

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

MINUTES

Thursday, August 5, 2010

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MINUTES of the Meeting of The Port Authority of New York and New Jersey held Thursday, August 5, 2010 at 225 Park Avenue South, City, County and State of New York

PRESENT:

NEW JERSEY

Hon. Anthony R. Coscia, Chairman
 Hon. Virginia S. Bauer
 Hon. Raymond M. Pocino
 Hon. David S. Steiner
 Hon. Anthony J. Sartor

Christopher O. Ward, Executive Director
 William Baroni, Jr., Deputy Executive Director
 Darrell B. Buchbinder, General Counsel
 Karen E. Eastman, Secretary

Susan M. Baer, Director, Aviation
 A. Paul Blanco, Chief Financial Officer
 Ernesto L. Butcher, Chief Operating Officer
 Ana M. Carvajalino, Manager, Financial Services, Aviation
 Rosemary Chiricolo, Assistant Director, Management and Budget
 Steven J. Coleman, Assistant Director, Media Relations
 John C. Denise, Audio Visual Supervisor, Public Affairs
 Michael P. DePallo, Director, Rail Transit
 Gretchen P. DiMarco, Special Assistant to the Deputy Executive Director
 Francis A. DiMola, Director, Real Estate and Development
 John J. Drobny, Director, Security Projects
 Michael G. Fabiano, Acting Chief Technology Officer
 Michael A. Fedorko, Director, Public Safety/Superintendent of Police
 Michael B. Francois, Chief, Real Estate and Development
 Jennifer Friedberg, Public Information Officer, Media Relations
 Cedrick T. Fulton, Deputy Director, Tunnels, Bridges and Terminals
 Richard Gladstone, Director, World Trade Center Redevelopment
 Lash L. Green, Director, Office of Business and Job Opportunity
 Glenn P. Guzi, Senior External Affairs Representative, Government and Community Affairs
 Linda C. Handel, Deputy Secretary
 Jay Hector, Business Negotiations Manager, World Trade Center Redevelopment
 Mark D. Hoffer, Director, New Port Initiatives, Port Commerce
 Kara E. Hughes, Senior External Relations Client Manager, Government and Community Affairs
 Howard G. Kadin, Esq., Law
 John P. Kelly, Director, Media Relations
 Louis J. LaCapra, Chief Administrative Officer
 Cristina M. Lado, Director, Government and Community Affairs
 Richard M. Larrabee, Director, Port Commerce
 Francis J. Lombardi, Chief Engineer
 Stephen Marinko, Esq., Law
 Ronald Marsico, Assistant Director, Media Relations, Public Affairs
 James E. McCoy, Manager, Board Management Support, Office of the Secretary
 Sanjay S. Mody, Advisor to the Chairman

NEW YORK

Hon. Stanley E. Grayson, Vice-Chairman
 Hon. H. Sidney Holmes III
 Hon. Jeffrey A. Moerdler

Anne Marie C. Mulligan, Treasurer
Steven P. Plate, Director, World Trade Center Construction
Desiree Ramos, External Relations Client Manager, Government and Community Affairs
Alan L. Reiss, Deputy Director, World Trade Center Construction
Stephen H. Sigmund, Chief, Public and Government Affairs
Timothy G. Stickelman, Assistant General Counsel
Gerald B. Stoughton, Director, Financial Analysis
Ralph Tragale, Assistant Director, Public Affairs, Aviation
David B. Tweedy, Chief, Capital Programs
Lillian D. Valenti, Director, Procurement
Robert E. Van Etten, Inspector General
Andrew S. Warshaw, Chief of Staff to the Executive Director
David M. Wildstein, Director, Interagency Capital Projects, Office of the Deputy Executive
Director
Peter J. Zipf, Deputy Chief Engineer/Director of Engineering

Guest:

Johanna Jones, Assistant Counsel, Authorities Unit, Office of the Governor of New Jersey

Speakers:

Murray Bodin, Retiree, Representing Concerned Grandparents
Greg Mgrditchian, Member of the Public
Susan Storey, Member of the Public

The public meeting was called to order by Chairman Coscia at 2:11 p.m. and ended at 2:42 p.m. The Board met in executive session prior to the public session, and on July 7, 2010. Commissioner Silverman was present for today's executive session.

Action on Minutes

The Secretary submitted for approval Minutes of the meetings of June 22, 2010. 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 June 23, 2010. She reported further that the time for action by the Governors of New York and New Jersey expired at midnight on July 8, 2010.

Whereupon, the Board unanimously approved the Minutes of the meetings of June 22, 2010.

The Secretary also reported that the actions set forth on pages 12 through 27 of the Minutes of the Special, Interim Committee on Operations meeting of June 22, 2010, in connection with the Port Authority Commercial Paper Program were also approved for purposes of the public approval provision of Section 147(f) of the Internal Revenue Code of 1986 and the regulations with respect thereto, upon expiration of the gubernatorial review period.

Report of Committee on Finance

The Committee on Finance reported, for information, on matters discussed in public session at its meeting on August 5, 2010, which included discussion of an item that provides for the establishment and issuance of Special Project Bonds in connection with a project to expand Terminal 4 at John F. Kennedy International Airport; and an annual update on the activities of the Port Authority Insurance Captive Entity, LLC, and the report was received.

Report of Committee on Operations

The Committee on Operations reported, for information, on matters discussed in public and executive sessions at its meeting on August 5, 2010, which included discussion of an item that authorizes a terminal expansion project at John F. Kennedy International Airport and associated lease agreements; and discussion of matters related to personnel and personnel procedures, and matters related to the purchase, sale or lease of real property, or securities where public disclosure would affect the value thereof or the public interest, and the report was received.

Report of Committee on Construction

The Committee on Construction reported, for information, on matters discussed in public and executive sessions at its meeting on August 5, 2010, which included discussion of several projects concerning the rehabilitation of, and improvements to, existing Port Authority facilities, and discussion of matters involving ongoing negotiations or reviews of contracts or proposals, 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 public and executive sessions at its meeting on August 5, 2010, which included discussion of several projects, contracts and agreements in connection with the continued development of the World Trade Center site; and discussion of matters involving ongoing negotiations or reviews of contracts or proposals, and the report was received.

Report of Special, Interim Meeting of the Committee on Operations

In view of the absence of a quorum for the Board to act on certain matters to be considered at its August 5, 2010, meeting, consistent with the Board's resolution of December 15, 1994, a special, interim meeting of the Committee on Operations was held. At the meeting, the Committee acted for and on behalf of the Board on certain matters included on the agenda for the Board meeting. A copy of the minutes of the special, interim meeting of the Committee on Operations held on August 5, 2010 is included with these minutes.

JOHN F. KENNEDY INTERNATIONAL AIRPORT – BACKFLOW PREVENTION DEVICES AND WATER METER UPGRADES – PHASES II AND III - PROJECT AUTHORIZATION AND AWARD OF CONTRACT JFK-996

It was recommended that the Board authorize: (1) a project for Phases II and III of the installation of Backflow Prevention Devices and Water Meter Upgrades at John F. Kennedy International Airport (JFK), at a total estimated project cost of \$16.37 million; and (2) the Executive Director to award Contract JFK-996 to DASNY Mechanical Inc. for Phase II installation of backflow prevention devices and water meters at 70 locations within 17 Port Authority buildings at JFK, at a total estimated cost of \$3,281,440, which is included within the amount of the proposed project authorization.

Under an agreement with the New York City Department of Environmental Protection, the Port Authority is required to install backflow prevention devices in its buildings. Further, the Federal Safe Drinking Water Act requires the installation and annual testing of backflow prevention devices on all public water services to buildings. The purpose of these devices is to protect the New York City water system from any contamination that would be introduced during a water main break. To address this possibility, a three-phase project was developed to perform work at all Port Authority-operated buildings and hangars at JFK, based on the complexity of retrofitting the backflow prevention devices at each building structure.

At its meeting of February 21, 2008, the Board authorized Phase I of this project, at a total amount of \$5.5 million, including contract award to Stevens Technical Services Inc., which provided for the installation of backflow prevention devices and water meter upgrades at 11 Port Authority buildings at JFK. Phase I is 98 percent complete, with full completion expected by the end of 2010. In that February 2008 authorization, the Board also authorized planning and design work, at an estimated cost of \$1.5 million for Phases II and III, which is included in the total project cost.

Existing water meters at JFK have reached the end of their useful service life. Work related to the replacement of the water meters has been combined with the installation of the backflow prevention devices to minimize the construction cost and disruption to facilities. Water meters would be equipped with remote reading devices for ease and accuracy of readings, enabling the Port Authority to measure water usage more accurately and frequently. Phase II would provide for work at 17 Port Authority buildings, while Phase III, which is anticipated to commence in early 2011, would cover 37 locations throughout the airport, including parking garages and AirTrain stations and terminals. Costs associated with Phases II and III are approximately 25.5 percent recoverable through the JFK Flight Fee Formula. All tenant-operated buildings are expected to be addressed under a future authorization.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project for Phases II and III of the installation of Backflow Prevention Devices and Water Meter Upgrades at John F. Kennedy International Airport (JFK), at a total estimated project cost of \$16.37 million, including engineering, payments to contractors, allowances for extra work (if

necessary) and net cost work, and administrative and financial expense, be and it hereby is authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to award Contract JFK-996 to DASNY Mechanical Inc. for Phase II installation of backflow prevention devices and water meters on main and bypass lines at 70 locations within 17 Port Authority buildings at JFK, at a total estimated cost of \$3,281,440, which is included within the amount of the project authorization; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to other contracts for professional and advisory services and such other contracts and agreements as may be necessary to effectuate the foregoing project, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

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

**NEWARK LIBERTY INTERNATIONAL AIRPORT – TERMINAL B
MODERNIZATION PROGRAM – PROJECT RE-AUTHORIZATION AND
INCREASE IN AUTHORIZATION FOR CONTRACTS EWR-264.003 AND
EWR-254.003A**

It was recommended that the Board: (1) re-authorize a project for the Terminal B Modernization Program (the Program) at Newark Liberty International Airport (EWR), at a total project cost of \$347.1 million, inclusive of project costs previously authorized and a contingency for the settlement of potential contractor claims; (2) authorize the filing of an application with the Federal Aviation Administration to amend the Passenger Facility Charge (PFC) application to allow for the collection of an additional \$39.06 million in funds for the Program; and (3) authorize settlement of contractor claims and increases in amounts for the following two contracts: Lower Level Expansion (EWR-264.003) with VRH Construction Corporation, by \$1.5 million, and the Connectors Expansion (EWR-254.003A) with Prismatic Development Corporation, by \$2 million. These additional amounts are included in the Program re-authorization.

On December 9, 2004, the Board authorized a program for the modernization of Terminal B at EWR at an estimated project cost of \$279.2 million. Since construction under this Program began, the terminal has maintained operations, handling an average of about 5.7 million passengers each year. When Terminal B originally opened for service in 1973, it consisted of an upper departures level, a middle arrivals level and a lower level for parking. The lower-level parking area closed after the World Trade Center bombing in 1993, and the level has since been underutilized.

At its meeting of June 30, 2008, the Board authorized an increase in Program authorization of \$45.4 million, bringing the total authorized amount to \$324.6 million.

The Program provides for the expansion of Terminal B to accommodate international traffic and will transform the facility from two levels to a tri-level terminal, with an international departures level at the top, a domestic departures level at the middle and an arrivals level at grade. The Program goals include: reducing congestion for international check-in areas, passenger screening points and the terminal frontage; improving the efficiency of international baggage screening; relocating and expanding the domestic baggage claim area; expanding post-security concessions and providing space for airline lounges, ticketing and back-office operations; and improving the international meeter-greeter area of the facility.

Six major contracts have been awarded to date: Contracts EWR-254.006 and EWR-254.007 for construction of 18 new check-in counters on the lower level; Contract EWR-264.003 for construction of a new domestic baggage claim hall on the lower level; Contract EWR-254.002 for installation of in-line baggage screening for all outbound international baggage and international transfer baggage; Contract EWR-254.003A for widening of the three passenger screening points; and Contract EWR-264.005 for construction of new mid-level check-in areas and replacement and reconfiguration of the upper-level check-in counters, baggage systems and associated airline offices.

The Program is nearly 80 percent complete. The following major elements of the Program are fully completed: the Lower-Level Ticket Counter Project, replacing the closed

terminal parking areas with a new lower-level floor and 18 new check-in counters; the In-Line Baggage Screening Project, providing fully automated next generation in-line baggage screening; and the Connectors Expansion Project, expanding space at the three passenger screening checkpoints and post-security concessions and lounges that are available for leasing. Final components of the Lower-Level Expansion, the Mid- and Upper-Level Improvements and the Meeter-Greeter Projects are expected to be completed by the summer of 2013.

Consistent with the Program goals, the completed components have significantly improved the passenger experience, and work was staged to maintain ongoing terminal operations. However, there have been notable challenges in delivering these projects. In particular, the replacement of the terminal's 30-year-old switchgear, as part of the Lower-Level Expansion Project, has been more difficult than previously forecasted. The new passenger and baggage screening technology placed a much higher demand on the electrical substation, costing more to complete and requiring significant additional time. This delay in completing the new substations directly increased the cost to provide electrical distribution to the numerous new project elements being delivered, requiring temporary provisions and alternate substation connectivity to support the opening of these newly constructed facilities.

The Program has also incurred additional costs and experienced delays due to changing Transportation Security Administration regulations for the installation of an In-Line Baggage Screening system. The updated in-line baggage screening design standards required significant changes to the physical configuration of each system, major changes to the computerized control programming and challenges in the manner in which the system acceptance testing was staged, scheduled and performed. The updated standards, however, will ensure the systems are prepared to accept the future generations of baggage screening equipment, with minimal modifications.

Other challenges leading to increased costs for the Program include costs and delays related to integrating the new connectors expansion with the existing Terminal B structures, and unforeseen utility relocations, including aviation fuel systems, electrical power and communications systems. Field conditions that varied from design assumptions have led to a significant amount of alternate staging and additional work, and have caused construction delays.

The PFC process allows for previously approved applications to be amended, increasing the authority to collect PFCs in support of a project by an amount of up to 25 percent, when required. Thus far, \$156.25 million in PFCs have been approved for collection in support of the Program. The additional \$39.06 million in PFC collections that would be generated by the proposed amendment to the PFC application would help offset the increased Program costs.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project for the Terminal B Modernization Program (Program) at Newark Liberty International Airport, at an estimated cost of \$347.1 million, including payments to contractors, allowances for extra work (if necessary) and net cost work, engineering and planning, administrative and financial expenses, and a project contingency, inclusive of contingency funds for potential contractor claims, be and it hereby is re-authorized; and it is further

RESOLVED, that the Executive Director be and hereby is authorized, for and on behalf of the Port Authority, to file an application with the Federal Aviation Administration to amend the Passenger Facility Charge application to allow for the collection of an additional \$39.06 million in funds for the Program; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to settle contractor claims and to increase by \$1.5 million the amount of Contract EWR-264.003 with VRH Construction Corporation and increase by \$2 million the amount of Contract EWR-254.003A with Prismatic Development Corporation for work performed in connection with the Program; and it is further

RESOLVED, that the form of all documents required to effectuate the foregoing shall be subject to approval by General Counsel or his authorized representative.

GEORGE WASHINGTON BRIDGE AND PORT AUTHORITY BUS TERMINAL - SEISMIC RETROFIT PROGRAM - PROJECT RE-AUTHORIZATION AND INCREASE IN AUTHORIZATION FOR CONTRACT BT-254.220

It was recommended that the Board: (1) re-authorize a project for the completion of the Seismic Retrofit Program (the Program), which covers certain structural strengthening measures at the George Washington Bridge (GWB) and the Port Authority Bus Terminal (PABT), at a total estimated project cost of \$108 million; and (2) authorize the Executive Director to increase, by \$3.7 million, the amount of Contract BT-254.220 with Koch Skanska, Inc. for structural modifications at the PABT in connection with the Program, from \$61 million to \$64.7 million.

In March 2003, the Federal Emergency Management Agency (FEMA) provided a \$46.3 million grant to the Port Authority to implement certain structural strengthening initiatives at the GWB and the PABT.

On June 24, 2004, the Board authorized a project for the GWB and PABT Seismic Retrofit Program, at a total cost of \$75.9 million. The authorization included construction cost estimates of \$17.9 million for the GWB and \$34.9 million for the PABT.

After developing final designs for the work at the GWB, staff realized that the required strengthening would be attained at a lower construction cost than anticipated. Contract GWB-244.221 for the Seismic Retrofit of the New York Approach Structures at the GWB was awarded to Koch Skanska, Inc. in November 2004, at an amount of \$8.63 million, and was completed in February 2008. The final construction cost was \$7.38 million, and the total GWB project cost was \$12.34 million.

In August 2005, Contract BT-254.220 for structural modifications at the PABT was awarded to Koch Skanska, Inc., at an amount of \$50 million. At that time, the funds remaining from the GWB project cost overrun were used to offset the higher than expected bid price for the PABT contract. In May 2008, an additional \$2.5 million was authorized for Contract BT-254.220, which brought the contract total to \$52.5 million.

