

MINUTES OF THE
MEETING OF THE BOARD OF DIRECTORS
OF
BUILD NYC RESOURCE CORPORATION
HELD IN-PERSON AT THE ONE LIBERTY PLAZA OFFICES OF
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
JUNE 6, 2023

The following directors and alternates were present, constituting a quorum:

Andrew Kimball (Chairperson)
Nate Bliss, alternate for Maria Torres-Springer,
Deputy Mayor for Housing and Economic Development
Francesco Brindisi, alternate for Brad Lander
Comptroller of The City of New York
HeeWon Brindle-Khym
Albert De Leon
Anthony Del Vecchio
Janet Mejia-Peguero
Jacques-Philippe Piverger
Douglas Rose, alternate for Dan Garodnick,
Chair of the City Planning Commission of The City of New York
Shanel Thomas
Betty Woo, alternate for Hon. Sylvia Hinds-Radix,
Corporation Counsel of The City of New York

The following directors and alternates were not present:

Khary Cuffe
James Prendamano

Andrew Kimball, President of New York City Economic Development Corporation (“NYCEDC”) and Chairperson of the Build NYC Resource Corporation (“Build NYC” or the “Corporation”), convened the meeting of the Board of Directors of Build NYC at 9:16 a.m., at which point a quorum was present.

1. Adoption of the Minutes of the April 25, 2023 Board Meeting

Mr. Kimball asked if there were any comments or questions relating to the minutes of the April 25, 2023 Board of Directors meeting. There were no comments or questions; a motion to approve such minutes was made, seconded and unanimously approved.

2. Financial Statements for April 30, 2023 (Unaudited)

Carol Ann Butler, an Assistant Vice President for NYCEDC, presented the Corporation's Financial Statements for the ten-month period ending April 30, 2023 (Unaudited). Ms. Butler reported that for the ten-month period the Corporation recognized revenues from project finance fees from thirteen transactions totaling \$2.7 million. Ms. Butler reported that for the ten-month period the Corporation recognized revenues derived from compliance, application, post-closing and other fees in the amount of \$258,000. Ms. Butler also reported that \$1.9 million in operating expenses, largely consisting of the monthly management fee, were recorded for the Corporation for the ten-month period that ended on April 30, 2023 (Unaudited).

3. Appointment of Jeanny Pak as Chief Financial Officer

Mr. Kimball presented for review and adoption a resolution to appoint Jeanny Pak as Chief Financial Officer of the Corporation. A motion was made to adopt the resolution. The motion was seconded and unanimously approved.

4. Approval of Annual Contract with NYCEDC

Emily Marcus Falda, a Vice President for NYCEDC and Executive Director of the Corporation, presented for review and approval the Corporation's Annual Contract with NYCEDC (the "Contract"), pursuant to which NYCEDC would provide administrative services to the Corporation in support of the Corporation's programs. Ms. Marcus Falda stated that under the Contract, NYCEDC provides services to the Corporation such as project management, legal and accounting services.

There being comments or questions, a motion to approve the Corporation's Annual Contract with NYCEDC attached hereto as Exhibit A, as submitted, was made, seconded and unanimously approved.

Ms. Marcus Falda presented the following items as required by the Public Authorities Reform Act followed by a request for Board approval for said items: Investment Guidelines Policy, Disposition of Personal Property Policy, Acquisition and Disposition of Real Property Policy, Procurement Policy and Mission Statement and Performance Measurements.

5. Approval of Investment Guidelines Policy

Ms. Marcus Falda presented for review and approval the Corporation's Investment Guidelines Policy, as required by the Public Authorities Accountability Act.

6. Approval of Disposition of Personal Property Policy

Ms. Marcus Falda presented for review and approval the Corporation's Disposition of Personal Property Policy, as required by the Public Authorities Accountability Act.

7. Approval of Acquisition and Disposition of Real Property Policy

Ms. Marcus Falda presented for review and approval the Corporation's Acquisition and Disposition of Real Property Policy, as required by the Public Authorities Accountability Act.

8. Approval of Procurement Policy

Ms. Marcus Falda presented for review and approval the the Corporation's Procurement Policy, as required by the Public Authorities Accountability Act.

9. Mission Statement and Performance Measurements

Ms. Marcus Falda presented for review and approval the the Corporation's Mission Statement and Performance Measurements, as required by the Public Authorities Accountability Act.

There being no comments or questions, a motion to approve the the Corporation's Investment Guidelines Policy, attached hereto as Exhibit B, the Corporation's Disposition of Personal Property Policy, attached hereto as Exhibit C, the Corporation's Acquisition and Disposition of Real Property Policy, attached hereto as Exhibit D, the Corporation's Procurement Policy, attached hereto as Exhibit E and the Corporation's Mission Statement and Performance Measurements, attached hereto as Exhibit F was made, seconded and unanimously approved.

10. Board Self-Evaluation

Noah Schumer, a Senior Associate for NYCEDC and Deputy Executive Director of the Corporation, presented the the Corporation's Mission Statement and Performance Measurements, as required by the Public Authorities Accountability Act (the "Survey") attached hereto as Exhibit G, which was reviewed and approved by the Governance Committee. Mr. Schumer stated that the Survey was required under the Public Authorities Accountability Act.

Ms. Woo encouraged all Corporation board members to participate in this year's survey and to provide comments in addition to answering the survey questions. Ms. Woo stated that any board member who has any questions should feel free to contact any member of the Governance Committee.

11. 22 East 60 LLC, the sole member of which is The French Institute-Alliance Francaise

Joseph Taecker-Wyss, an Associate for NYCEDC, presented for review and adoption a bond approval and authorizing resolution for approximately \$20,000,000 in tax-exempt revenue bonds for the benefit of 22 East 60 LLC, along with The French Institute-Alliance Francaise as its sole member, and recommended the Board adopt a negative declaration for this project as a SEQRA determination because the project would not have an adverse effect on the environment. Mr. Taecker-Wyss described the project and its benefits, as reflected in Exhibit H.

On behalf of the Finance Committee, Mr. Piverger stated that the Finance Committee spent some time discussing this transaction which represents an important cultural institution. Mr. Piverger stated that the recent revenues were a bit less than the Finance Committee would have liked given the projections in lieu of changes in management and other things so there are some question marks there, however, the Finance Committee felt comfortable supporting the project largely due to the \$13.3 million in reserves as well as the fact that 20% of that is discretionary in nature. On behalf of the Finance Committee, Mr. Piverger stated that this is an acceptable project.

There being no further comments or questions, a motion to approve the bond approval and authorizing resolution and SEQRA determination, attached hereto as Exhibit I, for the benefit of 22 East 60 LLC, along with The French Institute-Alliance Francaise as its sole member, was made, seconded and unanimously approved.

12. Friends of SBCSIC Inc., the sole member of which is South Bronx Charter School for International Cultures & the Arts

Leyla Arcasoy, an Associate for NYCEDC, presented for review and adoption a bond approval and authorizing resolution for approximately \$37,678,502 in tax-exempt and/or taxable revenue bonds for the benefit of Friends of SBCSIC Inc., the sole member of which is South Bronx Charter School for International Cultures & the Arts, and recommended the Board adopt a negative SEQRA determination for the refinancing of outstanding Series 2013A Bonds due to the fact that the proposed refinancing aspect of the project will not have a significant adverse effect on the environment and adopt a negative SEQRA determination for the land acquisition aspect of the project, following the review, analysis and negative declaration previously adopted by the NYC Board of Standards and Appeals which is the designated lead agency on the project. Ms. Arcasoy described the project and its benefits, as reflected in Exhibit J.

On behalf of the Finance Committee, Anthony Del Vecchio stated that the Finance Committee reviewed this project and that, like the previous project, the Finance Committee spent some time discussing the merits of the school, especially as a dual language program

which serves an important function for the City. Mr. Del Vecchio stated that the Finance Committee was comfortable with the school's financials, their projected revenues and their debt service coverage ratio. Mr. Del Vecchio stated that the Finance Committee understands that there is a significant demand for spots at this school and that there is a lot of anticipation for the high school that will be built on the vacant lot so for those reasons the Finance Committee is comfortable with this project. On behalf of the Finance Committee, Mr. Del Vecchio stated that this is an acceptable project.

Mr. Rose asked about the school's seat demand given that the Board previously approved a very large school right next door. Mr. Rose requested Corporation staff to clarify the demand for school seats in this area in the context of this school's aspects that might differentiate it from other schools such as the one next door. Ms. Arcasoy stated that currently the school's wait list almost matches their current enrollment which indicates a very high demand for this type of programming within the area. Ms. Arcasoy stated that the fact that there are several charter schools within the area, especially neighboring to each other also speaks very highly to the demand for seats. Ms. Marcus Falda stated that she would like to echo the comment made by Mr. Del Vecchio that as a dual language school it has is a very unique type of curriculum by offering all of their classes in Spanish and English which none of the other neighboring charter schools provide so there is a very niche demand for this school. Ms. Arcasoy stated that to that point the school has the highest enrollment of English-Language Learner ("ELL") students in the community school district, which is one of the highest enrollments of ELL students in the Bronx in general. Mr. Rose stated that the school's project location is in a zoning district that typically doesn't allow schools so as a result the school had to go to the Board of Standards and Appeals which determined that this is an appropriate location for a school.

There being no further comments or questions, a motion to approve the bond approval and authorizing resolution and SEQRA determinations, attached hereto as Exhibit K, for the benefit of Friends of SBCSIC Inc., the sole member of which is South Bronx Charter School for International Cultures & the Arts, was made, seconded and unanimously approved.

13. The Browning School

Leyla Arcasoy, an Associate for NYCEDC, presented for review and adoption an amended bond approval and authorizing resolution for approximately \$40,000,000 in tax-exempt and taxable revenue bonds for the benefit of The Browning School and recommended the Board adopt a negative SEQRA declaration for the project pursuant to the findings of the Board of Standards and Appeals, attached to the resolution as Exhibit 1. Ms. Arcasoy described the project and its benefits, as reflected in Exhibit L.

There being no further comments or questions, a motion to approve the bond approval and authorizing resolution and SEQRA determination, attached hereto as Exhibit M, for the benefit of The Browning School was made, seconded and unanimously approved.

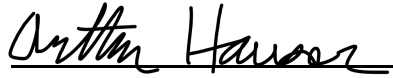
14. The Calhoun School & Metropolitan Montessori School

Marissa Inniss, an Assistant Vice President for NYCEDC, presented for review and adoption two post-closing resolutions: one for the benefit of The Calhoun School (“Calhoun”) and the second for the benefit of the Metropolitan Montessori School (“MMS”). Adoption of the Calhoun post-closing resolution would allow Corporation staff to approve: (i) the sale of the building owned by Calhoun located at 160 West 74th Street, New York, New York, (ii) the release of the Calhoun property from the project documents and (iii) authorize amendments to the master loan agreement or other project documents necessary for the aforementioned sale and release. Adoption of the MMS post-closing resolution would allow Corporation staff to: (i) amend and restate the MMS Series 2015 Bonds and (ii) amend the related bond documents to reflect the merger and assumption by Calhoun of MMS’ obligations thereunder. Following the merger, Calhoun will be executing an assumption agreement with the Corporation, the bond trustee and the holder of the MMS Series 2015 Bonds, resulting in Calhoun becoming obligated under the bond documents in place of MMS with respect to the MMS Series 2015 Bonds. Ms. Inniss described the project and its benefits, as reflected in Exhibit N.

There being no further comments or questions, a motion to approve the bond approval and authorizing resolution and SEQRA determination, attached hereto as Exhibit O, for the benefit of The Calhoun School & Metropolitan Montessori School was made, seconded and unanimously approved.

15. Adjournment

There being no further business to come before the Board of Directors at the meeting, pursuant to a motion made, seconded and unanimously approved, the meeting of the Board of Directors was adjourned at 9:40 a.m.



Assistant Secretary

Dated: 7-25-23

New York, New York

Exhibit A

AGREEMENT

between

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

and

BUILD NYC RESOURCE CORPORATION

FOR FISCAL YEAR ~~2023~~2024

Dated as of July 1, ~~2022~~2023

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AGREEMENT, dated as of the 1st day of July, ~~2022~~[2023](#) between NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION (“EDC”), a corporation incorporated under the Not-for-Profit Corporation Law of the State of New York, having an office at One Liberty Plaza, New York, New York 10006, and BUILD NYC RESOURCE CORPORATION (“BNYC”), a not-for-profit local development corporation incorporated pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York, having an office at One Liberty Plaza, New York, New York 10006.

WHEREAS, BNYC was created and organized for the purposes, *inter alia*, of promoting economic development in the City; and

WHEREAS, EDC provides economic development services to The City of New York pursuant to a contract between The City of New York and EDC, dated as of July 1, 2014, as amended from time to time (the “Master Contract”); and

WHEREAS, BNYC and New York City Economic Development Corporation, a not-for-profit local development corporation incorporated pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York (“Old EDC”), entered into an agreement dated as of January 1, 2012 (for the second half of the fiscal year ending June 30, 2012) (the “Original Contract”), whereby BNYC hired Old EDC, as an independent contractor, to provide BNYC and its Board of Directors certain staff and administrative services in support of BNYC’s operations; and

WHEREAS, pursuant to an agreement dated as of July 1, 2012, the parties to the Original Contract renewed the same; and

WHEREAS, on November 1, 2012, the following actions occurred simultaneously: (a) Old EDC merged into New York City Economic Growth Corporation, a New York not-for-profit

corporation, (b) New York City Economic Growth Corporation survived as successor in interest to Old EDC and assumed the rights and obligations of the latter, and (c) New York City Economic Growth Corporation changed its name to “New York City Economic Development Corporation,” which is the party hereinabove defined as “EDC;” and

WHEREAS, pursuant to agreements dated July 1, 2013, July 1, 2014, July 1, 2015, July 1, 2016, July 1, 2017, July 1, 2018, July 1, 2019, July 1, 2020, [July 1, 2021](#), and July 1, ~~2021~~[2022](#), BNYC and EDC, as successor-in-interest to Old EDC, renewed the Original Contract; and

WHEREAS, BNYC and EDC (as successor-in-interest to Old EDC) desire to renew the contractual relationship between BNYC and EDC by entering into this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, BNYC and EDC agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 For the purposes of this Agreement the following terms shall have the respective meanings ascribed to them below:

“Act” shall mean, the Not-for-Profit Corporation Law of the State of New York and in particular Section 1411 thereof.

“Agreement” shall mean this agreement as the same may from time to time be modified, amended, renewed or supplemented in accordance with the provisions contained herein.

“Applicant” shall mean any person, firm, corporation, partnership or association that has submitted an application to BNYC for bond financing by BNYC.

“Base Contract Fee” shall have the meaning provided in Section 5.1(b) of this Agreement.

“BNYC” shall mean Build NYC Resource Corporation, a not-for-profit local development corporation incorporated pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York.

“BNYC Annual Budget” shall mean the statement of annual estimated expenses (as the same may be amended from time), which BNYC shall or may incur for any fiscal year, whether directly or through EDC, pursuant to this Agreement. The BNYC Annual Budget for the fiscal year ending June 30, ~~2023~~2024 is annexed hereto as Exhibit “A”.

“BNYC Bank Accounts” shall mean all bank accounts of BNYC as of the effective date of this Agreement and all subsequent bank accounts established in accordance with applicable laws and the by-laws of BNYC for the deposit of funds of BNYC.

“Board” shall mean the Board of Directors of BNYC, including any duly designated committee thereof.

“City” shall mean the City of New York, a municipal corporation of the State of New York.

“Corporate Documents and Policies” shall mean, collectively: the certificate of incorporation and the by-laws of BNYC, as either may be amended from time to time; and policies adopted by the Board from time to time.

“Executive Director” shall mean the person elected by the Board of Directors of BNYC as the Executive Director of BNYC, which person shall serve as the chief executive officer of BNYC.

“EDC” shall mean New York City Economic Development Corporation, a New York not-for-profit corporation.

“Fees” shall mean the fees referred to in Section 5.1 hereof.

“Financial Advisor” shall have the meaning assigned to such term in Section 2.3(d) of this Agreement.

“Master Contract” shall mean the contract between The City of New York and EDC, dated as of June 30, ~~2021~~2022 as amended from time to time.

“Services” shall have the meaning provided in Section 2.1 of this Agreement.

“Term” shall mean the term of this Agreement as set forth in Article IV hereof.

ARTICLE II

SCOPE OF SERVICES

Section 2.1 The services described and set forth in this Article II shall hereinafter be collectively referred to as the “Services”.

Section 2.2 In order to assist BNYC in furthering the purposes of the Act, other applicable law, and the Corporate Documents and Policies; and so long as this Agreement is effective, EDC covenants and agrees to provide, in coordination with the Executive Director as provided in Article IX hereof and in accordance with the terms and conditions of this Agreement, such personnel, office space, access to equipment, furniture, conference rooms, other materials and services deemed necessary by the Board for the efficient (i) distribution, receipt, evaluation and processing of all applications for all bond and other transactions, (ii) monitoring, review, evaluation and servicing of all BNYC projects and all financings entered into by BNYC with respect thereto and (iii) coordination with local, state and federal agencies, including but not limited to the timely disclosure of all financial incentives and benefits provided by such agencies and EDC, with respect to the projects financed and to be financed by BNYC.

Section 2.3 EDC covenants and agrees to provide to BNYC, in accordance with the Act, the Corporate Documents and Policies, and all other applicable laws, rules, regulations and agreements, such services as may be authorized by the Board and provided for in the BNYC Annual Budget, including but not limited to the following:

(a) Such advertising, marketing and other outreach services as are necessary and desirable to make Applicants and potential Applicants aware of the availability of BNYC services;

(b) Such technical assistance services to Applicants and potential Applicants as are necessary and desirable in connection with the administration of BNYC programs;

(c) Such information and assistance as may be deemed necessary by the Executive Director, on behalf of the Board, to monitor, report upon, timely enforce and evaluate the performance by EDC of its obligations under this Agreement;

(d) Such assistance in the selection of bond counsel and bond trustees as may be necessary or desirable in connection with the conduct of BNYC's business activities.

(e) Upon approval of the Board, to engage a financial advisor (the "Financial Advisor") to provide the following services to BNYC:

(i) Assist in the development of new BNYC financing programs and alternative financing mechanisms available to BNYC;

(ii) Assist in the development and structuring of BNYC bond issues, including but not limited to, issues of tax-exempt or taxable bonds, notes, commercial paper or variable rate instruments, and financing either single borrowers or multiple borrowers through pooled or composite issues;

(iii) Perform financial analysis of select entities and projects seeking financing through BNYC and assist in the design of appropriate financing structures for those entities and projects;

(iv) Analyze the market for potential purchasers of BNYC bonds with a view toward optimal targeting of new issues;

(v) Assist in negotiations with managing underwriters, placement agents and credit enhancement providers;

(vi) Prepare for and participate in meetings with Federal, State and City officials, underwriters, placement agents, credit enhancement providers, investors, counsel, rating agencies and entities obtaining financing through BNYC;

(vii) Assist in the preparation of official statements, private placement memoranda, flow of funds memoranda and other documents in connection with BNYC financings; and

(viii) Work with rating agencies to obtain timely and proper ratings for BNYC issues.

(e) Such other services or assistance as the Board may request, provided however, that the expenses incurred in connection with such services or assistance must have been provided for in the BNYC Annual Budget.

Section 2.4 So long as this Agreement is effective, BNYC hereby authorizes EDC and EDC covenants and agrees to take all necessary action to promptly collect on behalf of BNYC such amounts as may from time to time be owed to BNYC, including but not limited to recapture amounts, penalties and interest, and damage awards and settlement amounts.

Section 2.5 EDC covenants and agrees to administer the programs of BNYC in a manner consistent with the policies of the Board and to develop recommendations in connection therewith for approval by the Board, consistent with the following guidelines:

(i) consolidate services, including, where appropriate, combined application, review, analysis, monitoring and reporting procedures;

(ii) expedite the bond-financing process, including, where appropriate, assigning one professional staff member to each Applicant, which member shall be responsible for guiding the Applicant through the process in a timely and efficient manner;

(iii) standardize financial analysis, including, where appropriate, performing uniform analysis in connection with each Applicant which shall be utilized in the review of that Applicant's application for bond financing;

(iv) standardize fees;

(v) standardize employment projections and analysis, including, where appropriate, establishing a uniform procedure with regard to the definition, calculation and monitoring of employment opportunities in connection with bond-financed facilities;

(vi) centralize outreach, publicity and marketing, including, where appropriate, implementing seminars and conferences to alert the public and private sectors to the availability of bond financing by BNYC;

(vii) standardize reporting and monitoring, including, where appropriate, creating a single reporting procedure to monitor Applicant compliance and performance;

(viii) standardize term sheets for each bond financing; including the name of the Applicant, the bond amount, interest rate, term, use of proceeds, collateral security and employment information;

(ix) standardize requirements with regard to financial statements from recipients of bond financings;

(x) standardize documentation for and analysis of proposed bond financings;

(xi) standardize documentation and analysis in connection with market justifications to support Applicants' sales growth projections;

(xii) standardize documentation and analysis in connection with each Applicant's capability to manage a proposed project;

(xiii) develop program proposals with regard to the use of BNYC funds which are not dedicated to costs incurred pursuant to the BNYC Annual Budget; and

(xiv) perform such other services and render such other assistance as the Board or the Executive Director shall request.

In addition, the administrative services to be provided to BNYC by EDC with respect to certain larger projects shall be included in the "Services."

Section 2.6. EDC shall, in the performance of the Services, follow procedures substantively similar to the rules issued by the City to enhance the ability of minority and women owned business enterprises ("MWBE(s)") to compete for City contracts. Specifically, for the purpose of procuring consulting and professional services, EDC shall assist BNYC in seeking to obtain responses from MWBEs. In addition, EDC shall assist BNYC in marketing efforts to obtain project applications from MWBE applicants.

Section 2.7. Services relatd to BNYC closings shall be limited to twenty-three (23) BNYC closings. EDC shall be compensated for additional BNYC closings pursuant to Section 5.1(c) of this Agreement.

ARTICLE III

ADMINISTRATION AND ACCOUNTING OF FUNDS; INSPECTION RIGHTS

Section 3.1 EDC covenants and agrees that all funds received by EDC pursuant to Section 2.4 shall be promptly deposited into BNYC Bank Accounts or remitted to appropriate governmental jurisdictions in accordance with requirements of applicable law.

Section 3.2 EDC shall provide to the Board and BNYC's Treasurer investment recommendations and such other advisory services with respect to any monies held in BNYC Bank Accounts as the Board may reasonably request.

Section 3.3 EDC will keep proper books of records and accounts in which proper entries will be made of its transactions with respect to all monies received and investments made pursuant to the terms of this Agreement, all in accordance with generally accepted accounting principles.

Section 3.4 EDC will permit BNYC or its agents to examine the books of account and records of EDC and to make copies and extracts therefrom, and to discuss the affairs, finances and accounts of EDC with its officers and with its independent public accountants, all at such reasonable times and as often as BNYC may reasonably request.

ARTICLE IV

TERM

Section 4.1 The Term of this Agreement shall be for a period from the date of this Agreement to June 30, ~~2023~~2024 or until the earlier termination of this Agreement pursuant to Article XI hereof.

Section 4.2 This Agreement shall be renewable pursuant to Article X hereof for successive additional 12 month periods.

ARTICLE V

PAYMENT TO EDC

Section 5.1 (a) Payment for the Services. BNYC shall remunerate EDC in the amounts required under this Section 5.1.

(b) Base Contract Fee. In consideration of the Services provided to BNYC by EDC during the Term, BNYC shall pay to EDC a base contract fee in the amount of two million two hundred thousand dollars (\$2,200,000) (the “Base Contract Fee”). BNYC shall so remunerate EDC by paying to EDC, on the first day of each calendar month during the Term, an amount equal to one twelfth (1/12) of the Base Contract Fee.

(c) Additional Contract Fee. In addition to the Base Contract Fee, BNYC shall pay to EDC an additional contract fee or fees (collectively, the “Additional Contract Fee”) of \$105,000 for each BNYC closing beyond the twenty-third (23rd) BNYC closing during the Term of this

Agreement. BNYC shall pay EDC an amount equal to the Additional Contract Fee within thirty (30) days of the related closing.

(d) Contribution toward Tenant Improvements. In consideration of any cost incurred by EDC in the improvement of its tenanted offices at One Liberty Plaza, New York, New York, BNYC shall make a contribution toward such cost in a reasonably-allocated amount based upon the number of EDC personnel providing the Services and the time expended by such personnel. At the direction of the Chief Financial Officer of BNYC, such contribution (if any) shall be deemed a part of the Base Contract Fee or it shall be payable as a separate fee in addition to the amount of the Base Contract Fee.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF EDC

EDC represents and warrants that:

Section 6.1 EDC is a not-for-profit corporation duly organized and validly existing and in good standing under the laws of the State of New York, and has all requisite power and authority to execute, deliver and perform this Agreement.

Section 6.2 This Agreement has been duly authorized by all necessary corporate action on the part of EDC and has been duly executed and delivered by EDC and, assuming due execution and delivery by BNYC, constitutes a legal, valid and binding obligation of EDC, enforceable in accordance with its terms.

Section 6.3 There are no actions, suits or proceedings (whether or not purportedly on behalf of EDC) pending or, to the knowledge of EDC, threatened against or affecting EDC at law or in equity or before any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality which involves the possibility of any material adverse change in the business, operations, property or assets, or in the condition, financial or otherwise of EDC.

Section 6.4 Neither the execution and delivery of this Agreement, consummation of the transactions herein contemplated, nor compliance with the terms, conditions or provisions hereof, will conflict with or result in a breach of any of the terms, conditions or provisions of the Certificate of Incorporation or by-laws of EDC or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which EDC is bound, or to the knowledge of EDC, any order, rule, or regulation of any court or governmental agency or body having jurisdiction over EDC or any of its activities or properties.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES OF BNYC

BNYC represents and warrants that:

Section 7.1 BNYC is a not-for-profit, local development corporation duly organized, validly existing and in good standing under the laws of the State of New York and has all requisite power and authority to execute and deliver this Agreement.

Section 7.2 This Agreement has been duly authorized by all necessary corporate action on the part of BNYC and has been duly executed and delivered by BNYC, and assuming due execution and delivery by EDC, constitutes the legal, valid and binding obligation of BNYC, enforceable in accordance with its terms.

Section 7.3 Neither the execution and delivery of this Agreement, consummation of the transactions herein contemplated, nor compliance with the terms, conditions or provisions hereof, will conflict with or result in a breach of any of the terms, conditions or provisions of the by-laws of BNYC or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which BNYC is bound, or to the knowledge of BNYC, any order, rule, or regulation of any court or governmental agency or body having jurisdiction over BNYC or any of its activities or properties.

ARTICLE VIII
ADDITIONAL COVENANTS OF EDC

So long as this Agreement is effective, EDC further covenants and agrees as follows:

Section 8.1 EDC will maintain its corporate existence under the laws of the State of New York as a not-for-profit corporation. EDC is an entity established at the direction of the City.

Section 8.2 EDC will keep and maintain adequate books and records relating to its operations, including but not limited to records with respect to:

- (a) any funds received in connection with BNYC and its programs;
- (b) the disbursement of such funds; and
- (c) financial documents relating to BNYC and its programs, e.g. bank statements, fund balances, cancelled checks, bills, invoices, receipts, and deposit slips.

Section 8.3 EDC will provide monthly and year-to-date financial reports regarding BNYC and its program to the Board and the Executive Director, which reports, shall include the following:

- (a) Total deposits at the beginning and end of the month;
- (b) Amount, source, application and date of all monies received and/or disbursed by or on behalf of BNYC during the month;
- (c) Amount and application of any interest received during the month on BNYC funds;
- (d) A monthly operations report; and

(e) Such other information as the Board or Executive Director shall reasonably request or as may be required by the Act or other applicable law or by the Corporate Documents and Policies.

Section 8.4 EDC will deliver to BNYC, as soon as practicable and in any event not later than 90 days prior to the end of the Term and each successive term thereafter, an operations report setting forth at least the following information:

(i) discussion of the operations of EDC pursuant to this Agreement during the period covered by such report, including but not limited to BNYC funds received and disbursed, project financings closed, revenues and scope of other activities hereunder;

(ii) an officer's certificate stating whether or not any default has occurred and is continuing hereunder and if so, specifying each such default, the nature of such default, and what action or actions it plans to take with respect thereto; and

(iii) such other information as the Board shall reasonably request.

Section 8.5 As soon as practicable and in any event not later than 120 days after the end of EDC's fiscal year, EDC will deliver to BNYC the audited financial statements of EDC including a balance sheet and statement of profits and losses prepared in accordance with generally accepted accounting principles consistently applied.

Section 8.6 Promptly upon receipt thereof, EDC will deliver to BNYC copies of any report on accounting procedures or internal controls submitted to EDC by independent certified public accountants in connection with any annual examination of the financial statements of EDC.

Section 8.7 EDC will deliver to BNYC such other information as to the business or operations of EDC filed with any governmental department, bureau, commission or agency, as the Board may, from time to time, reasonably request or as may be required by the Act or other applicable law.

Section 8.8 EDC will, in a timely manner, obtain all approvals necessary and make all filings required under city, state and federal laws with respect to the performance of this Agreement and the administration of BNYC program.

