources
Marie Baptiste, Deputy Treasurer
Donna A. Canfield, Deputy General Counsel, Labor & Employment
Gwen Dawson, Vice President, Real Property
Pamela Frederick, Chief Financial Officer/Treasurer
James Gallagher, Special Counsel
Abigail Goldenberg, General Counsel
Megan Hood, Deputy General Counsel, Real Estate
Craig Hudon, Vice President of Parks Programming
Karl Koenig, Controller
Eric Munson, Chief Operating Officer
Lauren Murtha, Paralegal/Assistant Corporate Secretary
Jahmeliah Nathan, Vice President of Administration
Jason Rachnowitz, Director of Financial Reporting
Nicholas Sbordone, Vice President of Communications and Public Affairs
Alexis Torres, Chief of Staff
Ryan Torres, Vice President of Parks Operations

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:01 pm.

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The first item on the agenda was a request for approval of the minutes of the October 11, 2022 meeting. Upon a motion made by Mr. Bevilacqua and seconded by Mr. Capoccia, the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE OCTOBER 11, 2022 MEETING

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on October 11, 2022, are hereby approved.

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

Mr. Nathan reported that for the month of September 2022, 35.2% of the Authority's total qualifying expenditures of approximately \$500,000 was paid to MWBEs. Of this amount, 28.94% was paid to MBEs and 6.28% was paid to WBEs. 18.9% was paid to MWBE prime contractors: 14.22% to MBEs and 4.13% to WBEs, and 16.38% was paid to MWBE subcontractors: 14.22% to MBEs and 2.15% to WBEs.

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Next, there was one comment submitted by the public that was presented during the period of public comment.

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The next item on the agenda was an update on the Authority's resiliency projects by Mr. Jones.

Mr. Jones first briefly mentioned the 10 year anniversary of Hurricane Sandy stating that it was the Authority's responsibility to not only develop but maintain the Battery Park City community, and that meant adapting it to climate change to ensure it was built to last.

He then spoke about the South Battery Park City Resiliency Project, he noted construction would begin in the coming weeks and that there was information available online regarding our dedicated point of contact for this project during construction, Rick Fogarty.

He then discussed the ongoing Northwest Battery Park City Resiliency Project mentioning that progress was being made on the design phase. The 5th public engagement session for the project was held on November 15th. He also mentioned there was an online survey available for those who wished to provide their input regarding the possible temporary conversion of a walkway adjacent to Wagner Park.

Mr. Jones ended by noting we were working to achieve our WEDG certification which will help to eliminate or reduce flood insurance costs for homes and businesses in the area.

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The next item on the agenda, presented by Ms. Frederick, was an approval of the budget for Fiscal Year Ending October 31, 2023.

Mr. Jones first thanked the entire team, the Board, along with the great staff for everything that was accomplished during the past fiscal year and in preparation for the upcoming one. He included a wide range of team members from maintenance workers and horticulturalists to electricians, carpenters, plumbers, programing leads, technology specialists, project managers, accountants, lawyers and more. He stated, that Fiscal Year 22 was a very busy one with some ambitious goals which were set last year, nothing that it was not all easy, but a lot of good work

had been done. He then highlighted some of the positive recognition the Authority received along the way noting of course, our resiliency work, completing the ball field protection measures, finishing the design and environmental review for the South Resiliency Project and kicking off the Northwest Progressive Design Build. Important progress was made on the sustainability front, having released our Climate Action Plan for a carbon neutral neighborhood and expanding our composting efforts and more. The Authority preserved affordability for low income housing units, at Tribeca Point and reached an agreement on a fiscally responsible alternative to ground rent at River and Warren and affirmed our credit rating. We kicked off a strategy for more innovative use of the Eastern Promenade, had a full season of great programs and festivals, including the return of the River and Blues Concert Series, our annual Juneteenth Celebration, our first full opera downtown as part of the Festival of New York, the Tribeca Film Festival, the return of Battery Dance, Fashion Week, and more. The children's tree was planted, a symbol of resiliency and hope at the Museum of Jewish Heritage and finished the expansion of the Police Memorial. We also welcomed Little Amal to Battery Park City. He also pointed out the Parks Operations team continuing the vital day-to-day work, maintaining our parks and public spaces in world-class fashion. Mr. Jones reminded everyone that the Battery Park City Authority collects the revenues on behalf of the City of New York, the bulk of which comes from PILOT. And we have the ability to first fund our operating expenses and debt service to maintain this neighborhood and to make it more resilient. The rest of the revenues are obligated to flow through to the City and to provide funding to the City for important public services.

