

A regular meeting (“Meeting”) of the New York City Public Housing Preservation Trust (the “Trust”) was held at 90 Church Street, 5<sup>th</sup> floor, Ceremonial Room, New York, New York 10007 on November 22, 2023.

**CALL TO ORDER / ROLL CALL**

The Meeting was called to order by Lisa Bova-Hiatt, Chairperson, at 10:34 a.m., and a quorum was declared present.

The following Trustees were present:

Lisa Bova-Hiatt (Chairperson)

Karen Blondel (Trustee)

Pamela Campbell (Trustee)

Annika Lescott-Martinez (Trustee)

Baaba Halm (Trustee)

Barbara McFadden (Trustee)

Maria Torres-Springer (Trustee)

Chair Bova-Hiatt welcomed welcome Ms. Lescott-Martinez, NYCHA’s Chief Financial Officer, to the Trust Board and said that Ms. Okoroji was previously serving on the Trust Board because she was NYCHA’s Interim Chief Financial Officer.

Chair Bova-Hiatt said that Ms. Lim, the Trust’s General Counsel, would assist her in holding and carrying out today’s meeting.

**I. APPROVAL OF THE MINUTES**

Ms. Lim said that the first item on today’s agenda was the approval of the minutes from the September 7, 2023, Board meeting. Chair Bova-Hiatt moved to adopt the minutes. Trustee Lescott-Martinez seconded the motion and the minutes from the Board of Trustees Meeting on September 7, 2023, were adopted unanimously, a copy of which is attached hereto as **Attachment 1**.

**II. CHAIR REMARKS**

Ms. Lim said that the next item on the agenda were the Chair’s Remarks.

Chair Bova-Hiatt thanked everyone for being there today as it was the day before Thanksgiving, and she said that it was a great testament to everyone’s commitment to the work of the Trust. She said that she was happy to say that this would be our regular standing meeting – the third Wednesday of every odd month.

Chair Bova-Hiatt said that the Trust team has been working tirelessly since the last board meeting and that it was an extraordinary amount of work as it was not every day that we launch a new agency here in New York City. She said that she was looking forward to hearing more about this extensive work today, including the new policies, staff and budget materials that we will see today and that she was particularly excited about the Trust's new logo, which was developed in a very resident-centered process and was a good example of the way in which the Trust was set up to center resident engagement.

Chair Bova-Hiatt said that NYCHA would present an update about the Nostrand vote, and that she has heard that the process was going well. She asked if any other board members would like to give any remarks before we get to today's business.

Ms. Lim asked that the record reflect that no other Board member had remarks.

### III. PRESIDENT'S REPORT

Ms. Lim stated that the next item on the agenda would be the President's report to be presented by President Vlada Kenniff.

President Kenniff said that she wanted to start by acknowledging the Trust's Strategic Capabilities and throughout the Board meeting, demonstrate how the Trust is structuring its new organization to roll up into these capabilities. She said that resident and employee partnership is one of the Trust's values, and that we put residents first in everything we do, and we are building our foundations based on strong partnerships. She said that procurement flexibility is also important and that the Trust's enabling legislation gives it the ability to leverage alternative delivery methods not available to NYCHA or other agencies, and capability to structure programs around this. She added that financing capacity was an asset as the Trust is an agency that can access higher Section 8 subsidies to fund renovations and operations. President Kenniff said that lastly, preservation of municipal workforce and expertise was an important priority as almost a quarter of NYCHA's workforce are NYCHA residents. President Kenniff stated that the Trust has an opportunity to further NYCHA's Transformation Plan after it has recapitalized public housing properties.

President Kenniff announced the appointment of Jillian McLaughlin as the Trust's Chief Operating Officer. Ms. McLaughlin previously worked at NYCEDC on real estate transactions, at NYCHA as the Deputy Chief of Staff to the Chair and CEO, and at NYC Parks as the Chief of Staff before working on real estate transactions, fundraising, and marketing in the private sector. President Kenniff said Ms. McLaughlin has a Master of Public Policy, from the Harvard Kennedy School of Government, and that given her experience in government and her experience scaling operations and process in the private sector, that we were exciting to have her taking on this role.

President Kenniff said that since her appointment at the last Board Meeting, Trust staff have been working diligently to develop communications, resident engagement, scaling operations, legal and policy development, and preparing for capital delivery work pending resident votes. President Kenniff said that more specifically, this includes establishing bank accounts and securing insurance for the Trust to begin operations, creating a website and social media accounts to start transparent and proactive communication, engaging in a shared services agreement discussion with NYCHA, developing a

Procurement Policy for the Board's consideration, and developing an operational plan and budget for the Board's consideration.

President Kenniff said that the Trust has participated in NYCHA-held events, knocked on hundreds of doors, and called many residents to let them know there is an election and there are options.

President Kenniff added that the Trust has issued a Request for Information ("RFI") to start gathering industry feedback on how to best structure our Trust Modernization and Preservation Program, and that the webinar for the RFI had 75 participants.

President Kenniff said that in a few days, the Trust would launch a new website that will feature its vision, mission and values as an organization, and that this was developed with important resident voices.

President Kenniff said that in my first week as the president, I launched a Logo Design Contest with the hope that our new organization's visual identity gets created with NYCHA resident talent, and now we have a result, and I could not be happier! She said that the Trust Board voted and selected our winner, Shairon Rose. She said that Ms. Rose has been a NYCHA resident for 8 years and has captured our mission beautifully. President Kenniff thanked our partner in this project, Alex Zablocki and the Public Housing Community Fund.

