

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

MINUTES

Thursday, April 16, 2009

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MINUTES of the Meeting of The Port Authority of New York and New Jersey held Thursday, April 16, 2009 at 225 Park Avenue South, City, County and State of New York

PRESENT:

NEW JERSEY

Hon. Anthony R. Coscia, Chairman
 Hon. Virginia S. Bauer
 Hon. Raymond M. Pocino
 Hon. Anthony J. Sartor
 Hon. David S. Steiner

NEW YORK

Hon. Henry R. Silverman, Vice-Chairman
 Hon. Stanley E. Grayson
 Hon. Michael J. Chasanoff

Christopher O. Ward, Executive Director
 Darrell B. Buchbinder, General Counsel
 Karen E. Eastman, Secretary

Steven J. Coleman, Assistant Director, Media Relations, Public Affairs
 Michael B. Francois, Chief, Real Estate & Development
 Glenn P. Guzi, Senior External Affairs Representative, Government & Community Affairs
 Linda C. Handel, Assistant Secretary
 Alan H. Hicks, Senior Public Information Officer, Public Affairs
 Nairi Hourdajian, Senior External Affairs Representative, Government & Community Affairs
 Kevin J. Kirchman, Director, Marketing, Public Affairs
 Cristina M. Lado, Director, Government & Community Affairs
 Conor Lanz, Special Assistant to the Executive Director
 Francis J. Lombardi, Chief Engineer
 Candace McAdams, Director, Media Relations, Public Affairs
 James E. McCoy, Manager, Board Management Support, Office of the Secretary
 Sanjay S. Mody, Advisor to the Chairman
 Christopher J. Mohr, Senior Board Management Support Specialist, Office of the Secretary
 Anne Marie C. Mulligan, Treasurer
 Gary T. Murphy, Corporate Information Security Officer, Office of the Secretary
 Diane Paonessa, Associate Board Management Support Specialist, Office of the Secretary
 Steven P. Plate, Director, World Trade Center Construction
 Alan L. Reiss, Deputy Director, World Trade Center Construction
 Jessica Schultz, Senior Government Community Affairs Manager, Government & Community Affairs
 Timothy G. Stickelman, Assistant General Counsel
 David B. Tweedy, Chief, Capital Programs
 Lillian D. Valenti, Director, Procurement
 Sheree R. Van Duyne, Manager, Policies and Protocol, Office of the Secretary
 Robert E. Van Etten, Inspector General
 Andrew S. Warshaw, Chief of Staff to the Executive Director

Guest:

Sonia Frontera, Authorities Unit, Office of the Governor of New Jersey

The public meeting was called to order by Chairman Coscia at 11:40 a.m. and ended at 11:47 a.m.

Action on Minutes

The Secretary submitted for approval Minutes of the meeting of March 26, 2009. She reported that copies of these Minutes were delivered to the Governors of New York (in electronic form) and New Jersey (in paper form) on March 27, 2009. She reported further that the time for action by the Governors of New York and New Jersey expired at midnight on April 13, 2009.

Whereupon, the Board of Commissioners unanimously approved the Minutes.

Report of World Trade Center Redevelopment Subcommittee

The World Trade Center Redevelopment Subcommittee reported, for information, on matters discussed in executive and public sessions at its meeting on April 16, 2009, which included matters related to the purchase, sale, or lease of real property, or securities where public disclosure would affect the value thereof or the public interest, discussion of various trade contracts to advance construction activities in connection with the redevelopment of the WTC site, and a reimbursement for work performed on behalf of the Port Authority at the WTC site, and the report was received.

