

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members  
200 Liberty Street, 24<sup>th</sup> Floor  
New York, NY 10281  
December 14, 2022

Members Present

Martha Gallo, Acting Chair  
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  
Zachary Bergen, Deputy General Counsel, Procurement & Contracts  
Donna A. Canfield, Deputy General Counsel, Labor & Employment  
Gwen Dawson, Vice President, Real Property  
Claudia Filomena, Director of Capital Projects  
Pamela Frederick, Chief Financial Officer/Treasurer  
Abigail Goldenberg, General Counsel  
Megan Hood, Deputy General Counsel, Real Estate  
Craig Hudon, Vice President of Parks Programming  
Karl Koenig, Controller  
Franco Morizio, Asst. Vice President, Construction & Site Mgmt.  
Eric Munson, Chief Operating Officer  
Lauren Murtha, Paralegal/Assistant Corporate Secretary  
Jahmeliah Nathan, Vice President of Administration  
Nicholas Sbordone, Vice President of Communications and Public Affairs  
Alexis Torres, Chief of Staff  
Ryan Torres, Vice President of Parks Operations

Others in Attendance: Moira Dolan, DC37 Union Leader  
Conservancy Staff Members: Curtis Asphal, Betsy Asphal,  
Ronnie Mohamad and Richard Farino  
Roger Bagley, Hawkins Delafield & Wood LLP  
Robert Cheddar, PFM Asset Management  
Marty Hammond, PFM Asset Management  
Samantha Myers, PFM Asset Management  
Various Members of the Public

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:15 pm.

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Ms. Gallo welcomed everyone to the last meeting of the Battery Park City Authority for 2022 and briefly discussed a few items. She thanked the staff of the Authority, members of the community, and Board members for a terrific year. She noted working hard, facing a number of challenges as a team and community, and having a number of successes and looking forward to another great year in 2023. She then recognized the passing of Robert Simko, who was a friend to the Authority, and most importantly was a friend to our community, and a personal friend of hers. She wanted to take a moment to appreciate all he did for the community, noting it wasn't an event downtown unless Robert showed up with his camera and recorded some of the happiest and saddest moments downtown.

Mr. Jones echoed her sentiments saying that Battery Park City would not be the same without Robert Simko, but it was a better place because of him and he would be sorely missed, and that our thoughts remain with his wife, Allison, and his children, Lucy and Theo. He then acknowledged the impact he's had and the many friendships that he's had at the Authority and in the neighborhood.

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The first item on the agenda was a request for approval of the minutes of the October 26, 2022 meeting. Upon a motion made by Ms. McVay Hughes and seconded by Mr. Petracca, the following resolution was unanimously adopted:

#### **APPROVAL OF MINUTES OF THE OCTOBER 26, 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 26, 2022, are hereby approved.

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Next, there were three comments submitted by the public that were presented during the period of public comment.

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Ms. Frederick then provided the Members an update from the Investment Committee, which met prior to this meeting and was attended by Committee Chair Lester Petracca and the Investment Committee members, Martha Gallo and Catherine McVay Hughes. The Committee reviewed the fourth quarter report which was presented by PFM Asset Management and Ramirez Asset Management. It was noted that our assets are approximately \$490 million which was reflective of outflows, principally debt service over the quarter, as well as inflows over the quarter. The Treasury securities remain a significant portion, about 85%. And over the quarter we saw an increase in agency investments where they provided net benefit of 30 to 40 basis points relative to same duration Treasuries. The advisors also noted that the portfolio is in a better position to weather rate volatility over the coming year given increases in our yield in the portfolio. In particular, on the short portfolio, our returns are 4 to 5% when they were near just below 1% last year, so that's a sizable move as everyone knows rates have increased pretty dramatically with Fed moves this year. We had a request from the Board, which the committee and staff will respond to,

and that is to provide them with a quarter-over-quarter sources and uses, which will be helpful in their analysis and review of our quarterly reports. The second item that we covered was rate sensitivity in the portfolio where we reviewed if rates shift, from negative, you know, falling 50 basis points to as much as 150 basis point rise. Noting that the portfolio would weather those large shifts, but anything that was substantial could have a secondary impact on the performance of the Authority in general. Lastly, the Committee touched on our net zero plan, which was started at the last Investment Committee meeting and she stated they would provide quarterly updates to the Investment Committee, as well as an annual update of our actual plan.

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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 November 2022, 35.63% of the Authority's total qualifying expense of approximately \$1.5 million was paid to MWBEs, of this amount 12.89% was paid to MBEs, 8.68% to MBE prime contractors, and 4.21% to MBE subcontractors. Of the total qualifying spend, 22.76% was paid to WBEs, 7.65% directly to WBE prime contractors, and 15.11% to WBE subcontractors.

