

MEMORANDUM OF UNDERSTANDING
BETWEEN THE NEW YORK CITY DEPARTMENT OF
BUILDINGS AND THE PORT AUTHORITY OF NEW
YORK AND NEW JERSEY – CRANES & DERRICKS

In November, 1993 the New York City Department of Buildings (the “Department”) and the Port Authority of New York and New Jersey (the “Authority”) entered into a “Memorandum of Understanding between the New York City Department of Buildings and the Port Authority of New York and New Jersey,” as supplemented by the June 1995 “Supplement to Memorandum of Understanding between the New York City Department of Buildings and the Port Authority of New York and New Jersey,” a letter dated September 15, 1995 from William H. Goldstein of the Authority to Joel A. Miele of the Department, and the November 2004 “World Trade Center Redevelopment Agreement” between the Authority and the City of New York for the purpose of helping to assure conformance of construction projects to be undertaken at buildings owned or operated by the Authority in New York City with the standards set forth in the New York City Building Code.

The purpose of this Memorandum is to provide for the adoption by the Authority of a procedure under which the erection, dismantling, use and operation of cranes and derricks at locations used for Authority work, will require that no owner or other person shall operate, or cause to be operated, a power-operated crane or derrick without a Certificate of Approval, a Certificate of Operation, and the satisfactory performance of an on-site inspection in compliance with the New York City Building Code, New York City Plumbing Code, New York City Mechanical Code and the New York City Fuel Gas Code (collectively hereinafter referred to as the “New York City Construction Codes”).

Although the November 2004 “World Trade Center Redevelopment Agreement” provides that the Authority is not required to obtain building permits from the City in connection with construction at the World Trade Center site, the Agreement states that the Authority will comply with all applicable requirements of the New York City Building Code for all construction work to be performed by the Authority or any of its net lessees at the World Trade Center site.

Accordingly, the Department and the Authority hereby agree as follows:

1. Use and operation of cranes and derricks that are subject to this Memorandum. The erection, dismantling, use and operation of cranes and derricks used or operated by the Authority or any of its net lessees at (i) its facilities in New York City that are statutorily or otherwise exempt from the Department’s jurisdiction and (ii) property owned by New York State and located within New York City that is exempt

from local regulation, ("Authority Sites"), are subject to the procedure described in this Memorandum, except that where any crane or derrick that is erected, dismantled, used or operated by the Authority has all or part of its equipment or support apparatus located on any New York City sidewalk or street, such crane or derrick will be under the Department's jurisdiction.

2. Certificates of Approval. The Authority shall ensure that there exists a valid and current Certificate of Approval from the Department for any crane or derrick that is erected, used and operated at Authority Sites, and if no such certificate exists, the Authority shall cause the owner of such crane or derrick to file an application for and obtain a Certificate of Approval from the Department, prior to the erection, use, and operation of any crane or derrick on Authority Sites in accordance with the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto.

3. Certificates of Operation. The Authority shall ensure that there exists a valid and current Certificate of Operation from the Department, and if no such certificate exists, shall cause the owner of such crane or derrick to file an application for and obtain a Certificate of Operation from the Department, prior to the erection, use and operation of any crane or derrick at Authority Sites in accordance with the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto. The Authority shall ensure that no crane or derrick is used or operated at Authority Sites if the Department has any open items, objections, notices of deficiency or stop work orders and has not issued a Certificate of Operation for such crane or derrick. The Authority shall ensure that all Certificates of Operation are renewed to remain in effect during the use and operation of any crane or derrick at Authority Sites.

Prior to issuance of a Certificate of Operation by the Department –

A. For a tower crane ("tower cranes" shall include climber cranes for purposes of this Memorandum) that is already installed at an Authority Site as of the effective date of this Memorandum, the Authority shall submit to the Department the attached certification signed by a New York State Licensed Engineer (NYSPE) employed or retained by the Authority that certifies that the following was performed and/or prepared by a NYSPE retained by the tower crane owner (Engineer of Record "EOR") to the satisfaction of the Authority in accordance with the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto:

- i. Plans prepared, signed and sealed by the EOR demonstrating compliance with the New York City Construction Codes, reference standards, and related rules and regulations, regulatory notices and amendments thereto including, but not limited to the proposed locations of the crane, pertinent features of the sites, supporting platforms or structures and the swing of the crane;
- ii. Field inspections and reports of inspection results of the crane in an unassembled state or acceptable documentation in lieu thereof;
- iii. Field inspections and reports of inspection results of the crane in an assembled state that confirm compliance with the approved plans; and

iv. Load test procedures and reports of load test results for the crane.

B. For all other tower cranes:

i. The Authority shall submit to the Department appropriate documentation that it has reviewed and approved plans prepared, signed and sealed by the EOR showing compliance with the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto. The Authority shall submit such appropriate documentation of approval to the Department prior to performing unassembled and assembled inspections and load tests;

ii. The EOR shall conduct field inspections and prepare reports of inspection results of the crane in an unassembled state. Prior to any such field inspection, the Authority shall notify the Department so that a representative of the Department may be present to witness such field inspection;

iii. The EOR shall conduct field inspections and prepare reports of inspection results of the crane in an assembled state that confirm compliance with the approved plans. Prior to any such field inspection, the Authority shall notify the Department so that a representative of the Department may be present to witness such field inspection;

iv. The EOR shall conduct a load test for the tower crane and prepare reports of results of load test results for the crane. Prior to conducting a load test, the Authority shall notify the Department so that a representative of the Department may be present to witness such load test; and

v. The Authority shall provide the Department with a copy of all reports prepared under paragraph 3(B) (ii) (iii) and (iv) prior to the Department's issuance of a Certificate of Operation.

