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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 15, 2017

Ms. Diana L. Taylor
Chair
Hudson River Park Trust
353 West Street, 2nd Floor
New York, NY 10014

Re: Selected Financial Management
Practices
Report 2016-F-22

Dear Ms. Taylor:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the Hudson River Park Trust to implement the recommendations contained in our prior audit report, *Selected Financial Management Practices* (Report 2013-S-56).

Background, Scope, and Objective

The Hudson River Park Trust (Trust) is a New York State public benefit corporation created under the Hudson River Park Act (Act) and regulated as a State authority under the State's Public Authorities Law. The Trust is charged with the planning, construction, operation, and maintenance of the Hudson River Park (Park), a waterfront park and estuarine sanctuary running along the Hudson River from West 59th Street south to Battery Park City. The mission of the Trust is to encourage, promote, and expand public access to the Hudson River; promote water-based recreation; and enhance the natural, cultural, and historic aspects of the river in New York City for residents and visitors to the area. The Trust is governed by a 13-member Board of Directors with the Governor and Mayor each appointing five members and the Manhattan Borough President selecting three members.

Both the Trust and the Park itself are governed by the Act, a 1998 law that established both the Park and its requirements. The Trust operates on a premise of financial self-sufficiency, supporting the staff as well as the operations and maintenance of the Park through income generated within the park area by rents from commercial tenants, fees from concession revenues, grants, and donations. Capital funding has historically come primarily from the State, New York City, and federal budget appropriations. The Trust works closely with Friends of Hudson River Park, a charitable organization established to support the Park, to expand its funding base to

include private donations.

As of March 31, 2017, approximately \$621.4 million has been expended on new park construction and facilities serving certain not-for-profit and public users within the Park, such as the Intrepid Museum at Pier 86 and the Fire Department of the City of New York's Marine Division at Pier 53. Capital funds associated with new park construction have been provided by the State and the City with supplemental monies received from federal and private foundation sources. In addition, the Trust has received funding as a beneficiary in connection with certain litigation and administrative settlement agreements. These settlement funds were earmarked for improvements within the Park at Pier 97, the Gansevoort Peninsula, and Pier 26 (Gansevoort settlement). The creation of new public open space at certain locations in the Park, such as Pier 57, is being funded separately from private sources.

The Trust's total operating revenue was \$42,838,696 in fiscal year 2017, compared with \$54,091,630 in fiscal year 2016, a decrease of \$11,252,934, or 21 percent. According to its certified financial statements, while operating revenue from internally generated revenue increased by \$2,679,319 and contribution revenue from Friends of Hudson River Park and other sources increased by \$3,310,638, reimbursement revenue from FEMA and appropriation revenue for construction decreased \$15,319,191. In addition, revenue from the Gansevoort settlement declined by \$1,923,700 and is now fully exhausted.

Our prior audit found the Trust needs to improve its practices related to revenue collection, procurement, investments, payroll, budgeting, and equipment inventories. Among the weaknesses identified, the Trust did not: maximize the amount of revenues from certain tenants; adequately ensure that the Economic Development Corporation (EDC) reported revenues correctly; and document the contractor selection process.

We issued our initial audit report on December 26, 2014. The objective of our follow-up review was to assess the extent of implementation, as of August 25, 2017, of the 19 recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that the Trust made progress in correcting the problems we identified in the initial report. However, additional actions are still needed. We note, ten recommendations were implemented, eight were partially implemented, and one was no longer applicable.

Follow-Up Observations

Recommendation 1

Strengthen controls over the award of revenue contracts and the monitoring of revenues from such contracts. Controls should include (but not be limited to): ensuring all revenue due the Trust is collected in a timely manner and obtaining detailed documentation from tenants for all adjustments to the amounts paid.

Status - Partially Implemented

Agency Action - The Trust issued new guidelines for implementing and awarding revenue-generating contracts. We sampled 5 of the 31 revenue contracts that were awarded, or in effect, from April 1, 2015 to March 31, 2016. Per their lease agreements, three of the vendors were required to pay base monthly rent fees to the Trust, one vendor was required to pay the Trust a fee based on the percentage of monthly sales, and one was required to pay both a monthly rent fee and a percentage payment of monthly sales.