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

Mr. Jones asked Craig Hudon to give a brief preview of the upcoming winter calendar so folks were aware of what was upcoming on the heels of a very successful holiday lights last week.

Mr. Hudon then highlighted some of the winter programming and event guide which included free programs and events for all ages happening across Battery Park City and in indoor community spaces throughout the neighborhood this January through April. Offerings included art, live music, film series, exercise programs, cooking classes, swimming lessons, nature and education programs, and much, much more. The event guide was available online and printed copies would be arriving in mailboxes next week.

Mr. Jones then discussed the ongoing Northwest Battery Park City Resiliency Project mentioning the draft scope of work for the environmental review of the project was completed and posted online as of October 19, 2022. A public hearing on that draft scope of work took place on November 16<sup>th</sup> at Stuyvesant High School and there were approximately 70 virtual and in-person participants. The comment period ended on December 31<sup>st</sup>, but opportunities for engagement would continue and be facilitated through upcoming public meetings. BPCA attended Community Board One's Battery Park City committee meeting this month to provide answers to questions on the project, and related frequently asked questions. That document was available on the Authority's resiliency website. Some adjustments were made and there is now a site dedicated to the Northwest Resiliency Project at <https://bpca.ny.gov/nwbpcr/>.

With regard to the South Battery Park City Resiliency Project, significant progress was made since the last meeting. The construction of a temporary fence around the project site was completed, utilities were disconnected at the pavilion, removal of the public art pieces and

relocating them within Battery Park City was completed. The pavilion contract was executed and an RFP for the Pier A Plaza Battery and interior drainage segment was issued. At this point, due to pending litigation, any physical construction within Wagner Park was temporarily halted, but the construction of the permanent fence and other non-construction-related steps would continue. Mr. Jones expressed looking forward to the resolution of the litigation so that BPCA can continue with the important resiliency work. He also mentioned working closely with Warrie Price and the Battery Conservancy team about highlighting the green space that remains available during all of the resiliency work happening across Lower Manhattan and finding ways to partner with them.

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The next item on the agenda, presented by Ms. Hood, was the authorization to adopt procedures allowing Members who experience an extraordinary circumstance to attend meetings by videoconference under certain conditions and a discussion of the concomitant amendment to the Authority's bylaws.

Ms. Hood explained that pursuant to recent changes in Public Officers Law, the Authority was seeking authorization to permit members who experience an extraordinary circumstance to attend Board and Committee meetings by video conference under certain conditions, and to adopt procedures governing such video conferencing. Upon authorization, members who are unable to physically attend the meeting due to an extraordinary circumstance as defined in the attached procedures may attend Board and Committee meetings by video conference from a private location if, among other requirements, there is still a quorum of members physically present at the public location, all members can be heard, seen, and identified during the meeting, and members of the public are afforded the opportunity to attend the meeting by video conference in real time as well. A public hearing to discuss comments on the proposed resolution as required by Public Officers Law 10382(a) was held immediately prior to this meeting, and no comments were received.

With regard to the amendment to the Authority's bylaws, Ms. Goldberg explained that, at this meeting, only a discussion of the proposed amendment was necessary and that it would be taken up and voted on at the January 2023 board meeting.

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

**Authorize Members who Experience an Extraordinary Circumstance to Attend Meetings by Videoconference Under Certain Conditions and to Adopt Procedures Governing Member Videoconferencing Pursuant to NY Public Officers Law §103-a**

**December 14, 2022**

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the Hugh L. Carey Battery Park City Authority ("BPCA") to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires BPCA to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring “that a minimum number of members are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must, except during executive session, be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to BPCA’s webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, by videoconference in any meeting when a member attends by videoconference.

NOW THEREFORE, BE IT

RESOLVED, that BPCA, for itself and its committees, authorizes its members who experience an extraordinary circumstance, as described above and further defined by written procedures to be adopted herewith, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and

BE IT, FURTHER

RESOLVED, that BPCA hereby adopts the attached Procedures Governing Member Videoconferencing Pursuant to Public Officers Law §103-a further governing the use of videoconferencing by BPCA’s members, effective December 14, 2022, in compliance with Chapter 56 of the Laws of 2022.

### **Procedures for Member Videoconferencing Pursuant to Public Officers Law § 103-a**

In compliance with NY Public Officers Law (POL) §103-a(2)(a), BPCA, following a public hearing, authorized, for itself and its committees, by resolution on December 14, 2022, the use of videoconferencing as described in POL §103-a.

The following procedures are hereby established to satisfy the requirement of POL §103-a(2)(b) that any public body which in its discretion wishes to permit its Members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing Member and public attendance.

