

# THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

## MINUTES

Thursday, April 28, 2016

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**MINUTES of the Meeting of The Port Authority of New York and New Jersey held Thursday, April 28, 2016 at 150 Greenwich Street, City, County and State of New York**

**PRESENT:**

**NEW JERSEY**

Hon. John J. Degnan, Chairman  
 Hon. Richard H. Bagger  
 Hon. George R. Laufenberg  
 Hon. Raymond M. Pocino  
 Hon. David S. Steiner

**NEW YORK**

Hon. Scott H. Rechler, Vice-Chairman  
 Hon. Steven M. Cohen  
 Hon. Michael D. Fascitelli  
 Hon. Hamilton E. James  
 Hon. Kenneth Lipper  
 Hon. Jeffrey H. Lynford

Patrick J. Foye, Executive Director  
 Carlene V. McIntyre, Assistant General Counsel  
 Karen E. Eastman, Secretary

Julia Basile, Deputy Director, Human Resources  
 Thomas E. Belfiore, Chief Security Officer  
 John Bilich, First Deputy Chief Security Officer  
 Vincent J. Borst, Assistant Director, Real Estate Services  
 Thomas L. Bosco, Director, Aviation  
 Molly C. Campbell, Director, Port Commerce  
 Nicole Crifo, Senior Advisor to the Chairman  
 Gerard A. Del Tufo, Assistant Director, Development and Operations, Real Estate  
 John C. Denise, Audio Visual Supervisor, Marketing  
 Michael A. Fedorko, Director, Public Safety/Superintendent of Police  
 Kevin Frick, Esq., Law  
 Cedrick T. Fulton, Director, Tunnels, Bridges and Terminals  
 Robert E. Galvin, Chief Technology Officer  
 David P. Garten, Chief of Staff to the Vice Chairman  
 Glenn P. Guzi, External Affairs Logistics Manager, World Trade Center Redevelopment  
 Linda C. Handel, Deputy Secretary  
 Mary Lee Hannell, Chief, Human Capital  
 Portia L. Henry, Executive Policy Analyst, Special Panel Implementation Office  
 Patricia Hurley, Chief of Staff to the Chairman  
 Amanda Iocca, Associate Board Management and Support Specialist, Office of the Secretary  
 Howard G. Kadin, Esq., Law  
 Cristina M. Lado, Director, Government and Community Affairs, New Jersey  
 William Laventhal, Executive Policy Analyst, Office of the Executive Director  
 Christopher Lee, Senior External Relations Client Manager, Government and Community Affairs  
 Stephen Marinko, Esq., Law  
 Ronald Marsico, Director, Media Relations  
 Michael G. Massiah, Chief, Capital Planning, Execution and Asset Management

Hugh P. McCann, Director, World Trade Center Operations  
 Daniel G. McCarron, Comptroller  
 Elizabeth M. McCarthy, Chief Financial Officer  
 James E. McCoy, General Manager, Board Unit, Office of the Secretary  
 David J. McGrath, Manager, Marketing and Communications, Marketing  
 Emily Miuccio, Senior Business Manager, Special Panel Implementation Office  
 Steven P. Plate, Chief, Major Capital Projects  
 Alan L. Reiss, Deputy Director, World Trade Center Construction  
 Beth E. Siegel, Director, Capital Programs  
 James A. Starace, Chief Engineer/Director of Engineering  
 Timothy G. Stickelman, Assistant General Counsel  
 James Summerville, Principal Contract Specialist, Procurement  
 Ralph Tragale, Assistant Director, Customer, Industry, & External Affairs, Aviation  
 Lillian D. Valenti, Chief Procurement and Contracting Officer  
 Sheree R. Van Duynes, Manager, Policies and Protocol, Office of the Secretary  
 Ian R. Van Praagh, Acting Director, Government and Community Affairs, New York  
 Kathryn Winfree, Assistant Policy Analyst, Government and Community Affairs

Guests:

Mary Maples, Associate Counsel, Authorities Unit, Office of the Governor of New Jersey  
 Michael Wojnar, Special Assistant, Office of the Governor of New York

