



**MEETING OF THE
BOARD OF DIRECTORS
January 27, 2022 at 4:00 pm
Call In Number: 6465588656
Meeting ID: 823 9083 2358
Passcode: 116302**

One Tap Mobile: +16465588656,,82390832358# US (New York)

AGENDA

I. CONSENT AGENDA

- A. Approval of Minutes and Ratification of the Actions Taken at the December 2, 2021 Meeting of the Hudson River Park Trust Board of Directors
- B. Authorization to Extend Term of Contract with Highroad Press, LLC for Print Production and Mailing Services
- C. Authorization to Extend Term of Contract with Alternate Power Solutions for Pier 40 Emergency Generator Maintenance and Repair Services
- D. Authorization to Extend Term of Contract with County Fire, Inc. for Fire Alarm System Inspection, Maintenance and Repair Services
- E. Authorization to Extend Term of Contract with Wickes Arborists for Tree Maintenance Services
- F. Authorization to Extend Term of Contract with Stantec Consulting Services Inc. for Owner's Representative for Capital Projects & Strategic Planning
- G. Authorization to Amend Contract with Peter J. Catanzaro, Inc. for On-Call Electrical Services for Pier 40 Sports Perimeter Lighting Replacement
- H. Authorization to Amend Contract with New York State Office of General Services for Pier55 Code Compliance Review Services
- I. Authorization to Approve Amendments to Audit Committee, Finance Committee and Governance Committee Charters

II. CORPORATE ACTIONS

- J. Authorization to Contract with Deborah Bradley Construction & Management Services, Inc. for Pier 84 Dog Run Restoration
- K. Authorization to Contract with Bureau Veritas North America, Inc. for Parkwide Materials Testing Services
- L. Adoption of 2022 Procurement Guidelines
- M. Approval of Monuments Policy

III. PRESIDENT'S REPORT

- Update: Financials and FY22-23 Preliminary Budget
- Design/Construction Project Updates
- River Project and Public Programs
- Chelsea Piers Proposed Lease
- 2022 MWBE and SDVOB Annual Goal Plans

IV. ADVISORY COUNCIL and HUDSON RIVER PARK FRIENDS REPORTS

V. EXECUTIVE SESSION to address Real Estate Negotiations

VI. ADJOURN

**HUDSON RIVER PARK TRUST - Approval of Minutes and Ratification of the Actions
Taken at the December 2, 2021 Meeting of the Hudson River Park Trust Board of Directors**

RESOLVED, that the Minutes of the Meeting of the Hudson River Park Trust Board of Directors held on December 2, 2021 are hereby approved by the Board of Directors, and all actions taken by the Directors present at such meeting, as set forth in the Minutes, are hereby in all respects, approved and ratified as actions of the Hudson River Park Trust, and a copy of such approved Minutes are hereby ordered filed with the records of the Hudson River Park Trust.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Term of Contract with HighRoad Press, LLC for Print Production and Mailing Services

I. Contract Summary

Contractor: HighRoad Press, LLC
Proposed Work: Print Production and Mailing Services
Contract Number: G5066
Amendment: Extension of Term

II. Background

At its March 28, 2019 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract for a three-year term with HighRoad Press, LLC (“HighRoad”) for Print Production and Mailing Services for a Total Board Authorization Amount of up to \$166,134. Pursuant to the contract, HighRoad prints map, promotional brochures and educational materials about Hudson River Park and its events, and also distributes some materials using the extensive mailing lists that have been compiled by the Trust and Hudson River Park Friends over the years.

Because many in-person programs were cancelled in 2020 and 2021 due to the COVID-19 pandemic, the Trust did not utilize HighRoad’s services during this period to the extent that had been anticipated, and a substantial amount of money remains unused under the contract. Accordingly, the Trust seeks authorization to extend the term of HighRoad’s contract by 24 months so that HighRoad can provide print production and mailing services in 2022 and 2023. No additional funding is required for this amendment; funding for print services would continue to be approved through the Trust’s annual operating budgets. Highroad Press, LLC is a New York State certified MBE.

III. Requested Action

The Trust requests Board authorization to extend the term of contract with HighRoad Press, LLC for Print Production and Mailing Services by an additional 24 months.

Attachment
Resolution

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Term of Contract with Alternate Power Solutions, Inc. for Pier 40 Emergency Generator Maintenance and Repair Services

I. Contract Summary

Contractor: Alternate Power Solutions, Inc.
Proposed Work: Pier 40 Emergency Generator Maintenance and Repair Services
Contract Number: M5063
Amendment: Extension of Term

II. Background

At its March 28, 2019 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract for a three-year term with Alternate Power Solutions, Inc. (“APS”) for Pier 40 Emergency Generator Maintenance and Repair Services for a Total Board Authorization Amount of up to \$42,000. APS has served as the Trust’s emergency generator services contractor since 2015 and has provided excellent services throughout this period.

The COVID-19 pandemic reduced the need for APS’s services over the past two years, and additional funds remain available in the current contract. Accordingly, the Trust staff seeks to extend the current contract term by 12 months. No additional funding is required for this amendment; funding would be available through the Trust’s annual operating budget. Alternate Power Solutions, Inc. is a New York State certified MBE.

III. Requested Action

The Trust requests Board authorization to extend the term of contract with Alternate Power Solutions, Inc. for Pier 40 Emergency Generator Maintenance and Repair Services by an additional 12 months.

Attachment
Resolution

HUDSON RIVER PARK TRUST - Authorization to Extend the Term of Contract with Alternate Power Solutions, Inc. for Pier 40 Emergency Generator Maintenance and Repair Services

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to extend the term of contract with Alternate Power Solutions, Inc. for Pier 40 Emergency Generator Maintenance and Repair Services by 12 months; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Term of Contract with County Fire, Inc. for Parkwide
Monitoring, Inspection, Repair and Maintenance of Fire Alarm Systems

I. Contract Summary

Contractor: County Fire, Inc.
Proposed Work: Monitoring, Inspection, Repair and Maintenance of Fire Alarm Systems
Contract Number: M5030
Amendment: Extension of Term

II. Background

At its January 31, 2019 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract for a three-year term with County Fire, Inc. (“County Fire”) for Parkwide Monitoring, Inspection, Repair and Maintenance of Fire Alarm Systems for a Total Board Authorization Amount of up to \$138,600. County Fire’s services include (1) monitoring, reporting, maintenance, inspection and testing of fire alarm systems, (2) providing repair services as identified by the Trust, and (3) designing and installing a code compliant system to activate the fire notification devices in the Administration area at Pier 40.

Trust staff seeks to extend the current contract term by 12 months for County Fire to complete certain ongoing work that was delayed due to supply chain issues stemming from the COVID-19 pandemic as well as other items that have been identified for repair or modification by the Trust. No additional funding is required for this amendment; funding would continue to be available through the Trust’s annual operating budget. County Fire is a New York State certified MBE.

III. Requested Action

The Trust requests Board authorization to extend the term of contract with County Fire, Inc. for Parkwide Monitoring, Inspection, Repair and Maintenance of Fire Alarm Systems by an additional 12 months.

Attachment
Resolution

HUDSON RIVER PARK TRUST - Authorization to Extend the Term of Contract with County Fire, Inc. for Parkwide Monitoring, Inspection, Repair and Maintenance of Fire Alarm Systems

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to extend the term of contract with County Fire, Inc. for Parkwide Monitoring, Inspection, Repair and Maintenance of Fire Alarm Systems by 12 months; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Amend the Contract with The Davey Tree Expert Company for Tree Maintenance Services

I. Contract Summary

Contractor: The Davey Tree Expert Company
Proposed Work: Tree Maintenance Services
Contract Number: M5032
Amendment: Extension of Term

II. Background

At its March 28, 2019 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract for a three-year term with Rockland Tree Expert Co., Inc. d/b/a Wickes Arborists for Parkwide Tree Maintenance Services for a Total Board Authorization Amount of up to \$75,000. The Trust requires an on-call, park-wide tree maintenance service company to provide scheduled tree maintenance services such as pruning and to respond to any emergency tree safety issues that may be identified.

Last month, the Trust received notice that Rockland Tree Expert Co., Inc. had been acquired by a new legal entity, The Davey Tree Expert Company (“Davey Tree”). Wickes Arborists will continue to provide the tree maintenance services as a Davey Tree company, and its principal, John Wickes, will continue to serve as the Trust’s contact under the contract. Therefore, the Trust is assigning the contract to Davey Tree and will amend the contract to address the change in the contractor’s name. In addition, due to the COVID-19 pandemic, certain projects that had been planned in 2020 and 2021 were postponed, resulting in most of the contract funding remaining available. Accordingly, staff seeks Board approval to extend the contract term by two years, through March 31, 2024, so that the projects that had to be rescheduled can be completed.

No additional funding is required for this amendment to the contract. Funding for the services would continue to be approved through the Trust’s annual operating budgets.

III. Requested Action

The Trust requests Board authorization to amend the contract with The Davey Tree Expert Company for Tree Maintenance Services including extending the term by an additional two years.

HUDSON RIVER PARK TRUST - Authorization to Amend the Contract with The Davey Tree Expert Company for Tree Maintenance Services

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to amend the contract formerly with Rockland Tree Expert Co., Inc. d/b/a Wickes Arborists to the current contractor name of The Davey Tree Expert Company for Tree Maintenance Services and to extend the term of contract by an additional two years; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Term of Contract with Stantec Consulting Services Inc.
for Owner's Representative for Capital Projects & Strategic Planning

I. Contract Summary

Contractor: Stantec Consulting Services Inc.
Proposed Work: Owner's Representative for Capital Projects & Strategic Planning
Contract Number: A4989
Amendment: Extension of Term

II. Background

At its December 6, 2018 meeting, the Board of Directors ("Board") authorized the Hudson River Park Trust ("Trust") to enter into a contract for a three-year term with Stantec Consulting Services Inc. ("Stantec") for Owner's Representative for Capital Projects & Strategic Planning services for a Total Board Authorization Amount of up to \$1,500,000. Pursuant to the contract, Stantec and its approved subconsultants have provided design, consulting and project management services for a variety of projects and administrative issues, including the Pier 54 Arch restoration, installation of parkwide bottle fillers, review of tenant drawings for Pier 57, and project management services for building permit closeouts.

