

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members
200 Liberty Street, 24th Floor
New York, NY 10281
September 27, 2023

Members Present

Martha Gallo, Chair
Louis Bevilacqua, Member (remote)
Donald Capoccia, Member
Anthony Kendall, Member
Catherine McVay Hughes, Member

Authority Staff in Attendance: Sharmila Baichu, Vice President of Human Resources
Marie Baptiste, Deputy Treasurer
Gwen Dawson, Senior Vice President, Real Property
Sarah Fisher Curtin, Director of Sustainability
Pamela Frederick, Chief Financial Officer/Treasurer (remote)
James Gallagher, Special Counsel, Capital Projects
Abigail Goldenberg, General Counsel
Angela Howard, AVP of Construction & Site Management
Craig Hudon, Vice President of Parks Programming
Karl Koenig, Controller
John Lonie, Communications & Public Affairs Coordinator
Vanessa Mesine, Treasury/Revenue Accountant
Lauren Murtha, Paralegal/Assistant Corporate Secretary
Jahmeliah Nathan, Vice President of Administration
Jason Rachnowitz, Deputy Controller
Nicholas Sbordone, Vice President of Communications and Public Affairs
Ryan Torres, Vice President of Parks Operations
Yves Veve, Director of Infrastructure

Others in Attendance: Bob Cheddar, PFM Asset Management
Ian Beardon, Hawkins Delafield & Wood LLP
Various Members of the Public

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:09 pm.

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The first item on the agenda was a request for approval of the minutes of the August 16, 2023 meeting. Upon a motion made by Ms. McVay Hughes and seconded by Mr. Kendall, the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE AUGUST 16, 2023 MEETING

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery

Park City Authority held on August 16, 2023, are hereby approved.

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

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Ms. Frederick then provided the Members with an update from the Investment Committee which also met prior to this meeting and was attended by Catherine McVay Hughes acting as Chair, and Martha Gallo. The investment advisors, PFM and Ramirez, reviewed the third quarter investment report, and noted our portfolio stood at \$562 million with the majority of that nearly 90% in U.S. Treasuries with an effective duration of 0.56 years. Also reviewed was the rate environment, noting the continued inverted yield curve, and the fact that there has been a significant rise in rates primarily at the front end of the curve. They also noted that, though unlikely, there is the possibility of another rate hike through the end of 2023. They do not anticipate a significant impact on our portfolio, principally because most of the portfolio is short term, but to the extent there is, impact on the market is likely to push rates slightly higher, and also to have a period of volatility.

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

Ms. Nathan began by noting that going forward she would continue to report on minority owned businesses, and women owned businesses as well as the amounts paid to prime vendors and subcontractors. However, given the significance and the scale of the Authority's Resiliency Construction Portfolio, going forward the report would also include separate information regarding MWBE utilization on the Authority's Resiliency Program. This will provide additional transparency to the Members regarding MWBE utilization for both the Resiliency Program and for the balance of the Authority's spending, which otherwise could be obscured by the scale of the Resiliency Program.

She then reported that for the months of June, July, and August 2023, approximately 33% of the Authority's non-resiliency total qualifying expenditure of about \$2.5 million was paid to MWBEs and approximately 8.5% of the Authority's Resiliency Programs total qualifying expenditure of approximately \$17 million was paid to MWBEs. Incidentally, Resiliency Program spending comprised 88% of the Authority's total eligible spend for this period. It is important to note that these months included significant payments for contractor general condition expenses, for example, insurance premiums, which are not included in reporting despite the lack of availability of MWBEs, and SDVOBs capable of meeting BPCA's specific requirements.

For the months of June, July, and August, approximately 11.6% of the combined non-resiliency and resiliency qualifying expenditure of about \$9 million was paid to MWBEs. As it relates to SDVOB utilization, this and forthcoming reports will also include separate reporting for the Resiliency Program projects. For the months of April, May, and June, approximately 2% of the Authority's qualifying expenditure of \$14.7 million was paid to SDVOBs. No funds were paid to SDVOBs for the Resiliency Program. The diversity department will continue to closely monitor MWBE and SDVOB utilization throughout the life of each resiliency project providing contractors

technical assistance, working with real property project managers to ensure that vendors are on track to meet their contractual utilization goals.

