

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members
One World Financial Center, 24th Floor
New York, NY 10281
May 11, 2010

Members Present

William C. Thompson, Jr., Chairman
Frank J. Branchini, Member
David B. Cornstein, Member
Robert J. Mueller, Member
Evelyn K. Rollins, Member
Andy K. Shenoy, Member (by telephone)

Authority Staff in Attendance: James E. Cavanaugh, President and Chief Executive Officer
Alexandra Altman, Executive Vice President and General Counsel
Gwen Anderson, Vice President, Strategic Planning
Daniel Baldwin, Senior Development Counsel
Lauren Brugess, Administrative Assistant
Megan Churnetski, Assistant General Counsel and Assistant
Corporate Secretary
Sidney Druckman, Director, Special Projects
Stephanie Gelb, Vice President, Planning & Design
Antigona Hajdaraj, Special Assistant to the President
Steven E. Harper, Vice President, Safety & Site Management
Robert Holden, Vice President, Human Resources &
Administration
Carl D. Jaffee, Senior Development Counsel and Corporate
Secretary
Susan Kaplan, Director, Sustainability
Wilson Kimball, Senior Vice President, Operations
Karl Koenig, Controller
Lisa Miller, Vice President, Internal Audit and Compliance
Stan Molinski, Director, Information Technology
Leticia Remauro, Vice President, Community Relations,
Affirmative Action and Press
Robert M. Serpico, Senior Vice President, Finance and
Treasurer/Chief Financial Officer
Antony Woo, Vice President, Construction

Others in Attendance: Tessa Huxley, Executive Director, Battery Park City Parks
Conservancy
Betty Chin, Director of Administration & Finance, Battery Park
City Parks Conservancy
Vince McGowan, Assistant Executive Director, Battery Park City
Parks Conservancy

Randolph Tancer, Human Resources Manager, Battery Park City
Parks Conservancy
Matthew Fenton, Battery Park City Broadsheet
Julie Shapiro, Downtown Express
Brian Krapf, George Arzt Communications, Inc.

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 10:00 a.m.

The first item on the agenda was the approval of the minutes of the March 29, 2010 meeting.

Upon a motion made by Mr. Mueller and seconded by Ms. Rollins, the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE MARCH 29, 2010 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 29, 2010 are hereby approved.

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The next item on the agenda, introduced by Mr. Branchini, was a request to authorize a three-year agreement with Marks Paneth & Shron ("MPS") in the amount of \$316,450 for the semi-annual review(s) and fiscal year-end audit(s) of the Authority's financial statements beginning with the six-month period ended April 30, 2010, through and including the completion of the audit for the fiscal year ending October 31, 2012 financial statements.

Mr. Branchini stated that the Audit Committee had met the previous week to review the process by which MPS was selected and recommended to the Members approval of the contract with MPS.

Next, Mr. Serpico explained that the Authority, in accordance with its procurement guidelines, issued a Request for Proposals for accounting services. Mr. Serpico stated that KPMG has done an outstanding job as the Authority's public accountant for the past seven years, fiscal years 2003 through 2009.

An advertisement was placed in the New York State Contract Reporter in November 2009, he said, requesting qualified firms to submit qualifications to receive requests for proposals. A management selection committee was formed to interview the responding firms and to evaluate the new proposals, Mr. Serpico continued. Five firms were interviewed and were evaluated on numerous criteria, he explained. After the interviews were completed, the Selection Committee ranked the firms based upon three predetermined weighted criteria: the total cost of services equaled 40%; firm resources/experience equaled 40%; and the M/WBE Program equaled 20%. MPS was ranked the highest, he stated.

Mr. Serpico stated that although MPS is a “second tier” firm, its proposal offers a substantial cost savings each year of approximately \$73,000. Last time the Authority went to bid for accounting services, MPS was a contender for the position, he said, , but as a fairly new firm at that point, Management felt that it lacked public sector experience. This time, he explained, the committee feels that their experience and personnel has advanced to the point where they can handle this account. The two proposed leads on the account have previously worked with the Authority, he noted. In response to inquiry by Ms. Rollins, Mr. Serpico stated that the Authority’s contracts always include a termination clause in case the Authority is not satisfied with the services provided.