We found the Trust followed its prescribed procedures in awarding revenue contracts; however, the Trust has not ensured that all revenue was collected in a timely manner. Our review of the Trust's monthly bank statements for six months of payments showed that some vendors did not pay in a timely manner. Moreover, several vendor payments were either under, or over, the amount due.

The Trust stated its Real Estate and Finance departments meet monthly to review all billings and outstanding accounts receivable balances; however, there were no minutes. The Trust provided information that shows the monthly payments and any outstanding amounts due, but could not provide documentation that it reconciled the amounts paid with the amounts due for the six months we reviewed.

Recommendation 2

Ensure that tenants maintain facilities in good condition, including making necessary repairs promptly.

Status - Partially Implemented

Agency Action - The Trust annually inspects tenant facilities to ensure that they are maintained in accordance with permits or leases. We requested the annual inspection reports for 2015 and 2016, and were provided with 14 reports for 12 tenants. Twelve of the reports were for 2016 and two for 2015. Thirteen of the 14 inspection reports noted issues that needed attention, such as:

- broken tiles in the dining area;
- lights not working in the women's restroom;
- flammable items not being stored properly; and
- an exit from the main office to the garage that did not have an illuminated exit sign.

The Trust could not provide documentation that shows it followed up with the tenants regarding these issues.

Some of the tenants require inspections of the piers and piles, which are conducted by professional organizations. Those inspection reports are submitted to the Trust. For the

remaining tenants, the Trust provided email correspondence between its employees and the tenants regarding various issues. Trust officials stated their staff walk by the tenants' facilities on a daily basis, and if an issue is noted, the staff will notify the tenant. Trust officials stated that they will work on formalizing this process so that it would be easy to determine the date and the nature of the issue in question, and whether or not the issue has been addressed.

Recommendation 3

Formally evaluate monthly permit rates, relative to fair market value, for agreements that do not include escalation clauses. Revise permit terms accordingly.

Status - Implemented

Agency Action - The Trust shared an Excel spreadsheet for 11 permittees with monthly permit rates, which they evaluated relative to fair market value. Based on its evaluation of the monthly fees, the Trust issued letters to the tenants in 2015 and 2016 revising permit terms accordingly.

Recommendation 4

Require EDC to provide complete and accurate documentation to support the construction and renovation costs for Piers 88, 90, and 92 which are offset against revenues otherwise due the Trust.

Status - Partially Implemented

Agency Action - The Trust requested and received 393 files from EDC that supports the construction and renovation costs for Piers 88, 90, and 92. On July 6, 2016, the Trust notified EDC that they have reviewed the files and still need additional information. On December 23, 2016, EDC provided the Trust with several large files pertaining to the Trust's additional information request. Trust officials are reviewing the documentation.

Recommendation 5

Increase the frequency of revenue review for contracts that involve percentage payments. Monthly remittances should include sufficient detail to support the monthly gross amounts.

Status - Partially Implemented

Agency Action - Per the Trust, in fiscal year 2015-16, there were 16 tenant contracts that involved percentage payments, of which only eight met the contract terms requiring them to make a percentage of sales payment. We selected three of the eight to determine if the Trust collected the percentage payments and whether the monthly remittances included sufficient details (including electronically generated monthly reports of sales)

to support the monthly gross amounts. We also reviewed the Trust's bank statements to verify that the percentage payments were received. For two of the three tenants, there was insufficient information to support the percentage payments made. For the remaining tenant, the payment for the June 2015 to October 2015 period was not paid until September 16, 2016 (320 days after the period ended).

Recommendation 6

Enforce compliance with RFP requirements for all vendors. This includes rejecting proposals that are not prepared in accordance with the instructions in the RFP.

Status - Partially Implemented

Agency Action - The Trust revised its Procurement Guidelines in September 2016 to require that executive-level staff review and approve submissions and awards to ensure compliance with issued RFPs and Procurement Guidelines. In addition, written approval by the President or her designee for all single-source and sole-source revenue contracts is required.

