



**MEETING OF THE
BOARD OF DIRECTORS**

January 25, 2024 at 4:30 pm

**Location: Hudson River Park Trust Classroom
Discovery Tank
Pier 57
25 11th Avenue
New York, NY 10011**

AGENDA

I. CONSENT AGENDA

- A. Approval of Minutes and Ratification of the Actions Taken at the December 7, 2023 Meeting of the Hudson River Park Trust Board of Directors
- B. Ratification and Approval of Extension of Contract Term with Billion Oyster Project for Tribeca Habitat Enhancement Project
- C. Ratification and Approval of Extension of Contract Term with Olin Partnership, Ltd. for Pier 26 Landscape Architect Services
- D. Approval of Extension of Contract Term with Melk Urban Design LLC for Pier 97 Landscape Architectural Services
- E. Approval of Extension of Contract Terms for Gansevoort Peninsula Building Construction Contractors
- F. Approval of Extension of Contract Term with Stantec Consulting Services Inc. for Owner's Representative for Capital Projects and Strategic Planning
- G. Ratification and Approval of Extension of Contract Term with Alpine Construction & Landscaping Corp. for Chelsea Waterside Park Phase 2 General Construction
- H. Approval of Extension of Contract Term with Deborah Bradley Construction & Management Services, Inc. for On-Call General Contracting Services
- I. Ratification and Approval of Extension of Contract Term with CH2M Hill Engineering for Pier 40 Structural Restoration Engineering Services

II. CORPORATE ACTIONS

- J. Authorization to Contract with Marvel Architects, Landscape Architects, Urban Designers, PLLC for Design and Related Consultant Services for the West 29 to West 46 Streets Landscape and Esplanade
- K. Authorization to Approve Selection of New York Water Tours Inc. for Pier 40 Marine Uses

- L. Authorization to Amend Contract with E-J Electric Installation Company for Gansevoort Peninsula Electrical Construction
- M. Adoption of 2024 Procurement Guidelines

III. PRESIDENT'S REPORT

- Update: Financials and FY24-25 Preliminary Budget
- Design/Construction Project Updates
- River Project and Public Programs Updates
- 2024 MWBE and SDVOB Annual Goal Plans

IV. ADVISORY COUNCIL and HUDSON RIVER PARK FRIENDS REPORTS

V. EXECUTIVE SESSION on PERSONNEL-RELATED MATTER

VI. ADJOURN

**HUDSON RIVER PARK TRUST - Approval of Minutes and Ratification of the Actions
Taken at the December 7, 2023 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 7, 2023 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Ratification and Approval of Extension of Contract Term with Billion Oyster Project, Inc. for Tribeca Habitat Enhancement Phase II

I. Contract Summary

Contractor: Billion Oyster Project, Inc.
Proposed Project: Tribeca Habitat Enhancement Phase II
Contract Number: EA180
Amendment: Extension of Term

II. Background

As a core part of its mission and to fulfill commitments in its adopted Estuarine Sanctuary Management Plan, the Hudson River Park Trust (“Trust”) has undertaken two large habitat enhancement projects over the past few years, including the Tribeca Habitat Enhancement Project (the “Project”). Through that Project, the Trust installed a variety of structures deploying multiple techniques at existing and former piers and within a limited portion of the inter-pier area in the area between Piers 26 and 34 to increase the Sanctuary’s oyster population and provide increased habitat options for colonizing organisms and fish populations. The Project was designed to be scalable over several years based on available funding and regulatory requirements.

The initial phase of the Project was installed in 2021. In 2023, the Trust expanded the Project to include a second phase of installations. Consistent with the Trust’s Procurement Guidelines, on June 1, 2023, the Trust entered into a sole source contract with Billion Oyster Project, Inc (“BOP”) in the amount of \$132,774.03 for a three-month term to seed oysters on additional in-water structures in their setting facility. BOP subsequently completed the installations, and the Trust now requires BOP to continue monitoring and documenting the completed installations. For this reason, staff thus seeks to extend the contract term through August 31, 2024. No additional funding is required for this extension.

III. Requested Action

The Trust staff requests that the Board of Directors ratify and approve the extension of the contract term with Billion Oyster Project, Inc. for Tribeca Habitat Enhancement Phase II through August 31, 2024.

Attachment:
Resolution

HUDSON RIVER PARK TRUST – Ratification and Approval of Extension of Contract Term with Billion Oyster Project, Inc. for Tribeca Habitat Enhancement Phase II

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 25, 2024, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby ratifies and approves the Hudson River Park Trust's extending the contract term with Billion Oyster Project, Inc. for the Tribeca Habitat Enhancement Phase II through August 31, 2024; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Ratification and Approval of Extension of Contract Term with The Olin Partnership, Ltd. for Pier 26 Landscape Architect Services

I. Contract Summary

Contractor: The Olin Partnership, Ltd.
Proposed Work: Pier 26 Landscape Architect Services
Contract Number: A4640
Amendment: Extension of Term

II. Background

At its May 28, 2015 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract with The Olin Partnership, Ltd (“Olin”) to design Pier 26 as well as adjacent upland areas. An amendment for additional funds was authorized at the May 31, 2018 Board meeting in order to further advance the engineering of the Pier 26 ecological get-down, now called the Tide Deck, for a Total Board Authorization Amount of up to \$2,755,642. Pier 26 opened to the public in September 2020. At its September 30, 2021 meeting, the Board authorized the addition of \$200,000 and a three-year extension of the contract term to enable Olin to complete the construction documents and provide construction administrative services for the Pier 26 Science Play Area.

