

MINUTES OF THE
MEETING OF THE BOARD OF DIRECTORS
OF
BUILD NYC RESOURCE CORPORATION
HELD AT THE 110 WILLIAM STREET OFFICES OF
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
JUNE 13, 2017

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

James Patchett, Chairman
Marlene Cintron
Brian Cook, alternate for Scott M. Stringer,
Comptroller of The City of New York
Al De Leon
Barry Dinerstein, alternate for Marisa Lago
the Chair of the City Planning Commission of The City of New York
Kevin Doyle
Andrea Feirstein
Anthony Ferreri
James McSpiritt, alternate for Zachary W. Carter, Esq.,
Corporation Counsel of The City of New York
Jaques-Philippe Piverger
Robert Santos
Carl Rodrigues, alternate for Alicia Glen,
Deputy Mayor for Housing and Economic Development of The City of New York

The following directors were not present:

Shanel Thomas

Also present were (1) members of New York City Economic Development Corporation (“NYCEDC”) staff and interns, (2) Scott Singer from Nixon Peabody LLP, (3), Seth Bryant from Bryant Rabbino LLP, (4) Alex Deland from Katten Muchin Rosenman LLP, (5) Susan Herlihy and John Ravalli from the City’s Department of Finance and (6) other members of the public.

James Patchett, President of NYCEDC and Chairman of the Build NYC Resource Corporation (the “Corporation”), convened the meeting of the Board of Directors of Build NYC at 10:04 a.m., at which point a quorum was present.

1. Adoption of the Minutes of the May 9, 2017 Board of Directors Meeting

Mr. Patchett asked if there were any comments or questions relating to the minutes of the May 9, 2017 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, 2017 (Unaudited)

Christine Robinson, Senior Accountant of NYCEDC, presented the Corporation's Financial Statements for the ten month period ending April 30, 2017 (Unaudited). Ms. Robinson stated that in the ten month period, the Corporation recognized approximately \$1,700,000 in revenue from 11 transactions. Ms. Robinson stated that income derived from compliance, application, recapture, post-closing and other fees totaled \$1,000,000 for the fiscal year-to-date. Ms. Robinson stated that the Corporation recognized \$2,800,000 in total expenditures for the ten month period ending in April 30, 2017, consisting of the monthly management fee, marketing and public hearing expenses.

3. Amendment to the By-laws

Izzy Cohn, Counsel for NYCEDC, presented for review and adoption a resolution regarding the Corporation's by-laws to allow for greater flexibility and efficiency in the scheduling of meetings of the Board and the Members. Mr. Cohn stated that the amendment would remove the requirement that regular meetings of the Board be held monthly, on the second Tuesday of each month, and that the annual meeting of the Members be held on the second Tuesday in November, and instead provide that regular meetings of the Board and the annual meeting of the Members be held at such time as the Board, the Chairman or the Executive Director may from time to time prescribe. Mr. Cohn further stated that in the event that a regular or special meeting of the Board or the annual or special meeting of the Members falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairman or the Executive Director. Mr. Cohn described the amendment in more detail, as reflected in Exhibit A.

There being no comments or questions, a motion to approve the amendment to the Corporation's by-laws attached hereto as Exhibit B was made, seconded and unanimously approved.

4. Resolution regarding Fiscal Year 2018 Board Meeting Dates

Johan Salen, a Vice President of NYCEDC and Executive Director of the Corporation, presented for review and adoption a resolution regarding Board and Members meeting dates for Fiscal Year 2018.

There being no comments or questions, a motion to approve the Board and Members

meeting dates for Fiscal Year 2018 attached hereto as Exhibit C was made, seconded and unanimously approved.

5. Approval of Annual Contract with NYCEDC

Mr. Salen 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. Mr. Salen stated that under the Contract, NYCEDC provides services to the Corporation such as project management, legal and accounting services.

There being no further comments or questions, a motion to approve the Corporation's Annual Contract with NYCEDC attached hereto as Exhibit D, as submitted, was made, seconded and unanimously approved.

6. Approval of Investment Guideline Policy

Mr. Salen presented for review and approval the Corporation's Investment Guideline Policy, as required by the Public Authorities Accountability Act.

7. Approval of Disposition of Personal Property Policy

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

8. Approval of the Acquisition and Disposition of Real Property Policy

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

9. Approval of the Procurement Policy

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

10. Mission Statement and Performance Measurements

Mr. Salen presented for review and approval 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 Corporation's Investment Guidelines Policy attached hereto as Exhibit E, Disposition of Personal Property Policy attached hereto as Exhibit F, Acquisition and Disposition of Real Property Policy attached hereto as Exhibit G, Procurement Policy attached hereto as Exhibit H and Mission Statement

and Performance Measurements attached hereto as Exhibit I was made, seconded and unanimously approved.

11. Board of Directors' Self-Evaluation Survey

Mr. Salen presented the Board of Directors' Self-Evaluation Survey (the "Survey") attached hereto as Exhibit J, which was reviewed and approved by the Governance Committee at its June 1st, 2017 meeting. Mr. Salen stated that the Survey was required under the Public Authorities Accountability Act.

Mr. Santos stated that the Governance Committee discussed the Survey on June 1st, 2017 and were satisfied with the questions and that their concerns were addressed. Mr. Santos thanked the members of the Governance Committee for their input and their assistance. Mr. McSpiritt stated that he encouraged Board members to participate in the survey because the level of past participation was one of his concerns. Mr. McSpiritt stated that the Governance Committee decided to stay with the form of questions as stated in the PAAA and if any Board member should have questions to direct them to himself or Mr. Santos. Mr. Santos asked for Board members to participate in the survey.