Speakers:

Rosalyn Austin, UNITE Here  
 Leslie Azzouni, UNITE Here  
 Hon. Ras Baraka, Mayor, City of Newark  
 Aldrin Bonilla, Deputy Borough President, Manhattan  
 Susan Brenner, Social Cycling  
 Janna Chernetz, Tri-State Transportation Campaign  
 Rona Dowden, UNITE Here  
 Bianca Garcia, UNITE Here  
 Richard Hughes, Twin Towers Alliance  
 Eduardo Lopez, UNITE Here  
 Arthur Piccolo, Bowling Green Association, Inc.  
 Emma Quail, Local 100  
 Daniel Ranells, Member of the Public  
 Hon. Ronald Rice, New Jersey State Senator  
 Martin Smith, Director of Constituent Services, Office of New York State  
 Senator Adriano Espaillat  
 Neile Weissman, New York Cycle Club

The public meeting was called to order by Chairman Degnan at 11:39 a.m. and ended at 12:36 p.m. The Board also met in executive session prior to the public session. Commissioner Cohen was not present for the executive session.

### **Action on Minutes**

The Secretary submitted for approval Minutes of the meetings of February 18, 2016. She reported that copies of these Minutes were delivered to the Governors of New York (in electronic form) and New Jersey (in paper form) on February 19, 2016. The Secretary reported further that the time for action by the Governors of New York and New Jersey had expired.

Whereupon, the Board unanimously approved the Minutes of the meeting.

### **Report of Committee on Finance**

The Committee on Finance reported, for information, on matters discussed and action taken in public and executive sessions at its meeting on April 28, 2016, which included discussion of matters involving ongoing negotiations or reviews of contracts or proposals, review of financial results for the first quarter of 2016, and the placement of Property Damage and Loss of Revenue Insurance, and the report was received.

### **Report of World Trade Center Redevelopment Subcommittee**

The World Trade Center Redevelopment Subcommittee reported, for information, on matters discussed in executive session at its meeting on April 28, 2016, which included discussion of matters involving ongoing negotiations or reviews of contracts or proposals, and the report was received.

### **Report of Committee on Capital Planning, Execution and Asset Management**

The Committee on Capital Planning, Execution and Asset Management reported, for information, on matters discussed in public session at its meeting on April 28, 2016, which included discussion of capital results for the first quarter of 2016, and the report was received.

### **Report of Committee on Governance and Ethics**

The Committee on Governance and Ethics reported, for information, on matters discussed in public session at its meeting on April 28, 2016, which included discussion of two items concerning policies for access to public records of the Port Authority and access to personal information, and the report was received.

**JOHN F. KENNEDY INTERNATIONAL AIRPORT – AMERICAN AIRLINES, INC. -  
TERMINAL 8 – LEASE AYB-085R – CONSENT TO REFINANCING OF BONDS  
AND LEASE SUPPLEMENT**

It was recommended that the Board authorize the Executive Director, in connection with the financing of the redevelopment of the American Airlines Inc. (American) passenger terminal facility (Terminal 8) at John F. Kennedy International Airport (JFK), to: (1) consent to the refinancing of the existing New York City Industrial Development Agency (IDA) bond debt with New York Transportation Development Corporation (NYTDC) bonds, and associated transactions, including a new leasehold mortgage; and (2) enter into a supplemental agreement with American amending the leasehold mortgaging and rental provisions of Lease AYB-085R (Lease), the existing lease with American covering Terminal 8.

American proposes to refinance the outstanding Series 2002B and Series 2005 IDA bond debt, previously issued to finance the redevelopment of Terminal 8 at JFK, with refunding bonds to be issued by NYTDC, in an amount currently estimated to be approximately \$882 million. The NYTDC bonds would be guaranteed by American and its parent, American Airlines Group Inc. (AAG), and the obligations of American and AAG under those guarantees would be secured by a mortgage on American's leasehold interest in Terminal 8. Lease AYB-085R expires on December 1, 2036.