The Science Play Area recently opened to the public. The sturgeon play equipment is an eye-catching and unique addition to Hudson River Park that is both educational and fun. While the contract was set to expire on December 31, 2023, playground construction continued into January 2024 and additional time is needed to complete the Trust’s contract close-out requirements. Staff thus seeks ratification by the Board for a six-month extension of the contract term through June 30, 2024. No additional funding is required.

III. Requested Action

The Trust staff requests that the Board ratify and approve a six-month extension of the contract term with The Olin Partnership, Ltd. for Pier 26 Landscape Architect Services, through June 30, 2024.

Attachment
Resolution

HUDSON RIVER PARK TRUST – Ratification and Approval of Extension of Contract Term with The Olin Partnership, Ltd. for Pier 26 Landscape Architect Services

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 25, 2024, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby ratifies and approves the Hudson River Park Trust's extending the term of contract with The Olin Partnership, Ltd for Pier 26 Landscape Architect Services by an additional six months, through June 30, 2024; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Term of Contract with Melk Urban Design LLC (dba !melk) for Landscape Architectural Services for Pier 97

I. Contract Summary

Contractor: Melk Urban Design LLC (dba !melk)
Proposed Work: Landscape Architectural Services for Pier 97
Contract Number: A4900; NYS Contract No. C004900
Amendment: Extension of Term

II. Background

At its September 26, 2018 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract with Melk Urban Design LLC (dba !melk) (“Melk”) to design the Pier 97 pier, adjacent upland area, and finish treatments for the over-water pedestrian platform between Piers 98 and 99. At the September 30, 2021 meeting, the Board authorized an extension of Melk’s contract term and the addition of \$50,000 for additional design services related to the requirements of a federal transportation grant administered by the New York State Department of Transportation (“SDOT”). At the December 2, 2021 meeting, the Board authorized an additional \$75,000 for additional scope again related to the SDOT grant. The contract with Melk is set to expire on January 31, 2024.

The Trust opened a substantial portion of Pier 97 to the public in December 2023. The full opening of the pier and the adjacent new park building with restroom facilities, a concession and a small park maintenance area is expected to occur in Spring 2024.

Trust staff now seeks to extend the contract term by one year so that Melk can continue to provide construction administrative services through the completion of construction, including sign-off for the Pier 97 Building by the New York City Department of Buildings, as well as other contract close-out measures. No additional funding is required for this extension but the amended contract will be filed with the Office of State Comptroller as it is funded through State monies.

III. Requested Action

The Trust staff requests authorization by the Board of Directors to extend the term of contract with Melk Urban Design LLC (dba !melk) for Landscape Architectural Services for Pier 97 by one-year, through January 31, 2025.

HUDSON RIVER PARK TRUST - Authorization to Extend the Term of Contract with Melk Urban Design LLC (dba !melk) for Landscape Architectural Services for Pier 97

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 25, 2024, 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 Melk Urban Design LLC (dba !melk) for Landscape Architectural Services for Pier 97 by one year, through January 31, 2025; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Terms of Contracts with Padilla Construction Services, Inc., Eastern Plumbing & Mechanical Contracting, Inc., C.D.E. Air Conditioning, Inc., and Interphase Electric Corporation for Gansevoort Peninsula Building General, Plumbing, Mechanical and Electrical Construction Work

I. Contract Summaries

Contractor: Padilla Construction Services, Inc.
Proposed Work: Gansevoort Peninsula Building General Construction Work
Contract Number: C5300
Amendment: Extension of Term

Contractor: Eastern Plumbing & Mechanical Contracting, Inc.
Proposed Work: Gansevoort Peninsula Building Plumbing Construction Work
Contract Number: C5310
Amendment: Extension of Term

Contractor: C.D.E. Air Conditioning, Inc.
Proposed Work: Gansevoort Peninsula Building Mechanical Construction Work
Contract Number: C5320
Amendment: Extension of Term

Contractor: Interphase Electric Corporation
Proposed Work: Gansevoort Peninsula Building Electrical Construction Work
Contract Number: C5330
Amendment: Extension of Term

II. Background

In June 2021, the Hudson River Park Trust (“Trust”) issued four separate Requests for Proposals for general construction, plumbing, mechanical and electrical work for the Gansevoort Building construction as required by Wicks Law. At its September 30, 2021 meeting, the Board of Directors (“Board”) approved Maximum Contract Values for the Gansevoort Building Construction Contracts. Subsequently, at the December 2, 2021 meeting, the Board ratified and approved four separate two-year contracts with Padilla Construction Services, Inc. for General Construction; Eastern Plumbing & Mechanical Contracting, Inc. for Plumbing Construction; C.D.E. Air Conditioning, Inc. for Mechanical Construction; and Interphase Electric Corporation for Electrical Construction. All four contracts are set to expire on January 31, 2024.