The Trust now seeks authorization to extend the term of Stantec's contract by one year so that Stantec can complete certain on-going building permit closeout processes currently underway with the Department of Small Business Services. No additional funding is required for this amendment to the contract. Funding remains available from the Trust's capital maintenance budget for completing the closeout processes.

III. Requested Action

The Trust requests Board authorization to extend the term of contract with Stantec Consulting Services Inc. for Owner's Representative for Capital Projects & Strategic Planning by one year.

Attachment
Resolution

HUDSON RIVER PARK TRUST - Authorization to Extend the Term of Contract with Stantec Consulting Services Inc. for Owner's Representative for Capital Projects & Strategic Planning

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to extend the term of contract with Stantec Consulting Services Inc. for Owner's Representative for Capital Projects & Strategic Planning by one year; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Amend the Contract with Peter J. Catanzaro, Inc. for On-Call
Electrical Services & Pier 40 Sports Perimeter Lighting Replacement

I. Contract Summary

Contractor: Peter J. Catanzaro, Inc.
Proposed Work: On-Call Electrical Services & Pier 40 Sports Perimeter Lighting Replacement
Contract Number: M5181
Approval Amount: Additional \$65,000 for a Total Board Authorization Amount of \$410,000

II. Background

At its January 23, 2020 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a three-year contract with Peter J. Catanzaro, Inc. (“Catanzaro”) for On-Call Electrical Services & Pier 40 Sports Field Perimeter Lighting Replacement for a Total Board Authorization Amount of up to \$345,000. Pursuant to the contract, Catanzaro has completed the replacement of the Pier 40 sports field perimeter lighting and numerous on-call electrical projects, including work at Piers 25, 66, 76 and in Clinton Cove. Catanzaro has been responsive to Trust requests and has completed quality work in a timely manner. Since there is one year remaining in the contract, the Trust now requests an additional \$65,000 to fund additional on-call electrical work for the last year of the contract term.

III. Funding

Funding for this amendment is available through the Trust’s annual operating budget.

IV. Requested Action

The Trust requests authorization by the Board of Directors to amend the contract with Peter J. Catanzaro, Inc. for On-Call Electrical Services & Pier 40 Sports Perimeter Lighting Replacement for an additional \$65,000 for a Total Board Authorization Amount of up to \$410,000.

Attachment:
Resolution

HUDSON RIVER PARK TRUST - Authorization to Amend Contract with Peter J. Catanzaro, Inc. for On-Call Electrical Services & Pier 40 Sports Field Perimeter Lighting Replacement for a Total Board Authorization Amount of up to \$410,000

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to amend the contract with Peter J. Catanzaro, Inc. for On-Call Electrical Services & Pier 40 Sports Field Perimeter Lighting Replacement for an additional \$65,000, for a Total Board Authorization Amount of up to \$410,000; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors
From: Noreen Doyle
Re: Authorization to Amend the Contract with the New York State Office of General Services for Pier55 Code Compliance Review Services

I. Contract Summary

Contractor: New York State Office of General Services (“OGS”)
Proposed Work: Pier55 Code Compliance Review Services
Contract Number: A4682
Authorization Amount: Amendment Amount of up to \$50,000, for a Total Board Authorization Amount of up to \$647,050

II. Background

Following approval by the Board of Directors (“Board”) at its September 29, 2015 meeting, the Hudson River Park Trust (“Trust”) entered into a contract with the New York State Office of General Services (“OGS”) to review the construction documents for the Pier 55 project and to confirm compliance with the New York State Building Code in an amount up to \$347,050. OGS’s Design & Construction Group provides architectural, engineering, code review, contracting and construction management services to over 50 New York State agencies and public authorities. OGS’s scope of work for the Pier 55 project encompassed a comprehensive review of all construction documents to confirm New York State Building Code compliance, technical assistance for design and engineering professionals for interpretations of New York State Building Code, and periodic construction inspections throughout the work period.

The Board authorized an amendment to the contract due to project delays for an additional \$150,000 on November 30, 2017. The Board authorized a second increase of \$100,000 on January 23, 2020 to cover increased costs associated with design modifications requiring additional OGS review, resulting in a Total Board Authorization Amount of up to \$597,050. The Board also authorized an extension of the contract term until such time as OGS issues a final Certificate of Code Compliance.

Prior to the opening of Pier 55 last spring, OGS needed to conduct additional review of drawings and site visits in order to issue the temporary Certificate of Code Compliance. The cost of these additional services exceeds the previous Board authorization amount. As a result, an additional \$50,000 is needed to pay for services rendered and for any further review required by OGS to complete its review for a final Certificate of Code Compliance.

III. Funding

Funding for this amendment is available from the Trust’s reserve account.

IV. Requested Action

The Trust requests Board authorization to amend the contract with OGS for the Pier55 Code Compliance Review Services in an amount of up to \$50,000, for a Total Board Authorization Amount of up to \$647,050.

Attachment:
Resolution

HUDSON RIVER PARK TRUST - Authorization to Amend the Contract with the New York State Office of General Services for the Pier55 Code Compliance Review Services for a Total Board Authorization Amount of up to \$647,050

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to amend the contract with the New York State Office of General Services for the Pier55 Code Compliance Review Services in an amount of up to \$50,000, for a Total Board Authorization Amount of up to \$647,050; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Approve Amendments to Audit Committee, Finance & Investment Committee and Governance Committee Charters

I. Background

Pursuant to New York State Authorities Budget Office (“ABO”) guidance requirements, the Hudson River Park Trust (“Trust”) Board of Directors (“Board”) has previously adopted charters for its Audit Committee, Finance & Investment Committee and Governance Committee. Each charter is posted online on the Trust’s website, and clearly states the purpose of each committee — broadly, to ensure that the Trust is fulfilling its obligations to operate in accordance with prudent and responsible corporate governance standards and principles.

Staff recommends amending the Audit Committee Charter to eliminate the cap of six members and to require at least five members to be consistent with the charters for the Finance and Governance Committees. Staff also proposes to revise the Audit Committee Charter to be more consistent with current ABO guidance by: (i) requiring that referrals of any suspected fraudulent, corruption or criminal activity be provided to an appropriate governmental body for further investigation; (ii) ensuring that Committee members have appropriate training and the ability to obtain information to enhance their understandings of the role of internal audits; and (iii) requiring that Committee members review the Charter annually.

In addition, staff recommends amending each of the Audit, Finance & Investment, and Governance Committee charters to have gender neutral language and to clarify that meetings are to be held in accordance with the Open Meetings Law.

A copy of the three charters dated January 2022 has been shared with the Board.

II. Requested Action

The Trust requests Board authorization to approve amendments to the Audit Committee, Finance & Investment Committee and Governance Committee Charters.

Attachments:

Resolution
Audit, Finance and Governance Committee’s Charters dated January 2022

HUDSON RIVER PARK TRUST - Authorization to Approve Amendments to Audit Committee, Finance & Investment Committee and Governance Committee Charters

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to approve amendments to the Audit Committee, Finance & Investment Committee and Governance Committee Charters; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Enter into a Contract with Deborah Bradley Construction & Management Services, Inc. for Pier 84 Dog Run Restoration

I. Contract Summary

Contractor: Deborah Bradley Construction & Management Services, Inc.
Proposed Work: Pier 84 Dog Run Restoration
Contract Number: C5530
Approval Amount: Base Contract Amount of \$623,682 plus 10% contingency for a Total Board Authorization Amount of up to \$686,050

II. Background

The dog run at Pier 84 has been a popular amenity since its opening in October 2006. The asphalt paving surface has weathered over the years and is currently in need of replacement. The restoration work involves replacing the paving surface, making modifications to the existing fencing, and installing a permanent canine water feature and additional benches. The new pavement will feature a colorful pattern, and large pieces of stone will be added for dogs to play on. Collectively, the improvements will ensure that the Pier 84 dog run remains a fun, engaging place for dogs and their owners. Designs have been previously shared with Community Board 4's Waterfront, Parks & Environment Committee. The Hudson River Park Trust ("Trust") now seeks a construction contractor to perform the Pier 84 dog run restoration.

III. Procurement

In accordance with the Trust's Procurement Guidelines, an advertisement for a Request for Proposals ("RFP") for Pier 84 Dog Run Restoration was published in the New York State Contract Reporter, and the RFP was posted on the Trust's website between the period of November 15, 2021 through December 13, 2021. The Trust received three proposals on the submission deadline.

A selection committee comprised of Trust staff reviewed the submissions and evaluated each according to the identified selection criteria in the RFP. After evaluating proposals, the selection committee interviewed Deborah Bradley Construction & Management Services, Inc. ("DBC").

Based on the submitted proposals and follow-up interview, Trust staff has identified DBC as the highest ranked proposer, which also offered the lowest fee proposal for the scope of work at \$623,682. DBC is a well-established company that has successfully completed several projects for the Trust, including the Leroy Street Dog Run and the Chelsea Waterside Playground Reconstruction. DBC has

also performed extensive work throughout New York City, particularly for the New York City Parks Department and the School Construction Authority.

The Trust will complete a responsibility determination and evaluation of financial capacity prior to entering into the contract. DBC is a New York-Certified MWBE and the contract will also include the 6% SDVOB subcontracting goal. The contract will have a one-year term.

IV. Funding

Funding for this contract has been identified through the capital maintenance portion of the Trust's annual operating budget, including portions from contributions from the City Council and the Manhattan Borough President.

V. Requested Action

The Trust requests authorization by the Board of Directors to enter into a contract with Deborah Bradley Construction & Management Services, Inc. for Pier 84 Dog Run Restoration in the amount of \$623,682 plus a 10% contingency for a Total Board Authorization Amount of up to \$686,050.

