

**New Jersey City University
Board of Trustees Special Meeting
August 3, 2021**

Public Session

ATTENDING:

Mr. Rafael Perez
Mr. Edward Fowlkes (arrived in Executive Session at 9:45 AM)
Mr. Thyquel Halley, *student trustee non-voting*
Mr. James Jacobson
Mr. Joseph Scott
Dr. Irene Trowell-Harris
Mr. Luke Visconti
Dr. Edward Whittaker
Dr. Sue Henderson, *ex officio*
Mr. Andrés Acebo, Interim Chief of Staff and Secretary to the Board of Trustees

Absent: Dr. Steven Chang,
Mr. Carlos Lejnieks

The meeting was called to order at 9:18 AM via ZOOM by Mr. Perez.

NOTICE OF MEETING

Mr. Acebo noted that the time, date, location and agenda for this meeting were mailed to the Jersey Journal, the Star-Ledger, Office of the Secretary of State, Senate Majority Office, Council of New Jersey State College Locals and the New Jersey Association of State Colleges and Universities on July 29, 2021. Notice of this meeting was also posted on the University's email system and website.

RESOLUTION TO MOVE INTO EXECUTIVE SESSION

Mr. Acebo requested a motion to move into Executive Session to discuss matters involving contractual and legal matters regarding the finalizing of the Performing Arts Center. The minutes of the executive session will become available to the public when there is no longer a need for confidentiality regarding these matters. The motion was moved by Mr. Perez and seconded by Mr. Jacobson. (Yes - Mr. Scott, Dr. Trowell-Harris, Mr. Visconti, Dr. Whittaker; Mr. Perez, and Mr. Jacobson; No-None; Abstention-None). The Resolution passed.



**New Jersey City University
Board of Trustees
Resolution
to
Convene in Closed Session**

WHEREAS: It is necessary that the Board of Trustees meet in closed session to discuss matters involving contractual and legal matters regarding the finalizing of the Performing Arts Center and where it would be adverse to the public interest if discussion of such matters were discussed in public and matters involving litigation, negotiation of contracts and matters subject to the attorney/client privilege in which confidentiality is required for counsel to exercise his ethical duties as a lawyer; and

WHEREAS: The public is excluded from the discussion of these matters pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-12b.(5)(7); be it therefore

RESOLVED: That the Board of Trustees of New Jersey City University on this third day of August 2021 announces it will meet in closed session to discuss the matters referenced above pursuant to state statute; and be it further

RESOLVED: That the meeting minutes of the matters discussed will become available to the public when there is no longer a need for confidentiality.

RETURN TO PUBLIC SESSION

The meeting reconvened back to order at 11:27 AM via ZOOM. Public action was required, as reserved in the Public Meeting notice; Mr. Acebo requested a motion to amend the Public

Actions to include a motion of authorization. The motion was moved by Mr. Perez and seconded by Mr. Visconti. (Yes – Mr. Fowlkes, Mr. Jacobson, Mr. Scott, Dr. Trowell-Harris, Dr. Whittaker, Mr. Perez, and Mr. Visconti; No-None; Abstention-None). The motion passed.

After reading the Resolution, Mr. Acebo requested a motion to approve the Resolution as read. The motion was moved by Mr. Perez and seconded by Mr. Jacobson. (Yes – Mr. Fowlkes, Mr. Scott, Dr. Trowell-Harris, Mr. Visconti, Dr. Whittaker, Mr. Perez, and Mr. Jacobson; No-None; Abstention-None). The Resolution passed.



**RESOLUTION OF THE BOARD OF TRUSTEES OF NEW JERSEY CITY
UNIVERSITY APPROVING AND AUTHORIZING AMENDMENT AND
RESTATEMENT OF THE WCPAC LLC NEW JERSEY CITY UNIVERSITY FACILITY
LEASE AND OTHER CLOSING DOCUMENTS**

WHEREAS: On July 23, 2019, the Board of Trustees of New Jersey City University (Board) authorized the Administration to finalize and execute agreements related to the implementation of a program for a Bachelor of Fine Arts in Dance including agreements with the Joffrey Ballet School and agreements related to the transfer of real property and long-term lease of a Center for Music Dance and Theater (CMDT) and a Performing Arts Center (PAC) (Project); and

WHEREAS: **WCPAC LLC (WCPAC)**, a New Jersey limited liability company, whose sole member is the New Jersey City University Foundation, Inc., entered into a Facility Lease on August 1, 2019 with **NEW JERSEY CITY UNIVERSITY**, a public institution of higher education of the State of New Jersey, hereinafter referred to as “**University**” (Collectively the “**Parties**”), which is being held in escrow pursuant to an Escrow Agreement dated August 1, 2019; and

WHEREAS: On April 27, 2020, the Board adopted a resolution authorizing amendment to the Lease, in furtherance of the potential financing to WCPAC by a financial institution, to provide for an assignment of ground lease payments from the five University Place P3 projects and Joffrey licensing fee to WCPAC; and