Ms. Frederick then began by stating some of the results for Fiscal Year 22, which were positive with higher than budgeted receipts and slightly fewer expenses which netted a higher flow to New York City. On the receipts side, we collected \$338 million which was about 4% more than budgeted. This total reflects \$147 million from our commercial leases, \$175 from our residential leases, and that is split \$95 million from condos and \$80 million from our rental buildings. The balance of that is about \$16 million, and that represents hotel, other and some non-recurring recurring items. On the cash expenditure side, our operating expenses totaled \$113 million and that is split \$37 million from operating expenses running the authority, and \$74 million for debt service, which supports all of our capital projects. And within that, some of the major categories were payroll and benefits as well as insurance and security. Together those represent just over 70% of our operating cost. Our excess revenues were an estimated \$214 million, \$170 million going to New York City's general fund and another \$44 million going to a joint purpose fund. Both of those fulfilling our settlement agreement requirements.

Ms. Frederick then noted for Fiscal Year 23, the Authority's budget was a total of \$345 million which was about 2% higher than the \$338 million received in 2022 largely due to higher assessments. On the expense side, we have \$44 million in operating expenses budgeted and this increase is reflective of an increase in staffing and some costs due to inflationary pressures. The remaining \$80 million is debt service, with that cost increasing as a result of higher expected variable rates, as the Fed remains hawkish and as well as new debt anticipated in 2023. The net, which would then be our excess revenues would be \$210 million going to New York City. And that's slightly below what was paid out in 2022. The fiscal year 23 capital budget is expected to grow from \$69 million to \$197 million, with resiliency accounting for 88% of that 2023 budgeted for capital

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

APPROVAL OF AUTHORITY BUDGETS FOR FISCAL YEAR ENDING OCTOBER 31, 2023

BE IT RESOLVED, that each of the capital and operating budgets of the Authority for the fiscal year ending October 31, 2023, substantially in the form presented to this meeting be, and hereby is, approved and ordered filed with the records of the Authority; and be it further

RESOLVED, that the President and Chief Executive Officer of the Authority or his designee(s) be, and each of them hereby is, directed to file said budget and related information with all parties as required pursuant to all outstanding bond resolutions, agreements and requirements of law.

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The next item on the agenda, presented by Ms. Dawson, was an approval of Fiscal Year 2023 Spending Authority for On-Call Contracts.

Ms. Dawson began by explaining that, as done every year at budget time, this request was to obtain the board's approval of spending authority for on-call contracts for fiscal year 2023. The Authority historically maintains a series of on-call contracts which are managed by the Real Property department with disciplines that include construction managers, general contractors and engineers and at times certain other professional service providers. These on-call contracts are meant to cover small to medium-scale, time sensitive and/or emergency Battery Park City projects for which separate, standalone procurements would not be feasible or effective.

In accordance with the Authority's policy for pre-qualified vendors, the Department has proposed in the past – and the Board has approved – panels of on-call engineering, construction management and general contracting service providers to be utilized by the Authority over multi-year periods of time. It was anticipated that a new panel of all three disciplines would be procured during the 2023 fiscal year. The pre-qualified policy provides that the amounts of the annual expenditures are to be approved by the Board, either as a specific annual budget allocation or, alternatively, a fixed dollar maximum amount in which case board approval is not required for each specific on-call contract. In accordance with protocols, these maximum amounts are authorized by board action at or about the time of annual budget approval. Ms. Dawson noted that these expenditures were not a budget addition but were included in the capital and operating budgets that were just approved by the board.