Section 8.9 EDC will perform all acts to be performed in connection with this Agreement in strict conformity with applicable city, state and federal laws, rules, regulations and orders.

ARTICLE IX
EXECUTIVE DIRECTOR

Section 9.1 EDC and BNYC covenant and agree that the Executive Director shall coordinate all aspects of this Agreement with the Board and shall dutifully undertake and be responsible for insuring the proper performance by EDC of the terms and provisions of this Agreement, in accordance with the Act, other applicable law, and the Corporate Documents and Policies.

Section 9.2 EDC shall provide to the Board and the Executive Director, in accordance with the terms of this Agreement, such personnel, reports, forms and other information and assistance necessary and desirable to fulfill and properly perform the obligations contained in this Agreement.

ARTICLE X
RENEWAL OF AGREEMENT

Section 10.1 EDC shall annually submit to the Board this Agreement for renewal and for any proposed amendments thereto. The Board shall, if it is so advised, offer proposed amendments to the Agreement to EDC.

ARTICLE XI
EVENTS OF DEFAULT; TERMINATION

Section 11.1 If one or more of the following events (“Events of Default”) shall occur:

(a) EDC shall fail to perform or shall violate any provision of this Agreement and such default or violation shall continue for a period of thirty (30) days after the Chairperson or Vice Chairperson of the Board has given written notice thereof to EDC, or, in the case of a default or violation which cannot with due diligence be cured within such period of thirty (30) days, EDC shall not have commenced curing the same within such thirty (30) day period and thereafter shall not have prosecuted the curing of such default or violation with all due diligence to completion (it being understood in connection with a default or violation not susceptible to being cured with due diligence within thirty (30) days that the time to cure the same shall be extended for such period

as the Board may deem reasonably necessary to complete the curing thereof with all due diligence);
or

(b) The Master Contract shall be terminated or an Event of Default (as defined in the Master Contract) shall occur and as a result of such Event of Default or for any other reason, the City or EDC shall elect to terminate the Master Contract; or

(c) EDC shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent or shall file any petition or answer seeking any reorganization, arrangement, recapitalization, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of EDC or of all or any substantial part of its properties or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(d) Within ninety (90) days after the commencement of any proceedings against EDC seeking any reorganization, arrangement, recapitalization, readjustment, liquidation, dissolution or similar relief under the present or any future Federal Bankruptcy Act or any other statute or law, such proceedings shall not have been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of EDC, of any trustee, receiver or liquidator of EDC or all or any substantial part of its properties, such appointment shall not have been vacated or stayed on appeal or otherwise, or within ninety (90) days after the expiration of any such stay such appointment shall not have been vacated; then, in any such Event of Default, BNYC, at any time thereafter (but prior to the curing of all such Events of Default), may give written notice to EDC specifying such Event of Default or Events of Default and stating that this Agreement shall expire and terminate on the date specified in such notice, which shall be at least ten (10) days after

the giving of such notice, and on the date specified in such notice, this Agreement shall expire and terminate and EDC shall remain liable for all its obligations incurred pursuant to this Agreement prior to the date of such termination. EDC shall assume no further binding obligations in connection with any services to be rendered pursuant to this Agreement after the date of receipt of such notice from BNYC, provided that BNYC may direct such wind up work as it deems necessary.

Section 11.2 This Agreement shall terminate ninety (90) days after BNYC shall have given to EDC, or EDC shall have given to BNYC, written notice of the respective party's intention to terminate this Agreement. EDC shall assume no further binding obligations pursuant to any agreement after the date of receipt of such notice from BNYC, provided that BNYC may direct such wind-up work as it determines is necessary.

Section 11.3 On the date fixed for termination as provided in Sections 11.1 or 11.2 hereof, EDC shall transfer, assign and set over to BNYC immediately (a) any and all documentation maintained by EDC in connection with services rendered hereunder and (b) all agreements, records, correspondence and other documents of any kind relating to outstanding BNYC monies, projects and other matters.

ARTICLE XII GENERAL PROVISIONS

Section 12.1 This Agreement may be assigned by EDC to its successor in function with the consent of the Board.

Section 12.2 No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose unless in writing and duly executed by the parties hereto.

Section 12.3 The table of contents and captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

Section 12.4 This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to be binding upon any of the parties hereto.

Section 12.5 Each written notice, demand, request or other communication in connection with this Agreement shall be either served in person, with delivery or service acknowledged in writing by the party receiving the same, or deposited in the United States mails, postage prepaid, and addressed:

- (a) To EDC: One Liberty Plaza, New York, N.Y. 10006
Attention: President
- (b) To BNYC: One Liberty Plaza, New York, N.Y. 10006
Attention: Executive Director

, or addressed to either party at any other address that such party may hereinafter designate by written notice to the other party.

Section 12.6 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 12.7 The parties agree that each and every provision of federal, state or local law, rule, regulation or order, required to be inserted in this Agreement, is deemed by this reference to be so inserted in its correct form, and upon the application of either party, this Agreement shall be amended by the express insertion of any such provisions not so inserted and by the deletion of any such provision which is inserted incorrectly.

Section 12.8 No director, officer, member, employee, agent or other person authorized to act on behalf of EDC or BNYC shall have any personal liability in connection with this Agreement or any failure of EDC or BNYC to perform its obligations hereunder. Each of the parties hereto agrees that no action in connection with this Agreement shall lie or be maintained unless such action is commenced within six (6) months after the termination of this Agreement, or the accrual of the cause of action, whichever is earliest.

Section 12.9 EDC agrees to indemnify, defend and hold BNYC, its members, directors, officers, employees and agents, harmless from any and all claims, demands, suits, expenses, judgments or liabilities of every kind and nature to which they may be subject because of any act or omission of EDC, its agents, or employees, in connection with this Agreement or because of any negligence of the EDC, its agents, or employees. EDC shall be solely responsible for the safety and protection of all its employees and shall assume all liability for injuries, including death, that may occur to said employees due to the negligence, fault or default of EDC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION

By: _____
Name:
Title:

BUILD NYC RESOURCE
CORPORATION

By: _____
Name:
Title:

EXHIBIT A

*Build NYC Resource Corporation
Budget for Fiscal Year ~~2023~~2024
follows this page*

**BUILD NYC RESOURCE CORPORATION
FISCAL YEAR 2024 BUDGET**

	FY 2022 Actual	FY 2023 Budget	FY 2023 Proj. Year-End Actual	FY 2024 Budget	FY 2025 Budget	FY 2026 Budget	FY 2027 Budget
REVENUES							
Financing Fees*	\$ 2,777,751	\$ 3,877,777	\$ 2,821,625	\$ 2,962,706	\$ 3,110,842	\$ 3,266,384	\$ 3,429,703
Application Fees	120,000	84,525	75,000	78,750	82,688	86,822	91,163
Compliance & Post Closing Fees	208,700	238,704	209,637	213,829	218,106	222,468	226,917
Investment Income	5,614	34,862	167,792	100,000	100,000	100,000	100,000
Other Income	(20,674)	9,573	3,000	3,060	3,121	3,184	3,247
TOTAL REVENUES	\$ 3,091,390	\$ 4,245,441	\$ 3,277,053	\$ 3,358,346	\$ 3,514,756	\$ 3,678,857	\$ 3,851,031
EXPENSES							
Contract Fee	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000
Legal/Audit Fees	40,000	38,723	38,723	39,885	41,081	42,314	43,583
Outreach / Marketing	-	5,000	5,000	20,000	20,000	20,000	20,000
Public Notice Fees	40,289	27,886	36,812	38,652	40,585	42,614	44,745
Miscellaneous Expenses	679	2,000	2,000	100,000	50,000	50,000	50,000
TOTAL EXPENSES	\$ 2,280,968	\$ 2,273,609	\$ 2,282,535	\$ 2,398,537	\$ 2,351,666	\$ 2,354,928	\$ 2,358,328
OPERATING EXCESS FROM BUILD NYC OPERATIONS	\$ 810,423	\$ 1,971,833	\$ 994,519	\$ 959,809	\$ 1,163,090	\$ 1,323,930	\$ 1,492,703
PURCHASE AGREEMENTS							
Less: Purchase Agreements**	-	3,400,000	-	3,000,000	623,040	893,065	1,108,497
NET OPERATING EXCESS / (DEFICIT)	\$ 810,423	\$ (1,428,167)	\$ 994,519	\$ (2,040,191)	\$ 540,050	\$ 430,864	\$ 384,205

**BUILD NYC RESOURCE CORPORATION
NET ASSETS**

Unrestricted Net Assets (Beginning)	\$ 7,281,330	\$ 8,492,442	\$ 8,091,753	\$ 9,086,271	\$ 10,046,080	\$ 10,586,130	\$ 11,016,995
Operating Excess/(Deficit)	810,423	(1,428,167)	994,519	(2,040,191)	540,050	430,864	384,205
Add-back of Purchase Agreement Loans Receivable	-	3,400,000	-	3,000,000	-	-	-
UNRESTRICTED NET ASSETS (ENDING)	\$ 8,091,753	\$ 10,464,275	\$ 9,086,271	\$ 10,046,080	\$ 10,586,130	\$ 11,016,995	\$ 11,401,200

* FY23 projected year-end financing fees are based on 14 transactions; FY24 financing fees are based on a growth of 5% year-over-year

** Pursuant to various Board approved agreements between the Corporation and NYCEDC, the Corporation is committed to fund various projects being performed by NYCEDC related to the City's economic and industrial development projects and initiatives

BUILD NYC RESOURCE CORPORATION
BUDGETED REVENUES, EXPENDITURES, AND CHANGES IN CURRENT NET ASSETS
(Office of the State Comptroller's Submission Format)

	Last Year (Actual) 2022	Current Year (Estimated) 2023	Next Year (Adopted)* 2024	Proposed 2025	Proposed 2026	Proposed 2027
<u>REVENUE & FINANCIAL SOURCES</u>						
Operating Revenues						
Charges for services	3,106,451	3,106,262	3,255,286	3,411,635	3,575,674	3,747,783
Other operating revenues	(20,674)	3,000	3,060	3,121	3,184	3,247
Nonoperating Revenues						
Investment earnings	5,614	167,792	100,000	100,000	100,000	100,000
Total Revenues & Financing Sources	3,091,390	3,277,053	3,358,346	3,514,756	3,678,857	3,851,031
<u>EXPENDITURES</u>						
Operating Expenditures						
Professional services contracts	2,280,968	2,282,535	5,398,537	2,974,706	3,247,993	3,466,825
Total Expenditures	2,280,968	2,282,535	5,398,537	2,974,706	3,247,993	3,466,825
Excess (deficiency) of revenues and capital contributions over expenditures	810,423	994,519	(2,040,191)	540,050	430,864	384,205

* The FY2024 budget will be presented to the Board of Directors on April 25, 2023.

Exhibit B

**BUILD NYC RESOURCE CORPORATION
COMPREHENSIVE INVESTMENT GUIDELINES POLICY**

Adopted December 13, 2011, as amended through June ~~14, 2022~~6, 2023

I. PURPOSE

The purpose of this Policy is to establish procedures and guidelines regarding the investing, monitoring and reporting of funds of Build NYC Resource Corporation (“Build NYC”).

II. GENERAL PROVISIONS

A. Scope of Policy

This Policy applies to the funds of Build NYC, which for purposes of this Policy and the guidelines stated herein, consist of all moneys and other financial resources available for deposit and investment by Build NYC on its own behalf and for its own account (collectively, the “Funds”). As defined herein, “Funds” shall not include the proceeds of conduit bonds issued by Build NYC as financial assistance in connection with a project.

B. Investment Objectives

The Funds shall be managed to accomplish the following objectives:

1. *Preservation of Principal* – The single most important objective of Build NYC’s investment program is the preservation of the principal of the Funds.
2. *Maintenance of Liquidity* – The Funds shall be managed in such a manner that assures that funds are available as needed to meet immediate and/or future operating requirements of Build NYC.
3. *Maximize Return* – The Funds shall be managed in such a fashion as to maximize income through the purchase of Permitted Investments (hereinafter defined), taking into account the other investment objectives.

III. IMPLEMENTATION OF GUIDELINES

The Chief Financial Officer of Build NYC or, if under the direction of the Chief Financial Officer of Build NYC, the Treasurer of Build NYC or an Assistant Treasurer of Build NYC (respectively, the “Chief Financial Officer”, “the “Treasurer,” and an “Assistant Treasurer”) is each hereby authorized to invest the Funds. The Treasurer or an Assistant Treasurer shall be responsible for the prudent investment of the Funds and for the implementation of the investment program and the establishment of investment procedures and a system of controls to regulate the activities of subordinate staff, consistent with this Policy.

IV. AUTHORIZED INVESTMENTS

A. The Treasurer or an Assistant Treasurer may invest the Funds in the following securities (collectively, the “Securities”):

1. *U.S.A.* Obligations or securities issued by the United States.
2. *Federal Agency Obligations.* Obligations or securities issued by any agency or instrumentality of the United States if guaranteed, as to principal and interest, by the United States.
3. *Commercial Paper.* Debt obligations with a maturity of no greater than 270 days and with ratings that are the highest ratings issued by at least two rating agencies approved by the Comptroller of the State of New York.
4. *Bankers’ Acceptances* of banks with worldwide assets in excess of \$50 million that are rated with the highest categories of the leading bank rating services and regional banks also rated within the highest categories.
5. *Certificates of Deposit and Time Deposits* with New York banks, including minority-owned banks. All such certificates of deposit in these banks must be Federal Deposit Insurance Corporation (“FDIC”) insured; *provided, however*, if and to the extent such certificates of deposits or time deposits are not FDIC insured, such Securities shall comply with all other applicable requirements of the General Municipal Law of the State of New York, including, but not limited to, requirements as to the collateralization of deposits of funds in excess of the amounts insured by the FDIC.
6. *Other investments* approved by the Comptroller of New York City for the investment of City funds.

B. Build NYC shall instruct its Agents (as such term is defined in Subdivision X of this Policy) to obtain competitive quotes for each purchase or sale of Securities, other than governmental Securities, when such transaction equals or exceeds \$2,500,000 in amount.

The Treasurer shall maintain, or cause to be maintained, proper books and records of all Securities held by or for Build NYC and for all transactions pertinent thereto. Such books and records shall at least identify the Security, the fund for which held, and the place where kept; and the entries made therein shall show the competitive quotes obtained therefor, the date of sale or other disposition, and the amount realized therefrom.

C. In addition to investments in Securities, Build NYC may deposit Funds in the following (“Deposit Accounts”), with respect to Funds needed for operational expenses and Funds awaiting investment or disbursement:

1. High quality no-load money market mutual funds that restrict their investments to short term, highly rated money market instruments.

2. Other interest bearing accounts, if permitted by applicable laws, rules and regulations, with New York City financial institutions designated by the New York City Banking Commission or such other financial institutions approved by the Deputy Mayor for Economic Development or his successor in function.

V. WRITTEN CONTRACTS

Build NYC shall enter into written contracts pursuant to which investments are made which conform with the requirements of this Policy and Section 2925.3(c) of the Public Authorities Law unless the Board of Directors determines by resolution that a written contract containing such provisions is not practical or that there is not a regular business practice of written contracts containing such provisions with respect to a specific investment or transaction, in which case the Board of Directors shall adopt procedures covering such investment or transaction.

VI. DIVERSIFICATION

The investment portfolio for the Funds shall be structured diversely to reduce the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issuer or a specific type of security. The maximum percentage of the total portfolio permitted in the indicated type of eligible security is as follows:

REFERENCE	SECURITY	MAXIMUM
IV.A.1	U.S.A.	100% maximum
IV.A.2	Federal Agency	100% maximum
IV.A.3	Commercial Paper	40% maximum
IV.A.4	Bankers Acceptances	25% maximum
IV.A.5	Certificates of Deposit; Time Deposits	45% maximum
IV.A.6	Other Investments Approved by NYC Comptroller for City Funds	A percentage deemed prudent by CFO

VII. INVESTMENT MATURITIES

Maintenance of adequate liquidity to meet the cash flow needs of Build NYC is essential. Accordingly, the portfolio will be structured in a manner that ensures sufficient cash is available to meet anticipated liquidity needs. Selection of investment maturities must be consistent with cash requirements in order to avoid the forced sale of securities prior to maturity.

For purposes of this Policy, assets of the portfolio shall be segregated into two categories based on expected liquidity needs and purposes – Cash equivalents and Investments. Assets categorized as Cash equivalents will be invested in permitted investments maturing in ninety (90) days or less or in Deposit Accounts. Assets categorized as Investments will be invested in permitted investments with a stated maturity of no more than two (2) years from the date of purchase, as may be adjusted pursuant to VIII below.

VIII. MONITORING AND ADJUSTING THE INVESTMENT PORTFOLIO

Those responsible for the day-to-day management of the portfolio will routinely monitor the contents of the portfolio, the available markets and the relative values of competing instruments, and will adjust the portfolio as necessary to meet the requirements and goals of this Policy. It is recognized and understood that the non-speculative active management of portfolio holdings may cause a loss on the sale of an owned investment. From time to time, the Chief Financial Officer may exercise his or her discretion and invest outside of the requirements of the guidelines stated in VI and/or VII so long as the four overarching objectives in IIB are met and communication is provided to the Audit Committee at the next scheduled Audit Committee meeting. Exceptions to the requirements of the guidelines stated in VI and/or VII should not vary materially from current guidelines in amounts or duration.

IX. INTERNAL CONTROLS

The Chief Financial Officer or, if under the direction of the Chief Financial Officer, the Treasurer or an Assistant Treasurer, shall establish and be responsible for monitoring a system of internal controls governing the administration and management of the portfolio. Such controls shall be designed to prevent and control losses of the portfolio funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by any personnel.

X. ELIGIBLE BROKERS, AGENTS, DEALERS, INVESTMENT ADVISORS, INVESTMENT BANKERS AND CUSTODIANS

The following are the standards for the qualifications of brokers, agents, dealers, investment advisors, investment bankers and custodians:

A. BROKERS, AGENTS, DEALERS

The categories of firms listed below are the categories from which Build NYC may select firms to purchase and sell Securities (as selected an “Agent”). Factors to be considered by Build

NYC in selecting Agents from these categories shall include the following: size and capitalization; quality and reliability; prior experience generally and prior experience with Build NYC specifically; and level of expertise for the transactions contemplated.

1. any bank or trust company organized and/or licensed under the laws of the USA which is authorized to do business in NYS;
2. any bank or trust company organized and/or licensed under the laws of any state of the USA which is authorized to do business in NYS;
3. any broker-dealer licensed and/or permitted to provide services under federal law and, when necessary, qualified to do business in NYS.

B. INVESTMENT ADVISORS

In addition to the requirements set forth in “A” preceding, any Agent selected by Build NYC to be an investment advisor shall be registered with the SEC under the Investment Advisors Act of 1940.

C. INVESTMENT BANKERS

In addition to the requirements set forth in “A” preceding, any Agent selected by Build NYC to serve as a senior managing underwriter for negotiated sales must be registered with the SEC.

D. CUSTODIANS

In addition to the requirements set forth in “A” preceding, any Agent selected by Build NYC to be a custodian shall have capital and surplus of not less than \$50,000,000.

XI. REPORTING

A. Quarterly

The Chief Financial Officer or, if under the direction of the Chief Financial Officer, the Treasurer or an Assistant Treasurer, shall prepare and deliver to the Board of Directors once for each quarter of Build NYC’s fiscal year a report setting forth a summary of new investments made during that quarter, the inventory of existing investments and the selection of investment bankers, brokers, agents, dealers, investment advisors and auditors.

B. Annually

1. *Audit* – Build NYC’s independent accountants shall conduct an annual audit of Build NYC’s investments for each fiscal year of Build NYC, the results of which shall be made available to the Board of Directors at the time of its annual review and approval of these Guidelines.

2. *Investment Report* – Annually, the Treasurer or, if under the direction of the Treasurer, an Assistant Treasurer shall prepare and the Board of Directors shall review and approve an Investment Report, which shall include:

- a. This Policy and amendments thereto since the last report;
- b. An explanation of this Policy and any amendments made since the last report;
- c. The independent audit report required by paragraph 1 above;
- d. The investment income record of Build NYC for the fiscal year; and
- e. A list of fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to Build NYC since the last report.

The Investment Report shall be submitted to the Mayor and the Comptroller of the City of New York and to the New York State Department of Audit and Control. Copies of the report shall also be made available to the public upon reasonable request.

XII. APPLICABILITY

Nothing contained in this Policy shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement for investment of the Funds, made or entered into in violation of, or without compliance with, the provisions of this policy.

XIII. CONFLICT OF LAW

In the event that any portion of this Policy is in conflict with any State, City or Federal law, that law will prevail.

XIV. PRIOR AUTHORIZATIONS NOT SUPERSEDED

This Policy does not supersede or replace the following authorizations: (i) powers and other authorizations provided to the Treasurer of Build NYC in the By-Laws of Build NYC and (ii) the powers and other authorizations provided in resolutions adopted by Build NYC's Board of Directors at its meeting held on December 13, 2011, which resolutions, among other matters, authorized and resolved that empowered officers of Build NYC be authorized to (x) enter into banking or other depository accounts and otherwise conduct banking business, (ii) sign checks, notes, drafts and other negotiable instruments, and (iii) open checking accounts.

XV. MWBEs

Build NYC shall seek to encourage participation by minority and women-owned business enterprises (i.e., "MWBEs") in providing financial services to Build NYC.

Exhibit C

**BUILD NYC RESOURCE CORPORATION
POLICY FOR THE DISPOSITION OF PERSONAL PROPERTY**

Adopted December 13, 2011; as amended through June ~~14, 2022~~[6, 2023](#)

Personal Property Valued at \$5,000 or Less

Whenever Build NYC Resource Corporation (the “Corporation”) wishes to transfer title to or a beneficial interest in an item of personal property or an interest therein with an estimated value of \$5,000 or less, it shall obtain offers from one or more persons or entities as the Corporation’s contracting officer for personal property dispositions (the “Contracting Officer”), appointed by the Corporation’s Board of Directors, or his or her designee deems appropriate. The Corporation shall maintain a record of the persons or entities approached and their responses. The Corporation may conduct discussions with some or all of the persons and entities. The property may be disposed of to whichever person or entity the Contracting Officer or his or her designee selects based on the proposed price and any other factors that the Contracting Officer or his or her designee deems appropriate.

All personal property that the Contracting Officer or his or her designee considers to be of no sale value and no use to the Corporation may be destroyed or otherwise disposed of in such manner as is determined by the Contracting Officer or his or her designee. Notwithstanding the foregoing, records may only be destroyed or disposed of at a time and in a manner not in conflict with applicable law, regulation or contract.

No approval of a disposition of a type described above is required from the Board of Directors or any committee thereof. All disposal documents must be approved and executed by an officer who is an authorized signatory of all agreements of the Corporation.

Personal Property Valued in Excess of \$5,000

Whenever the Corporation wishes to transfer title to or a beneficial interest in an item of personal property or an interest therein with an estimated value in excess of \$5,000 it shall first obtain an appraisal of the property if, because of the unique nature of the property or the unique circumstances of the proposed transaction, it is not readily valued by reference to an active market for similar property. However, an appraisal of the property will not be required if an appraisal of the property or similar property has been made within the past two years.

The person or entity to which the property shall be disposed of shall be determined through a procurement conducted in accordance with Title 5-A of Article 9 of the Public Authorities Law. The Corporation shall publicly advertise for proposals for the disposal of the property in accordance with Title 5-A, provided that it may dispose of the property without public advertising, obtaining such competition as is feasible under the circumstances, when permitted to do so under Title 5-A. In connection with the disposition, in addition to complying with the requirements of Title 5-A, the Corporation shall also comply with the lobbying-and-procurement requirements of

Sections 139-j and 139-k of the State Finance Law, and with all other laws, if any, that are applicable to the disposition of personal property.

Prior to the disposal of the property, the project manager involved in the disposition shall be the primary person responsible for the monitoring of compliance with the terms of the contract for the disposal, and shall keep the Contracting Officer or his or her designee informed of all major issues that arise and of the status of the disposition.

The disposal must be approved by the Board of Directors if the disposal (i) is on a sole source basis for an amount in excess of \$20,000, or (ii) is for an amount in excess of \$100,000 and has been competitively procured, or (iii) is for property valued in excess of \$5,000 and will be disposed of for less than fair market value. For disposals for less than those amounts, no approval is required of the Board of Directors. In all cases, the disposal must be approved by the Contracting Officer or his or her designee and disposal documents must be approved and executed by an officer who is an authorized signatory of all agreements of the Corporation.

The Contracting Officer shall cause a record to be maintained of all personal property disposed of for an amount in excess of \$5,000 and shall cause to be prepared and transmitted all reports relating to the disposition of personal property required by Title 5-A.

Exhibit D

**BUILD NYC RESOURCE CORPORATION
POLICY FOR THE ACQUISITION AND DISPOSITION OF REAL PROPERTY**

Adopted December 13, 2011; as amended through June ~~14, 2022~~[6, 2023](#)

I. Introduction

In accordance with the requirements of Title 5-A of Article 9 of the Public Authorities Law and Section 2824(1)(e) of the Public Authorities Law, as amended by the Public Authorities Accountability Act of 2005, as amended (“PAAA”), the following comprehensive guidelines (“Guidelines”) set forth for the Build NYC Resource Corporation (“Build NYC”) (i) the operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property through means of real property sale, ground lease, space lease and roof top lease, (ii) the guidelines relating to the acquisition of real property, and (iii) the related policies and procedures.

II. Methods of disposing of real property

Build NYC shall dispose of real property in accordance with Title 5-A and other applicable laws in a manner so as to permit such full and free competition as is appropriate under the circumstances and shall award contracts to parties offering the most advantageous terms, financial and/or otherwise. The Contracting Officer for real property dispositions, appointed by Build NYC’s Board of Directors (the “Board”), shall supervise and direct all dispositions of Build NYC real property. The real property may be disposed of for not less than fair market value for cash, credit, or other property, with or without warranty, upon such terms and conditions as the Contracting Officer or his/her designee deems proper, except as otherwise permitted herein. No disposition of real property shall be made unless an appraisal has been made by an independent appraiser whose written report will be included in the Build NYC file. To the extent reasonably feasible, the appraisal shall be dated within twelve months of the date on which Build NYC enters into a contract to dispose of the real property. The independent appraiser must be a New York State Certified General Real Estate Appraiser and may not be an entity owned or controlled by Build NYC, the City, New York City Economic Development Corporation, or the prospective purchaser or lessee, or any of their affiliates. An appraisal meeting the foregoing requirements is a “Conforming Appraisal”. Before approving the disposal of any real property the Board shall be advised of the date of the Conforming Appraisal.

Under the Contracting Officer’s or his/her designee’s direction, Build NYC primarily uses two methods of disposition: Request for Proposals (“RFP”) and negotiated disposition.

RFPs

The RFP process is a process whereby the development community and other entities and individuals are invited to submit proposals for one or more properties. In an effort to create

full and free competition consistent with the value and nature of the property, RFPs will be advertised in the City Record and shall be advertised through the internet and in local newspapers, including community-based newspapers, in multi-language publications, and/or in trade publications, where appropriate given the nature of the property. In addition, RFPs shall be posted on Build NYC's web-site (or the portion of another entity's web-site devoted to Build NYC), and, on occasion, distributed to a direct mailing list. All advertisements shall list when and where proposals shall be disclosed, except that if the disposition falls within one of the criteria for a negotiated disposition described below, at the discretion of the Contracting Officer, the advertisement may omit such disclosure information and/or the disclosure may or may not be made. The Contracting Officer shall approve the location of all advertisements and postings and any omission of disclosure information.

RFPs for real property sales and ground leases may, but are not required to, include an introduction and sections on development strategy, objectives, disposition process, public review process, general conditions and, where appropriate, economic development benefits. All RFPs for real property sales and ground leases must include a site description, proposal requirements and selection criteria.

Although the selection criteria as appropriate for each RFP varies, as appropriate, Build NYC will include, where appropriate, at least the following selection criteria in reviewing submissions and selecting a proposal:

- *Economic Impact on / Spending in New York City* - projected expenditures, including purchase price, construction costs and annual operating costs; projected temporary (construction) and permanent on-site employment and payroll; projected applicable New York City taxes such as real property, sales and personal income taxes; and the extent, if any, to which the proposed project will create additional sources of revenue to the City.
- *Development Team Qualifications* – experience and development skills to complete the proposed project on time and within budget, for which experience in completing projects of a similar nature and scope as is contemplated by the RFP shall be taken into account.
- *Financial Viability* – developer's financial means to complete the project, availability of funding sources to finance the project, and sufficient use to support operating expenses, capital costs and any debt service.
- *Integration into Surrounding Community* – environmental issues such as pedestrian access, vehicular access and circulation, building mass, parking availability, landscaping, and overall integration into surrounding community.
- *Design* – architectural design, urban design, environmental development techniques, and compliance with applicable zoning, environmental and other regulatory controls.
- *MWBE Participation* – participation by minority-owned and women-owned businesses.
- *Purpose* – whether the project involves an industry or activity which the City seeks to retain and foster and conforms with Build NYC's mission

Depending on the nature of the real property, RFPs may include additional selection criteria deemed appropriate by the Contracting Officer or Build NYC's Executive Director.