1. Members shall be physically present at any meeting of BPCA unless such Member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the Member’s physical attendance at such meeting.
3. If a Member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the Member must notify the Secretary no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, BPCA shall update its notice as soon as practicable to include that information. If it is not practicable for BPCA to update its notice, BPCA may reschedule its meeting.
4. If there is a quorum of Members participating at a physical location(s) open to the public, BPCA may properly convene a meeting. A Member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum but may participate and vote if there is a quorum of Members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL §105, BPCA shall ensure that its Members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the Members or, for Members participating by videoconferencing from private locations due to extraordinary circumstances, such Members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL §103-a shall include which, if any, Members participated by videoconferencing from a private location due to such extraordinary circumstances.
7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
8. BPCA shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on BPCA’s website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

9. If Members of BPCA are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, BPCA shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. BPCA shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Open meetings of BPCA conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL §103(f) and shall utilize technology to permit access by Members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law §292.
11. The in-person participation requirements of POL §103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to NY Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the NY Executive Law if the Members determine that the circumstances necessitating the emergency declaration would affect or impair the ability of BPCA to hold an in-person meeting.
12. These procedures shall be conspicuously posted on BPCA’s website.

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The next item on the agenda, presented by Ms. Frederick, was an adoption of a resolution authorizing adoption of the Series 2023 Notes Resolution and adoption of the Series 2023 Notes Resolution for the revolving loan facility.

Ms. Frederick began by explaining that the Finance department was seeking Board authorization to adopt Series 2023 Notes and the adoption of the Series itself. These requests are associated with the approval received in the October Board meeting to proceed with a revolving loan of \$100 million. In attendance from Hawkins Delafield was bond counsel Roger Bagley, who prepared the resolutions in order to proceed with the revolver.

Upon a motion made by Mr. Petracca and seconded by Ms. McVay Hughes, resolutions attached as Appendix A were unanimously adopted:

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The next item on the agenda, presented by Ms. Frederick, was an authorization to enter into an amendment with JP Morgan Chase for banking and cash management services.

Ms. Frederick began by explaining to the Members that this was the operating account used for the Authority. She further explained we had been in the process of transitioning from the existing JP Morgan account to Bank of America, and all of the required documentation was being put in place. Karl Koenig was working to prepare for the actual transition since there was quite a bit that has to be done with the original banking contract, as well as a merchant agreement that supports the credit cards as well as setting up all of the accounts, all of the approvals, authorizations, etc.

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

**AUTHORIZATION TO AMEND CONTRACT WITH JP MORGAN CHASE BANK, N.A. FOR BANKING AND CASH MANAGEMENT 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 or his/her designee(s) be, and each of them hereby is, authorized and empowered to amend the Contract with JP Morgan Chase Bank, N.A. to extend the expiration date by six (6) months to June 12, 2023 and to add an additional \$6,000.00 in funds for a new not-to-exceed total of \$60,200.00, 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 Agreements on behalf of the Authority, subject to such changes as the officer or officers executing the Agreements 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 Agreement; 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. Nathan, was an authorization to enter into a new agreement with ABM Janitorial Services, Inc. for the 200 Liberty Janitorial Services.

Ms. Nathan began by explaining that the next item was a three-year contract extension for janitorial services for the office space at 200 Liberty Street. Per the terms of our office’s sublease agreement with Brookfield, the Authority was required to utilize Brookfield’s selected janitorial services vendor, which is ABM Janitorial Services, Inc. This firm also provides these services to other tenants in the building. As such, ABM is considered a single source provider of the service pursuant to our procurement guidelines, meaning that a competitive procurement was not required. She then requested that the Board authorize a three-year agreement with ABM for a not-to-exceed total amount of \$303,604.92. This amount was based on labor negotiated rates, and includes routine nightly and monthly cleaning services as well as detailed cleanings upon request among other janitorial services.

Mr. Capoccia asked what the lowest paid rate that this service was going to provide to their staff because he wanted to ensure the vendors were using a reasonable hourly rate. Ms. Munson stated that the rates were negotiated through collective bargaining with 32 BJ and included wage increases, pension increases, and fund increases.



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

**APPROVAL FOR AN AGREEMENT WITH ABM JANITORIAL SERVICES, INC. FOR 200 LIBERTY STREET OFFICE JANITORIAL 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 or his/her designee(s) be, and each of them hereby is, authorized and empowered to enter into a three (3) year agreement with ABM Janitorial Services, Inc. to provide janitorial services for the 200 Liberty Street Office Space Janitorial Services for a not-to-exceed total amount of \$303,604.92, 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 Agreements on behalf of the Authority, subject to such changes as the officer or officers executing the Agreements 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 Agreement; 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 Mr. Sbordone, was an authorization to enter into a new agreement with Diva Communications, Inc. for the webcasting and video production services.