Construction of the Gansevoort Peninsula building is nearly complete. However, the contractors are addressing punch-list items that are necessary for obtaining final sign-offs from the New York City Buildings Department. The Trust expects to complete all necessary work and obtain the required sign-offs in the next few months in order to open the restrooms to the public and otherwise begin using the building.

Trust staff now requests an eight-month extension of term, through September 30 2024, for each of the four contracts in order to complete the required close-out processes and secure Department of Buildings sign-offs. No additional funding is required.

III. Requested Action

The Trust staff requests authorization to extend the term of contract with Padilla Construction Services, Inc. for the Gansevoort Peninsula Building General Construction Work for an additional eight months; with Eastern Plumbing & Mechanical Contracting, Inc. for the Gansevoort Peninsula Building Plumbing Construction Work for an additional eight months; with C.D.E. Air Conditioning, Inc. for the Gansevoort Peninsula Building Mechanical Construction Work for an additional eight months; and with Interphase Electric Corporation for the Gansevoort Peninsula Building Electrical Construction Work for an additional eight months.

Attachment:
Resolutions

HUDSON RIVER PARK TRUST – Authorization to Extend the Terms of Contract for the Gansevoort Peninsula Building General Construction, Gansevoort Peninsula Building Plumbing Construction, Gansevoort Peninsula Building Mechanical Construction, and Gansevoort Peninsula Building Electrical

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 25, 2024, 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 Padilla Construction Services, Inc. for the Gansevoort Peninsula Building General Construction Work for an additional eight months, through September 30, 2024; and be it further

RESOLVED, the Board hereby authorizes the Hudson River Park Trust to extend the term of contract with Eastern Plumbing & Mechanical Contracting, Inc. for the Gansevoort Peninsula Building Plumbing Construction Work for an additional eight months, through September 30, 2024; and be it further

RESOLVED, the Board hereby authorizes the Hudson River Park Trust to extend the term of contract with C.D.E. Air Conditioning, Inc. for the Gansevoort Peninsula Building Mechanical Construction Work for an additional eight months, through September 30, 2024; and be it further

RESOLVED, the Board hereby authorizes the Hudson River Park Trust to extend the term of contract with Interphase Electrical Corporation for the Gansevoort Peninsula Building Electrical Construction Work for an additional eight months, through September 30, 2024; 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 resolutions.

For Consideration
January 25, 2024

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") as Owner's Representative for Capital Projects & Strategic Planning for a Total Board Authorization Amount of up to \$1,500,000. Pursuant to the contract, Stantec has provided design, consulting and project management services for a variety of projects and administrative issues such as review of tenant drawings for Pier 57 and project management services for building permit closeouts. At its January 27, 2022 and March 28, 2023 meetings, the Board authorized one year term extensions for the completion of outstanding tasks, with no additional funding added.

The Trust staff now seeks to further extend the term of Stantec's contract by one year so that Stantec can complete on-going services – in particular, for the continuing Pier 40 Fire Sprinkler Restoration work for which Stantec is providing technical and engineering support. Trust staff does not anticipate issuing further work orders to Stantec under this contract given the Board's recent approvals of on-call Architecture and Engineering firms, but reassigning continuing work to such firms would be inefficient and more costly given the learning curve that would need to occur for new consultants. No additional funding is required for this extension of the contract term.

III. Requested Action

The Trust staff 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, to January 7, 2025.

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 25, 2024, 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, through January 7, 2025; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Ratification and Approval of Extension of Contract Term with Alpine Construction & Landscaping Corp. for Chelsea Waterside Park Phase 2 General Construction

I. Contract Summary

Contractor: Alpine Construction & Landscaping Corp.
Project: Chelsea Waterside Park Phase 2 General Construction
Contract Number: C5500
Authorized Amount: Extension of Term

II. Background

At its July 29, 2021 meeting, the Board of Directors authorized the Hudson River Park Trust (“Trust”) to enter into a contract with Alpine Construction & Landscaping Corp. (“Alpine”) for Chelsea Waterside Park Phase 2 General Construction for a total Board Authorization Amount of up to \$8,079,309. At the July 28, 2022 meeting, the Board authorized the addition of \$1,000,000 to address change orders for unanticipated subsurface conditions and to add a small vending kiosk to the scope of work.

Chelsea Waterside Park opened to the public in June 2023, but fabrication and delivery of the kiosk was delayed due to supply chain issues. The kiosk is expected to be installed on-site this winter. Trust staff accordingly seeks Board ratification and approval to extend the contract term by one year through September 30, 2024 to cover both installation of the kiosk and project closeout requirements. No additional funding is required.