12. Manhattan College

Lily Berticevich, a Project Manager for NYCEDC, presented an update to the Manhattan College project which was authorized and induced during the April 2017 board meeting. Ms. Berticevich stated that the authorizing resolution includes authorization for staff to make minor modifications to projects post approval as long as they do not affect the intent and substance of the authorizations and approvals by the Board. Ms. Berticevich stated that Corporation staff wanted to take this opportunity to share some of the changes with the Board. Ms. Berticevich stated that the transaction is scheduled to close tomorrow with Bank of America, Merrill Lynch as senior managing underwriter. Ms. Berticevich stated that mechanical work is anticipated to begin this month at an existing building and that the ground breaking for the new engineering and science innovation center is scheduled for early 2018. Ms. Berticevich stated that due to the nature of the refinancing, the Corporation is waiving the fee on the refinancing of the Series 2013 Build NYC bonds and the Series 2012 Build NYC bonds are no longer eligible for tax exemption so they will be excluded from the transaction. Ms. Berticevich stated that therefore the transaction will be closed at approximately \$90 million rather than the previously approved \$103 million and the fee collected by the Corporation has been modified from \$526,250.00 at Board approval to \$399,125.00 today. Ms. Berticevich stated that this is a great project and another case where Build NYC is providing support to a great New York institution.

13. 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 10:10 a.m.

Arthur Hansen
Assistant Secretary

Dated: 7/14/17
New York, New York

Exhibit A

Summary of Recommendation

Corporation staff recommends the Board approve an amendment to the by-laws of the Corporation (the “By-laws”) to allow for greater flexibility and efficiency in the scheduling of meetings of the Board and of the Members. Specifically, the amendment would:

- remove the requirement that regular meetings of the Board be held monthly, on the second Tuesday of each month, and instead provide that regular meetings be held at such time as the Board, the Chairperson or the Executive Director may from time to time prescribe;
- remove the requirement that the annual meeting of the Members of the Corporation be held on the second Tuesday in November of each year and instead provide that the annual meeting be held at such time as the Members, the Board, the Chairperson or the Executive Director may from time to time prescribe; and
- provide that in the event that a regular or special meeting of the Board or an annual or special meeting of the Members falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or the Executive Director.

Actions Requested

- Resolution approving an amendment to Section 1.4 of the By-laws to read in its entirety as follows:

The annual meeting of the Members for the transaction of such business as may come before the meeting shall be held at the principal office of the Corporation at such time as the Members, the Board of Directors, the Chairperson or the Executive Director may from time to time prescribe in a written notice to be given to the Members by the Chairperson, Vice-Chairperson or Executive Director not less than 10 business days prior to such prescribed time. When any annual meeting of the Members falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director. The Chairperson or his or her alternate shall preside at all meetings of the Members.

- Resolution approving an amendment to Section 1.5 of the By-laws to read in its entirety as follows:

The Chairperson may, when he or she deems it desirable, and shall, upon a written request of the Board of Directors or if required pursuant to Section 603 of the Not-for-Profit Corporation Law of the State of New York (the “N-PCL”), call or direct the Executive Director to call a special meeting of the Members for the purpose of transacting any business designated in the notice, or in a written agenda accompanying the notice. At such special meeting, no business shall be considered other than as designated in the notice, but if all Members are present at a special meeting, with or without notice thereof, and all are agreeable thereto, any and all business may be transacted at such special meeting. When any special meeting of the Members falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director.

- Resolution approving an amendment to Section 2.6 of the By-laws to read in its entirety as follows:

Regular meetings of the Board of Directors for the transaction of any lawful business of the Corporation shall be held at the principal office of the Corporation at such time as the Board of Directors, the Chairperson or the Executive Director may from time to time prescribe in a written notice to be given to the Directors by the Chairperson, Vice-Chairperson or Executive Director not less than 10 business days prior to such prescribed time. When any regular meeting of the Board of Directors falls upon a holiday observed by the Corporation or a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director. Any regular meeting of the Board of Directors may be dispensed with by appropriate resolution adopted by the Directors at any prior meeting of the Board of Directors, or by an appropriate resolution adopted by the Directors at a special meeting held in lieu of a monthly regular meeting.

- Resolution approving an amendment to Section 2.7 of the By-laws to read in its entirety as follows:

The Chairperson, may, when he deems it desirable, and shall upon a written request of three Directors, call or direct the Executive Director to call a special meeting of the Board of Directors for the purpose of transacting any business designated in the notice, or a written agenda accompanying the notice. At such special meeting, no business shall be considered other than as designated in the notice, but if all Directors are present at a special meeting, with or without notice thereof, and all are agreeable thereto, any and all business may be transacted at such special meeting. When any special meeting of the Board of Directors falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director.

- Resolution approving the By-laws attached as Exhibit A as the By-laws of the Corporation.

Exhibit B

**BY-LAWS OF
BUILD NYC RESOURCE CORPORATION**

Adopted on June 13, 2017

**ARTICLE I
Membership**

Section 1.1 Requirements for Membership; Appointment of Members; Term of Membership; Alternates.

The membership of Build NYC Resource Corporation (the “Corporation”) shall consist of fifteen members (the “Members”). Among its membership shall be the Class I Members holding the respective offices specified in paragraph TENTH of the Corporation’s Certificate of Incorporation (the “Class I Members”). Six of the remaining 11 Members shall be appointed by the Mayor of the City upon consultation with the economic development council, business and labor organizations and elected officials and five shall be appointed by the Mayor from the nominees designated by each of the Borough Presidents of the City to serve as directors of the New York City Industrial Development Agency (the “Agency”; such 11 Members appointed by the Mayor being the “Class II Members”).

The membership of the Class I Members shall terminate upon the appointment of his or her successor in office, whereupon such successor shall become a Class I Member.