President Kenniff said that this concluded her report.

Chair Bova-Hiatt thanked President Kenniff for the President's report and said that we will move onto the other action items on the agenda.

#### **IV. PROCUREMENT POLICY OF THE TRUST**

Ms. Lim said that the second action item on today's agenda was the adoption of the Procurement Policy of the Trust and that she would present that item.

Ms. Lim said that she was honored to present the Procurement Policy of the Trust and that procurement was the bread and butter of the Trust.

Ms. Lim said that the Procurement Policy which was developed, combines the flexibility of the Trust Act with best practices. Ms. Lim said that Trust staff studied the procurement policies of various public benefit corporations, quasi-governmental organizations, and best practices published by the Harvard University Kennedy School.

Ms. Lim said that our policy was also reviewed by several of our government colleagues in procurement and that in sum, the Trust can procure through three different methods:

1. Lowest Cost Competitive Bidding
2. Best Value Bidding
3. Exceptions to Formal Competitive Bidding

Ms. Lim said that regarding lowest cost competitive bidding, the Trust can use lowest cost competitive bidding through sealed bids that are publicly solicited or solicited from a list of prequalified bidders, and

that under this method, a contract is awarded to the lowest responsible and responsive bidder. Ms. Lim said that we expect to use this method for construction projects that require one trade with little design variation.

Ms. Lim said that regarding best value bidding, the Trust may award contracts based on factors other than price; the Trust may also consider a vendor's past history, qualifications, legal compliance and labor relations success, and MWBE or Section 3 business concern status. Ms. Lim said that we expect to use this method on more complex capital rehabilitations.

Ms. Lim said that regarding exceptions to formal competitive bidding, the Trust can procure without a competitive process,

- when a contract's value is less than \$50,000 or under \$500,000 if procured from a MWBE
- When an emergency that involves danger to life, safety, or property that is unforeseen and pressing
- When exigent circumstances arise (for example, court order, default by contractor, litigation)
- When the Trust wishes to enter a contract with another government entity (for example, NYCHA)
- When the Trust determines that it is in the public interest to purchase off an existing government contract (for example, Office of General Services)
- When the Trust determines there is only a single source for the goods or services the Trust needs
- When the Trust begins a competitive process for bids and receives no bids or only one responsive bid

Chair Bova-Hiatt moved that the Trustees adopt:

1. RESOLUTION ADOPTING THE PROCUREMENT POLICY OF THE TRUST.

*Trustee Blondel seconded the resolution adopting the procurement policy of the Trust, and the resolution was adopted unanimously.*

A copy of this resolution is attached to these Minutes as Attachment 2.

V. ADOPTION OF THE ANNUAL BUDGET OF THE TRUST

Ms. Lim said that the third item on today's agenda is the adoption of the Annual Budget of the Trust, and that Ms. McLaughlin would present that item.

Ms. McLaughlin said that we were given special legislative capabilities that allow us to offer two planned services to NYCHA, and that the first was the Trust Modernization & Preservation Program, which was the public-public partnership analogue to the PACT program and offers comprehensive repairs for residents enabled by the additional income possible due to shifting from Section 9 funding to project-based Section 8 funding.

Ms. McLaughlin said that the other service was completing capital projects on behalf of NYCHA using the Trust's range of alternative project delivery methods authorized by the State, and these methods could deliver capital projects where close coordination of the construction and design teams are critical upfront. She said that this could yield savings of 2-10% compared to traditional methods and save more than a year.

Ms. McLaughlin said that in thinking about our two programs, we established goals for FY2023 and FY2024, some of which we have already achieved, and that these goals fall into three categories:

1. Core Operations
2. Resident Engagement, Economic Opportunity, & Transparency
3. Program Design & Execution

Ms. McLaughlin said that in terms of core operations, as a government organization, we need to establish a foundational baseline to start operations, including insurance, financial controls, a compliance program, and adopting the policies, processes, and agreements necessary to start awarding contracts, and that through a Shared Services Agreement with NYCHA, most of these core operations would be covered.

Ms. McLaughlin said that for resident engagement, economic opportunity, and transparency, we wanted to establish early practices and channels that encourage transparency and close partnership with residents.

Ms. McLaughlin said that finally, the two services we are offering to NYCHA need to be developed – regardless of the outcome of the first vote for the Trust's preservation program, we are going to work closely with NYCHA to establish a base Property Management Agreement for developments that transfer into the Trust and, if we have a development opt in, issue a solicitation for a Project Partner to do the design and construction work. She said that on our planned alternative project delivery services, we would set up the systems to execute the first set of capital projects and plan to issue our first solicitation in FY2024.

Ms. McLaughlin said that to accomplish these goals, we are going to develop a set of competencies in the short, mid, and long-term. She said that in the short-term, we are focusing on core operations and program design with many of the foundational tasks performed by NYCHA, including financial oversight. She said that in the mid-term, we will be expanding our financial planning & analysis capabilities and will bring on dedicated finance leadership to manage the Trust's financial operations.

Ms. McLaughlin said in the long-term, we will build out an asset management and portfolio operations team, and that it will take approximately two years from when a development opts into the Trust Preservation program and when the development is transferred over to the Trust, and then plan to build out the asset management program and hire personnel ahead of that transition so we can make sure we are adequately monitoring the physical, financial, and compliance elements of the property.

Chair Bova-Hiatt moved that the Trustees adopt:

2. RESOLUTION ADOPTING THE ANNUAL BUDGET OF THE TRUST.

*Trustee McFadden seconded the resolution adopting the Annual Budget of the Trust, and the resolution was adopted unanimously.*

A copy of this resolution is attached to these Minutes as Attachment 2.