Mr. Sbordone began by explaining that the Authority is required to webcast Board meetings, and certain other public events pursuant to Executive Order Number 3, Promotion of Public Access to Government and Decision-Making. To comply with this order, the Authority is required to broadcast its meetings that are subject to the Open Meetings Law to the internet. In addition, the Authority requires production of promotional video materials to help publicize BPCA’s wide range of programs and other efforts. As BPCA staff do not possess the expertise required to perform these tasks, the Authority conducted a solicitation to retain a qualified vendor to perform webcasting and video production services. A solicitation was issued for these services to MWBE and STVOB vendors only, an advertisement for which was placed in the New York State Contract Reporter. An evaluation committee comprised of BPCA staff who are familiar with the required services reviewed each of the four proposals received for completeness, experience providing similar services for other entities, and cost. Though there was a lower price proposal, the committee noted Diva’s more efficient approach, flexibility with scheduling and adapting to late changes and better adaptability to technical and connectivity issues than the lowest price vendor for the webcasting services. He then requested approval to enter into an agreement with Diva Communications to provide webcasting and video production services for a period of three years and for a not to exceed amount of \$120,000.00.

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

**APPROVAL TO ENTER INTO AN AGREEMENT WITH DIVA COMMUNICATIONS, INC. FOR WEBCASTING & VIDEO PRODUCTION 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 or his/her designee(s) be, and each of them hereby is, authorized and empowered to enter into an agreement with Diva Communications, Inc. to provide webcasting and video production services for a term of three years and a not-to-exceed contract value of \$120,000.00, 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 Agreements on behalf of the Authority, subject to such changes as the officer or officers executing the Agreements 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 Agreement; 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 an authorization to extend the contract term with M&N Engineering, P.C. for the phase 7 pile remediation assessment, design and engineering services.

Ms. Dawson began by explaining that, M&N Engineering was chosen as the design engineering firm for the most recent phase of the phase 7 pile remediation project, part of a multi-year pile remediation program that the Authority has pursued over the last 13 years. The M&N contract was intended to cover approximately 685 piles and it was determined that after the original contract was issued there were some additional piles that had not been previously accounted for around the Port Authority’s river intake. She explained that, although the original pile work was completed earlier this year, the contract was amended to add those additional piles for the Port Authority. However, because the Port Authority was doing some other unrelated work in the area during 2022, the initial inspection and assessment of those piles by the engineering firm could not take place, and so that work carried over into 2023. As a result, the M&N contract needs to be extended through November 1, 2023.

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

**AUTHORIZATION TO EXECUTE AN AMENDMENT WITH M&N ENGINEERING, P.C. (“M&N ENGINEERING”) FOR PHASE 7 PILE REMEDIATION PROJECT – ASSESSMENT, DESIGN, AND ENGINEERING 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 execute an amendment to extend the term of the Authority’s contract with M&N Engineering through November 1, 2023; 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.

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The next item on the agenda, presented by Ms. Dawson, was an authorization to extend the contract term with Wiss, Janney, Elstner Associates, Inc. for the 212 North End Avenue leak investigation project.

Ms. Dawson began by explaining that this was a contract extension for Wiss Janney Elstner Associates, Inc. (WJE), the forensic engineering firm retained to investigate and document the water infiltration issues in the Community Center and at the baseball terrace above. The work has been completed, however, we are now going into the phase of reconciling the financial responsibility for the project. She also noted, as previously discussed with Members there was a disagreement between the Authority and Milstein, the base building owner, as to responsibility. While proceeding with reaching a resolution of that issue, the Authority will continue to retain WJE as the technical advisor and forensic engineer for the process to resolve the issue. She then proposed extending WJE’s existing contract term through April 30, 2024 with no addition to the amount of fees.

Ms. Goldenberg mentioned that if the Board members had any questions about the potential contemplated claims, she would discuss that in an attorney-client privileged manner. She also mentioned with regard to the total amount spent on remediation cited by Ms. Dawson that it was a preliminary estimate and that the Authority was going to be diligent about ensuring that all of the expenses are included in any position that we may assert.

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

**AUTHORIZATION TO AMEND CONTRACT WITH WISS, JANNEY, ELSTNER ASSOCIATES, INC. (“WJE”) FOR THE 212 NORTH END AVENUE LEAK INVESTIGATION PROJECT**

BE IT RESOLVED, that the President and Chief Executive Officer of the Authority (the “President”) or her/his designee(s) be, and each of them hereby is, authorized and empowered to amend the contract (the “Contract”) with WJE for the 212 North End Avenue Leak Investigation Project, extending the term through April 30, 2024; and be it further

RESOLVED, that the President or her/his designee(s) be, 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 her/his 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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Ms. McVay Hughes made a motion to enter Executive Session, which was seconded by Mr. Capoccia, to discuss proposed, pending or current litigation. The Members entered Executive Session at 3:02 p.m.