Of the Class II Members, the Member designated by the Mayor as the Chairperson shall serve at the pleasure of the Mayor, and each of the other Class II Members shall, upon the expiration of the initial term provided below serve for three year terms, to be staggered as set forth below. Each of the initial Directors (the “Initial Directors”) of the Corporation, as designated in paragraph 13 of the Corporation’s Certificate of Incorporation and as set forth below, shall continue to serve as a Director until the appointment of a corresponding Member as indicated below:

<u>Expiration</u>			<u>Initial Director until</u>
<u>Date of Initial</u>	<u>Seat</u>	<u>Member</u>	<u>appointment of Member</u>
<u>Member term</u>			
11/20/2014	(A)	Nominee of Bronx Borough President	Albert M. Rodriguez
9/30/2013	(B)	Nominee of Brooklyn Borough President	Joseph Douek
11/20/2012	(C)	Nominee of Manhattan Borough President	Kevin Doyle
9/30/2012	(D)	Nominee of Queens Borough President	Bernard Haber
9/30/2014	(E)	Nominee of Staten Island Borough President	Matthew Mirones
9/30/2014	(F)	Mayoral Appointee	Anthony Ferreri
9/30/2014	(G)	Mayoral Appointee	Robert D. Santos
9/30/2012	(H)	Mayoral Appointee	Andrea Feirstein
9/30/2013	(I)	Mayoral Appointee	Albert V. De Leon

Unless such Member resigns or is removed in accordance with Section 1.2, a Class II Member shall continue to be a Member of the Corporation after the expiration of such Member's term until a successor is appointed.

Section 1.2. Resignation, Removal and Replacement of Members.

Any Class II Member may resign at any time by delivering a resignation in writing to the Executive Director. Such resignation shall take effect upon receipt or at the time specified in the notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Class II Members may be removed by the Mayor for cause after a hearing upon 10 days' written notice. The Mayor shall fill any vacancy of a Member or appoint a replacement Member in a manner consistent with the appointment of the former Member pursuant to Section 1.1. Resignation or removal of a person as a Member shall constitute such person's removal as a Director if such Member is also a Director.

Section 1.3. Voting.

Each Member shall be entitled to one vote on each matter submitted to a vote of Members.

Section 1.4. Annual Meeting.

The annual meeting of the Members for the transaction of such business as may come before the meeting shall be held at the principal office of the Corporation at such time as the Members, the Board of Directors, the Chairperson or the Executive Director may from time to time prescribe in a written notice to be given to the Members by the Chairperson, Vice-Chairperson or Executive Director not less than 10 business days prior to such prescribed time. When any annual meeting of the Members falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director. The Chairperson or his or her alternate shall preside at all meetings of the Members.

Section 1.5. Special Meetings.

The Chairperson may, when he or she deems it desirable, and shall, upon a written request of the Board of Directors or if required pursuant to Section 603 of the Not-for-Profit Corporation Law of the State of New York (the "N-PCL"), call or direct the Executive Director to call a special meeting of the Members for the purpose of transacting any business designated in the notice, or in a written agenda accompanying the notice. At such special meeting, no business shall be considered other than as designated in the notice, but if all Members are present at a special meeting, with or without notice thereof, and all are agreeable thereto, any and all business may be transacted at such special meeting. When any special meeting of the Members falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall

instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director.

Section 1.6. Notice of Meetings; Waivers.

Written notice of each meeting of the Members shall be given not less than ten (10), nor more than fifty (50), days before such meeting by first class mail, postage prepaid, delivery in person, facsimile telecommunication, or electronic mail. If notice is sent by first class mail or delivered in person it shall be directed to each Member at his or her address as it appears on the record of Members of the Corporation, or, if such Member shall have filed with the Secretary a written request that notices be mailed or delivered to some other address, then directed to such Member at such other address. If notice is sent by facsimile telecommunication or electronic mail, it shall be directed to the Member's fax number or electronic mail address as it appears on the record of Members, or to such fax number or other electronic mail address as has been filed with the Secretary of the Corporation. Notice shall not be deemed to have been given by facsimile transmission or electronic mail if: (a) the Corporation is unable to deliver two (2) consecutive notices to the Member by facsimile telecommunication or electronic mail; or (b) the Corporation otherwise becomes aware that notice cannot be delivered to the Member by facsimile telecommunication or electronic mail. The notice shall set forth the place, day and hour of the meeting and, in the case of a special meeting, the general nature of the business to be transacted and by or at whose direction the special meeting is called.

Notwithstanding the foregoing, notice may be waived, either before or after the meeting, by any Member or his or her proxy, in writing or electronically. If in writing, the Member may sign a written waiver of notice or cause his or her signature to be affixed to a waiver of notice by any reasonable means, including but not limited to facsimile signature. If electronic, the transmission of the waiver must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the submission was authorized by the Member. Notice may also be waived by attending the meeting without protesting, prior thereto or at its commencement, lack of notice to him or her.

Section 1.7. Procedure.

The order of business and all other matters of procedure at every meeting of Members shall be determined by the person presiding at the meeting.

Section 1.8. Quorum; Presence.

The presence in person or by proxy of a majority of the Members then in office shall constitute a quorum for the transaction of business at a meeting of the Members, unless otherwise provided by law. If a quorum is not present, the Member or Members present may adjourn the meeting from time to time to such time and place as they may determine, without notice other than announcement at the meeting, until a quorum shall be present. Any one or more Members who is not physically present at a meeting of the Members may participate by means of electronic video screen communication, which shall constitute presence in person at a meeting as long as all persons participating in the meeting can hear each other at the same time and each Member can

participate in all matters before the Members, including, without limitation, the ability to propose, object to and vote upon a specific action to be taken by the Members.

ARTICLE II

Board of Directors

Section 2.1. Powers and Duties.

The Board of Directors shall have the general power to control and manage the affairs and the property of the Corporation in accordance with the purposes and limitations set forth in the Certificate of Incorporation. The Board of Directors shall have all powers conferred on Boards of not-for-profit local development corporations pursuant to New York State Law, including without limitation the New York Not-for-Profit Corporation Law and any other New York State Law that is applicable to the Corporation.

Section 2.2. Number and Election; Alternate Directors.

The number of directors comprising the Board of Directors of the Corporation (the “Directors”) shall be fifteen. Each Member shall constitute a separate membership section within the meaning of Section 703(a) of the N-PCL and shall serve as a Director therefor, such Directors herein referred to as Class I Directors or Class II Directors, corresponding to the membership section represented by such Director.