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

AUTHORIZATION OF CONTRACT FOR ACCOUNTING SERVICES WITH MARKS PANETH & SHRON LLP

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 enter into a contract (“the Contract”) with Marks Paneth & Shron LLP to provide audit services for a three-year period beginning with a review of the Authority’s semi-annual financial statements for the six month period ended April 30, 2010 and ending with the fiscal year ending October 31, 2012, for the total amount of \$316,450; 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 on the agenda, introduced by Mr. Cavanaugh, was a request to authorize the expenditure of \$476,085 in premiums to be paid to Hartford Fire Insurance Company as part of the 2010 insurance program.

The 2010 Insurance Program shows a diverse list of Insurers/Underwriters, to which a total of under \$1 million in premiums will be paid, he explained; however, the only entity to be paid more than \$250,000, the amount above which Members’ approval is required, is Hartford Fire Insurance Company. Every three years, the Authority seeks bids for a broker for its insurance program, he reminded the Members. That broker is paid a flat fee to place the

Authority's insurance with various companies, while trying to get the lowest price. Fortunately, he continued, the Authority's insurance costs have gone down overall this year. In response to inquiry by Mr. Thompson, Mr. Serpico stated that the decrease in costs is mainly a function of the market.

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

AUTHORIZATION OF PAYMENT TO HARTFORD FIRE INSURANCE COMPANY

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 pay Hartford Insurance Company the amount of \$476,085 for annual insurance premiums as part of the 2010 Insurance Program; 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 on the agenda, introduced by Mr. Cavanaugh, was a request to authorize increasing the amounts of the legal retainer agreements with Brown Rudnick LLP and Crowell & Moring LLP for the respective amounts of \$500,000 and \$150,000.

Mr. Cavanaugh reminded the Members that these two firms represent the Authority in an arbitration proceeding with regard to Tower A of the World Financial Center. He explained that this arbitration is regarded as the second round of an earlier arbitration involving Towers B and D, in which the Authority, represented by the same counsel, won a substantial award.. The costs of the current arbitration are higher than was anticipated, however, and therefore Management has asked the law firms to adjust their fees so as to assume some of the risk involved in this matter..

Next, Ms. Altman explained that the dispute relates to the amount of a certain element of rent received under the Authority's leases for each of the World Financial Towers. The favorable outcome of the earlier arbitration was estimated to yield over \$20 million in additional rent to the Authority for Towers B and D, she stated. The initial arbitration cost the Authority approximately \$1.5 million in legal fees.

In response to inquiry by Mr. Cornstein, Mr. Serpico explained that the first round of arbitration centered on time or accounting recognition of rent received under space leases to the Authority's ground lease tenants, and the issue now at hand with regard to Tower A centers on the period of recognition of termination payments from space lease tenants.

Ms. Altman then explained that counsel predicted that the Tower A proceeding would be simpler and less time-consuming than the first proceeding and that more of the principles

established in the first arbitration would carry over. Unfortunately that is not the case, she stated, and reported in response to a question from Mr. Cornstein that Brookfield has determined not to settle this dispute but rather, to aggressively fight it. She explained that the base amount recoverable by the Authority would range between \$4.1 and \$6.75 million.

Both Brown Rudnick and Crowell & Moring have billed their time at the Authority's standard "blended rate" for all attorneys of \$400 per hour, Ms. Altman explained. The Authority and the two firms have agreed that legal time after March 31, 2010 will be billed at \$300 per hour, but that if the Authority recovers an arbitration award of \$3.5 million or more, the Authority will be billed at \$500 per hour for legal time after March 31, 2010.

Upon a motion made by Ms. Rollins and seconded by Mr. Branchini, the following resolutions were unanimously adopted:

AUTHORIZATION OF AMENDMENT TO CONTRACT WITH BROWN RUDNICK LLP

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 an amendment (the "Amendment") to the Authority's retainer agreement with Brown Rudnick LLP, increasing the amount payable thereunder by \$500,000; 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.