In January 2009, the Board authorized an increase in the amount of the Program, from a total cost of \$75.9 million to \$98.7 million, to cover various costs associated with the PABT project that were greater than anticipated. The increase provided for additional utilities relocation work, additional engineering design and construction management required to coordinate tenant work, delays in obtaining agreements from the New York City Department of Transportation to erect structural support on the exterior of the PABT and close streets, removal and replanting of trees by the New York City Parks Department, and delays to the contractor caused by coordination of work with other ongoing contracts. In addition, Contract BT-254.220 was increased by \$8.5 million to accommodate the additional work required to effectuate the structural modifications at the PABT, resulting in a total authorized amount of \$61 million.

Present conditions nevertheless require a greater construction effort than that provided for in the January 2009 Board authorization. Specifically, the contractor must be compensated for impact costs and delays made necessary by coordination with the New York City Transit/Metropolitan Transportation Authority's No. 7 Subway Line extension through the PABT long-distance bus level and with other ongoing contracts at the PABT. In addition, there are increased

project management, design, engineering and construction management staff costs, due to additional work required for tenant coordination and for extension of the project completion date.

To date, the Port Authority has received \$28 million in grant funds for the Program from FEMA. In March 2010, FEMA authorized the transfer of \$18.3 million in funds remaining from the GWB grant to the PABT grant, making the total program grants of \$46.3 million fully recoverable.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project for completion of the Seismic Retrofit Program (Program) at the George Washington Bridge and the Port Authority Bus Terminal (PABT), at a total estimated project cost of \$108 million, be and it hereby is reauthorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to increase the amount for Contract BT-254.220 with Koch Skanska, Inc. for structural modifications at the PABT in connection with the Program by \$3.7 million, from \$61 million to \$64.7 million; and it is further

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

PORT AUTHORITY BUS TERMINAL – BUILDING AUTOMATED MONITORING AND CONTROL SYSTEM UPGRADE – PROJECT AUTHORIZATION AND AUTHORIZATION TO AWARD CONTRACT BT-254.062 AND MAINTENANCE CONTRACTS BT-254.062M1 AND BT-254.062M2

It was recommended that the Board authorize: (1) a project to upgrade the Building Automated Monitoring and Control System (BAMCS) at the Port Authority Bus Terminal (PABT), at a total estimated project cost of \$28.2 million; (2) the Executive Director to award Contract BT-254.062 to T.E.C. Systems, Inc. of Long Island City (T.E.C.) for construction of the BAMCS upgrade, at a total estimated construction cost of \$18,389,452 (inclusive of extra work and net cost work), which is included within the proposed project authorization; and (3) the award of maintenance Contracts BT-254.062M1 and BT-254.062M2 to T.E.C. to perform maintenance of the BAMCS, at a total estimated cost of \$3,886,693.

The PABT, which opened in 1950, currently accommodates approximately 200,000 daily customers who travel through the facility. The BAMCS interfaces with, and controls and/or monitors, 12 building subsystems, which are critical to maintain safe and secure operation of the PABT.

The existing BAMCS consists of 20- to 30-year-old equipment, with many of its components having exceeded their design life. In addition, there is no capacity to add new field devices or equipment to the existing system.

This project would replace 336 BAMCS control units, existing control and power wiring, control unit enclosures, operator workstations, and application software, and would install a fiber-optic communication loop. The maintenance contracts are required to maintain the existing BAMCS during construction, to maintain the newly installed BAMCS following installation, and to continue to maintain all other subsystems controlled by the system but not affected by the contractor installation of the BAMCS.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project to upgrade the Building Automated Monitoring and Control System (BAMCS) at the Port Authority Bus Terminal, at a total estimated project cost of \$28.2 million, be and it hereby is authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to award Contract BT-254.062 to T.E.C. Systems, Inc. of Long Island City (T.E.C.) for construction of the BAMCS upgrade, at a total estimated construction cost of \$18,389,452 (inclusive of extra work and net cost work); and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to award maintenance Contracts BT-254.062M1 and BT-254.062M2 to T.E.C. to perform maintenance of the BAMCS, at a total estimated cost of \$3,886,693; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to construction contracts and contracts for professional and advisory services related to the foregoing project as he deems in the best interest of the Port Authority, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

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

PORT NEWARK - BERTH 6 – WHARF RECONSTRUCTION – PROJECT AUTHORIZATION

It was recommended that the Board authorize a project for the design and reconstruction of the wharf at Berth 6 at Port Newark, at a total estimated project cost of \$43 million.

Condition surveys performed by staff have revealed that supporting timber members for the 45-year-old wharf structure at Berth 6 have deteriorated progressively, due to increased marine borer activity. An independent structural analysis has determined, further, that future loads on the wharf structure would exceed its bearing capacity and limit use of the deck.

Based on the above, and on anticipated ongoing costs for continued inspection, maintenance and repair of the wharf structure, staff determined that demolishing the existing wharf structure at Berth 6 and replacing it with a new wharf structure would be the most cost-efficient course of action. Staff recommended further that the new wharf structure be designed and constructed so that in the future, when the Port Newark Channel will be deepened to 45 feet from its current depth of 40 feet below mean low water, no additional work would be required to the new wharf structure.

The proposed design and reconstruction of the wharf structure at Berth 6 would include: (1) removal of the existing low-level relieving platform, deck and timber piles; (2) removal and relocation of existing utility lines; (3) construction of a high-level concrete deck supported on steel piles; (4) dredging to 45 feet below mean low water along the face of the wharf; and (5) transporting and disposing of dredged material and stone.

Approximately 15,000 cubic yards of processed dredged material would be placed at a permitted and operational upland facility operated by UTEX Holdings, LLC and TDM America, LLC, and an estimated 25,000 cubic yards of red brown clay underlying the soft silt sediments would be placed at the Historic Area Remediation Site. All of the material dredged under this project would be beneficially reused.

Wharf reconstruction would restore full serviceability, improve operational efficiency, increase load capacity for safe container cargo handling and achieve a renewed 50-year service life for the wharf structure at Berth 6, thereby preserving the long-term value of this asset. The wharf design selected is durable, complies more effectively with seismic design requirements, and provides adequate headroom for inspections.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project for the design and reconstruction of the wharf at Berth 6 at Port Newark, at a total estimated project cost of \$43 million, be and it hereby is authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to construction contracts and contracts for professional and advisory services related to the foregoing

project as he deems in the best interest of the Port Authority, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

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

BROOKLYN-PORT AUTHORITY MARINE TERMINAL -- BROOKLYN CRUISE TERMINAL -- SHORE POWER INSTALLATION – PROJECT AUTHORIZATION AND AWARD OF CONTRACTS

It was recommended that the Board authorize: (1) a project to install the landside electrical infrastructure for cruise vessels calling at the Brooklyn-Port Authority Marine Terminal (BPAMT) to connect to a landside electrical grid while at berth, at a total estimated cost of \$15 million, with \$2.858 million in funding to be provided through a United States Environmental Protection Agency (USEPA) American Recovery and Reinvestment Act - National Clean Diesel Funding Assistance Program Grant (Grant), and the Port Authority to fund the remaining approximately \$12.1 million; and (2) the Executive Director to enter into agreements with: (a) Cochran, Inc. for consulting, project development and engineering services for the shore power substation, and the purchase, testing and commissioning of the shore power system, at a total estimated cost of \$3.1 million; and (b) Lizardos Engineering, Inc. for the final design of the shore power infrastructure and construction support services, at a total estimated cost of \$660,000, with funding for both agreements included in the amount of the proposed project authorization.

On September 23, 2004, the Board authorized a lease agreement with New York City Economic Development Corporation (NYCEDC) for the development of a passenger cruise terminal – to be called the Brooklyn Cruise Terminal (BCT) – at Piers 11 and 12 at the Red Hook Container Terminal and BPAMT, respectively. On May 28, 2009, the Board authorized a new 20-year lease with NYCEDC for the letting of Piers 11 and 12 through December 31, 2029, with NYCEDC having the option to extend the lease for three additional periods, through December 31, 2058. Pursuant to Board authorizations on December 8, 2005 and November 15, 2007, the Port Authority currently operates the BCT for NYCEDC under an agreement that provides for compensation to the Port Authority for its labor and expenses associated with operating the cruise terminal.

At its meeting of November 20, 2008, the Board adopted a Statement of Principles for Improving Air Quality at the Port of New York and New Jersey (Port) that reaffirmed its support of the Port Authority's continuing sustainability initiatives to reduce Port-related emissions, with the goal of achieving an 80 percent reduction in greenhouse gas emissions from 2006 levels by 2050, as well as indicating that the Port Authority would take the lead to develop a Clean Air Strategy for the Port. The Port Authority's Clean Air Strategy was completed in October 2009, and included as partners the New Jersey Department of Environmental Protection, the New York Shipping Association, the USEPA, the New York State Department of Environmental Conservation, the New York City Mayor's Office, NYCEDC, and the cities of Newark, Bayonne, Elizabeth and Jersey City in New Jersey. One action included as part of the Clean Air Strategy would be effectuated via the proposed project, which would enable cruise vessels calling at the BCT to connect to shore power while docked for passenger loading and unloading, avoiding the need to operate on-board diesel generators.

In 2009, the BCT handled 45 cruise vessels. Two cruise ships owned by Carnival Corporation (Carnival) accounted for approximately 90 percent of those vessel calls, and this pattern of activity is expected to continue for the next 13 years. Carnival is an early pioneer and leader in the use of shore power for cruise ships, and has committed to retrofit, at a minimum, its two primary vessels that call at the BCT with shore power equipment, at a total cost to Carnival

of approximately \$3 million to \$4 million, if the landside electrical infrastructure is installed. The \$2.858 million USEPA Grant would be applied towards the total costs associated with the purchase and installation of the landside electrical infrastructure necessary to deliver electrical power from the existing utility-owned (Con Edison) feeders to cruise ships docked at the BCT, with the remaining approximately \$12.1 million in funding to be provided by the Port Authority. The project would consist of: (1) the installation of three isolation transformers and switchgear to provide utility-required short-circuit protection for Con Edison's three feeders; (2) the routing of power via duct bank to a new substation; (3) the installation of the new substation, which includes step-down transformers and switchgear; and (4) the routing of power from the new substation to the vessel interface, which includes the cable-handling equipment. The details of the vessel interface (including cable sizes and connectors, and data communications) must comply with specifications for vessel connection developed by Carnival.

The work at the landside substation would be performed, on a sole-source basis, by Cochran, Inc. and Lizardos Engineering, Inc. The agreement with Cochran, Inc. would provide for: (1) purchasing the shore power substation equipment, jib crane and cable management system; (2) furnishing and overseeing the installation of the shore power system, in accordance with approved performance-based equipment specifications; (3) providing shore power system integration and programming, based on the sequence of operation described in the approved performance-based equipment specifications; (4) providing relevant technical information to the engineering consultant in their preparation of the construction contract documents for the shore power equipment support facilities and the outdoor electrical infrastructure; (5) testing and commissioning of the shore power system equipment at the completion of the installation work; and (6) preparing and furnishing shore power system operation and maintenance manuals, all at a total estimated cost of \$3.1 million. The agreement with Lizardos Engineering, Inc. would provide for the final design of the shore power infrastructure and construction support services, at a total estimated cost of \$660,000.

Pursuant to its lease with the Port Authority for Piers 11 and 12, NYCEDC is responsible for all costs associated with the staffing, operation and ongoing maintenance of the BCT shore power electrical infrastructure. NYCEDC's lease would be supplemented to add the shore power infrastructure to the leasehold. The supplemental agreement would provide for Port Authority access to the leasehold premises to undertake, or cause to be undertaken, the new project and to indemnify and hold harmless NYCEDC in connection with such construction. The Port Authority would retain its existing rights during the term to access the leasehold premises. In addition, NYCEDC and the New York Power Authority (NYPA) have agreed to cost-share the differential cost between the actual NYPA electricity rate and the \$0.12 per-kilowatt-hour rate that Carnival has agreed to pay to connect its cruise vessels that will utilize the shore power infrastructure at the BCT.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino and Sartor voting in favor; none against; Commissioner Steiner recused:

RESOLVED, that a project for the installation of the landside electrical infrastructure for cruise vessels making calls at the Brooklyn Cruise Terminal at the Brooklyn-Port Authority Marine Terminal to connect to a landside electrical grid while at berth, at a total estimated cost of \$15 million, with \$2.858 million in funding

to be provided through a United States Environmental Protection Agency American Recovery and Reinvestment Act - National Clean Diesel Funding Assistance Program Grants, and the Port Authority to fund the remaining approximately \$12.1 million, be and it hereby is authorized; 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 agreements with: (1) Cochran, Inc. for consulting, project development and engineering services for the shore power substation, and the purchase, testing, and commissioning of the shore power system, at a total estimated cost of \$3.1 million; and (2) Lizardos Engineering, Inc. for the final design of the shore power infrastructure and construction support services, at a total estimated cost of \$660,000, with funding for both agreements included as part of the proposed project authorization; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to construction contracts and contracts for professional and advisory services related to the foregoing project as he deems in the best interest of the Port Authority, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

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

ELIZABETH-PORT AUTHORITY MARINE TERMINAL – TYLER DISTRIBUTION CENTERS, INC. – LEASE EP-226 – SUPPLEMENT

It was recommended that the Board authorize the Executive Director to enter into a supplemental agreement to amend Lease EP-226 (Lease) between the Port Authority and Tyler Distribution Centers, Inc. (Tyler) to allow Tyler to sublease its leasehold premises at the Elizabeth-Port Authority Marine Terminal (EPAMT), subject to the prior written consent of the Port Authority, substantially in accordance with the terms outlined to the Board.

Tyler has been a tenant at the Port of New York and New Jersey since 1984 and specializes in the storage of imported foods. As authorized by the Board in September 2002, under its Lease at the EPAMT, Tyler currently occupies Building 1400, consisting of approximately 136,994 square feet of warehouse space and 128,336 square feet of associated open area. The Lease expires on September 30, 2015.

Tyler has requested that the Lease be amended to provide Tyler with the right to sublease its leasehold, subject to the prior written consent of the Port Authority. The lease supplement with Tyler would include a provision indicating that the Port Authority would retain all incremental revenues beyond Tyler's rental obligations under the Lease. Providing Tyler with the right to sublease would maintain a continued revenue stream to the Port Authority for the leasehold premises covered under the Lease.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter a supplemental agreement to amend Lease EP-226 between the Port Authority and Tyler Distribution Centers, Inc. (Tyler) to allow Tyler to sublease its leasehold premises at the Elizabeth-Port Authority Marine Terminal, subject to the prior written consent of the Port Authority, 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 execute written consents to subletting and enter into any other contracts and agreements necessary or appropriate in connection with, and to effectuate, the foregoing; and it is further

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

ELIZABETH-PORT AUTHORITY MARINE TERMINAL – EAST COAST WAREHOUSE & DISTRIBUTION CORP. – LEASE EP-158 – PARTIAL SURRENDER AGREEMENT

It was recommended that the Board authorize the Executive Director to enter into a surrender agreement with East Coast Warehouse & Distribution Corp. (East Coast) for the surrender of a portion of its Elizabeth-Port Authority Marine Terminal (EPAMT) premises, consisting of approximately five acres (approximately 217,800 square feet) of open area, effective as of July 31, 2010. The total aggregate rental reduction as a result of this partial surrender would be approximately \$5.7 million over the term of the applicable East Coast lease agreement, which expires in November 2026.

East Coast, the largest public warehouse operator at the New Jersey Marine Terminals, has been a tenant at the EPAMT since 1960. East Coast currently leases a total of approximately 51 acres at the EPAMT under three long-term lease agreements, including approximately 1.1 million square feet of warehouse space, and pays over \$5 million in annual rental. East Coast specializes in the storage and distribution of food products and operates a Centralized Examination Station, including a stationary Vehicle and Cargo Inspection System unit for inspections by U.S. governmental agencies.

On July 23, 2009, the Board authorized an agreement with another EPAMT tenant for the surrender of an approximately 60-acre leasehold to facilitate that tenant's relocation elsewhere at EPAMT. In December 2009, Port Authority staff issued a Request for Expressions of Interest (RFEI) for the approximately 60-acre site. After reviewing responses to the RFEI, the Port Authority determined that assembling and combining the five-acre East Coast parcel with the 60-acre site offered in the RFEI would create a greater value for the 60-acre site for future maritime terminal-related purposes, by allowing for improved ingress and egress of truck traffic from Polaris Street into the EPAMT site.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into a surrender agreement with East Coast Warehouse & Distribution Corp. with respect to a portion of the premises under one of its three leases at Elizabeth-Port Authority Marine Terminal, substantially in accordance with the terms outlined to the Board; and it is further

RESOLVED, that the form of any agreements required in connection with the foregoing shall be subject to the approval of General Counsel or his authorized representative.

ENLARGEMENT OF FOREIGN-TRADE ZONE NO. 49 THROUGH THE ESTABLISHMENT OF A SUBZONE TO INCLUDE LVMH MOËT HENNESSY - LOUIS VUITTON WATCH AND JEWELRY U.S.A. IN SPRINGFIELD, NEW JERSEY

It was recommended that the Board authorize the Executive Director to: (1) file an application, on behalf of the Port Authority, as Grantee of Foreign-Trade Zone (FTZ) No. 49, with the Foreign-Trade Zones Board of the United States Department of Commerce (FTZ Board), for the establishment of a new sub-zone at LVMH Moët Hennessy - Louis Vuitton Watch and Jewelry U.S.A.'s (LVMH-W&J) facility in Springfield, New Jersey; and (2) pending activation approval from United States Customs and Border Protection (Customs), execute an operating agreement with LVMH-W&J.

