

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

August 4, 2009

MINUTES

In Attendance

Directors:

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

Staff Attending:

For Lower Manhattan Development Corporation:

David Emil, President
Sayar Lonial, Director of Planning and Development
Eileen McEvoy, Assistant Secretary
Robert Miller, Chief Financial Officer
Angela Rossi, Director of Projects and Programs
Other Staff

For the Lower Manhattan Construction Command Center:

Robert Harvey, Acting Executive Director

For Assembly Speaker Sheldon Silver:

Paul Goldstein, District Director for Speaker Sheldon Silver

Counsel to the Board:

Caitlin Halligan, Weil, Gotshal & Manges

Also Present:

Kate Levin, New York City Commissioner of
Cultural Affairs
The Public
The Media and Press

The meeting of the Lower Manhattan Development Corporation ("LMDC") was called to order at 8:39 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 resolutions into the record.

Chairman Schick then called for the approval of the Minutes of the June 11, 2009 Directors' Meeting.

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

APPROVAL OF MINUTES

RESOLVED, that the minutes of the meeting of the Corporation held on June 11, 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 ratified and approved as actions of the Corporation.

* * *

Chairman Schick opened his report by noting that Kate Levin, the New York City Commissioner of Cultural Affairs, was present at the meeting and further that she has been designated by Mayor Bloomberg to serve on the LMDC Board in the seat vacated by Martha Stark.

Chairman Schick then reported on the recent activities of the Corporation in general and specifically with regard to 130 Liberty Street.

The Chairman explained that the abatement is essentially done which, in turn, moves the work closer to the next milestone being the deconstruction of the building.

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

Director Babbio noted that 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 that all the requests be considered for approval by the Board.

The Chairman then asked the Directors to authorize LMDC to amend Partial Action Plans 7 and 9 and submit same for public comment as well as for review by the Federal Department of Housing and Urban Development.

The Chairman noted that this is being pursued in order to ensure that LMDC has enough cash to meet its current obligations regarding 130 Liberty while negotiations continue with Bovis and the prior insurers for additional funds.

The Chairman further noted, among other things, that LMDC is seeking authorization to take \$2.5 million from Partial Action Plan 9 and move it to the 130 Liberty program and Partial Action Plan 7.

Following his detailed presentation, the Chairman called for questions or comments. Director Holloway asked if it will be necessary for LMDC to pursue prior insurers or reallocate more money in order to cover the cost of the full demolition.

The Chairman noted that LMDC is focusing on attaining additional funding from Bovis and the prior insurers before allocating additional federal funds. He added, however, that LMDC has funds on hand that can be reallocated and utilized to allow the work to continue and therefore does not intend to compromise its rights to hastily obtain these funds.

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

Authorization to Amend Partial Action Plans 7 and 9

RESOLVED, that the Corporation is hereby authorized to amend Partial Action Plans 7 and 9 (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 on such Amended Partial Action Plans, provided any changes so made shall be consistent with the criteria set forth in such Amended Partial Action Plans; 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 an amendment to LMDC's contract with Inventus for document copying, imaging and related services in connection with 130 Liberty.

Chairman Schick noted, among other things, that this increase is being requested in order to provide voluminous documents to the various law enforcement agencies investigating the billing practices of Bovis.

A lengthy discussion was then had with regard to handling bills from Bovis.

Among other things, the Chairman explained the various safeguards in place regarding invoices from Bovis. Further, he explained overall that LMDC has a fairly broad indemnity with Bovis that entitles the Corporation to recover what it incurs as a result of that company's conduct including costs as covered in this request.

There being no further questions or comments, and upon

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

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 \$130,000, to an amount not to exceed \$850,000 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.

* * *

The Chairman then asked the Directors to authorize LMDC to amend its contract with Dechert LLP for legal advice and services relating to 130 Liberty.

Following the 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 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 \$700,000, to an amount not to exceed \$8,000,000 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 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.

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The Chairman then asked the Directors to authorize LMDC to amend Partial Action Plan S-2 to increase the administrative funds for the auditing of grant applications for the Utility Restoration and Infrastructure Rebuilding Program ("URIR") by \$2,500,000 and to reduce the allocation for Reduntant Fiber Connections to Critical Facilities by \$2,500,000.

Following the Chairman's detailed synopsis of the requested action, he called for questions or comments. Director Weisbrod

requested that the Directors be provided with an overall assessment of the Program. The Chairman stated that same would be provided.

Director Lieber added that it would be beneficial for the Directors to receive an update on the financial statements for each of the programs on a regular basis. The Chairman stated that that would be provided.

In response to a question raised by Director Holloway, Chairman Schick explained that LMDC does not pay for ESD line staff to perform these audits but instead pay a dedicated group of employees who are all former auditors of the Public Service Commission. He further defined them as being akin to contract workers whose performance only involves the review of applications received under the URIR Program.

There being no further questions or comments, 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.

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There being no further business, the meeting was adjourned at 9:16 a.m.

Respectfully submitted,

Eileen McEvoy
Assistant Secretary