

DRAFT - SUBJECT TO REVIEW AND REVISION

LOWER MANHATTAN DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the Corporation
One Liberty Plaza - 20th Floor
New York, New York 10006

April 10, 2008

MINUTES

In Attendance

Directors:

Avi Schick, Chairman
Lawrence T. Babbio, Jr. (via telephone)
Robert Harding
Caswell Holloway
Thomas Johnson
Robert C. Lieber
Edward J. Malloy (via telephone)
Julie Menin
Kevin M. Rampe
William C. Rudin (via telephone)
Martha Stark (via telephone)
Carl Weisbrod
John Zuccotti

Staff Attending:

For Lower Manhattan Development Corporation:

David Emil, President
Irene Chang, General Counsel and Secretary
of the Corporation
Daniel Ciniello, Senior Vice President -
Operation
Stephen Konopko, Vice President - Internal
Audit
Sayar Lonial, Director of Planning and
Development
Eileen McEvoy, Assistant Secretary
Robert Miller, Chief Financial Officer
Jennifer Mulhern, Director of Projects and
Development
Michael Murphy, Press Secretary
Andrew Wu, Deputy General Counsel

Other Staff

For Lower Manhattan Construction Command Center:

Robert Harvey, Acting Executive Director

For Assembly Speaker Sheldon Silver:

Judy Rapfogel, Chief of Staff

Counsel to the Board:

Caitlin Halligan, Weil, Gotshal & Manges

For Empire State Development Corporation:

Shafali Puri, Senior Advisor to President and Chief Operating Officer

Also Present:

The Public

The Media and Press

The meeting of the Lower Manhattan Development Corporation ("LMDC") was called to order at 8:04 a.m. It was noted for the record that notice to the public and news media of the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

The first order of business was the approval of the Minutes of the February 14, 2008 Directors' Meeting. Chairman Schick noted that since all of the resolutions had been provided to the

Directors, he would no longer read the entire resolution into the record, only the heading.

Then upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT
THE FEBRUARY 14, 2008 MEETING OF THE DIRECTORS OF THE LOWER
MANHATTAN DEVELOPMENT CORPORATION

RESOLVED, that the minutes of the meeting of the Corporation held on February 14, 2008, as presented to this meeting, are hereby approved and all actions taken by the Directors presented at such meeting, as set forth in such minutes, are hereby in all respects and approved as actions of the Corporation.

* * *

Chairman Schick opened his report by providing a detailed update on the most recent activities at 130 Liberty Street noting that progress continues to be made since LVI came on board.

Chairman Schick then addressed the issue of the Fulton Street Transit Center and the Performing Arts Center. Specifically, Chairman Schick stated that LMDC's position has been and continues to be that it would be best for the MTA to build the Fulton Street Transit Center as initially promised.

Chairman Schick went on to note that while the MTA works through that decision, LMDC is working with its partners in the City on a feasibility study to see whether the Performing Arts Center could fit in the Fulton site should the MTA conclude that it cannot build the station as originally promised.

LMDC hopes, Chairman Schick stated, that the MTA makes the decision soon and that the decision is to move forward as previously advertised.

Ms. Rapfogel noted that Speaker Silver has repeatedly stressed to the Chairman of the MTA as well as to New York State's Governors, both past and present, that this is a critically important issue to the Downtown community.

Director Menin then echoed Ms. Rapfogel's sentiments and stressed that a commitment had been made to the community and that that promise must be kept without delay.

Chairman Schick noted that the feasibility study is merely a back stop if the MTA makes a decision different from the one being advocated today. He added that LMDC awaits the MTA's prompt decision.

Chairman Schick then asked the Directors to ratify the extension of three contracts that were authorized under LMDC's Interim Emergency Procedures since the last Board meeting.

The Chairman provided details regarding this request and then upon motion duly made and seconded, the following resolution was unanimously adopted:

Ratification of Contract Amendments

RESOLVED, that each of the amendments the Corporation entered into with respect to its existing agreements with each of (i) Thelen Reid Brown Raysman & Steiner LLP, (ii) LiRo Program and Construction Management, and (iii) Daniel J. Edelman, Inc., as described in the materials presented to this meeting, is hereby ratified and approved in all respects.

* * *

The Chairman then asked Director Johnson to provide the Audit and Finance Report. Director Johnson opened his report by noting that the Committee Chairs had been properly notified and had concurred with the authorization of the contracts that the Directors had just ratified.

Director Johnson then reported that since the last Directors' meeting, the Committee met to review, among other things, the 11 items being presented for consideration today and

that the Committee is satisfied that all of the items should move forward.

Director Johnson further noted that the Committee also reviewed the proposed operating budgets for LMDC and LMCCC for fiscal year 2008-2009 and recommends approval of the LMDC budget as presented to the Board.