III. Requested Action

The Trust staff requests that the Board ratify and approve a one-year extension of the contract term with Alpine Construction & Landscaping Corp. for Chelsea Waterside Park Phase 2 General Construction, through September 30, 2024.

Attachment:
Resolution

HUDSON RIVER PARK TRUST – Ratification and Approval of Extension of Contract Term with Alpine Construction & Landscaping Corp. for the Chelsea Waterside Park Phase 2 General Construction

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 25, 2024, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby ratifies and approves the Hudson River Park Trust's extending the term of the contract with Alpine Construction & Landscaping Corp. for the Chelsea Waterside Park Phase 2 General Construction by an additional one year, through September 30, 2024; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Authorization to Extend the Term of Contract with Deborah Bradley Construction & Management Services, Inc. for On-Call General Contracting Services

I. Contract Summary

Contractor: Deborah Bradley Construction & Management Services, Inc.
Proposed Work: On-Call General Contracting Services
Contract Number: M5099A
Amendment: Extension of Term

II. Background

In 2019, the Hudson River Park Trust (“Trust”) identified a need for one or more on-call contractors who could timely perform various repair and capital maintenance work throughout Hudson River Park. As permitted under the Trust’s Procurement Guidelines, in September 2019, the Board of Directors (“Board”) authorized the Trust to enter into piggyback contracts with one or more of the five contractors selected by the Battery Park City Authority (“BPCA”) following a competitive procurement process to perform comparable services. The Board’s approval of the on-call general contracting services as needed was for a term of 33 months at a Total Board Authorization Amount of up to \$990,000. In October 2019, the Trust entered into a contract with Deborah Bradley Construction & Management Services, Inc. (“DBC”) pursuant to such approval, which contract term was extended through January 24, 2024 as approved by the Board at meetings held in July 2022 and June 2023, consistent with BPCA’s contract term.

Since commencing the contract, DBC has completed various projects for the Trust including miscellaneous boathouse repairs, repairs to the elevator roof at Pier 40, and completing a new foundation for the composting machine at the Trust’s composter yard, and the Trust has been satisfied with DBC’s services. Currently, DBC is completing repair work at the Pier 25 playground. Staff seeks to extend the DBC contract by five months so that this work can be completed and the contract closed-out.

On January 11, 2024, the Trust received a number of proposals in response to its Request for Proposals for a new On-Call General Construction procurement, and relevant staff are currently vetting the responses with the goal of bringing a recommendation to the Board in March. In the meantime, it is in the Trust’s best interest to have the current Pier 25 playground repair work

completed over the next few months under the existing DBC contract so that the playground can be opened to the public by spring and to avoid the additional expenses that would be incurred by transitioning to a new contractor mid-project. No additional funding for this contract extension is required.

III. REQUESTED ACTION

The Trust staff requests Board authorization to extend the term of the contract with Deborah Bradley Construction & Management Services, Inc. for On-Call General Contracting Services by five months, through June 24, 2024.

Attachment:

Resolution

HUDSON RIVER PARK TRUST – Authorization to Extend the Term of Contract with Deborah Bradley Construction & Management Services, Inc. for On-Call General Contracting Services

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 25, 2024, 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 Deborah Bradley Construction & Management Services, Inc. for On-Call General Contracting Services by five months, through June 24, 2024; 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.

For Consideration
January 25, 2024

To: The Directors

From: Noreen Doyle

Re: Ratification and Approval of Extension of Contract Term with CH2M Hill Engineering, P.A. for Professional Services Related to Pier 40 Structural Restoration

I. Contracts Summary

Contractor:	CH2M Hill Engineering, P.A.
Proposed Work:	Pier 40 Structural Restoration Engineering Services
Contract Number:	A4680
Amendment:	Extension of Term

II. Background

At its May 26, 2016 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract with CH2M Hill Engineering, P.A. to serve as the Engineer of Record for the Pier 40 Structural Restoration work encompassing a comprehensive program of pile repairs supporting the pier (the “CH2M Contract”). The scope of work included preparation of the necessary regulatory filings and construction drawings needed for permits and procurement as well as reviewing contractor shop drawings and construction progress in the field. As authorized by the Board at the October 2020 and May 2022 meetings, the Total Board Authorization Amount for the CH2M Contract as amended is \$1,500,000 and the contract was set to expire in March 2023.

All phases of the Pier 40 pile restoration construction work were completed in early 2023, but the close-out process with outside agencies was delayed, and CH2M has continued to support this effort, which is now nearly complete. Additionally, because some additional funds remain available, Trust staff seeks to extend the term of the CH2M Contract through June 30, 2024 so that the firm can: (a) provide an additional engineering review of the Pier 40 finger pier which was omitted from the Pier 40 Structural Restoration work as discussed with the Board at that time, and (b) complete the necessary contract closeout and record documentation work needed to conclude the Pier 40 Structural Restoration project. No additional funding is required for this contract extension.