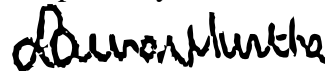
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The Members exited Executive Session at 3:50 p.m.

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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

**Appendix A**

TD Bank, N.A. Revolving Credit Facility

**BATTERY PARK CITY AUTHORITY**

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SERIES 2023 NOTES RESOLUTION

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Adopted December 14, 2022

Be it Resolved by the Members of Battery Park City Authority as follows:

## ARTICLE I

### DEFINITIONS AND STATUTORY AUTHORITY

Section 1.01 *Series 2023 Resolution*. 1. This Series 2023 Notes Resolution authorizing up to \$100,000,000 outstanding Series 2023 Notes (defined below) is supplemental to, and constitutes a Series Resolution within the meaning of and is adopted in accordance with Article X of, the resolution adopted by the Authority on September 9, 2003, entitled “2003 GENERAL BOND RESOLUTION” and referred to herein as the “General Resolution.”

2. It is hereby found and determined that it is necessary and required that the Authority authorize and issue at this time two Series of Bonds (as defined in the General Resolution) to be designated as herein provided to provide monies to carry out one or more purposes of the Authority.

Section 1.02 *Definitions*. 1. All terms that are defined in Section 103 of the General Resolution shall have the same meanings, respectively, in this Series 2023 Resolution as such terms are given in said Section 103, as amended through the date of adoption hereof.

2. In addition, as used in this Series 2023 Resolution, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“*Authorizing Resolution*” means the resolution adopted by the Authority on December 14, 2022, entitled “Resolution Authorizing Adoption of the Series 2023 Notes Resolution and Certain Other Matters in Connection Therewith.”

“*Series 2023 Notes*” means, collectively, the Series 2023A Notes and the Series 2023B Notes.

“*Series 2023 Resolution*” means this Series 2023 Resolution authorizing the Series 2023 Notes.

“*Series 2023 Notes Costs of Issuance Subaccount*” means the Series 2023 Notes Costs of Issuance Subaccount created and established within the Costs of Issuance Account of the Bond Proceeds Fund pursuant to or in accordance with Section 4.02 of this Series 2023 Resolution.

“*Series 2023 Resolution*” means this Series 2023 Resolution authorizing the Series 2023A Notes. “*Series 2023A Project Costs Subaccount*” means the Series 2023A Project Costs Subaccount created and established within the Project Costs Account of the Bond Proceeds Fund pursuant to or in accordance with Section 4.02 of this Series 2023 Resolution.

“*Series 2023A Notes*” means the Notes of the Series so designated and authorized by this Series 2023 Resolution.

“*Series 2023B Notes*” means the Notes of the Series so designated and authorized by this Series 2023 Resolution.

“*Tax Certificate*” means the Federal Tax Certificate executed by an Authorized Officer of the Authority in connection with the issuance of the Series 2023 Tax-Exempt Notes, as defined in subsection 5.01(1) hereof.

3. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

4. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Series 2023 Resolution, refer to the Series 2023 Resolution.

Section 1.03 *Authority for the Series 2023 Resolution.* This Series 2023 Resolution is adopted pursuant to the provisions of the Act and the General Resolution.

## ARTICLE II

### AUTHORIZATION, TERMS AND ISSUANCE OF SERIES 2023 NOTES

Section 2.01 *Authorization of Series 2023 Notes, Principal Amount, Designation and Series.* 1. A Series of Notes entitled to the benefit, protection and security of the General Resolution is hereby authorized to be issued, under the authority of Section 1977-a(1)(a) of the Public Authorities Law, in the aggregate principal amount outstanding at any time not to exceed \$100,000,000. Such Series of Notes shall be designated as and shall be distinguished from the Notes of all Series by the title “Junior Revenue Notes, Series 2023A” pursuant to and subject to the terms, conditions and limitations established in the General Resolution and this Series 2023 Resolution. The Series 2023A Notes shall be, and are, Junior Bonds within the meaning ascribed thereto in the General Resolution.

2. A Series of Notes entitled to the benefit, protection and security of the General Resolution is hereby authorized to be issued, under the authority of Section 1977-a(1)(f) of the Public Authorities Law, in the aggregate principal amount outstanding at any time not to exceed \$100,000,000. Such Series of Notes shall be designated as and shall be distinguished from the Notes of all Series by the title “Junior Revenue Notes, Series 2023B” pursuant to and subject to the terms, conditions and limitations established in the General Resolution and this Series 2023 Resolution. The Series 2023B Notes shall be, and are, Junior Bonds within the meaning ascribed thereto in the General Resolution.