The amounts projected for fiscal year 2023, she continued to explain, in each of these disciplines were not-to-exceed amounts for on-call general contractor expenditures of \$3,255,000, on-call engineering and architecture expenditures of \$1,320,000, and on-call construction management expenditures of \$1,210,000. Each of these disciplines, the amounts that are that are allocated to these disciplines, reflects a small 10% or less increase over the last year's spending cap, which had not been changed from the prior year. The amounts that were expended in 2022 were significantly less than what were approved as the maximum spending authority by the board because a number of the projects which were anticipated to utilize on-call vendors were pushed back and would be happening in 2023 rather than in fiscal year 2022. As a result, we are asking that the members approve as a fixed maximum amount to be spent in fiscal 2023: for on-call General Contractor Expenditures \$3,255,000, \$1,320,000 for on-call engineering & design and \$1,210,000 for on-call construction management.

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

APPROVAL OF FISCAL YEAR 2023 ON-CALL SPENDING AUTHORITY

BE IT RESOLVED, the Fiscal Year 2023 annual spending maximums for the following On-Call Expenditures, are hereby established:

- On-Call General Contractor Expenditures: \$3,255,000;
- On-Call Engineering Expenditures: \$1,320,000; and,
- On-Call Construction Management Expenditures: \$1,210,000; and be it further,

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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The next three items on the agenda, presented by Ms. Frederick, were a declaration of intent to reimburse interim funding of capital expenditures from proceeds of tax-exempt bonds.

Ms. Frederick began by explaining to the Members that the next three items all related to a liquidity strategy that's pending the 2023 Bond. Given the size of the Capital Plan and the intention to return to the bond market in 2023, these items addressed the sourcing of amounts required for immediate capital needs and were to be reimbursed to the Authority from the proceeds of the upcoming bond issuance. These sources included funding from the 2013 and 2019 bonds, use of existing corporate reserves, and a \$100 million, 3-year revolving credit facility. These steps include seeking approval of up to \$32.5 million of corporate reserves that are currently held by the Authority for operating and other contingent needs. The reserves would generally be used after temporarily reallocating the remaining 2013 and 2019 bond funds.

We are also seeking to bridge funding until the additional bond proceeds are raised, which we anticipate will take place in mid-2023. The reserves have been used in this manner for both the 2009 as well as the 2019 bonds to allow capital projects to proceed while funds are being raised. The revolver being offered by TD Bank is a cost-effective method to provide the Authority with liquidity between capital plan approvals and the related bond issuance. While we do not anticipate using or fully drawing upon the facility, it is an important and prudent financial structure given the large, multi-year projects that the Authority is embarking upon. We recommend approval of the three resolutions to utilize reserve funds, to enter into the revolving credit facility with TD Bank, and to reimburse funds spent on approved capital projects from the next bond offering.

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

AUTHORIZATION OF USE OF RESERVE FUND FOR CAPITAL EXPENDITURES

BE IT RESOLVED, that the President or his/her designee be, and each of them hereby is, authorized and empowered to use up to \$32.5 million of Battery Park City Authority corporate reserve funds as a funding source for approved capital expenditures, 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 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.

RESOLUTION DECLARING INTENT TO REIMBURSE INTERIM FUNDING OF COSTS OF CAPITAL PROJECTS FROM PROCEEDS OF TAX-EXEMPT BONDS

WHEREAS, the Battery Park City Authority (the “Authority”) expects to utilize internal reserve funds to pay for certain expenditures associated with the Authority’s capital projects that need to be paid on an interim basis prior to the next issuance of Authority bonds (the “Reimbursable Capital Projects”). Such expenditures generally include capital expenditures associated with the design and/or construction of various planned resiliency, infrastructure, and facilities projects.

