

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**

**MINUTES**

**Thursday, November 15, 2018**

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**MINUTES of the Meeting of The Port Authority of New York and New Jersey held Thursday, November 15, 2018 at 150 Greenwich Street, City, County and State of New York**

**PRESENT:**

**NEW JERSEY**

Hon. Kevin J. O'Toole, Chairman  
 Hon. Richard H. Bagger  
 Hon. Kevin P. McCabe

**NEW YORK**

Hon. Jeffrey H. Lynford, Vice Chairman  
 Hon. Leecia R. Eve  
 Hon. Daniel J. Horwitz  
 Hon. Gary LaBarbera  
 Hon. George T. McDonald

Richard Cotton, Executive Director  
 Michael E. Farbiarz, General Counsel  
 Linda C. Handel, Secretary

Arnaz Ali, Manager, Corporate Transparency, Office of the Secretary  
 James K. Allen Jr., Chief of Staff to the Vice Chairman  
 Adam L. Barsky, Chief of Staff to the Executive Director and Special Counselor  
 Justin E. Bernbach, Director, Government and Community Affairs, New York  
 John Bilich, Chief Security Officer  
 Vincent J. Borst Jr., Assistant Director, Real Estate Services  
 Benjamin M. Branham, Chief of Public and Government Affairs  
 Edward T. Cetnar, Director, Public Safety/Superintendent of Police  
 Steven J. Coleman, Deputy Director, Media Relations  
 Nicole Crifo, Deputy Chief Ethics and Compliance Officer  
 Natasha Jean Philipp-Cumberbatch, Executive Secretary, Office of the Secretary  
 Jennifer Davis, Chief Intergovernmental Affairs Officer  
 John C. Denise, Audio Visual Supervisor, Marketing  
 Michael P. Dombrowski, Audio Visual Specialist, Marketing  
 Diannae C. Ehler, Director, Tunnels, Bridges and Terminals  
 Amy H. Fisher, First Deputy General Counsel  
 Kevin Frick, Attorney, Law  
 Robert E. Galvin, Chief Technology Officer  
 Mercedes Guzman, Secretary to the Executive Director  
 Morgan D. Keane, Deputy Chief of Staff to the Executive Director  
 Milena Kosc, Principal Board Management and Support Specialist, Office of the Secretary  
 Scott Ladd, Assistant Director, Media Relations  
 Cristina M. Lado, Director, Government and Community Affairs, New Jersey  
 Huntley A. Lawrence, Director, Aviation  
 Stephen Marinko, Assistant General Counsel  
 Ronald Marsico, Director, Media Relations  
 Hugh G. McCann, Director, World Trade Center Operations  
 Daniel G. McCarron, Comptroller  
 Elizabeth M. McCarthy, Chief Financial Officer  
 James E. McCoy, Deputy Secretary, Office of the Secretary  
 Mary K. Murphy, Director, Planning and Regional Development  
 Maria Oliveri, Associate Board Management and Support Specialist, Office of the Secretary

Steven P. Plate, Chief, Major Capital Projects  
 Alan L. Reiss, Director, World Trade Center Construction  
 Andrew Saporito, Deputy Director, Port  
 Aaron F. Sherburne, Director, Operations Services  
 Peter D. Simon, Chief of Staff to the Chairman  
 James A. Starace, Chief Engineer/Director of Engineering  
 K. Ocean Stokes, Senior Business Manager, Engineering  
 Debra M. Torres, Chief Ethics and Compliance Officer  
 Lillian D. Valenti, Chief Procurement and Contracting Officer  
 Sheree R. Van Duyne, Manager, Policies and Protocol, Office of the Secretary

Guests:

Edmund Caulfield, Associate Counsel, Authorities Unit, Office of the Governor of New Jersey  
 Michael Wojnar, Assistant Secretary for Transportation, Office of the Governor of New York

Speakers:

Murray Bodin, Member of the Public  
 Seth Bornstein, Executive Director, Queens  
 Economic Development Corporation  
 Richard Heslin, Travelers Aid International  
 Jane Mrosko, Travelers Aid International  
 Charlene Talarico  
 Neile Weissman, Complete George

Topic:

Transportation Issues  
 LGA Airtrain  
  
 Specialized Airport Passenger Assistance  
 Specialized Airport Passenger Assistance  
 Human Resources Policies and Procedures  
 Widening Paths on GWB

The public meeting was called to order by Chairman O'Toole at 12:14 p.m. and ended at 12:45 p.m. The Board also met in executive session prior to the public session.

**Report on Prior Meeting's Minutes**

Copies of the Minutes of the meeting of October 25, 2018 were delivered to the Governors of New York (in electronic form) and New Jersey (in paper form) on October 26, 2018. The time for action by the Governors of New York and New Jersey had expired at midnight on November 13, 2018.

## **NEGOTIATIONS WITH EMPLOYEE LABOR UNIONS**

The Port Authority's goals are ambitious --- the execution of a \$32 billion capital plan; uncompromising focus on safety and security; and rapid performance improvements with respect to customer service, use of cutting-edge technology, and environmental stewardship. None of this can be accomplished without hard and intense work --- the kind of work that requires motivated and dedicated workers.

For years, the Port Authority's unionized employees --- all of them represented by 23 distinct labor unions --- had been working without a contract. Indeed, multiple unions had been without a contract for more than a decade.