The Port Authority would receive one-time fees totaling approximately \$3.2 million from American, in consideration for granting its consent to American for the refinancing of its debt. In addition, the Lease would be amended to increase the leasehold mortgage fee applied to debt service.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Cohen, Degnan, Fascitelli, James, Laufenberg, Lipper, Lynford, Pocino, Rechler and Steiner voting in favor. Assistant General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, in connection with the financing of the redevelopment of the American Airlines Inc. (American) passenger terminal facility at John F. Kennedy International Airport under Lease AYB-085R (the Lease), to: (1) consent to the refinancing of the existing New York City Industrial Development Agency bond debt with New York Transportation Development Corporation bonds, and associated transactions, including a new leasehold mortgage; and (2) enter into a supplemental agreement with American amending the leasehold mortgaging and rental provisions of the Lease; all substantially in accordance with the terms outlined to the Board; and it is further

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into any other contracts and agreements necessary or appropriate in connection with the foregoing; and it is further

**RESOLVED**, that the form of all contracts and agreement in connection with the foregoing shall be subject to the approval of General Counsel or his authorized representative.

**ACCESS TO PORT AUTHORITY RECORDS – ENHANCED TRANSPARENCY AND EFFICIENCY - PORT AUTHORITY PUBLIC RECORDS ACCESS POLICY**

In compliance with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015, and in furtherance of the Port Authority’s commitment to enhance the openness and transparency of the agency through the provision of timely access to the public records of the Port Authority and its component units, today the Board adopts the following Port Authority Public Records Access Policy. This Policy will provide residents of the States of New York and New Jersey, and other members of the public, with an equal right of access to records of the Port Authority, in accordance with applicable law in the two States.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Cohen, Degnan, Fascitelli, James, Laufenberg, Lipper, Lynford, Pocino, Rechler and Steiner voting in favor. Assistant General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that any “record” of the Port Authority shall be disclosed to the public, unless it is exempt from disclosure under both the New York Freedom of Information Law and the New Jersey Open Public Records Act; and it is further

**RESOLVED**, that any information kept, held, filed, produced or reproduced by, with or for the Port Authority, in any physical form whatsoever, including, but not limited to, any paper, written or printed book, document, report, statement, examination, memorandum, opinion, folder, file, manual, pamphlet, form, design, drawing, map, plan, photograph, letter, microfilm, computer tape or disc, rule, regulation or code, data-processed or image-processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, shall be a “record” of the Port Authority; and it is further

**RESOLVED**, that there shall be within the Port Authority a Freedom of Information Appeal Office (“Appeal Office”), with such powers and duties as provided herein and directed by such officer or officers as appointed by the Executive Director, or his successor in office or duties, from time to time; provided that neither the Secretary of the Port Authority nor any member of the Office of the Secretary may be so appointed; and it is further

**RESOLVED**, that except for the duties and responsibilities of the Appeal Office as provided herein, the Secretary of the Port Authority (or designee(s)) shall administer this Port Authority Public Records Access Policy pursuant to the following procedures, which meet or exceed the procedures applicable under the New York Freedom of Information Law and the New Jersey Open Public Records Act:

## **PUBLIC RECORDS ACCESS POLICY**

### **Section 1: Designation of Records Access Officer and Custodian of Government Records**

The Secretary of the Port Authority is hereby designated as the Records Access Officer, as defined in Section 1401.2 of Title 21 of New York Compiled Rules and Regulations, and the Custodian of Government Records, as defined in Section 47:1A-1.1 of Title 47 of the New Jersey Statutes.

### **Section 2: Access to Public Records**

The Secretary shall ensure that:

(a) A subject matter list of Port Authority records is maintained, which shall be sufficiently detailed and updated annually to permit identification of the category of any record requested, and shall also maintain a list of records which shall be made immediately available in accordance with law;

(b) Certain public records are made available for public inspection and copying during regular business hours at designated location(s) and times, and provide notice of such availability on the Port Authority website and through any other appropriate means;

(c) Assistance is provided to persons seeking records to identify and reasonably describe the records sought, if necessary, and when appropriate, indicate the manner in which the records sought are filed or retrieved;

(d) Persons seeking records are contacted when a request is voluminous or when locating the records involves substantial effort, so that Port Authority staff may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested; and

(e) The Port Authority maintains record request form(s) and public notices consistent with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015.