AUTHORIZATION OF AMENDMENT TO CONTRACT WITH CROWELL & MORING LLP

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 an amendment (the "Amendment") to the Authority's retainer agreement with Crowell & Moring LLP, increasing the amount payable thereunder by \$150,000; 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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The next item on the agenda, presented by Mr. Woo, was a request to authorize a contract with Cashin Associates, P.C., to perform the Owner's Representative and Inspection Services for Battery Park City Parks Conservancy construction matters for an amount not to exceed \$480,145.

The Battery Park City Parks Conservancy has multiple construction projects that will be in progress over the next twelve to twenty- four months, Mr. Woo explained. The Authority will be overseeing these projects on behalf of the Conservancy and has solicited proposals for an Owner's Representative to coordinate, manage and provide inspection services for these projects, he said.

The project was advertised on March 11, 2010 in the New York State Contract Reporter and the Minority Commerce & Employment Weekly and names were solicited from the Affirmative Action Department, Mr. Woo continued. Pre-award meetings were held on April 13, 2010 with the three lowest responsive proposers, Mr. Woo stated. At the pre-award meeting it became clear that Cashin Associates and McKissack both submitted proposals for one year's time only, not for the two year term stated in the RFP. Both Cashin and McKissack were asked to review their proposal and submit a new proposal for the full two year period, he said.

As a result of the re-submissions, it was confirmed that Cashin was the low proposer, Mr. Woo said. Cashin Associates has worked for the Authority in the past, has a complete understanding of the project and understands the processes of the Authority, Mr. Woo declared. Also, he noted, the personnel that Cashin will assign to this project has worked satisfactorily with both the Authority and the Conservancy in the past.

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

AUTHORIZATION OF CONTRACT WITH CASHIN ASSOCIATES, P.C. FOR OWNERS REPRESENTATIVE AND INSPECTION SERVICES FOR CONSERVANCY CONSTRUCTION PROJECTS

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 a contract (the "Contract") with Cashin Associates, P.C., to perform owner's representative and inspection services for Battery Park City construction projects for an amount not to exceed \$480,145; 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 evidence 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 on the agenda, presented by Mr. Cavanaugh, was a request to authorize an amendment to the contract with Unisys Electrical Inc., through change orders adding additional work to the contract and increasing the total contract amount to \$4,249,164.60.

In the Visionnaire, the new residential development on Site 3, a 42,000 square foot space is being created for the Battery Park City Parks Conservancy's new headquarters. Mr. Cavanaugh reminded the Members that the Conservancy occupies space at the Cove Club Condominium, with the rent at about \$600,000 or more per year, and it previously occupied outdoor space where a new school is under construction. Years ago, Management decided to consolidate both of those spaces into one indoor administrative and maintenance headquarters, which is what is now under construction and should be complete in about a month and a half.

The project was budgeted at \$25 million dollars and it will be completed at a cost of approximately \$26 million. Given the complexity of this job as a "Wicks Law" project, to be about 4% over budget is a laudable achievement, Mr. Cavanaugh stated.

Before the Members today, he continued, is a second change order on the electrical portion of the project, mainly relating to work that was not originally anticipated. Management anticipates that this will be the last change order that will come before the Members for electrical work on this project.

The original agreement with Unisys Electric, Inc. was for \$3,120,000. The Board has subsequently authorized additional work, increasing the contract amount to \$3,972,720.52. Internal authorizations not requiring Members' approval brought the contract total to \$4,126,239.98. Those previous internal authorizations and this proposed change order will bring the contract total to \$4,249,164.60, he stated, which is an amount that requires Members' approval.

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

AUTHORIZATION TO AMEND CONTRACT WITH UNISYS ELECTRIC, INC.

BE IT RESOLVED, that the President of the Authority or his designee(s) be, each of them hereby is, authorized and empowered to execute an amendment to the contract with Unisys Electric Inc. for the Site 3 Parks Conservancy Headquarters project (the "Amendment"), increasing the work to be performed thereunder and increasing the total contract amount to \$4,249,164.61; and be it further

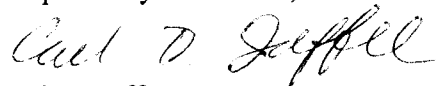
RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence 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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There being no further business, the meeting thereupon adjourned at 10:37 a.m.

Respectfully submitted,



Carl D. Jaffee
Corporate Secretary