Attachment:
Resolution

HUDSON RIVER PARK TRUST - Authorization to Contract with Deborah Bradley Construction & Management Services, Inc. for Pier 84 Dog Run Restoration for a Total Board Authorization Amount of up to \$686,050

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to contract with Deborah Bradley Construction & Management Services, Inc. for Pier 84 Dog Run Restoration in the amount of \$623,682 plus a 10% contingency for a Total Board Authorization Amount of up to \$686,050; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Authorization to Enter into a Contract with Bureau Veritas North America, Inc. for Parkwide Inspection and Testing Services

I. Contract Summary

Contractor: Bureau Veritas North America, Inc.
Proposed Work: Parkwide Inspection and Testing Services
Contract Number: A5260
Approval Amount: \$1,000,000

II. Background

Parkwide Inspection and Testing Services are needed to support many on-going construction activities in Hudson River Park, including quality control inspections and completing technical paperwork for the New York City Department of Buildings (“NYCDOB”). The Trust commonly inspects concrete, steel and earthwork. Field inspectors from our outside contractors ensure that work items are being completed as designed and that the materials meet the specified technical requirements. The Hudson River Park Trust (“Trust”) needs a contractor to complete inspection and testing services for Gansevoort Peninsula, Pier 97, Chelsea Waterside Park, and other construction activities in the Park.

III. Procurement

In accordance with the Trust’s Procurement Guidelines, an advertisement for a Request for Proposals (“RFP”) for Parkwide Inspection and Testing Services was published in the New York State Contract Reporter, and the RFP was posted on the Trust’s website for the period of December 15, 2021 through January 11, 2022. The Trust received eight proposals on the submission deadline.

A selection committee comprised of Trust staff reviewed the submissions and evaluated each according to the identified selection criteria in the RFP including: the proposer’s experience providing similar services; the contractor’s reputation and references; favorable history, if any, in contracting or doing business with New York State and City entities; the proposed list of subcontractors; the experience of key personnel; the contractor’s diversity practices and commitment to encouraging MWBE participation; and the fee and cost schedule. After evaluating the proposals, the selection committee interviewed the top two ranked firms.

Based on the submitted proposals and interviews, Trust staff has identified Bureau Veritas North America, Inc. (“Bureau Veritas”) as the highest ranked proposer, which firm also offered the lowest fees for the most commonly used tests.

Bureau Veritas is a well-established, publicly-traded company that has successfully completed inspection contracts for such entities as the New York City Economic Development Corporation and Department of Design & Construction, the New York State Thruway Authority, the Port Authority and numerous private clients.

The Trust will complete a responsibility determination and evaluation of financial capacity prior to entering into the contract. Bureau Veritas has committed to meeting the 30% MWBE subcontracting goal. The Trust issued a waiver for the 6% SDVOB subcontracting goal due to the lack of subcontracting opportunities for the services.

IV. Funding

Funding for construction inspections would be part of individual project budgets with funding made available by (1) New York State or City, (2) restricted funds from the sale of air rights, (3) private sources, or (4) reserve funds of the Trust as included in adopted Trust budgets.

V. Requested Action

The Trust requests authorization by the Board of Directors to enter into a contract with Bureau Veritas North America, Inc. for Parkwide Inspection and Testing Services in the amount of \$1,000,000 for a three-year contract term.

Attachment:

Resolution

HUDSON RIVER PARK TRUST - Authorization to Contract with Bureau Veritas North America, Inc. for Parkwide Inspection and Testing Services for a Total Board Authorization Amount of up to \$1,000,000

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby authorizes the Hudson River Park Trust to contract with Bureau Veritas North America, Inc. for Parkwide Inspections and Testing Services in the amount of \$1,000,000 for a three-year contract term; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the forgoing resolution.

For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Approval of the Hudson River Park Trust 2022 Procurement Guidelines

The Procurement Guidelines of the Hudson River Park Trust (the “Trust”) detail the operative policies and instructions regarding the use, awarding, monitoring and reporting of procurement contracts as defined under Section 2879 of Article 9 of the Public Authorities Law of the State of New York (“PAL”).

Trust staff reviews the Procurement Guidelines (“Guidelines”) periodically to ensure they accurately reflect current New York State policies and requirements. Neither the State of New York nor the City of New York has implemented new procurement requirements since the last update to the Trust’s Guidelines in January, 2021. However, the Trust proposes to update the 2022 Guidelines to clarify certain procedures regarding failed Requests for Proposals (“RFPs”) and the opening of electronically submitted proposals. Specifically, the proposed revised Guidelines clarify that in the event of a failed competitive solicitation, the Trust may designate a procurement as Single Source or Sole Source, provided that it documents the determination in accordance with the criteria provided in the Guidelines, and that Single or Sole Source procurements with a value of \$50,000 or more must be noticed in the State Contract Reporter. Additionally, the proposed Guidelines provide that once the document containing an electronically submitted proposal has been opened and viewed by a member of the selection committee, it is deemed opened by the Trust.

The attached proposed 2022 Procurement Guidelines have been tracked to show the proposed changes against the current 2021 Procurement Guidelines.

Requested Action

The Trust requests that the Board of Directors approve the Hudson River Park Trust 2022 Procurement Guidelines.

Attachment:

Resolution
Proposed 2022 Procurement Guidelines

HUDSON RIVER PARK TRUST - Approval of the Hudson River Park Trust 2022 Procurement Guidelines

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby approves the Hudson River Park Trust 2022 Procurement Guidelines; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.



Hudson River Park Trust

Procurement Guidelines

January 2022

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I. OVERVIEW

A. OVERVIEW AND REQUIREMENTS

The Hudson River Park Trust (the "Trust") is a New York State public benefit corporation created for the purpose of designing, constructing, operating and maintaining an approximately 4 mile waterfront park along the Hudson River in Manhattan known as the Hudson River Park. The Trust is required to adopt procurement guidelines pursuant to the Hudson River Park Act and the New York State Public Authorities Law. The procurement guidelines (the "Guidelines") contained herein are applicable to the use, awarding, monitoring and reporting of procurement contracts of the Trust and are subject to the annual review and approval of the Trust's Board of Directors ("Board").

The Guidelines are modeled upon the New York State Procurement Guidelines published by the New York State Procurement Council (the "SPC Guidelines"). The SPC Guidelines apply to all State agencies and thus provide the Trust (which is not a State agency as that term is defined in the SPC Guidelines) procurement guidance consistent with State practice.

B. GENERAL PROCUREMENT PRINCIPLES

The Trust's procurement process is designed to:

- Ensure fair and open competition;
- Guard against favoritism, improvidence, extravagance, fraud and corruption;
- Ensure that the results meet Trust's needs;
- Provide for checks and balances to regulate and oversee the Trust's procurement activities; and
- Protect the interests of the Trust, the State and its taxpayers.

Competition in the procurement process serves both the Trust and potential offerers by ensuring that the procurement process produces an optimal solution at a reasonable price, allowing qualified vendors an opportunity to obtain the Trust's business, and helping the Trust meet State goals such as increasing Minority and Women-Owned Businesses (M/WBE) participation in State contracts. The Trust awards procurement contracts on a competitive basis to the maximum extent practicable. Such awards are generally made after notice is published in the New York State Contract Reporter where the amount of the contract is greater than \$50,000.

C. REASONS FOR PROCUREMENT CONTRACTS

Procurement contracts may be required for products or services associated with park planning, design, construction and operation, including with respect to administrative functions. The reasons for the use of procurement contracts include:

- i. Requirements of special expertise or unusual qualifications;
- ii. Nature, magnitude or complexity of services or products required;
- iii. Lack of sufficient in-house resources, support staff, specialized facilities or equipment;
- iv. Lower cost; and
- v. Short-term or infrequent need for the services or products.

II. ORDER OF PURCHASING PRIORITY

A. GENERAL

The Trust generally follows the following order of precedence for procurement priority:

- First:** Preferred source offerings;
- Second:** OGS centralized contracts; and
- Third:** An “open market” procurement that can either be discretionary or results from a formal, competitive procurement process based upon the total value of the procurement or Piggybacking (agency established contracts) if appropriate under the evaluation factors detailed in New York State Finance Law §163(10)(e).

B. PREFERRED SOURCES

Goods and services may be available, without the need for competitive procurement from New York State Preferred Sources. If a Preferred Source has goods or services available in the form, function and utility required by the Trust, at a price not more than 15% above the prevailing market rate, the goods or services should be obtained through the Preferred Source in the following prioritized order: NYS Department of Correctional Services Correctional Industries Program (CORCRAFT); approved charitable non-profit agencies for the blind; and approved charitable non-profit agencies for the severely disabled, qualified programs for the mentally ill, and qualified veterans workshops. The Office of General Services' Preferred Sources Guide is located at: <http://www.ogs.state.ny.us/purchase/searchbrowse.asp>.

The Trust shall first notify the Preferred Sources of the goods or services required by the Trust. If, within ten (10) days thereafter, a Preferred Source notifies the Trust that it is able to provide such goods or services, then the Trust must make such purchase from the Preferred Source. If the Preferred Source does not respond to the Trust's inquiry within ten (10) days of the notification, then the Trust may purchase from centralized contracts if the good or service is available, or conduct a competitive procurement. If the Preferred Source submits a proposal during the competitive procurement, the Trust shall award the contract to the respondent proposing the best value to the Trust, irrespective of the Preferred Source's status.

C. CENTRALIZED CONTRACTS

Centralized contracting refers to contracts created through either the State or Federal government. Two forms of centralized contracting are available to the Trust without the need for competitive procurement: (1) New York State's Office of General Services (OGS) Central Contracts and (2) U.S. General Services Administration (GSA) Cooperative Purchasing Program for Information Technology Products (Schedule 70).

The Trust, as a state public benefit corporation, is not required to utilize centralized contracts. Nevertheless, users of the centralized contracting system generally benefit from the buying power of the State or Federal Government as a single customer and through the reduction of administrative costs, taking advantage of bulk discounts and marketplace economies. Contracts are established both on a statewide and on a regional basis, and may be made with multiple contractors to allow purchasing flexibility while optimally meeting user needs. As a matter of best practice, the Trust shall investigate whether a centralized contract is available for the particular commodity/service sought.