Each Class I Member shall have the right to appoint an alternate to serve as Director in his or her stead in accordance with Section 703(d) of the N-PCL. In the absence of a Class I Director from a meeting of the board, his or her alternate may, upon written notice to the secretary of the Corporation, attend such meeting and exercise therein the rights, powers and privileges of the absent Director. Each reference to a Director as used herein shall include such persons so designated as an alternate.

Section 2.3. Term of Office.

Each Director shall serve so long as such Director continues to be a Member of the Corporation, except that in the case of an Initial Director who is not also a Member, such Initial Director shall serve until the appointment of a Member entitled to serve as a Director for such position in accordance with Section 1.1 of these By-laws.

Section 2.4. Resignation and Removal.

Any Director (other than an Initial Director who is not also a Member) may resign or be removed at any time only upon such person’s resignation or removal from the Corporation’s membership, and upon the resignation or removal of any Member, such person (and such person’s alternate Director, if applicable) shall be deemed to have resigned or been removed as a Director. Any Initial Director who is not also a Member may resign at any time by delivering a resignation in writing to the Executive Director. Such resignation shall take effect upon receipt or at the time specified in the notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any Initial Director who is not also a

Member may be removed by the Mayor for cause after a hearing upon 10 days' written notice. The Mayor shall fill any vacancy of any Initial Director who is not also a Member in a manner consistent with the appointment of the Member for such position pursuant to Section 1.1 of these By-laws.

Section 2.5. Vacancies of Directors.

Any vacancy of a Director shall be filled by the replacement Member for such membership section in accordance with Sections 1.2 and 2.2 of these By-laws.

Section 2.6. Regular Meetings.

Regular meetings of the Board of Directors for the transaction of any lawful business of the Corporation shall be held at the principal office of the Corporation at such time as the Board of Directors, the Chairperson or the Executive Director may from time to time prescribe in a written notice to be given to the Directors by the Chairperson, Vice-Chairperson or Executive Director not less than 10 business days prior to such prescribed time. When any regular meeting of the Board of Directors falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director. Any regular meeting of the Board of Directors may be dispensed with by appropriate resolution adopted by the Directors at any prior meeting of the Board of Directors, or by an appropriate resolution adopted by the Directors at a special meeting held in lieu of a regular meeting.

Section 2.7. Special Meetings.

The Chairperson, may, when he deems it desirable, and shall upon a written request of three Directors, call or direct the Executive Director to call a special meeting of the Board of Directors for the purpose of transacting any business designated in the notice, or a written agenda accompanying the notice. At such special meeting, no business shall be considered other than as designated in the notice, but if all Directors are present at a special meeting, with or without notice thereof, and all are agreeable thereto, any and all business may be transacted at such special meeting. When any special meeting of the Board of Directors falls upon a day on which New York City public schools are closed due to an emergency, the meeting shall instead be held within seven days of the original meeting, or as soon as possible thereafter, on a day designated by the Chairperson or Executive Director.

Section 2.8. Notice of Meetings; Waivers.

Written notice of each meeting of the Board of Directors shall be given not less than five (5) days before such meeting by first class mail, postage prepaid, or personal delivery or not less than twenty-four hours before such meeting by facsimile telecommunication or electronic mail. If notice is sent by first class mail or delivered in person it shall be directed to each Director at his or her address as it appears on the record of Directors of the Corporation, or, if such Director shall have filed with the Secretary a written request that notices be mailed or delivered to some other address, then directed to such Director at such other address. If notice is sent by facsimile telecommunication or electronic mail, it shall be directed to the Director's fax number or electronic mail address as it appears on the record of Directors of the Corporation, or to such fax

number or other electronic mail address as has been filed with the Secretary of the Corporation. Notice shall not be deemed to have been given by facsimile transmission or electronic mail if: (a) the Corporation is unable to deliver two (2) consecutive notices to the Director by facsimile telecommunication or electronic mail; or (b) the Corporation otherwise becomes aware that notice cannot be delivered to the Director by facsimile telecommunication or electronic mail. The notice shall set forth the place, day and hour of the meeting and, except as otherwise provided in Article V, relating to the amendment of these By-laws, Section 3.16, relating to removal of officers, and Section 2.7, relating to special meetings, such notice need not specify the matters to be considered at the meeting.

Notwithstanding the foregoing, notice may be waived, either before or after the meeting, by any Director, in writing or electronically. If in writing, the Director may sign a written waiver of notice or cause his or her signature to be affixed to a waiver of notice by any reasonable means, including but not limited to facsimile signature. If electronic, the transmission of the waiver must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the submission was authorized by the Director. Notice may also be waived by attending the meeting without protesting, prior thereto or at its commencement, lack of notice to him or her.

Section 2.9. Quorum; Presence.

A majority of the Directors then in office or a majority of the members of any committee of the Board of Directors shall constitute a quorum for the transaction of any business or the exercise of any power or function of the Board of Directors or such committee, as the case may be, and, except as otherwise provided in these By-laws or by any special or general law, any act taken by vote of a majority of those present at any meeting at which a quorum is present shall be the act of the Board of Directors. A majority of the Directors present at any meeting, whether or not constituting a quorum, may adjourn the meeting to another time and place. Any one or more members of the Board of Directors or of any committee thereof who is not physically present at a meeting of the Board of Directors or a committee may participate by means of electronic video screen communication, which shall constitute presence in person at a meeting as long as all persons participating in the meeting can hear each other at the same time and each member can participate in all matters before the Board of Directors or committee, including, without limitation, the ability to propose, object to and vote upon a specific action to be taken by the Board of Directors or committee.

Section 2.10. Compensation and Expenses.

The Board of Directors may by resolution provide for reimbursement for all travel and other actual expenses incurred by any Director or his or her alternate in attending any meeting of the Board of Directors or any committee thereof.

The Directors and alternate Directors shall receive no fixed salary, fixed fees or compensation for their services as Directors or committee members or alternates but may be compensated for services rendered to the Corporation in a capacity other than that of a Director, committee member or alternate.