Confronted with this extraordinary labor-relations problem, the Board of Commissioners, in March of this year, took an extraordinary action. The Board directed the Executive Director to assign senior staff to immediately negotiate with any interested labor unions, and delegated to the Chairman of the Board and the Executive Director the ability to jointly approve or disapprove any labor agreements that emerged from such negotiations. The Board resolved that this delegation would remain in effect for a limited period of time, until August 1, 2018. And the Board further resolved that in exercising their delegated authority, the Chairman and the Executive Director would be required to hew to the substantive terms of the delegation --- which were outlined in Executive Session to the Board.

To a great extent, the delegation worked. Staff embarked on appropriately intense negotiations, and these culminated in agreements between the Port Authority and seven of its unions. These seven unions represent approximately 95 percent of the Port Authority's represented civilian work force.

But there is more to be done. No agreements have been put to the membership of any PATH unions or police unions. In addition, there is still one civilian Port Authority union as to which no agreement has been reached.

In the interest of creating the conditions for rapid progress on these open matters before the end of the year, it was recommended that the Board again delegate authority to the Chairman and the Executive Director, and on the same terms as before --- such that the Chairman and Executive Director can jointly approve any labor agreements that are consistent with the terms outlined to the Board in Executive Session during March of 2018. The March 2018 delegation created a window of opportunity for intense bargaining, during which real progress was made. A new delegation would again open a window of opportunity --- so that agreements can be reached and finalized during the coming weeks.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Eve, Horwitz, LaBarbera, Lynford, McCabe, McDonald and O'Toole voting in favor. General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that the Board’s authority to approve or disapprove any Port Authority labor agreements shall be delegated, and shall be jointly exercised by the Chairman of the Board of Commissioners and the Executive Director, such that any proposed labor agreement signed by both the Chairman and the Executive Director will become effective upon ratification by the relevant union, without need of any further action from the Board or the Port Authority; and it is further

**RESOLVED**, that the delegation described in the preceding paragraph may be exercised by the Chairman and the Executive Director only with respect to a labor agreement jointly signed by them on or before December 21, 2018, and only in accord with the terms of the delegation that were outlined to the Board in Executive Session during March of 2018; and it is further

**RESOLVED**, that, for the purposes of the instant Resolution, “Port Authority” means both the Port Authority of New York and New Jersey (“PANYNJ”) and all wholly-owned subsidiaries of the PANYNJ (“Subsidiaries”); “Executive Director” means both the Executive Director of the PANYNJ and the President of each of the Subsidiaries; and “Board of Commissioners” means both the Board of Commissioners of the PANYNJ and the Board of Directors of each of the Subsidiaries; and it is further

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

**NEWARK LIBERTY INTERNATIONAL AIRPORT – AUTHORIZATION TO ENTER INTO NEW LIBERTY FEES AGREEMENTS AND SUPPLEMENT AFFECTED AGREEMENTS AND TO PROMULGATE NEW SCHEDULE OF CHARGES**

It was recommended that the Board authorize the Executive Director to: (1) establish a new flight fee structure and enter into new agreements with airlines operating at Newark Liberty International Airport (EWR) (New Liberty Fees Agreements); (2) supplement lease agreements and other agreements, as necessary, to conform with the aforementioned changes to the flight fee structure; and (3) promulgate a new “Newark Liberty International Airport Schedule of Charges” (Schedule of Charges) to conform with the aforementioned changes, all to establish new, coordinated methodologies, cost recovery and accounting principles in connection with calculating flight fees and the use by the airlines, and the provision, operation and maintenance by the Port Authority, of the public aircraft facilities (PAF) at EWR. The Port Authority anticipates that it would enter into a New Liberty Fees Agreement with each of the airlines that meet certain eligibility criteria and their qualified affiliates (each a Signatory Airline). Each of the initial New Liberty Fees Agreements would have a five-year term, commencing effective as of January 1, 2019 and expiring December 31, 2023. This expiration would be coterminous with the expiration of flight fee agreements at John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA). Airlines operating at EWR that are not signatory to a New Liberty Fees Agreement (Non-signatory Airlines) would pay rates pursuant to the Schedule of Charges, which are calculated in a similar way, but which include an additional premium.

The New Liberty Fees Agreements would replace the provisions of current agreements between the Port Authority and airlines operating at EWR covering the calculation of the flight fee, fuel fee, and Monorail fee (collectively, the Prior EWR Agreements). The existing flight fee methodology allocates fees to an airline for the use of Port Authority infrastructure by any aircraft operated at the airport, and its calculation includes a PAF component and an “Airport Services” component. The costs associated with the Port Authority administration space and other airport infrastructure (e.g., air terminal highways, utilities, and communications systems, among others) are recovered through the Airport Services calculation. Airport Services is incorporated as a component in: (1) the current flight fee, (2) the rentals for leases and other agreements, as well as fees, such as per-turn gate fees in common-use agreements, and (3) the current Schedule of Charges.

The New Liberty Fees Agreements would supersede provisions of prior agreements at EWR relating to the use of the PAF and calculation of flight fees. The proposed flight fee agreements would replace the existing flight fee methodology utilized at EWR with one that is similar to the methodology and accounting principles used in the “Flight Fee Methodology and Accounting Principles” flight fee agreements used at JFK and LGA, known as the “Freedom Agreement” (Freedom Agreement), as summarized in Exhibit 1. The New Liberty Fees Agreements would also contain terms covering the use by the Signatory Airlines of the PAF and specified common areas at EWR. The New Liberty Fees Agreements would contain significant changes from the Prior EWR Agreements in the methodology, cost recovery and accounting principles for the calculation of flight fees, but would continue the practice that the flight fees at EWR would be calculated on aircraft take-off weights, which is consistent with the methodology used at JFK. The New Liberty Fees Agreements would maintain current methodologies for Fuel

Fee and Monorail Fee calculations, except that the Fuel Fee Airport Services component would be replaced with a new flat-rate rental based on the 2017 calculation, with a 3-percent escalation rate.