C. No Certificate of Operation shall be issued to a mobile crane or derrick unless such equipment passes inspection by the Department. Inspection of such equipment shall be made by the Department upon notification by the Authority.

4. Access for Inspections. The Authority authorizes the Department to enter Authority Sites for the purpose of conducting inspections of cranes and derricks in connection with issuance of Certificates of Operation; for the purpose of conducting spot checks of crane and derrick equipment and the use or operation thereof; and for the investigation of complaints and accidents related to cranes and derricks. The Department shall notify the Authority prior to conducting such inspections, and the Authority will provide appropriate escort to the location of the crane and derrick equipment.

5. Certificates of On-Site Inspection. Prior to the erection, use and operation of any crane or derrick at Authority Sites, the Authority shall issue a Certificate of On-Site Inspection. The Authority shall not issue a Certificate of On-Site Inspection until the Authority is satisfied that the crane or derrick complies with the applicable requirements of the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto.

6. Erecting and Dismantling (including climbing/jumping) of Tower Cranes. At all Authority Sites, the Authority shall carry out the role and responsibilities of the

Department in accordance with the applicable requirements of the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto with respect to erecting and dismantling (including climbing/jumping) of tower cranes. When the Authority is notified of an intent to climb/jump a tower crane, the Authority shall notify the Department of same.

7. Ongoing Inspection and Maintenance. The Authority shall cause its contractors to inspect and maintain all cranes and derricks at Authority Sites in accordance with the requirements of the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto.

8. Status Reports. The Authority shall periodically submit to the Department's Cranes and Derricks Division a report identifying all cranes and derricks at the World Trade Center Site.

9. Accident Notification. The Authority shall immediately notify the Department of any accident involving any crane or derrick at Authority Sites.

10. Records. The Authority shall maintain a file for each crane and derrick that shall at all times contain the most recently prepared Department forms, plans, specifications, inspection reports, and other documents required or otherwise generated in connection with the erection, dismantling, use and operation of all cranes and derricks at Authority Sites. The Department may request the Authority to provide it with a copy of any such crane or derrick file, and the Authority shall promptly provide a copy of the file to the Department.

11. Authority Responsibility. The Authority shall be solely responsible for the erection, dismantling, use and operation of cranes and derricks at Authority Sites, and shall take reasonable measures necessary to ensure that private contractors, owners, equipment users, riggers and operators comply with New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto.

12. No Personal Liability. No Commissioner, officer, agent or employee of the Authority or the Department shall be held personally liable under any provision of this Memorandum or because of its execution or attempted execution or because of any breach or alleged breach thereof.

13. Effect of this Memorandum. This Memorandum does not amend or supplement any existing agreement, contract or memorandum of understanding between the Authority and the City, and applies solely to the erection, dismantling, use and operation of cranes and derricks as set forth in paragraph 1 of this Memorandum.

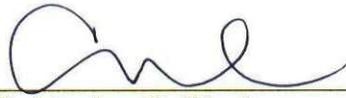
14. Department Letters of Deficiency and Remedy. Any letter of deficiency and proposed remedy with respect to the operation and use of a crane or derrick, including an order to stop work, issued by the Department to the Chief Engineer of the Authority (and copied to the private contractor, owner, equipment user, rigger and/or operator) shall be implemented promptly by the Authority and the Authority shall notify

the Department in writing of the corrective action within 72 hours of the letter of deficiency. Subject to paragraph 4 of this Memorandum, a representative of the Department may at any time conduct follow-up inspections with respect to any matters recommended to the Authority for corrective action.

15. NYC Licenses. The Authority shall use New York City-licensed riggers and hoist machine operators at Authority Sites.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed on March 5th, 2009.

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By: 

Christopher O. Ward
Executive Director

THE NEW YORK CITY DEPARTMENT
OF BUILDINGS

By: 

Robert D. Limandri
Commissioner

PORT AUTHORITY
OF NEW YORK AND NEW JERSEY
CERTIFICATION

I hereby state that I am a New York State licensed professional engineer employed/retained by the Port Authority of New York & New Jersey and I certify that, with regard to _____, the following was performed and/or prepared by a New York State licensed professional engineer retained by the tower crane owner (Engineer of Record "EOR") to the satisfaction of the Port Authority in accordance with the New York City Building Code, New York City Plumbing Code, New York City Mechanical Code and the New York City Fuel Gas Code (collectively hereinafter referred to as the "New York City Construction Codes") reference standards, related rules and regulations, regulatory notices and amendments thereto:

1. Plans prepared, signed and sealed by the EOR demonstrating compliance with the New York City Construction Codes, reference standards, related rules and regulations, regulatory notices and amendments thereto, including but not limited to the proposed location of the crane, pertinent features of the site, supporting platforms or structures and the swing of the crane;
2. Field inspections and reports of inspection results of the crane in an unassembled state or acceptable documentation in lieu thereof;
3. Field inspections and reports of inspection results of the crane in an assembled state that confirm compliance with the approved plans; and
4. Load test procedures and reports of load test results for the crane.

Dated:

By: _____