DOWNTOWN RESTORATION PROGRAM – AUTHORIZATION TO ACCEPT ASSIGNMENT OF A TRADE CONTRACT FOR ELEVATORS AND ESCALATORS FOR THE WORLD TRADE CENTER (WTC) MEMORIAL, MEMORIAL MUSEUM AND WTC INFRASTRUCTURE PROJECTS, INCLUDING ASSOCIATED PAYMENTS INTO AN ESCROW ACCOUNT

It was recommended that the Board authorize the Executive Director to: (1) accept assignment of a construction trade contract awarded by the National September 11 Memorial and Museum at the World Trade Center Foundation, Inc. (NS11MM) to Thyssen Krupp Elevator AG (Thyssen Krupp) for the furnishing and installation of elevators and escalators for the World Trade Center (WTC) Memorial, Memorial Museum and WTC Infrastructure Projects in the WTC site West Bath tub, in an estimated amount of \$5,130,000, including an eight-percent contingency; (2) accept a partial assignment of the contract with Bovis Lend Lease LMB, Inc. (Bovis) for performance of construction management (CM) services associated with the elevators and escalators trade contract, at an estimated cost of \$704,596; and (3) on behalf of the Port Authority and its wholly owned entities, WTC Retail LLC and 1 World Trade Center LLC, make payments into an escrow account, in an amount of \$748,197, for the Port Authority's portion of the costs associated with the elevators and escalators trade contract and the Bovis CM contract.

Pursuant to a July 2006 Project Agreement with the Lower Manhattan Development Corporation, the NS11MM, the City of New York and the State of New York, the Port Authority is to assume responsibility for construction of the WTC Memorial and the Memorial Museum Projects.

In December 2006, the Board authorized the Executive Director to finalize agreements with the NS11MM providing for the Port Authority to accept an assignment of the Bovis CM contract and manage all construction work for the WTC Memorial and Memorial Museum Projects. In anticipation of the full assignment of the Bovis CM contract, the NS11MM has proceeded with procurement of the elevators and escalators trade contract, as an essential component of the critical path schedule for the WTC Memorial, Memorial Museum and WTC Infrastructure Projects.

The NS11MM will award the elevators and escalators trade contract to Thyssen Krupp, the lowest qualified bidder, selected from among multiple competitive bids based on a list of select bidders established in the Bovis CM contract. The scope of work for the trade contract includes the furnishing and installation of all elevators and escalators for the WTC Memorial, Memorial Museum and WTC Infrastructure Projects. The elevators and escalators contract meets all New York City building code requirements.

None of the proposed Port Authority payment is included in the \$150 million commitment authorized by the Board in July 2006 for common and exclusive site infrastructure work associated with the WTC Memorial and Memorial Museum Projects. The Port Authority previously has agreed to total payments under this commitment of approximately \$112.5 million.

An escrow account was jointly established and initially funded by the NS11MM to provide for payments to contractors and Bovis. The Port Authority previously has authorized payments into the escrow account of approximately \$203.3 million.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Chasanoff, Grayson, Pocino, Silverman and Steiner voting in favor; none against; Commissioners Coscia and Sartor recused:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to: (1) accept assignment of a construction trade contract awarded by the National September 11 Memorial and Museum at the World Trade Center Foundation, Inc. to Thyssen Krupp Elevator AG for the furnishing and installation of elevators and escalators for the World Trade Center (WTC) Memorial, Memorial Museum and WTC Infrastructure Projects in the World Trade Center site West Bathtub, in an estimated amount of \$5,130,000, including an eight-percent contingency; and (2) accept a partial assignment of the contract with Bovis Lend Lease LMB, Inc. (Bovis) for performance of construction management services associated with the elevators and escalators trade contract, at an estimated cost of \$704,596; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority and its wholly owned entities, World Trade Center Retail LLC and 1 World Trade Center LLC, to make payments into an escrow account, in an amount of \$748,197, for the Port Authority's portion of the costs associated with the elevators and escalators trade contract and the Bovis construction management contract for the aforementioned projects; and it is further

RESOLVED, that the form of all contracts and agreements necessary to effectuate the foregoing shall be subject to the approval of the General Counsel or his authorized representative.

