

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 11, 2009

MINUTES

In Attendance

Directors:

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

Staff Attending:

For Lower Manhattan Development Corporation:

David Emil, President
Daniel Ciniello, Senior Vice President-
Operation
Stephen Konopko, Vice President - Internal
Audit
Sayar Lonial, Director of Planning and
Development
Robert Miller, Chief Financial Officer
Michael Murphy, Press Secretary
Angela Rossi, Director of Projects and
Programs
Andrew Wu, Deputy General Counsel
Other Staff

For the 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

Also Present:

Seth Meyers, Deputy Mayor's Office
The Public
The Media and Press

The meeting of the Lower Manhattan Development Corporation ("LMDC") was called to order at 8:33 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, as has become the practice, 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.

Chairman Schick then called for the approval of the Minutes

of the March 26, 2009 Directors' Meeting.

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

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT THE MARCH 26, 2009 MEETING OF THE DIRECTORS OF THE LOWER MANHATTAN DEVELOPMENT CORPORATION

RESOLVED, that the minutes of the meeting of the Corporation held on March 26, 2009, 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 reported on the recent activities of the Corporation in general and specifically with regard to 130 Liberty Street.

The Chairman opened by noting that the cleaning of floors two and three has been completed. He added that the resolution of one or two issues is expected today with clearance and inspection anticipated within the next week.

The Chairman then noted that work is continuing on the first floor and it is expected that clearance and inspection of that floor will be completed this month.

Next, the Chairman noted that the removal of the facade, which is the next step prior to the actual deconstruction, is proceeding at pace.

The Chairman also noted with regard to 130 Liberty Street that the schedule is a little behind what was originally anticipated and he cited various reasons for this delay.

Chairman Schick then went on to briefly address other matters, including LMDC's successful implementation with the City of New York of the Small Firm Assistance Program for street level businesses that were impacted by street closures and construction. He added that this program will be expanded in accordance with the request of the elected officials and the Community Board to do so.

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

Director Babbio then reported that the Committee met to review the LMDC and the LMCCC budget variances for the fiscal year ending March 31, 2009. He stated that both reports showed that expenses were well controlled and below the budgeted

levels.

Director Babbio further noted that the Committee also reviewed the status of the 130 Liberty Street deconstruction as well as the purpose, cost justification and the availability of funds for the items being presented for consideration today and that the Committee recommends that all the requests be considered for approval by the Board.

Lastly, Director Babbio noted that the Committee met with the internal auditor and reviewed and approved the internal audit plan for the new fiscal year.

Mr. Emil then asked the Directors to authorize LMDC to amend the Community Enhancement Fund Plan to designate The Fund for Public Schools, Inc. as the recipient to administer the Lower Manhattan Public Schools Fund Program and to authorize LMDC to enter into a Subrecipient Agreement with The Fund for Public Schools, Inc. for grants to Lower Manhattan public schools in an amount not to exceed \$4,500,000 as part of the Community Enhancement Grants.

Following Mr. Emil's detailed presentation, the Chairman called for questions or comments. Director Weisbrod asked which

schools will be included and Mr. Emil informed him that all public schools south of Houston Street will be included.

Director Menin then noted her enthusiasm for this program overall and her appreciation of the fact that LMDC will meet with all of the principals before moving forward. Director Menin added that it would be a positive move to give ample notice to the affected PTAs. Mr. Emil stated that he would make the effort to get this information to the PTAs in a timely fashion.

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

Authorization of Amended Community Enhancement Fund Plan;
Authorization to Enter into Community Enhancement Fund
Subrecipient Agreement with The Fund for Public Schools,
Inc.

RESOLVED, that the Corporation is hereby authorized (i) to amend the Community Enhancement Fund Plan to designate The Fund for Public Schools, Inc. as the subrecipient to administer the Lower Manhattan Public Schools Fund program and (ii) to enter into a subrecipient agreement with The Fund for Public Schools, Inc. for grants to Lower Manhattan public schools in an amount not to exceed \$4,500,000 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 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.