3. The aggregate principal amount of the 2023 Notes outstanding at any time shall not exceed \$100,000,000.

Section 2.02 *Purposes.* The purposes for which the Series 2023 Notes are being issued are (i) financing Project Costs and (ii) paying the Costs of Issuance of the Series 2023 Notes.

Section 2.03 *Delegation of Authority*. 1. There is hereby delegated to the President or any other Authorized Officer of the Authority, as the case may be, in addition to the powers conferred thereon by the Authorizing Resolution in relation to the Series 2023 Notes, subject to the limitations contained herein and in the General Resolution and the Act, the power with respect to the Series 2023 Notes to determine and carry out the following:

(a) The Series Reserve Requirements for the Series 2023A Notes and for the Series 2023B Notes;

(b) Except in the case of Capital Appreciation Notes and Deferred Income Notes, the interest rate or rates of the Series 2023 Notes, including the interest rate or rates of Deferred Income Notes from and after the Interest Commencement Date, the date from which interest on the Series 2023 Notes shall accrue, the manner for determining such interest rate or rates, and the first interest payment date therefor; provided, however, that the stated interest rate on the Series 2023 Notes shall not exceed fifteen percent (15%) per annum;

(c) The Series 2023 Notes that are Capital Appreciation Bonds, if any, the Valuation Dates for such Series 2023 Notes and the Accreted Value on each such Valuation Date;

(d) The Series 2023 Notes that are Deferred Income Bonds, if any, the Valuation Dates for such Series 2023 Notes, the Appreciated Value on each such Valuation Date and the Interest Commencement Date for such Series 2023 Notes;

(e) The Series 2023 Notes that are Variable Interest Rate Bonds, if any, the maximum interest rate, if any, or the method of calculating such maximum interest rate for such Notes, and the provisions, if any, as to the calculation or change of variable interest rates;

(f) The Series 2023A Notes that are Option Bonds, if any, the provisions regarding tender for purchase or redemption thereof and payment of the purchase or Redemption Price thereof and the appointment of a remarketing agent with respect thereto;

(g) The denomination or denominations of and the manner of numbering and lettering the Series 2023 Notes;

(h) The Series 2023 Notes that are Book Entry Bonds, if any, and the Depository therefor;

(i) The Redemption Price or Redemption Prices, if any, and, subject to Article IV of the General Resolution, the redemption terms, if any, for the Series 2023 Notes;

(j) Provisions for the sale or exchange of the Series 2023 Notes and for the delivery thereof;



(k) The forms of the Series 2023 Notes and the forms of the Trustee's certificate of authentication thereon;

(l) Provisions with respect to funds and accounts and subaccounts therein, if applicable, and the Collateral and application thereof, as provided in Article VI of the General Resolution;

(m) Directions for the application of the proceeds of the Series 2023 Notes;

(n) Procurement of insurance, if any, for the payment of the principal of and interest on all or a portion of the Series 2023 Notes and the terms and conditions for such insurance;

(o) Provisions relating to (i) any Credit Facility, Qualified Swap or other similar financial arrangement entered into in connection with the issuance of the Series 2023A Notes and (ii) the obligations payable thereunder; provided, however, the documentation for such Qualified Swap shall accord with the guidelines heretofore adopted by the Authority for interest exchange agreements;

(p) Whether the Series 2023 Notes shall be issued in Subseries, the number of Subseries and the principal amount and designations of each Subseries;

(q) Determination of which series of bonds heretofore issued by the Authority and which maturities of such series and which portion of such maturities shall be refunded from proceeds of the Series 2023 Notes and other available moneys; and

(r) Any other provisions deemed advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof, of the Authorizing Resolution or of the General Resolution.

2. The President and Chief Executive Officer or such other Authorized Officer shall execute one or more Series Certificates evidencing determinations or other actions taken pursuant to the authority herein, in the Authorizing Resolution or in the General Resolution and any such Series Certificate shall be conclusive evidence of the action or determination of the President or such other Authorized Officer as to the matters stated therein.

### ARTICLE III

#### EXECUTION AND AUTHENTICATION OF THE SERIES 2023 NOTES

##### Section 3.01 *Execution and Authentication of Series 2023 Notes.*

1. Pursuant to the provisions of Section 303 of the General Resolution, the Chairman or other member or the President of the Authority is hereby authorized and directed to execute by his manual or facsimile signature the Series 2023 Notes in the name of the Authority and the corporate seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise

reproduced thereon. The Secretary or an Assistant Secretary of the Authority is hereby authorized and directed to attest by his manual or facsimile signature the execution of the Series 2023 Notes.

