

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members
One World Financial Center, 24th Floor
New York, NY 10281
April 24, 2012

Members Present

William C. Thompson, Jr., Chairman
Frank J. Branchini, Member
Donald A. Capoccia, Jr., Member
David B. Cornstein, Member
Martha J. Gallo, Member
Fernando Mateo, Member

Authority Staff in Attendance: Gayle M. Horwitz, President and Chief Executive Officer
Lauren Bruggess, Administrative Assistant
Megan Churnetski, Assistant General Counsel and Assistant
Corporate Secretary
Gwen Dawson, Senior Vice President, Asset Management
Sydney Druckman, Director, Special Projects
Anne Fenton, Senior Research Analyst
Carl D. Jaffee, Senior Development Counsel & Corporate
Secretary
Karl Koenig, Controller
Matthew Monahan, Senior Vice President, Public Information
Robert M. Serpico, Senior Vice President, Finance and
Treasurer/Chief Financial Officer
Seema Singh, Senior Counsel
Phyllis Taylor, Executive Vice President/General Counsel and
Chief Administrative Officer

Others in Attendance: Tessa Huxley, Battery Park City Parks Conservancy
Dianne Renzulli, Battery Park City Broadsheet
Tim Sheehan, CB Richard Ellis
Therese Loeb Kreuger, Downtown Express
E. Diana Biagioli, member of public
Nancy Biuvid, member of public

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 10:07 a.m.

Next, Mr. Thompson introduced the newest Member of the Authority, Ms. Martha J. Gallo. Ms. Gallo stated that she looks forward to serving as a Member and, as a resident of Battery Park City, hopes “to bring a neighborhood perspective” to some of the Members’ discussions.

Mr. Thompson then informed the Members that Mr. Robert Mueller resigned as a Member, asking that a letter of appreciation be prepared, thanking him for his service. Mr. Thompson noted that Mr. Mueller was a Member for number of years and “brought a very strong perspective, as well as a neighborhood perspective to this Board.... I will miss him.”

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The first item on the agenda was the approval of the minutes of the March 8, 2012 meeting.

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

APPROVAL OF MINUTES OF THE MARCH 8, 2012 MEETING

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on March 8, 2012 are hereby approved.

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The second item on the agenda was the President’s Report, by Ms. Horwitz.

Ms. Horwitz said, “Spring has sprung, and our parks are officially open for the season. The Battery Park City Parks Conservancy offers public programs and events, with something for everyone.” She then described some of the programs being offered by Battery Park City Parks Conservancy for the upcoming Spring and Summer months, noting that the Battery Park City Ballfields are officially open. She also noted that the Authority held a Town Hall meeting on March 29th at Six River Terrace. She explained that the Authority followed up on issues raised at the first Town Hall meeting which included the installation of a new bike rack at PS276 and an update on research regarding the slowing of bike traffic on the Esplanade.

She also said that the Authority launched the email address: streets@batteryparkcity.org , in response to the increasing number of tour buses and street safety issues that are created by them. At the Town Hall meeting, she noted that had invited the community to utilize that facility for other quality of life issues and concerns that they might have. She also reported that someone at the meeting requested there be a “Notify Battery Park City” system. Management will be looking to see if such a system can be included on the Authority’s website and will keep the Members advised as to that matter.

Next, she reported that on March 30th, the tour boats which had been utilizing the Battery Park City Ferry Terminal have returned to their home docks on the East River and related bus-traffic will be ameliorated as a result.

She also stated that she is happy to report that “the testing has been completed and we have free Wi-Fi in our parks.”

Ms. Horwitz continued by stating that the Authority was approached by New York City Department of Transportation as to the upcoming bike share program and will work with the Department to determine the best locations within Battery Park City for this program.

Next, Ms. Horwitz reminded the Members that Battery Park City's trash compactor program for residential waste is very active, with 19 of 31 buildings in Battery Park City participating. She noted that another compactor "s scheduled to come on line on Murray Street shortly and that the compactors help greatly with rodent control.

She continued by citing the three key issues surfaced at the March 29th Town Hall meeting: speeding bicycles; ferry noise and pollution and the issue of school overcrowding. She reported that the Authority has already working with the Port Authority regarding the ferry-related issues. And as to bicycle safety issues, Authority staff will be meeting with the Stuart C. Gruskin Family Foundation, she said, which "supports safe city cycling, and is dedicated to safety awareness for pedestrians and cyclists." Finally, with regard to school overcrowding, she stated, "parents are sending a petition to us, which we will then be sharing with the Department of Education and Speaker Silver's Task Force on School Overcrowding."