DOWNTOWN RESTORATION PROGRAM – AUTHORIZATION OF AN INCREASE IN TRADE CONTRACT FOR ADDITIONAL STEEL WORK FOR THE WORLD TRADE CENTER (WTC) MEMORIAL, MEMORIAL MUSEUM, AND WTC INFRASTRUCTURE PROJECTS, INCLUDING ASSOCIATED PAYMENTS INTO AN ESCROW ACCOUNT

It was recommended that the Board authorize the Executive Director to: (1) increase the amount of the existing construction trade contract with Owen Steel Company (Owen Steel) to perform additional steel work in the World Trade Center (WTC) site West Bathtub for the WTC Memorial, Memorial Museum and WTC Infrastructure Projects by \$17,810,000, from approximately \$51.4 million to approximately \$69.2 million; (2) increase the amount of the construction management (CM) services contract with Bovis Lend Lease LMB, Inc. (Bovis) associated with this work by \$2,641,864; and (3) on behalf of the Port Authority and its wholly owned entities, WTC Retail LLC and 1 World Trade Center LLC, make payments into an escrow account for the Port Authority's portion of the increased costs associated with the Owen Steel contract and the Bovis CM contract. Payment would be conditioned on finalization of a cost-share allocation with National September 11 Memorial and Museum at the World Trade Center Foundation, Inc. (NS11MM). The proposed cost-share allocation would be reviewed with the Chairman prior to finalization.

In April 2007, the Port Authority authorized the acceptance of an assignment of the NS11MM's structural steel contract with Owen Steel, as well as a partial assignment of NS11MM's CM contract with Bovis. Thereafter, the steel construction plan was re-sequenced for greater construction efficiency and better coordination with neighboring projects. Changes to construction logistics and scheduling have been ongoing throughout the contract duration, in an effort to prevent delays and meet scheduled milestones. Additional scope has also been added to the Owen Steel contract for construction logistics purposes, and changes have been made to the steel design, due to ongoing coordination. The increase in the structural steel trade contract would cover additional work associated with design changes, site conditions, added steel and schedule adjustments to meet WTC Memorial milestones.

An escrow account was jointly established and initially funded by the NS11MM to provide for payments to contractors and Bovis. The Port Authority has agreed to prior payments into the escrow account of \$203.3 million.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Chasanoff, Coscia, Grayson, Pocino, Silverman and Steiner voting in favor; none against; Commissioner Sartor recused:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to: (1) increase the amount authorized for the existing construction trade contract with Owen Steel Company (Owen Steel) to perform additional steel work in the World Trade Center (WTC) site West Bathtub for the WTC Memorial, Memorial Museum and WTC Infrastructure Projects by \$17,810,000; and (2) increase the amount authorized for the existing construction management (CM) services contract with Bovis Lend Lease LMB, Inc. (Bovis) for CM services associated with this construction trade contract, in an estimated amount of \$2,641,864; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority and its wholly owned entities, World Trade Center Retail LLC and 1 World Trade Center LLC, to make payments into an escrow account for the Port Authority's portion of such increased costs associated with the Owen Steel trade contract and the Bovis CM contract; and it is further

RESOLVED, that the form of all documents necessary to effectuate the foregoing shall be subject to the approval of General Counsel or his authorized representative.

ONE WORLD TRADE CENTER – AUTHORIZATION TO AWARD TWO CONSTRUCTION TRADE CONTRACTS – CARPENTRY

It was recommended that the Board authorize 1 World Trade Center LLC (1 WTC LLC), through its construction manager, Tishman Construction Corporation (Tishman), to enter into two construction trade contracts, one with Curtis Partition Corporation (Curtis) and another with Component Assembly Systems, Inc. (Component), for carpentry work associated with the construction of One World Trade Center, at an estimated total cost of \$89,155,080, including an eight-percent allowance for extra work.

The carpentry bid package was divided into five packages, and bidders were given the option to bid on any combination of the five. Package A, which would be awarded to Curtis, at an estimated total amount of \$3,018,600 (including the allowance for extra work), covers carpentry work on Floors B4 and B3. Packages B, C, D and E, which would be awarded to Component, at an estimated total amount of \$86,136,480 (including the allowance for extra work), covers carpentry work on Floors B2 through the roof.