LVMH Moët Hennessy - Louis Vuitton (LVMH) is a world leader in luxury goods and possesses a unique portfolio of over 60 brands. LVMH has 77,300 employees world-wide, with an international retail network of more than 2,400 stores. Created in 1987, LVMH is composed of five companies, which deal in: watches and jewelry, wines and spirits, fashion and leather goods, perfumes and cosmetics, and selective retailing.

The proposed FTZ sub-zone is located in Springfield, New Jersey, and includes offices and a warehouse consisting of approximately 52,684 square feet of space. From this location, LVMH-W&J sells and distributes watches and jewelry to U.S. and Canadian markets, including approximately 1,200 authorized retailers throughout the U.S. and six outlet stores. LVMH-W&J conducts standard warehouse and distribution activities, including the receiving, labelling, repacking, shipping and exporting of Swiss watches, as well as administrative and executive functions of finance, marketing and sales. LVMH-W&J employs approximately 119 individuals at its Springfield facility.

FTZ designation would allow LVMH-W&J to be more competitive, by enhancing its supply chain logistics and lowering its costs. Procedural FTZ benefits, such as direct delivery, would allow imported, non-restricted merchandise to move on an expedited basis from the port of arrival to the Springfield facility without prior Customs approval for each shipment of non-restricted merchandise admitted to the zone. This would indirectly save time and money for LVMH-W&J. Sub-zone approval also would be beneficial to the State of New Jersey by assisting LVMH-W&J in keeping valuable jobs in New Jersey, which would positively impact the economy, in the form of tax revenues, wages, and reinvestment in the local economy. These jobs include those directly held by LVMH-W&J employees, as well as ancillary employment created by LVMH-W&J's warehousing and distribution activities. In addition, sub-zone status would assist in maintaining LVMH-W&J's U.S. distribution presence.

Upon approval by the FTZ Board and activation by Customs, LVMH-W&J would pay the Port Authority, as Grantee, an annual operator fee of \$13,000. LVMH-W&J also would pay a one-time non-refundable activation fee of \$500.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to: (1) file an application, on behalf of the Port Authority, as Grantee of Foreign-Trade Zone No. 49, with the Foreign-Trade Zones Board of the United States Department of Commerce for the establishment of a new sub-zone at LVMH Moët Hennessy - Louis Vuitton Watch and Jewelry U.S.A.'s (LVMH-W&J) facility in Springfield, New Jersey; and (2) pending activation approval from United States Customs and Border Protection, execute an operating agreement with LVMH-W&J; and it is further

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

DOWNTOWN RESTORATION PROGRAM - WORLD TRADE CENTER VEHICULAR SECURITY CENTER AND TOUR BUS PARKING FACILITY – PROJECT AUTHORIZATION AND AWARD OF CONTRACT WTC-264.599

It was recommended that the Board authorize: (1) a project for the design and construction of the World Trade Center Vehicular Security Center and Tour Bus Parking Facility (WTC VSC), at an estimated total project cost of \$667 million; and (2) the Executive Director to: (a) enter into a construction trade contract, through construction manager Tishman Construction Corporation (Tishman), with Yonkers Contracting Company, Inc. (Yonkers Contracting) for excavation and foundations work associated with the construction of the WTC VSC Project, at an estimated total cost of \$70,607,160, inclusive of an eight-percent allowance for extra work; and (b) increase, by an estimated amount of \$2.8 million, the compensation under the Port Authority's existing agreement with Liberty Security Partners (LSP) for architectural and engineering services (Stage IV services) to support the construction of the WTC VSC Project.

The WTC VSC Project is critical for the redevelopment of the World Trade Center (WTC) site, and the WTC VSC will play an important role in improving vehicular circulation and access within Lower Manhattan. The scope of work for the project includes construction of an entrance on Liberty Street and internal access ramps, which will include a vehicle screening area as part of the WTC VSC for tour buses, cars and service vehicles, and a new basement structure area south of the existing WTC site with below-grade support for approximately 25 future parking spots for tour buses transporting visitors to downtown Manhattan. The proposed project cost will cover engineering, project and construction management, payments to contractors and consultants, payments for early-action work, a project contingency and other project costs.

Previously authorized work to support the proposed project totals \$177 million, inclusive of prior Board authorizations through February 2010 for: (1) planning, Stage III design, relocation of a sewer at the WTC site South Bathtub, construction of the perimeter foundation walls at the South Bathtub, construction support services for the sewer and perimeter wall contracts, additional preliminary engineering necessary to incorporate value engineering recommendations, and redesigned construction staging and additional construction design services needed to mitigate delays caused by 130 Liberty Street deconstruction and steel detailing design, at a total aggregate amount of \$139.1 million; (2) construction management services necessary to implement the project, at an estimated amount of \$31 million; and (3) installation and subsequent removal of a temporary demising slurry wall, to enable excavation work to begin for the project, at an estimated amount of \$6.9 million.

The scope of work under the proposed construction trade contract includes the excavation required for the installation of foundations, including footings, piers, foundation walls, slab on grade, subdrainage and waterproofing work. The contract would include work previously authorized to be performed by E.E. Cruz & Company (E.E. Cruz) under Contract WTC-724.078 for excavation and placement of perimeter foundation walls and tiebacks at the eastern side of the WTC VSC. Ongoing delays associated with the deconstruction of the Deutsche Bank building have prevented E.E. Cruz from completing this work under their existing contract. This scope would be performed under the proposed construction trade contract, to avoid further mobilization costs and mitigate potential construction delays.

It is also necessary to increase the amount authorized under the existing agreement with LSP to provide for architectural and engineering services (Stage IV services) to support the construction of the WTC VSC Project. Since LSP's initial retention in September 2006, a total of \$47.6 million has been authorized for architectural and engineering design services to implement various components of the WTC VSC Project. Including the proposed increase, a total of \$50.4 million will have been authorized. Approximately \$40.6 million of that amount has been expended to date.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino and Steiner voting in favor; none against; Commissioner Sartor recused:

RESOLVED, that a project for the design and construction of the World Trade Center Vehicular Security Center and Tour Bus Parking Facility (WTC VSC), at an estimated total project cost of \$667 million, be and it hereby is authorized; 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 a construction trade contract, through construction manager Tishman Construction Corporation, with Yonkers Contracting Company, Inc. for excavation and foundations work associated with the construction of the WTC VSC Project, at an estimated total cost of \$70,607,160, inclusive of an eight-percent allowance for extra work; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to increase, by an estimated amount of \$2.8 million, the compensation under the existing agreement with Liberty Security Partners for architectural and engineering services to support the construction of the WTC VSC Project; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to construction contracts, contracts for professional and advisory services and such other contracts and agreements as may be necessary to effectuate the foregoing project, pursuant to authority granted in the By-Laws or other resolutions adopted by the Board; and it is further

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

DOWNTOWN RESTORATION PROGRAM – 1 WORLD TRADE CENTER LLC – PROJECT RE-AUTHORIZATION FOR THE CONSTRUCTION OF ONE WORLD TRADE CENTER AND INCREASES TO CERTAIN CONSTRUCTION TRADE AND DESIGN CONSULTANT CONTRACTS

It was recommended that the Board: (1) re-authorize the project to design and construct One World Trade Center (One WTC), in an estimated amount of \$3.19 billion, inclusive of payments to contractors and consultants, allowances for extra work, insurance, engineering, project contingency, financial expense and other project costs, consistent with the budget and schedule included in the October 2008 post-assessment report entitled, *The World Trade Center Report: A Roadmap Forward* (WTC Report); (2) authorize increases to the extra work allowances of seven construction trade contracts for the performance of core and shell work at One WTC, at a total amount of \$43 million, the details of which are outlined below; (3) rescind the Board resolution adopted on February 25, 2010, entitled, “One World Trade Center – Increase in Extra Work Allowance for Various Construction Trade Contracts,” concerning the reallocation of extra work allowances among the seven aforementioned construction trade contracts; and (4) on behalf of other Port Authority projects at the World Trade Center (WTC) site, authorize 1 World Trade Center LLC (1 WTC LLC) to increase compensation to several One WTC design consultants, construction trade contracts and construction management services for work performed on behalf of adjacent WTC site projects, in a total amount of \$29.3 million, the details of which are outlined below, and authorize 1 WTC LLC to allocate these additional funds among the other WTC site projects on an as-needed basis.

On November 16, 2006, the Port Authority acquired 1 WTC LLC from Silverstein Properties, Inc. (SPI), as authorized by the Board at its meeting of September 21, 2006. At its meeting of February 22, 2007, the Board authorized the project for the construction of One WTC, including marketing, lease-up and tenant fit-out, at a total estimated project cost of \$2.877 billion. In June 2008, at the request of the Governor of the State of New York, an assessment of the rebuilding effort at the WTC site was conducted that covered all facets of the WTC Redevelopment Program and included input from multiple stakeholders. In October 2008, the Port Authority issued the WTC Report, which detailed the entire analysis of the assessment.

The WTC Report identified multiple factors that had an impact on the budget for the One WTC Project. These factors included revisions to schedule, staging and scope, based on actual conditions encountered while implementing the One WTC Project. Among the specific issues identified in the WTC Report were: a substantial construction and commodity price escalation; an increase in the volume of work being bid out for other construction projects in the Downtown Manhattan market; schedule extension, due to the ongoing complexity of building on the site of the active Port Authority Trans-Hudson (PATH) rail system; and increased financial expense, as a result of the extended project schedule.

Subsequent to the issuance of the WTC Report, in order to mitigate increases to the One WTC Project budget, a value engineering effort was undertaken and resulted in approximately \$26 million in cost avoidances on multiple items, including lighting, beam and column enclosures, radome material, and use of alternative suppliers for various materials.

Reauthorization of the project was recommended at this time, in order to properly align the authorized One WTC Project budget with both the findings and recommendations outlined in

the WTC Report and recent discussions with the Board concerning the One WTC Project. Authorization also was recommended to increase the extra work allowances and/or base amounts for certain One WTC construction trade contracts and other agreements, in the aggregate amount of \$72.3 million. These increases are necessary to implement the project, as well as certain work on behalf of other Port Authority projects at the WTC site, which are adjacent to the One WTC Project, the details of which are outlined below.

The following increases would be provided in the extra work allowances to construction trade contractors for the performance of core and shell work at One WTC:

<u>Contractor</u>	<u>Amount</u>	<u>Work</u>
Collavino Construction Corp.	\$18,000,000	Concrete
DCM Erectors, Inc.	\$19,000,000	Structural Steel
FW Sims	\$ 2,300,000	Below-grade HVAC
Heritage Mechanical	\$ 500,000	Ventilation
Ingersoll Rand Securities	\$ 2,000,000	Security Systems
Jobin Organization	\$ 500,000	Waterproofing
Rad & D'Aprile	\$ 700,000	Masonry

In order to advance various projects at the WTC site, it is often more practical to utilize existing contractors/consultants to implement work on behalf of other projects. This approach is particularly useful for subgrade work, since various projects overlap at different elevations. In connection with other WTC site projects, the following increases in compensation would be authorized for One WTC design consultants, trade contractors and construction management services for work performed on behalf of adjacent Port Authority projects, at a total amount of \$29,291,082. (1 WTC LLC would allocate these additional funds among the other projects on an as-needed basis.):

Increases to Design Consultants:

<u>Consultant</u>	<u>Amount</u>	<u>Work</u>
Claude Engle	\$ 15,000	Specialty Lighting
Ducibella, Venter & Santore	\$ 18,875	Building Security
Jaros, Baum & Bolles	\$1,429,780	Mechanical Electrical and Plumbing
Pentagram Design	\$ 14,896	Building Signage
Rowan Williams Davies & Irwin	\$ 33,000	Wind Studies
SBP	\$ 78,574	Special Structural (Antenna)
Skidmore Owings & Merrill	\$1,939,876	Architectural
WSP Cantor Seinuk	\$ 697,944	Structural Engineering

Increases to Construction Trade Contracts:

<u>Contractor</u>	<u>Amount</u>	<u>Work</u>
ASM Mechanical Systems	\$4,039,514	HVAC
Bauerschmidt & Sons	\$ 198,741	Millwork
Cardoza Corporation	\$ 716,526	Plumbing
Collavino Construction Corp.	\$2,338,632	Concrete
Component Assembly Systems	\$ 926,675	Carpentry and Drywall
DCM Erectors, Inc.	\$1,958,271	Structural Steel
Firecom J.V.	\$ 63,894	Fire Alarm System
Five Star Electric	\$ 553,515	Electric
FW Sims	\$ 443,921	Below-grade HVAC
FW Sims	\$1,224,880	Above-grade HVAC
Hillside Ironwork	\$ 66,125	Miscellaneous Metals
Ingersoll Rand Securities	\$1,314,207	Security Systems
LaQuila Group	\$ 28,670	Foundations
Long Island Fireproof Door	\$ 59,663	Doors/Hardware
McQuay International	\$ 686,754	HVAC
Megrant Corporation	\$ 698,453	Above-grade HAC
Rael Auto Sprinkler	\$ 8,453	Fire Protection
TAC Americas	\$ 38,859	Building Mgmt. Systems
Thyssen Krupp Elevators	\$6,647,591	Elevators/Escalators
WDF, Inc.	\$1,104,339	Above-grade Plumbing

Increase to Tishman Construction Corporation:

General Conditions	\$1,669,568
Fee	\$ 248,968

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Grayson, Holmes, Moerdler, Pocino and Steiner voting in favor; none against; Commissioners Coscia and Sartor recused:

RESOLVED, that a project to design and construct One World Trade Center (One WTC), in an estimated amount of \$3.19 billion, be and it hereby is re-authorized; and it is further

RESOLVED, that 1 World Trade Center LLC be and it hereby is authorized to increase the amount of the extra work allowances under seven existing construction trade contracts for the performance of core and shell work at One WTC, at a total amount of \$43 million, as set forth above, the funding for which is included as part of the proposed project re-authorization; and it is further

RESOLVED, that the resolution adopted by the Board on February 25, 2010, entitled, "One World Trade Center – Increase in Extra Work Allowance for Various Construction Trade Contracts," concerning the reallocation of extra work allowances among the seven aforementioned construction trade contracts, be and it hereby is rescinded; and it is further

RESOLVED, that 1 World Trade Center LLC be and it hereby is authorized, on behalf of other Port Authority projects at the World Trade Center (WTC) site, to increase compensation to various One WTC design consultants, construction trade contracts and construction management services for work performed on behalf of adjacent WTC site projects, at a total amount of \$29.3 million, as set forth above, which would be allocated against the appropriate WTC site project budget; and it is further

RESOLVED, that 1 World Trade Center LLC be and it hereby is authorized to allocate additional funds to effectuate the foregoing in connection with the One WTC Project work on an as-needed basis, as required in connection with the other WTC site projects involved; and it is further

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

THE WORLD TRADE CENTER – AUTHORIZATION OF JOINT VENTURE BETWEEN THE NET LESSEE OF ONE WORLD TRADE CENTER AND THE DURST ORGANIZATION

At its July 7, 2010 meeting, the Board discussed a possible transaction between the Port Authority and The Durst Organization (“Durst”) in which Durst would become a joint venture partner with the Port Authority in the net leasehold interest of the One World Trade Center building (“1 WTC”) and participate and/or advise in the construction, financing, leasing, management and operation of 1 WTC.

The transaction currently contemplates a joint venture arrangement pursuant to which a single purpose Delaware limited liability company (the “Durst Member”) that is controlled by and initially 90% owned by Durst, would acquire a membership interest in a newly formed Port Authority entity, WTC Tower 1 LLC (“Tower 1 LLC”) that would hold, through other entities, the net lessee’s interest in 1 WTC and certain related assets (the “Transaction”). The current net lessee of 1 WTC is 1 World Trade Center LLC (“1 WTC LLC”). 1 WTC LLC is also the current net lessee of Tower 5 at the World Trade Center site (“T5”). The Port Authority owns 100% of the membership in and is the sole managing member of 1 WTC LLC, a limited liability company formed under the laws of Delaware. The current net lessor of 1 WTC is the Port Authority.

History and Background of 1 WTC Solicitation Process

Since acquiring the net lessee of 1 WTC in 2006, the Port Authority has undertaken, directly and through the use of financial consultants, analyses of various options available with respect to the development, construction, leasing and management of 1 WTC.

In 2008 the Port Authority engaged advisors to identify developers and passive equity investors to purchase a stake in 1 WTC and/or assist with the construction, operations and leasing. The Port Authority rejected the proposals it received due to their expensive cost of capital to the Port Authority, as well as certain structural issues.

By late 2009, Port Authority staff believed the timing was right both to attract investors looking to benefit from a market recovery and to add significant private sector expertise at a time when the development of 1 WTC was entering a new and critical development phase. To that end, on February 3, 2010, the Board approved the engagement of Cushman & Wakefield (“C&W”) and Jones Lang LaSalle (“JLL”) to work with Port Authority staff to solicit an equity partner for 1 WTC LLC.

