

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

June 26, 2008

MINUTES

In Attendance

Directors:

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

Staff Attending:

For Lower Manhattan Development Corporation:

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

Other Staff

For the Lower Manhattan Construction Command Center:

Robert Harvey, Acting Executive Director
Dan McCormack, First Deputy 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:

Iris Weinshall, Vice Chancellor of
Facilities Planning and Construction at
CUNY
The Public
The Media and Press

The meeting of the Lower Manhattan Development Corporation ("LMDC") was called to order at 8:37 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.

First, Chairman Schick noted that since the Directors had received the resolutions for consideration in advance of today's

meeting, he would not read the entire resolution into the record. Instead, he explained, he will read only the title at the time the resolution comes up for a vote.

Chairman Schick then explained that the TRC resolution contained in the April minutes provided to the Directors for today's approval had been revised to correct a typo that was contained in the version provided in April.

Chairman Schick then called for the approval of the Minutes of the April 10, 2008 Directors' Meeting, including the corrected TRC resolution.

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

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT
THE APRIL 10, 2008 MEETING OF THE DIRECTORS OF THE LOWER
MANHATTAN DEVELOPMENT CORPORATION

RESOLVED, that the minutes of the meeting of the Corporation held on April 10, 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 then noted that today marked the opening of the Waterfalls Exhibit at four sites throughout the City. He noted that LMDC authorized a \$2,000,000 grant earlier this year to assist in making this project a reality.

Chairman Schick went on to note that the City Economic Development Corporation estimates that the Waterfalls Exhibit will generate more than \$50 million in economic activity to New York City including Lower Manhattan.

Next, the Chairman asked Director Johnson to provide the Audit and Finance Report.

Director Johnson then reported that since the last Directors' meeting, the Committee met to review the purpose, cost justification and the availability of funds for the items being presented for consideration today and that the Committee recommends, based on that criteria, that all the requests be considered for approval by the Board.

Director Johnson further noted that the Committee was briefed by management on the status of the funding commitments for the Lower Manhattan Construction Command Center for fiscal year 2008-2009.

In that regard, Director Johnson noted that the Committee directed the staff to continue their efforts to satisfy the conditions that were set forth in the Board's April 10th resolution and report to the full Board today.

Director Johnson further noted that a resolution addressing the situation has been added to the Agenda and that he will provide comment on same when it is presented for consideration.

Director Johnson also noted that the Committee met with the internal auditor and noted that there were no items of significant risk to report.

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

Among other things, Ms. Mulhern explained that the requests were in the amounts originally considered by the Board. Ms. Mulhern also provided a brief synopsis of each request.

Following Ms. Mulhern's full presentation of the seven agreements, the Chairman called for questions or comments with regard to this request.

Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted (It was noted for the record that Director Weisbrod recused himself with regard to the WNYC agreement.):

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 \$9,300,000 under all such agreements, with the following entities, for the following purposes:

- Chinese American Planning Council, Inc. for costs associated with the expansion and enhancement of community services that seek to meet the needs of the Fujianese Chinese community in an amount not to exceed \$600,000;
- Common Ground Community II HDFC for costs associated with support of the Pitt Street Residence which will provide affordable housing to low-income and formerly homeless individuals in an amount not to exceed \$500,000;
- Grand Street Settlement, Inc. for costs associated with renovations to a community facility at 80 Pitt Street in an amount not to exceed \$1,500,000;
- Museum of Jewish Heritage: A Living Memorial to the Holocaust for costs associated with the creation of an interactive exhibit exploring the Museum's collection and messages about the importance of tolerance in an amount not to exceed \$1,000,000;
- New York Downtown Hospital for costs associated with the purchase of an MRI machine and support for a new preventive care unit in an amount not exceed \$5,000,000;

- Society of the Educational Arts, Inc. for costs associated with expanded programs to meet the demand of the Latino population for cultural programs in an amount not to exceed \$200,000; and
- WNYC Radio for costs associated with the purchase of equipment for the new WNYC radio facility in an amount not to exceed \$500,000, as part of the Community Enhancement Fund grants, 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 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.

* * *

Ms. Mulhern then asked the Directors to authorize an amended Community Enhancement Fund Plan and further to amend the Final Action Plan with regard thereto.