The scope of work for both contracts includes, but is not limited to, the furnishing and installation of all carpentry components, including drywall, gypsum liner panels, fire-rated mechanical duct and piping enclosures, cement board, sheathing, insulation, acoustic and gypsum board ceiling tile and framing components, and plaster system at walls and ceiling. In addition, the contractors would furnish, install, maintain and remove temporary protection items, including hollow metal doors, frames and hardware.

The form of trade contracts being utilized by Tishman as construction manager was developed by Port Authority staff and maintains, to the greatest degree possible, Port Authority policies and procedures for the work, including provisions allowing for termination for convenience, and requirements for minority and women-owned business enterprise utilization, confidentiality, security and integrity monitoring, and a competitive bidding process.

The terms of the construction trade contracts proposed for award were negotiated and would be awarded to the lowest responsive bidders, in accordance with the procurement procedures established in the Third Freedom Tower Amendment to the September 2003 General Contractor Agreement between Tishman and 1 WTC LLC.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Chasanoff, Coscia, Grayson, Pocino, Silverman and Steiner voting in favor; none against; Commissioner Sartor recused:

RESOLVED, that 1 World Trade Center LLC be and it hereby is authorized, through its construction manager, Tishman Construction Corporation, to enter into two construction trade contracts, one with Curtis Partition Corporation for carpentry package A, and another with Component Assembly Systems, Inc. for carpentry packages B, C, D and E, both pertaining to work associated with the construction of One World Trade Center, at an estimated total cost of \$89,155,080, including an eight-percent allowance for extra work; and it is further

RESOLVED, that the form of the foregoing contracts shall be subject to the approval of General Counsel or his authorized representative.

ONE WORLD TRADE CENTER – AUTHORIZATION TO AWARD CONSTRUCTION TRADE CONTRACT – REINFORCED WATERPROOF FLOORING

It was recommended that the Board authorize 1 World Trade Center LLC (1 WTC LLC), through its construction manager, Tishman Construction Corporation (Tishman), to enter into a construction trade contract with Asbestolith Manufacturing Corporation for reinforced waterproof flooring work associated with the construction of One World Trade Center, at an estimated total cost of \$1,798,200, including an eight-percent allowance for extra work.

The scope of work for the reinforced waterproof flooring contract includes the furnishing, installation and application of the fluid-applied resin matrix waterproofing in all pump rooms, facilities rooms, dockmaster's office, air conditioning rooms, recyclable storage areas, trash rooms, rest rooms, locker rooms and miscellaneous mechanical areas.

The form of trade contract being utilized by Tishman as construction manager was developed by Port Authority staff and maintains, to the greatest degree possible, Port Authority policies and procedures for the work, including provisions allowing for termination for convenience, and requirements for minority and women-owned business enterprise utilization, confidentiality, security and integrity monitoring, and a competitive bidding process.

The terms of the construction trade contract proposed for award were negotiated and would be awarded to the lowest responsive bidder, in accordance with the procurement procedures established in the Third Freedom Tower Amendment to the September 2003 General Contractor Agreement between Tishman and 1 WTC LLC.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Chasanoff, Coscia, Grayson, Pocino, Silverman and Steiner voting in favor; none against; Commissioner Sartor recused:

RESOLVED, that 1 World Trade Center LLC be and it hereby is authorized to enter into a construction trade contract, through its construction manager, Tishman Construction Corporation, with Asbestolith Manufacturing Corporation for reinforced waterproof flooring work associated with the construction of One World Trade Center, at an estimated total cost of \$1,798,200, including an eight-percent allowance for extra work; and it is further

RESOLVED, that the form of the foregoing contract shall be subject to the approval of General Counsel or his authorized representative.

