

**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 3, 2014

**MINUTES**

**In Attendance**

**Directors:**

Avi Schick, Chairman  
Angela R. Cavaluzzi  
Peter Davidson (via telephone)  
Robert Douglass (via telephone)  
Robert Harding  
Joshua Krause  
Catherine McVay- Hughes  
Thomas Johnson (via telephone)  
Kate D. Levin  
Kevin Rampe  
William Rudin  
Carl Weisbrod

**Staff Attending:**

**For Lower Manhattan Development Corporation:**

David Emil, President  
Daniel Ciniello, Senior Vice President – Operations  
Richard Davis, General Counsel  
Stephen Konopko, Vice President – Internal Audit  
Goldie Weixel, Assistant General Counsel

**For Sheldon Silver:**

Judy Rapfogel

**Also Present:**

The Media  
The Press

The meeting of the Lower Manhattan Development Corporation (“LMDC”) commenced at 8:35 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.

Before proceeding to the business of the meeting, Chair Schick reported on the status of the Bovis litigation. Chair Schick noted that LMDC has moved for a partial summary judgment covering both what is missing in the Bovis claims and granting several of LMDC’s claims. He added that Bovis has moved for a partial summary judgment as well.

Chair Schick next outlined the proposed timeframe with regard to these motions. He then noted that the litigation is less of a distraction than it had been in the past but that it is something that LMDC will pursue until the Corporation has recovered what it is entitled to.

The Chair then provided a brief report on the Memorial.

Chair Schick noted that the Memorial staff recently moved out of their office space in One Liberty Plaza and relocated to space across the street in the World Financial Center. He added that with the Memorial’s move, LMDC will reconfigure the space it has now and continue negotiations with Brookfield to create some space in One Liberty for LMDC. If that is not successful, Chair Schick continued, LMDC will go elsewhere in Lower Manhattan.

Mr. Emil added that when the Directors consider the budget, while they will not see a breakdown of rent in the budget, they should be aware that the budget being proposed contemplates a significant reduction from the current rent to a proposed lower rent.

Chair Schick then asked the Directors to ratify and approve the Minutes of the October 31, 2013 Directors meeting.

Upon motion duly made and seconded, the following resolutions were unanimously adopted:

Approval of October 31, 2013 Meeting Minutes

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RESOLVED, that the minutes of the meeting of the Corporation held on October 31, 2013, as presented to this meeting, are hereby approved and all actions taken by the Corporation's employees, Officers, or Directors in furtherance of the matters referred to therein are hereby ratified and approved as actions of the Corporation.

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Chair Schick then asked Director Johnson to provide the Audit and Budget Report.

Director Johnson first noted that the Committee met and reviewed the materials for four emergency Board actions that require ratification at this meeting.

Director Johnson added that the Committee also reviewed and discussed the four 130 Liberty Street related contracts and expense resolution being considered by the Board today. He added that the Committee supports the approval of all of these items.

Director Johnson further stated that the Committee spent a considerable amount of time discussing the transfer of the Vehicle Security Center and church parcel to the Port Authority and that the Committee agreed to recommend that the Board approve this item along with the necessary related actions.

Director Johnson continued and explained that the Committee also reviewed the proposed operating budget for the fiscal year starting April 1, 2014 and ending March 31, 2015 and recommends the adoption of this budget as presented to the Board.

Director Johnson also noted that the Committee met with the Auditor and approved the fiscal year plan. He added that there were no unusual items to report from the Auditor.

Chair Schick then noted that the Directors will be asked to consider the ratification of the emergency resolutions that include the lease extension that took LMDC from the end of the calendar year through the end of the fiscal year as well as the ratification of the extension of LMCCC's budget.

The Chair reported that the ratification of an LMCCC contract for services and LMCCC's website hosting extension will also be considered.