We reviewed a sample of 5 of the 109 expense contracts that were active or amended after December 2014. We found that four of the five contracts followed the Procurement Guidelines. The one contract that did not was for auditing and oversight services. In 2011, the Trust entered into a one-year contract for auditing and oversight services with a vendor, who had previous experience at Pier 40, for an amount not to exceed \$75,000. Since then, the Trust has authorized five consecutive one-year amendments through August 2016 at the same yearly contract amount, totaling \$450,000 over the six years. Trust officials stated that the vendor had substantial experience and the cost was reasonable, therefore, the contract amendments were not subjected to a competitive procurement process.

Recommendation 7

Ensure the Trust consistently follows its prescribed guidelines for the competitive procurement of goods and services.

Status - Partially Implemented

Agency Action - We selected three additional contracts and found that two of them did not follow a competitive process when renewal or amendments were required. No written explanations were available for why a competitive procurement was not used.

Recommendation 8

Submit contracts to the Office of the State Comptroller for approval before the contract is awarded, as required by the Public Authorities Reform Act of 2009.

Status - Implemented

Agency Action - The Trust's Procurement Guidelines state all contracts valued in excess of \$1 million that are paid in whole, or in part, from State funding are subject to prior approval by the Office of the State Comptroller. From June 2015 to October 2016, the Trust had two new contracts that fell under this requirement, and both were submitted for approval before the contract was awarded.

Recommendation 9

Expand procurement guidelines to include specific thresholds for when to bid out additional work and establish a formal contract evaluation process. Include formal analysis of the factors considered by Trust staff to evaluate proposals and support selections of vendors.

Status - Implemented

Agency Action - The Trust expanded its Procurement Guidelines to include specific thresholds for when to bid out additional work. The Procurement Guidelines state "if the amended work exceeds twenty percent (20%) of the original contract amount, the Trust shall either use a competitive process to award the additional work or document the reasons why a competitive process is not in the best interests of the Trust, with such documentation made part of the procurement record."

The Trust has established a formal contract evaluation process. All contracts in excess of \$50,000 require a Contractor Evaluation form. This form shall be completed for each contractor at the end of the contract term, or every twelve months if the contract term exceeds twelve months. We note for two of the five expense contracts chosen for review (see Recommendation 6), the required evaluation reports were on file. For the other three, the evaluations were not required (two were under the \$50,000 threshold and the other was not due for an evaluation at the time of our review).

Recommendation 10

Formally consider competition from other M/WBE firms when awarding contracts approaching the \$200,000 threshold for competitive procurement.

Status - Implemented

Agency Action - The Trust had 14 M/WBE contracts (totaling \$1,088,258) that were \$200,000 or less (the threshold for competitive procurement). These contracts were active or amended after December 2014. We reviewed four contracts totaling \$336,041 and found that each was subjected to a competitive process based on the contract amount.

Recommendation 11

As required, ensure that contracts are advertised in the NYS Contract Reporter.

Status - Implemented

Agency Action - The Trust's Procurement Guidelines require that RFPs for procurement opportunities estimated to be in excess of \$50,000 be advertised in the NYS Contract Reporter. We note that four of the eight contracts that we reviewed fell under this requirement. All four of them were advertised, as required.

Recommendation 12

Approve Investment Guidelines annually as required by Section 2925 of the Public Authorities Law.

Status - Implemented

Agency Action - The Trust's Board members approved Investment Guidelines for 2015, 2016, and 2017.

Recommendation 13

Prepare an Annual Investment Report in compliance with all the specified requirements.

Status - Implemented

Agency Action - The Trust provided the Investment Report for 2015-16, which complied with all the specified requirements.

Recommendation 14

Monitor and periodically verify collateral amounts and investment ratings for all accounts.