- 1. OGS Centralized Contracts.** New York State's OGS Procurement Services Group establishes centralized contracts for a wide range of commodities and services that may be required by the Trust. The index of OGS contracts is available at <http://www.ogs.state.ny.us/purchase/searchbrowse.asp>.
- 2. Federal Cooperative Purchasing – Information Technology, Schedule 70.** Section 211 of the E-Government Act of 2002 amended the Federal Property and Administrative Services Act to allow for "Cooperative Purchasing." Cooperative Purchasing allows for the Administrator of the General Services to provide states and localities access to certain items offered through GSA's Federal Supply Schedule 70, Information Technology (IT), and Consolidated (formerly Corporate Contracts)

Schedule contracts, containing IT Special Item Numbers (SINs). The information technology available to state and local governments includes automated data processing equipment, software, supplies, support equipment, and services.

Federal Cooperative Purchasing is voluntary for the Trust and the Schedule contractors. Schedule contractors may accept or reject orders placed by the Trust or any other governmental purchaser. See the GSA's website at www.gsa.gov/cooperativepurchasing for more information.

D. PIGGYBACKING

The Trust may use a contract let by any department, agency or instrumentality of the United States government and/or any department, agency, office political subdivision or instrumentality of any state or states pursuant to New York State Finance Law §163(10)(e). This type of procurement option is called "piggybacking". The Trust must evaluate multiple factors in order to determine the appropriateness of piggybacking, including: (1) determination of the need for the product or services; (2) consideration of the procurement method by which the original contract was awarded; (3) an analysis of alternative procurement sources including why a competitive procurement or use of a centralized contract is not in the Trust's best interest; and (4) the reasonableness of the cost. The Trust's evaluation of these factors and rationale for using piggybacking should be set forth in the procurement record. The Trust may execute an independent contract based upon the equivalency of product or services being procured and pricing contained in the original contract.

E. DISCRETIONARY Purchasing Guidelines

- 1. Purchases Valued at Less Than \$50,000.** Purchases up to \$50,000 for commodities, services and technology not available from Preferred Sources or OGS Centralized Contracts are not subject to formal competitive procurement such as a publically advertised RFP or bid. For these purchases the Trust shall justify the vendor selection and the reasonableness of the price by such means as (a) informal quotes; (b) cost to other governmental entities; (c) historical cost or price comparisons; or (d) cost to OGS or less, where applicable. The Trust shall, wherever feasible, obtain three (3) price quotes for the services or commodities sought to ensure that the cost is reasonable. The Trust shall document the price research and selection determination in the procurement record for such purchase.

In conducting such process, the Trust shall consider the anticipated annual expenditure for particular commodities, services or technology. Annual expenditures

anticipated of \$50,000 or greater, absent documented extenuating circumstances, should be aggregated and procured through one of the formalized competitive procurement methods described in the Guidelines.

Discretionary purchases of \$50,000 or more are subject to formal competitive procurement and shall be advertised in the New York State Contract Reporter. Although not required, Staff may nevertheless elect to advertise in the New York State Contract Reporter for purchases of less than \$50,000 should they determine that such advertisement provides an effective means to secure competitive pricing.

- 2. Certain Purchases Valued at \$500,000 or Less.** In accordance with State Finance Law §163(6), the Trust may elect to target the purchase of services or commodities to small business concerns or those certified pursuant to Article 15-A (Minority and Women Business Enterprises) and Article 17-B (Service-Disabled Veteran Owned Businesses) of the Executive Law, or commodities or technology products that are recycled or remanufactured, in an amount not exceeding five hundred thousand dollars (\$500,000) without a formal competitive procurement such as a publically advertised RFP or bid. Certified M/WBEs are found on the NYS Department of Economic Development’s directory of certified minority and women-owned business enterprises at: <https://ny.newnycontracts.com>. Certified Service-Disabled Veteran-Owned Businesses (“SDVOB”) are found on the New York State Office of General Services’ directory at <https://online.ogs.ny.gov/SDVOB/search>. The Trust shall, wherever feasible, obtain three (3) price quotes from eligible firms for the services or commodities sought to ensure that the cost is reasonable, and shall advertise in the New York State Contract Reporter if the contract value is in excess of \$50,000.

Example of recommended language for Contract Reporter notification:

“Hudson River Park Trust intends to procure (insert project description) pursuant to its discretionary purchasing authority under State Finance Law §163(6). This procurement opportunity is limited to New York State small businesses, businesses certified pursuant to Article 15-A of the New York State Executive Law, businesses certified pursuant to Article 17-B of the New York State Executive Law, and, if applicable, businesses selling commodities or technology that are recycled or remanufactured.”

F. SDVOB Set Asides

Pursuant to Article 17-B of the Executive Law, after considering Preferred Source offerings, the Trust may elect to set aside a procurement opportunity by limiting participation to SDVOBs. To determine if a competitive field of SDVOBs exists, the Trust will first review the certified SDVOB directory to reasonably determine that at least two SDVOBs are able to respond to the procurement. Set asides will be subject to the procedures governing the contracting for each type of procurement, including sole or single source procurements, discretionary purchasing, emergency procurement, and open market procurements as described herein.

G. Sole or Single Source Procurements

Sole Source procurement is one in which only one contractor can supply the commodities or perform the services required by the Trust. Procurement by this method must be documented in the procurement record by an explanation of: (i) the unique nature of the requirement; (ii) the basis upon which it was determined that there is only one known contractor able to meet the Trust's need, i.e., the steps taken to identify potential competitors; and (iii) the basis upon which the Trust determined the cost to be reasonable, i.e., a "fair market price" that could be anticipated had normal competitive conditions existed, and how that conclusion was reached. Examples of such a determination may include a comparison to product catalogs, published price lists, retail market surveys, records of previous similar purchases, consulting other purchasing officials, or using professional experience. Sole Source procurements may also be utilized following a failed competitive solicitation if the Trust concludes, and so documents, that it is in the Trust's best interest to proceed utilizing this procurement method rather than issuing another competitive solicitation and that the price is reasonable.

A Single Source procurement is one in which two or more contractors can supply the commodity or perform the service required by the Trust, but the Trust selects a specific contractor because of that contractor's specific expertise, previous experience with current or similar contracts, or expertise with a specific issue. In a Single Source procurement, the Trust must document in the procurement record: (i) the circumstances leading to the selection of the contractor, including the alternatives considered; (ii) its rationale for selecting the specific contractor; and (iii) the basis upon which it determined the cost was reasonable, as in the case of a Sole Source procurement, and how that conclusion was reached. Single Source procurements may also be utilized following a failed competitive solicitation if the Trust concludes, and so documents: (i) the three criteria cited above; (ii) that it is in the Trust's best interest to proceed utilizing this procurement method rather than issuing another competitive solicitation; and (iii) that the price is reasonable.

Sole or Single Source Procurements must be approved by the President or her designee in writing, with such writing to be made part of the procurement record maintained by the Trust. [Single or Sole Source Procurements estimated to be in excess of \\$50,000 must be advertised in the New York State Contract Reporter.](#)

H. Emergency Procurement

An emergency procurement is one in which an urgent and unexpected situation occurs where health and public safety or the conservation of public resources is at risk. The Trust may issue contracts without complying with formal competitive procurement requirements in the event of an emergency. However, the Trust shall make a reasonable attempt to obtain at least three (3) oral quotes for each such emergency procurement. Failure to properly plan in advance – which then results in a situation where normal practices cannot be followed – does not constitute an emergency. A waiver of the competitive procurement requirements must be approved by the Trust’s President or her designee. The Trust shall document each emergency procurement in the procurement record which shall detail the nature of the emergency situation; the potential effect on public or employee health, public safety, or the conservation of public resources; and a detailed description of the commodities, services and/or technology provided.

I. Open Market Procurements

Open market procurements are detailed in Section III below.

III. TYPES OF SOLICITATION

A. Request For Proposals (“RFP”)

An RFP is generally used for the procurement of services, commodities or technology where price is not the sole determining factor and the award will be based upon a combination of cost, qualifications and technical factors.

- 1. Developing a Request for Proposals.** RFPs provide prospective respondents with the information necessary to develop a responsive proposal. RFPs are uniquely drafted to meet specific Trust needs and objectives. Information provided to respondents must be clearly written such that all respondents understand the requirements of a responsive proposal, how their proposal will be evaluated, and the general method the Trust will use to select a successful respondent.

- At a minimum, an RFP shall: (1) describe the administrative process, including the proposal due date and time; (2) contain clear and descriptive specifications or requirements; (3) specify the required qualifications of respondents; (4) state the mandatory contract terms and conditions including setting goal percentages for M/WBE and SDVOB participation; and (5) contain a description of overall evaluation criteria.

- Written selection criteria shall be established for each proposed RFP and shall be included in the written solicitation materials. The relative weighting of the selection criteria should be set out in the RFP; in the absence of written weighting, each stated criterion shall be deemed to have the same weight. Examples of selection criteria that may be appropriate include previous experience, proposed fee and schedules, experience and qualifications of the staff proposed for the project, and “best value.” State Finance Law, Section 163 has defined “best value” as a basis for awarding contracts to the offerer that optimizes quality, cost and efficiency, among responsive and responsible offerers.

- RFP procurements are generally based upon "best value," which includes an evaluation of such factors as price, levels of M/WBE participation, timeliness, the quality of goods and services, the experience of the vendor and specific expertise with respect to the services to be supplied. In assessing best value, non-price factors can be considered when awarding the purchase contract. Non-price factors can include, but are not limited to, reliability of a product, efficiency of operation, difficulty/ease of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance, and experience of a service provider with similar contracts. The basis for a best value award, however, must reflect, whenever possible, objective and quantifiable analysis.

2. **Date for Submission of Proposals.** In developing the RFP, consideration should be given to time frames necessary for intervening activities, such as the pre-proposal meeting and the question and answer period, before selecting a submission date. Other factors, such as the complexity of the RFP, the time needed for vendors to prepare an effective response and obtain necessary internal approvals, and holidays that may impact availability, should also be taken into account. As a general rule, the date for submission of proposals should be at least thirty (30) days after the advertisement appears in the New York State Contract

Reporter. Where thorough consideration is given to all of the factors listed above, and it is nevertheless determined that a response time of less than thirty (30) days would not negatively impact the competitive process, the earliest possible due date for submission of proposals is fifteen (15) business days after the advertisement appears in the New York State Contractor Reporter.