Section 2.11. Executive Committee.

The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate from among its members an executive committee which to the extent provided in such resolution shall have all the authority of the Board of Directors which may be delegated and shall have and exercise such powers of the Board of Directors in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers which may require it. The Board of Directors may establish a Chairperson of the Executive Committee with such powers, duties or responsibilities as are imposed pursuant to the resolutions of the Board of Directors or Executive Committee. The Executive Committee shall keep minutes of all proceedings and report such minutes to the Board of Directors when required.

Section 2.12 Audit Committee.

The Board of Directors shall, by resolution passed by a majority of the entire Board of Directors, create a standing audit committee (the “Audit Committee”) consisting of three (3) or more Directors, each of whom is an “Independent Committee Member” as defined in Section 2.16. The Audit Committee shall recommend to the Board of Directors the hiring a certified independent accounting firm of the Corporation, establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes. To the extent practicable, members of the Audit Committee should be familiar with corporate financial and accounting practices.

Section 2.13 Governance Committee.

The Board of Directors shall, by resolution passed by a majority of the entire Board of Directors, create a standing governance committee (the “Governance Committee”) consisting of three (3) or more Directors, each of whom is an “Independent Committee Member”, as defined in Section 2.16, and who shall possess the necessary skills to understand the duties and functions of the Governance Committee. The Governance Committee shall keep the Board of Directors informed of current best governance practices, review corporate governance trends, recommend updates to the Corporation’s governance principles, and advise appointing authorities of the skills and experiences required of potential members. In addition, the Governance Committee shall examine ethical and conflicts of interest issues, perform Board self-evaluations and recommend by-laws which include rules and procedures for conduct of Board business.

Section 2.14 Finance Committee.

The Board of Directors shall, by resolution passed by a majority of the entire Board of Directors, establish a standing finance committee (the “Finance Committee”) consisting of three (3) or more Directors, each of whom is an “Independent Committee Member”, as defined in Section 2.16, and who shall possess the necessary skills to understand the duties and functions of the committee. It shall be the responsibility of the members of the finance committee to review proposals for the issuance of debt by the Corporation and to make recommendations to the Board of Directors.

Section 2.15 Other Committees.

The Board of Directors may, by a majority of the entire Board of Directors, designate other committees of the Board of Directors, each to consist of three (3) or more Directors, which to the extent provided in such resolution shall have the authority of the Board of Directors which may be delegated. The Board of Directors may by resolution designate members to act as alternative members of any committee, other than the Executive Committee, to replace absent members at meetings of the Committee; provided that any such person appointed to the Audit Committee, Governance Committee or Finance Committee shall be an Independent Committee Member as defined in Section 2.16. Each committee shall carry out its delegated duties keep minutes to report thereon to the Board of Directors.

Section 2.16 Independent Committee Members.

An "Independent Committee Member" shall mean a person who:

- (a) is not, and in the past two years has not been, employed by the Corporation or an affiliate of the Corporation in an executive capacity;
- (b) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than \$15,000.00 for goods and services provided to the Corporation or received any other form of financial assistance valued at more than \$15,000.00 from the Corporation;
- (c) is not a relative of an executive officer or employee in an executive position of the Corporation or an affiliate; and
- (d) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or other similar actions of the Corporation or an affiliate.

An "affiliate" for purposes of the foregoing is any person or corporation or other entity controlled, controlled by or under substantially the same control as the Corporation.

ARTICLE III

Officers

Section 3.1. Officers of the Corporation.

The officers of the Corporation shall be a Chairperson and a Vice-Chairperson, who shall be members, and an Executive Director, Deputy Executive Director, General Counsel, Treasurer, Secretary, Assistant Treasurer, one or more Assistant Secretaries, and such other officers as it may be determined by the Board of Directors, who shall have such duties, powers and functions as hereinafter provided, all of whom shall be elected by the Board of Directors, except the Chairperson, who shall be designated by the Mayor of the City. Until the Mayor shall have

appointed a Chairperson in accordance with Section 1.1 of these By-laws, an interim Chairperson shall be appointed by the Board of Directors who shall have all the responsibilities of Chairperson hereunder. All officers of the Corporation other than the Chairperson appointed by the Mayor, shall hold office at the pleasure of the Board.

Section 3.2. Chairperson.

The Chairperson shall preside at all meetings of the Members and of the Board of Directors, but, for any particular meeting, the Chairperson may delegate the responsibility to so preside to any Member, Director or officer of the Corporation. He or she shall sign by manual or facsimile signature and execute on behalf of the Corporation all agreements, deeds, contracts, notes, bonds, trust indentures or other evidences of indebtedness when so authorized by resolution of the Board of Directors, and shall perform such other duties as may be prescribed for him or her by law or by the Corporation. The Chairperson shall submit to the Board of Directors such recommendations and information as he or she may consider proper concerning the business, affairs and polices of the Corporation.

Section 3.3 Vice-Chairperson.

The Vice-Chairperson, during the absence or disability of the Chairperson, shall have all the powers and perform all the duties of the Chairperson. The Vice-Chairperson shall also perform such other duties as the Board of Directors shall prescribe or designate. In case of the resignation or the death of the Chairperson, the Vice-Chairperson shall perform such duties as are imposed on the Chairperson until such time as a new Chairperson has been designated.

Section 3.4. Executive Director.

The Executive Director shall be the chief executive officer and shall be appointed by the Board of Directors by a two-thirds vote of the members of the Board of Directors then in office and shall be responsible for the administration of its affairs. He or she shall:

- (a) be the general manager of the Corporation;
- (b) exercise supervision and control of all administrative functions of the Corporation;
- (c) be responsible for the implementation of all resolutions, orders, programs or projects of the Corporation; and
- (d) act for and in place of any absent officer or employee of the Corporation, except the Chairperson, Vice-Chairperson, Secretary or Treasurer of the Corporation.