VI. INFORMATION ITEM AND TRUSTEE REMARKS

Ms. Lim said that the next item of the agenda was an information item regarding Nostrand Houses to be presented by Brian Honan, Senior Vice President of Intergovernmental Affairs, at NYCHA.

Mr. Honan thanked the Board for the opportunity to present on the engagement and election process at Nostrand Houses in Sheepshead Bay, Brooklyn and wished the Board members a Happy Thanksgiving.

Mr. Honan said that the process was unprecedented and the first of its kind in the United States and that it was a true partnership with the residents so that nothing can happen at Nostrand unless the residents say that it can happen. Mr. Honan said that when you do something for the first time, it takes a whole team to do it. Mr. Honan thanked the residents at Nostrand Houses for their participation. He also thanked the leadership of Mandu San, Courtney Yu and Sharon Quituisaca, and Makeba Price-Johnston and the entire voter engagement team who ensured that residents were educated on the vote.

Mr. Honan said the legislation passed requires that no project can come under the jurisdiction of the Trust unless they vote in. Mr. Honan said that the legislation required voting rules which NYCHA developed in collaboration with residents and advocates. Mr. Honan said that the voting rules required a 100-day engagement process followed by a 30-day voting process (online and by mail for the first 20 days). Mr. Honan said that the last 10 days will have an additional in-person option. Mr. Honan said that a third-party election administrator hired, MK Elections, oversees the mailing and counting of ballots, and that a cumulative vote of at least 20% is required to have a valid election. Mr. Honan said that the engagement period must include 4 public hearings, one in person and one virtual. Mr. Honan said that the residents were informed that they could vote for PACT, the Trust, or to stay in Section 9 conventional public housing. Mr. Honan said that Nostrand Houses in Sheepshead Bay Brooklyn was selected as the first property up for a Trust vote.

Mr. Honan said that on July 28, 2023, a notice of the vote was sent to every household at Nostrand Houses and that the notice advised of the three options for the housing development which included the Trust, PACT, or to remain in Section 9. Mr. Honan said that on August 1, 2023, Mayor Adams, Trustee McFadden and Trustee Torres-Springe, joined NYCHA Chair Bova-Hiatt for the kick-off event for the Nostrand vote and the public announcement. Mr. Honan said that the first day of voting was November 8, 2023 and that the first day of in-person voting starts on November 28, 2023. Mr. Honan said that the voter engagement team is on site and has an office there, and that they work six days a week at Nostrand Houses. Mr. Honan said that the voter engagement team has met Nostrand residents individually, in small groups and larger groups or by phone, and that they have cumulatively, spoken to 81% of the total residents. Mr. Honan said that the voting population at Nostrand Houses is 1591 residents and that the total population is 2200 residents. Mr. Honan said that NYCHA is confident that it will have a big turnout for the Nostrand vote and that we should have the preliminary results shortly after December 7<sup>th</sup> and official results a few days later. Mr. Honan said that although the outcome is uncertain, we know that the Nostrand residents have

shown that they love their community and have taken the efforts to be educated in the voting process which will preserve their homes.

Mr. Honan thanked the Board and the residents of Nostrand and said that he looks forward to reporting on the final results.

Chair Bova-Hiatt said that she was very thankful, hopeful and grateful for the voter engagement team, the Nostrand residents, the Board, and Trustee McFadden, for being so positive about the first Trust vote. Chair Bova-Hiatt asked if the Trustees had anything to add.

Trustee Blondel thanked everyone for engaging with Nostrand. Trustee said that the process was transparent and that everyone was given a chance to speak. She noted that there were various news media outlets for comment and that the naysayers from public housing spoke also.

Trustee McFadden said that she was the resident leader at Nostrand and that the vote was historical and that it was very significant for her. Trustee McFadden said that she would not be here in 40 or 50 years but that her grandchildren and great nieces and great nephews would understand that she had been involved in this historical vote, and that no one could take that accomplishment away from here. Trustee McFadden thanked Chair Bova-Hiatt, President Kenniff, Jillian McLaughlin, Brian Honan, the voter engagement team, and the legal department, for their hard work. Trustee McFadden said that we can't keep doing things the same way and that every resident had the right to have a better quality of life and that she was ready for the Trust.

#### ADJOURNMENT

With the conclusion of official business, upon a motion by Chair Bova-Hiatt and a second from Trustee McFadden, the Meeting was adjourned at 11:03 a.m. and the livestreaming terminated.

Respectfully Submitted,




Lisa Lim  
General Counsel and Corporate Secretary

December 7, 2023

**NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST**

**Board Resolution  
Cover Sheet**

<b><u>Title of Resolution</u></b>  Resolution concerning the adoption of the Procurement Policy of the New York City Public Housing Preservation Trust.	<b><u>Month/Day/Year of Board Meeting</u></b>  <u>11/22/2023</u>  Calendar Number: <u>1</u>
<b><u>Submitted By:</u></b>  Name: Lisa Bova-Hiatt Title: Chairperson	<b><u>Status ("X" near one only)</u></b> Action <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Information <input type="checkbox"/> Presentation <input type="checkbox"/> Other <input type="checkbox"/>
<b><u>Attachments ("X" where applicable):</u></b> Resolution <input checked="" type="checkbox"/> Attachment(s) to Resolution X Background documentation <input type="checkbox"/>	<b><u>Resolution Approved as to Form and Legality:</u></b>  Signed By: <u></u> Name: Lisa S. Lim Title: General Counsel Date: <u>12/5/2023</u>

**BACKGROUND / SUMMARY:**

This Resolution seeks to adopt the Procurement Policy of the New York City Public Housing Preservation Trust.