With regard to an RFP for a real property sale or ground lease, Build NYC shall notify the City Council Member and Community Board whose districts include the property, that an RFP is being issued.

The contract will be awarded to the candidate presenting the most advantageous terms, price and other factors considered in connection with the criteria enumerated in the RFP. Build NYC may reject the proposals when the minimum terms and conditions have not been met, competition is insufficient and/or it is in the public interest to do so. The award/designation will be made by notice within a reasonable time of the original advertisement, all circumstances considered.

Negotiated Disposition

RFP by advertisement is not always the most appropriate and effective means of disposal of real property. In certain instances, including when the disposition is for less than fair market value but the purpose of the disposition is within Build NYC's purpose, mission or governing statute or the disposition is otherwise authorized by law, Title 5-A permits a negotiated disposition subject to obtaining such competition as is feasible under the circumstances. In some circumstances, the disposition will involve a sole source disposition. Title 5-A, Sections 2897(6)(c)(ii)-(vi) and 2897(7), set forth that real property may be disposed of through a negotiated disposition when:

- (i) the fair market value of the property does not exceed fifteen thousand dollars;
- (ii) bid prices after advertising therefor are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- (iii) the disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
- (iv) the disposal is for an amount less than the fair market value of the property, and (a) the transferee is a government or other public entity and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity, (b) the purpose of the transfer is within the purpose, mission or governing statute of Build NYC, or (c) in the event Build NYC seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with Agency's mission, purpose or governing statutes, Build NYC shall provide written notification thereof to the governor, the speaker of the state assembly, and the temporary president

of the state senate, and such proposed transfer shall be subject to denial by the governor, the state senate, or the state assembly in the manner specified in Section 2897(7)(iii); provided, however, that with respect to a below-market transfer by Build NYC that is not within the purpose, mission or governing statute of Build NYC, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which Build NYC resides, and the transfer is of property obtained by Build NYC from that political subdivision, then such approval shall be sufficient to permit the transfer; or (v) such action is otherwise authorized by law.

Item (v) includes, without limitation, sales and leases of real property where the property has been acquired for purposes of disposal under Section 1411 of the New York State Not-for-Profit Corporation Law.

In the event a below fair market value asset transfer (pursuant to an RFP or negotiated disposition) is proposed to Build NYC's Board for approval, the following information must be provided to Build NYC's Board and the public:

1. a full description of the asset;
2. a Conforming Appraisal of fair market value and any other information establishing fair market value as may be sought by the Board;
3. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages, or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
4. a statement of the value to be received compared to the fair market value;
5. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph "4" of this paragraph, a statement of the value to the private party; and
6. the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

Before approving the disposal of any property for less than fair market value, the Board shall consider the information described in the above paragraph, and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer. The Contracting Officer shall provide such supplemental information as the Board may require.

If an RFP involves a disposition that meets one of the criteria described above for negotiated dispositions, the Contracting Officer or his/her designee may direct that the disposition of the real property be considered a negotiated disposition. In such circumstance, a public disclosure of the proposals would not be necessary unless otherwise

required but an explanatory statement and 90 days notice (or such other period as the statute may be amended to require) would be required as detailed below.

Upon meeting Title 5-A's requirements for a negotiated disposition, the decision to proceed with a negotiated disposition in a situation where an RFP will not be used is based on an analysis of the facts and nature of the project. In such instance, a negotiated disposition may be undertaken without limitation under the following circumstances where appropriate:

- risk of business relocation or expansion outside the City, based upon a written assessment of such risks
- to permit expansion of business in the City
- due to number of jobs to be created or retained
- development of sites which lack private sector interest (as demonstrated by a failed RFP or other competitive means within the past two years)
- proximity of real property to a business' existing location, or
- other important public purpose

Regardless of the reason the negotiated disposition is deemed permissible, such competition as is "feasible" under the circumstances is still required. In some instances where advertisement is not used, Build NYC might notify neighboring businesses of an available parcel to give them the opportunity to submit a proposal, thereby effecting competition. However, in other instances, even such notification might not be feasible. Realistically, in certain situations a sole source disposition or little competition will be the only feasible alternative. For example, if a lease is for a sum below fair market value and failure to renew could threaten relocation outside the City, loss of jobs or business failure, a sole source negotiated disposition will be permissible under Title 5-A Section 2897(6)(c)(v). So too, if a space is leased at fair market value to a tenant that provides many jobs and services as well as promises future economic development to the community, a sole source negotiated disposition might also be appropriate to preserve the jobs in the City. Similarly, if a tenant requires an adjacent available space to expand his/her business and such expansion would create new jobs and prevent the business from leaving the City, a sole source negotiated disposition at fair market value might also be appropriate. In cases where a sole source disposition is presented to Build NYC's board of directors for approval, the board of directors should be informed of the justification for doing a sole source.

If a negotiated disposition is undertaken, in accordance with Section 2897(d) of the PAAA, in most cases not less than 90 days (or such other period as the statute may later require) prior to the disposal of the property, an explanatory statement must be submitted to the state comptroller, state director of the budget, state commissioner of general services and state legislature, a copy of the same to be maintained in Build NYC's files.

III. Acquisitions

Real property may be purchased by Build NYC for purposes of use, resale, leasing or otherwise permitting the use of the property or space therein, and may be leased by Build NYC for purposes of use, subleasing or assignment of lease or otherwise permitting the use of the leased property or space. The purpose of such acquisition shall be to further a purpose of Build NYC under Section 1411 of the New York State Not-for-Profit Corporation Law. Except for acquisitions arising out of the enforcement of remedies (including rights of reacquisition), the following requirements shall apply to acquisitions by Build NYC. The Contracting Officer or his/her designee shall approve the terms of the acquisition and obtain the approval of the Board for the same. In Build NYC's consideration of the acquisition of real property for the reasons enumerated above, the following information must be provided to the Board:

1. a full description of the real property;
2. a Conforming Appraisal of the fair market value and any other information establishing fair market value as may be sought by the Board;
3. a description of the purpose of the acquisition, and a reasonable statement of the kind and amount of the benefit to the public resulting from such acquisition, such as the kind, number, location, wages, or salaries of jobs created or preserved as required by the acquisition, the benefits, if any, to the communities in which the property is situated as are required by the acquisition;
4. a statement of the acquisition costs as compared to the fair market value, if such acquisition costs are above the fair market value; and
5. the names of any private parties participating in the acquisition; and
6. any known environmental issues.

IV. Approvals

All purchases, sales and leases of real property by Build NYC (except for those arising out of the enforcement of remedies, including exercises of rights of reacquisition) must be approved by its Board. Approvals may be obtained for specific purchases, sales or leases or the Board may grant approval to purchases, sales or leases in accordance with Board-approved guidelines.

V. Monitoring and Reporting Contracts for Disposal

Prior to the disposal of the real property, the project manager involved in the disposition shall be the primary person responsible for the monitoring of compliance with the terms of the contract or other agreement or memorandum for the disposal and shall keep the Contracting Officer or his/her designee informed of all major issues that arise and of the status of the disposition.

The Contracting Officer shall cause a record to be maintained of all real property disposed of and shall cause to be prepared and transmitted all reports relating to the disposition of real property required by Title 5-A.

VI. Appointment of Contracting Officer

The Executive Vice President who, from time to time, oversees those employees of New York City Economic Development Corporation that are engaged in real estate activities shall be Build NYC's Contracting Officer for real property dispositions. If there is more than one Executive Vice President who oversees those employees, each of those Executive Vice Presidents shall be considered a Contracting Officer for real property dispositions and may take any action that may be taken by the Contracting Officer.

Exhibit E

**BUILD NYC RESOURCE CORPORATION
PROCUREMENT POLICY**

Adopted December 13, 2011, as amended through June ~~14, 2022~~6, 2023

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Section A. GENERAL

(1) **Definitions.** The following terms shall have the meanings respectively provided:

Board of Directors means the Board of Directors of the Corporation.

City means The City of New York.

Competitive Method of Procurement means the following Methods of Procurement: Section C, Small Purchases (but not with respect to contracts under \$5,000); Section F, Competitive Sealed Bids; Section G, Competitive Sealed Proposals; and Section H, Contractors Recommended by Construction Manager.

Construction-Related Supplies means the providing of tangible personalty, whether or not capital in nature, in connection with Construction Services, including but not limited to fixtures, furnishings and equipment.

Construction Services means construction and/or renovation activities.

Consultant Committee has the meaning provided in subsection 6 of this Section A.

Corporation means Build NYC Resource Corporation.

Executive Director means the Executive Director of the Corporation, or, upon his or her direction, the Deputy Executive Director of the Corporation.

Investigation means the then-current investigatory background check used by NYCEDC.

Method(s) of Procurement means collectively and individually the following procurement procedures: (i) *Use of NYCEDC* under Section B; (ii) *Small Purchases* under Section C; (iii) *Sole Source Procurement* under Section D; (iv) *Emergency Procurements* under Section E; (v) *Competitive Sealed Bidding* under Section F; (vi) *Competitive Sealed Proposals* under Section G; (vii) *Contactors Recommended by Construction Manager* under Section H; and (viii) *Use of other Governmental Contracts* under Section I.

Minimum Requirements means that: (i) the Offeror must have completed and submitted to the Procurement Officer the forms required for the Investigation; and (ii) the results of the Investigation must be satisfactory to the Corporation in its sole discretion.

NYCEDC means the New York City Economic Development Corporation in its capacity as the contract provider to the Corporation for all administrative services.

Offeror(s) has the meaning provided in subsection 4 of this Section A.

Procurement Officer(s) has the meaning provided in subsection 4 of this Section A.

Public Contract has the meaning provided in subsection 5 of this Section A.

Response means a response to a Solicitation.

Selection Criteria has the meaning provided in subsection 8 of this Section A.

Services means professional and consulting services.

Solicitation(s) means any notice, advertisement, bid, request for proposals, or any other request that is published or otherwise disseminated by the Corporation as part of one of the Competitive Methods of Procurement.

State means the State of New York.

Supplies means the providing of tangible and intangible goods, including (without limitation) software and capital items, including (with respect to machinery and equipment) installation and servicing, but not including construction-related personalty.

Supplies and/or Services means, depending on the context, all or any one of or any combination of the following: Services, Supplies, Construction Services, and/or Construction-Related Supplies.

(2) **Applicability of this Policy.** Except as provided for Public Contracts, this Policy shall apply to the procurement of contracts for all Supplies and/or Services to be purchased by the Corporation for its own use and account. This Policy shall not apply to the review and approval by the Corporation of any project or project entity for the purpose of providing to such project or project entity conduit bond financing.

(3) **Methods of Procurement.** Every contract for Supplies and/or Services procured by the Corporation shall be procured in accordance with and pursuant to one of the Methods of Procurement. Any contract for Supplies and/or Services procured by the Corporation shall be procured in accordance with and pursuant to *Competitive Sealed Bidding* unless one of the other Methods of Procurement is appropriate for such procurement.

(4) **Procurement Officer; Permitted Contacts.** For every Competitive Method of Procurement, the Executive Director or, at the Executive Director's designation, the head of the contract administration unit for NYCEDC, shall name one or more individuals to act on behalf of the Corporation for the purpose of receiving questions from, and providing information to, bidders, respondents or other offerors (or if individuals are acting on behalf of entities that are bidders, respondents or other offerors, then, to such individuals) (the "**Offeror(s)**"). The person or persons so named shall be referred to as the "**Procurement Officer(s)**."

(5) **Public Contracts.** When the Corporation funds contract payments with monies provided by the federal government and/or the State and/or the City; and where as a condition to using such monies, federal and/or State and/or City law, rules or regulations prescribe procurement requirements that exceed or conflict with those set forth in this Policy, the requirements of such laws, rules or regulations shall govern. Corporation contracts that are so funded, whether in whole or in part, shall be referred to as "**Public Contracts**."

(6) **Board of Directors; Executive Director; Selection Consultant Committee.**

(a) With the exception of contracts for \$5,000 or less, the Board of Directors shall approve all contracts for Supplies and/or Services except that in the case of Emergency Procurements, such approvals may be retroactive.

(b) The Board of Directors may (but shall not be obligated to) appoint a Selection Consultant Committee (the “**Consultant Committee**”) to evaluate and recommend Offerors and their Responses for any Supplies and/or Services for which a Competitive Method of Procurement is used. If the Board appoints a Consultant Committee, then the Consultant Committee shall be responsible for recommending Offerors and Responses (as selected pursuant to a Competitive Method of Procurement) to the Board of Directors. If the Board of Directors does not appoint a Consultant Committee, the Executive Director shall make such recommendations.

(7) **Minimum Requirements.** To be considered in a Competitive Method of Procurement, an Offeror must satisfy (and to the extent possible demonstrate in its Response that it satisfies) the Minimum Requirements.

(8) **Selection Criteria.** For all contracts for which a Competitive Method of Procurement is used, the Executive Director (or, where applicable, the Consultant Committee) shall in writing specify criteria by which potential Offerors (and their Responses) are to be evaluated (the “**Selection Criteria**”).

(9) **Applicability of Differing NYCEDC Requirements.** If NYCEDC, whether by contract or decision by the Deputy Mayor for Economic Development or by other means, amends its procurement policy and procedures, this Policy shall be similarly and automatically amended without approval by the Board of Directors except to the extent otherwise required by law.

(10) **MWBEs.** The Corporation shall seek to encourage participation by minority and women-owned business enterprises (i.e., “MWBEs”) in providing Supplies and/or Services to the Corporation.

Section B. USE OF NYCEDC

(1) The Corporation may procure NYCEDC as the contractor for providing services for the administration and operation of the Corporation, and may do so without competition and without complying with any other Method of Procurement. In adopting this Policy, the Board of Directors hereby finds and determines as follows: (a) Corporation has no employees; (b) staff personnel of NYCEDC have, since the establishment of the Corporation, administered and operated the Corporation pursuant to a contract between the Corporation and NYCEDC; (c) as to staffing, the operational identity between the Corporation and NYCEDC has always been and remains integrated; (d) it is in the best interests of the Corporation to continue this contractual and operational relationship with NYCEDC; and (e) were the relationship to be discontinued, the resulting inefficiencies would be deleterious to the effective operation of the Corporation, and (f) to competitively seek an entity to administer and operate the Corporation would not be in the Corporation’s best interest.

(2) The Corporation may procure contracts for Services through NYCEDC (other than those described in subsection (1) immediately preceding) as contractor whereby NYCEDC obtains the desired services from a third party as subcontractor, and the Corporation may select

NYCEDC for this purpose on a non-competitive basis without the Corporation otherwise complying with any other Method of Procurement; *provided, however*, that NYCEDC shall procure the subcontractor in question in accordance with NYCEDC's then-current procurement policy and procedures. In adopting this Policy, the Board of Directors hereby finds and determines as follows: (a) for certain Services, procuring a contractor competitively when the contractor is merely acting in an administrative or pass-through capacity, is not in the best interests of the Corporation; (b) selecting NYCEDC non-competitively for this administrative and pass-through role, given that NYCEDC staff personnel provide all day-to-day administrative services to the Corporation, is by far the most efficient alternative to competitively selecting an entity for this purpose; and (c) by requiring NYCEDC to procure the subcontractor in accordance with NYCEDC's own procurement policy and procedures, the Corporation is fulfilling the intent of this Policy.

Section C. SMALL PURCHASES

The procurement of a contract for Supplies and/or Services for an amount greater than \$5,000 but not more than \$100,000, shall consist of using reasonable efforts to obtain Responses from at least three Offerors. With regard to procurements of \$5,000 or less, the Corporation shall not be required to engage in any procurement process. If the Corporation only obtains a Response from one Offeror pursuant to this Section C, the procurement will not be considered sole-source under this Policy. In general, procurements shall not be artificially divided so as to constitute a small purchase under this Section C. Procurement under this Section C need not be based exclusively on cost.

Section D. SOLE SOURCE PROCUREMENT

(1) **For Services.** Subject to review and approval by the Consultant Committee (if one has been appointed by the Board of Directors pursuant to subsection A.7 of this Policy), the Executive Director may award a contract for Services to a consultant on a sole-source basis if either of the following circumstances applies: (a) the consultant has unique capabilities or has exclusive access to unique technical data, either of which is relevant to the progress and/or completion of a project; or (b) a consultant's recent experience with a specialized project or its geographical location, or the consultant's familiarity with local community groups, would add significantly to the overall quality of either the planning, design or construction of the project.

(2) **For Supplies.** Subject to review and approval of the Consultant Committee (if one has been appointed by the Board of Directors pursuant to subsection A.7 of this Policy), the Executive Director may award to a vendor a contract for Supplies on a sole-source basis if either of the following circumstances applies: (a) the vendor is the only vendor that makes or supplies or installs or services a unique item (new or replacement); (in other words, this is a circumstance in which the Corporation would have no visible alternative); or (b) the Corporation has attempted to procure a vendor through one of the Competitive Methods of Procurement but the effort has failed to produce a Response or the Responses that were received were non-responsive; and, as a consequence, the Corporation must procure a vendor on a sole-source basis in order to avoid possible cost overruns or a delay in the project.

Section E. EMERGENCY PROCUREMENTS

(1) **General.** Upon determination by the Executive Director that one of the emergency circumstances described in subsection (2) following applies, the Executive Director may direct the Corporation to enter into a contract for Supplies and/or Services without the benefit of a Competitive Method of Procurement; provided, however, that the Corporation shall use such competitive procedures as may be practicable without endangering life, safety, health, welfare or property, and without impairing the success of the project to which the emergency pertains. Should the Corporation use competition, the resulting procurement need not be based exclusively on cost.

(2) **Emergencies.** The following are emergencies under which the Executive Director may direct the Corporation to enter into a contract without benefit of a Competitive Method of Procurement: (a) procurement must occur immediately in order to avoid threat to life, safety, health, welfare or property; or (b) the failure to procure immediately is likely to threaten or jeopardize the security or value of a project or the property or goods associated with a project; or (c) immediate procurement is necessary in order to avoid cost overruns or substantial delay in project completion. For purposes of clause “c,” “substantial delay” in construction projects includes, but shall not be limited to, delay in a scheduled delivery date when such date is intrinsic to the progress of the construction.

Section F. COMPETITIVE SEALED BIDDING

(1) **Applicability.** Except as provided in Sections B through E and Sections F through I, all contracts for Supplies and/or Services of the Corporation shall be competitively bid under sealed bids in accordance with the provisions of this Section F. (For purposes of this Section F, the undefined term “bid(s)” shall be used interchangeably with the term “Response(s)”)

(2) **Invitation for Bids.** The Executive Director shall issue a Solicitation in the form of an “Invitation for Bids.” The Invitation for Bids shall include (whether by attachment or reference) a purchase description, and all contractual terms and conditions applicable to the procurement.

(3) **Public Notice.** Adequate public notice of the Invitation for Bids shall be provided by publication in the City Record a reasonable time prior to the date set forth therein for the opening of bids. In addition, the Corporation may publish such notice in a newspaper of general circulation for a reasonable time prior to bid opening.

(4) **Bid Opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, the name of each bidder and the bid security, if any, shall be recorded. The record and each bid shall be open to public inspection.

(5) **Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction on the part of the bidder except as authorized in this Section F.

Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as 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 Invitation for Bids shall set forth the evaluation criteria to be used.

(6) **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 instances in which the Executive Director finds that it is in the Corporation's interest to do so. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Corporation or fair competition shall be permitted. 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 made by the Executive Director.

(7) **Award.** The contract shall be awarded to the bid that (a) is lowest in cost, and (b) is responsive to the Invitation to Bids, and (c) meets the Minimum Criteria. Notwithstanding the foregoing, any or all bids may be rejected when the Corporation reasonably deems it is in the Corporation's interest to do so.

Section G. COMPETITIVE SEALED PROPOSALS

(1) **Applicability.** The Corporation may procure contractors through Competitive Sealed Proposals under this Section G for the following: (a) for Services; and (b) when the Executive Director determines (subject to review and approval of the Consultant Committee if one has been appointed by the Board of Directors pursuant to subsection A.7 of this Policy) that one or more of the following circumstances applies, then, under such circumstance, for Supplies, for Construction Services, and for Construction-Related Supplies: (x) Competitive Sealed Bidding is inadequate because of the importance of considerations other than cost; (e.g., the capacity of an Offeror to perform as stated in its Response; experience in the required area of knowledge; experience in the community to be served or studied; experience in the community where the contract work is to be performed); or (y) discussions with Offerors that are potential awardees are necessary in order to insure their full understanding and responsiveness to contract requirements; or (z) in the case of Construction Services, the needed expertise and experience is so specialized as to be outside the expertise and experience of most construction contractors.

(2) **Request for Proposals.** The Corporation shall issue a Solicitation in the form of a **“Request for Proposals.”**

(3) **Public Notice.** The Corporation shall provide adequate public notice for the Request for Proposals.

(4) **Receipt of Proposals.** When opening Responses for review, the Corporation shall not, for the duration of the Restricted Period, disclose the contents of the Responses to competing Offerors. A **“Register of Proposals”** shall be prepared and shall be open for public

inspection after the Restricted Period. The Register of Proposals shall contain the names of all Offerors and the prices respectively proposed in their Responses.

(5) **Selection Criteria.** For purposes of this Section G, the Selection Criteria shall include but not be limited to the following: cost; whether the Offeror has the capacity to execute the contract in accordance with the Offeror's Response; whether the Offeror has relevant experience and/or knowledge; and if relevant, whether the Offeror has experience in and knowledge of the community to be served or studied or in which work is to be performed. Procurement under this Section G need not be based exclusively on cost.

(6) **Discussion with Responsible Offerors and Revisions to Proposals.** With respect to those Responses that the Executive Director or the Consultant Committee (as applicable) deem to be (in their sole discretion) candidates for award, the Corporation may hold discussions with the relevant Offerors to clarify and fully understand their Responses. The Corporation shall treat such Offerors fairly and equably, particularly in connection with providing opportunities to amend Responses so that the Corporation may obtain best and final Responses. The Corporation shall not divulge information derived from Responses submitted by competing Offerors except as provided in subsection 4 hereinabove

Section H. CONTRACTORS RECOMMENDED BY CONSTRUCTION MANAGER

(1) **Applicability.** When the Corporation has retained a construction manager for Construction Services, any contract for Construction Services (other than the contract with the construction manager itself) or Construction-Related Supplies may be procured pursuant to the procedure set forth in this Section H in lieu of other Competitive Methods of Procurement. For purposes of this Section H, "Executive Director" shall mean Executive Director or Consultant Committee as applicable.

(2) **Selection of Contractors.** Procurement under this Section H consists of the following: (a) the construction manager recommends to the Executive Director a minimum of five potential contractors; (b) the Executive Director reviews such list of potential contractors and determines which of them the Corporation considers to be appropriate; (c) the selected contractors are invited to submit Responses; (d) the construction manager and the Executive Director review the Responses and in their discretion, negotiate with some or all of the Offerors. Revisions may be permitted to obtain best and final Responses.

(3) **Award.** After consulting with the construction manager, the Executive Director (or the Consultant Committee if one has been appointed pursuant to subsection A(7) of this Policy) shall recommend to the Board of Directors the Response and Offeror deemed to be the most advantageous to the Corporation. Procurement under this Section H need not be exclusively based upon cost.

(4) **Procurement of Construction Manager.** Nothing in this Policy may be construed to exempt the procurement of a construction manager by the Corporation from the requirements of this Policy.

Section I. USE OF OTHER GOVERNMENTAL CONTRACTS

Notwithstanding any other provision of this Policy, if there is a federal, State or City contract for Supplies and/or Services that permits the Corporation to utilize such contract or to obtain Supplies and/or Services from the contractor under substantially similar terms, the Corporation may utilize such existing contract (or enter into a new contract on substantially similar terms) without using any Competitive Method of Procurement. Procurement under this Section I need not be exclusively based upon cost.

Exhibit F

BUILD NYC RESOURCE CORPORATION
MISSION STATEMENT AND PERFORMANCE MEASUREMENTS
Board of Directors Meeting
June ~~14, 2022~~6, 2023

WHEREAS, the 2009 Public Authorities Reform Act requires Build NYC Resource Corporation (“BNYC”) to annually review its mission statement and measurements by which the performance of BNYC and the achievement of its goals may be evaluated; and

WHEREAS, for Fiscal Year ~~2023~~2024 BNYC proposes to adopt the mission statement and performance measurements as indicated in Attachment A hereto; and

NOW, THEREFORE, RESOLVED that the Board approves the mission statement and performance measurements for use in Fiscal Year ~~2023~~2024, as set forth in Attachment A.

ATTACHMENT A

Authority Mission Statement and Performance Measurements

Name of Public Authority:

Build NYC Resource Corporation (BNYC)

Public Authority's Mission Statement:

The mission of the Build NYC Resource Corporation (BNYC) is to encourage community and economic development and job creation and retention throughout New York City by providing lower-cost financing programs to qualified not for-profit institutions and manufacturing, industrial, and other businesses for their eligible capital projects.

Proposed Adoption Date: June ~~14, 2022~~6, 2023

List of Performance Measurements:

- Number of contracts closed (current fiscal year and previous fiscal year)
- Amount of private investment leveraged (current fiscal year and previous fiscal year)
- Total net New York City tax revenues generated in connection with closed contracts (current fiscal year and previous fiscal year)
- Projected three-year job growth in connection with closed projects (current fiscal year and previous fiscal year)
- Current total jobs in connection with projects that commenced operations in FY ~~2019~~2020¹ as compared to total jobs at the time of application for such projects
- Current total jobs in connection with projects that commenced operations in FY ~~2019~~2020² as compared to the three-year total job projections stated in the applications for such projects
- Square footage of buildings/improvements receiving benefits (current fiscal year and previous fiscal year)
- Number of projects that received a field visit (current fiscal year and previous fiscal year)
- Percentage of projects that received a field visit (current fiscal year and previous fiscal year)
- Percentage of projects in good standing³ (current fiscal year and previous fiscal year)

¹ Also includes projects that closed in FY ~~2019~~2020 but commenced all project operations prior to the closing date.

² Also includes projects that closed in FY ~~2019~~2020 but commenced all project operations prior to the closing date.

³ Defined as those projects that did not receive a Notice of an Event of Default by the end of the Fiscal Year.

Exhibit G

Board Self-Evaluation (BNYC)

1. Board members have a shared understanding of the mission and purpose of BNYC.
2. The policies, practices and decisions of the Board are always consistent with this mission.
3. Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.
4. The Board has adopted policies, by-laws and practices for the effective governance, management and operations of BNYC and reviews these annually.
5. The Board sets clear and measurable performance goals for BNYC that contribute to accomplishing its mission.
6. The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.
7. Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.
8. Board members are knowledgeable about BNYC 's programs, financial statements, reporting requirements, and other transactions.
9. The Board knows the statutory obligations of BNYC and if BNYC is in compliance with state law.
10. Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.
11. Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.
12. Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.
13. Board members feel empowered to exercise appropriate oversight of the Executive Director and other executive staff, including setting performance expectations and reviewing performance annually, if applicable.
14. Board members feel empowered to identify the areas of most risk to BNYC and work with management to implement risk mitigation strategies before problems occur, if applicable.

Exhibit H

Project Summary

The borrower is 22 East 60 LLC (the “Borrower”), a Delaware limited liability company and a disregarded entity for federal tax purposes, the sole member of which is The French Institute-Alliance Francaise (“FIAF”), a New York not-for profit education corporation exempt from federal taxation pursuant to Section 501(c)(3) of the Code, as amended (the “Code”). The Borrower’s purpose is to own, operate, lease, and finance the eight-story, 48,562 square foot building located on a 6,600 square foot parcel of land at 20-24 East 60 Street, New York, NY 10022 (the “Facility”) for the benefit of FIAF. The Borrower is seeking approximately \$20,000,000 in tax-exempt qualified 501(c)(3) bonds to be issued pursuant to section 145 of the Code and taxable bonds (collectively, the “Bonds”).

Proceeds from the Bonds will be used as part of the Borrower’s plan of financing, including to: (i) refinance the Borrower’s 2013 taxable loan, currently outstanding in the principal amount of approximately \$16,000,000 (the “2013 Loan”), (ii) fund improvements and renovations to the Facility in the amount of \$3,600,000, including but not limited to redesigning and renovating entrance spaces, adjusting electrical and replacing lighting, removing the sidewalk canopy, upgrading the library, classrooms, and other facilities, removing an escalator, and expanding the stair landing and creating new roof access, and (iii) pay for certain costs related to the issuance of the Bonds (collectively, the “Project”).

The 2013 Loan (i) refinanced two taxable loans that financed improvements, renovations, and costs of the Facility, (ii) financed improvements, renovations, and costs of the Facility, and (iii) current refunded the outstanding New York City Industrial Development Agency Variable Rate Demand Civic Facility Revenue Bonds (French Institute-Alliance Française de New York—Federation of French Alliances in the United States Project) Series 2005 (the “2005 Bonds”). The 2005 Bonds financed the expansion, improvement, renovation, construction, and equipping of the Facility, including, but not limited to: (i) the improvement and renovation of the then 43,210 square foot Facility, (ii) the expansion of the Facility by 4,238 square feet, and (iii) the purchase of machinery and equipment for use at the Facility.