The Executive Director, as well as the Chairperson, shall have the power to sign and execute on behalf of the Corporation all contracts, notes, bonds or other evidence of indebtedness and to affix and attest to the seal of the Corporation when so authorized by resolution of the Corporation. He or she shall attend all meetings of the Corporation with the right to take part in the discussion and to recommend such measures as he may deem necessary or expedient, and shall perform such other duties and have such other powers as may be prescribed for him or her by law or by the Board of Directors. He or she shall have all necessary incidental powers to

perform and exercise any of the duties and functions specified above or lawfully delegated to him or her.

Section 3.5. Deputy Executive Director.

The Deputy Executive Director shall be appointed by the Board of Directors by a majority vote of the members of the Board of Directors present at such meeting. At the request of the Executive Director or in his or her absence or disability, the Deputy Executive Director shall perform all the duties of the Executive Director and when so acting shall have the powers of and shall be subject to all the restrictions upon the Executive Director.

Section 3.6. General Counsel.

The General Counsel shall be appointed by the Board of Directors by a majority vote of the members of the Board of Directors present at such meeting. The General Counsel shall provide legal representation in connection with all of the Corporation's proceedings and activities, and shall perform all the duties as the Corporation may designate. The General Counsel shall have the power to sign and execute on behalf of the Corporation all contracts, notes, bonds or other evidence of indebtedness and to affix and attest to the seal of the Corporation when so authorized by resolution of the Corporation.

Section 3.7. Secretary.

The Secretary shall record all the votes and record the minutes of all meetings of the Board of Directors in a journal to be kept for that purpose; attend to the serving of notices of all meetings when required; shall keep in safe custody the seal of the Corporation and shall have power to affix such seal to all papers or other documents as may be required and may certify by manual or facsimile signature to the seal of the Corporation or its facsimile; and shall perform all duties as the Board of Directors may designate.

Section 3.8. Assistant Secretary.

Each Assistant Secretary shall exercise such powers and perform such duties as from time to time may be assigned to him or her by the Board of Directors. At the request of the Secretary or in his or her absence or disability, an Assistant Secretary shall perform all the duties of the Secretary and when so acting shall have all the powers of and shall be subject to all the restrictions upon the Secretary.

Section 3.9. Treasurer.

The Treasurer shall exercise general supervision over the receipt, custody and disbursement of all Corporation funds and securities, except as otherwise provided by resolution and shall cause the same to be deposited forthwith in the name of the Corporation in such bank or banks as the Board of Directors may designate. The Treasurer shall be the chief financial officer of the Corporation unless the Board of Directors shall have appointed another officer to serve as such.

The Treasurer shall sign all instruments of indebtedness, orders and checks for the payments of moneys by the Corporation pursuant to the direction of the Board of Directors, unless otherwise

authorized by resolution of the Board of Directors. Except as otherwise authorized by resolution of the Board of Directors, all such instruments of indebtedness, orders and checks shall be countersigned by the Chairperson, Vice-Chairperson, Executive Director or the Chief Financial Officer.

The Treasurer shall have charge of the treasury and supervision of receipts, deposits and disbursements of all Corporation moneys. He shall cause to be maintained full and accurate and separate accounts of the various funds and moneys under his supervision. The Treasurer shall at a reasonable time exhibit the said books and accounts showing all receipts and expenditures, to any Member of the Corporation during business hours and he shall cause to be rendered an accounting of the current financial condition of the Corporation at each regular meeting and a full financial report at each annual meeting covering the Corporation's prior fiscal year. He shall have such other powers and duties as are conferred upon him by the Board of Directors or by any special or general law.

Section 3.10. Assistant Treasurer.

The Assistant Treasurer shall exercise such powers and perform such duties as from time to time may be assigned to him or her by the Board. At the request of the Treasurer or in his or her absence or disability, the Assistant Treasurer shall perform all the duties of the Treasurer and when so acting shall have all the powers of and shall be subject to all the restrictions upon the Treasurer.

Section 3.11. Other Officers.

All other officers of the Corporation shall perform such duties pertaining to their respective offices as may be assigned to them from time to time by the Board of Directors or the Chairperson. Such other officers who are not Members shall receive such compensation as may be authorized by the Board of Directors.

Section 3.12. Officers Holding Two or More Offices.

Any two or more offices may be held by the same person, except that the offices of Executive Director and Secretary shall not be held by the same person. No officer shall execute or verify any instrument in more than one capacity if such instrument is required by law or otherwise to be executed or verified by any two or more officers.

Section 3.13. Duties of Officers may be Delegated.

In case of the absence or disability of any officer of the Corporation, or in the case of a vacancy in any office or for any other reason that the Board of Directors or the Chairperson may deem sufficient, the Board of Directors or the Chairperson, except as otherwise provided by law or these By-laws, may delegate, for the time being, the powers or duties of any officer to any other officer or to any Director.

Section 3.14. Additional Duties.

The Officers of the Corporation shall perform such other duties and functions as may, from time to time, be required by the Board of Directors, by its By-laws, or its rules and regulations.

Section 3.15. Additional Personnel.

The Board of Directors may appoint such other officers and employees as the Corporation may require for the performance of its duties, and fix and determine their qualifications, duties and compensation. The Board of Directors may also appoint counsel, fixing compensation for services, which, if permitted by law, shall be payable in addition to other official compensation, and may retain and employ private consultants for professional and technical assistance and advice.

Section 3.16. Election and Terms of Office; Removal.

Officers shall be first elected by the Board of Directors at the first meeting of the Board of Directors after the Certificate of Incorporation shall have been filed with the Secretary of State. Each officer, other than the Chairperson, shall hold office at the pleasure of the Board of Directors until his or her successor shall have been elected and qualified.

The Executive Director may be removed by a two-thirds vote of the members of the Board of Directors then in office at a meeting providing notice thereof; all other officers may be removed upon a vote of a majority of the Board of Directors then in office at a meeting providing notice thereof.

Section 3.17. Vacancies.