- 3. Advertising.** The Trust requires that RFPs for procurement opportunities estimated to be in excess of \$50,000 be advertised in the New York State Contract Reporter. The Trust shall also post all such notices of RFPs or the RFP on the Trust's website and may further post RFP opportunities in the New York City Record or in other trade or local publications. Notice of RFP opportunities shall be provided directly to M/WBEs and SDVOBs and to professional and organizations that serve M/WBEs and SDVOBs. Further, the Trust shall make reasonable efforts to apprise potential respondents of solicitation opportunities through (1) mailings to industry associations; and (2) direct notifications to known potential offerers, where applicable. Addendum and Questions and Answers regarding competitive RFPs are also posted on the Trust's website.
- 4. Evaluation and Award.** All proposals must be evaluated and awards made in accordance with a predetermined process. Wherever possible, evaluation criteria should be quantifiable. The procurement evaluation and selection process must be documented and maintained in the procurement record. A selection committee of three (3) or more persons, as designated by the President or her designee, shall conduct the review and selection of respondents in connection with RFP procurement contract(s) of \$100,000 or more. The selection committee shall provide its recommendation to the President for her review and approval and for subsequent submission for Board authorization.
- 5. Failed RFP.** The goal of every competitive RFP procurement should be to secure at least three (3) qualified proposals. A failed RFP is a procurement whereby the Trust was unable to obtain two (2) qualified proposals in response to an RFP, or where the pricing of the submitted proposals were determined to be not reasonable. A qualified proposal is a proposal that meets the minimum requirements necessary for a responsiveness determination. In such event, the Trust may evaluate the remaining qualified proposal(s), and make a sole or single source award if the Trust concludes that it is in the Trust's best interest to proceed as provided in the Guidelines. The Trust shall document such award in the procurement record. Alternatively, the Trust may reissue the RFP with or without modifications.

6. **Responsiveness Determinations.** All RFPs are subject to a responsiveness determination. A responsive RFP must meet the mandatory and material specifications of the RFP as determined by the Trust.

7. **Late Proposals.** A late proposal may only be accepted when it is determined by the President that it is in the best interests of the Trust to do so. In such event, the Trust may hold open the receipt of proposals by no more than three (3) hours during which time no other competing proposal may be opened. An opened proposal shall eliminate the possibility of accepting any late proposals. For proposals that are submitted electronically, an opened proposal occurs when a person on the selection committee has opened and viewed the document containing a proposal. The President shall review the reasons that it is in the best interests of the Trust to approve the time extended, the name of the vendor(s) submitting the proposal received during the extension period, as well as an affirmative statement that no proposals were opened prior to acceptance of the late proposal and that any other late proposal received during the extension period was similarly accepted. The President must approve, in writing, the above referenced documentation and such documentation shall be made part of the procurement record maintained by the Trust. ~~A “Register of Proposals” shall be prepared in accordance with the Guidelines and shall be open for public inspection after contract award.~~

8. **Best and Final Offers.** If requested by the Trust, best and final offers are the revised and corrected final proposals submitted by proposers. Proposers shall be informed by the Trust that if they do not submit a best and final offer, their immediate previous offer will be construed as their best and final offer.

B. Invitation For Bids (“IFB”)

An IFB is the appropriate solicitation to be used when the method of award is to be based upon lowest price only, provided the respondent is responsive and otherwise meets all qualifications stated in the IFB. An IFB describes the administrative process; defines specifications; establishes required delivery terms, bidder qualifications, method of award, and terms and conditions; and provides instructions for responding.

Steps for Conducting an IFB

- Develop specifications for the commodity/service needed referring to State green purchasing requirements where available and appropriate;
- Prepare the solicitation document including all bid requirements, such as M/WBE compliance;
- Advertise the procurement opportunity;
- Distribute the IFB to all potential bidders;
- Conduct site visits and pre-bid conferences (as necessary);
- Receive questions and provide responses (as necessary);
- Receive bids;
- Conduct the bid opening;
- Conduct administrative review of bid submissions;
- Verify responsiveness and responsibility of apparent low bidder;
- Seek waiver if M/WBE or SDVOB goal cannot be met;
- Make award;
- When necessary, obtain approvals; and,
- Issue purchase order or contract.

1. **Date for Submission of Bids.** In developing the IFB, consideration should be given to time frames necessary for intervening activities, such as the pre-bid meeting and the question and answer period, before selecting a submission date. Other factors, such as the complexity of the bid, the time needed for vendors to prepare an effective response and obtain necessary internal approvals, and holidays that may impact availability, should also be taken into account. As a general rule, the date for submission of bids should be at least thirty (30) days after the advertisement appears in the New York State Contract Reporter. Where thorough consideration is given to all of the factors listed above, and it is nevertheless determined that a response time of less than thirty (30) days would not negatively impact the competitive process, the earliest possible due date for submission of bids is fifteen (15) business days after the advertisement appears in the New York State Contractor Reporter.
2. **Advertising.** The Trust requires that IFBs for procurement opportunities estimated to be in excess of \$50,000 be advertised in the New York State Contract Reporter. The Trust shall also post all notices of IFBs on the Trust's website and may further post procurement

opportunities in the New York City Record or in other trade or local publications. Notice of IFB opportunities shall be provided directly to M/WBEs, to professional and organizations that serve M/WBEs and to SDVOBs. Further, the Trust shall make reasonable efforts to apprise potential bidders of solicitation opportunities through (1) mailings to industry associations; and (2) direct notifications to known potential offerers, where applicable. Addendum and Questions and Answers regarding competitive solicitations are also posted on the Trust's website.

3. **Bid Opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The amount of each bid, and such other relevant information as may be specified by the Guidelines, together with the name of each bidder shall be recorded; the record and each bid sheet shall be open to public inspection.
4. **Bid Acceptance and Bidder Evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in the Guidelines. The low bidder shall be evaluated based upon the requirements set forth in the IFB, which may include criteria to determine acceptability such as experience with inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The IFB shall set forth the evaluation criteria to be used. No criteria may be used in bidder evaluations that are not set forth in the IFB.
5. **Correction or Withdrawal of Bids; Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in accordance with the Guidelines. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Trust or fair competition shall be permitted. Except as otherwise provided by the Guidelines, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination approved by the President or her designee.
6. **Award.** A bid contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB.

- 7. Negotiation with the Apparent Lowest Responsive and Responsible Bidder.** In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the apparent lowest responsive and responsible bid does not exceed such funds by more than ten percent, the Trust is authorized, in situations where time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the apparent lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds. In addition, if the apparent lowest responsive and responsible bid indicates that it does not meet the M/WBE goal identified in the IFB, the Trust may work with the bidder to increase qualified M/WBE participation from a listing of certified M/WBEs maintained by the State to meet the Trust's published M/WBE goal. The bidder may not increase the price of its submitted bid in connection with the potential retention of additional certified M/WBEs as detailed herein. The Trust shall document such award in the procurement record.
- 8. Failed IFB.** The goal of every competitive procurement should be to secure at least three (3) qualified bids. A failed IFB is a procurement whereby the Trust was unable to obtain two (2) qualified bids in response to an IFB, or where the pricing of the submitted bids were determined to be not reasonable. A qualified bid is a bid that meets the minimum requirements necessary for a responsiveness determination. In such event, the Trust may evaluate the remaining qualified bidder(s), and make a sole or single source award if the Trust concludes that it is in the Trust's best interest to proceed as provided in the Guidelines. The Trust shall document such award in the procurement record. Alternatively, the Trust may reissue the IFB with or without modifications.
- 9. Responsiveness Determinations.** All bids are subject to a responsiveness determination. A responsive bid must meet the mandatory and material specifications of the IFB as determined by the Trust.
- 10. Late Bids.** A late bid may only be accepted when it is determined by the President that it is in the best interests of the Trust to do so. In such event, the Trust may hold open the receipt of bids by no more than three (3) hours during which time no other competing bid may be opened. An opened bid shall eliminate the possibility of accepting any late bids. The President shall review the reasons that it is in the best interests of the Trust to approve the time extended, the name of the vendor(s) submitting the bid received during the extension period, as well as an affirmative statement that no bids were opened prior to

acceptance of the late bid and that any other late bid received during the extension period was similarly accepted. The President must approve, in writing, the above referenced documentation and such documentation shall be made part of the procurement record maintained by the Trust. ~~A "Register of Bids" shall be prepared in accordance with the Guidelines and shall be open for public inspection after contract award.~~

C. Requests for Qualification ("RFQ")

RFQs may also be appropriate for retention of qualified pools of contractors to provide defined types or scopes of services (and, rarely, goods) required by the Trust on a regular or semi-regular basis as the need arises; or to select professional services to be rendered at pre-established rates. Competitive establishment of a pool or list of pre-qualified vendors is appropriate, for example, in the case of attorneys, repair contractors for specialized services where the need to perform work may be timely (for example, plumbers), or for frequently needed services, such as fencing contractors. If the Trust has established a list of pre-qualified contractors, unless services will be rendered by all qualified vendors at rates not to exceed a pre-set maximum, three (3) quotes should be obtained from vendors on the list, and/or from vendors known to the Trust outside the list. In addition, the Trust may issue RFQs for specific consultant services, such as architectural and construction management, to evaluate and establish a list of qualified consultants that would be eligible to receive a correlative RFP.

IV. VENDOR PROTEST OF SOLICITATION AND AWARDS

A. Right to Protest

Any actual or prospective bidder or respondent who believes that he/she is aggrieved in connection with the solicitation or award of a contract may file a protest with the Trust's General Counsel. The protest shall be submitted in writing within 10 days after such allegedly aggrieved person knows or should have known of the facts giving rise thereto and shall briefly state the facts or other basis upon which the bidder or respondent contests the Trust's decision.

B. Authority to Resolve Protests

The Trust's General Counsel, or designee, shall have the authority, prior to the commencement of an action in court concerning the controversy, to resolve the protest of an allegedly aggrieved bidder or respondent regarding the solicitation or award of a contract.