The Port Authority’s objectives in soliciting an equity partner were to: reposition 1 WTC in the market with a private sector overlay and equity backing to increase its economic competitiveness, acquire best-in-class private sector expertise in development, construction, leasing and management whose economic interests would be aligned with the Port Authority, and limit the Port Authority’s long-term financial risk in 1 WTC by partnering with a private developer with a proven track record for developing large, Class-A office buildings in New York City. Moreover, by partnering with a private sector organization with real “skin in the game”, in the form of a minimum equity commitment of \$100 million at risk, it would maximize 1 WTC

LLC's short and long term performance and valuation, and reduce the Port Authority's downside risk while retaining the best possible opportunity to realize a return on its substantial investment.

The solicitation process targeted prospective partners with a strong track record of large scale office development in New York City, a willingness and ability to commit equity capital to the project, and the ability to deliver a full suite of real estate services. Partners were evaluated based on their qualitative expertise and reputation, the anticipated overall economic impact of their proposal (compared with the development of 1 WTC by the Port Authority on a standalone basis), sharing of risks and rewards to align interests, the amount and nature of their equity investment, and the overall impact on the Port Authority's capital capacity.

In January 2010, following receipt of executed confidentiality agreements, solicitation and property information materials were sent to nine pre-qualified real estate organizations. In February 2010, the Port Authority received six quality proposals from: Boston Properties (a publicly traded REIT), Brookfield Properties (a publicly traded real estate operating company), The Durst Organization (a private developer), Hines Interests (a private developer), The Related Companies and L&L Holding Company (a partnership of two private development and investment organizations), and Vornado Realty Trust (a publicly traded REIT). Three others, Rudin Management Company, Rockefeller Group Development Company, and The Trump Organization (all private developers) were invited to submit proposals or qualifications, but declined to do so.

Staff, together with C&W and JLL, evaluated each of the candidates and their proposals with respect to specific criteria: qualitative (reputation, global reach, and platform), expertise (development, construction, leasing and management), and quantitative (investment returns, non-investment derived benefits and alignment of financial interests). The two least competitive proposals, from Brookfield and Vornado, were eliminated from consideration.

With respect to the remaining four candidates, the Port Authority requested responses to specific, written questions, some of which were common amongst the four and others which were specific to each. In March 2010, the candidates were invited to make presentations of their capabilities and proposals to senior staff. Separately, development staff held marketing and leasing meetings with each candidate.

After being provided with feedback from the presentations, the candidates were asked to refine and improve their proposals, and to address key concerns raised by the staff. Each submitted revised proposals with modifications. In April 2010, Hines was eliminated from consideration after it declined to meet the required \$100 million equity threshold on the terms requested in the Port Authority's initial request, and in May 2010 Boston Properties withdrew from consideration.

In June 2010, the finalists, Durst and Related/L&L, made presentations to the Board. On instructions from the Board, staff sent proposed term sheets to both. The term sheets contained specific proposed financial terms and special distributions for services provided, and common proposed governance and personnel terms. Each finalist was asked to respond with a written markup of the Port Authority's term sheet.

On July 7, 2010, based on the term sheet responses and other information that was developed over the course of the solicitation process, the Board directed staff to enter into negotiations with The Durst Organization for 30 days with the goal of presenting a proposed final transaction to the Board for its consideration at its August 5, 2010 meeting.

Proposed Structure

In connection with the Transaction, the Port Authority would create four new, wholly owned Delaware limited liability companies, Tower 1 Member LLC (“PA Member”), Tower 1 Joint Venture LLC (the “Joint Venture” or the “Company”), Tower 1 Holdings LLC (“Holdings”) and Tower 1 LLC. This structure would provide flexibility to seek and obtain future financings, admit new members and allow the Port Authority to otherwise monetize its interest in the Project.

1 WTC LLC would transfer its interest in the 1 WTC net lease, and all other rights and obligations related to the construction, and operation of 1 WTC (the “Project” or “Property”) to Tower 1 LLC. As a result, Joint Venture, through its wholly owned subsidiaries, Holdings and Tower 1 LLC, would indirectly own 100% of the net leasehold interest in the Project, including without limitation the 1 WTC building and related assets. 1 WTC LLC would remain as the net lessee of T5, and would change its name to reflect that T5 is its sole asset.

Upon execution and delivery of the LLC Agreement (defined below) and other related documents (the “Closing”), the Durst Member, a single purpose Delaware limited liability company (PA Member and Durst Member, the “Members” and each, a “Member”), would contribute to the Joint Venture at least \$100 million of initial capital, and, if requested by the Port Authority, up to \$200 million of additional capital (as described below) for the development and stabilization of the Project and, on the terms described herein, would receive a membership interest in Joint Venture upon payment of the \$100 million capital commitment representing an initial equity interest of approximately 10%, based on an assumed property value of \$2 billion and an assumed 50% loan-to-value ratio (\$100 million of \$1 billion), which are described below and which equity interest would be readjusted on the Valuation Date, as described below. Durst Member’s return on its capital commitment would not be guaranteed, but would be dependent on the building’s positive performance once debt service, operating expenses and PILOT payments have been paid and reasonable reserves have been established. At the Port Authority’s election, to be made no later than the earlier of thirty (30) days before Closing and November 15, 2010, the Durst Member would be obligated to provide either (a) at least fifty percent (50%) of up to \$100 million of additional common equity or (b) up to \$200 million of senior preferred equity (“SPE”), as more particularly described herein.

Proposed Documents

The Transaction would be effectuated through an Agreement to Contribute Assets, an Amended and Restated Limited Liability Company Agreement of Joint Venture (the “LLC Agreement”), a Property Management Agreement, a Leasing Agreement, and a Second Amended and Restated Net Lease Agreement (collectively, the “Operative Documents”), together with such other ancillary agreements as are necessary (together, with the Operative Documents, the “Transaction Documents”).

This section describes the principal provisions of Operative Documents that the Port Authority would enter into in connection with the Transaction and certain related matters.

LLC Agreement

Capital Structure

The parties contemplate funding construction and stabilization costs of the Project with (a) approximately \$1.05 billion of loan proceeds (from a combination of Liberty Bonds and a taxable supplemental loan (the “Supplemental Loan”)), (b) Durst Member’s \$100 million capital contribution, (c) at the Port Authority’s election, additional equity funded by the Durst Member that is either (i) at least fifty percent (50%) of up to \$100 million of additional common equity requested by the Port Authority or (ii) up to \$200 million SPE, and (d) the remainder (including amounts funded to date) by the PA Member. While this Transaction is intended to mitigate overall Port Authority risk, structurally the Port Authority retains control of the construction and schedule of the Project and, aside from the capital committed by the Durst Member, the Transaction does not eliminate the Port Authority’s existing development period cost-exposure for the Project.

Durst Member Capital Contributions

The Transaction contemplates a \$100 million initial capital contribution to be made by the Durst Member. Upon such contribution, the Durst Member would have an initial equity interest in the Company of approximately 10%, based on an assumed property value of \$2 billion and an assumed 50% loan-to-value ratio (\$100 million of \$1 billion), which are described below and which equity interest would be readjusted on the Valuation Date, as described below. The initial capital contribution by the Durst Member would accrue a preferred return from the date of contribution at the interest rate charged under the Supplemental Loan (when obtained) until the Valuation Date (as defined herein). Until the Supplemental Loan closes, the imputed rate on the Durst Member’s initial capital contribution would be 5.5%. When the Supplemental Loan closes, the preferred return would be recalculated using the actual interest rate and any prior accruals and/or distributions would be reconciled. Durst Member’s return on its capital commitment would not be guaranteed, but would be dependent on the building’s positive performance once debt service, operating expenses and PILOT payments have been paid and reasonable reserves have been established. Following the Valuation Date, the initial capital contribution by the Durst Member would no longer accrue a preferred return and the percentage interests of the Members in the Joint Venture would be recalculated in accordance with a formula in the LLC Agreement, as set forth below. After such recalculation, all distributions or

returns paid to Durst Member would be based solely on project performance, including a promote, as described herein. The “Valuation Date” would be a defined date under the LLC Agreement on which the parties treat the Project as stabilized for the purposes of calculating the Members’ percentage interests and the maximum promote as described below.

As noted above, no later than the earlier of thirty (30) days before Closing and November 15, 2010, the Port Authority may elect to have the Durst Member fund either (a) additional common equity (the “Additional Common Equity”) or (b) SPE. If the Port Authority chooses the Additional Common Equity, it would state an amount, no greater than \$100 million, of Additional Common Equity it requires. The Durst Member would fund at least fifty percent (50%) of such stated amount at the Closing. The Durst Member would then attempt to syndicate the Additional Common Equity, up to the full amount requested by the Port Authority. On the date that is not later than six (6) months after the Closing, Durst Member would fund any Additional Common Equity (if any) that it has raised in excess of the 50% funded at Closing (and if the Additional Common Equity to be funded at such time is less than \$10 million, the Port Authority may choose not to accept such Additional Common Equity). If the Port Authority chooses the SPE, it would state an amount, no greater than \$200 million, of SPE it requires. Such SPE would be funded by the Durst Member within six (6) months of Closing and fifty percent (50%) of such funding obligation would be guaranteed by the Guarantor (defined below). If the Additional Common Equity is chosen, it would be treated the same as the initial \$100 million common equity capital contribution described above, including the preferred return prior to the Valuation Date. If the SPE is chosen, the SPE would receive a preferred return at a fixed amount of 10% per year plus amortization based on a 30-year schedule. If cash flow generated by the Project is not sufficient to pay a full distribution on the SPE, any unpaid portion would accrue and compound quarterly at the applicable rate. The Joint Venture would have the right to prepay, in whole or in part (in increments of not less than \$10 million), the SPE at par (plus all accrued and unpaid return) at any time. The PA Member would be responsible for the return on and of the SPE in accordance with the provisions of the LLC Agreement.

Durst Member’s capital contributions would be funded by the Durst Member. The Guarantor would guarantee funding of at least fifty percent (50%) of the SPE. Generally, Durst Member would not have the right to transfer all or any portion of its interest in the Joint Venture to non-family members, except with the prior consent of the PA Member; however, (a) Durst Member would have the ability to syndicate its Additional Common Equity, and (b) Durst Member would have the right to syndicate no more than 75% of its SPE, in all cases subject to the restrictions on transfers set forth in the LLC Agreement, including without limitation, the requirement that the Durst principals control the Durst Member at all times and subject to prohibitions on transfers to prohibited parties.

Additional Capital Contributions

The PA Member would be required to fund, as additional capital contributions, the construction and operating costs required to complete the Project, other than those noted below.

From and after a date determined in the LLC Agreement (which would be no later than actual stabilization of the Project (“Stabilization”) or the Valuation Date), if the PA Member

were to determine that funds were required by the Joint Venture (or any subsidiary) for any Required Funds (defined below), then such Required Funds would be funded approximately 90% by the PA Member and approximately 10% by the Durst Member. Such contributions may be treated as “Member Loans,” earning a 15% priority return on and of such capital. “Required Funds” would mean: (i) shortfalls in operating costs of the Company (and any subsidiary), (ii) real estate taxes on the Project or payments in lieu thereof, if any, (iii) insurance premiums for the Company, its subsidiaries and the Project, and (iv) expenditures required and approved by both Members for tenant improvements, leasing commissions and other costs for the initial leasing of the Property to the extent that such costs are contemplated in the approved Leasing Parameters (as described below), in each case, only to the extent that such amounts exceed the amounts set forth in the development budget.

Until the Valuation Date, the PA Member would fund approximately 90% and the Durst Member would fund approximately 10%, of any leasing commissions, tenant improvements, base building work made on behalf of a tenant but borne by the Joint Venture and other leasing costs approved by the Members, to the extent that Durst Member recommends entering into such lease and such costs are in excess of net effective rent calculations set forth in the approved Leasing Parameters (the “Approved Leasing Overruns”).

From and after Stabilization, the Members would fund, in proportion to their respective percentage interests at the time, any capital improvements or leasing costs in connection with the ownership and operation of the Project.

Additional capital contributions would not be made for any costs or expenses for which Durst Member (or its affiliates) is responsible under any Transaction Document.

Baseline Pro Forma

Prior to Closing, the Port Authority and Durst would agree upon a pro forma model (“Baseline Pro Forma”) for the Project, which would be used to derive a valuation (“Property Value”) and the respective equity interests of the PA Member and the Durst Member (“Equity Percentages”) after completion of construction. The Baseline Pro Forma would include fixed assumptions for the lease-up of the Property, including 2010 rental rates and leasing costs, lease-up schedule, and the Valuation Date on which the Project is projected to have achieved a minimum occupancy of 92.5% of the office space (“Pro Forma Stabilization”). Net operating income (“NOI”) and cash flow after debt service (“CFADS”) would be calculated in the Baseline Pro Forma by using actual operating expenses, PILOT, non-office net operating income, debt service, and other actual data specifically identified as variables in the Baseline Pro Forma (collectively, “Placeholder Variables”). Each year until the Valuation Date, the Baseline Pro Forma would be adjusted to take into account the increase or decrease in market rents during the period prior to Pro Forma Stabilization. The annual adjustments would be determined by applying a specified benchmark rate of growth to the 2010 rental rates and leasing costs.

From the Valuation Date until the date on which Durst Member’s Maximum Promote (described below) is determined (the “Promote Determination Date”), the Baseline Pro Forma would be projected forward on an annual basis, with adjustments of the Placeholder Variables,

and taking into account rent step-ups, operating expense/PILOT escalations, and other factors defined in the Baseline Pro Forma lease-up assumptions. After the Promote Determination Date, the Baseline Pro Forma would be projected forward for 30 years, using agreed-upon assumptions for, among other things, revenue and expense growth rates, lease rollovers, and debt amortization.

Determination of Members' Percentage Interests

The Members' respective Equity Percentages would be calculated at Closing and would be recalculated on the Valuation Date using the formula described herein. For purposes of each such recalculation, "Property Value" would be an amount equal to the Baseline Pro Forma net operating income projected for the year commencing on the Valuation Date, divided by .07, "Pro Forma Debt" would be an amount equal to 50% of Property Value, and the "Total Equity" would be determined by subtracting the Pro Forma Debt from Property Value, irrespective of the actual amount of the Joint Venture's debt from time to time ("Actual Debt"). On the Valuation Date, Durst Member's Equity Percentage would be recalculated by dividing its common equity capital contribution by the Total Equity. The PA Member's Equity Percentage would be equal to 100% less Durst Member's Equity Percentage.

Port Authority Option to Reduce Durst Member's "Excess" Equity Percentage

On the Valuation Date, if the Durst Member's Equity Percentage as calculated above (and assuming a \$100 million initial common equity capital contribution) would exceed 14% (such excess above 14%, "Durst Excess Interest"), the PA Member would have the right to elect to purchase up to the Durst Excess Interest on a dollar for dollar basis, plus the accrued unpaid preferred return, if any, until the Durst Member's Equity Percentage is reduced to as low as 14%. If the PA Member exercises such reduction rights, the Durst Member would retain its right to earn the Promote Interest (as described herein) and its affiliates would continue to be the property manager and leasing agent for the Project.

If on the Valuation Date, the Durst Member's Equity Percentage would exceed 17% (assuming a \$100 million initial common equity capital contribution), the PA Member would have the right to elect to (i) purchase some or all of the Durst Excess Interest on a dollar for dollar basis, plus the accrued preferred return, if any, until the Durst Member's Equity Percentage is reduced to as low as 14%, or (ii) purchase for cash the Durst Member's entire interest in the Company (including common capital, preferred capital and Promote Interest) at a price (a) that would provide a look-back IRR to the Durst Member of the greater of (1) the interest rate on the Supplemental Loan (described below), which would be the imputed 5.5% amount described below if the loan has not yet closed, but without true-up and (2) 6.5% per year on its capital contributions, plus (b) the value of any retained Promote Interest, whereupon the Company could elect not to retain Durst Member's affiliates for property management and leasing services.

Calculations of the Durst Excess Interest would be based on the Equity Percentages calculated as described above, using Property Value and Pro Forma Debt. The 14% and 17% thresholds described above would be increased proportionately to any increase of the Durst

Member's common equity (including the Additional Common Equity) above \$100 million (as contemplated above).

Pro Forma Debt Adjustment

The PA Member would have sole and absolute discretion to determine the debt financing structure for the Joint Venture. Irrespective of the Actual Debt, Equity Percentages and allocation of distributions would be based on an adjustment mechanism intended to provide the Durst Member with an economic interest based on a 50% loan-to-value ratio ("LTV"). On the Valuation Date, a "Debt Adjustment" would be calculated by subtracting the Actual Debt on the Valuation Date from the Pro Forma Debt. The Debt Adjustment may be a positive or negative amount, and would not change unless a debt refinancing occurs on or after the Valuation Date.

From and after the Valuation Date, for purposes of allocating cash flow distributions between the PA Member and Durst Member in any year, the Joint Venture's CFADS ("Actual CFADS") would be adjusted up or down by a notional amount of interest which would be the product of (i) the Notional Interest Rate (as defined below) and (ii) the Debt Adjustment amount, resulting in "Adjusted CFADS". For example, if the Debt Adjustment is negative (*i.e.*, Actual Debt is greater than Pro Forma Debt), Actual CFADS would be less than Adjusted CFADS. Adjusted CFADS would be used as the basis for determining the allocation of annual distributions of cash flow to the Members. The Baseline Pro Forma CFADS would be adjusted up or down using the same methodology as described above for adjusting Actual CFADS.