Status - Implemented

Agency Action - The Trust monitored and periodically verified collateral amounts and investment ratings for its accounts. It continues to use the same custodial bank under a tri-party collateral agreement for collateral used to support its deposits for 12 accounts at Bank A. As a result of our original audit, the Trust has discontinued two accounts for deposits held at another financial institution. The collateral for the accounts is invested in bonds of either Fannie Mae – Federal National Mortgage Association (FNMA) or Fannie Mae Mortgage-Backed Securities. We reviewed four month-end balances (May 2015, November 2015, May 2016, and November 2016) and found that the total deposit amounts on the Collateral Status Reports matched the Trust's monthly bank statements and that collateral was sufficient for the four months.

Recommendation 15

Improve budget procedures to ensure compliance with the Regulation, including budget updates, quarterly reports, explanations of variances, and determinations of their propriety. Maintain support for budget assumptions and calculations, as required by the Regulation.

Status - Partially Implemented

Agency Action - The Trust included budget procedures to ensure compliance with Regulation 2 NYCRR Part 203 (Regulation) in its development of the fiscal year 2015-16 budget. The Trust also included explanations and descriptions of all applicable Regulations in its budget. The Trust's approved budget/updates and quarterly financial reports can be viewed on the Trust's website. However, we note the Board's minutes did not evidence presentation of the required written mid-year update report from the Chief Financial Officer. The copies of the update on the Trust's website contained an analysis of variances in writing, but did not include the report on status of capital projects, as required by Part 203.8 of the Regulation (including commitments, expenditures, and completions and an explanation of material cost overruns and delays). Part 203.8 also requires public reporting on actual versus budgeted results within 90 days after the close of the fiscal year, which was also not found on the website. The Trust provided support for budget assumptions and calculations used in preparation of its budget.

Recommendation 16

Ensure budget estimates of revenues from charitable contributions are adequately supported by documentation, including pledges, corresponding payments, and other pertinent records and analysis.

Status - Implemented

Agency Action - The Trust provided adequate support for charitable contributions of \$1,025,720 in fiscal year 2015-16. Each year, the Trust receives a pledge letter from Friends of Hudson River Park. The letters for 2015-16 and 2016-17 pledged to raise \$1,000,000 in contributions in each of the two years. In fiscal year 2015-16, Friends of Hudson River Park contributed \$955,000 in cash and paid directly for additional projects valued at \$70,720.

Recommendation 17

Instruct supervisors of the importance of reviewing and approving by signing employee time cards promptly.

Status – Implemented

Agency Action - The Trust sends emails to staff at the end of the pay period reminding them to complete their timesheet. Additionally, the email reminds managers to approve their

staff's timesheets.

We reviewed five Trust employees' time records to determine if they were submitted and approved promptly by their supervisors for two pay periods: March 5, 2016 to March 18, 2016 and October 15, 2016 to October 28, 2016. For both pay periods, we found that the supervisors approved the time records for all five employees within two working days after the end of the pay period.

Recommendation 18

Formally assess the activities and productivity of the employee who is working at home and out-of-state. Revise this employee's work assignments and/or compensation, as appropriate.

Status - No Longer Applicable

Agency Action - The Trust removed the employee who was working at home and out-of-state from its payroll, effective May 17, 2015.

Recommendation 19

Strengthen asset inventory control procedures by ensuring that: physical inventories of assets are conducted annually; inventory listings are current, complete, and accurate; and items that are lost or otherwise disposed of are deleted from the listing.

Status - Partially Implemented

Agency Action - We selected 52 inventory/asset items from the following Trust departments: Education, Information Technology, Equipment and Vehicles, Parks Programs, and Parking Garage. During our inventory/asset check, we verified whether the actual item was present at the location and whether the serial number and Trust Identification Tag (ID Tag) number matched what was in the equipment inventory file the Trust maintains. Of the 52, we found issues with 8 items, as follows:

- 4 items, including a webcam, a Blackberry phone, a Motorola Razor Phone, and a microwave oven, could not be located;
- 2 items had ID Tag numbers that did not match the Trust's inventory file; and
- 2 items had ID Tags with serial numbers that did not match the inventory file.

Contributors to this report were Robert C. Mehrhoff, Joseph F. Smith, Jonathan Bernstein, and Slamon Sawari.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank Hudson River

Park Trust management and staff for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Carmen Maldonado
Audit Director

cc: D. Kurtz, HRPT
Division of the Budget