The New Liberty Fees Agreements would not modify, amend or supersede the provisions of other Port Authority agreements in effect as of January 1, 2019, except to the extent that the provisions in such pre-existing agreements conflict with the provisions of the New Liberty Fees Agreements concerning rights and obligations as to operations on the PAF, in which case the provisions of the New Liberty Fees Agreements would control.

Some leases, space permits, common-use gate agreements, concession agreements, easements, rights of entry, and other agreements at EWR are effective beyond December 31, 2018 and contain provisions that incorporate the current flight fee methodology and/or the Airport Services component into rental and/or other fee calculations. The rentals and other fees in these agreements are expected to be modified, effective January 1, 2019, to conform to the New Liberty Fees Agreements structure.

Some leases, space permits, common-use gate agreements, concession agreements, easements, rights of entry and other agreements at EWR (which extend past December 31, 2018), may require modification or supplementation in order to evidence the changes in the flight fee methodology and to conform calculation of the Airport Services component to the extent used to determine other charges in certain of those documents. The Airports Services component would be replaced with a flat-rate rental based on the 2017 calculation, with a 3-percent escalation rate, as referenced above. Authority to enter into such documentation, which would be effective January 1, 2019, would be delegated to the Executive Director.

Promulgation of a new Schedule of Charges to conform with the aforementioned changes to the New Liberty Fees Agreements structure would establish coordinated methodologies, cost recovery and accounting principles in connection with calculating the allocation of EWR infrastructure costs. The Schedule of Charges methodology would be updated to reflect the new Public Landing Area Charges methodology with one that is similar to the methodology and accounting principles used in the new EWR flight fee methodology, with Non-signatory Airlines charged a premium over the rate charged to Signatory Airlines, as summarized in Exhibits 2 and 3. The new Schedule of Charges would incorporate a new methodology for a Fuel Fee Charge, and the Air-Train Charge methodology would remain unchanged, as summarized in Exhibits 2 and 3.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Eve, Horwitz, LaBarbera, Lynford, McCabe, McDonald and O'Toole voting in favor. General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into New Liberty Fees Agreements with airlines operating at Newark Liberty International Airport (EWR), which establish a new methodology, cost recovery and accounting principles in connection with calculating the flight fee, substantially in accordance with the terms outlined to the Board above, and as set out in the exhibits attached hereto; and it is further

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to supplement existing leases, space permits, common-use gate agreements, concession agreements, easements, rights of entry, and other agreements at EWR that are effective beyond December 31, 2018 and contain provisions that incorporate the current flight fee methodology into rental and other fee calculations, as necessary, to conform with the aforementioned changes to the flight fee methodology, and replacement of the existing “Airport Services” charge, substantially in accordance with the terms outlined to the Board above, and as set out in the exhibits attached hereto; and it is further

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to promulgate a new “Newark Liberty International Airport Schedule of Charges”, effective January 1, 2019, to establish new methodologies, cost recovery and accounting principles in connection with calculating the Public Landing Area Charges, Fuel Fee Charge, and AirTrain Charge, substantially in accordance with the terms outlined to the Board above, and as set out in the exhibits attached hereto; and it is further

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

## **Exhibit I – Liberty Agreement Charge Methodology**

### **A. Flight Fee Methodology**

The Flight Fee is comprised of the following components (I+II+III), divided by the Maximum Weight for Take-off (in thousands of pounds) of aircraft of Signatory Airlines and their qualified affiliates.

#### **I - Operating & Maintenance Expenses**

1. 100 percent of expenses charged to the Public Aircraft Facility (PAF)
2. A proportionate share of expenses for:
  - a. Various airport systems (communications and signal, electric, water and gas distribution, storm and sanitary, air terminal highway, restricted highway system).
  - b. Port Authority administration space.
  - c. General costs of the airport, which include activities incurred for the benefit of various areas of the airport, including manager's office, policing and traffic control, and administrative and clerical activities.
  - d. Direct prorated expenses, which represent the general supervision, promotion, planning and operation of activities performed centrally for the benefit of the airport.
  - e. General administrative and development expenses.
3. 85 percent of the rent paid or payable to the City of Newark under the Lease will be recovered in the flight fee at a rate of 54.95 percent of the rent paid or payable.
4. The flight fees will also include certain costs that have been historically included in the calculation, such as fees for taxi dispatch, cargo police, a portion of various bus services at EWR and a portion of the budget of the Aviation Development Council and the Council for Airport Opportunities.
5. 100 percent of bad debts relating to flight activity will be included in the flight fees.

#### **II - Capital Investment**

1. 100 percent of all amortization and interest (fixed charges) on Port Authority investment in the PAF.
2. A proportionate share of fixed charges on Port Authority investment in:
  - a. Airport systems (communications and signal, electric, water and gas distribution, storm and sanitary, air terminal highway, and restricted highway system).
  - b. Port Authority administration space.

3. A coverage factor of .3 times fixed charges computed on PAF, airport systems, and Port Authority administration space shall be included in the flight fees.
4. Investment taken out of service will not incur an accelerated fixed charge and will be amortized over the estimated useful life first established when the asset was placed into service.