In the event of a debt refinancing which occurs on or after the Valuation Date ("Post-Valuation Refinancing"), the parties would determine the LTV of the new loan and calculate a new Pro Forma Debt amount (based on 50% of the implied asset value for the new loan) and a new Debt Adjustment amount.

Until a Post-Valuation Refinancing takes place, if the Port Authority intended that the loan would be based on a 50% LTV, the "Notional Interest Rate" would be equal to the weighted average interest rate on the Actual Debt. Following a Post-Valuation Debt Refinancing, if the new Debt Adjustment is negative (*i.e.*, Actual Debt is greater than Pro Forma Debt), the Notional Interest Rate would be equal to the weighted average interest rate of all debt tranches from 50% LTV to the Actual Debt amount, or if not issued in tranches, determined by agreement between the Durst Member and the PA Member, or if the parties cannot agree, through an expedited arbitration process involving a qualified, independent investment banker. If the new Debt Adjustment is positive (*i.e.*, Actual Debt is less than Pro Forma Debt), the Notional Interest Rate would be determined in consultation with a qualified, independent investment banker, based on the incremental interest rate which would be applied to the notional debt between the Actual Debt amount and a notional 50% LTV. Closing costs, commitment and financing fees, interest rate hedges and rate lock payments would be included for purposes of determining the LTV and Notional Interest Rate.

If, upon the Valuation Date, as a result of a market disruption, rather than as a result of the Port Authority's sole and absolute discretion (with any dispute subject to arbitration), the Joint Venture is unable to raise non-recourse debt financing in an amount equal to or greater than

50% LTV, the debt adjustment procedures described in this section would not apply, and determination of Equity Percentages and CFADS would be based on the Actual Debt, not Pro Forma Debt. At such time as the Joint Venture is able to obtain an increase in non-recourse debt financing, Durst Member's Equity Percentage would be re-calculated based on the Property Value as of the Valuation Date, and the adjustment procedures described in this section would apply. The LLC Agreement would include a methodology for determining when the Joint Venture is "unable" to "raise non-recourse debt financing," which could include when such debt would be cost-prohibitive.

Durst Member's Promote Interest

The Durst Member would be entitled to an additional interest in excess of its Equity Percentage in the event that the Project outperforms the Baseline Pro Forma as described herein. Such "promote interest" would be determined on the "Promote Determination Date," which would be a date chosen by Durst Member, but would be no later than the earlier to occur of (i) actual Stabilization or (ii) a date certain which is 3 years after the Valuation Date, with the PA Member having the right to choose such date if the Durst Member fails to choose it on a timely basis. On or prior to the Promote Determination Date, the parties would agree on a revised pro forma forecast for the Property (the "Realized Pro Forma"), replacing the lease-up assumptions from the Baseline Pro Forma with the actual results achieved by the Joint Venture. The Realized Pro Forma would be projected forward 11 years from the Promote Determination Date using the same methodology as the Baseline Pro Forma.

"Pro Forma Terminal Event" values would be calculated for each of the Baseline Pro Forma and the Realized Pro Forma by applying a cap rate of .07 to the projected NOI in the 11th year after the Promote Determination Date; terminal "net proceeds" would be net of selling expenses as set forth in the LLC Agreement and the repayment of the Pro Forma Debt amount. The foregoing terminal net proceeds, as calculated under the Baseline Pro Forma and the Realized Pro Forma, are referenced herein as "Baseline Terminal Event Proceeds" and "Realized Terminal Event Proceeds", respectively.

If the Joint Venture has succeeded in outperforming the Baseline Pro Forma, then the Durst Member would receive an additional interest (the "Promote Interest"). The net present value of the Promote Interest (the "Maximum Promote") would be calculated as the net present value, retroactive to the date of commencement of building operations (the "Commencement Date"), using a discount rate of 7.5% (the "Discount Rate"), of the sum of: (a) 20% of the positive difference (if any) between Actual CFADS and Baseline Pro Forma CFADS during the period from the Commencement Date to the Promote Determination Date; (b) 20% of the positive difference (if any) between the projected Adjusted CFADS in the Realized Pro Forma and the Baseline Pro Forma for the 10 years following the Promote Determination Date; and (c) 20% of the positive difference (if any) between the Realized Terminal Event Proceeds and the Baseline Terminal Event Proceeds, assuming a terminal event 10 years after the Promote Determination Date.

Beginning after the Promote Determination Date, Durst Member would receive a distribution (the “Promote Distribution”), on an annual basis, equal to 20% of the positive difference, if any, between Adjusted CFADS and Baseline Pro Forma CFADS for such year. Notwithstanding the above, the Promote Distribution for any year would not exceed Actual CFADS (*i.e.*, the PA Member would not be required to “come out of pocket” if there is not sufficient Actual CFADS to pay the entire Promote Distribution), and would not exceed the “Promote Balance” (as defined herein). In addition, there would be no Promote Distributions out of net proceeds from debt refinancings.

On the Promote Determination Date, a compound annual growth rate equal to the Discount Rate would be applied to the Maximum Promote for the period from the Commencement Date to the Promote Determination Date to determine the initial “Promote Balance”. Each payment of Promote Distribution would reduce the Promote Balance dollar for dollar, and any unpaid Promote Balance would accrue to the following year at the Discount Rate. Once the Promote Balance is zero, the Durst Member would not be entitled to any other additional interest payments.

Guarantor

Subject to the review of satisfactory financial statements, the Guarantor of the Durst Member would be Durst Buildings Properties Company, LLC, a New York limited liability company (the “Guarantor”). Guarantor would be required to maintain a net worth of not less than \$500 million and available liquidity of not less than \$25 million (including access to credit lines), each as adjusted by CPI. The Durst Member would be required to substitute or add other Guarantors if the original Guarantor fails to meet the covenant until Stabilization. The Guarantor would guaranty 50% of the SPE if the Port Authority elects to require any SPE.

The Guarantor would guaranty the funding of the Durst Member’s Equity Percentage of any Approved Leasing Overruns unless, in connection with its request for PA Member’s consent to such Approved Leasing Overruns, the Durst Member provides other satisfactory security for its share of the Approved Leasing Overruns.

Until Stabilization the Guarantor would also guaranty any losses, claims or liabilities incurred by the PA Member, the Port Authority (if it issues any guaranties in connection with any loans), Joint Venture or any of its subsidiaries in connection with any bad acts or material breaches by the Durst Member, the Guarantor or the Durst Member’s affiliated property manager and leasing agent under their respective documents.

The Guarantor, or another creditworthy entity acceptable to lender, would severally guaranty Durst Member’s Equity Percentage of any non-recourse carve-out liabilities of the Company or its subsidiaries. In the event that the Port Authority (or an affiliate thereof) provides 100% of the non-recourse carve-out guaranty, the Guarantor (or another substitute entity meeting the standards above and acceptable to the PA Member) would guaranty the Durst Member’s Equity Percentage of the Port Authority’s payments under such guaranty or would indemnify the PA Member (or Port Authority) for such amounts. The Port Authority’s liability with respect to

its Indemnification Obligations (defined below) under the Agreement to Contribute Assets would not be limited or reduced by the Guarantor's obligations.

At all times, the Durst Member would be liable to the Joint Venture and the PA Member for its obligations under the LLC Agreement and the Durst Member would guaranty to each of the Joint Venture and the PA Member, the obligations of its affiliates with respect to the Project, including without limitation, such affiliates' liabilities under the Operative Documents.

The Guarantor and Durst Member would execute and deliver to the Joint Venture and PA Member a guaranty (the "Guaranty") at Closing describing their respective obligations hereunder.

The Guarantor's maximum aggregate liability from time to time would be the sum of Durst Member's equity contribution and all proceeds thereof distributed to the Durst Member from the Joint Venture, plus costs of collection.

Cash Flow Distributions

Prior to the Valuation Date, the Durst Member's common equity capital contribution would accrue a preferred return at a rate equal to the actual interest rate of the Supplemental Loan and, to the extent that the preferred equity converts to common equity prior to the Valuation Date, the Durst Member would receive its Equity Percentage of any cash available for distribution. Where the Durst Member's return would be based on the actual interest rate of the Supplemental Loan, the LLC Agreement would use an assumed rate of 5.5% prior to the closing of the Supplemental Loan, and true-ups would be completed when the actual loan closes.

As described above in "*Determination of Members' Percentage Interests*" the PA Member's and Durst Member's interests would be determined by taking into account Durst Member's common equity contribution and the excess of Property Value over the Pro Forma Debt. To the extent the Actual Debt is less than or greater than the Pro Forma Debt at the Valuation Date, the parties would make a notional adjustment to the actual CFADS to reflect the corresponding incremental debt service or lack of debt service unless the cause was an inability to issue debt. If the Actual Debt is less than the Pro Forma Debt, then the PA Member would receive a positive notional adjustment to its cash flow distribution equal to the product of Debt Adjustment and the weighted average interest rate of the Actual Debt. If the Actual Debt is greater than the Pro Forma Debt, then the PA Member would receive a negative notional adjustment to its cash flow distribution equal to the incremental principal and interest payments that are attributable to the Debt Adjustment.

Cash flow after debt service, operating expenses, PILOT payments and establishment of reasonable reserves (e.g., for tenant improvements, leasing commissions, operating expenses, capital expenses and working capital) would be distributed as follows: *first*, to pay accrued and unpaid distributions with respect to the SPE; *second*, to pay current preferred return with respect to the SPE; *third*, to pay accrued and unpaid distributions to the Durst Member (to the extent that the Durst Member's capital has previously accrued a preferred return); *fourth*, to pay current preferred return to the Durst Member (to the extent that the Durst Member's capital is currently

accruing a preferred return); and *fifth, pari passu* to the Durst Member and the PA Member subject to the following adjustments:

- (a) PA Member's and Durst Member's distribution would be increased or decreased by any accrued and unpaid cash flow deficit adjustments from prior years;
- (b) PA Member's distribution would be decreased and Durst Member's distribution increased by any accrued and unpaid Promote Interest from prior years;
- (c) The notional debt adjustment which may increase or decrease the PA Member's distribution, as described above;
- (d) PA Member's distribution would be decreased and Durst Member's distribution increased by the amount of the Promote Distribution due to Durst Member for the current year.

Notwithstanding the above, neither PA Member nor Durst Member would be required to make any cash outlays related to the cash flow distributions or adjustments to *pari passu* distributions. All adjustments would be made only within the actual CFADS and any unpaid adjustments would accrue into the following period's distributions at an annual rate of 7.5%. The PA Member would be responsible for the return on and of the SPE in accordance with the provisions of the LLC Agreement.

To the extent that the Equity Percentages that are based upon the preliminary unadjusted Baseline Pro Forma at Closing vary from the actual Equity Percentages established at the Valuation Date (to the extent that they are established then), the cash flow distributions prior to the Valuation Date might possibly be adjusted retroactively to the amounts that would have been distributed at the actual Equity Percentages as of the Valuation Date. The amount by which the PA Member or Durst Member has been distributed insufficient or excess cash flow due to the variation in Equity Percentages would be applied to the respective Member's account of CFADS distributions in (a) above as unpaid cash flow deficit adjustments at an accrual rate of 7.5% over the period that the distributions should have been paid to the period in which such distributions are actually paid.

To the extent that Durst Member's common equity contribution accrues at a preferred rate equal to the preliminary unadjusted Supplemental Loan rate (5.5%) set forth in the Baseline Pro Forma, which varies from the actual Supplemental Loan rate established at the Supplemental Loan closing, the cash flow distributions prior to such closing date would be adjusted retroactively to the amounts that should have been distributed at the actual Supplemental Loan rate. To the extent of available cash flow, the amount by which the PA Member or Durst Member has been distributed insufficient or excess cash flow due to the variation in the Supplemental Loan rate, such cash flow would be applied to the respective Member's account of CFADS distributions in (a) above as unpaid cash flow deficit adjustments at an accrual rate of 7.5% over the period that the distributions should have been paid to the period in which such distributions are actually paid.

Capital Event Distributions

The PA Member would control all decisions with respect to construction, permanent and other financing for the Property. Except as set forth below, all net proceeds from a financing (or refinancing), after deduction for closing and associated costs, repayment of outstanding debt and accrued and unpaid returns on any preferred equity or Member Loans, would be distributed: *first*, on the initial financing, for the Liberty Bond and Supplemental Loan closings, to the extent the LTV is not more than 50%, all proceeds would be distributed to the PA Member and if, on the initial financing, the 50% LTV target is not reached, then on subsequent financings up to the Valuation Date Pro Forma Debt amount, all subsequent proceeds would be distributed to the PA Member; *second*, the PA Member would receive (if positive) or contribute (if negative) the Debt Adjustment; *third*, the PA Member and Durst Member would receive (if positive) or contribute (if negative), *pari passu*, the difference between the new Pro Forma Debt at refinancing and the prior Pro Forma Debt at the Valuation Date; and *last*, the PA Member would receive the balance of net proceeds, if any, which would become the new Debt Adjustment in excess of the Pro Forma Debt, if applicable.

With respect to all other Capital Events (except as noted below), the proceeds would be distributed as set forth above for cash flow, with an additional payment of the entire Promote Balance to the extent that sufficient net proceeds are available.

Notwithstanding the foregoing, with respect to a sale of the Project or liquidation of the Company, capital calls would first be implemented as follows: *first*, a capital call to the PA Member in the amount of the Debt Adjustment if negative or to Durst Member in the amount of the Debt Adjustment if positive, in either case, if any; and *second*, a capital call to the PA Member in the amount of the SPE, if any. With respect to the net proceeds from a sale of the Project or a liquidation of the Company, net proceeds after deduction for closing costs and repayment of outstanding debt would be distributed as follows: *first*, to Durst Member any current preferred return and outstanding balance of the SPE; *second*, to Durst Member to pay any accrued and unpaid preferred return due on its common equity contribution; *third*, 80% to the Durst Member and the PA Member *pari passu* based upon their respective Equity Percentages and 20% to the Durst Member until the Durst Member has received the balance of its Promote Interest, if any; and *fourth*, the remainder, *pari passu* to the Durst Member and the PA Member in proportion to their respective Equity Percentages.

Construction Budget and Building Specifications

The Development Budget and Construction Schedule and any changes to the plans and specifications for the building core and shell would be determined by the Port Authority in its sole and absolute discretion, after consulting with, and being advised by, Durst. Approval of any modifications to the Development Budget, Construction Schedule and construction plans and specifications, including (but not limited to) incremental costs, change orders, architectural configuration, construction plan, or building materials, would be within the Port Authority's sole and absolute discretion.

Payment for Construction Related Services – Base Portion

The Durst Member would earn fees for services, including certain services provided by Durst Member commencing with final Port Authority approval, as set forth in the Transaction Documents. The total amount payable with respect to the Durst Member's services would be \$15 million, which would be paid by the Joint Venture on a monthly pro rata basis (straight-lined over the construction period set forth in the schedule) during the construction period through substantial completion of the building's core and shell construction.

In addition to the service fee described above, development staff salaries and benefits would be reimbursed separately, to be capped at a cumulative amount equal to \$2.5 million per year multiplied by the total number of years of the construction period through tenant fit-out of leases signed prior to substantial completion of the building's core and shell construction.

Payment for Construction Related Services – Incentive Portion

Durst Member would also receive, as an additional incentive for its services, to the extent Durst initiates and recommends base building changes that result in net economic benefit to the Project, (i) 75% of any such cost savings, from the mutually agreed upon benchmarks, up to \$12 million, and (ii) 50% of such cost savings in excess of \$12 million. One-half (1/2) of the amounts earned in (i) and (ii) above would be paid as cost savings are realized. The remaining one-half (1/2) would be paid pro rata upon tenant move-in of leases signed prior to substantial completion of the building's core and shell construction.

Services to be Provided by Durst during the Construction Period

While the Port Authority would retain ultimate responsibility for the construction of 1 WTC, Durst would provide the Project with construction management services, including assistance with base building construction oversight, assistance with change order review and management, recommendation of design and engineering alternatives, preservation of construction budget and schedule, reporting, financial structuring (to the extent specifically requested by the Port Authority), coordination of tenant requirements with base building construction, and coordination of tenant move-ins. The Port Authority's Director of World Trade Center Construction would serve as the liaison on all construction and design related matters. Build-out of tenant improvements or turn key office suites would be subject to separate agreements and in addition to the fees described above.

Debt Financing

All debt financing, including the aggregate principal amount of secured indebtedness, and the use of fixed or floating interest rates or a combination thereof, would be determined by the PA Member in its sole and absolute discretion. To the extent that the lender under any loan requires a non-recourse carve-out guaranty by a credit-worthy entity, the Port Authority would decide whether it would deliver the guaranty (and receive an indemnity from the Durst Member's Guarantor) or whether the Members would each have credit-worthy entities deliver several (and not joint) non-recourse carve-out guaranties for their proportionate share of the loan.

The Port Authority would deliver any completion guaranties required by the lenders. To the extent that any guarantor or the Port Authority makes payments to the lender under its guaranty in excess of the Equity Percentage of the corresponding Member, the excess paid by such guarantor would be reimbursed by the other Member; however, the PA Member would have sole liability with respect to any Indemnification Obligations (as defined below). Each guarantor would be indemnified by the Members for their “bad acts” that trigger liability under the third-party guaranties. The Durst Member Guarantor’s maximum aggregate liability from time to time would be the sum of Durst Member’s equity contribution and all proceeds thereof distributed to the Durst Member from the Joint Venture, plus costs of collection.