### **Section 3: Location and Hours for Requests for Inspection**

Requests for in-person inspection or copying of records may be made to the Secretary of the Port Authority (or designee(s)) in writing, and may be submitted in person, during regular business hours at the Port Authority's main office, at 4 World Trade Center, 150 Greenwich Street, New York, New York 10007.

#### **Section 4: Requests for Public Access to Records**

(a) Whether made in person or as provided below, requests for records must contain sufficient information to enable the Port Authority to identify and locate the particular records sought. Such requests must not be overly broad and must be as detailed as possible and provide, at a minimum, a clear description of the record or type of record being sought.

(b) Requests for inspection or copying of records should be made to the Secretary of the Port Authority (or designee(s)) and may be made in writing and submitted:

(1) by postal or private delivery, addressed to the Secretary, The Port Authority of New York and New Jersey, at the Port Authority's main office, 4 World Trade Center, 150 Greenwich Street, New York, New York 10007, Attention: FOI Administrator;

(2) by facsimile, addressed to the Secretary, The Port Authority of New York and New Jersey, at the Port Authority's main office at 4 World Trade Center, 150 Greenwich Street, New York, New York 10007, Attention: FOI Administrator, at the telephone extension designated for this purpose, which shall be posted on the Port Authority's website; or

(3) by electronic means, such as electronic mail ("e-mail") addressed to the Secretary, The Port Authority of New York and New Jersey, Attention: FOI Administrator, at the e-mail address designated for this purpose, which shall be posted on the Port Authority's website, or through the Port Authority's website.

#### **Section 5: Agency Response**

(a) Upon locating any records responsive to the request, the Secretary (or designee(s)) shall take one of the following actions:

(1) Make a copy of any public record available upon payment or offer to pay established fees;

(2) Permit the requester to copy any public record; or

(3) Upon identifying responsive Port Authority records that fit in at least one exclusion and/or exemption category in the New York Freedom of Information Law and at least one exclusion and/or exemption category in the New Jersey Open Public Records Act, deny access to such records, in whole or in part, and explain in writing the reasons therefor.

(b) Except those records that shall be made immediately available, a response to a request for records shall be given within five business days of receipt of a request by:

(1) Granting or denying access to records, in whole or in part, pursuant to this Policy; or

(2) Informing the requester that the request or portion of the request does not reasonably describe or identify the records sought and including direction, to the extent possible, that would enable that person to reasonably describe requested records;

(3) Acknowledging the receipt of a request in writing, including when the request will be granted or denied, in whole or in part, which date shall be reasonable under the circumstances of the request. If the Secretary determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.

(c) In determining a reasonable time for granting or denying a request under the circumstances of a request pursuant to subsection (b)(3) above, the Secretary (or designee(s)) shall consider: the volume of the request; the ease or difficulty in locating or retrieving records; the complexity of the request; the need to review records to determine the extent to which they must be disclosed; the number of requests received by the agency; whether the request is for records to which immediate access shall be ordinarily granted by law; and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

(d) A failure to comply with the time limitations described herein shall constitute a denial of a request, except that the Port Authority's communication regarding an estimated fee, required to be paid before access is provided, within such time limitations, shall not be considered a denial.

### **Section 6: Appeal**

(a) Any denial of a request for access to records by the Secretary (or designee(s)) may be appealed by the requester to the Appeal Office within thirty days of a denial.

(b) Pursuant to the New York Freedom of Information Law, a requester must first exhaust the appeals process under this Section before the requester may bring a proceeding for review of any denial of a request for access to records in the courts of the State of New York, in accordance with New York Public Officers Law Section 89(4)(b).