### **III - Credits**

1. PAF costs will be credited for flight fee revenues earned from airlines that are not signatory to the New Liberty Fees Agreements as estimated at the beginning of the year and as adjusted pursuant to paragraph 5 below. Non-signatory Airlines will be charged a rate per thousand pounds of maximum gross takeoff weight that is 10 percent higher.
2. PAF costs will be credited with 25 percent of the coverage factor amount computed on PAF, airport systems, and Port Authority administration space (see II – 3 above).
3. PAF costs will be credited with an amount equal to half the previously imputed overhead included in fixed charges on investments that commenced prior to December 31, 2018, with a continued amortization in 2019 through 2023.
4. PAF costs will be credited with revenue earned for aircraft parking and storage on areas designated as PAF, and any other PAF-related revenues.
5. PAF costs will be adjusted each year based on under-collections or over-collections from the previous year, with the adjustment being reflected in the current year's flight fee rates.

## Exhibit II – Schedule of Charges

### **A. Public Landing Area Charge Methodology**

The Public Landing Charge is comprised of the following components (I+II+III), divided by the Maximum Weight for Take-off (in thousands of pounds) of aircraft of Signatory Airlines and their qualified affiliates, multiplied by 1.1 (10 percent premium).

#### **I - Operating & Maintenance Expenses**

1. 100 percent of expenses charged to the Public Aircraft Facility (PAF)
2. A proportionate share of expenses for:
  - a. Various airport systems (communications and signal, electric, water and gas distribution, storm and sanitary, air terminal highway, restricted highway system).
  - b. Port Authority administration space.
  - c. General costs of the airport, which include activities incurred for the benefit of various areas of the airport, including manager's office, policing and traffic control, and administrative and clerical activities.
  - d. Direct prorated expenses, which represent the general supervision, promotion, planning and operation of activities performed centrally for the benefit of the airport.
  - e. General administrative and development expenses.
3. 85 percent of the rent paid or payable to the City of Newark under the Lease will be recovered in the flight fee at a rate of 54.95 percent of the rent paid or payable.
4. The flight fees will also include certain costs that have been historically included in the calculation, such as fees for taxi dispatch, cargo police, a portion of various bus services at EWR and a portion of the budget of the Aviation Development Council and the Council for Airport Opportunities.
5. 100 percent of bad debts relating to flight activity will be included in the flight fees

#### **II - Capital Investment**

1. 100 percent of all amortization and interest (fixed charges) on Port Authority investment in the PAF.
2. A proportionate share of fixed charges on Port Authority investment in:
  - a. Airport systems (communications and signal, electric, water and gas distribution, storm and sanitary, air terminal highway, and restricted highway system),
  - b. Port Authority administration space.
3. A coverage factor of .3 times fixed charges computed on PAF, airport systems, and

Port Authority administration space shall be included in the flight fees.

4. Investment taken out of service will not incur an accelerated fixed charge and will be amortized over the estimated useful life first established when the asset was placed into service.

### **III - Credits**

1. PAF costs will be credited for flight fee revenues earned from airlines that are not signatory to the New Flight Fees Agreements as estimated at the beginning of the year and as adjusted pursuant to paragraph 5 below.
2. PAF costs will be credited with 25 percent of the coverage factor amount computed on PAF, airport systems, and Port Authority administration space (see II – 3 above).
3. PAF costs will be credited with an amount equal to half the previously imputed overhead included in fixed charges on investments that commenced prior to December 31, 2018, with a continued amortization in 2019 through 2023.
4. PAF costs will be credited with revenue earned for aircraft parking and storage on areas designated as PAF, and any other PAF-related revenues.
5. PAF costs will be adjusted each year based on under-collections or over-collections from the previous year, with the adjustment being reflected in the current year's flight fee rates.

**B. Fuel Fee Methodology**

The Fuel Fee is composed of the following components (I+II+III), divided by the number of gallons of fuel delivered through the fuel system to aircraft, multiplied by 1.1 (10 percent premium). These components and recovery rates are consistent with established agreements with air carriers:

**I. System Charge Component**

Major Elements of Costs:

- a. Amortization and interest (fixed charges) on Port Authority investment in the Fuel System.
- b. Direct labor, materials, payments to contractors and suppliers (other than the contractors referred to in subdivision (c) below), other costs for operation, maintenance, repairs and replacements charged directly to the Fuel System, and the pro-rata share of the cost of snow and ice removal.
- c. 105 percent of the contract amounts paid or payable to any independent contractor who has operated the Fuel System.

**II. Airport Services Charge Component**

An airport-wide flat rate per acre Airport Service Factor with a 3-percent annual escalation rate.

**III. Phase 1A Roadway Charge Factor**

A proportionate share of the following cost elements (a+b+c+d+e) allocated based on acreage.

Major Elements of Costs:

- a. Construction costs, including:
  1. payments to independent contractors, vendors and suppliers;
  2. premiums or charges for Performance Bonds;
  3. insurance premiums or charges;
  4. direct payroll & expenses of Port Authority employees & agents engaged in performance of the work.
- b. Engineering Services, including:
  1. payments to independent consultants & engineering firms;
  2. direct payroll and expenses of Port Authority staff arising in connection with the work.
- b. Other direct costs.
- c. 10 percent liquidated overhead.
- d. Financial expense.

### **C. AirTrain Charge Methodology**

The AirTrain Charge is composed of the following components (I+II+III), divided by the Maximum Weight for Take-off (in thousands of pounds) of all passenger aircraft and their qualified affiliates, multiplied by 1.1 (10 percent premium). These components and recovery rates are consistent with established agreements with air carriers.

#### **I. Initial Construction Factor**

Monorail Construction Costs:

- a. Construction costs, including: payments to independent contractors, vendors and suppliers; premiums or charges for Performance Bonds; insurance premiums or charges; direct payroll & expenses of Port Authority employees and agents engaged in performance of the work.
- b. Engineering Services, including: payments to independent consultants and engineering firms; direct payroll and expenses of Port Authority staff arising in connection with the work.
- c. Other direct costs.
- d. 10-percent liquidated overhead.
- e. Financial expense.