2. The Trustee is hereby authorized to authenticate by manual signature the Series 2023 Notes, and deliver the same to or upon the order of the Authority, in such amounts and at such times as the Trustee shall be directed in writing by an Authorized Officer.

## ARTICLE IV

### APPLICATION OF PROCEEDS

Section 4.01 *Application of Proceeds and Deposit of Moneys.* The Trustee shall apply the proceeds of the sale of the Series 2023 Notes in accordance with the written directions of any Authorized Officer given pursuant to clause (m) of subsection (1) of Section 2.03.

Section 4.02 *Additional Subaccounts.* There is created and established within the Costs of Issuance Account of the Bond Proceeds Fund a “Series 2023 Notes Costs of Issuance Subaccount.” There are created and established within the Project Costs Account of the Bond Proceeds Fund a “Series 2023A Notes (Tax-Exempt) Project Costs Subaccount,” a “Series 2023B Notes (Tax-Exempt) Project Costs Subaccount,” and a “Series 2023B Notes (Taxable) Project Costs Subaccount.”

## ARTICLE V

### SPECIAL COVENANTS

Section 5.01 *Tax Exemption; Rebates.* 1. The interest on the Series 2023A Notes, and the interest on the subseries of Series 2023B Bonds designated in the related Series Certificate as Tax-Exempt Bonds (collectively, the “Series 2023 Tax-Exempt Notes”) is intended to be excluded from gross income for purposes of federal income taxation. In order to maintain such exclusion, the Authority shall comply with the provisions of the Code applicable to the Series 2023 Tax-Exempt Notes, including without limitation, the provisions of the Code relating to the computation of the yield on investments of the “gross proceeds” of the Series 2023 Tax-Exempt Notes, as such term is defined in the Code, reporting of the earnings on such gross proceeds, rebates of earnings on such gross proceeds to the Department of the Treasury of the United States of America, and use, ownership and management of the facilities financed by such gross proceeds. In furtherance of the foregoing, the Authority shall comply with the provisions of the Tax Certificate executed by the Authority in connection with the Series 2023 Tax-Exempt Notes.

2. The Authority shall not take any action or fail to take any action that would cause the Series 2023 Tax-Exempt Notes to be “arbitrage bonds” within the meaning of Section 148(a) of the Code; nor shall any part of the proceeds of the Series 2023 Tax-Exempt Notes or any other funds of the Authority be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Series 2023 Tax-Exempt Notes to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

3. The Authority shall make any and all payments required to be made to the United States Department of the Treasury in connection with the Series 2023 Tax-Exempt Notes pursuant

to Section 148(f) of the Code from amounts on deposit in the Arbitrage Rebate Fund and available therefor.

Section 5.02 *Survival of Covenant.* The obligation of the Authority to comply with the provisions of Section 5.01 hereof with respect to the rebate to the Department of the Treasury of the United States of America relating to the Series 2023 Tax-Exempt Notes shall remain in full force and effect so long as the Authority shall be required by the Code to rebate such earnings on the gross proceeds of the Series 2023 Tax-Exempt Notes notwithstanding that the Series 2023 Tax-Exempt Notes are no longer Outstanding.

## ARTICLE VI

### MISCELLANEOUS

Section 6.01 *No Benefit of Reserve Fund.* The Series 2023 Notes shall not be secured by the Reserve Fund or any amounts from time to time on deposit therein. Any provision of the Resolution to the contrary notwithstanding (including, without limitation, Sections 604(1)(b), 604(4)(b) and 606(2) of the General Resolution), under no circumstances shall amounts on deposit in the Reserve Fund be withdrawn therefrom for the purpose of paying, directly or indirectly, the principal or Redemption Price of, or interest on, any of the Series 2023 Notes.

Section 6.02 *Authority to Deliver this Series Resolution.* An Authorized Officer of the Authority is hereby authorized and directed to deliver this Series Resolution with such changes, insertions and omissions as may be approved by such Authorized Officer, such delivery being conclusive evidence of such approval; and provided, however, such changes, insertions and omissions shall not conflict with the provisions of the General Resolution and shall be necessary to effectuate the intent of this Series Resolution.

Section 6.03 *Effectiveness.* The Series 2023 Resolution shall become effective immediately upon its adoption.