(c) Pursuant to the New Jersey Open Public Records Act, a requester may institute a proceeding to challenge the denial of a request for access to records by the Secretary (or designees), by filing an action in New Jersey Superior Court or a complaint with the Government Records Council, as set forth in Section 47:1A-6 of Title 47 of the New Jersey Statutes, without first filing an appeal under this Section. If, however, such person elects to file an appeal under this Section in lieu of first proceeding by filing an

action in New Jersey Superior Court or a complaint with the Government Records Council, as set forth in Section 47:1A-6 of Title 47 of the New Jersey Statutes, the limitations period applicable to any claim under Section 47:1A-6 arising out of a denial of a request for access to records shall be tolled and suspended until such time as the appeal is denied.

(d) The time for deciding an appeal by the Appeal Office shall commence upon receipt of a written appeal identifying:

- (1) the date and location of requests for records; and
- (2) a description, to the extent possible, of the records that were denied.

(e) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

(f) The Secretary of the Port Authority (or designee(s)) shall notify the Chairman of the Committee on Governance and Ethics of the Port Authority Board of Commissioners when any proceeding is commenced in the Courts of New York, Courts of New Jersey or the Government Records Council seeking review of a denial of a request for access to records.

(g) This Section shall not be construed to affect any right of any requester at law.

#### **Section 7: Fees**

(a) The Secretary may determine whether, and in what amount, fees may be charged for the fulfillment of requests for access to records.

(b) Any fee schedule used by the Secretary shall be posted on the Port Authority's website, and the Secretary shall be responsible for maintaining it in updated form.

(c) For any fee that is calculated, in whole or in part based on the agency's actual cost in searching for and producing copies of records, the Secretary (or designee(s)) shall perform and document such calculation.

(d) The Secretary may require payment of any fee charged under this Section 7 before access to records is granted.

(e) For any fee charged under this Section 7, the Secretary (or designee(s)) shall inform the requester of the estimated fee before the charge is incurred.

**Section 8: Intent**

This Public Records Access Policy is intended to comply with both the New York Freedom of Information Law and the New Jersey Open Public Records Act. To the extent any person who makes a request for records contends that the Policy is in any way inconsistent with the New York Freedom of Information Law or the New Jersey Open Public Records Act, the Policy shall be interpreted in a way that renders it consistent with those laws.

; and it is further

**RESOLVED**, that the Resolution adopted on October 22, 2014, entitled “Access to Port Authority Records – Enhanced Transparency and Efficiency – Revised Freedom of Information Policy” shall be, and hereby it is, rescinded.

## **ACCESS TO PORT AUTHORITY RECORDS – ENHANCED TRANSPARENCY AND EFFICIENCY – ACCESS TO PERSONAL INFORMATION POLICY**

In accordance with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015, which reference Article 6-A of the Public Officers Law of the State of New York, known as the Personal Privacy Protection Law, and in furtherance of the Port Authority's commitment to enhance the openness and transparency of the agency through the provision of timely access to the public records of the Port Authority and its component units, today the Board adopts the following Access to Personal Information Policy. This Policy will provide residents of the States of New York and New Jersey, and other members of the public, with an equal right of access to their personal information kept by the Port Authority in accordance with applicable law in the two States. An individual whose personal information is in the Port Authority's possession should generally have access to such information, as well as the ability to seek amendment or correction to such information in accordance with this Policy.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Cohen, Degnan, Fascitelli, James, Laufenberg, Lipper, Lynford, Pocino, Rechler and Steiner voting in favor. Assistant General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that any "record" requested by any natural person about whom personal information has been collected by the Port Authority, defined as the "data subject," shall be made available to such person in accordance with this Policy; and it is further

**RESOLVED**, that except for the duties and responsibilities of the Appeal Office as provided herein, the Secretary of the Port Authority (or designee(s)) shall administer this Port Authority Public Access to Personal Information Policy pursuant to the following procedures, which are in compliance with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015:

### **PORT AUTHORITY ACCESS TO PERSONAL INFORMATION POLICY**

#### **Section 1: Designation of Administrator for Access to Personal Information**

(a) The Secretary of the Port Authority is responsible for ensuring compliance with this Policy, and for coordinating the Port Authority's response to requests for records or amendments of records thereunder.