Chair Schick provided a brief outline of these items and then called for a motion to approve all four resolutions. Upon motion duly made and seconded the following resolutions were unanimously adopted:

Ratification of LMDC Office Lease Amendment

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RESOLVED, that the agreement between the Corporation and BFP 1 Liberty Plaza Co. Inc. to extend the term of the Corporation's office lease at One Liberty Plaza, 20<sup>th</sup> Floor, New York, New York on a month-to-month basis through March 31, 2014, as described in the materials presented to this meeting, is hereby approved and ratified in all respects; and be it

FURTHER RESOLVED, that the amount of the Corporation's expenditures authorized to be paid to BFP 1 Liberty Plaza Co. Inc. through March 31, 2014 for services described above shall increase by an amount not to exceed \$200,000; and be it

FURTHER RESOLVED, that the Corporation is hereby authorized to permit the National 9/11 Memorial and Museum at the World Trade Center Foundation, Inc. and the Performing Arts Center at the World Trade Center, Inc., to utilize a portion of the current LMDC office space at any time through the term of the LMDC lease as may be extended through this resolution; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from Partial Action Plan S-2 and from LMDC's Budget for Planning and Administration; 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.

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Ratification of Extension to Lower Manhattan Construction Command Center Budget for FY2013-2014

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RESOLVED, that the budget for Lower Manhattan Construction Command Center ("LMCCC") operations between January 1, 2014 through February 28, 2014, as described in the materials presented to this meeting, is hereby approved and ratified in all respects; and be it

FURTHER RESOLVED, that the expenditures in support of LMCCC operations that are supported by funds from state funding entities are contingent on the receipt of funds by Lower Manhattan Development Corporation from the Federal Transit Administration, Port Authority of New York and New Jersey, the Metropolitan Transportation Authority and/or the New York State Department of Transportation sufficient to fund these expenditures and in accordance with any agreements LMDC has with these entities; 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 from the LMCCC budget; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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#### Ratification of Program Coordination Services Contract and Amendment

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RESOLVED, that the agreement entered into by the Corporation with LiRo Program Construction P.C. ("LiRo") for program coordination services for a term from January 1, 2014 through February 28, 2014 with no additional funds requested, as described in the materials presented to this meeting is hereby ratified and approved in all respects; and be it

FURTHER RESOLVED, that expenditures hereby approved shall be allocated in the Lower Manhattan Construction Command Center ("LMCCC") budget for the fiscal year ending March 31, 2014 and will be provided from LMCCC grants from the Federal Transit Administration and funding agreements with the Port Authority of New York and New Jersey, the Metropolitan Transportation Authority, and the New York State Department of Transportation sufficient to fund these expenditures and in accordance with any agreements LMDC has with these entities 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; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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#### Authorization to Enter into Agreement for Website Services Related to [www.LowerManhattan.info](http://www.LowerManhattan.info)

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RESOLVED, that the amendment that the Corporation entered into with PB Americas, Inc. to extend the term of the agreement through February 28, 2014 with no additional funds

requested for website hosting, maintenance and support services related to the Lower Manhattan Construction Command Center's ("LMCCC") website, [www.LowerManhattan.info](http://www.LowerManhattan.info), as described in the materials presented to this meeting is hereby ratified and approved in all respects; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds in the LMCCC FYE 2014 budget but shall only be so allocated and committed to when the Corporation receives sufficient funds under LMCCC grants from Federal Transit Administration and funding agreements with The Port Authority of New York and New Jersey, Metropolitan Transportation Authority, and New York State Department of Transportation sufficient to fund these expenditures and in accordance with any agreements LMDC has with these entities; 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 and appropriate to effect the foregoing.

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Following the approval of the foregoing resolutions, Mr. Emil explained that this concludes LMDC's relationship with LMCCC because LMCCC is not extending the contracts presented for ratification but rather they are retroactive.

These actions, Mr. Emil continued, will authorize the spending of funds necessary for LMCCC to complete their existing contracts. He added that LMDC staff believes that these will be the Corporation's last acts as fiscal agents associated with LMCCC.

Director McVay-Hughes asked how much money this will save LMDC annually.

Chair Schick noted that it is not a question of savings because the money was appropriated by a variety of agencies, Federal and State. He added that funding was from the

Federal Department of Transportation, the State Department of Transportation, the Metropolitan Transportation Authority and the Port Authority.

Chair Schick further explained that LMDC provided a physical home and some support services and that the City has contributed various agency employees who were located throughout Lower Manhattan.

Mr. Emil then went on to present LMDC's Budget for fiscal year 2014-2015 for approval by the Directors.