Project Location

20-24 East 60th Street
New York, New York 10022

Actions Requested

- Bond Approval and Authorizing Resolution.
- Adopt a negative SEQRA declaration for the Project. The Project will not have a significant adverse effect on the environment.

Anticipated Closing

August 2023

Impact Summary

Employment	
Jobs at Application:	132.5
Jobs to be Created at Project Location (Year 3):	6
Total Jobs (full-time equivalents)	138.5
Projected Average Hourly Wage (excluding principals)	\$34.83
Highest Wage/Lowest Wage	\$16.02/\$73.39

Estimated City Tax Revenues

Joseph Taecker-Wyss, SIG
Robert LaPalme, LGL

Nixon Peabody LLP
Project Number - 10013

22 East 60 LLC

Impact of Operations (NPV 10 years at 6.25%)	\$3,796,895
One-Time Impact of Renovation	\$112,976
Total impact of operations and renovation	\$3,909,871
Additional Benefit from Jobs to be Created	\$140,346

Estimated Cost of Benefits Requested: New York City	
MRT Benefit	\$325,000
NYC Forgone Income Tax on Bond Interest	\$102,403
Corporation Financing Fee	(\$125,000)
Total Cost to NYC Net of Financing Fee	\$302,403

Costs of Benefits Per Job	
Estimated Net City Cost of Benefits per Job in Year 3	\$2,183
Estimated City Tax Revenue per Job in Year 3	\$29,243

Estimated Cost of Benefits Requested: New York State	
MRT Benefit	\$235,000
NYS Forgone Income Tax on Bond Interest	\$385,263
Total Cost to NYS	\$620,263
Overall Total Cost to NYC and NYS	\$922,666

Sources and Uses

Sources	Total Amount	Percent of Total Financing
Bond Proceeds	\$20,000,000	100%
Total	\$20,000,000	100%

Uses	Total Amount	Percent of Total Costs
Refinancing of 2013 Loan	\$16,000,000	80%
Construction Hard Costs	\$3,000,000	15%
Construction Soft Costs	\$500,000	2%
Furnishing, Fixtures & Equipment and Machinery	\$100,000	1%
Closing Fees	\$400,000	2%
Total	\$20,000,000	100%

Fees

	Paid at Closing	On-Going Fees (NPV, 10 Years)
Corporation Fee	\$125,000	
Bond Counsel	\$135,000	
Annual Corporation Fee	\$1,250	\$9,092
Bond Trustee Acceptance Fee	\$500	
Annual Bond Trustee Fee	\$500	\$3,637
Trustee Counsel Fee	\$5,000	
Total	\$267,250	\$12,729
Total Fees	\$279,979	

Financing and Benefits Summary

JPMorgan Chase Bank, N.A. will directly purchase the Bonds in the principal amount of up to \$20,000,000. The Bonds are expected to have a ten-year final maturity with monthly payment periods and a fixed interest rate based on the ten-year Treasury Constant Maturity plus 0.85%. As of May 3, 2023, the indicative fixed interest rate is 4.31% and the index and margin are subject to change daily until the closing date. For the first thirty-six months from the closing date, payments on the Bonds will be interest only, which is expected to be approximately \$900,000 annually. For the subsequent eighty-three months, payments on the Bonds will be interest and principal based on a twenty-five-year amortization, which is expected to be \$1,295,000 annually. A final lump sum payment on remaining principal and all accrued interest on the Bonds is scheduled at maturity, which the Borrower intends to refinance in advance of the payment.

Based on an analysis of the Borrower's three most recent years of financial statements, there is an anticipated debt service coverage ratio of 1.46x for the interest-only period and 0.96x debt service coverage during the principal and interest payment period prior to maturity. However, FIAF projects increased revenues in the coming years to service the debt. Assuming the implementation of such efforts, FIAF projects a DSCR at or above 1.29x following the interest only period. FIAF is investing in raising funds from institutions, foundations, and governments in addition to the organization's historical event- and individual-donor based fundraising. FIAF also plans to increase revenues through its language classes, as it expects more students to come in person when FIAF increases the marketing and visibility of its programs.

Applicant Summary

FIAF is a 125-year-old, New York City-based nonprofit that is committed to building connections to the francophone world and celebrating the diversity of their cultures and creativity. FIAF operates the Facility that houses a school (including a preschool and French classes for all ages), library, and event spaces. The event spaces are used for FIAF's cultural programming, including theater and dance performances, guest speakers, and film viewings, as well as for rental by other individuals and organizations.

Tatyana Franck, President

Ms. Franck became President of FIAF in March 2022 bringing her strong leadership, global strategic vision, and participatory management style. Franck was previously the Director of the Museum Photo Elysee in Lausanne, Switzerland for seven years, where she oversaw a critically acclaimed \$108 million new construction, enriched the museum's collections, formed exciting new partnerships for local and community engagement, and implemented a new digital strategy to expand the museum's international reach. Before Photo Elysee, Franck was Director of the Claude Picasso Archives in Paris and Geneva and oversaw collections of modern and contemporary art, design, and photographic archives. She is involved in cultural policy in France, Switzerland, and other countries and sits on several boards, including the Henri Cartier-Bresson Foundation in Paris (Treasurer), Fondation Art Explora in Paris, and Fondation du Jeu de Paume in Paris. She is also the respected curator of numerous international exhibitions including Jan Groover: Laboratory of Forms; Charlie Chaplin: A Vision; Hybrids – The Body as the Imaginary; The Beauty of Lines: Masterpieces from the Gilman and Gonzales-Falla Collection; Nicolas Savary: Conquistador; Unfamiliar Familiarities: Outside Views on Switzerland; The Memory of the Future: Photographic Dialogues between Past, Present and Future; Picasso at Work, Through the Lens of David Douglas Duncan; and La Part Animale. Franck received an Executive MBA from Columbia Business School, an MA in Business Law, and a degree in Law and Art History & Archeology from the Universite Paris – Patheon/Sorbonne.

McKenzie Keating, Chief Financial Officer

Ms. Keating serves as the Chief Financial Officer for FIAF. Keating was previously the Director of Finance at the Brooklyn Museum, when she helped balance a longstanding annual deficit. Before the Brooklyn Museum, Keating served in a variety of senior financial management roles, including as Budget Manager and Controller at the Public Theater, Brooklyn Academy of Music, and Guggenheim. Keating is a Trustee of the New York City Gay Men's Chorus. Keating studied Finance at Babson College.

22 East 60 LLC

Anne Busquet, Board Chair

Ms. Busquet is President of AMB Advisors where she advises companies on business strategy, marketing, and development and is a Managing Director at Golden Seeds Group, an Angel Investor Group. Ms. Busquet started her career at Hilton International in Paris before joining the American Express Company in New York. At American Express, she held executive positions including Executive Vice President Card Marketing, U.S. President of Relationship Services, and President of Interactive Services and New Businesses. As a Division President she led global interactive initiatives and sat on the American Express Executive Committee. Ms. Busquet became CEO of Local and Media services within InterActiveCorp (IAC) an internet commerce conglomerate, where she led a group of businesses including, Citysearch, Evite, Entertainment Publications, Inc., Service Magic USA, and Tripadvisor. Ms. Busquet currently serves on the Board of Pitney Bowes, Elixir Group, and CareCloud, is on the Advisory Board of JEGI Clarity, and is a Trustee of Columbia Business School and FIAF. Ms. Busquet received her BS from Cornell University and her MBA from Columbia University.

Employee Benefits

FIAF provides health insurance, retirement benefits, on-the-job training, and sick pay. Union employees receive benefits through 32BJ.

SEQRA Determination

Type II action which, if implemented, will not result in significant adverse environmental impacts. The completed Environmental Assessment Form for this project has been reviewed and signed by Corporation staff.

Due Diligence

The Corporation conducted a background investigation of the Borrower, FIAF and its principals and found no derogatory information.

Compliance Check:	Not Applicable
Living Wage:	Exempt
Paid Sick Leave:	Compliant
Affordable Care Act:	Compliant
Private School Policy:	Not Applicable
Bank Account:	Webster Bank
Bank Check:	No derogatory information was found.
Supplier Checks:	Compliant
Customer Checks:	Not Applicable
Union Checks:	Compliant
Background Check:	No derogatory information was found.
Attorney:	Michele Arbeeny, Partner Windels Marx 156 West 56 th Street New York, NY 10019

22 East 60 LLC

Accountant: Theresa Cheng
French Institute-Alliance Francaise
22 East 60th Street
New York, NY 10022

Consultant: Dan Froehlich, Senior Vice President
D.A. Davidson & Co.
757 Third Avenue, Suite 1902
New York, NY 10017

Community Board: Manhattan, CB #8

Board of Trustees

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Jeff Koons, Trustee	
Brigitte Wertheimer, Trustee	

April 4, 2023

Ms. Emily Marcus
Executive Director
Build NYC Resource Corporation
New York City Economic Development Corporation
One Liberty Plaza
New York, NY 10006

Re: Application for financing through the Build NYC Resource Corp. / Not-For-Profit
Bond Program on behalf of French Institute – Alliance Francaise

Dear Ms. Marcus:

The French Institute – Alliance Francaise (“FIAF”) is a not-for-profit organization incorporated in New York in 1902 and located in New York City. The mission of FIAF is to provide a French language school, library and cultural center. FIAF’s history begins in 1898, when the Alliance Française established a chapter in New York City. In 1911, the Museum of French Art, French Institute was founded by New Yorker MacDougal Hawkes, and in 1925 opened its space in a beautiful Beaux-Arts building at 22 East 60th Street, where FIAF still resides. In 1971, the two institutions joined together to create the French Institute – Alliance Francaise. FIAF is a non-profit organization and is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code.

In the application plan of finance, FIAF proposes the issuance of Series 2023 tax exempt bonds in the not to exceed amount of \$20 million to refinance an existing loan in the amount of \$16 million and to finance interior capital maintenance and renovations and to pay closing costs. But for lower tax exempt interest rates and other ancillary benefits offered by a Build NYC financing, FIAF would not be in a position to affordably complete its financing objectives. Equally important, the savings allow FIAF to grow its programs and educational offerings which results in the maintenance of existing full and part-time jobs and future workforce stability.

Thank you for your time and consideration in reviewing FIAF’s application. FIAF’s team looks forward to working with you.

Very truly yours,



Kenneth (aka “McKenzie”) Keating
French Institute – Alliance Francaise

Exhibit I

Resolution approving financing of a facility for 22 East 60 LLC and authorizing the issuance and sale of approximately \$20,000,000 of Revenue Bonds (The French Institute - Alliance Française Project), Series 2023 and the taking of other action in connection therewith

WHEREAS, Build NYC Resource Corporation (the “Issuer”) is authorized pursuant to Section 1411(a) of the Not-For-Profit Corporation Law of the State of New York, as amended (the “N-PCL”), and its Certificate of Incorporation and By-Laws, (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “City”) by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured bases; and (iii) to undertake other projects that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, lessening the burdens of government and acting in the public interest; and

WHEREAS, 22 East 60 LLC (the “Applicant”), a Delaware limited liability company and a disregarded entity for federal income tax purposes whose sole member is The French Institute - Alliance Française (“FIAF”), a New York non-profit corporation exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), has entered into negotiations with officials of the Issuer for the Issuer’s assistance with a tax-exempt and/or taxable bond transaction, to be issued as qualified 501(c)(3) bonds to finance a facility under Section 145 of the Code, the proceeds of which will be used by the Applicant to reimburse, finance or refinance: (1) the Applicant’s 2013 taxable loan, currently outstanding in the principal amount of \$16,000,000, which loan (a) refinanced two taxable loans that financed improvements, renovations and costs of an eight-story, 48,562 square foot building located on a 6,600 square foot parcel of land at 20-24 East 60 Street, New York, New York 10022 (the “Facility”) for the benefit of FIAF, (b) financed improvements, renovations and costs of the Facility, and (c) current refunded the outstanding New York City Industrial Development Agency Variable Rate Demand Civic Facility Revenue Bonds (French Institute-Alliance Française de New York—Federation of French Alliances in the United States Project) Series 2005, which bonds financed the expansion, improvement, renovation, construction and equipping of the Facility, including but not limited to (i) the improvement and renovation of the then 43,210 square foot Facility, (ii) the expansion of the Facility by 4,238 square feet, and (iii) the purchase of machinery and equipment for use at the Facility; (2) fund improvements and renovations to the Facility in the amount of \$3,600,000, including but not limited to redesigning and renovating entrance spaces, adjusting electrical and replacing lighting, removing the sidewalk canopy, upgrading the library, classrooms, and other facilities, removing an escalator, and expanding the stair landing and creating new roof access; and (3) pay for certain costs related to the issuance of the Bonds (collectively, the “Project”); and

WHEREAS, the Facility is owned and leased by the Applicant to FIAF and operated by FIAF as a cultural center in the Facility that houses a school (preschool and French

classes for all ages), library, and event spaces that offer their audience multi-disciplinary programming that celebrates the diversity of francophone cultures and creativity around the world; and

WHEREAS, the Applicant has submitted an Application (the “Application”) to the Issuer to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that FIAF provides services in the City; that there are approximately 132.5 full-time equivalent employees employed by FIAF in the City and an 6 additional full-time equivalent employees are expected to be hired after completion of the Project; that the financing of the Project costs with the Issuer’s financing assistance will provide savings to the Applicant which will allow it to redirect financial resources to provide services and continue its programs with a greater measure of financial security; and that, therefore the Issuer’s assistance is necessary to assist the Applicant in proceeding with the Project; and

WHEREAS, the Issuer desires to further encourage the Applicant with respect to the financing of the Facility, if by so doing it is able to induce the Applicant to proceed with the Project; and

WHEREAS, in order to finance a portion of the cost of the Project, the Issuer intends to issue its Revenue Bonds (The French Institute - Alliance Française Project), Series 2023, in one or more tax-exempt or taxable series, in the aggregate principal amount of approximately \$20,000,000, or such greater amount (not to exceed 10% more than such stated amount) (the “Bonds”) each as may be determined by a certificate of determination of an authorized officer of the Issuer (the “Certificate of Determination”), all pursuant to an Indenture of Trust (the “Indenture”), to be entered into between the Issuer and The Bank of New York Mellon, as Trustee, or a trustee to be appointed by the Issuer (the “Trustee”); and

WHEREAS, the Issuer intends to loan the proceeds of the Bonds to the Applicant pursuant to a Loan Agreement (the “Loan Agreement”) to be entered into between the Issuer and the Applicant, and (ii) the Applicant will execute one or more promissory notes in favor of the Issuer and the Trustee (collectively, the “Promissory Note”) to evidence the Applicant’s obligation under the Loan Agreement to repay such loan; and

WHEREAS, the Bonds are to be secured by mortgage liens on and security interests in the Facility granted by the Applicant, as mortgagor, to the Issuer and the Trustee, pursuant to one or more Mortgage and Security Agreements (collectively, the “Mortgage”), which Mortgage will be assigned by the Issuer to the Trustee pursuant to one or more Assignments of Mortgage and Security Agreement from the Issuer to the Trustee (collectively, the “Assignment of Mortgage”); and

WHEREAS, the Bonds will be further secured by a pledge of gross revenues from FIAF to the Trustee pursuant to a Pledge and Security Agreement (the “Pledge and Security Agreement”);

NOW, THEREFORE, BE IT RESOLVED BY BUILD NYC RESOURCE CORPORATION AS FOLLOWS:

Section 1. The Issuer hereby determines that the financing of a portion of the costs of the Project by the Issuer will promote and is authorized by and will be in furtherance of the corporate purposes of the Issuer.

Section 2. The Issuer hereby approves the Project and authorizes the Applicant to proceed with the Project as set forth herein, which Project will be financed in part through the issuance of the Bonds of the Issuer, which Bonds will be special limited revenue obligations of the Issuer payable solely from the revenues and other amounts derived pursuant to the Loan Agreement and the Promissory Note.

Section 3. To provide for the financing of the Project, the issuance of the Bonds of the Issuer is hereby authorized subject to the provisions of this Resolution and the Indenture hereinafter authorized.

The Bonds shall be issued as fully registered bonds in one or more tax exempt and/or taxable series, shall be dated as provided in the Indenture, shall be issued as one or more serial and/or term bonds and with respect to the Bonds in an aggregate amount not to exceed \$20,000,000, or such greater amount (not to exceed 10% more than such stated amount), and the Bonds shall be payable as to principal and redemption premium, if any, at the principal office of the Trustee, shall be payable as to interest by check, draft or wire transfer as provided in the Indenture, shall bear interest at such rate(s) as determined by the Certificate of Determination, shall be subject to optional redemption and mandatory redemption as provided in the Indenture, shall be payable as provided in the Indenture until the payment in full of the principal amount thereof and shall mature not later than December 31, 2054 (or as determined by the Certificate of Determination), all as set forth in the Bonds.

The provisions for signatures, authentication, payment, delivery, redemption and number of Bonds shall be set forth in the Indenture.

Section 4. The Bonds shall be secured by the pledge effected by the Indenture and shall be payable solely from and secured by a pledge by the Issuer of revenues and receipts of the Issuer, including loan payments made by the Applicant, to the extent set forth in the Loan Agreement and Indenture hereinafter authorized. The Bonds shall be further secured by the Mortgage. The Bonds, together with the interest thereon, are special limited revenue obligations of the Issuer, payable solely as provided in the Indenture, including from moneys deposited in the Revenue Fund, Bond Fund, Project Fund, and such other funds as established under the Indenture (subject to disbursements therefrom in accordance with the Loan Agreement and the Indenture), and shall never constitute a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable thereon, nor shall the Bonds be payable out of any funds of the Issuer other than those pledged therefor.

Section 5. The Bonds may be purchased by JPMorgan Chase Bank, N.A., or such other purchaser to be determined (the "Purchaser"). The determination as to the Purchaser and the purchase price of the Bonds shall be approved by Certificate of Determination.

Section 6. The execution and delivery of the Indenture, the Loan Agreement, a Use Agreement between the Issuer and FIAF, and a Tax Regulatory Agreement from the

Issuer, the Applicant and FIAF (the documents referenced in this Section 6 being, collectively, the "Issuer Documents") are hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel and Vice President for Legal Affairs of the Issuer are hereby authorized to execute, acknowledge and deliver each such Issuer Documents. The execution and delivery of each such Issuer Documents by said officer shall be conclusive evidence of due authorization and approval.

Section 7. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution and contained in the Issuer Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members or directors thereof by the provisions of this Resolution and the Issuer Documents shall be exercised or performed by the Issuer or by such members, directors, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Issuer Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Issuer in his individual capacity, and neither the members or directors of the Issuer nor any officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 8. The officers of the Issuer are hereby designated the authorized representatives of the Issuer and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Issuer Documents and the issuance of the Bonds.

Section 9. The Issuer is hereby authorized to cause the Applicant to proceed with the Project, the agreed costs thereof to be paid by the Issuer by the application of the proceeds of the Bonds, all as particularly authorized by the terms and provisions of the Loan Agreement. The Applicant is authorized to proceed with the Project; provided, however, that it is acknowledged and agreed by the Applicant that neither the Issuer nor any of its members, directors, officers, employees, agents or servants shall have any personal liability for any action taken by the Applicant for such purpose or for any other purpose.

Section 10. Any expenses incurred by the Issuer with respect to the Project and the financing thereof shall be reimbursed out of the proceeds of the Bonds or, in the event such proceeds are insufficient after payment of other costs of the Project or the Bonds are not issued by the Issuer, shall be paid by the Applicant. By accepting this Resolution, the Applicant agrees to pay such expenses and further agrees to indemnify the Issuer, its members, employees and agents and hold the Issuer and such persons harmless against claims for losses, damage or injury

or any expenses or damages incurred as a result of action taken by or on behalf of the Issuer in good faith with respect to the Project and the financing thereof.

Section 11. In connection with the Project, the Issuer intends to grant the Applicant financing assistance in the form of the issuance of the Bonds and an exemption from City and State mortgage recording taxes.

Section 12. Any qualified costs incurred by the Applicant in initiating the Project shall be reimbursed by the Issuer from the proceeds of the Bonds in accordance with Treasury Regulation Section 1.150-2; provided that the Issuer incurs no liability with respect thereto except as otherwise provided in this Resolution.

Section 13. This Resolution is subject to the approval of a private investigative report with respect to the Applicant, which approval shall be conclusively evidenced by the delivery of the Issuer Documents authorized pursuant to Section 6 hereof. The provisions of this Resolution shall continue to be effective until one year from the date hereof, whereupon the effectiveness of this Resolution shall terminate (except with respect to the matters contained in Section 10 hereof) unless (i) prior to the expiration date of such year the Issuer shall (x) have issued the Bonds for the Project, or (y) by subsequent resolution extend the effective period of this Resolution, or (ii) the Applicant shall be continuing to take affirmative steps to secure financing for the Project.

Section 14. This Resolution is subject to further compliance with the provisions of Sections 103 and 141 through 150 and related provisions of the Code, including, without limitation, the obtaining of public approval for the Project and the Bonds.

Section 15. The Issuer, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Issuer’s review of information provided by the Applicant and such other information as the Issuer has deemed necessary and appropriate to make this determination.

The Issuer has determined that the proposed action is a Type II action, pursuant to 6 NYCRR Part 617.5(c)(2), “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes” which action does not meet or exceed any of the thresholds in 6 NYCRR Part 617.4, and 6 NYCRR Part 617.5(c)(29), “investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt”.

Section 16. The Issuer recognizes that due to the unusual complexities of the financing it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Issuer herein. The Issuer hereby authorizes the Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director or General Counsel of the Issuer to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by the Certificate of Determination.

Section 17. This Resolution shall take effect immediately.

ADOPTED: June 6, 2023

ACCEPTED BY:

22 EAST 60 LLC

By: _____

Name:

Title:

THE FRENCH INSTITUTE -
ALLIANCE FRANÇAISE

By: _____

Name:

Title:

Accepted: _____, 2023

Exhibit J



Build NYC Resource Corporation

FINANCING PROPOSAL
FRIENDS OF SBCSICA, INC. & SOUTH
BRONX CHARTER SCHOOL FOR INTERNATIONAL
CULTURES AND THE ARTS
MEETING OF JUNE 6, 2023

Project Summary

Friends of SBCSICA, Inc. (“Friends”), a New York not-for-profit corporation exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), the sole member of which is South Bronx Charter School for International Cultures and the Arts (the “School”), a New York not-for-profit education corporation exempt from federal taxation pursuant to section 501(c)(3) of the Code, as borrowers. Friends and the School are seeking approximately \$37,678,502 in tax-exempt and/or taxable revenue bonds (the “Bonds”). The tax-exempt bonds will be issued as part of a plan of finance as qualified 501(c)(3) bonds for educational facilities under Section 145 of the Code. Proceeds from the Bonds will be used to: (i) refund approximately \$21,650,000 outstanding Build NYC Resource Corporation Revenue Bonds (South Bronx Charter School for International Cultures and the Arts Project), Series 2013A, originally issued in the aggregate principal amount of \$22,400,000 (“Series 2013A bonds”), the proceeds of which financed and/or refinanced: (a) a portion of the costs associated with the School’s acquisition of an approximately 15,714 square foot building on an approximately 8,742 square foot parcel of land, the demolition of the building, the construction and equipping of a new approximately 39,614 square foot, 5-story educational facility located at 164 Bruckner Boulevard, Bronx, New York (the “Facility”); and (b) certain debt service reserve fund(s) and capitalized interest account(s) relating to the Series 2013A bonds; and (ii) fund certain costs for the School to acquire a vacant approximately 22,388 square foot parcel of land located at 2500/2510 Park Avenue, Bronx, NY (the “Land”), anticipated to serve as the location of a future middle/high school building; (iii) finance and/or refinance certain eligible predevelopment costs in connection with the School’s acquisition of the Land; (iv) fund debt service reserve fund(s) and capitalized interest account(s); and (v) pay for certain costs related to the issuance of the Bonds. Friends will own the Facility and will lease the Facility to the School, which will operate the Facility as a public charter school serving students from kindergarten through Grade 7. The School will own the Land, which will be held for future development by the School or Friends for use as a public charter school to be operated by the School.

Project Locations

2500/2510 Park Avenue
Bronx, NY 10451

164 Bruckner Boulevard
Bronx, NY 10454

915 Hutchinson River Parkway
Bronx, NY 10465

Action Requested

- Bond Approval and Authorizing Resolution.
- Adopt a negative SEQRA determination for the refinancing of outstanding Series 2013A Bonds. The proposed refinancing aspect of the Project will not have a significant adverse effect on the environment.
- Adopt a negative SEQRA determination for the Land acquisition aspect of the Project, following the review, analysis and negative declaration previously adopted by designated Lead Agency, NYC Board of Standards and Appeals.

Anticipated Closing

Fall 2023

Leyla Arcasoy, SIG
Jill Braverman, LGL

Katten Muchin Rosenman LLP
Project Number - 10475

Impact Summary

Employment	
Jobs at Application:	52.5
Jobs to be Created at Project Location (Year 3):	20
Total Jobs (full-time equivalents)	72.5
Projected Average Hourly Wage (excluding principals)	\$35.90
Highest Wage/Lowest Wage	\$18.00/121.00

Estimated City Tax Revenues	NPV 40 years @ 6.25%
Impact of Operations (NPV 40 years at 6.25%)	\$7,742,289
One-Time Impact of Renovation	\$155,158
Total impact of operations and renovation	\$7,897,447
Additional benefit from jobs to be created	\$2,541,980

Estimated Cost of Benefits Requested: New York City	NPV 40 years @ 6.25%
MRT Benefit	\$612,276
NYC Forgone Income Tax on Bond Interest	\$514,481
Corporation Financing Fee	(\$213,393)
Total Cost to NYC Net of Financing Fee	\$913,364

Costs of Benefits Per Job	
Estimated Net City Cost of Benefits per Job in Year 3	\$12,598
Estimated City Tax Revenue per Job in Year 3	\$143,992

Estimated Cost of Benefits Requested: New York State	
MRT Benefit	\$442,722
NYS Forgone Income Tax on Bond Interest	\$1,935,587
Total Cost to NYS	\$2,378,309
Overall Total Cost to NYC and NYS	\$3,291,673

Sources and Uses

Sources	Total Amount	Percent of Total Financing
Bond Proceeds	\$37,678,502	100%
Total	\$37,678,502	100%

Uses	Total Amount	Percent of Total Costs
Land Acquisition	\$9,800,000	26%
Soft Costs	5,400,000	14%
Closing Fees	3,793,023	9%
Refunding Escrow	18,685,479	51%
Total	\$37,678,502	100%

Fees

	Paid At Closing	On-Going Fees (NPV, 40 Years)
Corporation Fee	\$312,500	
Bond Counsel	\$135,000	
Annual Corporation Fee	\$1,250	\$16,755
Bond Trustee Acceptance Fee	\$750	
Annual Bond Trustee Fee	\$750	\$6,702
Trustee Counsel Fee	\$8,000	
Total	\$458,250	\$23,457
Total Fees	\$481,707	

Financing and Benefits Summary

Robert W. Baird & Co. will serve as underwriter for the Bonds, which will be sold through a public offering. The Bonds will be issued in three series: a tax-exempt bond series (Series 2023A) issued in the approximate amount of \$18,715,000, a tax-exempt bond series (Series 2023B) issued in the approximate amount of \$16,450,000, and a taxable bond series (Series 2023C) issued in the approximate amount of \$375,000. The Series 2023A and 2023B Bonds have an anticipated maturity of 40 years and are expected to bear an interest rate estimated to be between 4.85% and 6.00%. The Series 2023C Bonds have an anticipated maturity of 2 years and are expected to bear an interest rate estimated to be approximately 7.00%. It is expected that the Bonds will be secured by a pledge of the School’s revenues which will act as lease payments to Friends, a debt service reserve fund, a repair and replacement fund of \$100,000 funded over five years, as well as a fee mortgage on the Facility and on the Land. Based on an analysis of the School’s financial statements, there is an expected debt service coverage ratio of 1.37x in 2024.

Applicant Summary

Friends is a New York not-for-profit corporation and support organization that was formed in 2018 to further the mission of the School. Established in 2005, the School is a dual language public charter school which serves students from kindergarten through grade 8 in the Mott Haven neighborhood of the Bronx. Nearly half of enrolled students are English language learners and all students can explore the Common Core curriculum through both English and Spanish. The School’s curriculum is complemented by a technology-rich environment and enriched by an international exposure to the arts. In the near future, the School plans to expand and construct a new building at 2500/2510 Park Avenue, Bronx, and to increase enrollment to serve students in grades 9 through 12, where it aims to ensure that students graduate with an Advanced Regents Diploma as well as the New York State Seal of Biliteracy.

Evelyn Hey, Principal

Ms. Hey became the School’s founding principal in 2005 and has served as Executive Director since 2021. Previously, she has served as the principal at P.S. 333, 191, and 234. She holds a B.A. from Good Counsel College and an M.A. in Supervision and Administration from Bank Street College.

Angie Gonzalez, Chair, Board of Trustees

Ms. Gonzalez was appointed as a member of the Board of Trustees in 2021 and became Chair in 2022. She simultaneously works with the Service Employees International Union, Local 32BJ. She holds a B.A. in Psychology and M.S. in Non-Profit Management from Hunter College.