C. Decision

If the protest is not resolved by mutual agreement, the Trust's General Counsel, or designee, shall promptly issue a decision in writing. The decision shall (a) state the reasons for the action taken; and (b) inform the allegedly aggrieved bidder or respondent of its right to judicial review.

D. Notice of Decision

A copy of the decision shall be mailed or otherwise furnished immediately to the allegedly aggrieved bidder or respondent within (30) thirty days of the Trust's decision.

E. Finality of Decision

The Trust's General Counsel determination shall be final. The procurement action under protest shall not be stayed unless the Trust's General Counsel determines that it is the Trust's best interest to delay the action.

V. OTHER LEGAL REQUIREMENTS

A. Determinations of Responsibility

Prior to the award of a procurement contract, the Trust must make a responsibility determination with respect to the offerer to be recommended for the award of the contract based upon, among other things, the information supplied by that offerer. The offerer must disclose whether it has been found non-responsible within the last four years by any Governmental Entity for: (1) failure to comply with State Finance Law §139-j, or (2) the intentional provision of false or incomplete information. This disclosure must be certified by the offerer and must affirmatively state that the information supplied by the offerer to the Trust is complete, true and accurate.

The procurement contract must include a provision allowing the Trust to terminate the contract if the certification is subsequently found to be incomplete, false or inaccurate. Admissions by the offerer of past findings of non-responsibility may constitute a basis for rejection of the offerer by the Trust.

The Trust may award a contract to the offerer despite the past findings of non-responsibility if it determines that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required commodity or service within the necessary time frame. The basis of such findings must be included in the procurement record of the contract.

The Trust should only engage in procurements with contractors that are responsible. Contractor responsibility is generally described as including requirements of financial capacity, legal authority, integrity, and past performance. While all contracts must be awarded to a responsible contractor, the scope of the Trust's responsibility review efforts is generally based on the Trust's determination of its level of risk. One risk factor may be the dollar value of the contract. Apart from dollar value and contract complexity, Trust staff's responsibility review may consider other procurement-related factors. For example, procurements that are critical to the Trust's mission may require extensive contractor reviews as would a procurement in which a proposal is significantly lower than those of the competition.

Responsibility determinations should involve a review of the following four major categories: Financial Capacity, Legal Authority, Integrity and Past Performance (FLIP Review). The Trust may identify and emphasize the evaluation of certain criteria deemed critical depending upon the nature and scope of the proposed contract. For example, a responsibility determination for a management or information technology consulting contract may emphasize a contractor's past performance, resumes of project team members, etc. while a commodity award may focus on the firm's capacity to produce and/or supply the commodity. The Trust has established a vendor evaluation process that is a precondition to making payments to vendors.

The Trust will make vendor responsibility determinations based on information contained in New York City's PASSPORT system (formerly known as "VENDEX") and New York State's system, Vendrep. New York City requires that vendors register in PASSPORT for all contracts valued at \$250,000 or more. The Trust requires that for procurements valued at \$100,000 or more, each vendor must submit a copy of its filing with New York State's Vendrep system or New York City's PASSPORT system (formerly known as "VENDEX"). The Trust, in its sole discretion, will determine whether PASSPORT or Vendrep filing is required.

B. Compliance with State Finance Law §139-j and §139-k (Lobbying)

State Finance Law ("SFL") §139-j and §139-k apply to all procurement contracts over \$15,000, regardless of whether the contract was competitively bid.

Among other things, SFL §139-j and §139-k: (i) govern permissible communications between potential vendors, and staff of the Trust during the procurement process; (ii) require the disclosure of such communications, as well as prior determinations of vendor non-responsibility; and (iii) establish sanctions for knowing and willful violations of such provisions, including disqualification from eligibility for an award of any contract. Specifically, SFL §139-j and §139-

k require that only permitted Trust contact person(s) identified in solicitation materials may communicate with potential bidders/respondents regarding the solicitation, from the issuance of the earliest written notice of a request for proposal/bid through the final award and approval of any resulting contract. This period is defined by law as the "Restricted Period."

SFL §139-j(6)(b) also requires potential vendors to complete the Offerer's Affirmation of Understanding and Agreement to comply with the Trust's procedures relating to permissible contacts. This written affirmation is deemed to apply to any amendments to a procurement submitted by the Trust after an initial affirmation is received with an initial proposal/bid.

SFL §139-k governs the disclosure of prior non-responsibility determinations by potential vendors. SFL § 139-k(5) requires potential vendors to certify that the information they provide to the Trust for consideration in its determination of vendor responsibility is true and accurate. Therefore, all prospective vendors must complete and submit two forms mandated by SFL §§139-j and §139-k as part of their proposals: (1) the Offerer's Affirmation of Understanding and Agreement; and (2) the Offerer's Disclosure of Prior Non-Responsibility Determinations.

When contacted during the Restricted Period, the Trust's staff must obtain the following information: the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact. Further, Trust staff must inquire whether the person or organization making the contact was the offerer or retained, employed or designated by the offerer. If after review the Trust's Legal Department finds sufficient cause to believe that an offerer may have violated the procurement lobbying restrictions, the offerer will be notified in writing of the investigation and will be afforded an opportunity to respond to the alleged violation. If, after investigation, the Trust's Legal Department finds that the offerer knowingly and willfully made prohibited contact in violation of these procedures, then the offerer shall be disqualified. All such recorded contacts must be included in the procurement record for the contract.

In addition, Trust staff must record any contacts that reasonably appear to be an attempt to influence the procurement process as well as contacts with staff members other than the designated contact person(s) during the Restricted Period of procurement. However, SFL § 139-j and §139-k do not prohibit an offerer from communicating with a member of the state legislature or legislative staff about a government procurement, provided such member of the state legislature or legislative staff is acting in his or her official capacity. If a vendor is found to have knowingly and willfully violated the State Finance Law provisions, that prospective vendor and its subsidiaries, related or successor entities will be determined to be a non-

responsible vendor, and will not be awarded any contract issued pursuant to the solicitation. Two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State government procurement contract.

Permissible communications include communications that a reasonable person would infer are not intended to influence a governmental procurement. As such, these communications are not considered contacts and do not need to be documented as such in the procurement record. Such permissible communications include:

- Inquiries as to the status of the procurement process.
- Requests to be included on the Trust's offerer's list.
- Receipt of advertising material.
- Intra-agency communications of administrative details concerning the procurement.
- Responses to Trust-issued Requests for Information.
- Written questions submitted by offerers regarding a solicitation during the allowable time period of a competitive procurement.
- Complaints about the procurement process or outcome.
- Participation in an offerer's conference as provided in a request for proposal.
- Submission of a bid in response to a request for proposal.
- Contract negotiations.
- Debriefing of an offerer after a contract award has been made.

Note that, once a recommended vendor has been selected after compliance with the competitive procurement process, it may be necessary for staff members to negotiate contract terms, etc., with the designated vendor. Those negotiations are not prohibited, and need not be conducted only by the designated contact person, although it is good practice to have the contact person present. However, any communication from a person other than the vendor that may reasonably be considered to be an effort to influence the negotiation of a contract (either positively or negatively) is an impermissible contact and must be reported as such.

Procurement Lobbying forms are posted on the Trust's website and are made part of these Guidelines.

C. Compliance with State Tax Law § 5-a (Sales Tax Registration)

State Tax Law § 5-a prohibits the Trust from approving any contract valued at more than \$100,000 with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor

makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 during the four quarters preceding the proposed contract date, and is not registered with the Department of Taxation and Finance ("DTF") for sales and compensating use tax purposes.

In all cases where a contract is subject to State Tax Law §5-a, a contractor must file (1) Form ST-220-CA, Contractor Certification to Covered Agency, with the covered agency and (2) Form ST-220-TD with DTF before a contract may take effect. If a contractor is not registered with DTF because of a lack of sales of over \$300,000 within the relevant period, the vendor must submit an affidavit so certifying.

NYS Sales Tax Certification forms are posted on the Trust's website and are made part of these Guidelines.

D. Compliance with Iran Divestment Act of 2012

Every bid or proposal submitted to the Trust pursuant to a competitive solicitation as provided in the Guidelines must include a signed affidavit certifying that the respondent is not engaged in investment activities in Iran as defined by the laws of the State of New York, nor will it invest or participated in such activities during the term of the resultant contract.

Iran Divestment forms are posted on the Trust's website and are made part of these Guidelines.

E. Certification of Non-Collusion

Every bid or proposal submitted to the Trust pursuant to a competitive solicitation as provided in the Guidelines must include a signed affidavit of non-collusion certifying that the prices in the bid/proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/respondent or with any other competitor.

Non-collusion forms are posted on the Trust's website and are made part of these Guidelines.

F. Minority & Women-owned Business Participation ("M/WBE") Requirements

To promote and assist participation by M/WBEs, in accordance with the applicable provisions of Article 15 A of the New York State Executive Law and recent amendments to Public Authorities Law Section 2879, the Trust shall maintain an M/WBE program to:

- i. Promote participation by certified M/WBEs in Trust procurement opportunities and facilitate the award of procurement contracts to such M/WBEs;
- ii. Encourage the utilization of certified M/WBEs as subcontractors and suppliers by entities having procurement contracts with the Trust; and
- iii. Encourage the utilization of partnerships and joint ventures between certified M/WBEs and other entities having procurement contracts with the Trust.

The Trust shall maintain and update regularly, lists of qualified, certified M/WBEs, including professional firms that have expressed an interest in doing business with the Trust. Trust personnel shall consult the Trust's M/WBE list as well as the list of certified M/WBEs maintained by the NYS Empire State Development at <https://ny.newnycontracts.com>. Trust personnel shall document the price and selection determination in the procurement record for such purchase.

The Trust sets goals for participation by M/WBEs in procurement contracts awarded by the Trust for purchases of commodities/services greater than twenty five thousand dollars (\$25,000) and for construction and construction-related service contracts greater than one hundred thousand dollars (\$100,000) (the "Article 15-A Threshold"). In addition, all contracts above the Article 15-A Threshold, unless exempted or excluded, must be assessed M/WBE goals, and the Governor's office must grant a waiver for any instance when the Trust seeks to advertise the procurement with less than a 30% combined M/WBE goal, or for any instance for which the contractor can demonstrate in good faith that it could not meet a 30% goal. The Trust may not proceed with any procurement requiring a waiver unless the Governor's office has granted such waiver. Waiver requirements for a reduction or elimination of the M/WBE goals are outlined in 5 NYCCR Part 142.7.