Mr. Emil noted that the anticipated budget is approximately \$2.7 million which represents a reduction both from the Corporation's budget for 2014, which was \$3.6 million, and its actual expenditures of \$3.1 million.

Mr. Emil noted that the reduction reflects the fact that LMDC's space needs have grown smaller and therefore, the Corporation expects to pay less rent. Mr. Emil further noted that a substantial portion of the reduction reflects the fact that LMDC's personnel has dropped significantly to the minimum staff necessary to ensure that the remaining projects are properly managed.

Chair Schick then cautioned that LMDC should make sure that the Corporation has the right number and the right people to fulfill its fiduciary duties and to carry out the projects.



Director Harding noted that the only item that looked greater year to year is the OTPS number and he asked for clarification on why that would be the case.

Mr. Emil noted that Mr. Ciniello informed him that this number includes a reserve for replacement materials in case anything breaks. Chair Schick stated it would also cover a move and build out if necessary.

Director McVay-Hughes asked how many individuals are working at LMDC for the \$1.28 million.

Mr. Ciniello stated that there are 11 employees, consultants, four temporary employees and three paid interns.

Chairman Schick added that the number includes benefits and pensions and past payments for pensions that are required.

Director McVay-Hughes then inquired about 130 Liberty, the One World Trade Center Memorial and CCPE for a half a million and how that works.

Mr. Emil stated that these include consultant costs and other costs that are associated with these projects, such as environmental counsel, land use counsel and other indirect costs that are associated with the project.

Director Johnson commented that the Finance and Audit Committee is aware that there is still a lot of work to be done in order to administer the expenditures under approved programs and that the Committee still has a responsibility on behalf of the federal funding of LMDC. He added that the Committee is watching very carefully the personnel situation to try to assure that LMDC has the right situation to assure that LMDC has the right competency to ensure that the money is spent in a responsible way and the Committee will continue to do so.

The Chair then called for a motion to approve the Budget. Upon motion duly made and seconded, the following resolution was unanimously adopted:

Approval of Lower Manhattan Development Corporation Budget for FY2013-2014

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RESOLVED, that the budget of the Corporation for fiscal year 2014-2015 is hereby adopted as presented to this meeting; and be it  
FURTHER RESOLVED, that the proper officers of the Corporation are authorized and directed to implement and carry out said budget for the Corporation and are directed to inform the Board of material variances from the budget; and be it  
FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Chair Schick then presented an item relating to the transfer of the VSC site to the Port Authority. The VSC, Chair Schick explained, is the Vehicle Security Center which is an integral part of the site plan allowing for a single screening and security center for all of the buildings.

Mr. Emil then provided the full background information relating to this request.

Among other things, Mr. Emil explained that this will be a below-market transfer which will be subject to a different level of public scrutiny.

Mr. Emil noted that an appraisal will be needed to show the true value of the property even though it will be transferred to the Port Authority for below market value.

Mr. Emil then outlined the specific criteria under which this below market transaction can occur. Mr. Emil also outlined the proposed timeframe on this transaction as well as the various actions and agency authorizations that will be necessary to effectuate same.

Mr. Emil and Chair Schick spoke to the importance of this transaction as an important and necessary step that has been contemplated for many years.

Director Weisbrod stated that he supports the resolution relating to a Determination of No Reasonable Alternative, while at the same time stressing the importance of separating the resolution from the Appraisal itself and some of the assumptions contained in the appraisal.

Director Weisbrod further noted that the appraisal particularly should not be considered a precedent in any way for the disposition of the rest of Site 5.

The remainder of Site 5, Director Weisbrod stated, should be appraised on a highest and best use basis so that LMDC can realize the fair market value of the remainder of Site 5 to be

utilized and deployed for worthy endeavors in Lower Manhattan consistent with LMDC's mission.

Directors McVay-Hughes and Weisbrod expressed concerns with regard to the appraisal.

Mr. Emil stated that he will raise those concerns with Cushman and Wakefield and make sure that it is amended and that subsequent appraisals address those concerns.