* * *

Next, Mr. Emil asked the Directors to authorize an amendment to LMDC's Community Enhancement subrecipient agreement with the City Parks Foundation to increase the authorized expenditure thereunder by up to \$395,000 to support programs and community partnership activities at selected parks in Lower Manhattan. 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 Community Enhancement Fund
Subrecipient Agreement with City Parks Foundation

RESOLVED, that the Corporation is hereby authorized to amend its subrecipient agreement with City Parks Foundation to increase the authorized expenditures thereunder by up to \$395,000 to support programs and community partnership activities at selected parks in Lower Manhattan, to an amount not to exceed \$600,000 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 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.

* * *

The Directors were then provided with a detailed presentation by Seth Meyers from the Deputy Mayor's Office, regarding the Fulton Corridor Revitalization Program and the Open Spaces.

Following the briefing, Mr. Emil explained that what is being proposed is to reduce funds which were originally allocated to the East River Access Program and to various other components of the Fulton Corridor Revitalization Program and to reallocate them to the playground portion of the project.

The net effect, Mr. Emil explained, will be that unused funds from the East River Access Program will be used to actually build the parks and funds which were not needed in the Fulton Corridor Revitalization but were allocated to it will be used for playgrounds as well.

Mr. Emil added that there will be no net increase in the subrecipient agreements, the funds will merely be moved from one to the other.

Following Mr. Emil's presentation of this request, Director Weisbrod asked in what sense were the funds not needed for the Fulton Street Revitalization.

Among other things, Mr. Emil and Mr. Lonial explained that in both instances, with regard to the design and planning for these projects, LMDC put more into the budgets than was ultimately necessary. Mr. Lonial noted that construction costs are not involved.

Director Weisbrod then asked how much is left for the revitalization of the sidewalk/streetscape and facade grant owner's application program. Mr. Emil explained that the biggest piece left for the revitalization is the facades. It was noted that approximately \$18,000,000 is left for the facade and sidewalk/streetscape work.

It was later clarified that \$23,000,000 remains for these programs.

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

Authorization to Amend Partial Action Plans 10 and 12;
Authorization to Amend Subrecipient Agreements and
Modification of Funding Authorization with the City of New
York

RESOLVED, that the Corporation is hereby authorized to amend Partial Action Plans 10 and 12 (the "Amended Partial Action Plans"), 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") the Amended Partial Action Plans, as may be required; and be it

FURTHER RESOLVED, that the President of the Corporation or his designee is hereby authorized to make such changes to the Amended Partial Action Plans as may be necessary or appropriate to comport with applicable HUD requirements and to reflect any public comments solicited and received thereon; and be it

FURTHER RESOLVED, that (i) the previous authorization to provide funding to The City of New York for the East River Waterfront Access Project is hereby reduced by \$1,000,000 and (ii) the Corporation is hereby authorized to amend its subrecipient agreement with The City of New York for the East River Waterfront Access Project to reduce the authorized expenditures thereunder by \$1,000,000, to an amount not to exceed \$9,020,000, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that (i) the previous authorization to provide funding to The City of New York for the Fulton Corridor Revitalization: Incentives and Streetscapes Program is hereby reduced by \$3,270,950 and (ii) the Corporation is hereby authorized to amend its subrecipient agreement with The City of New York for the Fulton Corridor Revitalization: Incentives and Streetscapes Program to reduce the authorized expenditures thereunder by \$3,270,950, to an amount not to exceed \$22,594,050 in the aggregate, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that (i) the previous authorization to provide funding to The City of New York for the Fulton Corridor Revitalization: Open Space Improvements is hereby increased by

\$4,270,950 and (ii) the Corporation is hereby authorized to amend its subrecipient agreement with The City of New York for the Fulton Corridor Revitalization: Open Space Improvements to increase the authorized expenditures thereunder by \$4,270,950, to an amount not to exceed \$15,765,950 in the aggregate, 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 asked the Directors to authorize LMDC to amend its agreement with Studio Daniel Libeskind, LLC for planning services relating to the World Trade Center Memorial and Redevelopment Plan.