III. Requested Action

Trust staff seeks Board ratification and approval of the extension of the contract term with CH2M Hill Engineering, P.A. for professional services for the Pier 40 Structural Restoration pile work through June 30, 2024.

Attachment:

Resolution

HUDSON RIVER PARK TRUST – Ratification and Approval of Extension of Contract Term with CH2M Hill Engineering, P.A. for Professional Services Related to Pier 40 Structural Restoration

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 25, 2024, a copy of which is ordered filed with the records of the Hudson River Park Trust, the Board hereby ratifies and approves the extension of the contract term with CH2M Hill Engineering, P.A. for Professional Services Related to Pier 40 Structural Restoration through and including June 30, 2024; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Authorization to Contract with Marvel Architects, Landscape Architects, Urban Designers, PLLC for Design and Related Consultant Services for W29th to W46th Street Landscape and Esplanade

I. Contract Summary

Contractor:	Marvel Architects, Landscape Architects, Urban Designers, PLLC
Proposed Work:	Design and Related Consultant Services for W29th to W46th Street Landscape and Esplanade
Contract Number:	A5330
Authorization Amount:	\$8,563,399 plus a 10% contingency for a Total Board Authorization Amount of up to \$9,419,739

II. Background

Excluding Pier 40 and Pier 76, the area of Hudson River Park (the “Park”) located between West 29th and 46th Streets is the last major section of the Park that has not yet been improved. The Hudson River Park Trust (“Trust”) has identified a need to retain a qualified consultant to provide comprehensive planning, design and phased construction document packages, construction administration and various related services for the W. 29th Street to W. 46th Street Landscape and Esplanade project.

The area encompasses a number of existing commercial and governmental uses, making it a complex design project. The intention of the project is to improve the pedestrian experience of this area by streamlining vehicular access to the extent possible and developing park amenities. This will require close coordination with the Trust’s tenants, other governmental entities and neighbors. Traffic analysis and design will play a major role in the development of the design. The Trust anticipates that the project will progress in phases over the six-year contract term. Funding is available from New York State, New York City and from previous sales of certain Park development rights for eventual construction following the design phase.

III. Procurement

In accordance with the Trust’s Procurement Guidelines, an advertisement for a Request for Proposals (“RFP”) for Design and Related Consultant Services for W29th to W46th Street Landscape and Esplanade was published in the New York State Contract Reporter and on the Trust’s website between the period of June 29, 2023 and August 21, 2023. 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 respondent's experience in providing similar services, its reputation and references, the quality of the submitted proposal, and the fee and cost schedule. After evaluating proposals, the selection committee, joined by Board members of the Trust's Design committee, conducted interviews of the top proposers, with the result that Marvel Architects, Landscape Architects, Urban Designers PLLC ("Marvel") was determined to provide the best value to the Trust.

The Trust will complete a responsibility determination prior to entering into the contract. Since Marvel is a NYS-certified MBE, it will exceed the overall 30% advertised M/WBE goal, although a waiver may be required for a portion of the 15% WBE goal. Marvel will partially meet the advertised 6% SDVOB goal, and the Trust will issue a waiver for the remaining percentage, due to lack of remaining subconsultant opportunity.

Marvel has experience providing similar services for government agencies including the New York City Department of Parks and Recreation, New York City Department of Design and Construction, and Battery Park City Authority.

IV. Funding

Funding for the Design and Related Consultant Services for W29th to W46th Street Landscape and Esplanade contract is available through New York State and will require filing with the Office of the State Comptroller.

V. Requested Action

The Trust staff requests authorization by the Board of Directors to enter into a contract with Marvel Architects, Landscape Architects, Urban Designers, PLLC for Design and Related Consultant Services for the W29th to W46th Street Landscape and Esplanade project in the amount of \$8,563,399 plus a 10% contingency, for a Total Board Authorization Amount of up to \$9,419,739.

Attachment:
Resolution

HUDSON RIVER PARK TRUST - Authorization to Contract with Marvel Architects, Landscape Architects, Urban Designers, PLLC for Design and Related Consultant Services for W29th to W46th Street Landscape and Esplanade

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 25, 2024, 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 enter into a contract for a six-year term with Marvel Architects, Landscape Architects, Urban Designers, PLLC for Design and Related Consultant Services for the W29th to W46th Street Landscape and Esplanade project in the amount of \$8,563,399 plus a 10% contingency for a Total Board Authorization Amount of up to \$9,419,739; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Authorization to Approve the Selection of New York Water Tours Inc. for Pier 40 Marine Uses

I. Background

The Hudson River Park Trust (“Trust”) and its predecessor agencies have hosted robust commercial marine operations at Pier 40 for decades. For the past approximately ten-year period, Hornblower New York, LLC (“Hornblower”) operated vessels for sightseeing and meal service cruises and charters along the northern and western perimeters of Pier 40 under a permit issued following a competitive procurement. That permit generated significant annual rental income for the Trust and expired earlier this month. The Trust released a Request for Proposals for Marine Uses at Hudson River Park’s Pier 40 (the “RFP”) in August 2023 seeking continuation of an income-generating, maritime-related business of either a comparable nature to Hornblower or certain other water dependent uses to commence operations by Spring 2024.