Supplemental Loan

The non recourse Supplemental Loan would be obtained in an amount that is intended to bring the total level of property debt up to approximately 50% of total Property Value as of the Valuation Date. The PA would have all decision rights with respect to the Supplemental Loan. It is anticipated that the Supplemental Loan would bear interest at a taxable interest rate. At the PA Member’s sole and absolute discretion, the Supplemental Loan may be an imputed loan made by the Port Authority, at a market interest rate and on market terms, as agreed to by the parties, instead of a loan from a third party.

Restrictions on Entity Level Financing of Distributable Cash Flow

The Port Authority would have sole and absolute discretion to approve a Durst Member pledge of its interest in the Joint Venture as collateral for any mezzanine financing. The Port Authority would have the right to pledge its interest in the Joint Venture or the Joint Venture’s interest in Holdings as collateral for any mezzanine financing, in its sole and absolute discretion; provided, however that the Port Authority would not pledge its interest to a New York City real estate owner, manager or developer that is a competitor of Durst at the time of the pledge (as defined in the LLC Agreement); however, any pledgee would not be restricted in its ability to transfer the debt or the collateral.

Restriction on Sale, Assignment or Transfer

The Durst Member would not be permitted to transfer or pledge any portion of its membership interest to anyone without the Port Authority’s prior written consent, which may be withheld at its sole and absolute discretion.

Subject to the Port Authority’s right to approve and the syndication rights described above, transfers of direct or indirect interests in the Durst Member would be permitted only to entities owned and/or controlled by Durst, as described below. Transfers of interests between and among Durst family members would be expressly permitted so long as such transfer does not result in a change in control.

If, as contemplated above, there is a change in control of Durst Member and/or the leasing agent and/or the property manager, by virtue of a change in control of Durst, to individuals or entities other than those controlled by Douglas Durst or Jody Durst and the Port Authority does not approve the successor, then the Port Authority would have the right to buy

out the Durst Member's membership interest at FMV (determined in accordance with the provisions described below). When deciding whether or not to approve a successor, the Port Authority would be required to act consistently with standards used by other institutional investors who have owned and operated trophy assets in Manhattan.

In accordance with the provisions of the LLC Agreement, the Members would agree to cooperate in good faith to take such action as is reasonably necessary with respect to the addition of new members, including those required under Federal tax law provisions applicable to new members that are tax-exempt entities, and/or the sale of the Project; provided that the foregoing would not have an adverse effect on the Durst Member's economic interests and rights under the LLC Agreement unless the PA Member otherwise neutralizes such effect.

Repurchase of Durst Member's Membership Interest

The following are the circumstances in which the Port Authority would have a right to repurchase the entire Durst Member's membership interest, including the Promote Interest:

Dispute under the LLC Agreement – In the event that (i) the parties disagree with respect to an LLC Agreement provision that requires unanimous consent under the LLC Agreement, (ii) Durst Member fails to comply with its material obligations under the LLC Agreement in all material respects (beyond applicable notice and cure periods), or (iii) one party withholds consent which it is obligated to give in a “reasonable manner” under the LLC Agreement, such disagreement (or failure to provide reasonable consent) would be an “arbitrable buyout dispute” that either Member may submit to binding arbitration. If the Port Authority “wins” the arbitration of the arbitrable dispute, then the Port Authority would have the right to buyout Durst Member at FMV (as defined herein). If the Port Authority “loses” the dispute resolution, the Port Authority would have the right to buyout Durst Member at 120% of FMV. The following disputes, while arbitrable under the LLC Agreement, are not “arbitrable buyout disputes”: (a) disputes on the amount of (1) the Promote Interest, (2) each Member's share of a capital call, (3) each Members' share of amounts required to reimburse Members for payments under any third-party guaranties, (4) the loan-to-value ratio of the Project and (5) amounts required to be calculated pursuant to a specific formula set forth in the LLC Agreement (including without limitation, Equity Percentages); (b) disputes related to the calculation of amounts under the Baseline Pro Forma or Realized Pro Forma (but not other decisions that may incidentally affect the amounts used in such pro formas); (c) disputes over whether something has or has not occurred that can be determined objectively; (d) disputes regarding proposed amendments to the LLC Agreement that are not related to the addition or withdrawal of a member as contemplated under the LLC Agreement or in response to a lender request; (e) the failure of the Port Authority to comply with its express obligations under the LLC Agreement; (f) whether or not the proposed terms of an unsigned lease are within the Leasing Parameters; and (g) whether or not an alleged breach is “material”, provided, however if the Durst Member (or its affiliate) does not notify the PA Member, within the cure period applicable to such breach, that it does not think that such alleged breach is material (and does not cure such alleged breach within the applicable cure period), then such breach is presumed to be material. If either Member contests whether the dispute is an “arbitrable buyout dispute,” then such determination may first be presented to

the arbitrator before proceeding with the arbitration. If the Durst Member alleges in good faith that a breach is not material and the parties arbitrate such materiality, the cure period for such breach would commence on the date that the arbitration decision is rendered.

Dispute regarding Durst Services – The determination of whether Durst Member or Royal (defined below and described generally herein as Durst) has breached its material obligations in a material way (beyond applicable notice and cure periods) under the development services, property management or leasing arrangements (the “Service Contracts”) would also be an “arbitrable buyout dispute” that either Member may submit to binding arbitration. If the issue is whether Durst is in material breach of a Service Contract, then: (i) if Durst wins the dispute resolution so that there is found to be no material breach, then no buyout right for the Port Authority would exist, and (ii) if the Port Authority wins the arbitration so that there is found to be a material breach, then the Port Authority would have the right to buyout Durst Member for FMV at the time of the buyout. Whether or not an alleged breach is “material” would not be a “arbitrable buyout dispute”; provided, however if the Durst Member (or its affiliate) does not notify the PA Member, within the cure period applicable to such breach, that it does not think that such alleged breach is material (and does not cure such alleged breach within the applicable cure period), then such breach is presumed to be material. If the Durst Member alleges in good faith that a breach is not material and the parties arbitrate such materiality, the cure period for such breach would commence on the date that the arbitration decision is rendered. If either Member contests whether the dispute is an “arbitrable buyout dispute,” then such determination may first be presented to the arbitrator before proceeding with the arbitration.

If Durst does not achieve a minimum threshold for lease-up and such underperformance is not rectified after an applicable notice and cure period, then the PA Member would have the right to buy-out Durst Member with a cumulative return at the Supplemental Loan rate (which would be the Supplemental Loan rate set forth in the Baseline Pro Forma prior to closing the Supplemental Loan, as described above). Whether Durst achieved the minimum threshold for lease-up would first be tested two (2) years after Closing and periodically thereafter. Whether or not Durst underperformed (or rectified its underperformance) would also be an “arbitrable buyout dispute”.

Purchase at Port Authority's sole and absolute discretion –

Termination after Lockout Period. The Port Authority would have the right to purchase the Durst Member's membership interest each year from the tenth anniversary of the earlier of the Valuation Date or actual Stabilization until the 15th anniversary of Stabilization, and every fifth (5th) year anniversary thereafter at the following premiums:

Year	Purchase Premium
10	142.5% of FMV
11	139.5% of FMV
12	136.5% of FMV
13	133.5% of FMV
14	130.5% of FMV
15 and every 5 years thereafter	127.5% of FMV

Casualty or Condemnation. Upon condemnation (not done by the Port Authority solely for the purpose of removing Durst Member) or casualty, unless the proceeds received with respect to such casualty or condemnation are sufficient to rebuild and stabilize the Project and the Port Authority elects to rebuild the Project substantially the same as it existed prior to such casualty or condemnation, then the PA Member would have the right to purchase the Durst Member's membership interest at a price equal to the amount that the Durst Member would receive if the Project were sold for an amount equal to the value of the Project used to determine the casualty or condemnation proceeds; provided, however, that the PA Member would not be required to make the Durst Member tax neutral on such buyout.

Sale and/or Recasting of the 1 WTC Net Lease - After 10 years from the earlier of the Valuation Date or actual Stabilization, the Port Authority would have right to sell the 1 WTC net lessee interest, including management and leasing rights (*i.e.*, Durst's management and leasing rights are terminated at the Port Authority's election).

Sale. Subject to twelve (12) months prior written notice to the Durst Member, the Port Authority would have the sole and absolute right to direct Tower 1 LLC, as tenant, to sell, transfer, assign, or dispose of the net lease in an arm's length transaction (which may include the Port Authority with a remaining non-controlling minority (*i.e.*, 20% or less) interest). At such a sale, the proceeds would be distributed through the capital event waterfall and distributed to the Members (however, if the sales price is insufficient to pay the Durst Member's unpaid Promote Balance, Durst Member's share would be increased to include the unpaid Promote Balance) which would be paid to Durst Member on a tax neutral basis (if applicable) as a full cash out.

Recasting. Notwithstanding the above, at any time from the earlier of the Valuation Date or actual Stabilization, the Port Authority would have the right to recast the 1 WTC net lease. The Port Authority's recasting of the net lease and

mechanism would be established to keep Durst Member economically neutral after taxes, considering both the Equity Percentage and the Promote Balance. The concept of “neutral after taxes” would be agreed upon by the PA Member and Durst Member in the LLC Agreement. This could be a right to allow Durst Member to become part of the net lessor for the term of the net lease or a sublease of the Building, keeping Durst Member in the current net lessee position. As long as Durst Member remains in the net lessee position, it would be entitled to continue under the Property Management and Leasing Agreements with respect to such interests.

Termination of Service Contracts. Except as specifically noted above, Durst Member and Royal (any other Durst affiliates, if any) would not continue their development, leasing or property management services after a buyout (or recasting) under any and all of the scenarios above.

Determination of Fair Market Value (“FMV”)

At any time that the LLC Agreement requires the Company to determine the Property’s FMV, the Port Authority and the Durst Member would work together for a period of 10 business days to arrive at an agreed upon FMV, with each party putting forth its “best and final” FMV determination. If the parties are unable to agree upon a FMV during this period, then either party can initiate “baseball” arbitration to determine FMV.

Baseball arbitration would mean that the arbitrator is limited in her/his discretion to accept either the Port Authority position or the Durst Member position. Baseball arbitration would be conducted by a single, experienced, qualified, independent (as described in the LLC Agreement) office sales broker in downtown Manhattan (“Broker”) selected by agreement of PA Member and Durst Member, or failing that agreement during the first 10 business days negotiation period, the Broker would be chosen by the REBNY President from a list of qualified Brokers submitted by PA Member (up to 5) and Durst Member (up to 5), with each of the PA Member and the Durst Member having the right to disqualify all but 2 of the other side’s named Brokers.

In baseball arbitration, Durst Member and the PA Member would, at least one (1) business day prior to the conclusion of the 10-day negotiation period, each exchange its “FMV Position”, which would be the value of the entire net leasehold interest in the property, excluding financing (other than liberty bonds) and unencumbered by the LLC Agreement and any Service Contracts. The Durst Member FMV Position would be equal to or lower than its “best and final” FMV determination and the PA Member FMV Position would be equal to or higher than its “best and final” FMV determination. Broker would choose one of the two FMV Positions as the FMV. The FMV would be converted to the amount to be paid to the Durst Member for the Durst Member membership interest (including its Equity Percentage and Promote Interest, if any), in accordance with the LLC Agreement, assuming that the net leasehold interest in the Project was sold for the FMV and the Joint Venture distributes such proceeds in complete liquidation of the Joint Venture.

Durst Member as the Joint Venture Manager

Subject to the decisions that are to be made solely by PA Member and those that are joint decisions of the Members (as described below), generally the Durst Member would act as the manager of the day-to-day operations of the Joint Venture.

The PA Member would have the right, in its sole and absolute discretion, to remove the Durst Member as Manager “for cause” in the event of: (i) the fraud, bad faith act or failure to act, intentional misrepresentation, intentional misappropriation or intentional misapplication of Company funds by the Durst Member; (ii) a breach by the Durst Member of a material obligation under the LLC Agreement, including without limitation a performance breach; provided, however that if such breach is susceptible to cure and is not an action described in clause (i) above, the Durst Member would have thirty (30) days following written notice from the PA Member to effect such cure, and if such breach cannot with the exercise of reasonable diligence be cured within such thirty (30) day period, such longer period as may be required so long as the Durst Member has commenced a cure within such thirty (30) day period and continues to pursue the same with reasonable diligence, but not longer than an additional ninety (90) days; (iii) the failure of the Durst Member to fund any required additional capital contribution, unless funded by the Guarantor pursuant to the Guaranty; (iv) a voluntary or involuntary bankruptcy of the Durst Member or its owners or affiliates, (v) the termination of the Property Management Agreement or Leasing Agreement “for cause” in accordance with the provisions thereof; (vi) the termination of the construction advisement services “for cause”; (vii) the receipt of a claim by the Joint Venture or any subsidiary, including the net lessee, from the lender under a loan or the tenant under a lease that the Joint Venture or such subsidiary is in default of its material obligation under the loan or the lease, as applicable, but only if (a) such claimed default actually exists and then only to the extent that it arises solely from the failure, by the Durst Member or its affiliates (including their respective employees), to perform their respective obligations to the Joint Venture in accordance with the applicable performance standards or the gross negligence or willful misconduct of the Durst Member or its affiliates (or any of their respective employees), (b) such claimed default is not cured by the Durst Member (or applicable affiliate) within the requisite timeframe as is provided under the loan or lease, as applicable and (c) the Port Authority, the PA Member, the Joint Venture or any subsidiary suffers harm as a result thereof which is not recompensed to such entity by the Durst Member or Guarantor within thirty (30) days; (viii) prior to Stabilization, a Guarantor breach event under the Guaranty; (ix) any direct or indirect transfer with respect to the Durst Member’s membership interest not expressly permitted by the LLC Agreement; (x) a buyout of the Durst Member’s interest on the Valuation Date; and (xi) any of the Durst Member principals are convicted of a felony.

Upon the occurrence of any such event, the PA Member would have the right to any or all of the following remedies: the PA Member could remove the Durst Member from its position as Manager of the Joint Venture; the PA Member could terminate all of the Service Contracts; the Durst Member would be liable to the PA Member, the Joint Venture and its subsidiaries for all damages incurred in connection with such breach; the Guarantor would guaranty such liability prior to Stabilization and the Durst Member would guaranty such liability after Stabilization; and, if the Promote Determination Date has not occurred, the date of such termination and removal would be deemed to be the Promote Determination Date. These

remedies would be cumulative, non-exclusive and in addition to the buyout rights described above.

1 WTC Financial or Tax Elements

Under the LLC Agreement, the PA Member would have the right to assign financial or tax elements of its interest in the Project to a third party or the Durst Member.

Specific Authority of PA Member

Subject to the joint decisions of the Members described below and the general delegation of day-to-day operations of the Joint Venture delegated to the Durst Member as Manager under the LLC Agreement, PA Member would maintain control of all aspects of the ownership, development, construction, marketing, press relations, inter-governmental agency relations, leasing, management and operations of the Project throughout the term of the LLC Agreement, including without limitation, all decisions regarding budgets, construction schedule, change orders, leasing, litigation, financing, management, and the procurement, hiring and firing of consultants and advisors, including without limitation, attorneys (in-house and outside counsel), brokers and accountants and all matters relating to construction claims, security issues, leasing and coordination with other stakeholders at or in connection with the World Trade Center site. Without limiting the generality of the foregoing, the PA Member would have the exclusive right, in its sole and absolute discretion, to make each of the following decisions for, on behalf of, and at the expense of, the Joint Venture and its subsidiaries: (i) approve the admission of new Members except as otherwise limited under the LLC Agreement; (ii) procure and maintain insurance policies and guidelines (subject to the provisions of the LLC Agreement with respect to potential conflicts of interest); (iii) determine the types and amounts of reserves (subject to economic protections for the Durst Member that may be included in the LLC Agreement and a reasonableness standard during the last 30 years of the net lease term); (iv) obtain and approve any loan obligations related to the Project; (v) grant any guaranty by the Company (or any subsidiary) of any obligation related to the Project; (vi) consent to the transfer of any interest in the Company or the Durst Member; (vii) obligate the Company (or any subsidiary) as a surety, guarantor or accommodation party to any obligation whatsoever related to the Project; (viii) lend funds belonging to the Company (or any subsidiary) or extend credit to any Member or any third party; (ix) approve any capital expenditures; (x) change the name or identity of the Project; (xi) call for additional capital contributions; (xii) terminate, renew, modify or amend the Leasing Agreement or Property Management Agreement, subject to the provisions thereof and of the LLC Agreement; (xiii) sell, exchange or dispose of all or a portion of the Company assets, subject to the terms of the LLC Agreement; (xiv) determine distributions of cash flow, refinancing proceeds, or net proceeds from a capital event, subject to the terms of the LLC Agreement; (xv) commence or settle any litigation or arbitration other than between Members; (xvi) fund any cash to create Cash Flow; (xvii) determine whether to buy down (or cause the Company to buy down) or convert the Durst Member's Equity Percentage; (xviii) determine and/or modify the development budget, the construction schedule for the project, the permits and the plans and specifications; (xix) authorize the granting of any easement over, or any covenant, restriction or other title encumbrance on, all or any part of the Property (subject to economic protections for the Durst Member that may be included in the LLC Agreement); (xx) restructure the Net Lease and the ownership of fee title to the Property and Tower 1 LLC's interest therein;

(xxi) take any action or inaction with respect to all environmental matters; (xxii) control any foreclosure, litigation, settlements or claims by or against Tower 1 LLC or the Project; (xxiii) determine Tower 1 LLC's compliance with, and any action taken or not taken with respect to, any development agreements, agreements with other owners and lessees of property surrounding the Property or otherwise relating to the development of the Property, the land and the real property surrounding the Land; (xxiv) all public affairs activities, including the timing and content of press releases and other public statements and the timing and occurrence of meetings with public officials; (xxv) taking all action with respect to the existing insurance escrow agreements, the proceeds of which are being used to fund construction of the Project (however, Durst Member is required to comply with such agreements and provide the information necessary to draw funds); (xxvi) taking any action under the Freedom Tower Development Agreement and related documents with Silverstein Freedom Tower Development, LLC (and its affiliates) for the Project; (xxvii) make any decisions with respect to the payment or appeal of any real estate taxes, PILOT payments or other payments paid or payable to (or asserted by) the local, state or federal government; (xxviii) control the federal, state, local, or other forms of tax elections; (xxix) filing for bankruptcy, appointing a receiver or trustee or making a transfer for the benefit of creditors, or initiating any dissolution, liquidation or reorganization of the Company or any subsidiary; (xxx) settling any claim for insurance proceeds (as long as the Port Authority is not the insurer), or any claim for payment or awards or damages arising out of the exercise of eminent domain by any public or governmental authority; (xxxi) approval of the form of lease to be used for the Project, any modifications to specific Port Authority required provisions therein, any deviations from the Leasing Parameters and the execution of any leases above certain thresholds specified in the Leasing Parameters or that materially deviate from the approved form; and (xxxii) approval of the parameters establishing permitted signage and naming rights that may be granted to tenants(the "Signage Parameters").