Director Johnson then noted that the Committee also recommends the adoption of the LMCCC budget with the provision that expenditures beyond the first quarter of the fiscal year are only authorized, if by June 30, 2008, the funds have been received by LMDC and other agencies to satisfy LMCCC's outstanding unmet obligations for fiscal year 2007-2008, and further that written agreements have been entered into making the funds available for the current fiscal year.

Director Johnson went on to note that the Committee also met with the internal auditor and reviewed and approved the internal audit plan for the new fiscal year.

Chairman Schick stated that he appreciated the direction from the Audit and Finance Committee. He further stated that the State has to make sure its Funding Partners, who have

committed to providing the funding necessary for LMCCC to fulfill its mission, actually provide the money. Chairman Schick stated that the State will follow up in accordance with the directive from the Audit and Finance Committee.

Next, Ms. Mulhern presented a request for authorization for LMDC to enter into subrecipient agreements for 13 of the slate of 33 approved by the Board to receive support as part of the Community Enhancement Fund Program.

Ms. Mulhern outlined each of the grants so requested noting, in part, that all but two of the grants, namely the South Street Seaport Museum and the City Parks Foundation, were in the amounts specified in the November 2007 Board approval.

With regard to the two that are not consistent, Ms. Mulhern stated that LMDC will work with those organizations to define future project scopes before requesting further funding. Following the full presentation, the Chairman called for questions or comments with regard this request.

There being no questions or comments, upon motion duly made and seconded, the following resolution was adopted. It was noted for the record that Directors Weisbrod (92nd Street Y),

Harding (Manhattan Youth), Menin (Alliance for Downtown New York), and Rudin (Alliance for Downtown New York) recused themselves with regard to the foregoing specified grants contained within the following resolution:

Authorization to Enter into Community Enhancement Fund
Subrecipient Agreements

RESOLVED, that the Corporation is hereby authorized to enter into subrecipient agreements, in the aggregate amount of \$11,135,000 under all such agreements, with the following entities, for the following purposes:

- Alliance for Downtown New York Inc.: \$1,500,000 for costs associated with mitigation of the impact of construction in Lower Manhattan;
- Betances Health Center: \$280,000 for costs associated with in-home visit and medical care program for homebound elderly in Lower Manhattan;
- Urban Justice Center as fiscal agent for Beyond Ground Zero Network: \$750,000 for costs associated with community outreach, research, and assistance related to low-income individuals affected by the events of September 11, 2001;
- Charles B. Wang Community Health Center Inc.: \$1,000,000 for costs associated with worker training initiative for bilingual and bicultural health care workers;
- City Parks Foundation: \$205,000 for costs associated with programs, including potential physical enhancements, in Lower Manhattan parks;
- Educational Alliance Inc.: \$1,000,000 for costs associated with interior renovation and expansion relating to the Downtown Community Center at 197 East Broadway;
- Friends of the New York City Fire Department Collection, Inc.: \$250,000 for costs associated with restoration, documentation, and upgrade of the NYC Fire Museum collection;
- Manhattan Youth Recreation and Resources, Inc.: \$1,500,000 for costs associated with start-up and

operation of the Downtown Community Center, provided that such amount shall be provided in two phases;

- Mercy Corps: \$1,000,000 for costs associated with exhibit design and content development related to a center in Lower Manhattan focused on combating world hunger;
- Smithsonian Institution, National Museum of the American Indian, George Gustav Heye Center: \$150,000 for costs associated with a pilot program for low-income students to be educated about Native American arts and cultures;
- South Street Seaport Museum: \$500,000 for costs associated with interim operations for a four month period;
- University Settlement Society of New York: \$1,500,000 for costs associated with operation of Houston Street Center; and
- Young Men's & Young Women's Hebrew Association dba 92nd Street Y: \$1,500,000 for costs associated with certain staff, equipment, and systems at a new community facility at 200 Hudson Street in Lower Manhattan, as part of the Community Enhancement Fund Program, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds allocated for the Community Enhancement Fund Program in the Final Action Plan; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Mr. Lonial then asked the Directors to authorize LMDC to supplement the authorized scope to include the purchase of equipment in connection with LMDC's Cultural Enhancement Fund Subrecipient Agreement with the Public Art Fund.

Following Mr. Lonial's full presentation of the specifics of this request, the Chairman called for questions or comments from the Directors. Hearing none and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Supplement Cultural Enhancement Fund
Subrecipient Agreement with Public Art Fund

RESOLVED, that the existing authorization to enter into a subrecipient agreement with the Public Art Fund to support a public art project that will be displayed from July through October 2008 is hereby modified to supplement the authorized scope to also include the purchase of equipment, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Next, Mr. Lonial asked the Directors to authorize LMDC to amend its contract with Studio Daniel Libeskind, LLC for planning services related to the World Trade Center Memorial and Redevelopment Plan to extend the term of the contract for an additional year through May 5, 2009. Mr. Lonial noted that the amendment was for an additional period of time only and not for further funding.