As noted in the RFP, the Trust sought proposals from reputable vessel owners and operators that would be good neighbors both to the larger surrounding Park and to the inland residential neighborhood as well as generating needed revenue to help support Park operations. The RFP identified permitted uses to include sightseeing excursions; dining cruises; charters; docking of historic vessels with commercial operations; berthing of boats and yachts; and public programming, educational and cultural uses. The Premises offered include the northern and western docking areas of Pier 40 that can support up to 10 berths in their existing configuration (subject to the size of the vessels) as well as three separate optional interior spaces that may be used for passenger processing, vessel provisioning and operations, storage, and ancillary administrative and service functions.

As explained below, the Trust seeks authorization by the Board of the Directors (“Board”) to select New York Water Tours Inc. (“NYWT”) to operate at Pier 40 in response to the RFP, subject to the Trust successfully negotiating a concession agreement with NYWT for the expected nine-year contract term.

II. Procurement Process

In compliance with the Trust’s Guidelines for Revenue Generating Contracts, the Trust released the RFP and advertised the RFP in the New York State Contract Reporter and on the Trust’s website for the period from August 22, 2023 to October 5, 2023. The Trust also sent notice of the RFP to an extensive list of marine operators that operate in New York Harbor and at other similarly

active waterways and harbors located in other states. The Trust received nine proposals on the submission due date of October 5, 2023. A selection committee consisting of Trust staff in the Real Estate, Legal and Public Safety Departments reviewed all proposals and interviewed the seven respondents that had submitted administratively complete response packages in compliance with the requirements of the RFP. Following the interviews, the Selection Committee ranked all proposals based on the criteria set forth in the RFP, including the quality of the proposed uses, the operations schedule, plans for maintenance and safety of the proposed operations, and staffing plan; compatibility of the proposed use with existing uses in Hudson River Park and at Pier 40 and with the character of the adjacent residential/commercial neighborhood; respondent's experience and qualification, reputation, and financial strength, including its past performance within New York Harbor or other similarly congested waterways; and the financial benefit to the Trust, including the proposed fees to be payable to the Trust.

Based on these initial rankings, the Selection Committee then again interviewed the top two shortlisted respondents including accompanying each on a tour of the proposed premises at Pier 40 in order to further understand each respondent's proposed plans for pedestrian and vehicular traffic management, trash management, deliveries, vessel schedule management, community coordination, noise control, and safety and security. Trust staff also called the references provided by the two shortlisted respondents and asked additional questions as needed to ensure an accurate understanding of each respondent's proposed operations. Based on the review of the proposals, the interviews, and references, the Selection Committee has determined that proceeding with NYWT to negotiate a concession agreement would be in the best interest of the Trust.

III. Proposed Use by NYWT at Pier 40

NYWT proposes to dock six vessels offering brunch, dinner, family and kid-focused cruises and sightseeing and adult social cruises, with a mixture of ticketing available to the general public and for private events. NYWT also proposes to use approximately 19,200 square feet of interior space on the first floor of Pier 40 for passenger processing, sales and marketing and the storage of supplies and materials necessary for the provisioning of the vessels. This is the same amount of interior space that Hornblower formerly used.

In order to minimize the potential for quality-of-life impacts to the neighboring residential community, the Trust, through its negotiations with NYWT, intends to limit the frequency of late-night cruises by requiring the majority of excursions to return to Pier 40 by no later than 11:00 pm except on certain pre-authorized occasions. The Trust also plans to limit operations by third parties to ensure that NYWT, as the sole operator, will directly handle, coordinate and be responsible for all logistics and operations.

NYWT proposes a base concession fee starting at approximately \$845,549 for the first year with annual escalations during the nine-year contract period as well as percentage rent set at 12% of the year-over-year gross revenue increase.

Trust staff intends to execute a concession agreement with NYWT using the Form of Concession agreement that has been granted to other concessionaires operating in the Park and which includes terms similar to those previously incorporated in the now expired Hornblower permit. Such

concession agreement will identify the premises, annual fees and percentage rent, and hours of operations as described above as well as operating exhibits setting forth NYWT's security plan, signage plan, operating procedure and vehicle access plan. The recommended contract term is five years with the option for two two-year extensions at the discretion of the Trust.

IV. Requested Action

Trust staff requests Board authorization to approve the selection of New York Water Tours Inc. for Pier 40 Marine Uses, subject to successful negotiation of the concession agreement.