Ms. Mulhern noted, in part, that the Directors were being asked to authorize LMDC to add an amount up to \$275,000 to support two additional projects and to designate subrecipients for two of the projects included in the original slate.

Ms. Mulhern identified each of the projects.

Following Ms. Mulhern's full presentation of the specifics of this request, the Chairman called for questions or comments from the Directors. Director Douglass inquired as to the intent

of the moneys identified as going to the New York City Department of Education. Chairman Schick stated that the specific projects will be identified through an LMDC administered process. He further stated that the instant action does not authorize funds to be provided at this time, but merely ensures that the process can move forward.

Director Johnson asked if LMDC will make sure that the funds are for a specific purpose and will not merely be an undirected enhancement of the school's budget. Chairman Schick stated that LMDC will absolutely make sure that in each instance, the funds are for a specific purpose.

Director Menin asked about the eligible use of funds. Chairman Schick stated that it will not be limited to programs and would include a range of options being identified in consultation with the Department of Education, the Fund for Public Schools and the schools themselves. He explained that LMDC and Department of Education are setting up a process and dedicating staff to assist the schools in the process.

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

Authorization of Amended Community Enhancement Fund Plan;
Authorization to Amend Final Action Plan

RESOLVED, that 35 grants totaling an amount up to \$37,387,000, including those for 33 projects that were previously authorized on November 8, 2007, out of the \$45,000,000 Community Enhancement Fund allocated as part of the Final Action Plan, as described in the materials presented to this meeting, are hereby approved; and be it

FURTHER RESOLVED, that prior to the expenditure of any amounts of the Community Enhancement Fund, (i) the Board of Directors shall have approved each such expenditure and the agreements to be entered into in connection therewith, in each case in accordance with applicable policies of the Corporation, and (ii) related approvals as may be required shall have been obtained; and be it

FURTHER RESOLVED, that the Corporation is hereby authorized to amend the Final Action Plan in the manner necessary to reflect the amended number and amount of grants to be made from the Community Enhancement Fund approved herein; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to submit for public comment and review by the federal Department of Housing and Urban Development ("HUD") an amended Final Action Plan, as may be required; and be it

FURTHER RESOLVED, that the President of the Corporation is hereby authorized to make such changes to the amended Final Action Plan as may be necessary or appropriate to comport with applicable HUD requirements and to reflect any public comments solicited and received on such amended Final Action Plan, provided any changes so made shall be consistent with the criteria set forth in such amended 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.

* * *

Following the approval, Ms. Rapfogel commented with regard to the excellent choices made by the Directors regarding the foregoing authorization.

Next, Ms. Mulhern asked the Directors to authorize LMDC to modify a subrecipient agreement with the Alliance for Downtown New York, Inc.

Ms. Mulhern provided the specifics of the modification and noted that it does not include a change to the amount of funding. She further noted that the scope of the project will remain substantially unchanged.

Following Ms. Mulhern's full presentation, the Chairman called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted (It was noted for the record that Directors Douglass and Rudin recused themselves with regard to voting on the following resolution.):

Modification of Authorization of Community Enhancement Fund Subrecipient Agreement with The Alliance for Downtown New York Inc.

RESOLVED, that the existing authorization to enter into a subrecipient agreement with the Alliance for Downtown New York Inc. for costs associated with mitigation of the impact of

construction in Lower Manhattan is hereby modified to permit the use of an alternative mechanism for artist selection, 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. Lonial then asked the Directors to authorize LMDC to retain a pool of three consultants to provide cost estimating, scheduling, construction feasibility, and pre-construction services.

Among other things, Mr. Lonial explained that these services are being sought in order to rework older programs, to build existing projects and to aid in the development and completion of future projects.

Following Mr. Lonial's detailed presentation, the Chairman asked if it was correct that the firms will work on an as needed basis on projects that are already in LMDC's pipeline.

Mr. Lonial stated that that was correct. The Chairman then called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization of Cost Estimating, Scheduling, Construction Feasibility, and Pre-Construction Services Agreements

RESOLVED, that the Corporation is hereby authorized to enter into an agreement for a three-year period with each of Faithful + Gould, LiRo Program and Construction Management, P.C., and V.J. Associates Inc. of Suffolk for cost estimating, scheduling, construction feasibility and pre-construction services, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the combined expenditures under all such agreements shall not exceed \$1,500,000 in the aggregate; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the appropriate Partial Action Plan or from the Corporation's planning and administration budget; 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 existing contract with BEMS Systems, Inc. for environmental testing services for a three month time extension through September 30, 2008 and increase the contract by \$94,350 to an aggregate amount not to exceed \$1,314,833.