Donald P. Mattson, Vice-Chair, Board of Trustees

Mr. Mattson was appointed as a member of the Board of Trustees in 2013. Prior to his retirement, after which he has done part-time consulting work in several schools, he served a twelve-year tenure as Principal of P.S. 93. He holds a B.A. in Elementary Education from Pace University.

Employee Benefits

School employees receive employer-sponsored healthcare, employer contributions for retirement plans, professional development training, as well as reimbursement for education expenses.

Recapture

The mortgage recording tax benefit is subject to a 10-year recapture period.

SEQRA Determination

For the refinancing of the Series 2013A bonds, an Unlisted Action, which, if implemented, will not result in significant adverse environmental impacts. The completed Environmental Assessment Form has been reviewed and signed by Corporation staff.

For the acquisition of the Land, a Type II action, Corporation staff recommends adoption of a SEQRA determination that the proposed acquisition of the Land by the School, will not generate any additional adverse environmental impacts beyond those reviewed and analyzed in the NYC Board of Standards and Appeals Resolution, dated April 30, 2021, attached as Exhibit A to the Resolution.

Due Diligence

The Corporation conducted a background investigation of Friends, the School and their respective principals and found no derogatory information.

Compliance Check:	Compliant
Living Wage:	Exempt
Paid Sick Leave:	Compliant
Private School Policy:	Not Applicable
Affordable Care Act:	Compliant
Bank Account:	Flagstar Bank
Bank Check:	Relationships are reported to be satisfactory.
Supplier Checks:	Relationships are reported to be satisfactory.
Customer Checks:	Not Applicable
Unions:	Not Applicable
Background Check:	No derogatory information was found.

**Friends of SBCSICA, Inc. &
South Bronx Charter School for International Cultures and the Arts**

Attorney: Robert J. McLaughlin, Esq.
Whiteman Osterman & Hanna LLP.
One Commerce Plaza
Albany, NY 12260

Accountant: Miaoling Lin
NCheng LLP
40 Wall Street
New York, NY 10005

Community Board: Bronx Community Board #201

Board of Directors and Trustees:

Ms. Evelyn Hey	Ms. Angie Gonzalez
Mr. Donald P. Mattson	Ms. Genna Fukuda
Ms. Priscilla Ocasio	Ms. Elvira Barone
Ms. Rosemarie Torres	Ms. Mariel Manon

FRIENDS OF SBCSICA, INC.
c/o 164 Bruckner Boulevard
Bronx, New York 10454

April 18, 2023

Ms. Emily Marcus
Build NYC Resource Corporation
110 William Street
New York, NY 10038

RE: Friends of SBCSICA, Inc. - 2023 Revenue Bond Inducement Letter

Dear Ms. Marcus:

On behalf of the Friends of SBCSICA, Inc. and its sole member, the South Bronx Charter School for International Cultures and the Arts (together, the “Applicants”), I want to thank you for the opportunity to submit a new Core Application for debt financing (the “2023 Application”) through Build NY Resource Corporation (the “Corporation”). The 2023 Application (submitted on April 4, 2023) contains part of an application submitted in January 2021 and approved in March 2021, as supplemented by the Applicants in March 2022 and approved in June 2022. The 2023 Application includes those 2021/2022 projects as well as the refunding of the 2013A Bonds described below. This letter supplements the similar letter submitted with the 2023 Application.

The proposed not to exceed \$38,000,000 borrowing (the “Series 2023 Bonds”) is to undertake a project (the “Project”) consisting of the following: (1) acquisition of vacant land for the Charter School’s middle school and high school to be located at 2500 Park Avenue, Bronx, NY that will eventually total over 90,000 square feet and will contain a full-sized 600(+/-) seat theater, arts studios, dance studios, rehearsal rooms, recording studio, 24 classrooms, science and robotics rooms, a rooftop greenhouse and a full sized gymnasium; (2) funding a debt-service reserve fund and capitalized interest, (3) refunding (tax-exempt or taxable) the \$18,400,000 currently outstanding principal amount of the Build NYC Resource Corporation Revenue Bonds Series 2013A issued on behalf of the Charter School; (4) reimbursement of certain costs incurred in the planning for the purchase and construction of the new school building; and (5) paying for certain costs related to the issuance of the Series 2023 Bonds.

Issuing the Series 2023 Bonds through the Corporation is necessary and will allow the Applicants to achieve several capital and financial goals. The financing of the purchase of the new school location will allow the Charter School to continue to provide educational services to the community in the South Bronx and will allow middle and high school students to participate in modern classrooms that will provide up-to-date technology, science labs, classrooms and computer labs. The Applicants will achieve savings through the refunding of the Series 2013 Bonds as well as reimbursement for the costs incurred in the planning and development of the new facility location. But for the financing proposed by the issuance of the Series 2023 Bonds, the purchase of the new school property, reimbursement of costs and savings in

existing debt service payments could not be achieved. Finally, this project will result in the retention of approximately 46 full-time jobs while allowing for the future increase of an additional 49 new full-time equivalent employees (estimated) when the new school is completed.

The availability of financing through the Corporation is cost effective for the Applicants. Since the debt will largely be tax-exempt, it is expected that the effective interest rate will be less than 7.00%. This interest rate will result in savings which will allow the Applicants to use its financial resources for the growth and education of its student population, thus fulfilling its mission to provides an exceptional education for students by employing research-based strategies to raise academic achievement through academic rigor and relevance, personalization, focused professional development, and meaningful family engagement and collaboration with the larger community. We believe that our approach allows our students to graduate with a strong academic foundation, an awareness of the needs of others, and with the social and emotional readiness needed to succeed in high school and graduate from college.

Thank you for the consideration of our application.

Vert truly yours,

Friends of SBCAICA, Inc.

By: 
Name: Shameeka Gonzalez
Title: Chair

South Bronx Charter School for
International Cultures and the Arts

By: 
Name: Angie Gonzalez
Title: Chair

Exhibit K

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF APPROXIMATELY \$37,678,502 OF BUILD NYC RESOURCE CORPORATION TAX-EXEMPT AND/OR TAXABLE REVENUE BONDS (SOUTH BRONX CHARTER SCHOOL FOR INTERNATIONAL CULTURES AND THE ARTS PROJECT), SERIES 2023, AND THE TAKING OF OTHER ACTION IN CONNECTION THEREWITH

WHEREAS, Build NYC Resource Corporation (the “Issuer”) is authorized pursuant to Section 1411(a) of the Not-for-Profit Corporation Law of the State of New York, as amended, and its Certificate of Incorporation and By-laws, (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “City”) by developing and providing programs for not-for-profit applicants, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their eligible projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured basis; and (iii) to undertake other projects that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, Friends of SBCSICA, Inc. (“Friends”), a not-for-profit corporation, the sole member of which is South Bronx Charter School for International Cultures and the Arts (the “School”, together with Friends, the “Applicants”), a New York not-for-profit education corporation, both of whom are exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, entered into negotiations with officials of the Issuer with respect to the issuance of tax-exempt and/or taxable bonds, the proceeds of which will be used to (i) refund approximately \$21,650,000 outstanding Build NYC Resource Corporation Revenue Bonds (South Bronx Charter School for International Cultures and the Arts Project), Series 2013A, originally issued in the aggregate principal amount of \$22,400,000 (“Series 2013A bonds”), the proceeds of which financed and/or refinanced (a) a portion of the costs associated with the School’s acquisition of a 15,714 square foot building on a 8,742 square foot parcel of land, the demolition of the building and the construction and equipping of a new 39,614 square foot, 5-story educational facility located at 164 Bruckner Boulevard, Bronx, New York (the “Facility”); and (b) certain debt service reserve fund(s) and capitalized interest account(s) relating to the Series 2013A bonds; (ii) fund certain costs for the School to acquire a vacant 22,388 square foot parcel of land located at 2500/2510 Park Avenue, Bronx, New York (the “Land”), anticipated to serve as the location of a future middle/high school building; (iii) finance and/or refinance certain eligible predevelopment costs in connection with the School’s acquisition of the Land; (iv) fund debt service reserve fund(s) and capitalized interest account(s); and (v) pay for certain costs related to the issuance of the Bonds (hereinafter defined) (collectively, the “Project”); and

WHEREAS, Friends will own the Facility and will lease the Facility to the School to be operated by the School as a public charter school providing educational services to students in kindergarten through Grade 7; and

WHEREAS, the School will own the Land, which will be held for future development by the School and/or Friends for use as a public charter school to be operated by the School; and

WHEREAS, the Applicants have submitted an Application (the “Application”) to the Issuer to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicants, the School and the Project, including the following: that Friends supports the School in providing, educational services to students in Bronx, New York; that the School currently employs approximately 52.5 full-time equivalent employees and expects to employ an additional 20 full-time equivalent employees at the Facility within three years of completion of the Project; that the Issuer’s financing assistance will provide debt service savings to the Applicants which will allow them to redirect financial resources to further the School’s educational mission and Friends’ mission of supporting the School; and that, therefore the Issuer’s assistance is necessary to assist the Applicants in proceeding with the Project; and

WHEREAS, the Issuer desires to further encourage the Applicants with respect to the financing and refinancing of the Facility, if by so doing it is able to induce the Applicants to proceed with the Project; and

WHEREAS, in order to finance a portion of the cost of the Project, the Issuer intends to issue its Tax-Exempt and/or Taxable Revenue Bonds (South Bronx Charter School for International Cultures and the Arts Project), Series 2023, in the aggregate principal amount of approximately \$37,678,502 (or such greater amount not to exceed such stated amount by more than 10%, as may be determined by a certificate of determination of an authorized officer of the Issuer (the “Certificate of Determination”)) (the “Bonds”) all pursuant to an Indenture of Trust (the “Indenture”) to be entered into between the Issuer and The Bank of New York Mellon, as trustee (the “Trustee”); and

WHEREAS, the Issuer intends to loan the proceeds of the Bonds to Friends (and, if determined by the Certificate of Determination, the School) pursuant to a Loan Agreement (the “Loan Agreement”) to be entered into among the Issuer, the Applicant and/or the School, and (ii) Friends (and, if determined by the Certificate of Determination, the School) will execute one or more promissory notes in favor of the Issuer and the Trustee (collectively, the “Promissory Note”) to evidence the obligation under the Loan Agreement to repay such loan; and

WHEREAS, the Bonds are to be secured by: (i) one or more mortgage liens on and security interests in the Facility and/or the Land granted by Friends and/or the School, as mortgagor, to the Issuer and the Trustee, as mortgagees, pursuant to one or more Mortgage and Security Agreements (collectively, the “Mortgage”), which Mortgage will be assigned by the Issuer to the Trustee pursuant to one or more Assignments of Mortgage and Security Agreement from the Issuer to the Trustee (collectively, the “Assignment of Mortgage”); (ii) a pledge of the Applicants’ revenues and, if determined by the Certificate of Determination, such pledge will be made pursuant to an Account Control Agreement among Friends and/or the School, the Applicants’ depository bank and the Trustee (the “Account Control Agreement”); and (iii) an Assignment of Contracts, Licenses and Permits (the “Assignment of Contracts”) from Friends and/or School, and if determined by Certificate of Determination, to the Trustee; and

WHEREAS, the Applicants retained Robert W. Baird & Co. to serve as underwriter (the “Underwriter”) in connection with the sale of the Bonds to the purchasers of the Bonds; and

WHEREAS, the Issuer, the Underwriter, Friends and/or the School will enter into a bond purchase agreement (the “Bond Purchase Agreement”) under which the Underwriter will agree to purchase the Bonds; and

WHEREAS, it is necessary in connection with the offering and sale of the Bonds for the Underwriter to distribute a Preliminary Limited Offering Memorandum and Limited Offering Memorandum (collectively, the “Offering Memorandum”) relating to the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY BUILD NYC RESOURCE CORPORATION, AS FOLLOWS:

Section 1. The Issuer hereby determines that the financing of the costs of the Project by the Issuer will promote and is authorized by and will be in furtherance of the corporate purposes of the Issuer.

Section 2. The Issuer hereby approves the Project and authorizes the Applicants to proceed with the Project as set forth herein, which Project will be financed in part through the issuance of the Bonds of the Issuer, which Bonds will be special limited revenue obligations of the Issuer payable solely from the revenues and other amounts derived pursuant to the Loan Agreement and the Promissory Note.

Section 3. To provide for the financing of the Project, the issuance of the Bonds by the Issuer is hereby authorized subject to the provisions of this Resolution and the Indenture hereinafter authorized.

The Bonds shall be issued as fully registered bonds in one or more series of tax-exempt and/or taxable bonds, shall be dated as provided in the Indenture, shall be issued as one or more serial and/or term bonds, and in an aggregate amount not to exceed \$37,678,502 (or such greater amount not to exceed such stated amount by more than 10% as may be determined by the Certificate of Determination), shall be payable as to principal and redemption premium, if any, at the principal office of the Trustee, shall be payable as to interest by check, draft or wire transfer as provided in the Indenture, shall bear interest initially at variable and/or fixed interest rates not to exceed ten percent (10.00%) (such final rate to be determined by the Certificate of Determination), shall be subject to optional and mandatory redemption as provided in the Indenture, shall be payable as provided in the Indenture until the payment in full of the principal amount thereof and shall mature not later than December 31, 2065 (or as determined by the Certificate of Determination), all as set forth in the Bonds. The provisions for signatures, authentication, payment, delivery, redemption and number of Bonds shall be set forth in the Indenture hereinafter authorized.

Section 4. The Bonds shall be secured by the pledge effected by the Indenture and shall be payable solely from and secured by a pledge of the loan payments, revenues and receipts payable under the Loan Agreement and the Promissory Note to the extent set forth in the Loan Agreement and the Indenture hereinafter authorized. The Bonds, together with the interest thereon, are special limited revenue obligations of the Issuer, payable solely as provided in the Indenture, including from moneys deposited in the Bond Fund, the Project Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund and such other funds as established under the Indenture (subject to disbursements therefrom in accordance with the Loan Agreement and the Indenture), and shall never constitute a debt of the State of New York or of the City, and neither the State of New York nor the City shall be liable thereon, nor shall the Bonds be payable out of any funds of the Issuer other than those pledged therefor. The Bonds are further secured by the Mortgages, the Account Control Agreement and the Assignment of Contracts.

Section 5. The Bonds are hereby authorized to be sold at a purchase price as shall be approved by the Certificate of Determination.

Section 6. The execution, as applicable, and delivery of the Indenture, the Loan Agreement, the Mortgages, the Assignments of Mortgages, the Bond Purchase Agreement, the Offering

Memorandum, a Tax Certificate from the Issuer and the Applicant and/or the School to the Trustee, a Use Agreement among the Issuer, the School and the Trustee, if any, a Letter of Representation and an Indemnity Agreement from the Applicants to the Issuer and the Trustee (the documents referenced in this Section 6 being, collectively, the "Issuer Documents"), each being substantially in the form approved by the Issuer for prior financings, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel of the Issuer are hereby authorized to execute, acknowledge and deliver each such Issuer Document. The execution and delivery of each such Issuer Document by said officer shall be conclusive evidence of due authorization and approval.

Section 7. The Issuer hereby authorizes the distribution of the Offering Memorandum relating to the Bonds.

Section 8. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution and contained in the Issuer Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members thereof by the provisions of this Resolution and the Issuer Documents shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Issuer Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Issuer in his or her individual capacity, and neither the members of the Issuer nor any officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 9. The officers of the Issuer are hereby designated the authorized representatives of the Issuer, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Issuer Documents and the issuance of the Bonds.

Section 10. The Issuer is hereby authorized to cause the Applicants to proceed with the Project, the agreed costs thereof to be paid by the Issuer by the application of the proceeds of the Bonds, all as particularly authorized by the terms and provisions of the Loan Agreement. The Applicants are authorized to proceed with the Project; provided, however, that it is acknowledged and agreed by the Applicants that neither the Issuer nor any of its members, directors, officers, employees, agents or servants shall have any personal liability for any action taken by the Applicants for such purpose or for any other purpose.

Section 11. Any expenses incurred by the Issuer with respect to the Project and the financing thereof shall be reimbursed out of the proceeds of the Bonds or, in the event such proceeds are insufficient after payment of other costs of the Project or the Bonds are not issued by the Issuer due to inability to consummate the transactions herein contemplated, shall be paid by the Applicants. By accepting this Resolution, Friends and the School, jointly and severally agree to pay such expenses and further agree to indemnify the Issuer, its members, employees and agents and hold the Issuer and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Issuer in good faith with respect to the Project and the financing thereof.

Section 12. In connection with the Project, the Issuer intends to grant the Applicants financing assistance in the form of issuance of the Bonds and, to the extent required, exemptions of City and State mortgage recording taxes.

Section 13. This Resolution is subject to the approval of a private investigative report with respect to the Applicants, which approval shall be conclusively evidenced by the delivery of the Issuer Documents authorized pursuant to Section 6 hereof. The provisions of this Resolution shall continue to be effective until one year from the date hereof, whereupon the effectiveness of this Resolution shall terminate (except with respect to the matters contained in Section 11 hereof) unless (i) prior to the expiration of such year the Issuer shall (x) have issued the Bonds for the Project, or (y) by subsequent resolution extend the effective period of this Resolution, or (ii) the Applicants shall be continuing to take affirmative steps to secure financing for the Project.

Section 14. Pursuant to the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617, the Issuer has reviewed information provided by the Applicants and such other information as the Issuer deems necessary and appropriate.

(a) The Issuer has determined that the proposed refinancing action is a Type II action, pursuant to 6 NYCRR Part 617.5(c)(29), “investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt” which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

(b) With respect to the proposed action by the School to acquire the Land, the New York City Board of Standards and Appeals (“BSA”) assumed Lead Agency status for the review of a larger project related to both the acquisition of the Land and proposed construction of a building thereon, including the non-compliance with respect to the school use at the site and determined that the proposed action is an Unlisted action pursuant to 6 NYCRR, Part 617.2.

Pursuant to the methodology of the 2021 CEQR Technical Manual, a Final Environmental Assessment Statement (“FEAS”; CEQR No. 21BSA015X) was prepared for the proposed project to facilitate a new six-story building, with mezzanine, approximately 85,700 square feet of floor area (3.84 FAR) intended to serve the School contrary to Z.R. § 42-10.

The Issuer finds that, with respect to the findings and resolution of the Lead Agency (NYC Board of Standards and Appeals) for the proposed project to be located at the Land, the Final Environmental Assessment Statement (“FEAS”; CEQR No. 21BSA015X)) has made a thorough and comprehensive analysis of the relevant areas of concern under SEQRA and its implementing regulations, considered a reasonable range of alternatives, appropriately assessed the potential environmental and land use impacts of the FEAS Proposed Action, identified measures to avoid or mitigate adverse impacts to the extent practicable and set forth appropriate conditions to be imposed as conditions of approval.

Furthermore, the Issuer has carefully considered the Lead Agency’s Negative Declaration and finds that this document is an accurate reflection of the FEAS findings related to the Issuer Proposed Action. The Board of Directors of the Issuer hereby adopts and incorporates by reference the Lead Agency’s Resolution and Findings Statement dated April 30, 2021 and filed on April 30, 2021, attached hereto as Exhibit A (including the conditions therein) and determines the Project to be an Unlisted Action.

Having considered the FEAS and the Lead Agency’s Negative Declaration, the Issuer certifies that:

(i) The requirements of SEQRA, including 6 NYCRR § 617.2 have been met and fully satisfied.

(ii) The Issuer has considered the relevant environmental assessment, facts and conclusions disclosed in the FEAS and in the Lead Agency’s Negative Declaration and weighed and balanced relevant environmental assessment with social, economic, and other considerations.

Section 15. This Resolution constitutes “other similar official action” under the provisions of Treasury Regulation 1.150-2 promulgated under Section 103 and related sections of the Code. This Resolution is subject to further compliance with the provisions of Sections 141 through 150 and related provisions of the Code.

Section 16. The Issuer recognizes that due to the unusual complexities of the financing it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Issuer herein. The Issuer hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution.

Section 17. This Resolution shall take effect immediately.

Adopted: June 6, 2023

Accepted: June __, 2023

FRIENDS OF SBCSICA, INC.

By: _____
Name:
Title:

**SOUTH BRONX CHARTER SCHOOL FOR
INTERNATIONAL CULTURES AND THE ARTS**

By: _____
Name:
Title:

EXHIBIT 1

Resolution Adopted by the New York City Board of Standards and Appeals
on April 30, 2021 (#2020-73-BZ)

See Attached.

Note.—This resolution is final but subject to formal revision before publication in the Bulletin. Please notify the General Counsel of any typographical or other formal errors so that corrections may be made before the Bulletin is published.

BOARD OF STANDARDS AND APPEALS

MEETING OF: April 30, 2021
CALENDAR NO.: 2020-73-BZ
PREMISES: 2500 Park Avenue, Bronx
Block 2322, Lot 5

ACTION OF BOARD — Application granted on condition.

THE VOTE —

Affirmative: Chair Perlmutter, Vice-Chair Chanda,
Commissioner Ottley-Brown, Commissioner Sheta, and
Commissioner Scibetta.....5
Negative:.....0

THE RESOLUTION —

The decision of the Department of Buildings, dated August 14, 2020, acting on New Building Application No. 240276811, reads in pertinent part: “The proposed Use Group 3 school is not permitted as of right within an M1-4 zoning district, contrary to ZR 42-10 and therefore requires a special permit from the Board of Standards and Appeals pursuant to ZR 73-19.”

This is an application for a special permit under Z.R. §§ 73-19 and 73-03 to allow—in an M1-4 zoning district—the construction of a school building that would not comply with applicable use regulations under Z.R. § 42-10.

This application is brought by South Bronx Charter School for International Cultures and the Arts (the “School”), a public school that has operated its elementary-school program since 2005 and its middle-school program since 2018 and seeks to expand to a new location at the Premises with a middle school and high school.

A public hearing was held on this application on January 12, 2021, after due notice by publication in *The City Record*, with continued hearings on March 9, 2021, April 13, 2021, April 27, 2021, April 30, 2021, and then to decision on the same date.

Commissioner Sheta performed an inspection of the Premises and surrounding neighborhood, and Community Board 1, Bronx, recommends approval of this application.

I.

The Premises are located on the northeast corner of Park Avenue and the Major Deegan Expressway, in an M1-4 zoning district, in the Bronx. With approximately 153 feet of frontage along Park Avenue, 125 feet of frontage along the Major Deegan Expressway, and 22,338 square feet of lot area, they are currently vacant.

II.

The applicant proposes to construct a six-story, with mezzanine, school building containing 85,701 square feet of floor area (3.84 FAR). Because schools are not allowed in M1-4 zoning districts as of right under Z.R. § 42-10, the applicant requests the relief set forth herein.

III.

The Zoning Resolution vests the Board with discretion, “[i]n harmony with the [Zoning Resolution’s] general purpose and intent” and “in an appropriate case,” to “grant special permits for specified uses in specific districts,” Z.R. § 73-01. At the Premises, schools are one such special permit use, subject to both general and specific findings, Z.R. §§ 73-03 and 73-19.

As a preliminary matter, the applicant submits that the School meets the Zoning Resolution’s definition as an institution providing full-time day instruction and a course of study that meets the requirements of the New York State Education Law. *See* Z.R. § 12-10 (defining “school”). The applicant notes that the School provides more than 190 days of full-time instruction—with classes held from 7:30 a.m. to 4:00 p.m., depending on the grade—by competent teachers with the following subjects: English, Mathematics, Science, Social Studies, Spanish, Studio Art, Instrumental Music, Dance, Physical Education, Robotics, and Graphic Design. The applicant further submitted evidence that the Board of Regents authorized the School on May 17, 2005, and extended its charter in 2013 and 2018.

The Board acknowledges that the applicant, as an educational institution, is entitled to deference under the law of the State of New York as to zoning and its ability to rely upon programmatic needs in support of this application. Specifically, as held in *Cornell University v. Bagnardi*, 68 N.Y.2d 583 (1986), a zoning board is to grant an educational or religious institution’s application unless it can be shown to have an adverse effect on the health, safety, or welfare of the community. General concerns about traffic and disruption of the residential character of the neighborhood are insufficient grounds for the denial of such applications; however, the Zoning Resolution specifically authorizes the Board to “prescribe such conditions and safeguards to the grant of special permit (uses) as it may deem necessary in the specific case, in order to minimize the adverse effects

of such special permit upon other property and the community at large,” Z.R. § 73-04, as it has done herein.

A.

First, the applicant submits that “within the neighborhood to be served by the proposed school there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements.” Z.R. § 73-19(a).

More specifically, the applicant notes that the School requires approximately 90,000 square feet of floor space to accommodate its educational program. In support of this contention, the applicant furnished a report on the School’s programmatic needs, which details that the School’s constructivist educational model requires sufficient space for its anticipated enrollment of 700 students and 51 staff members with classrooms, a gymnasium, theater, student lounge, a robotics laboratory, graphics studios, science laboratories, dance studios, a recording studio, an orchestra room, a vocal studio, and a greenhouse. The School would provide full-time instruction along with afterschool programs, operating from 6:00 a.m. to 9:00 p.m. with approximately 27 percent of students participating in afterschool programs.

As to its search for as-of-right locations, the applicant provided a site selection report noting the School searched for a location that: “(1) could accommodate at least 90,000 square feet or more of floor area, (2) were located near public transportation, (3) were located within Community School District 7, (4) were under the purchase price of \$10,000,000, (5) were located near the existing elementary school at 164 Bruckner Boulevard, and (6) required little to no demolition and/or retrofitting.”

During this search, the School had considered the following locations, none of which would prove feasible: “(1) 349 East 140th Street, Bronx (former Lincoln Hospital Detox Center was unavailable for sale and the building was too small at 21,675 square feet), (2) 351 East 139th Street, Bronx (a former MTA fueling station that was too small and required too much environmental remediation), (3) 451-453 Wales Avenue (only had two floors available which was not enough space for the proposed School), (4) 1164-1168 Fox Street (residential plans already approved and it would be too expensive to build a school at the site and too far from the existing school at 164 Bruckner Boulevard), (5) 656 St. Anns Avenue (the lot was too small and would require the purchase of additional lots that were not for sale), (6) 2999-3001 3rd Avenue (the building was too small at 30,000 square feet and was available for retail uses), (7) 111 Bruckner Boulevard (was too small with only 22,500 square feet of Class C office space available), (8) 550- 558 Grand Concourse (the space was available for a retail lease

and not a sale), and (9) 270-276 Rider Avenue (too small with only 30,000 square feet available for the school and the asking price was above budget).”

On the other hand, the Premises would meet the School’s site selection criteria because the lot is sufficiently sized to accommodate a building with more than 90,000 square feet of floor space, its vacancy would not require demolition which would allow opening in time for the 2022–2023 school year, location in School District 7, an affordable purchase price, and no need for programmatic concessions that might otherwise not be met.

Accordingly, the Board finds that, in the neighborhood, “there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right.” Z.R. § 73-19(a).

B.

Second, the applicant notes and the Board finds that the School is to be “located not more than 400 feet from the boundary of a district wherein such school is permitted as-of-right”—specifically, a nearby M1-4/R7X zoning district. Z.R. § 73-19(b).

C.

Third, the applicant states that “adequate separation from noise, traffic and other adverse effects of the surrounding non-Residential Districts is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot.” Z.R. § 73-19(c).

As to noise, the applicant studied the potential for adverse noise impacts on the School, finding that the predominant noise sources in the surrounding area stem from vehicular traffic and rail movements. This noise analysis, based on existing noise levels and future projected noise levels, identified building attenuation measures that would ensure acceptable interior noise levels within the School’s building. More specifically, the applicant would ensure the following attenuation measures to be incorporated into building construction:

Northern Façade (*See* EAS Figure 19.6-1): A composite window-wall attenuation of 31 dB(A) would be required along the northern building façade for the areas abutting the third-floor classrooms, fourth-floor classrooms, and fifth-floor multi-media center. No additional attenuation other than those provided by standard building materials would be required for any other areas of the northern building façade.

Eastern Façade (*See* EAS Figure 19.6-2): A composite window-wall attenuation of 31 dB(A) would be required along the eastern building façade for the areas abutting the third-floor classrooms and graphics studio, fourth-floor classrooms and visual arts studio, fifth-floor multi-media center, and sixth-floor dance studio. No additional attenuation other than those

provided by standard building materials would be required for any other areas of the eastern building façade.

Southern Façade (*See* EAS Figure 19.6-3): A composite window-wall attenuation of 35 dB(A) would be required along the southern façade at the third, fourth, and sixth floor levels, and 30 dB(A) composite window-wall attenuation would be required along the southern façade at the first, mezzanine, second, and fifth-floor levels.

Western Façade (*See* EAS Figure 19.6-4): A composite window-wall attenuation of 31 dB(A) would be required for the western (Park Avenue frontage) building façade at the third and fourth floor levels abutting interior classroom space, and at the sixth-floor level abutting the music/orchestra space. A composite window-wall attenuation of 33 dB(A) would be required for the western façade at the fifth-floor level abutting the multi-media center and at the sixth-floor level abutting the dance studio and changing room. A composite window-wall attenuation of 28 dB(A) would be required for the fifth-floor level for the areas of the façade abutting administrative/faculty rooms.

To maintain an interior noise level of 45 dB(A) with a closed window condition or 40 dB(A) for areas not associated with student classroom space, an alternate means of ventilation will be provided.