The Reimbursable Capital Projects include, without limitation, the design and construction of the South Battery Park City Resiliency Project, North/West Battery Park City Resiliency Project, and the Battery Park City Authority Community Center Leak Remediation;

WHEREAS, the Authority reasonably expects to issue one or more series of tax-exempt bonds to finance on a long-term basis all or a portion of the costs of the Reimbursable Capital Projects (the “Bonds”);

WHEREAS, the Authority reasonably expects the Bonds will include either the issuance of one or more series of tax-exempt bonds, or bonds of such a series, exclusive of related reserves and costs of issuance, specifically for the Reimbursable Capital Projects, among other capital projects, in the maximum principal amount of up to \$400,000,000.00 (the “Bonds”);

WHEREAS, the Authority, as of September 30, 2022, has used \$2,500,000.00 of \$10,000,000.00 previously authorized by the Members at the November 17, 2021 Board Meeting and reasonably expects that it will also use its corporate reserve funds in an amount up to \$32,500,000.00 as authorized by the Members at the October 26, 2022 Board meeting (the “Interim Funds”) to pay, on an interim basis, all or a portion of the costs of the Reimbursable Capital Projects prior to the issuance of the Bonds;

NOW THEREFORE, BE IT RESOLVED by the Members of the Authority as follows:

The Authority hereby declares its intent to reimburse the Interim Funds in an amount up to \$32,500,000.00 from the proceeds of the Bonds after the Bonds have been issued. The foregoing declaration of intent is made pursuant to § 1.150-2 of the United States Department of the Treasury regulations adopted under the Internal Revenue Code of 1986, as amended (the “Code”), in order to permit such reimbursement, when made, to be treated as an expenditure of proceeds of the Bonds for arbitrage and rebate purposes under Section 148 of the Code. All costs to be reimbursed pursuant hereto will be capital expenditures of the Reimbursable Capital Projects. No tax-exempt

obligations, including the Bonds, will be issued by the Authority in furtherance of this resolution after a date which is later than 18 months after the later of (1) the date the Reimbursable Capital Projects' expenditures are paid or (2) the date on which the Reimbursable Capital Projects, or the component of the Reimbursable Capital Projects with respect to which such expenditures were made, is placed in service. The foregoing notwithstanding, no tax-exempt obligations, including the Bonds, will be issued pursuant to this resolution more than three years after the date any expenditure for the Reimbursable Capital Projects which is to be reimbursed is paid.

AUTHORIZATION TO APPLY TO THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD FOR APPROVAL TO ISSUE A REVOLVING LOAN FACILITY WITH TD BANK AND TO EXECUTE A CONTRACT THEREFOR

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 contract for a \$100,000,000 three (3) year revolving loan facility with TD Bank (the "Contract"); and be it further

RESOLVED, that the President or his/her designee(s) be, and each of them is hereby, authorized and empowered to submit an application to the New York State Public Authorities Control Board for approval of the above-referenced revolving loan facility with TD Bank; 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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There being no further business, upon a motion made by Mr. Capoccia and seconded by Mr. Bevilacqua, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 2:59 p.m.

Respectfully submitted,



Lauren Murtha
Assistant Corporate Secretary

Public Comment
October 26, 2022

1. Justine Cuccia:

Thank you. So, anyway, my name is Justine Cuccia, and I'm here in my capacity as a member of the homeowner's coalition negotiating committee. I know that that Pat Smith submitted a letter. That's part of the record. I just want to exemplify it and add a little bit to it, because what I'm really here to do is to ask all this board to take the time to meet with the homeowner's coalition. This board has done an amazing job, an exemplary job of interacting with the community. And what we're asking you to do is to take that and put it with the homeowner's coalition and negotiations on the ground rent. The only way that we're going to come to any kind of a deal that's going to be beneficial to both sides, both parties, is if we sit down in the room and talk and hash it out. I know we've talked. Martha, you and I have talked what, ma'am? I'm sorry, Madam Chair. Ms. Gallo. Sorry. I know you and I have talked, and we are not on 100% agreement, and we get that. But the only way we're going to move forward is to talk. So what we're asking you to do, based on Pat's letter and based on your past history with Battery Park City community, and as far as I'm concerned, your example, exemplary can't say the word, your great interactions and community and communication with the community and your transparency. The place where it's not standing out is with the ground rent. So let's just fix that hole and let's do it. And I stand by that. We would like you to meet with us as a group of the five of us negotiating committee. Invite all five. Not all five will show up. We're not all five was always available, but at least give the invitation open to it. We do speak for the 18 condo buildings. As Pat has said repeatedly, they have voted us in. They have voted us, asked to be able to make negotiations. And we ask that you meet with us. Thank you so much and thank you for letting me come late.