(b) Any correspondence pertaining to this policy may be addressed to Port Authority, Office of the Secretary, at the main office of the Port Authority, at 4 World Trade Center, 150 Greenwich Street, New York, New York 10007.

## **Section 2: Access to Personal Information**

(a) The Secretary (or designee(s)) shall be responsible for:

(1) assisting a data subject in identifying and requesting personal information, if necessary;

(2) describing the contents of systems of records orally or in writing, in order to enable a data subject to learn whether a system of records includes a record or personal information identifiable to a data subject requesting such record or personal information;

(3) taking one of the following actions upon locating the record sought:

(i) make the record available for inspection, in a printed form without codes or symbols, unless an accompanying document explaining such codes or symbols is also provided;

(ii) permit the data subject to copy the record; or

(iii) deny access to the record, in whole or in part, and explain in writing the reasons therefor;

(4) making a copy available, upon request, upon payment of, or offer to pay, established fees, if any, or permitting the data subject to copy the records;

(5) upon request, certifying that a copy of a record is a true copy; or

(6) certifying, upon request, that:

(i) the Port Authority does not have possession of the record sought;

(ii) the Port Authority cannot locate the record sought after having made a diligent search; or

(iii) the information sought cannot be retrieved by use of the description thereof, or by use of the name or other identifier of the data subject without extraordinary search methods being employed by the Port Authority.

## **Section 3: Location and Hours for Requests for Inspection**

Requests for in-person inspection or copying of records may be made to the Secretary of the Port Authority in writing, and may be submitted in person, during regular business hours at the Port Authority's main office at 4 World Trade Center, 150 Greenwich Street, New York, New York 10007.

## **Section 4: Requests for access to records**

(a) Requests must contain sufficient information to enable the Port Authority to locate and identify the particular records sought. Such requests must not be overly broad, but must be as detailed as possible and provide, at a minimum, a clear description of the record or type of record being sought.

(b) All requests shall be made in writing, except that the Port Authority, in its discretion, may make records available upon an oral request made in person after the data subject has demonstrated proof of identity, if proof of identity is required.

(c) A request shall identify the data subject and reasonably describe the record sought. To the extent possible, the data subject shall supply identifying information that assists the agency in locating the record sought.

(d) Requests based upon categories of information described in a notice of a system of records or a privacy impact statement shall be deemed to reasonably describe the record sought.

(e) When a request is made in person, or when records are made available in person following a request by mail, the Port Authority may require appropriate identification, such as a driver's license including a photograph of the driver, an identifier assigned to the data subject by the Port Authority, a photograph or similar information that confirms that the record sought pertains to the data subject.

(f) When a request is made by mail, the Port Authority may require verification of a signature or inclusion of an identifier generally known only by a data subject, or similar appropriate identification.

(g) Within five business days of the receipt of a request, the Port Authority shall provide access to the record, deny access in writing, explaining the reasons therefor, or acknowledge the receipt of the request in writing, stating the approximate date when the request will be granted or denied, which date shall not exceed thirty days from the date of the acknowledgment.

### **Section 5: Requests for amendment of records**

(a) Within thirty business days of a request from a data subject for correction or amendment of a record or personal information that is reasonably described and that pertains to the data subject, the Port Authority shall:

(1) make the amendment or correction, in whole or in part, and inform the data subject that, on request, such correction or amendment will be provided to any such person or governmental unit to which the record or personal information has been or is disclosed, in accordance with law; or

(2) inform the data subject in writing of its refusal to correct or amend the record, including the reasons therefor.

(b) Denial of a request for a record or amendment or correction of a record or personal information shall:

(1) be in writing, explaining the reasons therefor; and

(2) identify the person to whom an appeal may be directed.

(c) A failure to grant or deny access to records within five business days of the receipt of a request or within thirty days of an acknowledgment of the receipt of a request, or a failure to respond to a request for amendment or correction of a record within thirty business days of receipt of such a request, shall be construed as a denial that may be appealed.