**RECOMMENDATION:**

To approve.



**NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST**

**BOARD RESOLUTION # 11/22/2023 – 1**

At the meeting of the Board of Trustees of the New York City Public Housing Preservation Trust (the "Trust") on November 22, 2023, the following resolution was proposed and approved by the Board:

WHEREAS, the authorizing statute of the Trust which is known as S. 9409A signed into law by Governor Hochul on June 16, 2022 (the "Trust Act"), provided that the Trust shall establish and maintain procurement policies that shall set forth its procurement of goods and services, including but not limited to services for design, development, construction, reconstruction, improvement, modernization, rehabilitation, repair and operation, related to property owned or leased by the Trust, in a manner consistent with the Trust Act; and

WHEREAS, the Trust has proposed its procurement policy for the procurement of construction contracts, goods and services, annexed hereto as Exhibit A (the "Procurement Policy") that will be needed for the Trust's mission; and

WHEREAS, the Trust believes that the Procurement Policy shall allow it flexibility to use various methods of procurement available to it, including but not limited to "best value" criteria for selection; and

WHEREAS, the Trust has incorporated the participation of MWBE and Section 3 businesses into its Procurement Policy.


**NOW, THEREFORE, IT BE RESOLVED THAT:**


The Trust hereby adopts the Procurement Policy, effective immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote, which resulted as follows:

	YES	NO	ABSTAIN	ABSENT
Board Member 1 <i>Karen Blondel</i>	h			
Board Member 2 <i>Lisa Bova-Hiatt</i> <i>(Chairperson)</i>	h			
Board Member 3 <i>Pamela Campbell</i>	h			
Board Member 4 <i>Baaba Halm</i>	h			
Board Member 5 <i>Barbara McFadden</i>	h			
Board Member 6 <i>Annika Lescott-Martinez</i>	h			

Board Member 7 <i>Maria Torres-Springer</i>	<i>✓</i>			
Board Member 8 [Insert Name]				
Board Member 9 [Insert Name]				

Witnessed by:   
Name: Lisa Bova-Hiatt  
Title: Chairperson of the Board  
Date: 12/5/2023

Witnessed by:   
Name: Lisa S. Lim  
Title: General Counsel  
Date: 12/5/2023

**EXHIBIT A**

Procurement Policy of the Trust

Attached

## **New York City Public Housing Preservation Trust Board Memorandum**

### **Summary**

- Requested Board Action: Approval of Resolution Adopting the Trust's Procurement Policy
- Board Meeting Date: November 22, 2023

### **Introduction**

The State Legislature designed the New York City Public Housing Preservation Trust (the "Trust") to have a range of procurement options to enable the Trust to effectively execute its mission to rehabilitate public housing in New York City. The New York City Public Housing Preservation Trust Act, S9409A ("the Trust Act"), authorizes the use of "best value" criteria to award contracts and enables the use of multiple, innovative alternative project delivery methods. Pursuant to the Trust Act, the Trust has prepared a Procurement Policy for consideration by the Board.

### **Policy Goals**

The Procurement Policy combines the flexibility of the Trust Act with best practices that reward quality, enshrine accountability, and accelerate contracts. Procurement is central to the Trust's ability to be effective—from selecting contractors to deliver comprehensive repairs under the Trust Modernization & Preservation Program to maximizing opportunities for Section 3 workers, Section 3 businesses, and M/WBEs.

This policy was developed through a close reading of the Trust Act as well as city, state, and federal law and regulations. In addition, the Trust benchmarked against policies of other public benefit corporations, quasi-governmental organizations, and best practices published by the Harvard Kennedy School Procurement Excellence Network.

### **Types of Procurement**

The Trust can procure through three different methods:

1. Lowest Cost Competitive Bidding
2. Best Value Bidding
3. Exceptions to Formal Competitive Bidding

#### Lowest Cost Competitive Bidding

The Trust can use lowest cost competitive bidding through sealed bids that are publicly solicited or solicited from a list of prequalified bidders. Under this method, a contract is awarded to the lowest responsible and responsive bidder.

#### Best Value Bidding

Best Value Bidding allows the Trust to award contracts that optimize quality, cost factors and efficiency, price, and performance criteria. The Trust will use Best Value Bidding for alternative project delivery contracts, among other contract types, which provide the ability to coordinate design and construction work early to deliver projects more efficiently. When the Trust uses alternative project delivery contracts, the Trust will follow a two-step process consistent with the Trust Act:

- Step One: The Trust will release a Request for Qualifications (RFQ) to solicit interested vendors and form a Pre-Qualified List (PQL).
- Step Two: The Trust will release a Request for Proposals (RFP) would then issue a Request for Proposals to the PQL.

After evaluating proposals, the Trust can negotiate and award the contract to the proposers who offers the best value to the Trust.

#### Exceptions to Formal Competitive Bidding

The Trust can procure without a competitive process under the following circumstances:

- When a contract's value is less than \$50,000 or under \$500,000 if procured from a MWBE
- When an emergency that involves danger to life, safety, or property that is unforeseen and pressing
- When exigent circumstances arise
- When the Trust wishes to enter a contract with another government entity
- When the Trust determines that it is in the public interest to purchase off an existing government contract
- When the Trust determines there is only a single source for the goods or services the Trust needs
- When the Trust begins a competitive process for bids and receives no bids or only one responsive bid
- When exigent circumstances exist

The Trust will revise this policy continuously in response to legal requirements and to ensure it meets the key goals of flexibility, speed, and accountability. The Trust will provide the Board updates of major revisions.