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

Ms. Dawson provided a brief overview of both the resiliency projects and sustainability efforts for the month. In the Northwest, meetings continued with agencies on their comments regarding the 30% design, and public comments to that design would be accepted through September. There are additional public engagement opportunities scheduled for October and November including site walk throughs scheduled for October 19th, 21st and 26th.

On the South, construction continues and the principal construction activities occurring on site include installation of sheet piles, excavation for cistern and pile cap installation, and installation of site drainage. Flaggers continue to be on site to direct trucks and maintain public safety and traffic control.

On the sustainability front, we had an active climate week slate of programs, including a "Meet the BPC Beekeeper" program, climate week nature walk, presentation on the BPC tree canopy and biodiversity assessment, and the movie screening of the Lorax.

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The next item on the agenda, presented by Ms. Frederick, was an authorization to adopt and implement Post-Issuance Tax Compliance Policy and Procedures.

Ms. Frederick stated this was the amended and restated post-issuance tax compliance policy. This policy dealt primarily with providing guidelines for regular due diligence and review of the portfolio. It identifies which employees are responsible for that review and their training, which is done bi-annually with the assistance of Hawkins Delafield & Wood who serves not only as bond counsel, but also provides guidance on our arbitrage and yield maintenance requirements. In addition, it deals with retention of records and how we would address noncompliance to ensure that we conform with IRS guidelines to maintain our tax-exempt status. This policy was initially put in place in 2013 and then when the IRS indicated that it would focus on post-issuance tax compliance, it was then amended in 2019 following our bond issuance in August of 2019, and we are updating it this year as well to reflect any changes in tax guidance between 2019 and 2023. Ms. Frederick then asked for the Board's approval to adopt these amended and restated post-issuance tax compliance policy and procedures. Ian Bearden was available from Hawkins Delafield & Wood to answer any questions.

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

AUTHORIZATION TO ADOPT AND IMPLEMENT THE AMENDED AND RESTATED POST-ISSUANCE TAX COMPLIANCE POLICY AND PROCEDURES

BE IT RESOLVED, that the Amended and Restated Post- Issuance Tax Compliance Policy and Procedures (the “Policy”), substantially in the form presented at this meeting, be, and hereby are approved and shall be adopted and implemented by the Authority; and be it further

RESOLVED, that the Chief Operating Officer of the Authority or 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 adoption and implementation of the Policy, and any such further actions heretofore taken with respect to the Policy are hereby ratified and approved.

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The next item on the agenda, presented by Ms. Goldenberg, was an adoption of amended procedures governing member videoconferencing pursuant to NY Public Officers Law §103-a.

Ms. Goldenberg explained that the Board adopted a policy consistent with the Open Meetings Law allowing Members to participate, but not be counted for quorum under extraordinary circumstances such participation could be remote. The Open Meetings Law was recently amended to permit individuals that participate remotely who have a qualifying disability not only to participate remotely, but also to be counted for a quorum. She then asked to amend our existing policy to comply with the Open Meetings Law to permit individuals with disabilities to be counted as quorum to the extent that they are appearing remotely. Ms. McVay Hughes asked for clarification whether it includes COVID. Ms. Goldenberg said she would get clarification.

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

NOW THEREFORE, BE IT

RESOLVED, that the Authority hereby adopts the attached amended Procedures Governing Member Videoconferencing Pursuant to Public Officers Law §103-a governing the use of videoconferencing by BPCA’s members, effective September 27, 2023.

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The next item on the agenda, presented by Ms. Nathan, was a request to amend an agreement with New York State Industries for the Disabled, Inc. for document scanning services.

Ms. Nathan explained that last year the Authority started a project to digitize paper documents and records. Part of that effort was to hire a firm to scan the numerous paper documents we have in storage and to execute the project. The Authority entered into an agreement with New York State Industries for the Disabled, also known as NYSD, the preferred source vendor for document scanning services. That agreement expired on September 14, 2023, and it was for a term of one year for a not to exceed amount of \$45,000. As there's a continued need for these services, she then requested the Members approve to amend that original agreement to extend the term by three years to September 13, 2026, and to add an additional \$45,000 for a new not to exceed total of \$90,000.

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

AUTHORIZATION TO AMEND AGREEMENT WITH NEW YORK STATE INDUSTRIES FOR THE DISABLED, INC.