### **Section 6: Appeal**

(a) Any person denied access to a record or denied a request to amend or correct a record or personal information pursuant to the preceding section may, within thirty business days of such denial, appeal to the Port Authority Freedom of Information Appeal Office.

(b) The time for deciding an appeal shall commence upon receipt of a written appeal that identifies:

(1) the date and location of a request for a record or amendment or correction of a record or personal information;

(2) the record that is the subject of the appeal; and

(3) the name and return address of the appellant.

(c) A failure to determine an appeal of a denial of access within seven business days of its receipt, by granting access to the records sought or fully explaining the reasons for further denial in writing and informing the data subject of his or her right to seek judicial review of the denial in accordance with the Personal Privacy Protection Law, shall constitute a denial of the appeal.

(d) A failure to determine an appeal concerning a denial of a request for correction or amendment within thirty business days of its receipt, by correcting or amending the record or personal information, or by fully explaining the reasons for further denial in writing and informing the data subject of his or her right to seek judicial review of the denial in accordance with the Personal Privacy Protection Law, shall constitute a denial of the appeal.

(e) If, on appeal, a record or personal information is corrected or amended, the data subject shall be informed that, on request, the correction or amendment will be provided to any person or governmental unit to which the record or personal information has been or is disclosed, in accordance with law.

(f) The Secretary of the Port Authority (or designee(s)) shall notify the Chairman of the Committee on Governance and Ethics of the Port Authority Board of Commissioners when any proceeding is commenced in the Courts of New York or the Courts of New Jersey seeking review of a denial of a request for access to a record or a request to amend or correct a record or personal information.

### **Section 7: Statement of Disagreement by Data Subject**

(a) If correction or amendment of a record or personal information is denied, in whole or in part, upon appeal, the determination rendered pursuant to the appeal shall inform the data subject of the right to:

(1) file with the Secretary a statement of reasonable length setting forth the data subject's reasons for disagreement with the determination;

(2) request that such a statement of disagreement be provided to any person or governmental unit to which the record has been or is disclosed, in accordance with law.

(b) Upon receipt of a statement of disagreement by a data subject, the Secretary or staff shall coordinate the Port Authority's fulfillment of its obligation:

(1) to clearly note any portions of the record that are disputed; and

(2) to attach the data subject's statement of disagreement in conjunction with a disclosure to a person or governmental unit, in accordance with law.

(c) The Port Authority may also include a concise statement of its reasons for not making the requested amendment or correction and attach such statement to the data subject's statement of disagreement in conjunction with a disclosure to a person or governmental unit in accordance with law.

### **Section 8: Fees**

(a) The Secretary may determine whether, and in what amount, fees may be charged for the fulfillment of requests for access to records.

(b) Any fee schedule used by the Secretary shall be posted on the Port Authority's website, and the Secretary shall be responsible for maintaining it in updated form.

(c) For any fee that is calculated, in whole or in part, based on the agency's actual cost, the Secretary shall perform and document such calculation.

(d) The Secretary may require payment of any fee charged under this Section 8 before access to records is granted.

(e) For any fee charged under this Section 8, the Secretary shall inform the requester of the estimated fee before the charge is incurred.

**Section 9: Intent**

This Access to Personal Information Policy is intended to comply with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015, which reference Article 6-A of the Public Officers Law of the State of New York, known as the Personal Privacy Protection Law. To the extent any person who makes a request for access to records or for amendment of records contends that the Policy is any way inconsistent with such laws, the Policy shall be interpreted in a way that renders it consistent with those laws.

**SETTLEMENT OF CLAIM – IN RE: COLLAVINO CONSTRUCTION COMPANY INC.  
AND COLLAVINO CONSTRUCTION COMPANY LIMITED**

It was recommended that the Board authorize General Counsel to finalize the settlement of litigation pending before the United States Bankruptcy Court for the Southern District of New York arising out of the Chapter 11 bankruptcy proceedings of Collavino Construction Company Inc. and Collavino Construction Company Limited, in the amount of \$12.3 million.