With the above measures in place, the applicant submits that there is no potential for significant adverse noise impacts within the School's building.

Accordingly, the Board finds that "adequate separation from noise, traffic and other adverse effects of the surrounding non-Residential Districts is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot." Z.R. § 73-19(c).

D.

Fourth, the applicant notes that "the movement of traffic through the street on which the school is located can be controlled so as to protect children going to and from the school." Z.R. § 73-19(d).

In support of this contention, the applicant studied pedestrian and vehicular trips that would be associated with the School, finding that peak hours would occur from 7:00 a.m. to 8:00 a.m., 3:15 p.m. to 4:15 p.m., and 6:30 p.m. to 7:30 p.m. The applicant further studied whether there were any high-crash locations in the vicinity and found none.

Additionally, the applicant provided a commitment letter, stating:

This Letter of Commitment is to confirm our responsibilities to perform follow-up traffic monitoring at the intersection of East 138th Street and Park Avenue and evaluating the need for additional bike racks based on post-occupancy use of bikes by students and teachers within 1 month of school opening, and within 6 months of full occupancy (anticipated 2025) for the

above-referenced Special Permit Application (BSA Cal. No. 2020-73-BZ). The purpose of the monitoring studies at East 138th Street and Park Avenue, both one month after the school opening, as well as at full capacity, is to determine the trips generated by the project, observe traffic operations at the intersection of Park Avenue and East 138th Street to determine whether improvements are needed at this location, and if so what the appropriate improvement measures are based on actual conditions. Before commencing the monitoring plans, the Applicant would submit a detailed scope of work for NYCDOT review and approval. Additionally, the monitoring study would also evaluate the need for additional bike racks based on post-occupancy use of bikes by students and teachers. The Applicant would be responsible for all costs associated with the monitoring program and subsequent design and construction of any improvement measures.

It is understood that the Applicant would be responsible for the cost of the post-opening studies, and implementation of the safety improvements and project improvement measures listed below at the intersection of East 138th Street and Park Avenue, or similar measures as determined by the post-opening studies pursuant to the CEQR Technical Manual.

This Letter of Commitment also confirms our financial commitment to implement certain safety and project improvements, as described below, prior to school opening and to continue working with the NYC DOT to ensure that the appropriate safety improvements are employed prior to school opening. The Applicant will commit to periodic check-ins with NYC DOT throughout design and construction. Certificate of Occupancy will not be issued without NYC DOT's confirmation that all the improvements listed in the letter have been constructed, and are up to NYC DOT's standards.

The following roadway and pedestrian improvements are recommended as part of the Proposed Project prior to school opening, and the Applicant will provide all required drawings and information for review and approval by NYC DOT or the appropriate regulatory agency.

- As shown in the Proposed Site Plan (See Architectural Plans - Z-002 and Attachment 5), a 6' tall metal mesh fence would be constructed along the south curb of East 135th Street running from the southeast corner of Canal Street and East 135th Street and terminating where the existing jersey barrier ends along the west curb of East 135th Street and Park Avenue.

- A 6' tall chain-link fence would be installed starting at the edge of the Jersey barrier/metal mesh fence along the west side of Park Avenue and extending to meet the southern edge of the existing utility fence at the MTA ROW along the west side of Park Avenue (See Architectural Plans - Z-002 and Attachment 6).

- o The fence would be installed in a manner that prevents students from accessing the Major Deegan Expressway, and access would provide gated access for MTA. The South Bronx Charter School for International Culture and Arts will be

responsible for all costs associated with the implementation and installation of this improvement.

- Construct a continuous 9'-7" wide sidewalk along the west curb of Park Avenue from East 135th Street to East 138th Street that conforms to NYC DOT standards.

- Close all existing curb-cuts and reconstruct sidewalk to full-height curbs with an additional 5' of sidewalk, for a total sidewalk width of 14'-6", added along the Project Site street frontage on East 135th Street and Park Avenue.

- To facilitate fire trucks maneuvering on E 135th St and Park Avenue in the vicinity of the Project Site with the widened sidewalk, modify curbside regulations at the northeast corner of E 135th St and Park Avenue and along the west curb of Park Avenue to create "No Standing Fire Zone" areas (See Architectural Plans - Z-002). NYC DOT typical fire zone marking details would be provided along the northeast corner of East 135th Street and Park Avenue (See Architectural Plans, Attachment 8). This would remove approximately three on-street parking spaces. NYC DOT will install signage once notified by the school that construction has taken place.

- To facilitate school pick-up and drop-off activities, modify curbside regulations to create "No Standing School Days 7 AM – 7 PM" parking signage along the Park Avenue (approximately 179'-5") and East 135th Street frontages of the school (approximately 107') (See Architectural Plans - Z-002). The school must submit the request via "Contact the Commissioner" form on DOT website towards the end of construction and at least 6 months prior to school opening so that DOT can site and install the school loading signage in time for school opening.

- Build in concrete safety improvements at the intersection of Third Avenue and East 138th Street. These include: a full curb extension on southwest corner, median tip extensions in the north and south crosswalks, and a curb extension on the northeast corner of the intersection and the conversion of the bike lane on the northbound receiving lane of Third Avenue to be parking-protected with a 5' buffer (See Architectural Plans – Attachment 3). All corners of the Third Avenue and East 138th Street would receive ADA-compliant pedestrian ramps per NYC DOT standards.

- Implement crosswalk striping at the north leg of the intersection of East 135th Street and Third Avenue running from east to west and connecting to ADA complaint pedestrian ramps at either end of the crosswalk and relocate the stop bars 10' from the proposed crosswalk striping (See Architectural Plans - Attachment 2)

- 8 exterior bicycle spaces are currently proposed. The Applicant commits to evaluating the need for additional bike racks based on post-occupancy use of bikes by students and teachers. The Applicant commits to working and coordinating with DOT on the identified need and complying with all DOT standards for bike rack specification and placement. The Applicant commits to placing bike racks on the sidewalk in

accordance with DOT standards and will install in accordance with all of DOT standards for such specification and placement. An example of such requirements includes but are not limited to the following considerations, “applicant must use a bike rack model approved by NYC DOT, there must be a specific distance between tree pits and bike racks, racks must be placed at a specific angle, racks must be placed at a certain distance from each other, and from the tree pits, and the placement must be done in a way that allows for a clear continuous walk path of a certain width.”

- At the intersection of Rider Avenue and E 138th Street, modify signal timing as follows:

- o During the MD peak hour, shift 2 seconds of green time from the northbound phase to the eastbound/westbound phase.

- At the intersection of Canal Place and E 138th Street, modify signal timing as follows:

- o During the AM peak hour, shift 4 seconds of green time from the northbound/southbound phase to the eastbound/westbound phase.

- o During the MD peak hour, shift 1 second of green time from the northbound/southbound phase to the eastbound/westbound phase.

The improvements identified at Park Avenue and East 138th Street and the number of currently proposed bike racks would be subject to follow-up transportation monitoring within 1 month after school opening, and again within 6 months of full occupancy (anticipated 2025).

The monitoring plans would consist of the following activities on one typical day for the three weekday peak hours for the intersection listed above:

- Trip generation survey including mode choice
- Intersection turning movement counts, including vehicle classification counts, pedestrian counts, and bicycle counts
- Field observations of intersection operations and queue lengths
- Traffic analyses using Synchro
- Recommendations to improve intersection operations, if necessary.

The purpose of the monitoring studies at East 138th Street and Park Avenue, both one month after the school opening, as well as at full capacity, is to determine the trips generated by the project, observe traffic operations at the intersection of Park Avenue and East 138th Street to determine whether improvements are needed at this location, and if so what the appropriate improvement measures are based on actual conditions. Before commencing the monitoring plans, the Applicant would submit a detailed scope of work for NYCDOT review and approval. Additionally, the monitoring study would also evaluate the need for additional bike racks based on post-occupancy use of bikes by students and teachers. The Applicant would be responsible for all costs associated with the monitoring

program and subsequent design and construction of any improvement measures.

The following additional safety safeguards would be employed at commencement:

- A Crossing guard would be requested from the NYPD at the following intersections:

- o Park Avenue and East 138th Street
- o East 135th Street and Canal Place
- o Third Avenue and East 135th Street

The South Bronx Charter School for International Culture and Arts commits to employing staff members with Traffic Control Person Certification at school commencement at the three intersections identified above, until such time that crossing guards can be provided.

- The School commits to a safe walk program to provide staff assistance to escort groups of students departing on-foot from After School programs to nearby residential complexes and subway stations/bus stops depending on their mode of travel. This service would be offered as part of student orientation at commencement, and caregivers would be made aware of this program.

- The School commits to providing staggered arrival and departure times for Middle School and High School students to break up the volume of students into manageable groups as follows:

- o High School arrival will be at 7:00 AM for breakfast, and High School Students will leave the cafeteria by 7:30 AM. Dismissal will begin at 3:30 PM.

- o Middle School arrival will be at 7:30 AM for breakfast, and class will begin at 8:00 AM. Dismissal will start at 4:00 PM.

We understand that NYC DOT will participate in the review process relating to all future modifications to geometric alignment, striping and signage during the preliminary and final design phases. Future BPPs will be submitted for review to School Safety, SIM, and any other involved NYC DOT units for review and approval. DOT can modify the Builder's Pavement Plan (BPP) as warranted in connection with the final review of transportation safety improvement measures. All expenses related to the post-opening monitoring studies, design, installation of the traffic controls, proposed geometric modifications, traffic signs and pavement markings removals/installations will be funded by The South Bronx Charter School for International Culture and Arts. The one exception is that NYC DOT will install the necessary signage once it receives a request for signage installation from the school.

If traffic controls are warranted and approved by the NYC DOT, The South Bronx Charter School for International Culture and Arts will engage a design consultant that will submit the necessary signage designs and will work closely with the Signals Division at the NYC DOT (unless the City elects to provide the signage designs). The Applicant will submit all of the required drawings as per AASHTO and NYC DOT specifications and

requirements for DOT review and approval. It is understood that NYC DOT will participate in the review process relating to all future modifications to geometric alignment, striping, and signage during the preliminary and final design phases. The school must submit the request via “Contact the Commissioner” form on DOT website towards the end of construction and at least 6 months prior to school opening so that DOT can site and install the school loading signage in time for school opening.

The applicant further submitted a School Safety Access Study and Arrival and Dismissal Operations Plan to safely manage the arrival and departure of students, including the following:

- 1) Support safe pedestrian access through the “Safety Area” to the School by:
 - Providing school safety personnel employed by the School along the frontage of the building during the arrival and dismissal periods;
 - Requesting crossing guards from the NYPD at the intersection of Canal Street West and East 135 Street, East 135th Street and Third Avenue, and East 138th Street and Park Avenue.
 - Providing a school start-up and at various points of the year – an orientation for safe walking routes for each student; and
 - The School administration committing to provide monthly in-field audit during arrival, dismissal, and afterschool on the pedestrian and vehicular patterns associated with the School and adjacent businesses;
 - The School commits to a safe walk program to provide staff assistance to escort groups of students departing on-foot from After School programs to nearby residential complexes and subway stations/bus stops depending on their mode of travel. This service would be offered as part of student orientation at commencement, and caregivers would be made aware of this program.
- 2) Support safe pedestrian access through the “Safety Area” to the School by providing staggered arrival times for the students to break up the volume of students into manageable groups;
- 3) Bifurcated and supervised access/egress from the school building, as the middle and high school students will have separate exits from the building; and
- 4) Supervised School No-Standing Zones where caregivers can safely drop-off and pick-up students, that does not conflict with surrounding businesses within the area.

Lastly, the applicant extensively studied the School’s proposed walk to school routes to evaluate potential concerns about student safety and business operations—including six businesses in the vicinity—and ultimately determined that the potential for business and pedestrian conflicts would be limited.

Based on the foregoing, the Board finds that “the movement of traffic through the street on which the school is located can be controlled so as to protect children going to and from the school.” Z.R. § 73-19(d).

E.

Next, the applicant submits that, under the Board’s conditions and safeguards, any “hazards or disadvantages to the community at large” posed by the School “are outweighed by the advantages to be derived by the community by the grant of such special permit.” Z.R. § 73-03(a). More particularly, the applicant notes that there are no potential adverse effects from noise or air quality.

In response to questions from the Board at hearing, the applicant revised the drawings to reflect security cameras, increase the size of the entryways for the middle school and high school, clarify the façade materials as consisting of rainscreen panels and CMU with three-part hard-coat cementitious stucco finish, show exterior bicycle racks, and modify the building design to reflect best practices for flood planning (though the Premises are not situated in a flood zone).

The Fire Department states, by letter dated April 26, 2021, that it has no objection to this application on condition that the applicant continue to work with the Bureau of Operations (City Planning Unit) and Fire Prevention (Rooftop Access Unit).

Accordingly, the Board finds that any “hazards or disadvantages to the community at large” posed by the School “are outweighed by the advantages to be derived by the community by the grant of such special permit.” Z.R. § 73-03(a).

Lastly, the applicant notes, and the Board finds, that the School would not “interfere with any public improvement project.” Z.R. § 73-03(b).

IV.

The Board has conducted an environmental review of the proposed action, which is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2, and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 21BSA015X (April 30, 2021).

The EAS documents that the project as proposed would not have significant adverse impacts on land use, zoning, and public policy; socioeconomic conditions; community facilities; open space; shadows; historic and cultural resources; urban design; natural resources; hazardous materials; infrastructure; solid waste and sanitation services; energy; transportation; air quality; greenhouse gas emissions; noise; public health; neighborhood character; or construction.

The Landmarks Preservation Commission represents, by correspondence dated May 22, 2020, that the proposed project would

not have any potential for significant adverse impacts on architectural or archaeological resources.

The Department of Parks and Recreation states, by correspondence dated November 6, 2020, that the proposed project would not have any potential for significant adverse impacts with respect to shadows.

The Department of City Planning states, by correspondence dated January 13, 2021, that the proposed project will not substantially hinder the achievement of any Waterfront Revitalization Program policy and is consistent with such policies.

The Department of Environmental Protection states, by letter dated March 3, 2021, that the revised December 2020 Remedial Action Plan and Construction Health and Safety Plan for the proposed project are acceptable on condition that the Community Air Monitoring Plan for volatile organic compounds and particulates summarized in section 3.4 should be developed and implemented in accordance with the NYSDEC Division of Environmental Remediation DER-10, Appendix 1A (New York State Department of Health Generic Community Air Monitoring Plan) and described in the RAP and CHASP. Additionally, at the completion of the project, a Professional Engineer (P.E.) certified Remedial Closure Report should be submitted for DEP review and approval for the proposed project. The P.E. certified Remedial Closure Report should indicate that all remedial requirements have been properly implemented (i.e., transportation/disposal manifests for removal and disposal of soil in accordance with applicable local, state, and federal laws and regulations; installation of vapor barrier; and installation of a SSDS, etc.).

The Department of Environmental Protection states, by letter dated April 13, 2021, that, based on the results of the Air Quality analysis performed in accordance with the City Environmental Quality Review Technical Manual, the proposed project would not result in significant adverse impact for air quality, including air quality from mobile and stationary sources (such as those from industrial processes).

The Department of Environmental Protection states, by letter dated April 13, 2021, that, based on the results of the Noise analysis performed in accordance with the City Environmental Quality Review Technical Manual, the proposed project would not result in significant adverse impact for noise, including noise from mobile and stationary sources (such as the School's fifth-floor terraces). Additionally, noise from the proposed emergency generator was reviewed by the Department of Environmental Protection using design criteria listed within the construction contract document and determined to not result in a significant adverse impact.

The Department of Transportation states, by correspondence dated April 28, 2021, that there would be improvement measures, including geometric reconfiguration, signal timing modifications,

changes to parking regulations at Rider Avenue and East 138th Street, Canal Place and East 138th Street, and Park Avenue and East 138th Street. In addition, the Applicant commits to providing staggered arrival and departure times for middle and high school students to break the volume of students into manageable groups. In order to verify the need for the proposed improvement measures identified in the EAS and to determine the extent to which future volume projections presented in the EAS have occurred at the intersection of Park Avenue and East 138th Street, the Applicant has committed to performing a transportation monitoring plan (TMP) at this location. The TMP will include trip generation, modal split and origin/destination surveys, traffic operations observations, traffic and pedestrian data collection, LOS analyses, etc. The TMP will be performed both one month after school occupancy and after full capacity. Prior to undertaking any TMP, the Applicant will prepare and submit a detailed scope of work for NYC DOT review and approval. The Applicant will submit a report summarizing the finding of each TMP as well as all necessary materials, for NYC DOT's review and approval. The Applicant is responsible for all costs associated with the TMP and the subsequent design and construction of any improvement measures. The Applicant has also committed to coordinating the following improvements with NYC DOT prior to the opening of the school: (1) Construct a 6' mesh fence along the south curb of East 135th Street running from the southeast corner of Canal Street and East 135th Street and along the west curb of East 135th Street and Park Avenue; (2) Install a 6' chain-link fence at the edge of the Jersey barrier/metal mesh fence along the west side of Park Avenue and extending to meet the southern edge of the existing utility fence at the MTA ROW along the west side of Park Avenue; (3) Construct a continuous 9'-7" wide sidewalk along the west curb of Park Avenue from East 135th Street to East 138th Street that conforms to NYC DOT standards; (4) Close all existing curb-cuts and reconstruct sidewalk to full-height curbs with an additional 5' of sidewalk, for a total sidewalk width of 14'-6", added along the Project Site street frontage on East 135th Street and Park Avenue; (5) Modify curbside regulations at the northeast corner of East 135th St and Park Avenue and along the west curb of Park Avenue to create "No Standing Fire Zone" areas. NYC DOT typical fire zone marking details would be provided along the northeast corner of East 135th Street and Park Avenue; (6) Modify curbside regulations to create "No Standing School Days 7 AM – 7 PM" parking signage along the Park Avenue (approximately 179'-5") and East 135th Street frontages of the school (approximately 107'); (7) Build a full curb extension on southwest corner of Third Avenue and East 138th street, median tip extensions in the north and south crosswalks, and a curb extension on the northeast corner of the intersection and the conversion of the bike lane on the northbound receiving lane of Third Avenue to be parking-protected with a 5' buffer.

ADA-compliant pedestrian ramps per NYC DOT standards, will be part of the construction; (8) Installation of eight exterior bike racks. The Applicant commits to working and coordinating with NYC DOT on the identified need and complying with all NYC DOT standards for bike rack placement on the sidewalk (both within the mapped right of way and within the Applicant's property), as well as evaluating the need for additional bike racks based on the post occupancy use of bikes by students and teachers; and (9) Crossing guards would be requested from the NYPD at the following intersections: Park Avenue and East 138th Street; East 135th Street and Canal Place; and Third Avenue and East 135th Street. Additionally, the Applicant is committed to employing staff members with Traffic Control Person Certification at school commencement at the three intersections identified above, until such time that crossing guards can be provided. The Applicant is committed to periodic coordination with NYC DOT's School Safety throughout design and construction. In addition, the Applicant should notify NYC DOT six months prior to opening the school, so that DOT can install all the necessary signage, as well as notify NYC DOT six months prior to school opening and six month prior to full occupancy to determine if the signal timing improvements identified in the EAS need to be implemented based on actual conditions. The Applicant will be responsible for all costs associated with the design and installation of the project related improvements, crossing guards, TMP and any subsequent measures identified by the TMP as per NYC DOT's direction. NYC DOT will continue to participate in the review process related to proposed geometric reconfiguration, reconstruction of sidewalk/pedestrian ramps, proposed signs, construction drawings, etc., as well as any required agreements needed for constructing the sidewalks as proposed including sidewalks in private property. In addition, NYC DOT can modify the Builder's Pavement Plan (BPP) as warranted in connection with the final review of transportation safety improvement measures. The Applicant must submit all relevant materials such as drawings/design as per AASHTO and NYCDOT specifications, LOS analysis, etc. for NYCDOT review and approval. Based on the foregoing, the Department of Transportation represents that there would be no potential for significant adverse impacts with respect to transportation.

No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable. Accordingly, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

V.

Based on the foregoing, the Board finds that the evidence in the record supports the findings required to be made under Z.R. §§ 73-19

and 73-03 and that the applicant has substantiated a basis to warrant exercise of discretion.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *issue* a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1997, as amended, and makes each and every one of the required findings under Z.R. §§ 73-19 and 73-03 to *permit*—in an M1-4 zoning district—the construction of a school building that would not comply with applicable use regulations under Z.R. § 42-10; *on condition* that all work, operations, and site conditions shall conform to drawings filed with this application marked “Received April 27, 2021”—sixty-six (66) sheets; and *on further condition*:

THAT as per the Department of Environmental Protection-approved Remedial Action Plan: a composite cover system shall be constructed and maintained; a vapor barrier beneath the entire building slab and along foundation sidewalls consisting of 20 mil Raven Industries Vapor Block Plus VBP20 shall be installed; and an active sub-slab depressurization system (SSDS) shall be installed;

THAT at the completion of the remediation project, a Professional Engineer (P.E.) certified Remedial Closure Report shall be submitted for Department of Environmental Protection review and approval;

THAT all transportation measures as described in the Final Environmental Assessment Statement Chapter 16: Transportation and Department of Transportation Post-Approval Commitment Letter (CEQR No. 21BSA015X) shall be implemented with final approval of measures to be determined by the Department of Transportation;

THAT noise attenuation measures for all facades shall be implemented as described in the Final EAS Chapter 19: Noise Analysis to maintain an interior noise level of 45 dB(A) with a closed-window condition or 40 dB(A) for areas not associated with student classroom space, an alternate means of ventilation will be provided;

THAT the HVAC system shall utilize natural gas;

THAT the applicant shall continue to work with the Fire Department’s Bureau of Operations (City Planning Unit) and Fire Prevention (Rooftop Access Unit), as necessary;

THAT a certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 2020-73-BZ”), shall be obtained within four years and an additional six months, in light of the current state of emergency declared to exist within the City of New York resulting from an outbreak of novel coronavirus disease, by October 30, 2025;

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings;

2020-73-BZ

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plans or configurations not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 30, 2021.

CERTIFICATION

***This copy of the Resolution
dated April 30, 2021
is hereby filed by
the Board of Standards and Appeals
dated April 30, 2021***

A handwritten signature in black ink, appearing to read 'Carlo Costanza', is written on a white rectangular background.

***Carlo Costanza
Executive Director***

Exhibit L

Project Summary

The Browning School (the “School” or the “Borrower”) is a New York not-for-profit corporation exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The School is an independent, college preparatory school that provides an education for boys in grades kindergarten through 12. The Borrower is seeking approximately \$40,000,000 in tax-exempt and taxable revenue bonds (the “Bonds”). Proceeds of the Bonds will be used to: (i) finance a portion of the costs of developing, converting and expanding an existing 5-story (plus cellar) building into a 56,900 square foot facility (and equipping, and furnishing the same) located on a 10,042 square foot parcel of land at 337 East 64th Street, New York, NY 10065 (the “Facility”); (ii) fund debt service reserve fund(s), if any; (iii) fund capitalized interest; and (iv) pay for certain costs related to the issuance of the Bonds. The School has leased the Facility and will operate such Facility as the Borrower’s Upper School, which will serve approximately 200 students in grades nine through twelve. Renovations to the Facility will include the conversion of the current structure into a five-story with mezzanine level (plus cellar) educational facility, including classrooms, a biology and chemistry lab, a library, a cafeteria, common areas, administrative and faculty offices, a gymnasium and storage and support areas (the “Project”).

Project Location

337 East 64th Street
New York, NY 10065

Other Locations

40 East 62nd Street
New York, NY 10065

52 East 62nd Street
New York, NY 10065

Actions Requested

- Amended Bond Approval and Authorizing Resolution
- Adopt a negative SEQRA declaration for the Project pursuant to the findings of the Board of Standards and Appeals, attached to Resolution as Exhibit A

Prior Action

- Bond Approval and Authorizing Resolution April 25, 2023

Anticipated Closing

Fall 2023

Amended Authorization

On April 25, 2023, the Corporation’s Board of Directors approved an Authorizing Resolution for this proposed financing transaction. The Corporation’s SEQRA determination, as part of the Authorizing Resolution, incorporated and relied upon, but did not include, the March 13, 2023 Resolution and findings statement by the New York City Board of Standards and Appeals (“BSA”), which had acted as Lead Agency in reviewing the environmental impacts of the proposed Project. As a result, this Amending Authorizing Resolution adopts a SEQRA determination based upon the BSA’s review, of no significant environmental impacts. There have been no other changes to the terms of the proposed financing transaction or the due diligence results since the Board meeting on April 25, 2023.

The Browning School

Impact Summary

Employment	
Jobs at Application:	99.5
Jobs to be Created at Project Location (Year 3):	16
Total Jobs (full-time equivalents)	115.5
Projected Average Hourly Wage (excluding principals)	\$53.47
Highest Wage/Lowest Wage	\$117.14/42.31

Estimated City Tax Revenues	NPV 30 years @ 6.25%
Impact of Operations (NPV 30 years at 6.25%)	\$19,680,628
One-Time Impact of Renovation	\$1,318,825
Total impact of operations and renovation	\$20,999,453
Additional benefit from jobs to be created	\$2,814,865

Estimated Cost of Benefits Requested: New York City	NPV 30 years @ 6.25%
MRT Benefit	\$650,000
NYC Forgone Income Tax on Bond Interest	\$188,630
Corporation Financing Fee	(\$312,500)
Total Cost to NYC Net of Financing Fee	\$526,130

Costs of Benefits Per Job	
Estimated Net City Cost of Benefits per Job in Year 3	\$4,555
Estimated City Tax Revenue per Job in Year 3	\$206,185

Estimated Cost of Benefits Requested: New York State	
MRT Benefit	\$470,000
NYS Forgone Income Tax on Bond Interest	\$709,666
Total Cost to NYS	\$1,179,666
Overall Total Cost to NYC and NYS	\$1,705,796

Sources and Uses

Sources	Total Amount	Percent of Total Financing
Bond Proceeds	\$40,000,000	85%
Capital Campaign	5,000,000	11%
Equity	1,850,000	4%
Total	\$46,850,000	100%

The Browning School

Uses	Total Amount	Percent of Total Costs
Hard Costs	\$34,059,000	73%
Soft Costs	7,993,419	17%
FF&E/M&E	1,050,000	2%
Project Contingency	1,397,581	3%
Bond Capitalized Interest	1,400,000	3%
Costs of Issuance	950,000	2%
Total	\$46,850,000	100%

Fees

	Paid At Closing	On-Going Fees (NPV, 30 Years)
Corporation Fee	\$312,500	
Bond Counsel	Hourly	
Annual Corporation Fee	\$1,250	\$16,755
Bond Trustee Acceptance Fee	\$750	
Annual Bond Trustee Fee	\$750	\$6,702
Trustee Counsel Fee	\$8,000	
Total	\$323,250	\$23,457
Total Fees	\$346,707	



THE BROWNING SCHOOL

January 23, 2023

Mrs. Emily Marcus-Falda
Executive Director – NYCIDA & BuildNYC
One Liberty Plaza
New York, New York 10006

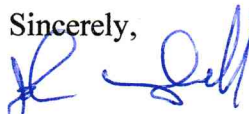
Mrs. Emily Marcus-Falda:

Founded in 1888 by John A. Browning, The Browning School is an independent, all-boys college preparatory school serving approximately 400 students in grades K through 12. The School respectfully requests that Build NYC Resource Corporation serve as the issuer for its proposed tax-exempt financing. Proceeds of the proposed transaction, in an amount of up to \$40,000,000, would be used to (i) fund a portion of the cost of renovating, developing, and furnishing a 5-story (plus cellar) leased facility located at 337 East 64th Street in New York City, (ii) fund interest during the construction period, and (iii) fund a portion of transaction related costs (collectively, the “Project”). The total cost of the Project is estimated to be approximately \$46,850,000.

The Project will enhance the School’s ability to further its educational mission of “fostering the growth of courageous and compassionate men of intellect and integrity who aspire to contribute meaningfully to our world”. The Project will include a cafeteria, library, outdoor dining area, classrooms, a biology and chemistry lab, a regulation size gymnasium and more, allowing the School to accommodate its growing student body and expanding, innovative curriculum. But-for a lower tax-exempt interest rate and other ancillary benefits offered by a Build NYC financing, the School would not be in a position to affordably finance the Project. Equally important, the savings will allow the School to reduce the costs passed through to its students and their families and will improve its capacity to provide financial aid to families with limited resources.

We sincerely appreciate your consideration of this request. If you have any questions, please feel free to call or email me directly.