#### **II. Additional Construction Factors**

- a. related to the construction of: Northeast Corridor Extension (Original NEC), additional Monorail/NEC Investment, Mid-Life Overhauls.

#### **III. Annual Operating Cost Factor**

- a. Direct labor, materials, insurance, payments to contractors & suppliers, utility purchases & other costs for the operation, maintenance, & repair of the system
- b. Less: Transit Facility Charge collected by Rent-A-Car companies, Bus Service payment from Rent-A-Car companies and net farebox revenue
- c. Plus liquidated overhead of 15 percent.

### **Exhibit III – Schedule of Charges**

#### **A. Public Landing Area Charge Methodology**

The public landing charge is comprised of the following components (I+II+III), divided by the Maximum Weight for Take-off (in thousands of pounds) of aircraft of all airlines, multiplied by 1.1 (10 percent premium).

#### **I - Operating & Maintenance Expenses**

1. 100 percent of expenses charged to the PAF.
2. A proportionate share of expenses for:
  - a. Various airport systems (communications and signal, electric, water and gas distribution, storm and sanitary, air terminal highway, and restricted highway system).
  - b. Port Authority administration space.
  - c. General costs of the airport, which are activities incurred for the benefit of various areas of the airport, including manager's office, policing and traffic control, and administrative and clerical activities.
  - d. Direct prorated expenses, which represent the general supervision, promotion, planning and operation of activities performed centrally for the benefit of the airport.
  - e. General administrative and development expenses.
3. 85 percent of rent paid or payable to the City of Newark under the Lease will be recovered in the flight fee at a rate of 54.95 percent of the rent paid or payable.
4. The flight fees will also include certain costs that were historically included in the calculation, such as fees for taxi dispatch, cargo police, a portion of various bus services at EWR and a portion of the budget of the Aviation Development Council and the Council for Airport Opportunities.
5. 100 percent of bad debts relating to flight activity will be included in the flight fees.

#### **II - Capital Investment**

1. 100 percent of all amortization and interest (fixed charges) on Port Authority investment in the PAF.
2. A proportionate share of fixed charges on Port Authority investment in:
  - a. Airport systems (communications and signal, electric, water and gas

distribution, storm and sanitary, air terminal highway, and restricted highway system)

- b. Port Authority administration space.
2. A coverage factor of .3 times fixed charges computed on PAF, airport systems, and Port Authority administration space shall be included in the flight fees.
  3. Investment taken out of service will not incur an accelerated fixed charge and will be amortized over the estimated useful life first established when the asset was placed into service.

### **III - Credits**

1. PAF costs will be credited with 25 percent of the coverage factor amount computed on PAF, airport systems, and Port Authority administration space (see II – 3 above).
2. PAF costs will be credited with an amount equal to half the previously imputed overhead included in fixed charges on investments that commenced prior to December 31, 2018, with a continued amortization in 2019 through 2023.
3. PAF costs will be credited with revenue earned for aircraft parking and storage on areas designated as PAF, and any other PAF-related revenues.
4. PAF costs will be adjusted each year based on under-collections or over-collections from the previous year, with the adjustment being reflected in the current year's flight fee rates, exclusive of the 10 percent premium.

### **B. Fuel Fee Methodology**

The Fuel Fee is composed of the following components (I+II+II), divided by the number of gallons of fuel delivered through the fuel system to all aircraft, multiplied by 1.1 (10 percent premium). These components and recovery rates are consistent with established agreements with air carriers:

#### **System Charge Component**

Major Elements of Costs:

- a. Amortization and interest (fixed charges) on Port Authority investment in the Fuel System.
- b. Direct labor, materials, payments to contractors and suppliers (other than the contractors referred to in subdivision (c) below), other costs for operation, maintenance, repairs and replacements charged directly to the Fuel System, and the pro-rata share of the cost of snow and ice removal.
- c. 105 percent of the contract amounts paid or payable to any independent

contractor who has operated the Fuel System.

**I. Airport Services Charge Component**

An airport-wide flat rate per acre Airport Service Factor with a 3-percent annual escalation rate.

**II. Phase 1A Roadway Charge Factor**

A proportionate share of the following cost elements (a+b+c+d+e) allocated based on acreage.

Major Elements of Costs:

- a. Construction costs, including:
  - a. payments to independent contractors, vendors and suppliers;
  - b. premiums or charges for Performance Bonds;
  - c. insurance premiums or charges;
  - d. direct payroll & expenses of Port Authority employees & agents engaged in performance of the work.
- b. Engineering Services, including:
  - a. payments to independent consultants & engineering firms;
  - b. direct payroll and expenses of Port Authority staff arising in connection with the work.
- c. Other direct costs.
- d. 10 percent liquidated overhead.
- e. Financial expense.

**C. Air-Train Charge Methodology**

The AirTrain Charge is composed of the following components (I+II+III) divided by the Maximum Weight for Take-off (in thousands of pounds) of all passenger aircraft, multiplied by 1.1 (10 percent premium). These components and recovery rates are consistent with established agreements with air carriers.

**I. Initial Construction Factor**

Monorail Construction Costs:

- a. Construction costs, including: payments to independent contractors, vendors and suppliers; premiums or charges for Performance Bonds; insurance premiums or charges; direct payroll & expenses of Port Authority employees and agents engaged in performance of the work.
- b. Engineering Services, including: payments to independent consultants and engineering firms; direct payroll and expenses of Port Authority staff arising in connection with the work.
- c. Other direct costs.
- d. 10-percent liquidated overhead.
- e. Financial expense.