**PROCUREMENT POLICY  
OF THE  
NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST**

Date Adopted: [November 22, 2023]

**PROCUREMENT POLICY OF THE NEW YORK CITY PUBLIC HOUSING  
PRESERVATION TRUST**

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## Introduction

Governor Kathleen Hochul signed the New York City Public Housing Preservation Act (“the Trust Act”), S. 9409A, codified at Article 15 of the Public Housing Law on June 16, 2022. The Trust Act creates the New York City Public Housing Preservation Trust (“the Trust”) and grants it flexibility for the procurement of contracts. This policy is adopted pursuant to the Trust Act.

Article 1 provides definitions. Article 2 describes the Trust’s foundational commitment to empowering and employing residents as well as provides the Trust’s policy regarding resident engagement in procurement processes pursuant to Section 631 of the Trust Act. Article 3 outlines when the Trust will use a particular procurement process. Article 4 explains the two-step process for awarding Alternative Project Delivery contracts under Section 634 of the Trust Act. Article 5 explains the policy for the Trust’s best value criteria, derived from Section 627 (2) of the Trust Act. Article 6 sets out specific measures for prequalifying vendors and securing the meaningful participation of minority- and women-owned business enterprises as required by Section 633 of the Trust Act. Article 7 contains certain legal standards that apply to the Trust’s contracts as well as processes for dispute resolution pursuant to Section 633 of the Trust Act.

The Trust will create improved housing conditions and meaningful economic opportunity for residents of public housing in New York City. This procurement policy will be a tool as the Trust realizes this foundational commitment to resident participation and empowerment. Except in the case of an emergency, the Trust will ensure that residents participate in decisions regarding expansive capital renovation, modernization, and construction work. The Trust’s procurement policy and its implementation will ensure that the Trust meets Section 3 Targets as well as that residents themselves can access training and employment and shape the future of public housing.

### Article 1. Definitions

*Alternative Project Delivery*: a project delivery method such as construction manager build,<sup>1</sup> construction manager at risk,<sup>2</sup> or design-build<sup>3</sup> among other delivery methods.

*Best Value Bidding*: a procurement process in which the proposal from a responsible vendor that meets the specifications of the procurement and offers the Trust the “Best Value” in its sole and absolute discretion, pursuant to criteria in Article 3 herein, will be awarded the contract.

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<sup>1</sup> “Construction manager build” means a project delivery method whereby a construction manager, following a declaration of a disaster by the governor or state of emergency by the mayor pursuant to article two-B of the executive law or chapter one of title three of the administrative code of the city of New York, or following an independent cost estimate and a concurrence by NYCHA that construction work is required at a housing facility to remedy defects to bring the housing facility into decent, safe, and sanitary condition: (a) serves as part of a team in conjunction with the owner in the design phase of the project; (b) under the oversight of the owner acts as the single source of responsibility to bid, select and hold construction contracts on behalf of the owner during the construction phase; and (c) manages the construction project on behalf of the owner. See Section 627(6) of the Trust Act.

<sup>2</sup> “Construction manager at risk” means a project delivery method whereby a construction manager: (a) serves as part of a team in conjunction with the owner in the design phase of the project; (b) during the construction phase, acts as general contractor for agreed upon compensation as set forth in the construction manager at risk agreement; and (c) assumes the risk of construction costs exceeding an amount specified in the construction manager at risk agreement. See Section 627 (5) of the Trust Act.

<sup>3</sup> Design-build” means a project delivery method for the design and construction of a project with a single entity, which may be a team comprised of separate entities. See Section 627(8) of the Trust Act.



*Lowest Cost Competitive Bidding*: a procurement process in which the proposal from a responsible vendor that meets the specifications of the procurement and is the lowest cost will be awarded the contract through blind competitive bidding.

*Minority- or Women-Owned Business Enterprise (MWBE)*: a business certified under New York State (Executive Law Art. 15-A) or New York City (City Charter § 1304).

*Prequalified List (PQL)*: lists of vendors that have responded to a Request for Qualifications ("RFQ") that the Trust determines are responsible and possess a minimum level of experience or qualifications to be able to deliver or perform a certain good/service. The process for the PQL is described in Article 5.

*Prequalified Vendor*: a vendor on the Prequalified List.

*Section 3 Business Concern*: a business meeting at least one of the following criteria, documented within the last six-month period: (i) it is at least 51 percent owned and controlled by low- or very low-income persons; (ii) over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (those whose income meets HUD guidelines); or (iii) it is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing. Further, the status of a Section 3 Business Concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees. This definition is derived from 24 C.F.R. 75.5.

*Section 3 Targets*: The benchmarks established by HUD for the total number of Section 3 employment hours worked by all workers employed with public housing financial assistance, pursuant to 24 C.F.R. 75 and rulemaking enforcing that provision.

## **Article 2. Procurement Methods**

### *1. Lowest Cost Competitive Bidding*

Lowest Cost Competitive Bidding may be used for the award of contracts in which sealed bids are publicly solicited or are solicited from a list of prequalified bidders. When the Trust determines that Lowest Cost Competitive Bidding is not practicable or advantageous, it may use the most competitive method that it determines will yield the Best Value.

The Trust may use Lowest Cost Competitive Bidding or open competitive bidding when it determines that it would be in the public interest or promote greater efficiency or economy.