When making decisions in its sole and absolute discretion, the PA Member would comply with its implied duty of good faith and fair dealing under the Delaware LLC Act and consistent with the LLC Agreement provisions regarding potential conflicts of interest, as described below.

Decisions Requiring Consent of Both the PA Member and the Durst Member

Each of the following actions, to the extent not covered in the paragraph entitled "*Specific Authority of the PA Member*", would require the consent of both the PA Member and the Durst Member, which may be granted or withheld by each Member in its sole and absolute discretion (unless otherwise noted): (i) approval and execution of all leases, licenses and similar agreements relating to any space in the Property the terms of which are not consistent with the Leasing Parameters (provided, however that the Members may not unreasonably withhold, condition or delay such consent); (ii) the determination to call for Additional Capital Contributions other than those which are within the PA Member's sole and absolute discretion, as described above; (iii) after substantial completion of the Project, causing a material change in size, nature or use of the Project; (iv) approving, amending or modifying the annual operating budget for the Project, except to the extent permitted by clause (v) below; (v) incurring any expenditures not specifically authorized (on a line item basis) in the operating budget or approving use of the contingency under the operating budget, provided that the Durst Member would have the authority to alter a line item in the operating budget without the PA Member's

prior approval if such change would not (a) increase the total amount of the operating budget, (b) cause any line item of the operating budget to be increased or decreased by the threshold limits in the LLC Agreement, (c) cause the aggregate amount of all changes (whether positive or negative) year to date to exceed threshold limits set forth in the LLC Agreement, or (d) cause a material change in structure, design, function, or exterior appearance of the Project; (vi) amending the LLC Agreement (except as permitted to be performed by PA Member with respect to the admission of new Members, to satisfy lender requests or a restructuring of the Net Lease); (vii) paying any fee or any compensation to any Member or any affiliate of any Member; (viii) subject to the Applicable Procurement Requirements (defined below), which shall take precedence, approving the selection of consultants and subcontractors in connection with the Property and any contracts or agreements with such consultants and subcontractors to the extent their fees are in excess of 5% of the approved budget amounts or that could, in aggregate, increase the approved operating budget, including any modifications and amendments thereto; (ix) subject to Applicable Procurement Requirements, which shall take precedence, causing the Joint Venture to enter into any contract or agreement or otherwise to take any action not provided for in the operating budget; (x) the resolution of any dispute with any labor union, including any jurisdiction dispute between labor unions, to the extent such dispute involves, or requires the consent of, the Joint Venture or its subsidiaries; (xi) except as otherwise provided herein and subject to Applicable Procurement Requirements, which shall take precedence, the hiring and firing of legal counsel (it being agreed that Rosenberg & Estis, P.C. (subject to conflict of interest considerations), Port Authority in-house counsel and DLA Piper LLP (US) are each hereby approved) and the accountants for the Company and its subsidiaries; (xii) any updates or amendments to the Baseline Pro Forma, including without limitation, the Realized Pro Forma; (xiii) except as expressly determined by the PA Member, the approval of the Leasing Parameters; (xiv) granting any signage or other naming rights that are not within the PA Member's sole and absolute control pursuant to the then-current Signage Parameters; and (xv) the annual business plan for the leasing and operation of space in the Project that is not used or leased for office uses (which consent would not be unreasonably withheld by the Members) and any action with respect to such space not in conformity with the approved annual business plan. As used herein, "Applicable Procurement Requirements" means procurement processes reasonably acceptable to the PA Member and Durst Member under the LLC Agreement, taking into consideration any applicable Port Authority procurement/integrity policies.

Reporting

Reporting procedures and requirements from the Durst Member to the PA Member for construction, leasing, building operations and management would be jointly developed and mutually agreed upon by the PA Member and the Durst Member, as more particularly set forth in the LLC Agreement and the Property Management Agreement.

Durst not Developer

1 WTC LLC has entered into a Freedom Tower Development Agreement pursuant to which Silverstein Freedom Tower Developer LLC ("SFI") is the fee developer of the Project until 10 days after substantial completion of the core and shell of the Building, on a "call for services" basis. 1 WTC LLC has fully funded the fees payable to SFI under that agreement;

however, since that agreement is still outstanding, Durst would be prohibited from holding itself out as, or describing itself as, the developer for the Project to anyone under any circumstances.

Non-Compete

Prior to the execution and delivery of leases for at least seventy-five percent (75%) of the office space in the Project, none of Durst, the Durst Member or the Durst-affiliated property manager or leasing agent, would work at or become involved with an office project within the area of Manhattan south of Chambers Street, without first obtaining the PA Member's prior written consent, which it may grant or withhold in its sole and absolute discretion.

If a claim is made by or against, or a transaction is proposed between, the Joint Venture and any Port Authority entity, the PA Member would be required to act in accordance with a mitigation plan to avoid a conflict of interest or obtain the Durst Member's consent. The foregoing would not apply to matters related to the Port Authority's governmental functions (*i.e.*, the provision of security in the World Trade Center area) and other matters over which all net lessees in the World Trade Center area would generally be subject.

Leasing Agreement

At Closing, Tower 1 LLC and an affiliate of Durst, Royal Realty Corp. ("Royal"), would enter into a Leasing Agreement pursuant to which Royal would act as Tower 1 LLC's exclusive leasing broker for the office portion of the Project. The execution of this Leasing Agreement would require a termination of Cushman & Wakefield's current exclusive arrangement. Durst and C&W are discussing potential arrangements, which may include C&W acting as a sub-broker for Royal or co-broker with Royal (without increasing the aggregate commissions payable under the Leasing Agreement, and if separately, to C&W). The services to be performed by Royal, and the fees to be paid to Royal, are described below.

Leasing Parameters

The PA Member and Durst Member would establish a set of leasing parameters for the Building, including minimum and maximum term, maximum tenant allowances, minimum rental rates, maximum leasing commissions and the form of a lease to be used for the Building ("Leasing_Parameters"). To the extent that Durst Member negotiates a tenant lease which conforms with the Leasing Parameters, Durst Member would not be required to obtain the PA Member's authorization to execute such lease. For any lease with terms that do not conform with the Leasing Parameters, including any modifications of Port Authority specific provisions in the form lease or material deviations from the form lease, prior to entering into such lease, the Durst Member would be required to obtain the PA Member's prior authorization, which it may grant or withhold in its sole and absolute discretion. The Leasing Parameters would be reviewed annually by the parties, and may be modified by mutual agreement of the Durst Member and the PA Member. Any disputes with respect to the establishment or annual approval of Leasing Parameters would be settled by arbitration.

Leasing Commissions

All leasing commissions payable to Royal would be based upon a not-to-exceed 50% override on a standard NYC commission, from which Durst Member would compensate any third party agency broker. In the event Royal is also the procuring broker, Royal's fee would not exceed 100% of a traditional brokerage commission.

Existing Lease Matters

Neither Durst Member nor Royal would earn a leasing commission on the following leases, if executed between Tower 1 LLC and the proposed lessee (or affiliates): (i) Vantone/China Center New York LLC; (ii) United States and/or General Services Administration; (iii) New York State and/or Office of General Services; (iv) The Port Authority of New York and New Jersey; (v) The City of New York; (vi) Cushman & Wakefield, Inc.; and (vii) any retail, restaurant, observation deck or roof tenant of the Building. As instructed by the PA Member, Royal would work with the Port Authority and its outside advisors in connection with the GSA and NYS-OGS leases (which work would be at no additional charge and without earning a leasing commission (excluding any third party out-of-pocket costs incurred with prior Port Authority approval)), the Conde Nast lease and any other lease being negotiated or considered prior to the Closing.

Services and Staff Included in Leasing Commissions

Services to be provided by Royal in connection with the Leasing Agreement would include brokering agreements, due diligence, marketing, advertising and public relations strategy, planning and execution. All pre-approved third party costs relating to the leasing of the Building, including advertising, marketing, collateral materials, travel expenses and legal fees, would be borne by the Joint Venture.

Property Management Agreement

At Closing, Tower 1 LLC would enter into a Property Management Agreement with Royal, pursuant to which Royal would perform customary property management services to the Project. Such services, and the related fees, are described below.

Services and Staff Included in Property Management

Commencing at an appropriate time in the development process, Royal would provide staff and services related to internal and partner reporting, lease administration, budgeting and related analysis, treasury and banking, tenant management, purchasing, accounting and other administrative services. Employees initially would be employed by Royal. Upon termination of the Property Management Agreement, the Port Authority would have the right to offer to hire employees staffed on the Project above a certain level.

Property Management Fees

Commencing thirty (30) days prior to the first scheduled tenant occupancy, Royal would be entitled to property management fees of \$0.60 per rentable square foot per year at the rates in effect in 2010 (pro-rated and paid monthly), increasing by the lesser of CPI or 4% cumulative. This fee would exclude the costs of Port Authority staff (if any), and the on-site property staff, such as the general manager, assistant building manager(s) and administrative staff, but would include controller or accounting personnel. Services provided by related parties (such as cleaning services, porter services, starters, security personnel) would be performed at cost including central office overhead plus 10% profit on the total of all such costs.

Property Management Staffing

All building operational supervisory staff, including but not limited to, building manager, required assistant building managers, chief engineer and assistants would be brought on site on an as-needed basis coordinated with building construction and delivery status. Employees performing development services who would serve building management functions after construction would be transferred from development to management as appropriate. Any changes in staffing and/or staff allocations would be subject to the Port Authority's reasonable approval. On-site senior building management personnel may not be reassigned from the Building without the prior consent of the Port Authority, not to be unreasonably withheld. All employees would be required to comply with the security measures implemented at the World Trade Center, and none of the Royal personnel would be employees of Tower 1 LLC.

The following principals and senior management of Durst Member would be required to commit the following approximate percentage of active management time from Closing to substantial completion of the building's core and shell construction as indicated below: Douglas Durst, Chairman (20%); Jonathan Durst, President (20%); Alexander Durst, Vice President (25%); Louis Esposito, Chief Operating Officer (10%); Ira Marx, Chief Financial Officer (10%); Thomas Bow, Senior Vice President of Leasing (25%); Eric Engelhardt, Vice President / Director of Acquisitions and Development (25%); and Gary M. Rosenberg, Business Advisor (as required).

All costs of principal and management time would be included in the development fee and not be reimbursable by the Project.

Performance Standard

The performance by Royal of its duties and responsibilities as set forth in the Property Management Agreement would be consistent with generally prevailing management standards applicable to the management and operation of Class A, trophy buildings in Manhattan. Notwithstanding anything to the contrary, Manager's performance of its duties and responsibilities as set forth in the agreement are subject to compliance by Company with its obligations under the agreement, including without limitation, timely compliance in issuing consent and approvals and making funds available to Royal, when necessary, to facilitate the performance by Royal of its obligations.

Agreement to Contribute Assets

At the Closing, the Port Authority and Durst Member (and their respective affiliates) would enter into an Agreement to Contribute Assets, pursuant to which the Port Authority and Durst would cause the Proposed Structure to be effected. The Agreement would include customary representations and warranties of the Port Authority for this type of transaction. This would include a representation that, to the knowledge of the Port Authority representative making such representations, the Port Authority has delivered or made available to Durst all material documents in its possession with respect to the Project. In addition, the Port Authority would indemnify the Durst Member with respect to the following specific issues (collectively, the “Indemnification Obligations”):

- (i) any and all Environmental Matters (as defined in the Agreement to Contributed Assets) existing on or arising out of the Land and/or improvements located thereon (collectively, the “Real Estate”), other than with regard to (a) Environmental Matters first introduced onto the Real Estate from and after the Closing and (b) any actions or inaction by the Joint Venture (or its subsidiaries) with respect to existing Environmental Matters from and after the Closing, the result of which is an increase of the Net Lessee’s, the Company’s or Port Authority’s liability for such existing Environmental Matters as of the Closing, it being agreed that the Net Lessee would be responsible for Environmental Matters first introduced onto the Real Estate from and after the Closing and for its actions or inactions which increase Net Lessee’s, Joint Venture’s or Port Authority’s liability for such Environmental Matters as of the Closing;
- (ii) all personal injury and other tort claims related to the Project with respect to matters first arising prior to the Closing;
- (iii) all obligations under the Assigned Contracts (defined below) with respect to periods prior to the Closing (including any claims with respect to any contracts to which 1 WTC LLC or the Port Authority is a party and which existed prior to Closing); and
- (iv) all obligations under any contract, agreement, instrument, commitment or undertaking that are not Disclosed Contracts (defined below) and the costs of which are not reflected in the Baseline Pro Forma, to the extent that such obligations relate to the operation or ownership of the Project after commencement of operations of the Building.

The Port Authority would make a representation and warranty that it has delivered to Durst Member, to its knowledge, true and complete copies of all material contracts and agreements that have a material effect on the operation of the Project (the “Assigned Contracts”), a list of which would be attached to the Agreement. For purposes of clause (iv) above, “Disclosed Contracts” would be the Assigned Contracts and any contracts, agreements, instruments, commitments or undertakings of which Durst Member had actual knowledge of or reason to know or which are included in the Port Authority’s website or in the Land Records.

The indemnification by the Port Authority in clause (iii) above would be accompanied by an indemnification by the Net Lessee and Joint Venture of the obligations that the Net Lessee is assuming from and after the Closing.

The defense of all claims would be handled by the Port Authority with counsel selected by the Port Authority (which may include in-house counsel), which, absent a conflict, may be the same counsel that is defending the PA Member and/or the Port Authority, as more particularly described in the LLC Agreement.

The indemnification provisions included in the Agreement to Contribute Assets would survive the closing of the contribution to the Joint Venture.

Second Amended and Restated 1 WTC Net Lease Agreement

Subsequent to the assignment by 1 WTC LLC of its net lessee interest in the Project, the net lease would be amended and restated by Tower 1 LLC and the Port Authority, using the same form as the current lease. Changes to the existing lease would include a modification of the annual rent to a nominal amount and an adjustment of the PILOT contribution amount to reflect the 2004 agreement with the City of New York, deletion of the requirement that the Net Lessee rebuild the Project if there are insufficient insurance proceeds to restore after a casualty and other modifications consistent with the Baseline Pro Forma and the Operative Documents. The net lease requires that the Project be delivered to the Port Authority at the end of the lease term free from all encumbrances. The Joint Venture would provide for reasonable debt service payments by the Durst Member to fully amortize the portion of any debt allocable to the Durst Member prior to the expiration of the lease. The Second Amended and Restated Net Lease would also provide a mechanism where the Building could be transferred to the Port Authority subject to space leases, on terms and conditions that would be described in the Second Amended and Restated Net Lease.

Interim Services Agreement

As an adjunct to Durst's due diligence process, Durst has offered to provide advice, recommendations and leasing assistance under an agreement between Durst 1 WTC Consultant LLC ("Durst Consultant") and the Port Authority. Royal would guaranty the performance of Durst Consultant under the Interim Services Agreement. Under the agreement, which would be effective as of August 5, 2010, Durst Consultant would be paid for its staff time and expense from and after August 5, 2010, and would be otherwise compensated upon execution and delivery of the Joint Venture documents, as described below. This agreement would not obligate either party to complete the joint venture transaction and is terminable at any time by either party.