Any vacancy in any office may be filled by vote of the Board of Directors, other than the position of Chairperson, which shall be filled by appointment by the Mayor of the City. Any officer so elected shall hold office until his or her resignation, removal or death.

Section 3.18. Bonds.

The Board of Directors may require any officer, agent or employee of the Corporation to give a bond to the Corporation for the faithful performance of his or her duties, with one or more sureties and in such amount as may be satisfactory to the Board of Directors. The expense of any such bond shall be borne by the Corporation.

ARTICLE IV

Miscellaneous

Section 4.1. Fiscal Year.

The fiscal year of the Corporation shall end on June 30, unless otherwise provided by the Board of Directors.

Section 4.2. Corporate Seal.

The seal of the Corporation shall be circular in form with the words “Build NYC Resource Corporation” in the outer circle and the words “Corporate Seal - New York 2011” in the inner circle. The seal on any corporate obligation for the payment of money may be facsimile, engraved or printed.

Section 4.3. Conflicts of Interest.

No Member, Director, alternate Director or officer shall use his or her relationship with the Corporation for private gain.

In the event that the Corporation proposes to enter into a contract or transaction in which a Member, Director, alternate Director or officer is interested directly or indirectly (an “Interested Party”), the Board of Directors and a committee of the Board of Directors that is otherwise authorized to approve the contract or transaction are authorized to vote to approve the contract or transaction. The Interested Party shall forthwith make disclosure to the Board of Directors or committee of the Board of Directors (whichever will approve the contract or transaction) of the nature and extent of his or her interest and such disclosure shall be entered in writing in the minutes of the meeting called to authorize such contract or transaction. An Interested Party shall not participate in the deliberations and vote on any matter relating to his or her interest, provided that nothing in this Section 4.3 shall prohibit the Board of Directors or authorized committee from requesting that an Interested Party present information concerning a transaction in which the Interested Party has an interest at a Board of Directors or committee meeting, prior to the commencement of deliberations or voting relating thereto.

It is acknowledged that the Members, Directors and officers may hold comparable or other positions with the Agency. By reason of the shared public purposes of the Corporation and the Agency, no Member, Director, alternate Director or officer of the Corporation shall be deemed to have a conflict of interest solely due to such person’s position with the Agency.

Section 4.4. Indemnification.

The Corporation shall indemnify each Member, each Director and his or her alternate, each officer, each employee and, to the extent authorized by the Board of Directors, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Not-for-Profit Corporation law.

Section 4.5. Audit of Records and Accounts.

(a) The Corporation shall annually secure a certified audit by accountants designated by the Board of Directors of its financial records and accounts in its possession and under its supervision and shall file a copy of such certified audit with the Mayor, and upon request, with the Council of the City of New York, within one-hundred and twenty days after the close of the Corporation's fiscal year for its operations, proceedings, activities and accomplishments during the preceding fiscal year.

(b) The Board of Directors may authorize any other operating statement that it may determine is required for its operation.

ARTICLE V
Amendments

Section 5.1 Amendments.

As provided in the Certificate of Incorporation, these By-laws may be amended or repealed by a majority of the Directors of the Corporation upon 30 days' notice to all the Directors, provided, however, that the Corporation shall not amend, alter, change or repeal any provision of those sections of the By-laws pertaining to (i) the selection, removal, replacement and voting of Members and (ii) the selection, removal and replacement of Directors and the composition of the Board of Directors without the consent of the City and the affirmative vote of a majority of the Board of Directors of the Corporation.

Exhibit C

BUILD NYC RESOURCE CORPORATION

June 13, 2017

Meetings of the Board of Directors of the Corporation during Fiscal Year 2018 shall be held on the respective dates indicated below.

Tuesday, July 25, 2017

Tuesday, September 19, 2017

Wednesday, November 08, 2017

Tuesday, December 12, 2017

Tuesday, February 13, 2018

Tuesday, April 10, 2018

Tuesday, June 12, 2018

The annual meeting of the Members of the Corporation during Fiscal Year 2018 shall be held on Wednesday, November 08, 2017.

Exhibit D

AGREEMENT

between

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

and

BUILD NYC RESOURCE CORPORATION

FOR FISCAL YEAR ~~2017~~2018

Dated as of July 1, ~~2016~~2017

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I	DEFINITIONS..... 4
ARTICLE II	SCOPE OF SERVICES..... 6
ARTICLE III	ADMINISTRATION AND ACCOUNTING OF FUNDS; INSPECTION RIGHTS..... 11
ARTICLE IV	TERM..... 12
ARTICLE V	PAYMENT TO EDC..... 12
ARTICLE VI	REPRESENTATIONS AND WARRANTIES OF EDC..... 13
ARTICLE VII	REPRESENTATIONS AND WARRANTIES OF BNYC..... 15
ARTICLE VIII	ADDITIONAL COVENANTS OF EDC..... 16
ARTICLE IX	EXECUTIVE DIRECTOR..... 18
ARTICLE X	RENEWAL OF AGREEMENT..... 19
ARTICLE XI	EVENTS OF DEFAULT; TERMINATION..... 19
ARTICLE XII	GENERAL PROVISIONS..... 21

AGREEMENT, dated as of the 1st day of July, ~~2016~~[2017](#) 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 110 William Street, New York, New York 10038, 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 110 William Street, New York, New York 10038.