Additional M/WBE information is posted on the Trust's website.

G. Local Law 34 – New York City's Doing Business Database

Local Law 34 of 2007 (LL 34), a New York City campaign finance reform law, seeks to limit the actual or perceived influence that campaign contributions could have on the City's procurement and award processes. LL 34 limits municipal campaign contributions from principal officers, owners and senior managers of entities that do business with the City, city-affiliated public authorities and similar entities, and mandates the creation of a Doing Business Database to facilitate enforcement of the law. Competitive sealed bids and emergency contracts are specifically exempted from LL 34. All other Trust procurements over \$5,000 (including purchase orders, sole and single sourcing, piggybacking, centralized contracts, and government lists), are subject to the

requirements of LL34. As such, the respondents of all such Trust procurement contracts must provide a completed “Doing Business Data Form” to the Trust.

The LL 34 forms are posted on the Trust’s website and are made part of these Guidelines.

H. Participation by New York State Business Enterprises

To maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as contractors, subcontractors and suppliers on its procurement contracts, the Trust shall promote the participation by New York State business enterprises and New York State residents in its procurement contracts.

I. Contracts Subject to Approval by the Office of the NYS Comptroller

All contracts valued in excess of one million dollars (\$1,000,000) (a) to be awarded to a single source, sole source or pursuant to any other method of procurement that is not competitive, or (b) which are paid in whole or in part from monies appropriated by the New York State to the Trust are subject to filing with the Office of the NYS Comptroller (“OSC”) within 60 days after execution of the contract, and if the contract is the subject of an active written notice by OSC, such contract shall be submitted to OSC for prior approval.

J. Service Disabled Veteran-Owned Business Act

The Act established a six percent (6%) goal for participation on state contracts by service disabled veteran owned firms in addition to other measures to support these companies and allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB) in order to increase participation in New York State's contracting opportunities. The Act creates the new Division of Service-Disabled Veterans' Business Development (DSDVBD) within the New York State Office of General Services for the establishment of a statewide certification program. The division will be responsible for certifying eligible SDVOBs, and assist and promote the compliance of SDVOB participation in the state's procurement activities. Additional information can be found at: <http://ogs.ny.gov/Core/SDVOBA.asp>.

K. Executive Order No. 162

Executive Order No. 162 (“EO 162”) requires the collection of data (not captured under Article 15-A) relating to the compensation of workers under State contracts and the collection and reporting of such data to the NYS Department of Economic Development. The Trust shall include a provision in all contracts, agreements, and procurements (subject to EO 162) requiring that all

contractors/consultants submit detailed workforce utilization reports to the Trust as provided in EO 162 and any subsequent regulations promulgated thereto.

L. Executive Order No. 177

The Trust shall include an EO No. 177 Certification (“EO Certification”) in all solicitations, which must be submitted to the Trust by the successful contractor/consultant prior to contract award. The EO Certification provides that the contractor/consultant does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the NYS Human Rights Law.

M. MacBride Fair Employment Practices

In instances where there are one or more contractors from which the Trust can contract for the supply of particular commodities or services of comparable quality and cost, the Trust shall not contract for such commodities or services with any contractor who does not stipulate to the following: the contractor and any individual or legal entity in which it holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor either (a) have no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles as set forth in Section 165 of the State Finance Law, and shall permit independent monitoring of their compliance with such principles.

N. Prohibition on Purchase of Tropical Hardwoods

Tropical hardwoods, as defined in Section 165 of the New York State Finance Law, shall not be used in the performance of any contract issued by the Trust except as expressly permitted by the foregoing provision of law.

VI. GREEN PERFORMANCE STANDARDS

A. Environmentally Preferred Products

The Trust shall procure and use cleaning products having properties that minimize potential impacts to human health and the environment consistent with maintenance of the effectiveness of these products for the protection of public health and safety in conformity with NYS Executive Order No. 134 (2005). Copy paper, janitorial paper and other paper supplies purchased by the Trust should be composed of 100% post-consumer recycled content to the maximum extent practicable, and all copy and janitorial paper shall be process chlorine-free to the extent practicable, unless

such products do not meet required form, function or utility, or the cost of the product is not competitive. Such products are made available through an OSG Centralized Contract. For additional information, see <https://greencleaning.ny.gov/Entry.asp>.

B. Energy Efficient Purchasing

In accordance with NYS Executive Order 111 (2005), the Trust shall select ENERGY STAR energy-efficient products when acquiring new energy-using products or replacing existing equipment. The Trust shall procure increasing percentages of alternative-fuel vehicles, including hybrid-electric/electric vehicles, as part of its vehicle acquisition plan. Additional information on procuring energy efficient products can be found at <https://ogs.state.ny.us/purchase/snt/EgyRcyTable.htm>.

VII. PROCUREMENT ADMINISTRATION

A. Authorization Of Procurement Contracts and Amendments

Procurements and Amendments valued at less than \$200,000: Procurements valued at less than two hundred thousand dollars (\$200,000) may be approved by designated Trust officers to the extent specified below:

- Procurements and Amendments valued at up to \$5,000. Require approval from the head of the department initiating the procurement.
- Procurements and Amendments valued at greater than \$5,000 and up to \$150,000. Require approval from the head of the department initiating the procurement and from an Executive Vice President or the President.
- Procurements and Amendments valued at greater than \$150,000 but less than \$200,000. Require approval from the head of the department initiating the procurement and from either the President or her designee.
- All legal retainers regardless of value must also be approved by the General Counsel.

Trust Board Approval Required:

- **Procurements and Amendments valued at \$200,000 or more** require approval by the President and subsequent authorization by the Board of Directors.
- **Procurements for services to be rendered over a period in excess of one year** require approval by the President and subsequent authorization by the Board of Directors.

- **Contracts for Auditing Services** - The selection of the certified independent audit firm required for the Trust's annual audit shall be made by the Board of Directors - Audit Committee, in consultation with designated Trust staff. All auditing contracts are subject to approval by the Board of Directors. Note that the certified independent public accounting firm that provides the Trust's annual independent audit will be prohibited from providing such services for the current year if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for the Trust in each of the five previous fiscal years. Further, while performing a Trust audit, that audit firm is prohibited from performing any contemporaneous non-audit functions for the Trust absent prior approval from the Board of Directors – Audit Committee.

B. Contract Extensions by Amendment

- An amendment to extend the term of a contract by less than one year requires approval from the head of the department initiating the procurement and from an Executive Vice President or the President.
- An amendment to extend the term of a contract by one year or more requires approval by the President and subsequent authorization by the Board of Directors.

C. Procurement Record

The Trust shall maintain a procurement record for each procurement which shall document all decisions made and the approaches taken by the Trust in the procurement process, particularly the quantification of the application of award criteria based upon best value or where not quantifiable and the justification that demonstrates that best value will be achieved. For all open market solicitations, such record should include: a reasonable process for ensuring a competitive field; documentation that demonstrates a fair and equal opportunity for offerers to submit responsive offers; the solicitation documents, any requests for information and responses thereto, the IFB/RFP submissions, a memorandum setting forth the methodology employed for selecting the consultant/contractor; the identity of the Trust staff involved in the procurement; a determination of vendor responsibility; and other decisions made by the Trust during the procurement process. Non-competitive solicitation documentation shall include the name of the selected consultant/contractor, the Trust staff involved in the procurement, a memorandum setting forth the procurement technique employed, and the justification for the selected process.

D. Contract Renewals

A contract can only be renewed for an additional term if there is specific language in the original contract providing for such a renewal option. Where such renewal language is present in the contract and Trust staff determines that it is in the best interest of the Trust to continue the contractual relationship with the contractor by renewing for the term specified in the original contract documents, then Trust staff, in consultation with the Legal Department, shall issue a binding renewal letter to such effect.

E. Contract Amendments

A contract may be amended for an extension of time, as provide herein, and when an expansion of the scope of services is necessary to complete a particular project. If the amended work exceeds twenty percent (20%) of either the (i) original contract amount or (ii) the original “Total Board Authorized Amount” if the procurement was subject to approval by the Trust’s Board of Directors, the Trust shall either use a competitive process to award the additional work or document the reasons why a competitive process is not in the best interests of the Trust, with such documentation made part of the procurement record.

F. Procurement Reporting Requirements

Within ninety (90) days of the close of the Trust’s fiscal year, the Trust shall prepare for Board approval an annual report, in accordance with the Hudson River Park Act and Section 2879 of the Public Authorities Law, summarizing procurement activity by the Trust for the prior year. Following Trust Board approval, copies of such report shall be provided to:

- The NYS Division of the Budget
- The NYS Department of Audit and Control
- The NYS Department of Economic Development
- The Senate Finance Committee
- The Assembly Ways and Means Committee

The Annual Report shall include:

- The Procurement Guidelines,
- Status of existing procurement contracts including procurement contracts for services to be rendered over a period in excess of one year (multi-year contracts),
- List of procurement contracts entered into since the last annual report,
- Amount of fees, commissions or other charges paid to procurement contractors,

- All contracts entered into with New York state business enterprises and the subject, matter and value thereof,
- All contracts entered into with foreign business enterprises and the subject matter and value thereof, and
- The selection process used to select such contractors.

Such report shall be available on the Trust's webpage and shall be made available to the public, upon request.

G. Procurement Contracts Involving Former Trust Officers/Employees

Except to the extent permitted under the Trust's Code of Ethical Conduct and applicable State law, the Trust shall not enter into procurement contracts with its former officers or employees, or with firms employing such officers or employees.

VIII. IMPLEMENTATION OF GUIDELINES

A. Preparation and Implementation of Guidelines

The Trust's Vice President of Finance, or such other Trust officer as shall be designated by the President, shall be responsible for:

- Preparing for approval by the President or his/her designee such supplemental procedures as may be required to effectively implement the approved Guidelines, and
- Monitoring compliance with these Procurement Guidelines.