WHEREAS: WCPAC has requested amendment and restatement of the Facility Lease in order to facilitate financing of its purchase of the Project; and

WHEREAS: A financial institution will provide financing to WCPAC for WCPAC's purchase of the Project subject to certain conditions and assurances which will require the amendment of the Facility Lease and other documents necessary for closing; and

WHEREAS: The negotiation of an Amended and Restated Facility Lease (Lease) and other closing documents is necessary in furtherance of the purchase of the Project given that there are conditions for the financing required by WCPAC's financing institution to provide assurance that payments to support the financing will be made and that the facilities will remain viable as collateral; and

WHEREAS: In furtherance of the project the University will provide an assignment of all ground lease payments from the five University Place P3 projects and Joffrey licensing fee to WCPAC to pay the University's rent under the Lease, with WCPAC further assigning those payments to WCPAC's financing institution; and

- WHEREAS:** The University will pledge to WCPAC tuition and fees on a second-tier basis as security for rent payments with WCPAC further assigning that pledge to WCPAC's financing institution; and
- WHEREAS:** The University will not alter the leased facilities in the future without the consent of WCPAC and WCPAC's financing institution which consent shall not be unreasonably withheld; and
- WHEREAS:** The University may not demolish the facility; and
- WHEREAS:** Per the Lease, 180 days after the fiscal close the University will provide an audit report and audited financial statements of the University for the fiscal year certified by an independent certified public account; and
- WHEREAS:** The University will provide financial covenants related to Cash on Hand, Cross-default, and most favored nations status; and
- WHEREAS:** In furtherance of the Project and finalization of the Lease and other closing documents the University will be required to amend the purchase and sale agreement between WCPAC and the University and execute related documents which may include an Assignment of Rents, a Rent Roll Certification, and other ancillary documents; and
- WHEREAS:** The University will provide for University review and approval in the Continuing Covenants Agreement and Environmental Indemnity Agreement; and
- WHEREAS:** While negotiations concerning the Lease and other closing documents are nearly complete, there are ongoing discussions related to insurance for the facilities, the University's ability to transfer or assign rights under the Lease, and other provisions of the closing documents; and

WHEREAS: Negotiations are ongoing concerning WCPAC's financial institution's desire for security or protection that there will be parking available in the event there is a foreclosure on WCPAC's interest in the facilities and the University is in default of its lease obligations and is evicted from the facilities; and

WHEREAS: WCPAC's financial institution's desire for security or protection may be addressed by a parking easement under negotiation for Block 7 of University Place which is conditioned on the University's eviction from the facilities and allows for parking on Block 7 during performances at the facilities; and

WHEREAS: In furtherance of the Project and the requirements of the financing the Board desires to authorize certain officers of the University in the interest of the University to determine and finalize the structure of the financing, to execute and deliver the Lease and the Purchase and Sale agreement and such other documents in connection with furthering the Project as are required under the Lease, financing requirements, other related documents and documents required for the closing; now, therefore be it

RESOLVED:

SECTION 1. The Board hereby authorizes the President, the Vice President and Chief Operating Officer and the Vice President for Finance and Treasury, other administrative personnel designated by the President, and University Counsel and University Special Counsel to take such actions as are necessary and appropriate to finalize the negotiations and form of the Lease and all other documents required in furtherance of the Project and for the closing.

SECTION 2. As may be required in furtherance of the Project and the requirements of the closing the Board Chairperson, the Board Vice Chairperson, the Board Secretary, the President, the Vice President and Chief Operating Officer, and

the Vice President of Finance and Treasury (each an Authorized Officer) are hereby authorized and directed to approve, execute and deliver the Lease and other closing documents.

SECTION 3. This resolution shall take effect immediately, and be it further

RESOLVED: No further approvals of the Board are necessary to implement this Resolution.

Secretary to the Board of Trustees

Dated: August 3, 2021

NEXT MEETING

The next Board meeting will be held on September 13, 2021. Mr. Acebo requested a motion for the Board to move into executive session prior to the public session in order to discuss confidential personnel matters and contractual matters. The minutes of the executive session will become available to the public when there is no longer a need for confidentiality regarding these matters. The motion was moved by Mr. Perez and seconded by Dr. Whittaker. (Yes – Mr. Fowlkes, Mr. Jacobson, Mr. Scott, Dr. Trowell-Harris, Mr. Visconti, Mr. Perez, and Dr. Whittaker; No-None; Abstention-None). The motion passed.

ADJOURNMENT

There being no further business to come before the Board, Mr. Acebo requested a motion to adjourn the meeting. The motion was moved by Mr. Perez and seconded by Mr. Jacobson. (Yes – Mr. Fowlkes, Mr. Scott, Dr. Trowell-Harris, Mr. Visconti, Dr. Whittaker; No-None; Abstention-None). The motion passed.

The meeting was adjourned at 11:40 A.M.

Respectfully submitted,

Andrés Acebo
Interim Chief of Staff and
Secretary to the Board of Trustees