Collavino Construction Company Inc. and Collavino Construction Company Limited (collectively, the Debtors) have asserted claims against the Port Authority to recover approximately \$110 million, which, the Debtors allege, they are owed by the Port Authority for concrete work performed as part of the construction of One World Trade Center.

At the recommendation of the judge overseeing the bankruptcy proceedings, the parties agreed to engage in mediation, which resulted in the negotiation of the proposed settlement, pursuant to which the Port Authority would pay \$12.3 million to the Debtors' estate to fund a Chapter 11 plan of reorganization/liquidation (the Plan), and the parties would exchange mutual general releases. The proposed settlement also provides for releases of the Port Authority by the Debtors' creditors, and any other party taking any benefit under the Plan. The settlement would be incorporated into the Plan, and the Debtors and the Port Authority would cooperate in seeking approval of the Plan by the Bankruptcy Court.

This resolution would remain confidential until such time as the Plan is approved by the Bankruptcy Court.

Pursuant to the foregoing report, the following resolution was adopted in executive session, with Commissioners Bagger, Degnan, Fascitelli, James, Laufenberg, Lipper, Lynford, Pocino, Rechler and Steiner voting in favor. Assistant General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that General Counsel be and he hereby is authorized, for and on behalf of the Port Authority, to finalize the settlement of litigation pending before the United States Bankruptcy Court for the Southern District of New York arising out of the Chapter 11 bankruptcy proceedings of Collavino Construction Company Inc. and Collavino Construction Company Limited, in the amount of \$12.3 million.

## **SETTLEMENT OF CLAIM – INCENTIVE CONSULTING FEE DISPUTE WITH DURST WTC HOLDING LLC**

It was recommended that the Board authorize General Counsel to settle a claim by Durst WTC Holding LLC (Durst) related to a dispute regarding amounts payable to Durst under the One World Trade Center Joint Venture Development Agreement (Joint Venture Agreement) for incentive consulting fees, for a total settlement amount of \$19,115,882. Of this amount only \$13,151,691 would be paid to Durst immediately following the expiration of the gubernatorial review period for this action; the remaining \$5,964,191 would be payable upon the “Conversion Date,” as defined in the Joint Venture Agreement. Upon finalization of the settlement, Durst would provide the Port Authority’s component unit, Tower 1 Member LLC, with a general release of all claims related to the disputed incentive consulting fees.

Pursuant to Exhibit I-5 to the Joint Venture Agreement, Durst is entitled to certain incentive fees if, during the construction of One World Trade Center, Durst proposes changes that are implemented and result in construction cost savings or future operational savings. The amount of incentive fees Durst may be owed is calculated based on a percentage of the actual cost savings achieved, with the percentage decreasing as the cost savings increase.

Over the last few years, a dispute arose, because Durst claimed to be owed additional incentive fees based on claimed savings. With respect to the various elements of Durst’s claim, the Port Authority disputed either the amount of savings achieved or Durst’s entitlement to fees under the Joint Venture Agreement. Durst claimed that it was responsible for savings totaling approximately \$68.3 million. The parties negotiated a settlement and agreed that Durst would be credited for approximately \$36.5 million in savings, which entitles Durst to \$13,151,691 in incentive fees. The proposed settlement agreement also references an additional \$5,964,191 that Durst is owed in connection with future operational savings, based on Exhibit I-5 and an agreement reached during the negotiation of the Joint Venture Agreement.

Pursuant to the foregoing report, the following resolution was adopted in executive session, with Commissioners Bagger, Degnan, Fascitelli, James, Laufenberg, Lipper, Lynford, Pocino, Rechler and Steiner voting in favor. Assistant General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that General Counsel be and he hereby is authorized, for and on behalf of the Port Authority, to settle the claim by Durst WTC Holding LLC (Durst) related to a dispute regarding incentive consulting fees payable to Durst under the One World Trade Center Joint Venture Development Agreement, in the total amount of \$19,115,882.

Whereupon, the meeting was adjourned.

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Secretary