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The next item, presented by Mr. Serpico, was a request to authorize the execution of a three year contract in the total amount of \$558,000 with Willis of New York, Inc. for insurance services.

The Authority's current Insurance Broker of Record contract, with Hagedorn & Company ("Hagedorn"), and most of its insurance policies, will expire on June 30, 2012, he stated. Management determined that it was time to issue a new request for proposals to evaluate insurance broker of record and risk management consultant services. It was also determined that the area of employee benefits was a growing business and these services should be evaluated under a separate request for proposals, he said.

Mr. Serpico explained that the Broker of Record not only arranges premiums for the various insurance programs, but also serves as an advisor, as the Authority does not have any in-house insurance expertise. Therefore, the Authority's Broker of Record must be at the ready to provide advice on contracts, leases and agreements, he said.

On January 11, 2012, Mr. Serpico reported, the Authority advertised in the New York State Contract Reporter for an Insurance Broker and for an Employee Benefits Insurance Broker.

On February 16, 2012, the Authority received proposals for Insurance Broker from five firms, as follows: Arthur J. Gallagher Risk Management Services Inc., Hagedorn, Rose and Kiernan Inc., The Bowman Company ("Bowman"), and Willis of New York, Inc. ("Willis"). One of these firms, Bowman, was an MBE. Simultaneously, he stated, the Authority received proposals for Employee Benefits Insurance Broker from three firms, as follows: Hagedorn, Bowman, and Willis. Bowman was the only MBE, he noted.

Management formed two committees with representatives from the Finance, Legal, and Operations departments and the Parks Conservancy to interview and evaluate qualified bidders' proposals for each RFP. The committees then independently evaluated each proposer based on weighted criteria and Willis received the highest score for both proposals.

In response to an inquiry by Mr. Thompson regarding the pricing chart provided to the Members, Mr. Serpico explained that because three of the proposers also submitted proposals for

the Employee Benefit Insurance Broker assignment, the committees decided to request that those three proposers submit a revised fee which would apply if they were awarded both contracts. All three proposers responded and offered revised fees for one or both of the RFPs, he said.

Ms. Gallo inquired as to what the Authority had previously paid for brokerage services, to which Mr. Serpico responded that the previous contract with Hagedorn was for a total of \$55,000 per year, not including employee benefits services. Mr. Branchini stated that he was struck by the vast difference in pricing. Mr. Serpico explained that the services offered by Willis were far above those offered by the other proposers.

Ms. Horwitz stated that Management is looking at this contract from the point of view of a risk manager and having a large firm that can really deal with risk management issues is preferable. "We want to be sure that we have the best risk management program possible," she stated. Further, she continued, one of the things Management would like to do is analyze the benefits that have previously been offered to Authority and Conservancy employees, and determine whether we can operate more efficiently. Mr. Capoccia noted that there is a broad range of exposures in Battery Park City that require the attention of a good risk manager. It would be an expansive job to undertake for the previous contract amount, he asserted.

In response to an inquiry regarding commissions, Mr. Serpico explained that the Authority's Broker of Record does not now and will not in the proposed contract receive any commissions for placing insurance.

In response to an inquiry by Mr. Cornstein, Mr. Serpico explained that the Authority's insurance policies cost just under \$1 million per year in premiums..

Next, Mr. Mateo asked why there is such a big discrepancy in the employment benefits proposal amounts and wondered why the Authority couldn't use that contract as a means to create opportunity for a Minority or Woman-Owned firm. Ms. Horwitz responded that the dollar amounts are directly related to the quality of services offered. She also explained that the Authority separated the two proposals, in part, to try to create opportunity for M/WBEs. However, the services offered by Willis were so much greater than those offered by the other proposers, that Willis scored well above the other two bidders.

Mr. Capoccia stated that Management should negotiate with Willis prior to entering into a contract to reduce premiums without increasing risk. Mr. Cornstein stated that before Management signs an agreement with Willis, a discussion should be had as to how Willis can reduce policy premiums to make up for the increased cost in fees. Ms. Horwitz stated that this would occur.