Following Mr. Lonial's detailed presentation, Chairman Schick called for questions or comments.

One of the Directors asked if the air monitoring will end after the three month period mentioned in Mr. Lonial's presentation. Chairman Schick stated that it would not end at that time but rather that LMDC plans to issue an RFQ, get responses, and continue the monitoring.

Director Weisbrod then inquired as to the funding sources for the contract noting that the materials refer to contributions from the Metropolitan Transportation Authority, the State Department of Transportation and the Port Authority as funding the amendment. Director Weisbrod asked if all parties had agreed to this arrangement. The Chairman told him that the news in that regard was mostly positive but not 100 percent where the Board had hoped it would be. He further stated that it was part of the larger issue which will be addressed when the LMCCC item is presented.

It was then agreed that this resolution would be considered following the presentation of the LMCCC item.

Ms. Weinshall then provided a PowerPoint presentation regarding CUNY's plan for rebuilding Fiterman Hall which had been damaged and rendered unusable on 9/11. The issue of funding for the demolition of the building as well as its

rebuilding was briefly addressed. The importance of this building to the area was also noted.

Mr. Emil then provided a PowerPoint presentation regarding LMDC's plans regarding the Greenwich Street South area with a focus on resolving the problem of the buses that park in Lower Manhattan. Following the report, the Directors discussed the situation in detail.

Next, Mr. Miller asked the Directors to authorize LMDC to enter into a contract with Toski, Schaefer & Co., P.C. for independent auditing services for LMDC.

Following Mr. Miller's full 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 Enter into Agreement for Independent Auditing Services

RESOLVED, that the Corporation is hereby authorized to enter into an agreement with Toski, Schaefer & Co., P.C. for independent auditing services and related expenses, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that such agreement shall be for a three-year term in an amount not to exceed \$195,000, which expenditures shall be allocated from funds included in the

Finance Department Planning and Administration Budgets for each of FYE 2009, 2010, and 2011; 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.

* * *

The Chairman then presented the LMCCC expenditures item for consideration.

Mr. Schick noted that at the April meeting, the Board was presented with the budget for the current fiscal year of LMCCC. Mr. Schick further noted that the Board approved the budget but authorized the expenditures only for the first quarter of the year and directed staff to have the State funding partners meet their commitments.

With regard to the staff's progress in pursuing the three State funding partners, Mr. Schick noted that (1) the New York State Department of Transportation had met its commitments in full; (2) the Port Authority has agreed to pay everything owed and it is anticipated that the moneys will be received within the next 10 days; and (3) although the Metropolitan Transportation Authority has committed to providing the funding, it has not yet provided the full amount.

Mr. Schick stated that because of its substantial progress, staff wishes at this time to request that the Board authorize expenditures at least through the next Board meeting so that the work can be completed.

Following Mr. Schick's full presentation, a discussion was had with regard to the request and it was ultimately decided that the work was extremely important and therefore the request would be approved.

Director Johnson noted his continued opposition.

There being no further questions or comments, upon motion duly made and seconded, the following resolution was adopted (It was noted for the record that Director Johnson voted in opposition to the following resolution.):

Continuing Authorization of Lower Manhattan Construction
Command Center Expenditures

RESOLVED, that the proper officers of the Corporation are directed to proceed to secure funds from all appropriate funding entities consistent with the approved Lower Manhattan Construction Command Center ("LMCCC") budget for fiscal year 2008-2009 on or before August 31, 2008; and be it

FURTHER RESOLVED, that, notwithstanding anything to the contrary in the Board resolution of April 10, 2008 adopting the LMCCC Budget for fiscal year 2008-2009, LMCCC expenditures in the second quarter of fiscal year 2008-2009 that are supported

by funds from state funding entities other than LMDC as contemplated in the adopted budget may be made so long as either Metropolitan Transportation Authority or The Port Authority of New York and New Jersey has satisfied all three of the following conditions by July 15, 2008:

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

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

(c) satisfied in full their respective funding commitments to LMCCC for the quarter ended June 30, 2008; 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 therefrom.