**II. Additional Construction Factors**

related to the construction of: Northeast Corridor Extension (Original NEC), additional Monorail/NEC Investment, Mid-Life Overhauls.

**III. Annual Operating Cost Factor**

- a. Direct labor, materials, insurance, payments to contractors & suppliers, utility purchases & other costs for the operation, maintenance, & repair of the system
- b. Less: Transit Facility Charge collected by Rent-A-Car companies, Bus Service payment from Rent-A-Car companies and net farebox revenue
- c. Plus liquidated overhead of 15 percent.

**NEWARK LIBERTY INTERNATIONAL AIRPORT – TERMINAL ONE REDEVELOPMENT PROGRAM – NEW LEASE AGREEMENT WITH EWR CONRAC LLC FOR A CONSOLIDATED RENTAL CAR FACILITY, RELATED FIRE CODE VARIANCE, AND AUTHORIZATION TO COLLECT CERTAIN ADDITIONAL FEES**

It was recommended that the Board: (i) approve a lease (“Lease”) with EWR Conrac, LLC (“Conrac Entity”) at Newark Liberty International Airport (“EWR”), providing for the design, construction, financing, operation and maintenance of a three-story consolidated car rental facility (“CONRAC”), to be constructed concurrently with a 3,000-space, three-story parking facility (“Parking Facility”) above the CONRAC, to be owned and operated by the Port Authority; (ii) extend (a) the date by which financial closing for the CONRAC is required to occur, and (b) the period for collection by the EWR rental car companies (RACs) of customer fees mandated by the Port Authority, in each case, to accommodate a later financial closing for the CONRAC than previously anticipated, and in each case, so long as the Lease shall have been entered into on or before December 31, 2018; (iii) authorize a variance from conformity with the local building and fire codes, to permit fueling operations at the CONRAC; and (iv) authorize the Executive Director to take any and all necessary actions to mandate the collection by the RACs of certain transportation facility charges unrelated to CONRAC (“TFCs”) at an increased rate of \$4.50 per transaction day, beginning no sooner than January 1, 2023, and provided that a project for the replacement of the AirTrain Newark system has been included in a Port Authority Capital Plan.

On July 26, 2018, the Board authorized, among other things, the expenditure of up to \$170 million for the EWR Terminal One Program in order to construct the Parking Facility, and authorized the Executive Director to negotiate with Conrac Solutions Capital, LLC (“Conrac Developer”) to build the Parking Facility above a full-service CONRAC, as the RACs had proposed. Earlier, on December 17, 2017, the Board had authorized the provision of \$8 million to fund 50 percent of the cost of a study to determine the feasibility of the integrated CONRAC/Parking Facility, which study determined that the integrated facility was viable and financeable, with a construction cost for the Parking Facility not to exceed \$110 million.

Following conclusion of negotiations with Conrac Developer, Port Authority staff believe that the resulting proposed transaction is superior to a standalone public parking lot built by the Port Authority for the following reasons: (i) the Port Authority would pay a capped cost of \$110 million for the Parking Facility, with any cost overruns and construction risk to be borne by the Conrac Entity and its investors, primarily, Conrac Solution Capital, LLC, Related Fund Management, LLC and Fengate Capital Management, Ltd.; (ii) the CONRAC is projected to generate approximately \$250 million in aggregate rentals to the Port Authority over the life of the Lease (approximately 35 years from construction completion); (iii) a CONRAC would consolidate car rental companies off-terminal, after existing lease expirations in 2026, creating open space for other terminal uses; and (iv) a joint-use facility with a CONRAC and Parking Facility would be an efficient use of airport space and create economies of scale when compared to standalone premises, and would increase customer convenience by consolidating functions in one location.

Additional Lease terms provide that the CONRAC would be built on an approximately 20-acre site, connected to EWR Terminal One by a pedestrian bridge, and would include a customer service center with retail kiosks for each of the existing RACs, plus additional space for several additional new entrants (to be selected by the Conrac Entity through competitive, non-discriminatory Request for Proposals processes). The RACs would share quick car return facilities, cleaning and maintenance areas and fueling facilities. Following completion of construction of the Parking Facility and the CONRAC, the Port Authority would operate and maintain the Parking Facility, and the Conrac Entity (or an affiliate) would operate and maintain the CONRAC. Certain common area maintenance would be performed by the Conrac Entity, and the costs therefor would be evenly split between the parties. The integrated facility would be constructed pursuant to a fixed-price, turnkey contract, for approximately \$520 million between the Conrac Entity and Austin-VRH Joint Venture (the “Contractor”). Other than its payment of \$110 million, the Port Authority would have no obligation to fund construction of the integrated facility.

Solar panels are intended to be installed on the Port Authority-owned roof, to provide power to the integrated CONRAC and public parking facility. The Port Authority anticipates issuing a separate Request for Proposals for an entity to design and construct the solar panel component pursuant to a power purchase agreement. Costs associated with the solar panel installation and associated supporting infrastructure would be the responsibility of the Port Authority. Funds for the solar panel installation are available within the amounts authorized for the New Terminal One Redevelopment Program.

The Parking Facility would be required to be turned over to the Port Authority on or before September 1, 2021, and the CONRAC is to be substantially completed one year later, in each case, with liquidated damages to be payable for up to 12 months if such dates are missed. Ground rent would commence upon beneficial occupancy, but no later than December 1, 2022 (extended for delays due to unforeseeable events). Through a sharing formula included in their subleases, the RACs are obligated to pay amounts equal to the ground rent owed to the Port Authority.