Upon a motion made by Mr. Cornstein and seconded by Mr. Mateo, the following resolution was unanimously adopted, with a caveat regarding negotiations for lower policy costs as suggested by the Members:

AUTHORIZATION OF CONTRACT WITH WILLIS OF NEW YORK, INC.

BE IT RESOLVED, that in accordance with the materials presented to this meeting, the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute a contract with the Willis of New York, Inc. to provide Insurance Broker of Record services and Employee Benefit Insurance Broker services for a three year period in the amount of \$558,000; and be it further

RESOLVED, that the President of the Authority or 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 conclusively evidenced by the execution and delivery of the contract; and be it further

RESOLVED, that the President 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 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, introduced by Ms. Horwitz, was a request to authorize the execution of a contract with MFM Contracting Corp. to perform the Murray Street Realignment & Reconstruction work for the lump-sum amount of \$829,015.

She explained that, in accordance with the terms of a mapping agreement between the Authority and Goldman Sachs, the Authority is required to realign and repave Murray Street between West Street and North End Avenue. However, as a result of discussions between the Authority and the New York City Department of Transportation, it was determined that the entire roadway should be reconstructed in order to avoid expensive patch and repair work at a later time

Ms. Dawson reported that this project was advertised on February 22, 2012 in the New York State Contract Reporter and the Minority Commerce & Employment Weekly. In addition, she explained, potentially qualified M/WBE firms were identified by the Authority's Diversity Department and notified of the project. A total of eleven firms requested and received Request for Proposal (RFP) packets, none of which were M/WBE firms.

A pre-proposal meeting was held on March 1, 2012 and on March 15, 2012 proposals were received from MFM Contracting Corp, Paul J. Scariano, Inc., Primer Construction, and FGI Corporation, she continued. The proposals were evaluated by an internal selection committee, based upon the criteria of price, project related experience, diversity and methodology. The highest scoring proposer was MFM Contracting Corp., at a price of \$829,015, she said. After the evaluation process was complete, the Asset Management Department determined that MFM had submitted a completed and compliant proposal, had a full understanding of the project, is

qualified to perform the required work, and scored significantly higher than the rest of the proposers by the evaluation committee.

Mr. Branchini noted that the criteria used to evaluate this RFP and the one for insurance brokerage services were very different. He also inquired as to whether Management disclosed the criteria in the RFPs in advance of the evaluations. Ms. Horwitz stated that the criteria reflected the differences in the nature of the work. She also stated that the evaluation criteria are always disclosed in advance.

Ms. Gallo noted that the proposal prices varied greatly for this project. Mr. Branchini stated that assigning 60% of the evaluation score to price might be too much.

Mr. Mateo stated that the weight given to M/WBE plans should be a higher percentage of the evaluation. "I would like to see that stay uniform with whatever we are targeting," he said

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

AUTHORIZATION OF CONTRACT WITH MFM CONTRACTING CORP.

BE IT RESOLVED, that the President of the Authority or her designee(s) be, each of them hereby is, authorized and empowered to enter into a contract (the "Contract") with MFM Contracting Corp, Inc. for the Murray Street Realignment & Reconstruction in the amount of \$829,015.00; and be it further

RESOLVED, that the President of the Authority or her 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 of the Authority or 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, presented by Ms. Dawson, was a request to authorize the execution of a contract with Olympic Plumbing and Heating Service, Inc. ("Olympic") in the amount of \$999,000 for the Pier A Phase III Plumbing and Fire Protection Work.

Ms. Dawson reminded the Members that Stellmar Plumbing and Mechanical Corp. ("Stellmar") was the selected plumbing and fire protection contractor for the Pier A Core and Shell Work and performed as such through March of 2012. However, as a result of unforeseen changes within its business, Stellmar unexpectedly withdrew from the Core and Shell Work in

March of 2012. However, she continued, the bulk of the plumbing and fire protection services for the Core and Shell Work have yet to be performed.

The remaining Pier A plumbing and fire protection services were advertised on March 9, 2012 in the New York State Contract Reporter and on March 13, 2012 in the New York City Record, she reported. In addition, she said, potentially qualified M/WBE firms were identified by the Authority's Diversity Department and notified of the project. A total of five firms requested and received Request for Proposal (RFP) packets. Two of these firms were M/WBE firms

A mandatory pre-proposal meeting was held on March 15, 2012, and five firms attended, two of which were M/WBE firms, she stated. A total of four addenda were issued to all five firms and included required work that was not in the original RFP packet.