The General Counsel shall be responsible for preparing proposed amendments to the Guidelines for approval by the President and the Board of Directors as required.

B. Monitoring Compliance With Guidelines

Each contract awarded must contain a scope of work or services to be provided, identify the product to be delivered, if any, the use of corporate supplies and facilities, and the use of corporate personnel, and must establish starting and completion dates for major components of the contract.

As designated by the President, authorized Trust staff shall be responsible for monitoring the performance of the contract to assure that the contract is performed efficiently and in accordance with its terms. Such monitoring shall include verifying compliance with these Guidelines.

C. Procurement Tracking

The Trust has established the Park Administrative Network and Data Analytics (“PANDA”) Sharepoint system for procurement tracking. The Trust’s staff use PANDA to manage the processing, approvals and dollar limits for the various procurements, such as for contracts, purchase orders, and petty cash in a manner that is consistent with the Guidelines.

D. Effect on Awarded Contracts

Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines.

The Trust shall have the power from time to time to amend the Guidelines in accordance with the Hudson River Park Act and Section 2879 of the Public Authorities Law.

E. Effective Date

The Guidelines, and any amendments hereafter, shall take effect on and apply to contracts entered into after the date of approval by the Board of Directors, except as otherwise provided by law.

F. Additional information

Questions about the Guidelines can be directed to any attorney in the Trust’s Legal Department.

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For Consideration
January 27, 2022

To: The Directors

From: Noreen Doyle

Re: Approval of Hudson River Park Trust Monument Policy

BACKGROUND

The Hudson River Park Trust (“Trust”) has identified the need to establish guidance for consideration of future requests for the installation of physical elements in Hudson River Park (the “Park”) intended to honor, commemorate, or memorialize people or events. In preparing the proposed Hudson River Park Trust Monument Policy for consideration by the Board of Directors (“Board”), Trust staff reviewed the existing monument policies used by both the New York State and New York City Parks Departments and consulted with several Directors to seek additional input and recommendations.

The proposed Monument Policy distinguishes between monuments and commemorations and provides factors that the Trust must consider when such items are proposed.

Monuments, which generally take the form of public art or sculpture, are considered large-scale, permanent installations that either occupy a large Park footprint or could create a change to surrounding Park use as Monuments. As further detailed in the proposed policy, in reviewing proposals for monuments, the Trust would be required to consider such factors as: (1) its appropriateness and relevance to the setting; (2) compatibility with the surrounding park; (3) impact on park use; (4) aesthetics; (5) permanence; (6) the amount of maintenance that a monument or its surrounding area will require, and the associated cost of such maintenance; and (7) community input. Any installation of a monument would require approval by the Board after engagement with the public.

Commemorations are generally defined as small branded plaques installed at benches, trees, gardens, and other Park locations. The policy would allow these to be installed without approval by the Trust’s Board, provided that any proposed commemoration: (1) is generally consistent with existing Park design guidelines; (2) neither requires nor causes changes to Park use in the area of installation; (3) does not require significant maintenance; and (4) does not pose a significant financial burden to the Trust.

A copy of the proposed Monument Policy was previously circulated to and discussed with the Board’s Governance Committee.

REQUESTED ACTION

Trust staff requests that the Board approve the Hudson River Park Trust Monument Policy dated January 2022.

Attachments:

Resolution

Proposed Monument Policy dated January 2022

HUDSON RIVER PARK TRUST – Adoption and Approval of Hudson River Park Trust Monument Policy

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 27, 2022, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board of Directors hereby approves the Hudson River Park Trust Monument Policy dated January 2022; and be it further

RESOLVED, that the President or the President's designee(s) be, and each of them is hereby authorized to take such actions as the President or the President's designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

Hudson River Park Trust Monument Policy

Introduction

Hudson River Park (the “Park”) is a 550-acre park and estuarine sanctuary spanning four miles in and along the west side of Manhattan, from the northern boundary of Battery Park City in Tribeca to West 59th Street in Hell’s Kitchen. It is operated and maintained by the Hudson River Park Trust (the “Trust”). Situated within the Park are certain monuments, including art elements, memorial plaques, and historic markers created to honor, commemorate, or memorialize people or events.

Careful consideration must be taken with the planning, design and siting of all such proposed projects for many reasons, including to ensure that any approved commemorative elements relate to the overall Park’s design, mission, and context, and further, that they can be adequately cared for.

This policy provides guidelines for the Trust’s review and consideration of commemorative elements and monuments (as defined below). This policy does not cover items that are proposed solely for artistic purposes.

Monuments

The Trust refers to large-scale, permanent installations that either occupy a large Park footprint or could create a change to surrounding Park use as Monuments. Monuments generally take the form of public art or sculpture. Approval by the Trust’s Board of Directors (“Board”) of new Monuments is required. The Board shall consider the following factors when reviewing any such proposal and may reject any proposal, or require alterations to any proposal, for one or more of the identified criteria:

1. **Appropriateness:**

Monuments should generally be relevant to the location, such as historical associations between the subject of the proposed Monument and the Park or proximate inboard community, but could potentially also relate to the programmatic intent of the Monument and the relationship to the proposed Park setting. No Monuments should be installed to living persons. As a guideline, a minimum of ten years is recommended between the occurrence of an event and its commemoration to allow for some historical perspective. For the same reason, a five-year period is recommended between the death of any individual and the proposal for any Monument to be installed commemorating that individual. The Trust shall also consider whether there are already existing tributes to the subject nearby or otherwise in New York City.

2. Compatibility:

Consideration must be given to the surrounding Park context. The Board will consider the degree to which the proposed Monument significantly alters the existing Park design and prefers Monument(s) that can be integrated successfully within the existing environment.

3. Impact on Park Use:

A primary purpose of Hudson River Park is public recreation. Consequently, Monuments should not unnecessarily interfere with or prohibit existing Park use or functions, including but not limited to significantly altering use or visitation patterns. The Trust shall engage in the public review process below if the Design Committee of the Board of Directors believes that a proposed Monument would create a functional change in Park use. In the event that the Design Committee of the Board of Directors does not reach consensus as to whether the proposed Monument would create a functional change in Park use, the matter shall be considered by the Trust's Board of Directors.

4. Aesthetics:

Though conditioned by a range of subjective considerations, aesthetic merit is an important determinant in the creation of Monuments. Proposed Monuments must show evidence of the artist's mastery of the medium (stone carving, bronze casting, etc.) and should not degrade the surrounding Park design. Works of inferior workmanship will not be approved. Works must show a sensitivity to their surroundings. The Trust shall engage in the public review process as outlined below if the Design Committee of the Board of Directors (or the Trust's Board of Directors, if such decision was rendered by the Trust's Board of Directors pursuant to item 3 above) believes that a proposed Monument would create a functional change in appearance of the nearby landscaped areas.

5. Permanence:

Consideration will be given to the expected duration of the Monument. Assumptions about the proposed duration of the Monument must be made explicit, as duration affects other aspects of the proposed review, including but not limited to maintenance requirements.

6. Maintenance:

Maintenance of both the Monument itself and the area surrounding it must be considered. Generally, the Trust will not consider proposed Monuments that would substantially increase the time or effort needed to clean and maintain the landscaped areas surrounding the Monument, nor require customized tools or approaches to such maintenance. Further, the Trust will not support the installation of Monuments that impose costly or unreasonable maintenance burdens for Trust staff. For this reason, the Trust may require an endowment or annual maintenance payment from the donor or sponsor. The Design Committee of the Board of Directors will provide a recommendation for consideration by the Board of Directors as to the necessity and size of any endowment for care. The recommendation will be based on the estimated cost for the repair, replacement, or restoration of the Monument. The use

of durable materials, able to withstand the weathering process and potential acts of vandalism, will diminish the long-term maintenance costs, and the Trust will consider such factors during review of proposed Monuments as well.

7. Safety:

The Trust will assess the design of both the Monument itself and the surrounding area for public safety.

8. Public Review:

The Trust has a long-established practice of consulting with the public regarding Park design, impacts on park uses and aesthetics. In general, the Trust will do this by engaging the community board in which the project is located on these questions. For larger projects, the Advisory Council would also be consulted, and the Trust may additionally opt to hold independent public meetings.

9. Public Design Commission:

In addition to Trust Board approval, the Public Design Commission of the City of New York must review and approve all projects on New York City property. For proposals on New York City property, the Trust must first grant its conceptual endorsement of the Monument, after which the appropriate staff will work with the sponsors to prepare the necessary design submission documents to the Public Design Commission. The Trust may elect to require the project sponsor to pay for any design consultants needed for Public Design Commission review and approval. The separate Public Design Commission review process is described in "The Public Design Commission Guidelines for Donating Works of Art to New York City" on its website.

Commemorations

The Trust classifies small branded plaques installed at benches, trees, gardens, and other Park locations as Commemorations.¹ These are generally installed in coordination with Hudson River

¹ Planning documents for the Park have included concepts for plaques, art, or other physical elements to be incorporated into the Park's design to enhance the Park environment and to educate Park visitors about historical, cultural, social or natural events or phenomena that have occurred in or near the Park. The Trust refers to such features as Interpretives. Examples of Interpretives currently located within the Park are the glass panels and corresponding metal medallions installed in the pavement on the esplanade near Little Island, the plaques located on Pier 26 celebrating natural history, and the historic plaques located on Pier 76. Consideration of Interpretives does not typically require approval by the Trust's Board of Directors, although they may be reviewed with the Board's Design Committee as part of the design plans for various Park areas.

Park Friends as part of a donor program that provides opportunities for members of the public to honor family or friends using plaques that conform to the Park's approved branding, though on certain occasions, the Trust may elect to install such a plaque directly.

Commemorations do not require approval by the Trust's Board of Directors, provided that:

- (1) the intended Commemoration is generally consistent with previously established Park design guidelines;
 - (2) the size, location and nature of the intended Commemoration do not require nor cause changes to the surrounding Park use in the area where the Commemoration would be installed;
 - (3) the Trust determines that the intended Commemoration does not require significant maintenance; and
 - (4) there is no significant financial burden to the Trust associated with the installation, including with respect to its future care and maintenance.
-