As part of Durst's due diligence, Durst Consultant would have members of its construction, engineering, and operations staff reviewing construction and development documents and meeting with the Port Authority and its consultants to gain a better understanding of the Project and its development logistics and schedule. In performing this review, it would be

a natural outcome for the Durst team to have various recommendations, the implementation of which may benefit the construction and tenanting processes of the Project.

Durst Consultant also has offered to provide advice and support with the Port Authority's ongoing lease negotiations with Conde Nast.

Durst Consultant would be compensated as follows: (a) Durst Consultant's accrued and continuing staff time and expense, commencing on August 5, 2010 and capped at approximately \$200,000 per month, would be payable commencing on the date that these Minutes are deemed to be final action of the Port Authority in accordance with applicable bi-state legislation; (b) Durst Consultant's accrued and future installments under its \$15 million special partner distribution would be payable commencing upon execution and delivery of the Transaction Documents; and (c) Durst Consultant would be paid leasing commissions and fees (if any) upon execution of the Transaction Documents. The agreement would be merged into the Transaction Documents, which after the closing of the Joint Venture transaction would control the arrangements with Durst, Durst Consultant and Royal. If, however, the Joint Venture transaction does not close, neither the accrued special distribution nor any leasing commissions relating to Conde Nast or any other transaction relating to 1 WTC would be payable to any Durst entity by 1 WTC LLC. Durst Consultant's general conditions, special distribution and commissions would begin to accrue would be retroactive to August 5, 2010.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that the Executive Director and his designated representatives be and they each hereby are authorized, for and on behalf of the Port Authority, to take any and all action pertaining to the joint venture transaction between the net lessee of One World Trade Center and The Durst Organization consistent with the foregoing report to the Board, including the execution of contracts, agreements and other documents, together with amendments and supplements thereof, or amendments and supplements to existing contracts, agreements and other documents, in each case subject to the prior review of the Chairman, and to take action in accordance with the terms of such contracts, agreements and documents, as may be necessary in connection therewith; and it is further

RESOLVED, that, in addition to those instruments in which operating funds may now be invested, subsequent to the execution of the joint venture transaction between the net lessee of One World Trade Center and The Durst Organization, the Executive Director, Deputy Executive Director, Chief Financial Officer, Treasurer or Assistant Treasurer are each authorized to invest Port Authority operating funds in such joint venture consistent with the foregoing report to the Board, and to enter into such other related agreements as may be necessary or appropriate to effectuate investment in such joint venture; and it is further

RESOLVED, that the form of all contracts and agreements, in each case, in connection with the foregoing shall be subject to the approval of General Counsel or his authorized representatives.

WORLD TRADE CENTER SITE – SUBGRADE INFRASTRUCTURE AND IMPROVEMENTS – PROJECT AUTHORIZATION

It was recommended that the Board authorize a project for design and construction of the core and shell and base-building fit-out for subgrade infrastructure and parking-related improvements at the World Trade Center (WTC) site, at an estimated total project cost of \$252 million, which is inclusive of prior Board planning and contract authorizations valued at \$48.45 million to support this project.

At meetings held between December 2006 and November 2008, the Board authorized the expenditure of \$48.45 million for WTC site parking projects, including: (1) planning and preliminary engineering for the development of a tenant parking project at the WTC site, in an amount of \$5.75 million; (2) a reimbursement agreement with Silverstein Properties, Inc. (SPI) for structural enclosure and associated work for the WTC Transportation Hub Project, several common infrastructure projects, parking spaces and retail portions of the WTC site in the East Bathtub, in an amount of \$36 million; and (3) a reimbursement agreement with SPI for mechanical, electrical and plumbing and fire protection work for tenant vehicle parking areas under Tower 3 and Tower 4, in an amount of \$6.7 million.

The proposed authorization would provide for the core and shell design and construction of the subgrade infrastructure improvements to be located beneath the WTC Transportation Hub and under the New York City Transit No. 1 Subway Line, including the fit-out located under One WTC and the Performing Arts Center in the West Bathtub. The design and construction would include the Subgrade Infrastructure and Parking-related Improvements Program allocation of One WTC's mechanical, electrical and plumbing backbone, fire protection backbone and exhaust shafts. In addition, the proposed authorization would provide for funding required to complete the core and shell design and construction of the subgrade infrastructure support areas located under Towers 2, 3, and 4, which will be utilized by SPI for tenant car parking, shared program vehicle ramps and other infrastructure.

Of the remaining project cost of approximately \$203.6 million that has not yet been authorized, approximately \$21.5 million would be for design and construction work for the base-building fit-out located within the East and West Bathtubs (which equates to approximately 90 percent for infrastructure and 10 percent for parking). The proposed authorization would enable the base building fit-out located within the East and West Bathtubs to be used for approximately 495 tenant parking spaces (based on the use of stackers and a valet parking arrangement).

The subgrade infrastructure and parking-related improvements also would include an allocated share of the WTC Transportation Hub Project for common infrastructure work associated with the Operations Control Center, police, fire protection and domestic water backbone infrastructure, and the Port Authority's operational and emergency radio communication system.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project for the design and construction of the core and shell and base-building fit-out for subgrade infrastructure and parking-related improvements at the World Trade Center site, at an estimated total project cost of \$252 million, which is inclusive of prior Board planning and contract authorizations valued at \$48.45 million to support this project, be and it hereby is authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority and its wholly owned entities, to take action with respect to construction contracts and contracts for professional and advisory services related to the foregoing project as he deems in the best interest of the Port Authority, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

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

**WORLD TRADE CENTER SITE – PROPERTY MANAGEMENT FACILITIES –
PHASE I – DESIGN AND CONSTRUCTION OF CORE AND SHELL –
PROJECT AUTHORIZATION – PHASE II – FACILITY FIT-OUT – PLANNING
AUTHORIZATION**

It was recommended that the Board authorize: (1) a project for Phase I of the design and construction of the core and shell associated with allocated infrastructure costs for the World Trade Center (WTC) Property Management Facilities (PMF) necessary to bring the southeast portion of the West Bathtub to grade, at an estimated total Phase I project cost of \$82.2 million; (2) preliminary planning and engineering services for Phase II for the future fit-out of the space within the PMF, at an estimated cost of \$1.3 million; and (3) the provision of reimbursement to Silverstein Properties, Inc. (SPI), in an estimated amount of \$100,000, for architectural and engineering services to support core and shell design of the portion of the PMF to be located in Tower 2.

The PMF is necessary to operate and maintain the WTC site on a 24-hours-per-day, seven-days-per-week basis. The PMF consists of approximately 60,000 square feet located in the southeast portion of the West Bathtub and approximately 6,400 square feet in the subgrade area of Tower 2, which has been allocated for program space, such as building management offices, security and janitorial supervisory personnel offices, facilities for security and janitorial staff, building trade maintenance shops, including electrical and plumbing, and storage spaces required to support the property management staff.

The PMF is being constructed in the southeast corner of the West Bathtub, below the WTC Memorial plaza, with a portion to be located within the Tower 2 footprint. The portion of the PMF to be located in the southeast portion of the West Bathtub is necessary to bring that portion of the WTC site to grade. As such, the costs for the core and shell construction would be required regardless of the facilities to be located therein. The Board previously authorized the Port Authority's acceptance of a number of trade contracts for the WTC Memorial that included provisions for the implementation of Port Authority exclusive infrastructure, including work associated with the construction of the core and shell of the PMF. In addition, the Board previously authorized the reimbursement of costs incurred by the National September 11 Memorial Museum at the World Trade Center Foundation, Inc. for certain planning and design work which included the PMF. Based on the location of the PMF in relation to the WTC Memorial, it was necessary to advance these two projects in concert. The reimbursement of SPI is required to have its consultants make the necessary modifications to the Tower 2 construction documents to accommodate the portion of the PMF to be located within the Tower 2 footprint.

The proposed planning work would assist in determining a design for the fit-out of the portion of the PMF to be located in the West Bathtub and in determining the costs for construction of the core and shell and fit-out of the PMF space to be located in Tower 2. The advancement of further construction efforts to complete the PMF would be subject to further Board authorization.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that a project for Phase I of the design and construction of the core and shell associated with allocated infrastructure costs for the World Trade Center Property Management Facilities (PMF), which is necessary to bring the southeast portion of the West Bath tub to grade, at an estimated total Phase I project cost of \$82.2 million, be and it hereby is authorized; and it is further

RESOLVED, that preliminary planning and engineering services, in an estimated amount of \$1.3 million, for Phase II for the future fit-out of the space within the PMF, be and they hereby are authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to provide reimbursement to Silverstein Properties, Inc., in an estimated amount of \$100,000, for architectural and engineering services to support core and shell design of the portion of the PMF to be located in Tower 2; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to purchase and construction contracts, contracts for professional and advisory services and such other contracts and agreements as may be necessary to effectuate the foregoing project and planning and engineering services, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

RESOLVED, that the form of any agreements, contracts and other documents required in connection with the foregoing shall be subject to the approval of General Counsel or his authorized representative.

**NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM –
CHAPTER 105 OF THE LAWS OF NEW YORK, 2010 – 2010 RETIREMENT
INCENTIVE PROGRAM**

In June 2010, legislation was adopted in the State of New York (Chapter 105, Laws of New York, 2010 (the Legislation)) enabling employers participating in the New York State and Local Employees' Retirement System (the Retirement System), including the Port Authority, to adopt and implement Parts A and B of the Legislation for temporary retirement incentives for non-police employees intended to achieve cost-savings for public employers and avoid layoffs of public employees (Retirement Incentive Program). The Port Authority's participation in this program would provide for incentives to eligible employees who leave Port Authority employment on or after August 21, 2010 and on or before November 18, 2010. An employee eligible for both Part A and Part B benefits would receive the higher of the two.

It was recommended that the Board: (1) elect to provide the benefits of Parts A and B of the Retirement Incentive Program under the Legislation for eligible employees who are members of the Retirement System during an open enrollment period for each part, commencing on August 21, 2010 and continuing through November 18, 2010, as discussed below; and (2) authorize the Executive Director to take all necessary and/or appropriate actions and make all determinations in connection with this Retirement Incentive Program in the best interest of the agency, consistent with applicable law and contractual obligations.

Under Part A of the Legislation, a retirement incentive can, at the discretion of the Port Authority, be made available to non-police employees continuously employed since February 1, 2010, who are at least 50 years of age and have 10 years of credited service or who otherwise currently are eligible to retire. This incentive is similar to those authorized by the Legislature and implemented by the Port Authority each year from 1995 through 2000 and again in 2002. Although the additional pension benefits under Part A are subject to reductions for those under age 55 and to certain tax law restrictions and reductions, eligible employees who voluntarily choose to retire when this incentive is made available to them would, generally, receive an additional one month of Retirement System credited service for each year of public service, up to a maximum of three years of additional credited service.

Part A of the Legislation is intended to assist employers who have identified positions that otherwise would be designated for layoff to achieve a related objective -- economy, consolidation or abolition of functions, curtailment of activities or otherwise. The position of an employee who is to be offered a Part A incentive ordinarily must be eliminated, but can also include a position into which: (1) another employee can be transferred or reassigned to avoid layoff; or (2) a new hire would be employed and paid a base salary over two years not more than half the total base salary that would have been paid to the employee receiving the incentive. The period in which individual employees may elect to retire with the retirement incentive must be of no less than 30, and no more than 90, days' duration, and must not extend beyond calendar year 2010. Part A incentive benefits would be available to eligible Port Authority employees whose retirement date occurs during an open enrollment period commencing on August 21, 2010 and continuing through November 18, 2010.

Under Part A of the Legislation, eligible positions may include those for which the abolition of positions within a title would not “unacceptably,” in the determination of the Executive Director,

“directly result in a reduction of the level of service required or mandated to protect and care for clients of the state or a participating employer or to assure public health and safety;

endanger the health or safety of employees of the state or a participating employer; or

clearly result in a loss of significant revenue to the state or a participating employer or result in substantially increased overtime or contractual costs.”

The Executive Director would have staff identify eligible job titles and positions meeting the requirements of Part A of the Legislation and the Port Authority’s goals. Finally, the Executive Director would also have staff prepare a list of eligible titles and positions and a plan of savings, which might avoid some position eliminations.

Under Part A of the Legislation, a resolution authorizing implementation of the Retirement Incentive Program must be adopted on or before August 31, 2010. In addition, an agency’s chief executive officer must advise the Retirement System of such resolution.

The Legislation also provides, in Part B, for another retirement incentive: non-police employees continuously employed since February 1, 2010, who are at least 55 years of age and have at least 25 years of credited service may voluntarily choose to retire during a 90-day “open period” without reduction of retirement benefit otherwise required by New York’s Retirement and Social Security Law. Under Part B of the Legislation, the only reason for denying the benefits of the program to an otherwise eligible employee is if the Executive Director or the Board of Commissioners determines (and notifies the Retirement System before the commencement of the open period) that “the employee holds a position that is deemed critical to the maintenance of public health and safety.”

Part B of the Legislation provides that the 90-day period in which individual employees may elect to retire without reduction of benefit shall not extend beyond calendar year 2010. Part B incentive benefits would be available to eligible Port Authority employees whose retirement date occurs during an open enrollment period commencing on August 21, 2010 and continuing through November 18, 2010. Under Part B of the Legislation, a resolution authorizing implementation of the Retirement Incentive Program must be adopted on or before September 1, 2010. In addition, an agency’s chief executive officer must advise the Retirement System of such resolution.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor and Steiner voting in favor; none against:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to perform all acts and to make any and all determinations necessary or appropriate in connection with the implementation, effectuation, administration, or any other aspect of the retirement incentive programs under Chapter 105, Laws of New York, 2010, including, without limitation, determining eligible titles (and the number of positions therein) to be covered by such a program under Part A of Chapter 105 and the development of any compensation savings plan in connection therewith, and determining the positions, titles, or employees who may be denied eligibility under the standards of Part A or Part B of Chapter 105 and, subject to approval as to form by General Counsel, to file any necessary or appropriate documents, affidavits, certifications, and forms; and it is further

RESOLVED, that The Port Authority of New York and New Jersey does hereby elect to provide the benefits of Part A of Chapter 105 of the Laws of New York, 2010, commencing on August 21, 2010, for all eligible employees who retire with an effective date of retirement set during the 90-day period beginning with and immediately following the commencement date and who are otherwise eligible as specified by Part A of Chapter 105, Laws of New York, 2010; and it is further

RESOLVED, that The Port Authority of New York and New Jersey does hereby elect to provide the benefits of Part B of Chapter 105 of the Laws of New York, 2010, commencing on August 21, 2010, for all eligible employees who retire with an effective date of retirement set during the 90-day period beginning with and immediately following the commencement date and who are otherwise eligible as specified by Part B of Chapter 105, Laws of New York, 2010.

**SETTLEMENT AGREEMENT - THE PORT AUTHORITY'S SEPTEMBER 11, 2001
INSURANCE CLAIM – UNITED STATES FIRE INSURANCE COMPANY**

It was recommended that the Board authorize the Executive Director to enter into a settlement agreement with United States Fire Insurance Company (US Fire) to resolve the Port Authority's and its wholly owned entities' insurance claim arising from the events of September 11, 2001, with respect to US Fire's participation in the Port Authority's applicable property damage/business interruption insurance program (the Port Authority Insurance Program). US Fire is the only remaining non-settling insurer involved in this claim.

Under the settlement agreement, in return for a full release of liability under the Port Authority Insurance Program, US Fire would pay the Port Authority a total aggregate amount of \$33,550,000, which, after deduction of advances previously made by US Fire of \$27 million, would result in an additional payment from US Fire to the Port Authority of \$6,550,000, and the Port Authority's and its wholly owned entities' insurance claim arising from the events of September 11, 2001 would now be completely resolved.

As part of the settlement agreement, US Fire would withdraw from the coverage litigation pending in the United States District Court for the Southern District of New York pertaining to the Port Authority Insurance Program, and the Port Authority would recognize the subrogation of its rights in any recovery under the Port Authority's third-party claim for property damage in the liability litigation also pending in the United States District Court for the Southern District of New York against certain aviation and other parties arising from the events of September 11, 2001, in favor of US Fire and other similarly situated insurers who participate in the Port Authority Insurance Program, and are also parties in that litigation.

This settlement is subject to certain confidentiality requirements, providing for only limited disclosure of the fact of the settlement, the dismissal of the coverage litigation and the amount of the settlement payment by US Fire, without the prior consent of the non-disclosing party.

Pursuant to the foregoing report, the following resolution was adopted in executive session with Commissioners Bauer, Coscia, Grayson, Holmes, Moerdler, Pocino, Sartor, Silverman and Steiner voting in favor; none against:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority and its wholly owned entities, to enter into a settlement agreement with United States Fire Insurance Company (US Fire) to resolve the Port Authority's and its wholly owned entities' insurance claim arising from the events of September 11, 2001 with respect to US Fire's participation in the Port Authority's applicable property damage/business interruption insurance program and the related pending coverage litigation, consistent with the foregoing report 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 and its wholly owned entities, to take any and all action to effectuate the foregoing, including the execution of agreements, contracts and other documents, together with amendments and supplements thereof, or

amendments and supplements to existing agreements, contracts and other documents, and to take action in accordance with the terms of such agreements, contracts and other documents, as may be necessary in connection therewith; and it is further

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

Whereupon, the meeting was adjourned.

Secretary