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~~2014, July 1, 2015 and July 1, ~~2015~~2016, 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, ~~2017~~2018 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 Polices” 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 July 1, ~~2015~~2016 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 Polices, 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, ~~2017~~2018 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 three million three hundred thousand dollars (\$3,300,000) (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 110 William Street, 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: 110 William Street, New York, N.Y. 10038
Attention: President
- (b) To BNYC: 110 William Street, New York, N.Y. 10038
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 ~~2017~~[2018](#)
follows this page*

**BUILD NYC RESOURCE CORPORATION
FISCAL YEAR 2018 BUDGET**

	FY 2016 Actual	FY 2017 Budget	FY 2017 Projected Year-End Actual	FY 2018 Budget	FY 2019 Budget	FY 2020 Budget	FY 2021 Budget
REVENUES							
Financing Fees*	5,039,937	4,580,696	3,174,225	3,060,000	3,230,000	3,400,000	3,570,000
Application Fees	100,000	188,929	150,000	133,000	140,000	147,000	147,000
Compliance & Post Closing Fees	136,200	164,950	143,010	150,161	157,669	165,552	173,830
Investment Income	39,240	20,671	41,202	43,262	45,425	47,696	50,081
Other Income	8,420	8,034	10,000	10,000	10,000	10,000	10,000
TOTAL REVENUES	5,323,797	4,963,280	3,518,437	3,396,423	3,583,094	3,770,248	3,950,911
EXPENSES							
Contract Fee	2,000,000	3,300,000	3,300,000	3,300,000	3,300,000	3,300,000	3,300,000
Legal/Audit Fees	37,085	35,866	38,198	38,962	39,741	40,536	41,346
Outreach / Marketing	3,789	100,000	1,887	100,000	100,000	100,000	100,000
Public Notice Fees	30,784	174,190	47,081	52,677	54,258	55,885	57,562
Miscellaneous Expenses	539	2,251	5,000	5,000	5,000	5,000	5,000
TOTAL EXPENSES	2,072,197	3,612,307	3,392,166	3,496,639	3,498,998	3,501,421	3,503,908
OPERATING EXCESS/(DEFICIT) FROM IDA OPERATIONS	3,251,600	1,350,973	126,271	(100,216)	84,095	268,827	447,003
Contract Purchases							
Contract Purchases/Special Projects**	146,628	1,300,000	75,000	130,000	155,000	-	-
NET OPERATING EXCESS/(DEFICIT)	3,104,972	50,973	51,271	(230,216)	(70,905)	268,827	447,003

**BUILD NYC RESOURCE CORPORATION
NET ASSETS**

Unrestricted Net Assets (Beginning)	8,240,691	11,345,663	11,345,663	11,396,934	11,166,717	11,095,813	11,364,640
Operating Excess/(Deficit)	3,104,972	50,973	51,271	(230,216)	(70,905)	268,827	447,003
UNRESTRICTED NET ASSETS (ENDING)	11,345,663	11,396,636	11,396,934	11,166,717	11,095,813	11,364,640	11,811,643

* FY17 projected year-end financing fees are based on 19 transactions. FY18 financing fees are based on 18 transactions.

** Pursuant to various Board approved agreements between the Agency and NYCEDC, the Agency 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) 2016	Current Year (Estimated) 2017	Next Year (Adopted)* 2018	Proposed 2019	Proposed 2020	Proposed 2021
<u>REVENUE & FINANCIAL SOURCES</u>						
Operating Revenues						
Charges for services	5,276,137	3,467,235	3,343,161	3,527,669	3,712,552	3,890,830
Other operating revenues	8,420	10,000	10,000	10,000	10,000	10,000
Nonoperating Revenues						
Investment earnings	39,240	41,202	43,262	45,425	47,696	50,081
Total Revenues & Financing Sources	5,323,797	3,518,437	3,396,423	3,583,094	3,770,248	3,950,911
<u>EXPENDITURES</u>						
Operating Expenditures						
Professional services contracts	2,218,825	3,467,166	3,626,639	3,653,998	3,501,421	3,503,908
Total Expenditures	2,218,825	3,467,166	3,626,639	3,653,998	3,501,421	3,503,908
Excess (deficiency) of revenues and capital contributions over expenditures	3,104,972	51,271	(230,216)	(70,905)	268,827	447,003

* The FY2018 budget will be presented to the Board of Directors on April 13, 2017.

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Exhibit E

BUILD NYC RESOURCE CORPORATION
COMPREHENSIVE INVESTMENT GUIDELINES POLICY

Adopted December 13, 2011, as amended through June ~~14, 2016~~[13, 2017](#)

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. MAXIMUM MATURITY

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.

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.

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.

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Exhibit F

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

Adopted December 13, 2011; as amended through June ~~14, 2016~~[13, 2017](#)

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.

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Exhibit G

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

Adopted December 13, 2011; as amended through June ~~14, 2016~~[13, 2017](#)

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.

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Exhibit H

BUILD NYC RESOURCE CORPORATION

PROCUREMENT POLICY

Adopted December 13, 2011, as amended through June ~~14, 2016~~[13, 2017](#)

TABLE OF CONTENTS

SECTION A.	GENERAL.....	1
SECTION B.	USE OF EDC.....	3
SECTION C.	SMALL PURCHASES.....	4
SECTION D.	SOLE SOURCE PROCUREMENT.....	4
SECTION E.	EMERGENCY PROCUREMENTS.....	4
SECTION F.	COMPETITIVE SEALED BIDDING.....	5
SECTION G.	COMPETITIVE SEALED PROPOSALS.....	6
SECTION H.	CONTRACTORS RECOMMENDED BY CONSTRUCTION MANAGER.....	7
SECTION I.	USE OF OTHER GOVERNMENTAL CONTRACTS.....	8

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.

Document comparison by Workshare Professional on Friday, June 02, 2017 1:39:49 PM

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Exhibit I

MISSION STATEMENT AND PERFORMANCE MEASUREMENTS
Board of Directors Meeting
June ~~14, 2016~~13, 2017

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 ~~2017~~2018 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 ~~2017~~2018, 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, 2016~~ 13, 2017

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 closed in FY ~~2013~~ 2014 and thereafter compared to total jobs at time of application for such projects
- Current total jobs in connection with projects closed in FY ~~2013~~ 2014 and thereafter compared to three-year total job projects 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 standing¹ (current fiscal year and previous fiscal year)

¹ Defined as those projects that did not receive a Notice of an Event of Default by the end of the Fiscal Year.

Document comparison by Workshare Professional on Friday, June 02, 2017 1:38:59 PM

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Exhibit J

Board Self-Evaluation (BNYC)

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