Mr. Emil explained that this item does not involve any funding and following the full presentation, the Chairman called 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, 2010, 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.

* * *

Chairman Schick then asked the Directors to authorize LMDC to authorize additional expenditures under its agreement with Bovis Lend Lease LMB, Inc. for the abatement and deconstruction of 130 Liberty Street.

The Chairman explained that LMDC is approaching the ceiling in terms of work that has been authorized under its contract with Bovis. In order, therefore, to allow staff to incur the work necessary for the completion of the demolition, the Corporation is requesting authorization to increase the contract amount by \$20 million.

Chairman Schick noted that since there is a time lag before the funds will actually be required, LMDC will get back to the Directors regarding the funding plan for this contract.

An extensive discussion ensued regarding, among other things, aspects of the funding options available.

Chairman Schick stated that a Directors' meeting will be held in July or August to apprise the Directors further with

regard to those options as well as to provide them with further information regarding the Corporation's legal standing vis a vis claims against Bovis and the insurers.

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

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

RESOLVED, that the Corporation is hereby authorized to authorize additional expenditures under its agreement with Bovis Lend Lease LMB, Inc. for the abatement and deconstruction of 130 Liberty Street, as amended and supplemented to date, by an amount up to \$20,000,000, to an amount not to exceed \$173,493,495 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 the Deconstruction Funding and Settlement Agreement with Allianz and AXA, and through funds included in Partial Action Plan 7 and Partial Action Plan S-2, 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.

* * *

Next, the Chairman asked the Directors to approve an amendment to the 130 Liberty Environmental Consulting Contract

as well as an amendment to the 130 Liberty Integrity Monitoring Services Contract.

Following a brief presentation of the background information regarding both of these contracts, the Chairman 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 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 \$2,000,000, to an amount not to exceed \$31,744,675 in the aggregate, and to extend the term of such agreement through March 31, 2010, 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 the Deconstruction Funding and Settlement Agreement with Allianz and AXA, and through funds included in Partial Action Plan 7 and Partial Action Plan S-2, 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

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Thacher Associates, LLC for integrity monitoring and related services at 130 Liberty Street, to increase the authorized expenditures thereunder by \$1,040,000, to an amount not to exceed \$5,640,000 in the aggregate, and to extend the term of such agreement for an additional six-month period through April 30, 2010, 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 and through funds included in Partial Action Plan 7 and Partial Action Plan S-2, 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.

* * *

Chairman Schick then asked the Directors to ratify and to authorize an amendment to LMDC's 130 Liberty Legal Services Contract with Dewey & LeBoeuf LLP. 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:

Ratification of Contract with Dewey & LeBoeuf LLP;
Authorization to Amend Contract with Dewey & LeBoeuf LLP

RESOLVED, that (i) the agreement entered into by the Corporation with Dewey & LeBoeuf LLP for legal advice and

services relating to 130 Liberty Street in an amount not to exceed \$250,000, 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 \$750,000, to an amount not to exceed \$1,000,000 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 funds included in the Legal Affairs Department Budget for FY2009-2010 and through funds included in Partial Action Plans 7 and S-2 as may be appropriate 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.

* * *

Next, the Chairman asked the Directors to authorize LMDC to amend its agreement with Weil, Gotshal & Manges LLP for legal advice and services in connection with the WTC Memorial and Redevelopment Plan to extend the term for an additional one year period through June 30, 2010.

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 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, 2010, 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.

* * *

Lastly, the Directors were asked to authorize LMDC to enter into a contract for advertising services in an amount not to exceed \$200,000. 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 Enter into Agreement for Advertising Services

RESOLVED, that the Corporation is hereby authorized to enter into an agreement with Miller Advertising Agency, Inc. for advertising services for a two-year period in an amount not to exceed \$200,000 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 funds included in the Communications Department Budget for FY2009-2010 and FY 2010-2011 and from funds included in project related Partial Action Plans, 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.

* * *

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

Respectfully submitted,

Eileen McEvoy
Assistant Secretary