The Chair then called for any further questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Determination of "No Reasonable Alternative" pursuant to Section 2897 of the Public Authorities Law; Authorization to Hold a Public Hearing pursuant to Section 6 of the UDC Act; Authorization of Disposition of VSC Parcels after Consideration of Public Comments by Officers of the Corporation; and Authorization to Take Other Related Actions

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RESOLVED, that upon consideration of the information set forth in the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, relating to the disposition of the VSC Parcels (as described in the materials), the Directors hereby determine, pursuant to Section 2897 of the Public Authorities Law, that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer; and be it

FURTHER RESOLVED, that on the basis of the Materials, the officers of the Corporation or their designee(s) be, and each of them hereby is, acting singly, authorized to take any such action as deemed necessary or appropriate, pursuant to the New York State Urban Development Corporation Act, any other applicable law, and the Corporation's Guidelines for Acquisition and Disposition of Property (the "Guidelines"), in connection with the disposition of the VSC Parcels (as described in the Materials), including, without limitation, the holding of a public hearing, the publication of the notices relating to such hearing, and the making of a report or reports to the Board of Directors on comments received during or following such hearing; and be it

FURTHER RESOLVED, that, after consideration by officers of the Corporation of comments received during or following such hearing, the officers of the Corporation be, and each of them hereby is, acting singly, authorized to cause the Corporation to dispose of all or any part of the VSC Parcels in accordance with the Guidelines, at such time or times and upon the terms described in the Materials, in such notice and at such hearing, and otherwise as such officer of the Corporation or his or her designee deems appropriate; and be it

FURTHER RESOLVED, that the officers of the Corporation or their designee(s) be, and each of them hereby is, acting singly, authorized in the name of and on behalf of the Corporation to execute and deliver any and all documents and to take all related actions as such officer may in his or her sole discretion consider to be necessary or appropriate to effectuate the foregoing resolutions.

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Chair Schick then presented contract extensions for approval by the Directors.

Chair Schick explained that the first contract extension related to Dechert, a law firm that represents LMDC with respect to 130 Liberty Street issues. He added that the remainder of the extension items relate to LMDC's contracts with URS, TRC and Thacher.

These requests, Chair Schick noted, are time-only extensions and do not add money.

Following the full presentation, the Chair called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Authorization to Extend the Term of the Agreement with Dechert LLP

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RESOLVED, that the Corporation is hereby authorized to amend its agreement with Dechert LLP for legal advice and services in connection with the abatement and deconstruction of 130 Liberty Street to extend the term of such agreement through March 31, 2015 with no additional funds requested, as described in the materials presented to this meeting; and be it FURTHER RESOLVED that the expenditures approved hereby will be funded through LMDC's settlement with the Prior Insurers of the Deutsche Bank building, or Partial Action Plans 7 and S-2 as appropriate; 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; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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#### Authorization to Extend Term of Agreement with URS Corporation

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RESOLVED, the Corporation is hereby authorized to amend its 130 Liberty Street related agreement with URS Corporation, for construction management and owner's representative services to extend the terms of this agreement by one year through March 31, 2015 with no additional funds requested, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED that the expenditures approved hereby will be funded through LMDC's settlement with the Prior Insurers of the Deutsche Bank building, or Partial Action Plans 7 and S-2 as appropriate; 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 and appropriate to effect the foregoing; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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#### Authorization to Extend Term of Agreement with TRC Engineers, Inc.

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RESOLVED, the Corporation is hereby authorized to amend its 130 Liberty Street related agreement with TRC Engineers, Inc., for environmental testing and consulting services, to

extend the terms of this agreement by one year through March 31, 2015 with no additional funds requested, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED that the expenditures approved hereby will be funded through LMDC's settlement with the Prior Insurers of the Deutsche Bank building, or Partial Action Plans 7 and S-2 as appropriate; 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 and appropriate to effect the foregoing; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Authorization to Extend Term of Agreement with Thacher Associates, LLC

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RESOLVED, the Corporation is hereby authorized to amend its 130 Liberty Street related agreement with Thacher Associates, LLC, for integrity monitoring services; to extend the terms of this agreement by one year through March 31, 2015 with no additional funds requested, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED that the expenditures approved hereby will be funded through LMDC's settlement with the Prior Insurers of the Deutsche Bank building, or Partial Action Plans 7 and S-2 as appropriate; 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 and appropriate to effect the foregoing; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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There being no further business, the meeting was adjourned at 9:17 a.m.

Respectfully submitted,

Eileen McEvoy  
Assistant Corporate Secretary