Attachment:

Resolution

HUDSON RIVER PARK TRUST - Authorization to Approve the Selection of New York Water Tours Inc. for Pier 40 Marine Uses

RESOLVED, based upon the materials presented to the Board of Directors at its meeting of January 25, 2024, 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 the selection of New York Water Tours Inc. for Pier 40 Marine Uses subject to successful negotiation of a concession agreement utilizing the Trust's standard form of concession; 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 25, 2024

To: The Directors
From: Noreen Doyle
Re: Authorization to Amend Contract with E-J Electric Installation Company for
Gansevoort Peninsula Electrical Construction

I. Contract Summary

Contractor: E-J Electric Installation Company
Proposed Project: Gansevoort Peninsula Electrical Construction
Contract Number: C5380
Amendment Amount: \$49,365 for a Total Board Authorization Amount of up to
\$1,888,450

II. Background

At its June 3, 2021 meeting, the Board of Directors (“Board”) authorized the Hudson River Park Trust (“Trust”) to enter into a contract with E-J Electric Installation Company (“E-J”) to install lighting, power distribution and other electrical components as part of the construction of the new park area at the Gansevoort Peninsula for a Total Board Authorization Amount of up to \$1,702,586. At the September 29, 2022 meeting, the Board authorized an amendment to the contract for an additional \$136,499 to cover the relocation and replacement of an electric utility line and the installation of conduit to support an automated vehicular control feature at the entrance to Gansevoort Peninsula, for a Total Board Authorization of up to \$1,839,085.

Following the Gansevoort Peninsula’s opening on October 2, 2023, the Trust has observed that lighting levels on the south edge of the site, which were intentionally designed to provide a more naturalistic shoreline edge as compared to various paved areas, should be increased somewhat to optimize security and visibility. Therefore, the Trust directed the consultant design team to perform an additional lighting analysis and recommend a cost-effective solution to increase light levels without compromising park aesthetics.

The design team recommends installing two custom lights that would be attached to the existing sports light poles and aimed towards the south edge that would increase light levels while minimizing light spillover onto the water or the *Day’s End* installation. The cost for this work is \$49,365.

III. Funding

Funding for the amendment to the E-J contract is available from capital budget funds allocated by the City of New York.

IV. Requested Action

The Trust staff requests Board authorization to amend the contract with E-J Electric Installation Company for Gansevoort Peninsula Electrical Construction for an additional amount of \$49,365 for a Total Board Authorized Amount of up to \$1,888,450.

Attachment:
Resolution

HUDSON RIVER PARK TRUST – Authorization to Amend Contract with E-J Electric Installation Company for Gansevoort Peninsula Electrical Construction

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 25, 2024, 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 E-J Electric Installation Company for the Gansevoort Peninsula Electrical Construction for an additional amount of \$49,365 for a Total Board Authorized Amount of up to \$1,888,450; 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 25, 2024

To: The Directors

From: Noreen Doyle

Re: Approval of the Hudson River Park Trust 2024 Procurement Guidelines

The Procurement Guidelines of the Hudson River Park Trust (“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”).

The Trust staff reviews the previously approved Procurement Guidelines periodically to ensure they accurately reflect current New York State policies and requirements. Since the last update to the Trust’s Procurement Guidelines in 2023, the State of New York, through its Office of General Services (“OGS”) and based on recommendations from the State Procurement Council, released new procurement guidelines for State entities dated September 2023 (hereafter, the “State Procurement Guidelines”). Accordingly, the Trust staff reviewed the State Procurement Guidelines and has proposed conforming edits to the Trust’s Procurement Guidelines. The proposed Trust’s Procurement Guidelines for 2024 include the following changes as set forth in the State Procurement Guidelines: (a) clarification of the types of procurements that are not preferred source or centralized contracts; (b) additional details on preferred sources; (c) new language requiring the Trust to seek advance approval by OGS prior to using another State agency contract (referred to as a “piggyback procurement”); (d) clarification that the calculation of the threshold for discretionary purchases is based on a 12-month rolling period; and (e) confirmation that vendors participating in the development of a solicitation cannot generally participate as a potential bidder.

A copy of the proposed Trust’s Procurement Guidelines for 2024, tracked to show the changes as compared to the current Trust’s Procurement Guidelines dated 2023, has been shared with all Directors.

Requested Action

The Trust staff requests that the Board of Directors approve the Hudson River Park Trust 2024 Procurement Guidelines.

Attachments:

Resolution

Proposed Trust’s Procurement Guidelines dated January 2024

HUDSON RIVER PARK TRUST - Approval of the 2024 Procurement Guidelines

RESOLVED, based upon the materials presented to the Board of Directors at its meeting on January 25, 2024, 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 Procurement Guidelines dated January 2024; 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

~~March 2023~~

January 2024

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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 consistence with State practice. These Guidelines apply to all contracts and purchase orders with a value of \$5,000 or more.