WORLD TRADE CENTER SITE – REIMBURSEMENT TO SILVERSTEIN PROPERTIES, INC. FOR PORT AUTHORITY STRUCTURAL ENCLOSURE AND ASSOCIATED WORK IN THE EAST BATHTUB

It was recommended that the Board authorize the Executive Director to reimburse Silverstein Properties, Inc. (SPI), pursuant to the World Trade Center (WTC) Master Development Agreement (MDA), in an estimated amount of \$28,957,210, inclusive of multipliers specified in the MDA, for subgrade and at-grade work to be performed in the East Bathtub of the WTC site under various construction trade contracts, consistent with prior Board authorization for reimbursement to SPI in the amount of \$723 million for structural enclosure and associated work performed on behalf of the Port Authority for portions of the WTC Transportation Hub (WTC Hub) Project, several common infrastructure projects, the vehicular parking project and retail development.

The WTC Site Master Plan includes several projects located in the East Bathtub, including the WTC Hub, retail development, vehicular parking project, and Towers 2, 3 and 4. These facilities are being designed and constructed by either the Port Authority or SPI, depending upon their location.

In December 2007, the Board authorized reimbursement agreements with SPI for structural enclosure and associated work in the East Bathtub, including work for the WTC Hub Project, several common infrastructure projects, the vehicular parking project, and retail portions of the WTC site, in a total estimated amount of \$723 million. Some of these projects are being designed and constructed by SPI, with the Port Authority reimbursing SPI for its share of the design and construction costs. It is cost-effective and time-efficient to have SPI perform this work on behalf of the Port Authority, due to reduced mobilization/demobilization costs, because SPI is already on-site with all required equipment and workforces, and having the work performed by SPI's contractors avoids coordination issues and potential conflicts that would have resulted with having a number of contractors reporting to various individual stakeholders within the constrained worksite.

In accordance with the MDA, SPI will contribute \$140 million for its share of common infrastructure costs, via a tally sheet process arranged by the Federal Transit Administration.

Port Authority staff has broad oversight responsibility for SPI design and construction activities, which includes granting approval of the bid packages prior to issuance, allocating project costs, and monitoring quality assurance for construction projects. The Port Authority makes periodic reimbursement payments to SPI, based on requests from SPI with supporting documentation and verification by the Port Authority that the work has been completed satisfactorily and within agreed costs. Of the estimated \$723 million authorized by the Board for reimbursement, including this action, approximately \$323 million will have been allocated. Of this amount allocated for reimbursement, approximately \$19,239,332 has been reimbursed after the Port Authority's verification of SPI's submitted invoices.

Among the East Bathtub work being performed by SPI's contractors on behalf of the Port Authority, and for which reimbursement is now sought, are the Port Authority's share of a construction trade contract for Tower 2 for the pre-purchase of below-grade steel, in the amount of \$2,546,693, change orders to several existing construction trade contracts involving liner wall, foundation and structural work for Towers 2, 3 and 4, in a total estimated amount of

approximately \$14,834,267, and the Port Authority's share of additional construction trade contracts to be awarded during the second quarter of this year, in the approximate total amount of \$11,576,250.

The above amounts are inclusive of SPI fees to support the work. Pursuant to the MDA, SPI is reimbursed for actual costs incurred plus a 1.65 build/construct or 1.75 design/build multiplier.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Chasanoff, Coscia, Grayson, Pocino, Silverman and Steiner voting in favor; none against; Commissioner Sartor recused:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to reimburse Silverstein Properties, Inc. pursuant to the World Trade Center (WTC) Master Development Agreement (MDA), in an estimated amount of \$28,957,210, inclusive of multipliers specified in the MDA, for subgrade and at-grade work to be performed in the East Bathtub of the WTC site under various construction trade contracts, consistent with prior Board authorization for reimbursement to SPI in the amount of \$723 million for structural enclosure and associated work performed on behalf of the Port Authority for portions of the WTC Transportation Hub Project, several common infrastructure projects, the vehicular parking project and retail development.

Whereupon, the meeting was adjourned.

Secretary