### *2. Best Value Bidding*

Where the Trust determines that competitive sealed bidding is not practicable or advantageous, it will use Best Value Bidding as the procurement method for contracts.

When awarding an Alternative Project Delivery contract using Best Value, the Trust will follow the two-step process outlined in Article 3 and award the contract to the bid that it determines offers the Trust the Best Value.

### *3. Exceptions to formal competitive bidding*

There are several exceptions to the use of formal competitive processes. See Trust Act § 633 (1) and 2 CFR 200.320(a).

When the annual value of a contract **does not exceed certain thresholds**, the Trust may enter a procurement contract without a formal competitive process. For any contract under \$50,000—or under \$500,000 that would procure goods or services from a MWBE—the Trust may procure without a formal competitive process.

When there is an **emergency** involving danger to life, safety, or property and that emergency is unforeseen and pressing enough that resolution cannot await the timeline of a competitive process, the Trust may act immediately without conducting a competitive process.

The Trust may use informal processes when it encounters exigent circumstances. The Trust will document the exigent circumstances and the procurement efforts made to meet the exigent need. These circumstances may include:

- i. The Trust has an exigent need to respond to a court order, stipulation, or consent decree, or needs to procure legal or consulting services in support of anticipated litigation, investigation, or confidential services.
- ii. There is an exigent need to award a contract because available funds will be lost or recaptured.
- iii. There is an exigent need to avoid, prevent, or alleviate diminution of value and/or waste.
- iv. An existing vendor has been terminated, has defaulted, has withdrawn from, or has become otherwise unavailable, or the Trust has decided not to renew, or extend an existing contract in the best interest of the Trust or residents, and the Trust requires a substitute or successor vendor on an exigent basis.
- v. An exigent need for contracts that cannot be met through competitive sealed bidding or competitive proposals.
- vi. There is a limited number of vendors available to perform the work and there is an exigent need for such work or services.
- vii. The Trust has an exigent need for contracts that are necessary for its core operations such as utility contracts, insurance policies, banking services, commercial credit cards, or subscriptions.

When the Trust wishes to enter a **contract with another government entity**, including NYCHA, it may do so without a competitive process.

When the Trust determines that it is in the public interest and promotes economy and efficiency to purchase from an **existing government procurement contract**, it may do so. The Trust need not conduct its own competitive process here, but it must analyze the existing government contract and method of procurement prior to purchasing goods or services.

When the Trust or a duly appointed representative determines in writing that based on a market analysis that there is only one source for the goods or services the Trust needs, it may contract with that source as a sole source contract.

When the Trust begins a competitive process for bids or proposals and receives no or only a single responsive answer from responsible vendors, the Trust may take the following steps to award a contract. In the case of no answers, the Trust may turn to a PQL or look for another potential, responsible vendor. The Trust will endeavor to receive and document requests for answers from three

such vendors; it will award the contract based on the responsive and responsible vendor that provides the Best Value.

In the case of a single responsive answer from a responsible vendor, if an officer of the Trust determines after setting forth reasons that the answer a) likely offers the best value to the Trust or is reasonably the only responsive bid that could be submitted and b) that it is in the interests of the public, efficiency, and economy to accept it, the Trust may contract with the vendor as a single source contract.

### **Article 3. Process for Alternative Project Delivery Contracts**

The Trust's open and competitive bidding process for capital renovation, modernization, construction, and some related services will focus on awarding Alternative Project Delivery contracts to generate the best value for residents and the Trust. The process for these procurements will follow a two-step process.

1. *Step one: RFQ and RFP list generation*
  - a. The Trust will issue a request for qualifications (RFQ). The RFQ will include a general description of the public work, selection criteria, and the maximum number of respondents who will be advanced to the request for proposal (RFP) stage.
  - b. The selection criteria will closely track best value and may include other qualifications the Trust finds appropriate for the procurement. These will include the respondent's demonstrated project understanding, financial capability, responsibility, and record of past performance.
  - c. The Trust will use these criteria to evaluate the respondents to the RFQ and list those that will receive the RFP. The Trust will consider and encourage the participation of MWBEs, New York State small businesses, and Section 3 Business Concerns.
2. *Step two: RFP evaluation and vendor selection*
  - a. Respondents who are invited to respond to the RFP may be made of teams of entities; if those teams change after they are invited to issue an RFP, the Trust must approve the changes for the responding team to remain eligible for the procurement award.
  - b. The request for proposals will include the scope of work, goals of the work, targets, and methods for achieving those targets for MWBE and/or Section 3 Business Concern participation, and the criteria for evaluating the proposals. These criteria will include the quality of the proposal's solution, the qualifications and experience of the proposer, and the cost factors of the proposal. The Trust may add additional criteria for each project, such as the proposal's manner and schedule of implementation, the proposer's ability to complete the work in a timely and satisfactory manner, the projected maintenance costs after completion, impact on street, car, and mass transit traffic, and community impact.
  - c. The Trust will score the proposals according to these criteria. It will publish the final scores on its website after the start date of the contract.
  - d. The Trust will select the proposal that provides it with the Best Value.

- e. The Trust may negotiate or meet with all, or a subset, of qualified proposers. The Trust will maintain a written record of the conduct of these negotiations or discussion and the basis for its decision to continue or suspend negotiations. The Trust may decide to negotiate or enter discussions with a subset of the proposers and will set out a determination in writing.
- f. If the Trust enters negotiations with any qualified proposer, it will allow all proposers in the final negotiation subset to revise their proposals and make a best and final offer. At this point, the Trust will score all proposals by responsive and responsible proposers and award the contract to the proposers which offers the best value. The Trust retains the right to negotiate the final contract terms and conditions with the selected vendor or selected finalists.