* * *

Following approval, Mr. Schick noted that LMDC is intent on having the Metropolitan Transportation Authority matter fully resolved by the time of the next Board meeting.

Director Johnson stated that if it is not resolved, he will again vote no and urge his fellow Committee Members to vote no as well.

The Chairman then called for a motion on the BEM resolution which had been presented earlier in the meeting. Upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Air Monitoring Agreement

RESOLVED, that the Corporation is hereby authorized to amend its agreement with BEM Systems, Inc. for environmental testing and consulting services in connection with the air quality monitoring program for Lower Manhattan being undertaken by the Lower Manhattan Construction Command Center ("LMCCC") to increase the authorized expenditures thereunder by an additional \$94,350 to an amount not to exceed \$1,314,833 in the aggregate and to extend the term of such agreement by an additional three-month period through September 30, 2008, as described in the materials presented to the Board at this meeting and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from grants to LMCCC for its continuing operations 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.

* * *

Next, the Chairman asked the Directors to authorize LMDC to amend Partial Action Plan S-2. The Chairman explained the specifics of this request and a brief discussion was had regarding its merit. Director Menin then inquired as to the current schedule and Chairman Schick explained that the goal is to get the building down as soon as possible keeping safety as a priority, with abatement proceeding first and likely completed at the end of the year, and deconstruction to follow. Following

the full presentation and discussion, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Partial Action Plan S-2

RESOLVED, that the Corporation is hereby authorized to amend Partial Action Plan S-2, 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 submit for public comment and review by the federal Department of Housing and Urban Development ("HUD") an amended Partial Action Plan S-2, as may be required; and be it

FURTHER RESOLVED, that the President of the Corporation is hereby authorized to make such changes to the amended Partial Action Plan S-2 as may be necessary or appropriate to comport with applicable HUD requirements and to reflect any public comments solicited and received on such amended Partial Action Plan S-2, provided any changes so made shall be consistent with the criteria set forth in such amended Partial Action Plan S-2; 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 approve additional and continuing authorization for contracts with Bovis Lend Lease LMB Inc. relating to the 130 Liberty Deconstruction. Following this presentation, the Chairman called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted (It

was noted for the record that Director Harding recused himself with regard to voting on the following resolution.):

Additional and Continuing Authorization for Contracts with Bovis Lend Lease LMB Inc. relating to 130 Liberty Deconstruction

RESOLVED, that the Corporation is hereby authorized to (i) authorize additional expenditures under its agreement with Bovis Lend Lease LMB Inc. for the cleaning and deconstruction of 130 Liberty Street, as amended and supplemented to date, by an amount up to \$37,500,000 and (ii) continue to administer the agreement, as amended and supplemented, in accordance with its terms and conditions, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from Partial Action Plan 7 or Partial Action Plan S-2, as may be amended and approved by the federal Department of Housing and Urban Development, and from the recovery or reimbursement of such costs under the 130 Liberty Street Memorandum of Understanding with Deutsche Bank and its insurers of 130 Liberty Street, Allianz and AXA, and the Deconstruction Funding and Settlement Agreement with Allianz and AXA, 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 presented three items for the Directors consideration. Following this 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 Dechert LLP

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Dechert LLP for legal advice and services relating to 130 Liberty Street to increase the authorized expenditures thereunder by up to \$2,500,000, to an amount not to exceed \$6,000,000 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 recovery of funds through pending indemnity and insurance claims, through Partial Action Plan 7 as may be appropriate, and any remainder through the Legal Affairs Department budget for fiscal year 2008-2009, 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 Weil, Gotshal & Manges LLP

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Weil, Gotshal & Manges LLP for legal advice and services in connection with the World Trade Center Memorial and Redevelopment Plan to extend the term for an additional one-year period through June 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.

* * *

Authorization to Amend Contract with Inventus

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Inventus for document copying, imaging, and related services to increase the authorized expenditures thereunder by up to \$250,000, to an amount not to exceed \$600,000 in the aggregate, and to extend the term of the contract 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 recovery of funds through pending indemnity and insurance claims, through Partial Action Plan 7, as may be appropriate, and any remainder through the Legal Affairs Department budget for fiscal year 2008-2009, 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.

* * *

There being no further business, the meeting was adjourned at 9:35 a.m.

Respectfully submitted,

Eileen McEvoy
Assistant Secretary