BE IT RESOLVED, that in accordance with the materials submitted at this Board meeting, the Chief Operating Officer (the “COO”) of the Battery Park City Authority or his/her designee(s) be, and each of them hereby is, authorized and empowered to amend agreement with New York State Industries for the Disabled, Inc. to extend the term by three (3) years to September 13, 2026 and to add an additional \$45,000.00 for a new not-to-exceed total of \$90,000.00, and be it further

RESOLVED, that the COO 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 COO 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. Munson, was an authorization to enter into an agreement with The Alliance for Downtown New York, Inc. for Downtown Connection Bus Service.

Mr. Munson began by reminding the Members that the Authority has partnered with the Downtown Alliance for free shuttle bus service in Lower Manhattan for the past 20 years. Particularly during Lower Manhattan's rebuilding after 9-11 and still to this day, the service has proven to be a vital resource for commuters, for seniors, and for other community members seeking to get around the neighborhood or elsewhere in Lower Manhattan. A third of riders recently surveyed lived in Battery Park City, and of those riders, 86% claim that they ride the bus every day or several days a week mostly for shopping and running errands. Nearly half of the bus service's stops are in Battery Park City. Although ridership is still recovering from the depths of the pandemic, it more than doubled last year from just over 110,000 riders in 2021 to about 240,000 riders annually in 2022.

Electrification of the service continues to be pushed based on feedback from the Board for a number of years now. The Alliance Commission conducted a study in 2022 by Sam Schwartz Engineering, which found that though technology continues to improve and become more prevalent, electrification of the fleet would be cost prohibitive. Furthermore, despite efforts to do so, the Alliance has been unable to identify an operator that would provide the turnkey service with an electric fleet. In the meantime, they have a contract in place with D&J Service to provide the bus service through January 2, 2025. After that term, bids will be solicited for a new provider

that will provide yet another opportunity for us to try to green the fleet. Mr. Munson then requested approval to enter into a sponsorship agreement with them to cover our share of support of bus operations for calendar years 2023 and 2024 with the Alliance for Downtown New York for \$1,586,700, an amount equal to half of each year's projected direct costs. Ms. McVay-Hughes stated that every effort should be made by the Downtown Alliance to provide the Authority monthly data on a reliable basis regarding ridership trends.

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

AUTHORIZATION TO ENTER AN AGREEMENT WITH THE ALLIANCE FOR DOWNTOWN NEW YORK, INC.

BE IT RESOLVED, that in accordance with the materials presented to this meeting, the Chief Operating Officer (the "COO") of the Authority, or her/his designees be, and each of them hereby is, authorized and empowered to execute an agreement providing for a payment to The Alliance for Downtown New York, Inc. in the amount of \$1,586,700 for calendar years 2023 and 2024; and be it further

RESOLVED, that the COO, or her/his designees be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and take all such other and further actions as may be necessary, desirable or appropriate in connection with the transaction 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 item on the agenda, presented by Ms. Dawson, was an Authorization to Enter into an Amendment with LiRo in relation to the South Battery Park City Resiliency project.

Ms. Dawson began by explaining to the Members that the Authority entered into a contract with LiRo Program and Construction Management in 2020 to provide construction management services for the South Battery Park City Resiliency Project. She noted the current value of the contract is \$7,054,855.27, and the current expiration is November 18, 2023. The project has undergone a variety of changes since the initiation of this contract, and a number of additional scope elements have been requested of LiRo over that duration of time.

Due to those changes the project schedule has been extended significantly from the time that was originally anticipated by the contract. Instead of a 30-month duration, we are now looking at a 66-month duration for that contract. The substantial completion was currently projected for March of 2025, and final completion in September of 2025. The period of preconstruction was extended significantly and there were additional costs related to additional staffing necessary and additional time by those staff members for the project that have resulted from design changes and increased complexity of design. We have escalation costs that have been applied because a number of the services that were originally anticipated to be performed earlier in the years 2020 through 2022 are now being performed later, and the billing rates have been escalated at a rate of 3.5 percent per year, so there are escalation costs to be added to the overall value. Finally, there's some additional beefing up of the closeout services that we've requested of LiRo. There will be a

lot of punch list and closeout work, permit closeouts and testing that will be involved, and so we've asked them to provide a more conservative staffing plan for that period of time. All of these elements add up to an additional \$4,157,985.84. She then requested approval of an amendment that would extend the contract term through September 30, 2025, and increase the value of the contract from a not to exceed value of \$7,054,855.27 to \$11,212,841.11.