#### **Article 4. Best Value Criteria**

When evaluating to optimize quality, cost, and efficiency, the Trust will rely on the following price and performance criteria as well as other criteria specified at the outset of a specific procurement process:

- a. **the proposer's past project history**, including performance, quality, timeliness, customer satisfaction, budget accuracy, cost overrun minimization, relevant resident engagement, ability to limit change orders, and appropriateness of project plans;
- b. **the proposer's qualifications**, including technical capacities, key personnel qualifications, financial capability, and ability to assess and manage and minimize risk impact;
- c. **the proposer's legal compliance and labor relations success**, including its ability to comply with and past record of compliance with applicable legal requirements and existing labor standards, as well as its history maintaining harmonious labor relations, protecting the health and safety of workers, meeting Section 3 targets, and paying wages above a locally defined living wage;
- d. **the proposer's MWBE or Section 3 Business Concern status** will be used as a quantitative factor, which may vary depending on the type of solicitation. This quantitative factor shall be used to calculate the total points awarded in a best value bidding process, but the exact number of points may vary in each competitive process. The total points will be based on relevant objective and quantifiable analysis relevant to the procurement at stake and the objectives and goals set by New York City for the relevant business sector. The exact number for a specific competitive process will be announced alongside the other criteria that constitute the basis for determining which proposal or bid offers the Trust the best value. When the proposer is a joint enterprise, the significance of the MWBE or Section 3 Business Concern in the proposal will affect the number of points awarded.

#### **Article 5. Prequalification Process and Meaningful Participation for MWBEs and Section 3 Business Concerns**

- a. The Trust will endeavor to develop a list of Prequalified Vendors, particularly MWBE and Section 3 Business Concerns. The Trust will issue RFQs and evaluate answering vendors. The Trust will ensure every Prequalified Vendor is responsive, responsible, and capable of fulfilling contracts for the needs of the Trust.

- b. Consistent with applicable law, the Trust may invite a Prequalified Vendor to participate in an RFP process for a contract where the Trust reasonably believes that the vendor meets the requirements of that contract's process and could deliver a competitive proposal. When using the PQL, the Trust will invite at least three vendors to submit proposals wherever practicable.
- c. The Trust will endeavor to be a leader for advancing the participation of MWBE and Section 3 Business Concerns. The Trust will regularly review its success in engaging MWBE vendors and Section 3 vendors and meet with such vendors to improve its procurement policies and processes.
- d. Pursuant to New York City Administrative Code § 6-129, the Trust will develop specific targets and policies for the participation of MWBEs in its procurements. These targets for different sectors of goods and services will be set in reference to the goals of New York City. The Trust will review its progress towards these goals, the effectiveness and efficiency of its process, and whether to change either its MWBE goals or process.

#### **Article 6. Trust Procedure, Legal Standards, and Dispute Resolution**

- 1. *Applicable legal standards*
  - a. If any provision of this policy conflicts with federal law, federal law shall control. If any provision of this policy conflicts with the Act, the Act shall control. However, if any provision of this policy conflicts with New York State or City law, so long as such provision is consistent with the Trust Act, the policy shall control. See Trust Act §§ 629 (8); 633 (1); 634 (1); 648.
  - b. All contracts of the Trust shall be subject to §§ 6-108 and 6-123 of the Administrative Code of the City of New York. The Trust is a "contracting agency" for the purposes of the City Code § 6-123. See Trust Act § 633 (3).
- 2. *Dispute resolution*
  - a. The Trust shall adopt procedures for the fair and equitable resolution of contract disputes, appeals of responsiveness and responsibility determinations by the Trust, and for appeals of prequalification determinations. In the case of a dispute related to procurement or the awarding of a contract, the Trust shall require that the vendor appeal to the Trust within ten days of the relevant decision and submit material at that time. If the vendor wishes to appeal the decision, the Trust may select a neutral, third-party arbitrator in New York State to review the Trust's determination pursuant to the American Arbitration Act.
- 3. *Amendments to the Procurement Policy*
  - a. The Trust may amend this Procurement Policy from time to time.


**ATTACHMENT 3**

**BOARD RESOLUTION 11/22/2023 - 2**

Attached

**NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST**

**Board Resolution  
Cover Sheet**

<b><u>Title of Resolution</u></b>  Resolution concerning the annual budget of the New York City Public Housing Preservation Trust.	<b><u>Month/Day/Year of Board Meeting</u></b>  <u>11/22/2023</u>  Calendar Number: <u>2</u>
<b><u>Submitted By:</u></b>  Name: Lisa Bova-Hiatt Title: Chairperson	<b><u>Status ("X" near one only)</u></b> Action <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Information <input type="checkbox"/> Presentation <input type="checkbox"/> Other <input type="checkbox"/>
<b><u>Attachments ("X" where applicable):</u></b> Resolution <input checked="" type="checkbox"/> Attachment(s) to Resolution X Background documentation <input type="checkbox"/>	<b><u>Resolution Approved as to Form and Legality:</u></b>  Signed By:  Name: Lisa Lim Title: General Counsel Date: <u>12/5/2023</u>

**BACKGROUND / SUMMARY:**

This Resolution seeks to adopt the annual budget of the Trust.

**RECOMMENDATION:**

To approve.

**NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST**

**BOARD RESOLUTION # 11/22/2023 – 2**

At the meeting of the Board of Trustees of the New York City Public Housing Preservation Trust (the "Trust") on November 22, 2023, the following resolution was proposed and approved by the Board:

WHEREAS, the Trust seeks to adopt its annual budget, annexed hereto as Exhibit B (the "Annual Budget");

WHEREAS, the Annual Budget shall have variations to it depending on the pipeline of deal and procurement activity.


**NOW, THEREFORE, IT BE RESOLVED THAT:**

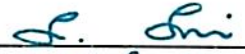
The Trust hereby adopts the Annual Budget, effective immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote, which resulted as follows:

	YES	NO	ABSTAIN	ABSENT
Board Member 1 <i>Karen Blondel</i>	h			
Board Member 2 <i>Lisa Bova-Hiatt</i> <i>(Chairperson)</i>	h			
Board Member 3 <i>Pamela Campbell</i>	h			
Board Member 4 <i>Baaba Halm</i>	h			
Board Member 5 <i>Barbara McFadden</i>	h			
Board Member 6 <i>Annika Lescott-</i> <i>Martinez</i>	h			
Board Member 7 <i>Maria Torres-Springer</i>	h			
Board Member 8 [Insert Name]				
Board Member 9 [Insert Name]				



Witnessed by:   
Name: Lisa Bova-Hiatt  
Title: Chairperson of the Board  
Date: 12/5/2023

Witnessed by:   
Name: Lisa S. Lint  
Title: General Counsel  
Date: 12/5/2023

**EXHIBIT B**

Annual Budget of the Trust

Attached

## New York City Public Housing Preservation Trust Board Memorandum

### Summary

- Requested Board Action: Approval of Resolution Adopting the Trust's FY23 and FY24 Budget
- Board Meeting Date: November 22, 2023

### Introduction

The Trust has prepared a FY23 and FY24 budget for consideration by the Board of Trustees that reflect the Trust's projections of the resources necessary to launch a new public agency and scale operations to achieve its mission, including:

- Launch core operations
- Engage with residents and lay the foundation for economic opportunity from the Trust's programs
- Design and start execution of the Trust's planned programs

### Proposed Organizational Plan & Goals

The Trust has four strategic capabilities that it can wield to benefit public housing residents and NYCHA:

- Resident & Employee Partnership
- Procurement Flexibility
- Financing Capacity
- Preservation of Municipal Workforce & Expertise

Based on these four strategic capabilities, the Trust plans to offer two services to NYCHA:

1. **Trust Modernization & Preservation Program:** The Trust forms a public-public partnership with NYCHA to convert developments to project-based Section 8 financing and offer comprehensive capital repairs and improved operations.
2. **Alternative Project Delivery Services:** The Trust can use its powers of alternative project delivery to execute complex capital projects faster and more cost-effectively than NYCHA's current alternatives.

Given the variability in the number, size, and timing of projects in the Trust Modernization & Preservation Program, the Trust has a phased resourcing plan. The Trust will immediately work to lay the foundation for each of the planned services and calibrate spending on service execution based on actual projects.

The proposed FY23 and FY24 budget will support the following goals and cover costs already incurred on behalf of the Trust to initiate operations:

## Core Operations

- Secure the insurance coverage to start operations
- Establish financial controls and configure financial reporting and analysis software
- Document compliance requirements and implement a compliance process
- Finalize a Shared Services Agreement with NYCHA to cover administrative services for Trust employees
- Establish strong governance with consistent input and oversight by the Board
- Finalize a procurement policy and launch a procurement process
- Adopt a Project Labor Agreement

## Resident Engagement, Economic Opportunity, & Transparency

- Establish content and messaging that explains the Trust programs for the benefit of residents, prospective partners, and the general public
- Ensure a regular cadence of two-way communication between the Trust and residents through a combination of in-person and digital channels
- Create a program to maximize economic opportunity for NYCHA residents, other Section 3 workers and Section 3 businesses, and M/WBEs

## Program Design & Execution

- Trust Modernization & Preservation Program
  - Collaborate with NYCHA to establish Property Management Services for developments that transfer into the Trust
  - Issue the first solicitation for a Project Partner to modernize and preserve a development subject to residents opting into the program
- Alternative Project Delivery Services
  - Set up systems for the Trust's first set of capital projects
  - Issue the first solicitation for a Project Partner

The actual spend will vary depending on the number of capital projects under management by the Trust, including the number of projects where residents “opt in” to the Trust model.

## Proposed Budget

The Trust's proposed FY23 and FY24 budget is below:

	FY2023	FY2024
Program Development/Oversight	\$799,000	\$2,831,000
Trust Modernization & Preservation Program	\$0	\$2,130,000
Alternative Project Delivery Services	\$0	\$667,000
Contingency	\$0	\$1,718,000
<b>Total</b>	<b>\$799,000</b>	<b>\$7,346,000</b>

The proposed budget includes project management costs for the Trust Modernization & Preservation Program and Alternative Project Delivery Services, but project-specific budgets will be developed in partnership with NYCHA as the project pipeline finalizes that will include direct project costs and design and construction costs. If residents do not approve any developments to opt into the Trust Modernization & Preservation Program, the expected spend is below:

	FY2023	FY2024
Program Development/Oversight	\$799,000	\$1,982,000
Trust Modernization & Preservation Program	\$0	\$0
Alternative Project Delivery Services	\$0	\$667,000
Contingency	\$0	\$515,000
<b>Total</b>	<b>\$799,000</b>	<b>\$3,164,000</b>