On April 12, 2012, proposals were received from Olympic and Crescent Contracting Corp. The Authority requested and received best and final offers from Olympic and Crescent Contracting Corp. The proposals were evaluated for qualifications and price by Authority staff, the Project's Construction Manager and the LiRo Group. "Based upon the review of the price, the qualifications and the experience of the responsive proposers, it is apparent that Olympic has submitted a responsive proposal with the lowest price and with the highest evaluated proposal, and is capable of understanding the scope of work, has met the qualifications required, and can complete the work in a timely fashion," she stated.

Mr. Mateo stated that the difference in the proposals' prices concern him. Ms. Dawson acknowledged that there is a large difference in price, but Management has thoroughly reviewed Olympic's proposal and is confident that Olympic's bid is complete and accurate. It is also more in line with the original Stellmar proposal, she noted. Mr. Capoccia recommended that Management meet with Crescent Contracting Corp. to confirm where the differences in the two proposals lie. Ms. Horwitz stated that Management will further check the proposals.

Mr. Thompson stated that the Members could make this contract's approval conditioned upon Management holding a meeting with Crescent Contracting Corp. Ms. Horwitz agreed that before executing a contract, she will inform the Members of the results of that meeting.

Mr. Branchini inquired generally as to whether a company's financials are examined during the RFP process. Ms. Horwitz said that Management always reviews proposers' financials. Mr. Branchini requested that all relevant information considered when evaluating a company be presented to the Members in the future.

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

AUTHORIZATION TO ENTER INTO A CONTRACT WITH OLYMPIC PLUMBING AND HEATING SERVICES, INC.

BE IT RESOLVED, that the President of the Authority or her designee(s) be, each of them hereby is, authorized and empowered to enter into a contract (the "Contract") with Olympic Plumbing and Heating Services, Inc. for the Pier A Plumbing and Fire Protection Work in the amount of \$999,000; and be it further

RESOLVED, that the President of the Authority or her 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 of the Authority or 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, introduced by Ms. Horwitz, was a request to authorize an amendment of the contract with Wilson, Elser, Moskowitz, Edelman & Dicker, LLP (“WEMED”) to increase the compensation level for tort defense litigation services by \$300,000.

Ms. Horwitz reminded the Members that WEMED has served as the Authority’s outside tort defense litigation counsel since July 2007.

Next, Ms. Taylor explained that WEMED represents the Authority in two major types of actions: one is personal injury, of which there are typically about 10 cases per year; and the other is the ongoing “9/11 litigation” regarding injuries sustained after September 11, 2001 by persons affected by the aftermath of the terrorist attack. There are also occasional personnel or employment matters, she noted. She continued by stating that the costs under this contract relating to WEMED’s defense of the Authority in the 9/11 litigation has been and will be increasing, as we are now in the discovery phase of this litigation.

In addition, she stated, Management is preparing a request for proposals for tort defense litigation services, which will be issued prior to the expiration of the WEMED contract.

In response to inquiry, Ms. Taylor noted that the Authority caps all legal fees at a maximum of \$400 per hour.

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

AUTHORIZATION OF AMENDMENT TO CONTRACT WITH WILSON, ELSER, MOSKOWITZ, EDELEMAN & DICKER, LLP

BE IT RESOLVED, that in accordance with the materials submitted at this meeting, the President of the Authority or his designee(s) be, each of them hereby is, authorized and empowered to execute an amendment (the “Amendment”) to the contract with Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, for legal services, increasing the amount payable thereunder by an amount not to exceed \$300,000; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, 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 conclusively evidenced by the execution and delivery of the Amendment; and be it further

RESOLVED, that the President 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 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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Next, upon a motion by Mr. Capoccia and seconded by Mr. Branchini, the Members voted unanimously to conduct an executive session pursuant to Section 105.1 of the Public Officers Law for the purpose of discussing matters regarding litigation, ground lease amendments and personnel. No actions were taken by formal vote at the executive session, and the meeting of the Members thereupon resumed after the conclusion of the executive session.

There being no further business, the meeting thereupon adjourned at 12:15 p.m.

Respectfully submitted,



Carl D. Jaffee
Corporate Secretary