Following Mr. Lonial's detailed presentation, the Chairman called for questions or comments. Hearing none and upon motion

duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Contract with Studio Daniel Libeskind, LLC

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Studio Daniel Libeskind, LLC for planning services relating to the World Trade Center Memorial and Redevelopment Plan to extend the term for an additional one-year period through May 5, 2009, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Mr. Emil then presented LMDC's Budget for Fiscal Year 2008-2009 for approval by the Directors. Among other things, Mr. Emil stated that the budget before the Directors was for administrative and planning activities and did not include the expenditure of program funds.

Following Mr. Emil's outline of the budget, the Chairman reiterated Mr. Emil's statement that this was a budget that was consistent with the one passed last year.

The Chairman noted that the budget is higher than last year's because at the time that that budget was passed many vacancies existed. Those vacancies, he noted have now been filled. The present budget, the Chairman continued, is one that will help LMDC to fulfill its fiduciary and legal obligations to HUD and to others as the overseers of this money.

The Chairman thanked Mr. Emil for coming in last year and rebuilding the staff intelligently and in a way that will get the Corporation where it needs to be.

The Chairman then called for questions or comments. Hearing none and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Approval of Lower Manhattan Development Corporation Budget for FY 2008-2009

RESOLVED, that the budget of the Corporation for fiscal year 2008-2009 is hereby adopted as presented to this meeting; and be it

FURTHER RESOLVED, that the President and the Chief Financial Officer are authorized and directed to implement and carry out the budget and are directed to inform the Board of material variances from the budget.

* * *

Next, Mr. Miller asked the Directors to approve the Lower Manhattan Construction Command Center Budget for Fiscal Year 2008-2009.

Following Mr. Miller's detailed presentation, the Chairman thanked Mr. Harvey, LMCCC's Acting Executive Director and Deputy Mayor Lieber for all of their efforts in connection with the LMCCC budget.

Then, Director Weisbrod stressed, among other things, the importance of the various committed authorities contributing their fair share in order that the LMCCC continue to coordinate the reconstruction activities, including addressing the daily traffic and other conditions that stem from those activities.

Director Harding then asked if there was a specific risk among the three Funding Partners as referred to in the materials. Chairman Schick noted that there was risk with regard to the MTA and to a lesser extent, with the Port Authority contributions. He added that the smallest piece, from the State Department of Transportation, had been contributed.

Director Malloy inquired as to the fate of LMCCC should those funds not be forthcoming. Director Johnson explained that

the Committee was assigned the responsibility of overseeing the budget and financial operations of the LMCCC. He went on to note that, given the scenario mentioned by Director Malloy, operations would be cut back based on the amounts which could be funded with the money in hand.

Director Menin then echoed Director Weisbrod's sentiments with regard to the importance of the LMCCC to the residents and businesses in Lower Manhattan.

Chairman Schick stated that that is understood and that in spite of the various glitches, it is fully expected that all of the Funding Partners will come through with the required funding.

There being no further questions or comments, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Approval of Lower Manhattan Construction Command Center
Budget for FY2008-2009

RESOLVED, that the budget for Lower Manhattan Construction Command Center ("LMCCC") operations for fiscal year 2008-2009 is hereby adopted as presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are directed to proceed to secure funding

commitments and funds from all appropriate funding entities consistent with the approved LMCCC budget for fiscal year 2008-2009 on or before the end of the first quarter of such fiscal year; and be it

FURTHER RESOLVED, that the expenditures in support of LMCCC operations in the second, third, and fourth quarters of fiscal year 2008-2009 that are supported by funds from state funding entities other than LMDC as contemplated in the LMCCC budget so adopted may be made only if the following conditions are and remain satisfied:

(a) commitments from state funding entities to LMCCC for the fiscal year ended March 31, 2008, have been satisfied in full;

(b) state funding entities have entered into written agreements for any funding commitments to LMCCC for the fiscal year ending March 31, 2009; and

(c) state funding entities have satisfied in full their respective quarterly funding commitments to the LMCCC by the last day of the quarter as and when such funding commitments become due; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are authorized and directed to implement and carry out said budget for LMCCC operations and are directed to inform the Board of material variances there from.

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Chairman Schick then presented a contract amendment relating to the Lower Manhattan Command Construction Center. Specifically, the Chairman asked the Directors to authorize LMDC to amend its contract with LiRo Program and Construction Management.