The July 26, 2018 Board action anticipated that financial closing for the CONRAC project was to occur on or before November 30, 2018, and that collections of Customer Facility Charges (CFCs) by the RACs from their EWR customers on each daily car rental transaction before financial closing were to terminate on December 31, 2018. Due to protracted negotiations among the Port Authority, the Conrac Developer and the RACs, the parties now expect to reach financial close on or before March 31, 2019. To accommodate the new schedule, it was recommended that the Board extend the period by which financial closing must occur to March 31, 2019, so long as the parties have entered into the Lease by December 31, 2018, and allow pre-closing collection by the RACs of the CFCs through March 31, 2019. Following financial closing, as anticipated by the July 26, 2018 Board resolution, the CFCs would be reset to a level (not to exceed \$7 per transaction day) calculated to be sufficient to: (a) permit repayment of fees and expenses previously incurred by the parties (including a development fee payable at financial closing); (b) fund certain transactional reserves; (c) repay project debt as it matures; and (d) distribute funds for recovery of equity capital, together with a capped return.

As designed, the CONRAC would require a variance from certain local New Jersey building and fire codes, to be granted by the Port Authority, in order to allow for fueling operations in the CONRAC's vehicle maintenance facility. The need for such fueling operations would make conformance with the existing code requirements impractical. As an alternative, at the direction of the Conrac Developer, the Contractor proposed the following risk mitigation measures: (1) limiting the gasoline dispensing capabilities per dispenser with an emergency stop system; (2) protecting fuel piping in a fire-rated enclosure; (3) constructing drainage systems in a manner that captures fuel spills; (4) installing a stand-alone mechanical ventilation system within the fuel dispensing area to prevent accumulation of gasses; (5) installing an enhanced fire suppression system; and (6) increasing fire-rated separation between fuel dispensing areas and parking levels. After consideration of risk mitigations proposed by the Contractor and accepted by the Port Authority Executive Director and staff, and consultation with a fire code expert, the Chief Engineer has concluded, with the concurrence of the Aviation and Law Departments, that a variance is appropriate. In accordance with Port Authority practice, the Port Authority also consulted with the fire departments of the City of Newark and the City of Elizabeth, which concurred with the Chief Engineer's recommendation.

It was also recommended that that Board authorize the Executive Director, at his discretion, to mandate an increase in the existing TFCs collected by the RACs, from \$2.50 per transaction day to \$4.50 per transaction day, effective no sooner than January 1, 2023, of which \$1.50 per transaction day would be subject to annual escalation equal to the greater of 4 percent or one-half of the increase in Consumer Price Index, and provided that a project for the replacement of the AirTrain Newark system has been included in a Port Authority Capital Plan.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Eve, Horwitz, LaBarbera, Lynford, McCabe, McDonald and O'Toole voting in favor. General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into a lease ("Lease") with EWR Conrac, LLC ("Conrac Entity") at Newark Liberty International Airport ("EWR"), which Lease provides for the design, construction, financing, operation and maintenance of an integrated facility incorporating a consolidated car rental facility ("CONRAC") to be utilized by the rental car companies doing business at EWR ("RACs"), and a 3,000-space parking facility ("Parking Facility") above the CONRAC to be owned and operated by the Port Authority; and it is further

**RESOLVED**, that the Board's action, at its meeting of July 26, 2018, entitled, "*Newark Liberty International Airport – New Terminal One Program – Use of Parking Garage Funds, Authorization to Negotiate a Lease and Construction Agreement for a Consolidated Rental Car Facility, and Authorization to Mandate Collection of a Customer Facility Charge to Fund Such Construction,*" be and it hereby is amended, to provide that the date by which financial closing for the CONRAC project must have occurred is extended to March 31, 2019, and the period of collection by the RACs of customer facility charges (CFCs) mandated by the Port Authority to be collected by the RACs prior to financial closing for the CONRAC is extended through March 31, 2019, in each case, to accommodate a later financial closing for the

CONRAC project than previously anticipated and, in each case, so long as the Lease shall have been entered into on or before December 31, 2018; and it is further

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, in his discretion, to modify the privilege permits of the RACs to effectuate the foregoing collection of CFCs for the extended period described herein; and it is further

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, in his discretion, to take any and all necessary actions to increase the Transportation Facility Charge (“TFC”) from \$2.50 to \$4.50 per transaction day (subject, with respect to \$1.50 per transaction day of such TFCs, to annual escalation at a rate equal to the greater of 4 percent per annum or one-half of the increase in Consumer Price Index), to be effective no sooner than January 1, 2023, and provided that a project for the replacement of the AirTrain Newark system has been included in a Port Authority Capital Plan; and it is further

**RESOLVED**, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, in his discretion, to enter into new privilege permits with RACs, specific to EWR, binding and effective upon financial closing of the CONRAC with terms related to the CONRAC occupancy, continuing the mandate, collection and remitting of CFCs, providing for future increase in TFC collection as described herein and otherwise generally consistent with the terms of similar privilege permits and supplements, provided, however, that the credit for reinvestment in RAC premises against payments due to the Port Authority from gross receipts, will be reduced from 2.5 percent of gross receipts to 1.25 percent, effective not sooner than June 1, 2026; and it is further

**RESOLVED**, that in consideration of Conrac Solutions Capital LLC’s commitment to implement the mitigation measures cited in the foregoing report, a variance in conformity with the applicable local building and fire code(s) to permit fueling operations at the CONRAC, 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 any other contracts or agreements necessary or appropriate to effectuate the foregoing; and it is further

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

**JOHN F. KENNEDY INTERNATIONAL AND LAGUARDIA AIRPORTS –  
INSTALLATION OF GROUND-BASED AUGMENTATION SYSTEMS –  
PROGRAM AUTHORIZATION**