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”~~ Other procurement ~~that can either be discretionary or results from a formal, competitive methods, including, but not limited to:~~
1. Competitively bid procurement ~~process based upon the total value of the~~
 2. Sole or single source procurement
 3. New York State agency or Piggybacking ~~(multi-agency established contracts) if appropriate under the evaluation factors detailed in or procurements and other existing non-New York State Finance Law §163(10)(e).entity contracts or procurements (Piggybacking)~~
 4. Consortium contracts or contracts held by other states or federal agencies
 5. Emergency purchases
 6. Discretionary purchases

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~~), which is administered by the ~~blind~~; NYS Department of Corrections and ~~approved charitable non-profit agencies~~ Community Supervision (DOCCS); the New York State Preferred Source Program for People who are Blind (NYSPSP); and the New York State Industries for the ~~severely disabled, qualified programs for the mentally ill~~ Disabled, Inc. (NYSID). Equal priority is accorded to NYSID and qualified veterans workshops¹. The Office of General Services List of Preferred Sources is located at: <https://ogs.ny.gov/procurement/preferred-sources>.²

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 (Multiple Award Schedule).

¹ Commodities and services produced by a qualified veterans' entity providing job and employment-skills training to veterans where such a (workshop) entity is operated by the U.S. Department of Veterans Affairs and is manufacturing products or performing services within NY and where such entity is approved for such purposes by the Commissioner of Education.

² CORCRAFT is not a Preferred Source option for the procurement of *services*. However, the Trust may obtain services offered by CORCRAFT through an interagency Memorandum of Understanding with CORCRAFT as a division of DOCCS.

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 – Multiple Award Schedule.** 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 states and localities to purchase Information Technology (IT), security and law enforcement products and services offered through 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. Additionally, if the contract that the Trust intends to piggyback is held by a New York State agency and is not a centralized contract, the Trust must notify the agency of its intended use and request approval from OGS using the Contract Use Request Form available from OGS.

E. DISCRETIONARY PURCHASING GUIDELINES

Pursuant to State Finance Law § 163(6-b), to the extent the Trust anticipates purchasing the same commodities and/or services for periods longer than 12 months commencing on the date of purchase, consideration should be given to conducting multi-year competitive procurements for the relevant commodities to secure favorable pricing and/or terms and conditions.

- 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 publicly advertised RFP or bid. For 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 of the Executive Law (Minority and Women Business Enterprises) and Veterans’ Services Law Article 3 (Service-Disabled Veteran Owned Businesses), 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 publicly 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 Veterans’ Services Law Article 3, and, if applicable, businesses selling commodities or technology that are recycled or remanufactured.”

F. SDVOB Set Asides

Pursuant to Veterans’ Services Law Article 3, 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~~other 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.

Example of recommended language for Contract Reporter notification:

Pursuant to NYS Finance Law Section 163.10(b) and the Hudson River Park Trust's Procurement Guidelines, the Trust is advertising its intent to award a contract to <vendor name> for <services/goods> as a <sole/single source>.

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.
- If a vendor participates in the development of a solicitation (e.g., specifications, etc.), such vendor is generally precluded from being able to participate as a potential bidder. See State Finance Law § 163(2); and for technology procurements, see State Finance Law § 163-a, for guidance and exceptions. Trust staff should consult with an attorney in the Trust’s Legal Department to determine if a vendor is precluded from participation as a potential bidder.

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.
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.

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 participate 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~~selected contractors 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. Executive Order No. 16

Executive Order No. 16 of 2022 (“EO 16”) limits State entities from entering into any new contracts or renewing existing contracts with an entity conducting business operations in Russia. The Trust shall include an EO 16 certification form in all solicitations; the completed form must be returned to the Trust as part of a responsive bid or proposal package. This certification requirement does not apply to purchases (including mini-bids, RFQs, or task orders) from a centralized contract established by OGS.

The Trust may not award any contracts to any vendors that appear on the federal sanctions list at <https://sanctionssearch.ofac.treas.gov/>. There is no waiver process. If a vendor is not on the federal sanctions list but checks answers to questions 2a, 2b or 3 on the EO 16 certification form, the Trust shall follow the evaluation process provided in the Guidelines for Executive Order No. 16. In the event that the Trust conducts the outlined evaluation and determines that it is necessary to award a contract to an entity that conducts business in Russia, the Trust shall provide a written determination from the President of the Trust, that specifies, at a minimum, the following: (1) a detailed explanation as to why the contract or investment with the particular entity is necessary for the Trust to perform its critical functions and (2) an explanation that there are no suitable alternatives to the contract or investment, which should describe what alternatives were considered and why the alternatives were not suitable. Other factors affecting the decision to grant an exemption may also be included.

The determination must be signed by the President or the President’s authorized designee. The vendor’s certification and the written determination must be included in the procurement record.

N. 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.

O. 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~~other 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 contract is valued at~~ \$200,000 or more and 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.¹

¹ Note: While some public authorities also file semi-annual procurement reports pursuant to Article 4-C of the New York State Economic Development Law, the Trust is not subject to these reporting requirements because the majority of the Trust's Board of Directors is not appointed by the Governor. The Trust does file annual procurement reports as noted above and on PARIS.

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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