Following this presentation, the Chairman called for questions or comments. Hearing none and upon motion duly made the following resolution was unanimously adopted:

Authorization to Amend Contract with LiRo Program and Construction Management

RESOLVED, that the Corporation is hereby authorized to amend its existing agreement with LiRo Program and Construction Management, as described in the materials presented to this meeting, to increase the authorized expenditures thereunder by \$4,558,546 to an amount not to exceed \$10,058,546 in the aggregate, and to extend the term for an additional year through March 31, 2009, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from Lower Manhattan Construction Command Center's grants from The Port Authority of New York and New Jersey, the Metropolitan Transportation Authority, and the New York State Department of Transportation; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Mr. Emil then presented four contract amendments regarding 130 Liberty Street for approval by the Directors.

Following the presentation of the first contract amendment, Director Menin asked what extending the term of the Regional Scaffolding and Safeway Environmental Agreement meant in terms of the timeline for taking the building down.

Mr. Emil stated that it does not affect the timeline rather it provides funding for insurance associated with the scaffolding during the period that it is in use.

Following the presentation of all four items, the Chairman called for questions or comments with regard to all four items. Hearing none and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Ratification of Amendment to and Authorization to Further Amend Contract with Regional Scaffolding and Hoisting Co., Inc. and Safeway Environmental Corp.

RESOLVED, that (i) the amendment to the agreement between the Corporation and the Regional Scaffolding and Hoisting Co., Inc. and Safeway Environmental Corp., a New York joint venture, for the exterior scaffolding and related services at 130 Liberty Street to increase the authorized expenditures thereunder by up to \$250,000 and to extend the term for an additional year to March 31, 2009, as described in the materials presented to this meeting, is hereby ratified and approved in all respects, and (ii) the Corporation is hereby authorized to further amend such agreement to increase the total authorized expenditures thereunder by up to \$1,544,215, to an amount not to exceed \$17,507,444 in the aggregate, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan 7 and that the Corporation shall seek recovery of these funds through indemnity or insurance claims to the extent possible; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Authorization to Amend Contract with URS Corporation

RESOLVED, that the Corporation is hereby authorized to amend its agreement with URS Corporation for construction management and owner's representation services at 130 Liberty Street to increase the authorized expenditures thereunder by up to \$2,190,000, to an amount not to exceed \$15,934,988 in the aggregate, and to extend the term of such agreement through March 31, 2009, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan 7 and that the Corporation shall seek recovery of these funds through indemnity or insurance claims to the extent possible; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Authorization to Amend Contract with TRC Engineers, Inc.

RESOLVED, that the Corporation is hereby authorized to amend its agreement with TRC Engineers, Inc. for environmental testing and consulting services at 130 Liberty Street, to increase the authorized expenditure thereunder by up to \$2,200,000, to an amount not to exceed \$25,219,675 in the aggregate, and to extend the term of such agreement through March 31, 2009, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan 7 and that the Corporation shall seek recovery of these funds through indemnity or insurance claims to the extent possible; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to

execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Authorization to Amend Contract with Thacher Associates, LLC dba Stier Anderson, LLC

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Thacher Associates, LLC dba Stier Anderson, LLC for integrity monitoring and related services at 130 Liberty Street, to increase the authorized expenditures thereunder by up to \$845,000, to an amount not to exceed \$4,000,000 in the aggregate, and to extend the term of such agreement through March 31, 2009, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan 7 and that the Corporation shall seek recovery of these funds through indemnity or insurance claims to the extent possible; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Ms. Chang then asked the Directors to authorize LMDC to amend its Legal Services Contract with Carter Ledyard and Milburn LLP.

Following Ms. Chang's presentation, the Chairman called for a motion to approve. Upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Legal Services Contract with Carter Ledyard & Milburn LLP

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Carter Ledyard & Milburn LLP for legal services in the areas of real estate and land use, environmental and condemnation law, and any related litigation to increase the authorized expenditures thereunder by up to \$250,000, which will bring the aggregate funding authorized for all contracts with Empire State Development Corporation's Pre-Qualified Counsel to \$2,950,000, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the Legal Department budget for FYE 2008-2009, and the appropriate project-related Partial Action Plan; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Chairman Schick then asked the Directors to authorize LMDC to amend two contracts relating to its advertising and communications services.

Following Chairman Schick's presentation of both items, he called for questions or comments. Hearing none and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Authorization to Amend Contract with Something Digital Inc.

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Something Digital Inc. for hosting and maintenance of the Corporation website to increase the authorized expenditure thereunder by up to \$70,000, to an amount not to exceed \$792,310 in the aggregate, and to extend the term of such agreement through December 31, 2008, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the Communications Department budget for FYE 2008-2009; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Authorization to Amend Advertising Services Contracts

RESOLVED, that the Corporation is hereby authorized to amend its agreements with Miller Advertising Agency, Inc. and the New York Press Service, Inc. for advertising services to extend the term of such agreements for a period of one year, through April 30, 2009, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

There being no further business, the meeting was adjourned
at 8:45 a.m.

Respectfully submitted,

Eileen McEvoy
Assistant Secretary