It was recommended that the Board authorize: (1) a program to design, construct, and install Ground-Based Augmentation Systems (GBAS) at John F. Kennedy International (JFK) and LaGuardia (LGA) Airports, at a total estimated program cost of \$25.7 million (inclusive of soft costs in the estimated amount of \$7.9 million); and (2) the Executive Director to enter into contracts necessary to implement the program, including: (a) a contract for the purchase, installation, testing, commissioning, and maintenance of GBAS equipment for JFK and LGA, at an estimated total cost of \$8 million, inclusive of net cost work, extra work, and an estimated six years of maintenance; (b) a contract for the construction of infrastructure necessary for the installation of GBAS at JFK, including equipment, shelter, site work, foundations, power, and communication, at an estimated cost of \$7.7 million, inclusive of extra work and net cost work; and (c) a contract for the construction of infrastructure necessary for the installation of GBAS at LGA, including foundations, communication and power conduits, power cable, and site work, at an estimated cost of \$2.1 million, inclusive of extra work and net cost work. Bids for the contract for the construction of the infrastructure necessary for the installation of GBAS at LGA are expected to be solicited from small business enterprises as a part of the Minority, Women, and Small or Disadvantaged Business Enterprise Program. The remaining estimated \$7.9 million in soft costs include planning, design, and project management expenses.

GBAS is an electronic system utilizing satellites and antennas to communicate with landing aircraft to provide more accurate Global Positioning System (GPS) location information. GBAS requires the outfitting of aircraft with the necessary equipment to enable navigation and precision approach service in the vicinity of the host airport, broadcasting its differential correction messages via a Very High Frequency radio data link from a ground-based transmitter/antenna. This system yields extremely accurate measurements required for precision landing approaches. The Federal Aviation Administration has developed a new airspace concept which includes GBAS as a critical part of its success in New York airspace, by allowing close-in, precise landing approaches in low weather conditions. This concept would allow JFK and LGA to develop procedures to operate independently of each other, improving efficiency and capacity. GBAS has been operational at Newark Liberty International Airport since 2012. Expanding it to JFK and LGA would further support Port Authority delay reduction initiatives and provide for more efficient management of demand.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Eve, Horwitz, LaBarbera, Lynford, McCabe, McDonald and O'Toole voting in favor. General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that a program to design, construct, and install Ground-Based Augmentation Systems (GBAS) at John F. Kennedy International (JFK) and LaGuardia (LGA) Airports, at a total estimated program cost of \$25.7 million (inclusive of soft costs in the estimated amount of \$7.9 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 contracts necessary to implement the foregoing program, including: (1) a contract for the purchase, installation, testing, commissioning, and maintenance of GBAS equipment for JFK and LGA, at an estimated total cost of \$8 million, inclusive of net cost work, extra work, and an estimated six years of maintenance; (2) a contract for the construction of infrastructure necessary for the installation of GBAS at JFK, including equipment shelter, site work, foundations, power, and communication, at an estimated cost of \$7.7 million, inclusive of extra work and net cost work; and (3) a contract for the construction of infrastructure necessary for the installation of GBAS at LGA, including foundations, communication and power conduits, power cable, and site work, at an estimated cost of \$2.1 million, inclusive of extra work and net cost work; and it is further

**RESOLVED**, that 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 program, 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, agreements and other documents in connection with the foregoing program shall be subject to the approval of General Counsel or his authorized representative, and the terms of such contracts, agreements and other documents shall be subject to review by General Counsel or his authorized representative.

**JOHN F. KENNEDY INTERNATIONAL AIRPORT – REHABILITATION OF TAXIWAYS A AND B EAST AND TAXIWAYS A AND B SOUTH – PLANNING AUTHORIZATION**

It was recommended that the Board authorize planning work to develop a project for the rehabilitation of Taxiways A and B East and Taxiways A and B South at John F. Kennedy International Airport (JFK), at an estimated total planning cost of \$6 million.

The portions of Taxiways A and B that are the subject of this authorization total approximately 23,800 linear feet (approximately 4.5 miles). These taxiways, which run parallel to the Bay Runway and Runway 4L-22R, average more than 1,300 aircraft operations per day. Sections of Taxiways A and B serve every departing and arriving aircraft at JFK, by providing aircraft with connections from a runway to passenger terminals or cargo facilities.

Taxiways A and B East were last rehabilitated in 2007, and Taxiways A and B South were last rehabilitated in 2008. The most recent inspection of these taxiways indicated that they need to be rehabilitated in order to maintain a state of good repair.

Planning and engineering services are necessary to develop a project for the rehabilitation of Taxiways A and B East and Taxiways A and B South. The proposed planning work also would include the evaluation of existing electrical and drainage infrastructure, to determine improvements that may be required to comply with the latest Federal Aviation Administration standards. Planning work would commence during the fourth quarter of 2018 and is expected to be completed during the third quarter of 2019.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Eve, Horwitz, LaBarbera, Lynford, McCabe, McDonald and O'Toole voting in favor. General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

**RESOLVED**, that planning work to develop a project for the rehabilitation of Taxiways A and B East and Taxiways A and B South at John F. Kennedy International Airport, at an estimated total planning cost of \$6 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 contracts for professional and advisory services and such other contracts and agreements as may be necessary to effectuate the foregoing planning work, 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, agreements and other documents in connection with the foregoing planning work shall be subject to the approval of General Counsel or his authorized representative, and the terms of such contracts, agreements and other documents shall be subject to review by General Counsel or his authorized representative.

Whereupon, the meeting was adjourned.

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Secretary