Approved, December 14, 2022:

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Benjamin Jones,  
President and Chief Executive Officer

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**Public Comment**  
**December 14, 2022**

**1. Pat Smith:**

Good afternoon. The Battery Park City Homeowner's Coalition thanks the Battery Park City Authority for reaching out to us to explore the possibility of resuming negotiations to resolve the issue of ground rent. Our response is as it has been more than a year, yes. Bring a new proposal to the table and let us in good-faith negotiations resolve our differences. The Coalition's proposal is simple. We want to provide the BPCA enough support to pay operational costs, to meet bond obligations, and to provide New York City with substantial payment to support affordable housing. We want an agreement that extends at least until 2119 to provide certainty for the people of this community, for potential new homeowners, and for lenders. We feel strongly that efforts to collect additional ground rent that exceeds these needs is an unfair and unaffordable burden on Battery Park City homeowners. We note that nowhere in the BPCA mission statement, or enabling legislation is the mandate to increase the return on investment by adding this burden to homeowners. These homeowners already pay to maintain the most beautiful public spaces in the city, open for all New Yorkers and visitors to enjoy. BPCA bond issues paid for by our ground rents will pay for flood protection in our neighborhood. Protection that will extend to Tribeca and the Financial District. That is enough return on investment. In the spirit of the season, we wish you all the best. God bless us everyone.

**2. Jonathan Johnston:**

My name is Jonathan Johnston. I'm a resident of Battery Park City for 30 years, and I don't really have any skin in the game except I'm a real estate broker down in Manhattan. In Battery Park City, I do a tremendous -- I probably did 25 to 30 deals in Battery Park City this year alone. So I have the pulse of Battery Park City, of the buyers and sellers, from a \$550,000.00 apartment up to a \$7 million apartment. And the scuttlebutt and the talk is I'm getting pushback, tremendous pushback between some of the banks that are making it difficult on Fannie Mae loans, to some of the banks that want a letter from the Authority for an approval of it, and I've spoke to Martha. And I agree with him, I spoke to Martha, and she actually said to me today that we're working on it. The question is working and getting it done, I'm not being doom and gloom, but in 10 years, it's going to be very difficult to sell an apartment in Battery Park City. It's very difficult now. It's not hard in Tribeca. It's not hard in Soho if you price it right. Here, apartments, and I was telling Martha, and it's all on paper, last year I sold an apartment with a river view in 350 Albany for \$825,000.00. I just sold the same apartment for \$725,000.00 a couple of floors lower, and she could not get a Fannie Mae loan. Fannie Mae would not lend. And that, I can have the banker tell you that. So as this progresses, and don't want to be doom and gloom, but if all of a sudden you start having empty apartments, then you're not collecting the land lease. So your ratings on the bonds might change. So I get it that you're working on it, but I've been down here a long time, and since we got B.J., things have been going forward, but it's not something that has to be worked on. It's got to be something that gets done because in 10 years these buildings very likely could be empty. I mean, it's just a fact. It's impossible to sell apartments. So in good faith, you know, I love living here, but I'd really like to see, you know, and it's negative out there.

**3. Moira Dolan:**

Thank you. And the committee members, if you could come up with me, please. Good afternoon, Board Members, Staff of the Authority, and community members. I'm Moira Doran. I'm the negotiator for the first contract at Battery Park City. With me are members of the committee, Curtis Asphal, Betsy Asphal, Ronnie Mohamad and Richard Farino representing Horticulture and

Maintenance workers. The 53 members, a majority of whom are Black and Latino are a mix of long service and newer workers who all take pride in their work. We come to the Board of Directors and the community, and you, B.J., to say we want a fair deal. We're not here to put the Authority out of business. We're not here to change the way the operation is run. We are trying to have economic security, and a voice in the workplace, just like thousands of workers all over the United States. I will say recently we have seen positive developments where management has intervened when assignments of work were unclear or unfair and we do want to acknowledge that cooperation. Battery Park has a budget and a financial plan through 2026. The purpose of the financial plan is to have predictable expenses and revenue. A union contract is beneficial to the employer because your expenses will be known, and it's the same for the workers who want to have predictable salaries. The incremental cost of our proposed agreement is less than a million dollars over three years. The represented staff here, the 53 of them, are 25 percent of the total payroll, and less than 5 percent of total operating expenses. Our proposals are fair and reasonable. The current system of merit increases, in addition to the low cost of living increases does not add any demonstrable added value to the work. It has to get done. The snow has to get removed. The trees have to be pruned. The toilets have to be fixed. I hope you will all agree the workers have done this beautifully day in and day out, and that you will thank them for it. The current management proposal of tying represented workers increases to whether or not non-represented workers get a higher amount in that year is undermining the point of reaching a collective bargaining agreement and unrelated to the work these members do. The current management proposal of an escape clause to binding arbitration is a non-starter. We thank you for your time and we hope that the next time you see a Battery Park worker you will thank them for their dedication to the community.

Thank you very much. We have a session on Friday and we hope to conclude, and have a Merry Christmas.