Sincerely,



John Campbell

Exhibit M

AMENDING RESOLUTION APPROVING THE FINANCING OF AN EDUCATIONAL FACILITY FOR THE BROWNING SCHOOL AND AUTHORIZING THE ISSUANCE AND SALE OF APPROXIMATELY \$40,000,000 TAX EXEMPT AND/OR TAXABLE REVENUE BONDS (THE BROWNING SCHOOL PROJECT), SERIES 2023 AND THE TAKING OF OTHER ACTION IN CONNECTION THEREWITH

WHEREAS, Build NYC Resource Corporation (the “Issuer”) is authorized pursuant to Section 1411(a) of the Not-for-Profit Corporation Law of the State of New York, as amended, and its Certificate of Incorporation and By-laws, (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “City”) by developing and providing programs for not-for-profit applicants, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their eligible projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured basis; and (iii) to undertake other projects within the City that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, on April 25, 2023, the Issuer adopted a resolution (the “Initial Resolution”) in connection with a Project (hereinafter defined) for the benefit of the Applicant (hereinafter defined); and;

WHEREAS, the Resolution of the New York City Board of Standards and Appeals attached as Exhibit A hereto was inadvertently omitted from the Initial Resolution; and

WHEREAS, The Browning School, a New York not-for-profit corporation exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Applicant”), entered into negotiation with officials of the Issuer to: (i) finance the cost of developing, converting and expanding an existing 5-story (plus cellar) building into a 56,900 square foot facility (and equipping, and furnishing the same) located on a 10,042 square foot parcel of land at 337 East 64th Street, New York, New York 10065 (the “Facility”); (ii) fund debt service reserve fund(s), if any; (iii) fund capitalized interest; and (iv) pay for certain costs related to the issuance of the bonds and other costs relating to the Facility, which Facility will be leased and operated by the Applicant as the Applicant’s Upper School which will serve approximately 200 students in grades nine through 12 (collectively, the “Project”); and

WHEREAS, the Applicant has submitted an Application (the “Application”) to the Issuer to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant, and the Project, including the following: that the Applicant currently serves as an independent, college preparatory school that provides an education for boys in grades kindergarten through 12; that the Applicant is seeking to expand its current facility; that the Applicant employs approximately 99.5 full-time equivalent employees in the City and expects to create approximately 16 new full time jobs at the Facility within the next three years; that the Issuer’s financing assistance will provide savings to the Applicant which will allow it to redirect financial resources to educational purposes; and that, therefore, the Issuer’s financing assistance is necessary to assist the Applicant in proceeding with the Project; and

WHEREAS, in order to finance a portion of the cost of the Project, the Issuer intends to issue its tax exempt and/or taxable revenue bonds (The Browning School Project), Series 2023, in the aggregate principal amount of approximately \$40,000,000 (or such greater amount not to exceed such stated amount by more than 10%, as may be determined by a certificate of determination of an authorized officer of the Issuer (the “Certificate of Determination”)) (the “Bonds”), all pursuant to an Indenture of Trust (the “Indenture”) to be entered into between the Issuer and The Bank of New York Mellon, as trustee (the “Trustee”); and

WHEREAS, the Issuer intends to loan the proceeds of the Bonds to the Applicant pursuant to a Loan Agreement (the “Loan Agreement”) to be entered into between the Issuer and the Applicant, and (ii) the Applicant will execute a promissory note in favor of the Issuer and the Trustee (the “Promissory Note”) to evidence the Applicant’s obligation under the Loan Agreement to repay such loan; and

WHEREAS, the Bonds are to be secured by one or more leasehold Mortgage and Security Agreements from the Applicant to the Trustee and the Issuer or from the Issuer and the Applicant to the Trustee with respect to the Facility (collectively, the “Mortgage”) and will be further secured by a pledge of the Applicant’s gross revenues;

NOW, THEREFORE, BE IT RESOLVED BY BUILD NYC RESOURCE CORPORATION, AS FOLLOWS:

Section 1. The Issuer hereby determines that the financing of the costs of the Project by the Issuer will promote and is authorized by and will be in furtherance of the corporate purposes of the Issuer.

Section 2. The Issuer hereby approves the Project and authorizes the Applicant to proceed with the Project as set forth herein, which Project will be financed in part through the issuance of the Bonds of the Issuer, which Bonds will be special limited revenue obligations of the Issuer payable solely from the revenues and other amounts derived pursuant to the Loan Agreement and the Promissory Note.

Section 3. To provide for the financing of the Project, the issuance of the Bonds by the Issuer is hereby authorized subject to the provisions of this Resolution and the Indenture hereinafter authorized.

The Bonds shall be issued as fully registered bonds in one or more series, shall be dated as provided in the Indenture, shall be issued as one or more serial and/or term bonds and in an aggregate amount not to exceed \$40,000,000 (or such greater amount not to exceed such stated amount by more than 10% as may be determined by the Certificate of Determination), shall be payable as to principal and redemption premium, if any, at the principal office of the Trustee, shall be payable as to interest by check, draft or wire transfer as provided in the Indenture, shall bear interest at fixed interest rate(s) and/or variable rate(s) not to exceed ten percent (10.00%) (such final rate(s) to be determined by the Certificate of Determination).

The Bonds shall be subject to optional and mandatory redemption as provided in the Indenture, shall be payable as provided in the Indenture until the payment in full of the principal amount thereof and shall mature not later than December 31, 2053 (or as determined by the Certificate of Determination), all as set forth in the Bonds. The provisions for signatures, authentication, payment, delivery, redemption and number of Bonds shall be set forth in the Indenture hereinafter authorized.

Section 4. The Bonds shall be secured by the pledge effected by the Indenture and shall be payable solely from and secured by a pledge of the loan payments, revenues and receipts of the

Applicant to the extent set forth in the Loan Agreement and the Indenture hereinafter authorized. The Bonds, together with the interest thereon, are special limited revenue obligations of the Issuer, payable solely as provided in the Indenture, including from moneys deposited in the Bond Fund, the Project Fund, and such other funds as established under the Indenture (subject to disbursements therefrom in accordance with the Loan Agreement and the Indenture), and shall never constitute a debt of the State of New York or of the City, and neither the State of New York nor the City shall be liable thereon, nor shall the Bonds be payable out of any funds of the Issuer other than those pledged therefor. The Bonds are further secured by the Mortgage.

Section 5. The Bonds are hereby authorized to be sold to TD Bank, N.A., and/or any affiliate or subsidiary thereof on behalf of itself, or as lead financial institution in a syndicated participation, or any other financial institutions to be approved by a Certificate of Determination.

Section 6. The execution and delivery of the Indenture, the Loan Agreement and the Mortgage, with respect to the Bonds, and a Tax Certificate from the Issuer and the Applicant to the Trustee (the documents referenced in this Section 6 being, collectively, the "Issuer Documents"), each being substantially in the form approved by the Issuer for prior financings, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and the General Counsel of the Issuer are hereby authorized to execute, acknowledge and deliver each such Issuer Document. The execution and delivery of each such Issuer Document by said officer shall be conclusive evidence of due authorization and approval.

Section 7. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution and contained in the Issuer Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members thereof by the provisions of this Resolution and the Issuer Documents shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Issuer Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Issuer in his individual capacity, and neither the members of the Issuer nor any officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 8. The officers of the Issuer are hereby designated the authorized representatives of the Issuer, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Issuer Documents and the issuance of the Bonds.

Section 9. The Issuer is hereby authorized to cause the Applicant to proceed with the Project, the agreed costs thereof to be paid by the Issuer by the application of the proceeds of the Bonds, all as particularly authorized by the terms and provisions of the Loan Agreement. The Applicant is authorized to proceed with the Project; provided, however, that it is acknowledged and agreed by the Applicant that neither the Issuer nor any of its members, directors, officers, employees, agents or servants shall have any personal liability for any action taken by the Applicant for such purpose or for any other purpose.

Section 10. Any expenses incurred by the Issuer with respect to the Project and the financing thereof shall be reimbursed out of the proceeds of the Bonds or, in the event such proceeds are insufficient after payment of other costs of the Project or the Bonds are not issued by the Issuer due to inability to consummate the transactions herein contemplated, shall be paid by the Applicant. By accepting this Resolution, the Applicant agrees to pay such expenses and further agrees to indemnify the Issuer, its members, employees and agents and hold the Issuer and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Issuer in good faith with respect to the Project and the financing thereof.

Section 11. In connection with the Project, the Issuer intends to grant the Applicant financing assistance in the form of issuance of the Bonds and an exemption from City and State mortgage recording taxes.

Section 12. This Resolution is subject to the approval of a private investigative report with respect to the Applicant, which approval shall be conclusively evidenced by the delivery of the Issuer Documents authorized pursuant to Section 6 hereof. The provisions of this Resolution shall continue to be effective until one year from the date hereof, whereupon the effectiveness of this Resolution shall terminate (except with respect to the matters contained in Section 10 hereof) unless (i) prior to the expiration of such year the Issuer shall (x) have issued the Bonds for the Project, or (y) by subsequent resolution extend the effective period of this Resolution, or (ii) the Applicant shall be continuing to take affirmative steps to secure financing for the Project.

Section 13. This Resolution constitutes a declaration of intent under the provisions of Treasury Regulation 1.150-2 promulgated under Section 103 and related sections of the Internal Revenue Code of 1986, as amended (the "Code"). This Resolution is subject to further compliance with the provisions of Sections 141 through 150 and related provisions of the Code.

Section 14. The New York City Board of Standards and Appeals ("BSA" or the "Lead Agency") assumed Lead Agency status for the review of the proposed Project and determined that the proposed action related to the building is an Unlisted action pursuant the State Environmental Quality Review Act ("SEQRA") (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. Pursuant to the methodology of the 2021 CEQR Technical Manual, a Final Environmental Assessment Statement ("FEAS"; CEQR No. 22BSA024M) was prepared for the proposed project to facilitate the conversion and enlargement of a building, intended to serve the Browning School, contrary to height regulations as per Zoning Resolution ("ZR") 23-662 and ZR 35-652, and minimum rear yard and open area requirements per ZR 33-292.

The Issuer finds that, with respect to the findings and resolution of the Lead Agency for the proposed Project, attached as Exhibit A, the Final Environmental Assessment Statement ("FEAS"; CEQR No. 22BSA024M) has made a thorough and comprehensive analysis of the relevant areas of concern under SEQRA and its implementing regulations, considered a reasonable range of alternatives, appropriately assessed the potential environmental and land use impacts of the FEAS Proposed Action, identified measures to avoid or mitigate adverse impacts to the extent practicable and set forth appropriate conditions to be imposed as conditions of approval. Furthermore, the Issuer has carefully considered the Lead Agency's Negative Declaration and finds that this document is an accurate reflection of the FEAS findings related to the Issuer proposed action. The Board of Directors of the Issuer hereby adopts and incorporates by reference the Lead Agency's Resolution and Findings Statement dated March 13, 2023 and filed on April 4, 2023, attached hereto as Exhibit A (including the conditions therein) and determines the Project to be an Unlisted Action.

Having considered the FEAS and the Lead Agency's Negative Declaration, the Issuer certifies that:

(a) The requirements of SEQRA, including 6 NYCRR § 617.9, have been met and fully satisfied;

(b) The Issuer has considered the relevant environmental assessment, facts and conclusions disclosed in the FEAS and in the Lead Agency's Negative Declaration and weighed and balanced relevant environmental assessment with social, economic, and other considerations; and

(c) The Lead Agency's resolution is subject to the following conditions:

1. THAT the bulk parameters of the building shall be as follows: a maximum height of 83'-2.25" above base plane; a rear yard with a depth of 9'-11" along 75% of the yard at the first floor and above and 0'-0" at 25% of the yard at the first floor and above; and an enclosed stairway to be located at the northeast corner of the site;

2. THAT the proposed project shall exclusively use natural gas or electric to power the HVAC systems;

3. THAT if natural gas is utilized, the HVAC must be fitted with a low Nitro Oxygen ("NOx") 30 PPM burner and the HVAC stack of the proposed building must be located at least 70 feet from the eastern lot line facing First Avenue;

4. THAT all curb cuts and sidewalk improvements are for illustrative purposes only and will require New York City Department of Transportation ("DOT") review and approval post BSA approval;

5. THAT a draft Builder's Pavement Plan ("BPP") shall be provided to DOT for review and approval, prior to final approval from New York City Department of Buildings ("DOB");

6. THAT improvements to the streets as per the approved BPP shall be completed prior to obtaining a Temporary Certificate of Occupancy ("TCO");

7. THAT the school loading zone will be installed along the entirety of the frontage by NYS DOT;

8. THAT a professional engineer ("P.E.") will certify a closure report at the completion of all remedial activities associated with the site, including installation of a waterproofing Vapor Barrier System;

9. THAT the closure report will be submitted to New York City Department of Environmental Protection ("DEP") for review and approval;

10. THAT a certificate of occupancy, also indicating this approval and calendar number ("BSA Cal. No. 2022-31-BZ"), shall be obtained within four years, by March 13, 2027;

11. THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the DOB;

12. THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

13. THAT the DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plans or configurations not related to the relief granted.

Section 15. The Issuer recognizes that due to the unusual complexities of the financing it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Issuer herein. The Issuer hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by the Certificate of Determination.

Section 16. The Initial Resolution is in all other respects ratified and confirmed.

Adopted: June 6, 2023

Accepted: June __, 2023

THE BROWNING SCHOOL

By: _____
Name:
Title:

Exhibit A

Resolution of the New York City Board of Standards and Appeals

Note.—This resolution is final but subject to formal revision before publication in the Bulletin. Please notify the General Counsel of any typographical or other formal errors so that corrections may be made before the Bulletin is published.

CORRECTION: This resolution adopted March 13, 2023, under Calendar No. 2022-31-BZ, is hereby corrected to read as follows:

BOARD OF STANDARDS AND APPEALS

MEETING OF: March 13, 2023
CALENDAR NO.: 2022-31-BZ
PREMISES: 337 East 64th Street, Manhattan
Block 1439, Lot 19

ACTION OF BOARD — Application granted on condition.

THE VOTE —

**Affirmative: Chair Chanda, Vice-Chair Scibetta, Commissioner
Ottley-Brown, Commissioner Sheta, and Commissioner Yoon.....5**
Negative:.....0

THE RESOLUTION —

The decision of the Department of Buildings (“DOB”), dated May 19, 2022, acting on Additional Information Type 1 Application No. M00717485, reads in pertinent part:

Objection #1) Proposed building enlargement does not comply with height regulations as per ZR 23-662 and ZR 35-652 and requires a variance from the BSA.

Objection #2) Proposed building enlargement does not comply with minimum rear yard and open area requirements per ZR 33-292 and requires a variance from the BSA.

This is an application for a variance, pursuant to Z.R. § 72-21, to permit, within an C2-5 (R8B) zoning district, the enlargement of an existing Use Group (“UG”) 7 and 8 transient parking garage auto sales building so as for use by a UG 3 school (The Browning School), contrary to underlying rear yard (Z.R. § 33-292) and height regulations (Z.R. §§ 23-662 and 35-652).

A public hearing was held on this application on October 4, 2022, after due notice by publication in *The City Record*, with continued hearings on December 6, 2022 and February 28, 2023, and then to decision on March 13, 2023. Community Board 8, Manhattan, recommends approval of this application. Commissioner Ottley-Brown and Commissioner Yoon performed inspections of the Premises and surrounding neighborhood. The Board received one form letter of support for this application.

I.

The Premises are located on the north side of East 64th Street, between First Avenue and Second Avenue, within a C2-5 (R8B) zoning district, in Manhattan. With approximately 100 feet of frontage along East 64th Street, 100 feet of depth, and 10,042 square feet of lot area, the Premises are currently occupied by a building containing UG 7 and 8 parking garage, auto leasing, auto service and storage uses.

II.

As the subject of this variance application, the applicant proposes (i) an enlargement to the overall building height, resulting in a noncompliance of 8'-2.25"; (ii) the maintenance of the existing rear yard non-compliance above the existing building height up to the proposed total height along approximately 75% of the rear lot line; and (iii) the replacement of an existing fire escape located in the required rear yard with a DOB-required egress stair that would result in a 0'-0" rear yard condition along approximately 25% of the rear lot line. The applicant states that after the proposed enlargement, the new school would consist of a cafeteria and library in the cellar; eight new classrooms and three "Scale-Up" larger, flexible classrooms that can be divided into six traditional classrooms, a music/multi-purpose room, art room, biology, chemistry and physics and engineering labs, meeting rooms, staff and faculty offices and work areas on the first through fourth floors; and an National Federation of State High School Associations ("NFHS") compliant basketball court and athletic facilities on the fifth floor and mezzanine.

Specifically, the applicant proposes to enlarge the existing building with an additional 8,751 square foot of floor area (for a total of 46,903 square feet), and to increase the roof height from 64'-1.5" to 83'-2.25" above base plane (with a top of bulkhead/mechanical height of approximately 91'-4"), for a total of five stories plus a mezzanine level. Moreover, the applicant describes that the building envelope would also be enlarged by the enclosure of an existing fire escape and replacement with a required egress stair. Furthermore, the applicant declares that the proposed stair enclosure would be approximately 243 square feet in area and rise from grade to the top of the enlarged roof.

Specifically, the applicant states that the following would be the final configuration of the proposed building:

- cellar – a cafeteria for students, faculty, and staff adjacent to a library that has been designed for interconnectedness and communal dining and study;
- an open stair adjacent to terraced seating areas with tables and chairs would lead from the first-floor entrance area down to the cafeteria, as well as a small outdoor area in the rear yard built with stone pavers that is not intended to be for student use;
- first floor – three traditional classrooms (inclusive of a computer science room and seminar classroom), a music/multi-purpose room, administrative offices along with some mechanical and building facility space, with the main entrance through a vestibule at the center of the first floor;

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- second floor – one traditional classroom, two classrooms with a movable/retractable wall, a physics and engineering lab/maker space, departmental workroom, small administrative offices, and other building facility spaces;
- third floor – three traditional classrooms, two classrooms with a movable/retractable wall, art and ceramics rooms with adjacent storage, a departmental work room, small office, and other small building facility spaces;
- fourth floor - two classrooms with a movable/retractable wall, a biology and chemistry lab with shared prep space in the center, a tech classroom, administrative offices, and other small building facility spaces;
- fifth floor and mezzanine – gymnasium with NFHS-compliant dimensions and clearance height for Upper School basketball games (proposed dimensions of the court are 50 feet wide by 84 feet long with a 3-foot safety buffer area around all court boundaries, and a clear height of 25 feet), adjacent athletic office, equipment storage, weight training and cardio rooms, locker rooms, a small area for spectator seating (and standing) and an ADA-compliant individual restroom with a shower would be located on both the court level and the mezzanine. Adjacent to the mezzanine would be a small outdoor terrace on top of the front setback for passive use;
- Roof –a blue-green roof, which would require an additional 1'-6" of roofing and drainage, and air handlers with additional heights of 11'-1" above the roof.

In the subject C1-2 (R8B) zoning district, the Zoning Resolution permits a maximum base height of 65 feet (at which a minimum setback of 15 feet is required along narrow streets) and a maximum building height of 75 feet, *see* Z.R. §§ 33-40, 35-652, and 23-662. Additionally, Z.R. §§ 33-292 and 33-26 require a minimum 30-foot rear yard and open area be provided for community facility use, provided a one-story building portion with a height no greater than 23 feet above curb level is a permitted obstruction that may encroach into the required rear yard. Accordingly, the applicant seeks the relief requested herein.

III.

The Zoning Resolution vests the Board with wide discretion to “vary or modify [its] provision[s] so that the spirit of the law shall be observed, public safety secured and substantial justice done,” Z.R. § 72-21.

A.

First, the applicant submits that there are unique physical conditions inherent in the Premises that create practical difficulties or unnecessary hardship in complying strictly with applicable zoning regulations that are not created by general circumstances in the neighborhood or district. Here, the applicant states that its programmatic needs require a regulation-sized gym and large assembly space; and appropriately sized upper school classrooms and

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adjacent space to include traditional classrooms, scale-up teamwork classroom, biology/chemistry/physics and engineering lab, an art room, a music/multi-purpose room, and a cafeteria, library, and departmental rooms. The applicant represents that in order to meet its programmatic needs it must address its athletic space constraints and lack of classrooms and communal space designed for the upper school.

In regard to its athletic space constraints, the applicant has concluded that its current undersized gyms at its existing facility do not meet the standards of NFHS-compliant athletic facilities and cannot act as large assembly space for intra- and interschool gatherings. The applicant represents that the existing building at the subject site creates practical difficulties and hardship for the siting of an NFHS-compliant gymnasium in a zoning-compliant building envelope in that: (i) the floor location below the proposed fifth floor gymnasium must match the location of the slabs for the existing garage facility because the removal of floors or modification to the existing slab locations would be immensely expensive and impractical and would result in the loss of classroom and other programmed school space, and (ii) because the location of the existing floor slabs must be maintained, a fifth floor gymnasium in a complying envelope would not provide the minimum clearance to meet the NFHS guidelines to host basketball games.

In support of this contention, the applicant provided as-of-right drawings demonstrating that a design in strict conformance with the Zoning Resolution would result in a school with five stories; 43,789 square feet of floor area; a height of approximately 64 feet at the street line, set back 15 feet, and then rise to an overall complying height of 75 feet; and a 30-foot rear yard above the existing roof height, between the heights of 64 feet and 75 feet . The applicant contends that the resulting as-of-right design would (1) not be able to provide an NFHS-compliant gymnasium because the clearance height would be less than the minimum necessary to host high school basketball games; (2) not provide floor plates that contain all of the variety of classroom spaces to accommodate the different pedagogical methods used at the school; and (3) result in the loss of the fifth floor mezzanine and important attendant athletic facilities, such as the cardio and weight rooms and much of the spectator seating, due to the compliant, 30-foot rear yard above the existing building height up to the permitted height that would impinge on the gymnasium volume.

Regarding the lack of classrooms and communal space designed for its upper school, the applicant states that it is currently unable to achieve its educational mission because of the lack of appropriately sized classrooms for older students, academic adjacencies, and other communal student areas that are needed to offer both faculty and students pedagogical variety at the existing facilities. The applicant describes how the 33 currently available classrooms are too small in size, ranging from 310 to 325 square feet per room, and quantity and, as such, limits the teaching staff to primarily direct instruction. The applicant declares that, as a result of the proposed project, larger classrooms for students would be able to accommodate both direct instruction and interactive learning, as well as adjacent school spaces for further educational enrichment.

Here, the applicant again points to the as-of-right plans, which demonstrate that the second egress stair located in the southeast corner of the building, within the existing building envelope, would result in reducing the size of the two classrooms on each floor to 595 square feet each, and a total of 1,190 square feet. The applicant states that its programmatic needs require it to be able to accommodate an entire grade of at minimum 54 students plus faculty, and the collegiate guidelines request 1,600 square feet to 2,400 square feet per room for the learning experiences proposed for the classrooms when utilized by an entire grade of 54 students, and, under the as-of-right design, no more than two of the three sections per grade could fit into these classrooms.

Accordingly, the Board finds that the above unique physical conditions create practical difficulties or unnecessary hardship in complying strictly with applicable zoning regulations that are not created by general circumstances in the neighborhood or district.

B.

Next, the applicant submits, and the Board concurs that, because the applicant is a nonprofit institution, no showing need be made with respect to realizing a reasonable return.

C.

The applicant further represents that the requested variance would not alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. First the applicant points out that proposed use is as of right within the R8B zoning district and is consistent with the location of other institutional uses in the neighborhood amidst primarily residential buildings, many with ground floor retail. The applicant submitted a Neighborhood Character Study which demonstrates that immediately west of the Premises is the Memorial Sloan Kettering Center for Laboratory Medicine (a cancer research facility), and immediately south of it, across East 64th Street, is a Con Edison transfer station. Additionally, the Study shows schools and institutional uses such as the New York School of the Arts (315 East 62nd Street) located two blocks south on East 62nd Street near the corner of 2nd Avenue; East Side Elementary School (PS 267 at 213 East 63rd Street) located one block south and one avenue west on East 63rd Street between 2nd and 3rd Avenues; and to the north, the Robert L. Stevenson School (PS 183 at 419 East 66th Street), the Ella Baker School (MS 225 at 317 East 67th Street), the Talent Unlimited High School (MS 519 at 317 East 67th Street), and the NY Presbyterian/Weill Cornell Medical Campus in the East 60s and East 70s, east of 1st Avenue.

The Study further demonstrates that the surrounding neighborhood is predominately characterized by four- to six- story multi-family residential buildings and townhouses along the streets in the midblocks, with larger towers and ground floor retail uses along the avenues and buildings for institutional users intermittently located throughout. The applicant points out that on the north side of East 64th Street adjacent the site is the six-story Memorial Sloan Kettering Center for Laboratory Medicine, which was constructed in 2017 and rises to a height of 74' (with a 92' tall bulkhead); and

to the west is an eight-story apartment building (317 East 64th Street) which rises to a height of 93'. Furthermore, the Study shows that on the north side of the subject site, in the midblock along East 65th Street, are nine five- and six-story walkup residential buildings, with a nine-story apartment building further to the west with a height of 96'.

Conversely, the study illustrates that the surrounding avenues are predominately developed with large residential towers with ground floor retail and service uses. For example, immediately east of the subject site is a 12-story, 116' tall (145' tall bulkhead) UG 2 apartment building with UG 6 retail on the first floor (345 East 64th Street); to the north at the intersection of East 65th Street and 2nd Avenue is a 21-story, 216' tall building with ground floor retail use and residential units on the upper floors (1199 1st Avenue); and to the south is a 34-story, 340'-tall building with ground floor retail use and residential units on the upper floors (340 East 64th Street) that occupies the entire street frontage on the west side of 1st Avenue between East 63rd and 64th Streets. With regard to its requested height waiver, the applicant concludes that the proposed project, with five-stories plus a mezzanine and a total height of 83'-2.25" above base plane and 80.9' above sidewalk level (approximately 92.8' above sidewalk level to the top of the rooftop mechanical equipment) is within the range of roof and bulkhead heights on the block and, therefore, would be consistent with the existing built character.

With respect to the proposed increase of the existing non-compliance in the rear yard above the existing building height and the egress stair located in the required rear yard, the applicant declares that proposed project is similar to other provided rear yards on the subject block. In support of this contention, the applicant submitted a Rear Yard Study which demonstrates that the proposed rear yard encroachment is characteristic of the surrounding area as all 20 buildings on the subject block have non-complying rear yards with depths of less than 30', with 16 (80%) having less than 20', 10 (50%) have depths of less than 15', and one building (320 East 65th Street Block 1439, Lot 42) has a partial 0' rear yard condition, with the remainder of the yard measuring 14'-3".

Accordingly, the Board finds that the proposed variance will not alter the essential character of the neighborhood or district in which the Premises are located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.

D.

The applicant represents that the above practical difficulties or unnecessary hardship have not been created by the applicant or by a predecessor in title. Specifically, the applicant states that the practical difficulties and unnecessary hardship to which it is subject results from the obstacles to achieving its programmatic needs to provide its high school students with appropriate classroom, academic support and meeting space, and regulation-sized athletic facilities within a zoning-permitted envelope on the subject site within the confines of the Zoning Resolution. Accordingly, the Board finds that the above practical difficulties or unnecessary hardship have not been created by the applicant or by a predecessor in title.

E.

The applicant notes that the variance request is the minimum necessary to develop a school at the Premises. First, the applicant submits that the waiver to locate the second required egress stair within a portion of the rear yard is the minimum necessary to afford relief and allow it to meet its programmatic needs because the minimal encroachment into the already non-complying rear yard permits development of properly sized classrooms with necessary group learning space therein. In support of this contention, the applicant contrasts the as-of-right proposal, which locates the second egress stair within the existing building envelope, in the southeast corner of the site and would result in smaller classrooms and would not accommodate the housing a full grade for STEM or STEAM curriculum and similar interactive learning opportunities in a single room. Next, the applicant points out that, due to the layout requirements of a NFHS-compliant basketball court on the top floor and the constraints of the building envelope, the proposed egress stair would be unable to reach the top floor because it would be blocked by the court and locating the stair in a zoning-permitted envelope would not allow it to fully offer its program.

Accordingly, the Board finds that the proposed variance is the minimum necessary to afford relief within the intent and purposes of the Zoning Resolution.

IV.

Over the course of hearings, the Board raised concerns regarding traffic and student safety during heavy traffic times such as arrival and dismissal. In response the applicant submitted the following transportation site safety plan:

With respect to transportation, the EAS assessed the proposed project and concluded that there would not be significant impacts with respect to vehicular traffic. Of note, the transportation assessment in the EAS indicates that the majority of students and staff with travel to and from school by public transportation and car traffic at the proposed project will be minimal. Specifically, in the A.M., the modal splits for students are as follows: 16% - automobile; 5.9%-taxi; 42.4%-subway/rail; 17.6% - public bus; and 17.6% - walk, and in the P.M., the student modal splits are 7.1% - auto; 7.1% - taxi; 41.2% - subway/rail; 20% - public bus; and 24.6% - walk. TBS would not provide regular school bus service to the proposed project. Additionally, at TBS's existing facilities, there are two staff members outside on the sidewalk during school arrival and dismissal times. Two personnel would similarly be positioned outside the proposed project to help move students swiftly off the street and into the school building. Accordingly, the proposed project will not disturb the character or the neighborhood in terms of transportation and associated noise from vehicular traffic for the school.

With respect to the adjacent Memorial Sloan Kettering facility, that building has a curb cut and loading entrance near the common boundary line with the subject site. To avoid conflicts between students and active loading operations, TBS intends to have staff and school administration keep close monitor of students exiting and entering the proposed project

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to prevent any interference. Two school personnel would be positioned outside the proposed project during arrival dismissal and will remind students to avoid standing or grouping in front of the MSK loading dock or interfere with MSK's loading operations and to move quickly past dock as they walk to and from the school entrance.