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

AUTHORIZATION TO AMEND A CONTRACT WITH LIRO PROGRAM AND CONSTRUCTION MANAGEMENT, PE P.C. FOR SOUTH BATTERY PARK CITY RESILIENCY PROJECT CONSTRUCTION MANAGEMENT SERVICES TO AMEND THE SCOPE OF WORK, INCREASE THE CONTRACT VALUE AND EXTEND THE CONTRACT TERM

BE IT RESOLVED that, in accordance with the materials presented at this meeting, the Chief Operating Officer of the Hugh L. Carey Battery Park City Authority (the "COO") or her/his designee(s) be, and each of them hereby is, authorized and empowered to amend the contract with LiRo Program and Construction Management, PE P.C. for South Battery Park City Resiliency Project Construction Management Services to amend the contract's scope of work, to increase the contract amount by \$4,157,985.84, from the not-to-exceed amount of \$7,054,855.27 to the not-to-exceed amount of \$11,212,841.11, and to extend the contract term from November 18, 2023 through September 30, 2025; and be it further,

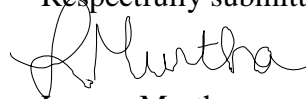
RESOLVED, that the COO or her/his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the amendment on behalf of the Hugh L. Carey Battery Park City Authority, subject to such changes as the officer or officers shall, with the advice of counsel, approve as necessary and appropriate and in the best interests of the Authority, such approval to be conclusively evidenced by the execution and delivery of the amendment; and be it further,

RESOLVED, that the COO 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 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 Ms. McVay Hughes and seconded by Mr. Capoccia, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 2:40 p.m.

Respectfully submitted,



Lauren Murtha

Assistant Corporate Secretary

Public Comment
September 27, 2023

1. **Pat Smith:** Thank you, Nick. The more than 5,000 Battery Park City homeowners represented by the Battery Park City Homeowner's Coalition remain ready to negotiate a fair and practical master ground rent agreement. We look to the Battery Park City Authority and to Governor Kathy Hochul to assert just leadership, to be responsive to the people they represent, to govern effectively, and to address the many escalating problems in this community. The vacant store fronts, the shortage of parking while unused city bikes take up valuable spaces. And one garage remains closed because of high taxes and ground rents. The questionable status of the former Ritz Carlton Hotel and Pier A, two large commercial spaces which contribute no ground rent or taxes. The ground rent imbalance between the commercial space and rental properties, which pay too little, and the residential condos, which pay too much. The looming financial burden of compliance with Local Law 97 setting standards for energy efficiency and greenhouse gas emissions by 2024. The coalition of tax paying homeowners who are the backbone of this community need you to treat us as partners in addressing these issues.

2. **Jonathan Jossen:** Good afternoon, and thanks for having me. My issue is with the Northwest Battery Park City Resiliency Project noise. I think the project is great. I saw the new -- the latest design. I've been to all the meetings, and I've been down to Wagner Park with a NASA decimal meter. And when you start the work, I know we're years away from that, there's got to be something or figure out how you can handle the noise when you're putting in the walls right in front of two -- right in front of 21, 380, 377, and Gateway, I'm not even talking about further north, because the walls are probably -- the existing wall is about 10 feet from somebody's -- maybe 20 feet from somebody's window. So that wall is going to be removed, and you're going to put the metal sheet thing into the bedrock. That noise because of what I heard in Wagner Park is going to rattle the windows. It's going to shake the bricks. It's going to break things. So I hope that going further in the design, they can figure out how to make it livable because when I was standing at Wagner Park, you have a big open area going into the river. Up here, you have an open area going west, but you have reverberation going right into those buildings. Now I looked up all the building codes and everything, and it seems there isn't any as far as noise for construction. So this really has to be thought out well, otherwise people for the six -- two years that they're putting these metal sheets in are not going to be able to live in their apartments. And I'm going to be one of them. So I don't really want to move away for three years. I'd like to figure -- I would like to hope that during the next design sessions they're going to come up with an answer for that. Thank you very much for listening to me.