These measures include restriping faded crosswalks at 2nd Avenue and East 63rd Street (north crosswalk); 3rd Avenue and East 63rd Street (north crosswalk); and 3rd Avenue and East 64th Street (north crosswalk) where it is anticipated students will be walking to the Proposed Project.

V.

The project is classified as an Unlisted action pursuant to Section 617.2 of 6 NYCRR. The Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 22BSA024M, dated March 13, 2023. The EAS documents that the project as proposed would not have significant adverse impacts on land use, zoning, and public policy; socioeconomic conditions; community facilities and services; open space; shadows; historic resources; urban design and visual resources; neighborhood character; natural resources; waterfront revitalization program; infrastructure; hazardous materials; solid waste and sanitation services; energy; traffic and parking; transit and pedestrians; air quality; noise; or public health.

By letter dated February 2, 2023, the New York City Department of Transportation ("DOT") states that following the 2021 CEQR Technical Manual Level 1 (Trip Generation) and Level 2 (Trip Assignment) screening assessments, a detailed traffic analysis is not warranted as the site generated trips would not exceed the 50-vehicle trip threshold at any intersections in any peak hours. Also, following the Level 1 (Trip Generation) screening assessment, detailed pedestrian analysis is not warranted as the site generated pedestrian trips would not exceed the 200-pedestrian trip threshold in any peak hours. Therefore, NYC DOT concurs with the lead agency's determination that a detailed traffic pedestrian analysis is not warranted.

As part of the project, the existing curb cut on the East 64th Street frontage will be rebuilt as full height curb and a school loading zone is proposed adjacent to the school frontage. The applicant is responsible for the closure of the curb cut and its reconstruction as full height curb and sidewalk, NYC DOT will participate in the review process relating to all future modifications/constructions around the site. The applicant will submit all required drawings as per NYC DOT specification and requirements for NYC DOT review and approval. The school loading zone will be installed along the entirety of the school frontage by NYC DOT. Final determination on the exact placement of signage will be made by NYC DOT. In order to ensure the timely installation of the loading zone, the applicant must send this request to NYC DOT around the time of the construction completion and not less than six months prior to the school opening. The request must be made using "Contact NYC DOT Commissioner" form on NYC DOT website and the BSA application must be referenced in this request.

By letter dated February 16, 2023, the New York City Department of Environmental Protection (“DEP”), Bureau of Environmental Planning and Analysis has reviewed the air quality response to comments, revised air quality and noise chapters of the Environmental Assessment Statement (“EAS”) dated January 19, 2023 and support files prepared on behalf of the applicant for the above referenced project. Per BSA request, DEP have reviewed the mentioned above documents and concluded that the proposed project would not result in significant air quality or noise impacts.

Air Quality:

Based on the results of the mobile and stationary source Air Quality analysis performed as per the City Environmental Quality Review Technical Manual, it was determined that the proposed project would not result in significant adverse impact for air quality with commitments to utilize natural gas for the HVAC system fitted with a low NOx (30 ppm) burner as well as locate the HVAC stack of the proposed building at least 70 feet from the eastern lot line facing First Avenue. However, please note that the revised air quality assessment added receptors to represent the building (340 East 64th Street/1167 1st Avenue) across the street from the proposed project. The new receptors are not reflected in Figure F-1 in the revised EAS dated January 19, 2023.

Noise:

Based on the results of the mobile and stationary source Noise analysis performed as per the City Environmental Quality Review Technical Manual, it was determined that the proposed project would not result in significant adverse impact for noise.

By letter dated February 28, 2023, NYC DEP, Bureau of Sustainability has reviewed the applicant’s February 2023 Remedial Action Plan (“RAP”) and Construction Health and Safety Plan (“CHASP”). The proposed project would result in ground disturbance as part of the replacement of the existing cellar floor slab with a new one and at the elevator pit. The February 2023 RAP proposes the handling, transportation, and off-site disposal of excavated soil/fill in accordance with appropriate local, state, and federal regulations; stockpiled soil will be covered with polyethylene sheeting; dewatering (if necessary) in compliance with city, state, and federal laws and regulations; any underground storage tanks encountered during the excavation will be decommissioned and removed in accordance with New York State Department of Environmental Conservation requirements; dust control; air monitoring; capping the site with a concrete cover that will span the entire site footprint; installation of waterproofing/vapor barrier system beneath the concrete slab and along the elevator pit sidewalls and beneath the elevator pit slab consisting of 21 mil GCP Florprufe 120 and 46 mil GCP Preprufe 300 (alternative products proposed for use, if necessary, include the 20 mil W.R. Meadows Perminator EVOH and 73 mil W.R. Meadows Precon); and in the event that a landscaped area is constructed, it will be capped with a minimum of two feet of DEP-approved clean fill/topsoil. The CHASP addresses worker and community health and safety during construction. Based upon review of

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the submitted documentation, DEP have the following comments and recommendations to BSA:

DEP finds the February 2023 RAP and CHASP for the proposed project acceptable. BSA should instruct the applicant that at the completion of the project, a Professional Engineer (“P.E.”) certified Remedial Closure Report should be submitted for DEP review and approval for the proposed project. The P.E. certified Remedial Closure Report should indicate that all remedial requirements have been properly implemented (i.e., transportation/disposal manifests for removal and disposal of soil in accordance with applicable local, state, and federal laws and regulations; installation of vapor barrier; and two feet of DEP approved certified clean fill/topsoil capping requirement in any landscaped/grass covered areas not capped with concrete/asphalt, etc.).

By correspondence dated May 25, 2022, the Landmarks Preservation Commission (“LPC”) states that the subject Premises have no architectural or archaeological significance.

No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable. Based on the foregoing, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Based on the foregoing, the Board finds that the evidence in the record supports the findings required to be made under Z.R. § 72-21 and that the applicant has substantiated a basis to warrant exercise of discretion.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *issue* a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1997, as amended and makes each and every one of the required findings under Z.R. § 72-21 to *permit*, the enlargement of an existing UG 7 and 8 building with transient parking garage with auto sales to facilitate a UG 3 school, contrary to underlying rear yard (Z.R. § 33-292) and height regulations (Z.R. §§ 23-662 and 35-652), *on condition* that all work and site conditions shall conform to drawings filed with this application marked “Board Approved: March 13, 2023” — Seventeen (17) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: a maximum height of 83'-2.25" above base plane; a rear yard with a depth of 9'-11" along 75% of the yard at the first floor and above and 0'-0" at 25% of the yard at the first floor and above; and an enclosed stairway to be located at the northeast corner of the site;

THAT the proposed project shall exclusively use natural gas or electric to power the HVAC systems;

THAT if natural gas is utilized, the HVAC must be fitted with a low Nitro Oxygen (“NOx”) 30 PPM burner and the HVAC stack of the proposed building must be located at least 70 feet from the eastern lot line facing First Avenue;

THAT all curb cuts and sidewalk improvements are for illustrative purposes only and will require DOT review and approval post BSA approval;

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THAT a draft Builder's Pavement Plan ("BPP") shall be provided to DOT for review and approval, prior to final approval from DOB;

THAT improvements to the streets as per the approved BPP shall be completed prior to obtaining a Temporary Certificate of Occupancy ("TCO");

THAT the school loading zone will be installed along the entirety of the frontage by NYS DOT;

THAT a professional engineer ("P.E.") will certify a closure report at the completion of all remedial activities associated with the site, including installation of a waterproofing Vapor Barrier System;

THAT the closure report will be submitted to DEP for review and approval;

THAT a certificate of occupancy, also indicating this approval and calendar number ("BSA Cal. No. 2022-31-BZ"), shall be obtained within four years, by March 13, 2027;

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plans or configurations not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 13, 2023.

CERTIFICATION

**This copy of the resolution
dated March 13, 2023
is hereby filed by the
Board of Standards and Appeals
on April 4, 2023.**



**Carlo Costanza
Executive Director**

Exhibit N

Project Summary

The Calhoun School, Inc. (“Calhoun”) is a private co-educational day school located on Manhattan’s Upper West Side serving students from pre-kindergarten through grade 12. On December 30, 2020, Build NYC Resource Corporation (the “Corporation”) issued an up to \$32,535,000 tax-exempt revenue note (the “2020 Note”) the proceeds of which were primarily used to refinance the then outstanding balance of a Build NYC Resource Corporation 2013 Tax-Exempt Revenue Refunding Note (The Calhoun School, Inc. Project), the proceeds of which 2013 Note had refunded certain outstanding New York City Industrial Development Agency bonds originally issued in 2003 and 2006 to finance and refinance capital improvement projects at Calhoun’s three buildings located at 433 West End Avenue, 160 West 74th Street, and 304 West 81st Street (the “Facilities”). A portion of the proceeds from the 2020 Note are also financing additional capital improvements at Calhoun’s main facility at 433 West End Avenue.

Metropolitan Montessori School (“MMS”) is a private co-educational day school located on Manhattan’s Upper West Side serving students from preschool through grade 8. On September 25, 2015, the Corporation issued its \$17,000,000 Refunding and Improvement Revenue Bonds (Metropolitan Montessori School Project), Series 2015 (“MMS Series 2015 Bonds”), the proceeds of which were primarily used to refund the then outstanding balance of Build NYC Resource Corporation Revenue Bonds (2012 Metropolitan Montessori School Project), the proceeds of which were used to refinance taxable loans previously incurred by MMS to acquire two adjacent buildings at 325 West 85th Street and 315 West 85th Street (collectively, the “MMS Facility”). A portion of the proceeds from the MMS Series 2015 Bonds was also used to upgrade these buildings to create a single expanded facility. In 2022, as a result of the effect of COVID upon MMS’ operations, the payment schedule for the MMS Series 2015 Bonds was adjusted to allow for the deferral of principal and interest for two years.

In September 2022, Corporation staff was informed by both schools of their plan to merge prior to the start of the 2023-2024 School Year. The merger of MMS with Calhoun will result in Calhoun being the surviving entity, acquiring all of the properties, and assuming all of the liabilities and indebtedness, of MMS. The merger will create a dual-track, early childhood program for pre-school through third grade students with the goal of providing greater choice and flexibility to families. Children will be able to choose between two different progressive programs for 3 year olds through third grade, while both tracks will be combined for grades four through twelve. The merger will create the only school in the City that will allow students, who begin their education in a Montessori program the opportunity to complete high school within the same school. The decision to merge the two schools has been unanimously approved by both schools’ Boards of Trustees, and has also been approved by the New York State Board of Regents. The merger is expected to close on June 30, 2023.

On or prior to the merger date, Calhoun intends to sell its 74th Street facility, which currently houses part of its lower school, and use the sale proceeds to pay down a portion of each of the 2020 Note and a portion as well of the MMS Series 2015 Bonds. Following the merger, Calhoun will consolidate the entire lower school of Calhoun and MMS under one roof at the MMS Facility. Consolidation of the lower school program will enable the expansion of the high school at Calhoun's West End Avenue facility.

Project Locations

The Calhoun School

433 West End Avenue
160 West 74th Street
304 West 81st Street
New York, NY 10024

Metropolitan Montessori School

325 West 85th Street
New York, NY 10024

Action Requested

In connection with the Calhoun 2020 Note, staff is seeking approval of the sale and release of the 74th Street facility, as well as corresponding amendments to the Master Loan Agreement and related documents.

In connection with the MMS Series 2015 Bonds, staff is requesting approval to amend and restate the MMS Series 2015 Bonds and to amend the related bond documents to reflect the merger and the assumption by Calhoun of MMS' obligations thereunder. Following the merger, Calhoun will be executing an assumption agreement with the Corporation, the bond trustee and the holder of the MMS Series 2015 Bonds, resulting in Calhoun becoming obligated under the bond documents in place of MMS with respect to the MMS Series 2015 Bonds.

Prior Actions

- The Calhoun School Inc.
 - Authorizing and Bond Resolution approved on July 28, 2020
- Metropolitan Montessori School
 - Authorizing and Bond Resolution approved on June 9, 2015
 - Post closing Amendment approved on April 26, 2022

Due Diligence

A review of Calhoun's and MMS's compliance requirements with their respective transaction documents revealed no outstanding issues.

Exhibit O

Resolution approving the amendment of documents related to the Build NYC Resource Corporation 2020 Tax-Exempt Revenue Note (The Calhoun School, Inc. Project), issued in the aggregate principal amount of up to \$32,535,000, and the taking of other action in connection therewith

WHEREAS, Build NYC Resource Corporation (the “Issuer”) is authorized pursuant to Section 1411(a) of the Not-For-Profit Corporation Law of the State of New York, as amended (the “N-PCL”) and its Certificate of Incorporation and By-Laws, (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “City”) by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on secured or unsecured bases; and (iii) to undertake other projects that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, lessening the burdens of government and acting in the public interest; and

WHEREAS, on July 28, 2020, the Issuer adopted a resolution (the “Original Resolution”) authorizing, among other things, the issuance of its Build NYC Resource Corporation 2020 Tax-Exempt Revenue Note (The Calhoun School, Inc. Project) (the “Issuer Debt Obligation”), for the benefit of The Calhoun School, Inc. (the “Institution”), a not-for-profit education corporation organized and existing under the laws of the State of New York and an entity that is exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), in order to (A) refinance the outstanding balance of approximately \$28,400,000 from a \$32,840,000 tax-exempt revenue refunding note issued by the Issuer in September 2013 for the benefit of the Institution, the proceeds of which were applied to refund: (1) the outstanding New York City Industrial Development Agency (“NYCIDA”) Civic Facility Refunding and Improvement Revenue Bonds, Series 2003 (2003 The Calhoun School, Inc. Project), in the original aggregate principal amount of \$28,495,000, the proceeds of which were used to (a) refund outstanding NYCIDA Tax-Exempt Adjustable Mode Civic Facility Revenue Bonds (1990 The Calhoun School, Inc. Project), originally issued in the aggregate principal amount of \$7,200,000 to refinance the costs of the acquisition, renovation and construction of two civic facilities consisting of the refinancing of (i) the acquisition of and renovations to an approximately 5,108 square foot parcel of real property and an approximately 20,700 square foot existing building located at 160-162 West 74th Street, New York, New York 10023 (the “West 74th Street Facility”) and (ii) the construction of an approximately 39,141 square foot building located on an approximately 8,853 square foot parcel of land at 433 West End Avenue, New York, New York 10024 (the “West End Avenue Facility”, and, together with the West 74th Street Facility, being collectively referred to as the “1990 Facility”); (b) finance and/or refinance the acquisition and renovation of multiple facilities consisting of (i) the construction of a four-floor addition and additional improvements to the West End Avenue Facility, including a performing arts center, an athletic center, a visual arts center and a science center which resulted in an 8-story, 60,000 square foot facility, (ii) the construction of improvements to the West 74th Street Facility, (iii) the refinancing of the acquisition of, and the

construction of new improvements to, an approximately 5,670 square foot facility located on an approximately 1,363 square foot parcel of land at 304 West 81st Street, New York, New York 10024 (the “West 81st Street Facility”, and, together with the 1990 Facility, being collectively referred to as, the “Facilities”) and (iv) the acquisition of related furnishings and equipment at each of the Facilities; and (2) the outstanding NYCIDA Civic Facility Revenue Bonds (2006 The Calhoun School, Inc. Project), Series 2006, issued in the original aggregate principal amount of \$5,500,000, the proceeds of which were used to complete the project described in (A)(1)(b) above, consisting of (a) renovations and the addition of four floors and additional improvements at the West End Avenue Facility, (b) renovations to the West 74th Street Facility and the West 81st Street Facility, and (c) to make certain improvements and to furnish and equip the Facilities; (B) finance the renovation, equipping and/or furnishing of the West End Avenue Facility, now an 8-story, 60,000 square foot educational building located on an 8,853 square foot parcel of land; (C) fund a debt service reserve fund, and (D) finance certain costs of issuance for the Issuer Debt Obligation, all for the benefit of the Institution as a private, co-educational school serving students in pre-kindergarten through twelfth grade (collectively, the “Project”); and

WHEREAS, on December 30, 2020, the Issuer issued the Issuer Debt Obligation in the aggregate principal amount of up to \$32,535,000, in connection with its undertaking of the Project; and

WHEREAS, the Issuer Debt Obligation was issued pursuant to a Master Loan Agreement, dated as of December 30, 2020 (the “Master Loan Agreement”), by and among First Republic Bank (the “Lender”), the Issuer and the Institution; and

WHEREAS, in order to finance the costs of the Project, the Issuer loaned the proceeds of the Issuer Debt Obligation (the “Borrower Loan”) to the Institution pursuant to the Master Loan Agreement, and the Institution executed and deliver a promissory note (the “Borrower Promissory Note”) to the Issuer as evidence of such Borrower Loan; and

WHEREAS, in order to secure the Borrower Promissory Note, the Institution executed and delivered to the Issuer the Mortgage, Assignment of Leases and Rents, Fixture Filing and Security Agreement, dated as of December 30, 2020 (the “Mortgage”), and, in order to secure the Issuer Debt Obligation, the Issuer assigned its right, title and interest under the Mortgage to the Lender pursuant to the Assignment of Mortgage, dated as of December 30, 2020; and

WHEREAS, as further security for the Borrower Promissory Note and the Issuer Debt Obligation, the Borrower executed and delivered to the Lender the Security Agreement, dated as of December 30, 2020 (the “Security Agreement”); and

WHEREAS, on October 7, 2022, the Institution and the Metropolitan Montessori School (“MMS”) entered into an Agreement and Plan of Merger (the “Merger Agreement”), which provides, among other things, for MMS to merge with and into the Institution, with the result that the Institution shall be the surviving corporation (the transactions so contemplated being hereinafter referred to as the “Merger Transaction”); and

WHEREAS, the Institution has now requested that the Issuer consent to the sale and release of the West 74th Street Facility from the Project (the “Requested Consent”); and

WHEREAS, a portion of the proceeds of the sale of the West 74th Street Facility will be used to redeem a portion of the Borrower Promissory Note and the Issuer Debt Obligation (the “Redemption”); and

WHEREAS, in connection with the sale of the West 74th Street Facility, it will be necessary to amend the Master Loan Agreement to reflect the release of the West 74th Street Facility from the Facility as defined thereunder (the “Release”); and

WHEREAS, it will also be necessary in connection with the Release for the Lender to provide for the release of the West 74th Street Facility from the liens of the Mortgage and the Security Agreement; and

WHEREAS in connection with the Requested Consent, the Redemption and the Release, among other things, the Master Loan Agreement will be amended pursuant to an Amendment to Master Loan Agreement (the “Amendment to Master Loan Agreement”);

NOW, THEREFORE, BE IT RESOLVED BY BUILD NYC RESOURCE CORPORATION AS FOLLOWS:

Section 1. The execution and delivery of the Amendment to Master Loan Agreement, an amendment or supplement to the Tax Regulatory Agreement between the Issuer and the Institution and any other necessary amendments to the note documents reflecting the Requested Consent, the Redemption, the Release and the Merger Transaction (the documents referenced in this Section 1 being, collectively, the “Issuer Documents”), each being substantially in the form approved by the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel of the Issuer in consultation with counsel, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel of the Issuer are hereby authorized to execute, acknowledge and deliver each such Issuer Documents. The execution and delivery of each such Issuer Documents by said officer shall be conclusive evidence of due authorization and approval.

Section 2. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution and contained in the Issuer Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members or directors thereof by the provisions of this Resolution and the Issuer Documents shall be exercised or performed by the Issuer or by such members, directors, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Issuer Documents shall be deemed to be a covenant, stipulation, obligation or

agreement of any member, director, officer, agent or employee of the Issuer in his individual capacity, and neither the members or directors of the Issuer nor any officer executing the Issuer Documents shall be liable personally on the Issuer Documents or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 3. The officers of the Issuer are hereby designated the authorized representatives of the Issuer and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and the Issuer Documents.

Section 4. Any costs and expenses incurred by the Issuer with respect to the Merger Transaction, the Redemption or the Release shall be paid by the Institution, whether or not the Merger Transaction, the Redemption, the Release and the execution of the Issuer Documents shall proceed to closing. By acceptance hereof, the Institution agrees to pay such expenses and further agree to indemnify the Issuer, its members, directors, officers, employees and agents and hold the Issuer and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Issuer in good faith with respect to the Merger Transaction, the Redemption, the Release and the Issuer Documents.

Section 5. This Resolution shall take effect immediately.

ADOPTED: June 6, 2023

ACCEPTED: _____, 2023

THE CALHOUN SCHOOL, INC.

By: _____
Name:
Title:

Resolution authorizing amendments to certain documents and approving certain matters in connection with the Build NYC Resource Corporation's Refunding and Improvement Revenue Bonds (Metropolitan Montessori School Project), Series 2015 and the proposed merger by Metropolitan Montessori School with The Calhoun School, Inc. .

WHEREAS, on September 25, 2015, the Build NYC Resource Corporation (the "Issuer") issued its Refunding and Improvement Revenue Bonds (Metropolitan Montessori School Project), Series 2015 in the original aggregate principal amount of \$17,000,000 (the "MMS Series 2015 Bonds") pursuant to a resolution adopted by the Issuer on June 9, 2015, and an Indenture of Trust, dated as of September 1, 2015 (the "2015 Indenture"), between the Issuer and The Bank of New York Mellon, as Trustee (the "Trustee"), to (i) refund the Issuer's outstanding Revenue Bonds (2012 Metropolitan Montessori School Project) (the "2012 Bonds"), the proceeds of which 2012 Bonds were used to refinance a mortgage loan incurred by the Metropolitan Montessori School ("MMS") for the acquisition, renovation, equipping and furnishing of an approximately 16,709 square foot, six-floor building on an approximately 5,109 square foot parcel of land located at 325 West 85th Street, New York, New York; (ii) refinance a mortgage loan, the proceeds of which were used to acquire an approximately 6,984 square-foot, five floor building on an approximately 1,737 square foot parcel of land located on 315 West 85th Street, New York, New York (the property described in clauses (i) and (ii) being, collectively, the "Facility"); and (iii) finance a portion of the renovation costs of the Facility, all for use by MMS as an independent school for children from pre-kindergarten through sixth grade; and

WHEREAS, the proceeds of the MMS Series 2015 Bonds were loaned by the Issuer to MMS pursuant to a Loan Agreement, dated as of September 1, 2015 between the Issuer and MMS (the "2015 Loan Agreement"), and the MMS Series 2015 Bonds were secured pursuant to, among other documents, a Security Agreement, dated as of September 25, 2015, between MMS and the Trustee (the "2015 Security Agreement"), and each of a Mortgage and Security Agreement (Acquisition Loan) and a Mortgage and Security Agreement (Building Loan), each dated as of September 1, 2015, from MMS, as mortgagor, to the Issuer and the Trustee, as mortgagees, as assigned by the Issuer to the Trustee (the "2015 Mortgages"); and

WHEREAS, concurrently with the issuance of the MMS Series 2015 Bonds, (1) the Issuer, MMS and the Trustee entered into a Tax Regulatory Agreement, dated as of September 25, 2015 (the "2015 Tax Regulatory Agreement") to provide for continuing obligations on the part of MMS with respect to the tax-exempt status of the interest on the MMS Series 2015 Bonds; (2) MMS, the Issuer and the Trustee entered into a Building Loan Agreement, dated as of September 1, 2015 (the "2015 Building Loan Agreement"); (3) MMS and the Trustee entered into an Assignment of Contracts, Licenses and Permits, dated as of September 25, 2015 (the "2015 Assignment of Contracts, Licenses and Permits"); (4) MMS and Israel Discount Bank of New York, as the purchaser of the Series 2015 Bonds (the "Initial Bonds Purchaser") entered into a Disbursement Agreement, dated as of September 25, 2015, as acknowledged and agreed to by the Trustee (the "2015 Disbursement Agreement"); (5) the Initial Bonds Purchaser and MMS entered into a Bond Purchase and Continuing Covenants Agreement, dated as of September 25, 2015 (the "2015 Bond Purchase and Continuing Covenants Agreement"); and (6) MMS, the Trustee and the

Initial Bonds Purchaser entered into an ADA and Environmental Indemnity Agreement, dated as of September 25, 2015 (the “2015 Environmental Indemnity Agreement”); and

WHEREAS, subsequent to the issuance of the MMS Series 2015 Bonds, MMS advised that Issuer that MMS’ financial condition was greatly impacted by the COVID-19 pandemic, and that MMS desired to enter into an agreement with the Bondholder to defer two years of principal payments on the MMS Series 2015 Bonds, with such deferred principal (and related interest) to then be repaid over the ensuing three years; and

WHEREAS, to effect such change in payment schedule for the MMS Series 2015 Bonds, pursuant to a resolution adopted by the Issuer on April 26, 2022, the Issuer authorized (i) the amendment and restatement of the MMS Series 2015 Bonds, (ii) the amendment of the 2015 Indenture pursuant to a First Supplemental Indenture of Trust dated as of June 1, 2022 (the “First Supplemental Indenture” and, together with the 2015 Indenture, the “Indenture”), (iii) the amendment of the 2015 Loan Agreement pursuant to a First Amendment to Loan Agreement dated as of June 1, 2022 (the “First Amendment to Loan Agreement” and, together with the 2015 Loan Agreement, the “Loan Agreement”) and (iv) the amendment of the other Project Documents (as defined in the 2015 Indenture) pursuant to a Multi-Party Consent Agreement, dated as of June 1, 2022, among the Issuer, MMS, the Trustee and the Initial Bonds Purchaser; and

WHEREAS, on October 7, 2022, MMS and The Calhoun School, Inc. (“Calhoun”) entered into an Agreement and Plan of Merger (the “Merger Agreement”), which provides, among other things, for MMS to merge with and into Calhoun, with the result that Calhoun shall be the surviving corporation (the transactions so contemplated being hereinafter referred to as the “Merger Transaction”); and

WHEREAS, as provided in the Loan Agreement, upon the merger of MMS into another entity, with the result that MMS is not the surviving entity, Calhoun as the surviving entity shall, among other conditions, assume in writing all obligations of MMS arising under the Loan Agreement and in each other Project Document to which MMS shall have been a party pursuant to an Acknowledgment and Assumption Agreement to be entered into by Calhoun for the benefit of the Issuer, the Trustee and the Initial Bonds Purchaser (the “Assumption Agreement”), and, in connection with such assumption, it may be necessary or advisable to amend and/or restate certain or all of the Project Documents (as any may be so amended and/or restated, the “Amendments to Project Documents”); and

WHEREAS, it is contemplated under the Merger Agreement and related documents that a portion of the outstanding principal amount of the MMS Series 2015 Bonds, as amended and restated in 2022, will be redeemed through the application by Calhoun of a portion of the proceeds intended to be derived by the sale by Calhoun of its property located at 160-162 West 74th Street, New York, New York, and

WHEREAS, the MMS Series 2015 Bonds, as amended and restated in 2022, are requested to be further amended and restated (as so amended and restated, the “2023 Amended and Restated Series 2015 Bonds”) to (i) modify the amortization schedules thereof, and (ii) reflect that Calhoun shall become the Borrower under the Loan Agreement and the counterparty to the other Project Documents, as applicable; and

WHEREAS, MMS and Calhoun have further requested that the Issuer authorize the execution and delivery of the Assumption Agreement, the Amendments to Project Documents and the 2023 Amended and Restated Series 2015 Bonds; and

WHEREAS, the Issuer desires to accommodate the requests as described above with the understanding that no new benefits will be given to MMS or to Calhoun, and that proper consents and/or waivers, as applicable, as may be required in the Indenture or other Project Documents are delivered in connection with the Assumption Agreement and the related documents with respect to the Merger Transaction;

NOW, THEREFORE, BUILD NYC RESOURCE CORPORATION HEREBY RESOLVES AS FOLLOWS:

Section 1. The execution and delivery of the Assumption Agreement, the Amendments to Project Documents and the 2023 Amended and Restated Series 2023 Bonds, and any related consents or other agreements or amendments in order to facilitate the Merger Transaction (collectively, the “Issuer Documents”), and being substantively the same as approved by the Issuer for prior transactions, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel of the Issuer are each hereby authorized to execute, acknowledge and deliver each Issuer Document. The execution and delivery of each Issuer Document by one of said officers shall be conclusive evidence of due authorization and approval of the Issuer Documents in their final form.

Section 2. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution and contained in the Issuer Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members or officers thereof by the provisions of this Resolution or the Issuer Documents shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Issuer Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Issuer in his or her individual capacity and neither the members nor the directors of the Issuer nor any officer executing any Issuer Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 3. The officers of the Issuer are hereby designated the authorized representatives of the Issuer, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this

Resolution. The Issuer recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Issuer herein. The Issuer hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director, or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by a certificate of determination of an Issuer officer.

Section 4. Any costs and expenses incurred by the Issuer with respect to the Merger Transaction shall be paid by MMS and by Calhoun, whether or not the Merger Transaction and the execution of the Issuer Documents shall proceed to closing. By acceptance hereof, each of MMS and Calhoun agree to pay such expenses and further agree to indemnify the Issuer, its members, directors, officers, employees and agents and hold the Issuer and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Issuer in good faith with respect to the Merger Transaction and the Issuer Documents.

Section 4. This Resolution shall take effect immediately.

ADOPTED: June 6, 2023

ACCEPTED: _____, 2023

METROPOLITAN MONTESSORI SCHOOL

By: _____

Name:

Title:

THE CALHOUN SCHOOL, INC.

By: _____

Name:

Title: