

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

MINUTES

Thursday, June 21, 2007

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**MINUTES of the Meeting of The Port Authority of New York and New Jersey held Thursday, June 21, 2007
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. Angelo J. Genova
 Hon. Raymond M. Pocino
 Hon. Anthony J. Sartor
 Hon. David S. Steiner

NEW YORK

Hon. Henry R. Silverman, Vice-Chairman
 Hon. Bruce A. Blakeman
 Hon. Michael J. Chasanoff
 Hon. Christine A. Ferer
 Hon. David S. Mack

Anthony E. Shorris, Executive Director
 Darrell B. Buchbinder, General Counsel
 Karen E. Eastman, Secretary

A. Paul Blanco, Chief Financial Officer
 John D. Brill, Director, Audit
 Ernesto L. Butcher, Deputy Executive Director, Operations
 Arthur Cifelli, Deputy Chief of Staff
 Steven J. Coleman, Public Information Officer, Public and Government Affairs
 John D'Amore, Deputy Director, Technology Services
 William R. DeCota, Director, Aviation
 Michael P. DePallo, Director, Rail Transit
 Michael Dombrowski, Cinematographer, Public and Government Affairs
 John J. Drobny, Director, Project Management
 Michael G. Fabiano, Deputy Chief Financial Officer/Comptroller
 Ziomara Y. Foster, Senior Administrator, Office of the Secretary
 Michael B. Francois, Director, Development
 William H. Goldstein, Deputy Executive Director, Capital Programs
 Linda C. Handel, Assistant Secretary
 Mary Lee Hannell, Director, Human Resources
 Alan H. Hicks, Senior Public Information Officer, Public and Government Affairs
 Lawrence S. Hofrichter, Deputy General Counsel
 Howard G. Kadin, Senior Attorney, Law
 Victoria C. Kelly, Director, Tunnels, Bridges and Terminals
 Louis J. LaCapra, Chief Administrative Officer
 Shawn K. Laurenti, Director, Government and Community Affairs
 Marc LaVorgna, Assistant Director, Media Relations
 Timothy Lizura, Deputy Director, Development
 Dennis Lombardi, Deputy Director, Port Commerce
 Francis J. Lombardi, Chief Engineer
 Stephen Marinko, Attorney, Law
 Michael G. Massiah, Director, Management and Budget
 John J. McCarthy, Director, Public and Government Affairs
 James E. McCoy, Manager, Board Management Support, Office of the Secretary
 Sanjay Mody, Advisor to the Chairman
 Christopher J. Mohr, Board Management Support Specialist, Office of the Secretary
 Anne Marie C. Mulligan, Treasurer
 Mark F. Muriello, Assistant Director, Policy and Business Programs, Tunnels, Bridges and Terminals

Tony F. Oliver, Senior Marketing Analyst, Public and Government Affairs
Steven P. Plate, Director, World Trade Center Construction
Andrew Rachlin, Special Assistant to the Executive Director
Andrea Roitman, Director, Procurement
Juanita Scarlett, Executive Advisor, Public and Government Affairs
Stephen Sigmund, Chief, Public and Government Affairs
Ralph Tragale, Client Manager, Public and Government Affairs
Sheree R. Van Duyne, Manager of Policies and Protocol, Office of the Secretary
Lillian Valenti, Deputy Director, Procurement

Guests:

Vincent Chin, Intern
Sonia Frontera, Authorities Unit, Office of the Governor of New Jersey

Public Speaker:

Jane Mackey, HDS Retail of North America

The public session was called to order by Chairman Coscia at 1:27 p.m. and ended at 1:53 p.m. The Board met in executive session prior to the public session.

Report of World Trade Center Redevelopment Subcommittee

The World Trade Center Redevelopment Subcommittee reported, for information, on matters discussed in executive session at its meeting on June 21, 2007, which included matters involving ongoing negotiations or reviews of contracts or proposals, matters related to the development of future Port Authority facilities or projects and the redevelopment of existing facilities or projects, where public disclosure may impact property values, and matters related to the purchase, sale or lease of real property or securities, where disclosure would affect the value thereof or the public interest, and the report was received.

Report of Security Subcommittee

The Security Subcommittee reported, for information, on matters discussed in public and executive session at its meeting on June 21, 2007, which included a contract to implement a pilot biometric authentication security system at LaGuardia Airport, and matters involving public safety and law enforcement, and the report was received.

Report of Committee on Finance

The Committee on Finance reported, for information, on matters discussed in executive session at its meeting on June 21, 2007, which included matters related to the purchase, sale, or lease of real property or securities, where disclosure would affect the value thereof or the public interest, as well as matters filed with the Committee pursuant to Board action or separately reported to the Board of Commissioners at this meeting of the Board, and the report was received.

Report of Committee on Capital Programs/Port Planning

The Committee on Capital Programs/Port Planning reported, for information, on matters discussed in public session at its meeting on June 21, 2007, which included a discussion on planning to determine the feasibility of and undertake preliminary engineering design for an all-electronic tolling collection system at the Port Authority bridge and tunnel crossings.

Report of Committee on Operations

The Committee on Operations reported on action taken in public session at a special, interim meeting of the Committee held on June 21, 2007, in accordance with the Board's resolution of December 15, 1994, to act for and on behalf of the Board, on a project to mitigate congestion on New Jersey roadways in the Lincoln Tunnel corridor. A copy of the minutes of the special, interim meeting of the Committee on Operations, held on June 21, 2007 is included with these minutes.

The Committee also reported, for information, on matters discussed at its meeting held on June 21, 2007, and on matters filed with the Committee pursuant to Board action or separately reported to the Board of Commissioners at this meeting of the Board, and the report was received.

Report of Committee on Construction

The Committee on Construction reported, for information, on matters filed with the Committee pursuant to Board action or separately reported to the Board of Commissioners at this meeting of the Board, and the report was received.

Chairman's Report

On behalf of the Board, Commissioner Coscia welcomed Commissioner Virginia S. Bauer and congratulated her on her recent appointment to the Board by New Jersey Governor Jon S. Corzine.

Executive Director's Report

The Executive Director provided a status report on various projects and accomplishments in each of our core business areas.

General Counsel Report

General Counsel provided a report on the proposed changes to the By-Laws of the Port Authority (and its wholly owned subsidiary corporations) and other related procedures, and on the purposes for which these changes have been proposed.

Staff Reports

Presentations were made by staff on:

- 1) All-Electronic Tolling Study and Preliminary Design for Replacement of the Port Authority Toll System – Planning Authorization; and
- 2) The World Trade Center – JPMorgan Chase & Co. – Lease and Development Agreements for World Trade Center Tower 5.

JOHN F. KENNEDY INTERNATIONAL AIRPORT - REHABILITATION OF TAXIWAYS ‘S,’ ‘SC,’ ‘SD,’ ‘SR’ AND APRON AREA – PROJECT AUTHORIZATION

It was recommended that the Board authorize: (1) a project for the design and rehabilitation of Taxiways ‘S,’ ‘SC,’ ‘SD’ and ‘SR,’ the Restricted Vehicle Service Road (RVSR) and pavement at the apron of the cargo area at John F. Kennedy International Airport (JFK) to extend their useful life and to maintain the pavement in these areas in a state of good repair, at an estimated total project cost of \$43 million; and (2) the Executive Director to award Contract JFK-164.011- Rehabilitation of Taxiways ‘S,’ ‘SC,’ ‘SD,’ and ‘SR,’ and the Apron at the Cargo Area to the lowest bidder after public advertisement, at a total estimated construction cost of \$27 million.

As part of the Port Authority’s pavement management program, staff identified Taxiways ‘S,’ ‘SC,’ ‘SD’ and ‘SR,’ the RVSR and pavement at the apron of the cargo area as areas with poor pavement condition index ratings, which pavements have deteriorated due to normal wear, settlement and weathering. These pavements, most of which were last rehabilitated in 1993, have reached the end of their useful life and show significant distress, including alligator cracking, block cracking, longitudinal cracking and oxidation. Rehabilitation is therefore required to maintain a state of good repair.

Taxiway ‘S’ and its associated taxiways, together with the cargo apron area, provide access to the air cargo buildings at JFK and accommodate approximately 2,000 aircraft movements annually. This activity is anticipated to increase considerably within the next few years. In addition, the arrival of new large aircraft will require widening of turning locations in these areas to meet current Federal Aviation Administration (FAA) requirements.

Work would include: full-depth repaving of the entire lengths of Taxiway ‘S’ and its associated taxiways, the cargo apron area and a portion of the restricted vehicle service road; widening of turning areas on Taxiways ‘SC’ and ‘SD’; and related site work, including replacement of storm drainage infrastructure and aeronautical lighting equipment, upgrade of electrical equipment and relocation of a communications ductbank.

These improvements would provide for unrestricted access to the cargo buildings and maintain flexibility and functionality for future cargo development.

These pavement repairs would ensure continued compliance with Federal Aviation Regulations (FAR) Part 139 Certification and Operations of Land Airports.

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

RESOLVED, that a project for the design and rehabilitation of Taxiways ‘S,’ ‘SC,’ ‘SD’ and ‘SR,’ the Restricted Vehicle Service Road and the pavement at the apron of the cargo area at John F. Kennedy International Airport, to extend their useful life and to maintain the facility in a state of good repair, at an estimated project cost of \$43 million (the Project), including payments to contractors, allowances for

extra work (if necessary) and net cost work, engineering, administrative and financial expenses, and a contingency (if necessary), be and it hereby is authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to award Contract JFK-164.011-Rehabilitation of Taxiways ‘S,’ ‘SC,’ ‘SD,’ ‘SR,’ and Apron at the Cargo Area, to the lowest bidder after public advertisement, at a total construction cost estimated at \$27 million, and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to purchase and construction contracts, contracts for professional and advisory services and such other contracts and agreements as may be necessary to effectuate the Project, subject to advising the Commissioners of individual contracts or agreements to be acted on pursuant to this authorization prior to taking or authorizing such action; and it is further

RESOLVED, that the form of all contracts, agreements and other documents in connection with the Project shall be subject to the approval of General Counsel or his authorized representative.

ALL-ELECTRONIC TOLLING STUDY AND PRELIMINARY DESIGN FOR REPLACEMENT OF THE PORT AUTHORITY TOLL SYSTEM – PLANNING AUTHORIZATION

It was recommended that the Board authorize planning to study the replacement of the Port Authority's Integrated Toll Collection System (ITCS) with a new All-Electronic Tolling System at all Port Authority bridge and tunnel crossings, at an estimated cost of \$9 million.

The Port Authority's current in-lane toll collection equipment was deployed in 1997, and many elements have reached the end of their useful life. On June 30, 2005, the Board authorized planning for the replacement of the existing ITCS with a new Port Authority Toll System (PATS) at all Port Authority tunnels and bridges, at an estimated cost of \$3.2 million. As the planning authorized by the Board in 2005 has been concluded with the completion of Stage II design for PATS, staff recommended that the agency assess an option of All-Electronic Tolling, which would eliminate cash toll collection. The concept includes the use of E-ZPass tags for toll payment to the maximum extent possible, with a video tolling system for charging tolls through license plate image capture for those vehicles that are not equipped with an E-ZPass tag. Electronic toll collection and video image capture technologies have progressed to a point where the implementation of an All-Electronic Tolling System is now possible at Port Authority tunnels and bridges.

All-Electronic Tolling is in use on several toll roads and in city centers throughout the world. It is also an emerging trend on toll roads in the United States. Toll road operators in Texas, Florida and California have implemented or are evaluating the feasibility of implementing such systems on their roadways.

Planning for a new PATS has reached a point where staff could proceed to request authorization of a project providing for replacement of the existing ITCS with PATS; however, staff has proposed to explore an All-Electronic Tolling System before moving forward with system replacement to determine if the agency and the region could realize greater benefits from that option. Staff advised that in the long term, All-Electronic Tolling will be the standard for toll collection in the United States.

The planning work is anticipated to last approximately two years - from the third quarter of 2007 through the third quarter of 2009. Included in the study would be the following elements:

1. A business/financial services assessment to: update business rules, practices and contracts that will govern video tolling elements; review existing patents; assess financial risks for toll revenue collection and recovery; and develop position papers on critical issues.
2. Stage I and II designs for the All-Electronic Tolling System and supporting infrastructure.
3. Definition of business requirements and functional specifications, schedule and project costs.
4. Development of a scope of work for the new system procurement.

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

RESOLVED, that planning to study the replacement of the Port Authority's Integrated Toll Collection System with a new All-Electronic Tolling System at all Port Authority vehicular crossings and provide for preliminary design work, at an estimated cost of \$9 million, be and it hereby is authorized; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take action with respect to contracts for professional and advisory services and such other contracts and agreements as may be necessary to effectuate the foregoing planning, subject to advising the Commissioners of individual contracts or agreements to be acted on pursuant to this authorization prior to taking or authorizing such action; and it is further

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

THE WORLD TRADE CENTER – JPMORGAN CHASE & CO. – LEASE AND DEVELOPMENT AGREEMENTS FOR WORLD TRADE CENTER TOWER 5

It was recommended that the Board authorize: (1) 1 World Trade Center LLC (1 WTC LLC) to enter into sub-net lease (Lease) and development agreements (jointly, Lease Agreements) with JPMorgan Chase & Co., or a permitted affiliate thereof (JPMC), and related agreements with JPMC and/or other parties, all with respect to a volume of space on a site (Tower 5 site) at the World Trade Center site in which JPMC would, at its cost and expense, develop and construct, as agent for 1 WTC LLC, and occupy (itself or through a wholly owned subsidiary) and maintain an office building of up to 1,300,000 gross square feet of space (Tower 5) for the remaining term of the 1 WTC LLC net lease; and (2) the Executive Director, for and on behalf of the Port Authority, to spend up to \$10,000,000, to be reimbursed by JPMC, to design and construct a cutoff wall to the existing foundation level to secure the Tower 5 site. The net lease agreement between the Port Authority and 1 WTC LLC would be amended to the extent necessary to conform to certain provisions of the Lease Agreements. The Tower 5 construction schedule may lead to construction staging impacts to the Vehicular Security Center project at the World Trade Center site.

Tower 5 may include up to seven unobstructed trading floors of up to 60,000 square feet each, up to 30,000 square feet of non-public retail/amenity space, and up to 15,000 square feet of space for a public retail bank branch, and would be used for general and executive office purposes, trading floor operations, customary financial and banking services and uses provided by financial institutions in JPMC's peer group and ancillary uses consistent with Class A building standards. JPMC would be responsible for all development costs of Tower 5, including planning, design and construction, after 1 WTC LLC has met specified turnover conditions relating to the physical condition and ownership of the Tower 5 site and has turned the site over to JPMC, to be accomplished by September 1, 2008, subject to limited extensions (Term Commencement Date) and the granting of monthly rental credits by 1 WTC LLC in the event the limited extension dates are not met.

JPMC would be responsible for all operating, capital and maintenance expenses of the Tower 5 site and of the completed Tower 5, and for completing the core and shell of Tower 5 by the fourth anniversary of the Term Commencement Date, subject to limited extensions, with monthly payments by JPMC to 1 WTC LLC in the event the core and shell of Tower 5 are not completed by September 1, 2014. JPMC would have the right to terminate the Lease Agreements if certain governmental consents and approvals required to enable the development and construction of Tower 5 are not obtained by December 31, 2010. In the event JPMC exercises this termination right, 1 WTC LLC would be required to reimburse JPMC its out-of-pocket costs up to \$1,000,000. JPMC and 1 WTC LLC would agree on a schedule of milestone dates relating to the delivery of the site to, and the design and construction of Tower 5 by, JPMC, with specified monthly payments by JPMC to 1 WTC LLC for failure to complete Tower 5 plans and specifications within 24 months following the Term Commencement Date. 1 WTC LLC would be responsible for any costs incurred by JPMC in connection with the remediation of any existing hazardous materials or conditions discovered on the site subsequent to the turnover, with the costs of any such remediation capped at the greater of available insurance proceeds or \$25 million. If remediation is not practicable or feasible, the Lease Agreements would be terminated, and 1 WTC LLC would reimburse JPMC up to a maximum of \$10 million for legal, design, development and construction costs.

On the third anniversary of the Term Commencement Date, JPMC would deposit \$290,000,000 into an escrow account to secure the payment of such amount to 1 WTC LLC upon the substantial completion of the core and shell of Tower 5 by JPMC, at which point the total amount in the account would be released to 1 WTC LLC. In addition, JPMC would pay \$937,500 per month to 1 WTC LLC in 83 monthly installments commencing upon substantial completion of the core and shell of Tower 5, and \$250,937,500 in the 84th month following substantial completion of the core and shell of Tower 5. JPMC also would contribute an additional \$10 million to the capital costs of the construction of a Greek Orthodox Church building in Liberty Park and the World Trade Center Memorial, to be paid over a seven-year period following the Term Commencement Date, and would be responsible for paying any transfer taxes due with respect to the Lease, with 1 WTC LLC crediting up to \$1,000,000 of any such transfer tax payments against rent due under the Lease. JPMC also would be responsible for reimbursing 1 WTC LLC for all payments in lieu of taxes owed to New York City attributable to the Tower 5 site following the Port Authority's issuance of a Temporary Certificate of Occupancy for Tower 5. Additionally, JPMC would pay as additional rent approximately \$43,000 per month (subject to Consumer Price Index adjustment) for World Trade Center site-wide operating costs, and would also pay its pro-rata share of the Business Improvement District assessment, both commencing 18 months from issuance of a Temporary Certificate of Occupancy. Upon substantial completion of the construction of the core and shell of Tower 5, 1 WTC LLC would reimburse JPMC for \$250,000,000 of the costs of such construction.

JPMC has agreed to pay or reimburse the Port Authority for up to \$10 million for the design and construction of a cutoff wall to the existing foundation level to secure Tower 5, which work may be performed by the Port Authority. Tower 5 would house the Operations Control Center (OCC) for the entire World Trade Center site, which would consist of at least 10,000 square feet of space, and the OCC may also house JPMC's internal security control center for Tower 5, subject to operational considerations. The cost of the construction of the core and shell of the OCC, as well as the cost of bringing electric power, plumbing and other base building utilities and services to the perimeter of the OCC, would be the sole obligation of JPMC, with the cost of the OCC demising walls, internal fit-out and operating expenses allocated between the Port Authority and JPMC on a pro rata basis. JPMC would not charge any rent to the Port Authority for the OCC space.

JPMC would: be entitled to receive New York Power Authority or other preferential electric power rates available to the Port Authority at the World Trade Center site, plus a 3 percent administrative charge; design Tower 5 to attempt to qualify for Leadership in Energy and Environmental Design (LEED) Gold Alternative Path certification; and strive for LEED Platinum certification. JPMC would have naming and signage rights consistent with World Trade Center Commercial Design Guidelines and the standards applicable to single-user Class A office buildings in Lower Manhattan.

Throughout the term of the Lease, JPMC would maintain Tower 5 in a manner consistent with then-applicable Class A building standards and the Port Authority's "Structural Integrity Program," and would have the right to undertake periodic renovations of, and make capital improvements to, Tower 5. At any time after the 40th anniversary of the Term Commencement Date, JPMC would have the right to demolish or undertake a "gut" rehabilitation of Tower 5. JPMC would also have the right to terminate the Lease at any time after the 72nd anniversary of the Term Commencement Date, subject to JPMC and 1 WTC LLC agreeing on a capital

investment program or an extension of the term of the Lease. JPMC would be required to meet specified insurance coverage requirements during Tower 5 construction period and throughout the balance of the Lease term, and would have rebuilding and restoration obligations or termination rights, including, in some circumstances, termination payment obligations, under specified casualty circumstances and depending on the extent of damage, the length of time required for repair, the nature of the casualty and the point during the Lease term the casualty event occurred.

1 WTC LLC would have the right to participate in any net profit realized by JPMC, at different levels of participation depending on the value of profit share realized by 1 WTC LLC, in connection with various sales, assignments, transfers or subleases of JPMC's interest in the Lease to a non-affiliated third party from and after the third anniversary of Temporary Certificate of Occupancy issuance, or in connection with a leasehold mortgage or financing subsequent to the first two such financings. No real estate broker is involved in this transaction.

The Lease and related development and other agreements would secure the development of the last commercial parcel at the World Trade Center site, while enabling JPMC to occupy first class office and trading floor space on the site, which would significantly enhance the continued economic growth of the financial district, Lower Manhattan and the entire metropolitan area.

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

RESOLVED, that 1 World Trade Center LLC be and it hereby is authorized to enter into sub-net lease and development agreements with JPMorgan Chase & Co., or a permitted affiliate thereof (JPMC), and related agreements with JPMC and/or other parties, all with respect to a volume of space on a site (Tower 5 site) at the World Trade Center site in which JPMC is to develop, construct and maintain an office building of up 1,300,000 gross square feet of space (Tower 5), substantially in accordance with the terms outlined to the Board; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to spend up to \$10,000,000, to be reimbursed by JPMC, to design and construct a cutoff wall to the existing foundation level to secure the Tower 5 site; and it is further

RESOLVED, that the form of the foregoing sub-net lease, development and related agreements shall be subject to the approval of General Counsel or his authorized representative.

ALL AIRPORTS – AUTHORIZATION TO ENTER INTO REIMBURSABLE AGREEMENTS WITH THE FEDERAL AVIATION ADMINISTRATION

It was recommended that the Board authorize: (1) the Executive Director to enter into five separate reimbursable agreements with the Federal Aviation Administration (FAA), for a five-year term, to provide for reimbursement by the Port Authority of up to an aggregate amount of \$3 million to the FAA for costs and expenses associated with work performed on the Port Authority's behalf in connection with capital and operating improvement projects at John F. Kennedy International (JFK), LaGuardia (LGA), Newark Liberty International (EWR), Stewart International (SWF) and Teterboro (TEB) Airports; and (2) the Director of Aviation to enter into project-specific amendments, as contemplated by the agreements.

Port Authority airfield improvement projects routinely impact FAA navigational and communication systems and infrastructure. When Port Authority projects create such impacts, the FAA requests reimbursement for the costs that it incurs in order to allow the improvement to be completed. Prior to 2001, these agreements were entered into on a case-by-case basis, which proved to be a very time-consuming process and delayed project implementation.

In June 2001 and August 2004, the Board authorized the Executive Director to enter into three-year reimbursable agreements with the FAA at total amounts of \$3 million and \$2.5 million, respectively, which allowed staff to enter into project-specific amendments, as contemplated by the agreements. The existing process eliminated delays in project implementation that had occurred in the past, and enabled key projects to proceed in a timely manner. Examples of projects advanced under the existing three-year reimbursable agreement include the rehabilitation of EWR Runway 4R-22L and Runway 13L/31R at JFK, the relocation of an approach lighting system at TEB Runway 24, and the installation of the TEB Runway 6 Overrun Engineered Material Arresting System (EMAS). Under the current agreement, the Port Authority agreed to reimburse the FAA for seven Port Authority projects that affected FAA facilities. The total cost for FAA services on these projects approximated \$780,000.

There is a new FAA policy regarding the reimbursement arrangement, which is different from previous requirements, both procedurally and financially. Procedurally, the FAA now requires one agreement per airport in order to better track its personnel. Financially, the FAA requires an upfront payment of \$18,975 per airport, and then will formulate a more precise cost estimate per project as amendments to these agreements are developed. The purpose of the upfront payment is to allow the FAA to begin reviewing drawings and providing services prior to an approved amendment, should there be a delay. Project-specific amendments will be negotiated for each on a case-by-case basis over the five-year period. Under the new FAA policy, each amendment will require a 100 percent upfront payment to the FAA in the amount of the estimated project review/coordination costs. The FAA will be required to document and justify the funds expended by submitting invoices that identify position, title, hourly rate, and hours worked. Six months after project completion, the FAA will be required to return to the Port Authority any unspent funds from the upfront 100 percent estimated project costs payment.

In the next three years, a number of airfield improvement projects that will impact FAA facilities are expected to be implemented. The general scope of the FAA responsibilities will include: providing FAA standard drawings and specifications for the construction of navigational aids; reviewing and approving construction documents prepared by the Port Authority;

monitoring construction in the vicinity of FAA-owned equipment; and performing a flight check of affected FAA equipment. Examples of such projects include:

- JFK - Runway 13R/31L Overlay Project
- EWR – Runway 11/29 Overlay Project
- TEB – Runway 6/24 Overlay Project
- JFK, LGA EWR and TEB – Various Runway Safety Area Improvements

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

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into five separate reimbursable agreements with the Federal Aviation Administration (FAA), for John F. Kennedy International, LaGuardia, Newark Liberty International, Stewart International and Teterboro Airports, for a five-year term, to provide for reimbursement by the Port Authority of up to an aggregate amount of \$3 million to the FAA for costs and expenses associated with work performed on the Port Authority's behalf in connection with capital and operating improvement projects; and it is further

RESOLVED, that the Director of Aviation be and he hereby is authorized, for and on behalf of the Port Authority, to enter into project-specific amendments to the foregoing agreements, as contemplated by the reimbursable agreements; and it is further

RESOLVED, that the form of the reimbursable agreements and the project-specific amendments shall be subject to the approval of General Counsel or his authorized representative.

**PORT AUTHORITY TRANS-HUDSON SECURITY PILOT PROGRAM –
MEMORANDUM OF UNDERSTANDING WITH NEW JERSEY NATIONAL
GUARD**

It was recommended that the Board: (1) ratify an arrangement reached between the Port Authority and the New Jersey National Guard (the NJ National Guard) for provision by the NJ National Guard of security services at the Port Authority Trans-Hudson (PATH) rail system for the period from May 16, 2007 through December 31, 2007, with an option to extend the arrangement for a period not to exceed one year, upon mutual agreement of the parties; and (2) authorize the Executive Director to enter into a Memorandum of Understanding with the NJ National Guard to memorialize the arrangement.

The Port Authority, in recognizing the value of regional cooperation and collaboration to enhance security at its facilities, has determined to work with the States of New Jersey and New York in the development of a pilot program to deploy National Guard troops for patrols in various locations throughout the PATH rail system. The Port Authority had previously arranged with the State of New Jersey for National Guard deployment from September 11, 2001 through May 1, 2002. As part of the new pilot program effort, the Port Authority has arranged with the NJ National Guard for provision by the NJ National Guard of security services at PATH, and the NJ National Guard was redeployed in May 2007 to supplement existing security provided by the Port Authority Police Department.

The Executive Director would enter into a Memorandum of Understanding with the NJ National Guard to memorialize the foregoing understanding.

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

RESOLVED, that an arrangement reached between the Port Authority and the New Jersey National Guard (the NJ National Guard), for provision by the NJ National Guard of security services at Port Authority Trans-Hudson (PATH) rail system facilities for the period from May 16, 2007 through December 31, 2007, with an option to extend the arrangement for a period not to exceed one year, upon mutual agreement of the parties, be and it hereby is ratified; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into a Memorandum of Understanding (MOU) with the NJ National Guard to memorialize the foregoing; and it is further

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

PORT INTERMODAL RAIL DEVELOPMENT PROGRAM – REIMBURSEMENT AGREEMENT WITH CONSOLIDATED RAIL CORPORATION

It was recommended that the Board authorize the Executive Director to enter into an agreement with Consolidated Rail Corporation (Conrail) to provide for the reimbursement to Conrail by the Port Authority of approximately \$7 million for the: (1) design and construction of approximately 7,600 linear feet of yard track in Elizabeth, New Jersey, and (2) refurbishment and signalization of approximately 39,000 linear feet of the adjacent Chemical Coast Line tracks between Port Newark (PN) and the Staten Island Railroad (SIRR) Chemical Coast Connector. These two freight rail improvements will greatly benefit the Port Authority by increasing the capacity and velocity of the line and enabling more fluid, dispatcher-controlled train movements.

Conrail is currently completing the construction of approximately \$50 million in critical regional freight rail capacity enhancements. Together with the Port Authority, Conrail has identified the need for additional freight rail improvements in the vicinity of the New Jersey Marine Terminals that will increase the storage capacity for rail freight destined for PN, directly benefit Port Authority rail operations and improve the velocity and flow of all rail traffic (intermodal and non-intermodal) that utilizes the critical Chemical Coast Line corridor between Newark and Elizabeth, New Jersey. Conrail estimates that it will cost approximately \$20 million to perform this work, and has requested the Port Authority to fund a portion of the costs. Conrail has agreed to fund \$13 million of the improvements. Under this proposed authorization, the Port Authority would fund the remaining \$7 million in improvements to signalize the Chemical Coast Mainline tracks between PN and the SIRR Chemical Coast Connector and to construct 7,600 linear feet of yard track, which will connect to and parallel the Chemical Coast Line. The yard track will provide an area to stage eastbound trains, destined for the Howland Hook Marine Terminal, without blocking the Chemical Coast Line tracks while the train is waiting for bridge operational clearance or other track capacity in the adjacent ExpressRail Corbin Street Intermodal Rail Support Facility. The terms of the proposed agreement would provide for the Port Authority to retain title to the 7,600 linear feet of yard track constructed on Conrail property for a period of time at least equal to its useful life; Conrail, however, would be responsible for all maintenance and operation associated with this infrastructure and would do so at no cost to the Port Authority.

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

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to: (1) enter into agreements with Consolidated Rail Corporation (Conrail) to provide for the reimbursement to Conrail by the Port Authority of approximately \$7 million for the (a) design and construction of approximately 7,600 linear feet of yard track in Elizabeth, New Jersey, and (b) refurbishment and signalization of approximately 39,000 linear feet of the adjacent Chemical Coast Line tracks between Port Newark and the Staten Island Railroad Chemical Coast Connector; and (2) enter into any other agreements necessary to effectuate the foregoing; and it is further

RESOLVED, that the form of all documents and agreements in connection with the foregoing shall be subject to the approval of General Counsel or his authorized representative.

PROPOSED CHANGES IN BY-LAWS AND PROCESSES – PRELIMINARY APPROVAL

At the request of the Chairman, and with the assistance of a number of Commissioners, staff has been reviewing the Port Authority's governance structure and practices. Those efforts led to adoption of a policy on Transparency in Governance, by resolution of the Board on December 14, 2006.

On June 18, 2007, Governor Jon S. Corzine of New Jersey and Governor Eliot Spitzer of New York, in a letter addressed to the Board of Commissioners, called for adoption of a series of measures which would further enhance the governance and ethics practices of the Port Authority. These complementary initiatives provide an opportunity for the Port Authority (and its wholly owned subsidiary corporations) to consider how best to address various governance issues.

The proposed amended and restated By-Laws would build on efforts to advance public participation at open Board and Committee meetings, by incorporating and making permanent the initiatives undertaken at the behest of the Chairman last year. Together, these changes are intended to enhance public access to Board deliberations and provide opportunities for public comment on matters before the Board; they include advance public notice of Board and Committee meetings and the prompt posting of minutes of meetings on the Port Authority's Web site.

The revisions would provide for an enhanced and more clearly articulated role for the Audit Committee in the supervision of the independent auditors. The Committee will continue to have responsibility for retention of an independent external audit firm selected on a competitive basis to perform annual audits. The Committee would also have responsibility for monitoring financial and internal controls and compliance systems. Consistent with best practices, at least one member of the Audit Committee would be required to be a "financial expert."

In addition, the proposed By-Laws would establish a new Governance and Ethics Committee, charged with overseeing the development of governance and ethics principles to carry forward the long-standing policy that the Commissioners and staff of the Port Authority reflect the highest standards of integrity in the public service. The new Committee would review ethical standards in the two States and other jurisdictions; and it would also make recommendations to the Board, adhering to the principle that where one State may have a higher ethical standard than the other, the Board would adopt the higher standard.

Furthermore, the proposed By-Laws are expected to help strengthen the integrity of the procurement process through

- requiring additional procedural guidelines to carry forward the general long-standing Port Authority policy that procurement is based on open competition and fairness, with the highest level of integrity;

- establishing limitations on procurement lobbying; and limiting contacts with lobbyists representing contractors, vendors and service providers regarding the procurement process and active procurements;
- providing for advertisement of procurement opportunities through a broad range of media outlets, to increase vendors' awareness of and participation in Port Authority contracting; and
- providing full disclosure of procurement results on the Port Authority's Web site.

The proposed By-Laws are to be posted, together with the Governors' letter of June 18, 2007, on the Port Authority's Web site for public review and comment; materials would also be made available to the public upon request. The Executive Director will also post other related procedures.

It is recommended that proposed By-Laws incorporating many of these initiatives be preliminarily approved, pending public review and comment. These proposed By-Laws would be included for final consideration and approval on the agenda for the Board's next meeting, now scheduled for July 26, 2007; the presentation of the By-Laws to the Board shall take into consideration comments received from the public.

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

RESOLVED, that the proposed amended and restated By-Laws of the Port Authority presently before the Board of Commissioners (a copy of which is annexed to these Minutes) be and they hereby are preliminarily approved, subject to formal adoption by the Board after public review and comment; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized and directed, for and on behalf of the Port Authority, to arrange for posting of the proposed By-Laws and the Governors' letter of June 18, 2007 on the Port Authority's Web site for public review and comment (and to make such materials available to the public upon request), as described above in the report to the Board; and it is further

RESOLVED, that the proposal to amend and restate the By-Laws of the Port Authority (and its wholly owned subsidiary corporations) shall be considered at the meeting scheduled for July 26, 2007.

BY-LAWS OF
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

I. SEAL

The official seal of The Port Authority of New York and New Jersey (hereinafter referred to as the “Port Authority”) shall be a design bearing a combination of the seals of the State of New York and of the State of New Jersey, and bearing the words “THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY — ESTABLISHED BY COMPACT BETWEEN NEW YORK AND NEW JERSEY — APRIL THIRTIETH — 1921”.

II. OFFICERS

The officers of the Port Authority shall be a Chairman, a Vice-Chairman, an Executive Director, a First Deputy Executive Director, a Deputy Executive Director for Operations, a Deputy Executive Director for Capital Programs, a General Counsel, a Chief Financial Officer, a Treasurer, a Comptroller, and a Secretary.

III. DUTIES

A. Board of Commissioners — The Board of Commissioners shall establish the policies of the Port Authority and shall be responsible for reviewing and monitoring whether Port Authority procedures and regulations and executive staff’s financial, management, and operational decisions and controls are in compliance with such overall policies. The Board of Commissioners shall also be responsible for adopting the Strategic Plan, Capital Plan, and Budget of the Port Authority.

B. Chairman — The Chairman shall preside at all meetings of the Board of Commissioners; communicate to the Executive Director and, where appropriate, executive staff, the policies of the Port Authority established by the Board of Commissioners; and be responsible for advancing the mission and promoting the objectives of the Port Authority to members of the general public.

C. Vice-Chairman — The Vice-Chairman shall perform the duties of the Chairman in the event the office of Chairman is vacant, or in the event that the Chairman is unable to perform such duties by reason of illness, disability, or absence.

D. Executive Director — The Executive Director shall manage the operations of the Port Authority in a manner consistent with the agency’s policies as established by the Board of Commissioners. The Executive Director shall prepare proposals for

presentation to the Board of Commissioners and implement such proposals after presentation to and approval by the Board of Commissioners. In furtherance of these duties, the Executive Director shall hold executive staff responsible and accountable for making financial, management, and operational decisions in a manner consistent with the policies established by the Board of Commissioners, and shall consult with the Board of Commissioners, as necessary, to enable the Commissioners to perform their oversight duties described above. The Executive Director shall sign all deeds of conveyance when authorized by resolution of the Board of Commissioners.

E. Secretary — The Secretary shall prepare the minutes of the meetings of the Board of Commissioners; keep the official records and the seal of the Port Authority; certify, when required to, copies of records; be responsible for administering the Freedom of Information Policy providing for access by the public to records of the Port Authority; and perform such other duties as may be assigned by the Chairman.

F. General Counsel — General Counsel shall be legal counsel to the Port Authority and shall also furnish such legal opinions, advice, counsel, and representation as shall, from time to time, be required by the Board of Commissioners. In the performance of these duties, General Counsel is authorized to use Port Authority staff and, with the approval of the Executive Director, to retain outside counsel in accordance with policies established by the Board of Commissioners and guidelines adopted by General Counsel from time to time.

G. Chief Financial Officer — The Chief Financial Officer shall, under the supervision of the Executive Director, act as chief financial officer of the Port Authority and supervise the activities of the Treasurer and the Comptroller.

H. Comptroller — The Comptroller shall, under the supervision of the Chief Financial Officer, be in charge of the books of account of the Port Authority and be responsible for all payments to and expenditures by the Port Authority.

I. Treasurer — The Treasurer shall, under the supervision of the Chief Financial Officer, have custody of all funds and be responsible for investments of the Port Authority.

J. Inspector General — The Inspector General, under the general direction of the Chairman and the Executive Director, shall be charged with the responsibility of receiving and investigating, where appropriate, all complaints regarding wrongdoing, fraud, waste, and abuse by Commissioners, officers, and employees of the Port Authority, or third party individuals or organizations doing business with the Port Authority; and consulting with the Board of Commissioners, the Audit Committee, the Executive Director, and General Counsel, as appropriate. The Inspector General shall provide reports to the Audit Committee in accordance with Article VIII.F (5) of these By-Laws.

K. Director of the Audit Department — The Director of the Audit Department shall, under the general direction of the Inspector General, be responsible for

the internal auditing functions in the Port Authority and for external auditing of financial and operating records of firms doing business with the Port Authority.

IV. TERM OF OFFICE

All officers of the Port Authority shall hold office until the next annual meeting of the Port Authority, or until their successors are elected or appointed, whichever may be the later.

V. MEETINGS; OPEN MEETINGS POLICY; FREEDOM OF INFORMATION POLICY

A. An annual meeting of the Board of Commissioners shall be held each year for the purpose of election of officers. Special meetings of the Board of Commissioners may be called by the Chairman of the Port Authority and shall be called by the Chairman of the Port Authority on request of any two Commissioners, one from each State. The time and place for all annual, regular, and special meetings shall be determined by the Chairman of the Port Authority.

B. The Secretary shall give notice to the Commissioners of annual, regular, and special meetings, specifying the time and place of the meeting, by mail, facsimile, telephone, or in person, at least two days before the meeting. The notice of a special meeting shall specify the subject(s) to be considered thereat. Any Commissioner may waive the requirement for such notice.

C. The provisions of these By-Laws may be suspended by unanimous consent of a quorum of the Board of Commissioners.

D. Quorum – Six Commissioners, three from each State, shall constitute a quorum for all meetings of the Board of Commissioners.

E. Votes – After due debate, the vote shall be recorded upon all resolutions or amendments thereto presented at any meeting of the Board of Commissioners. If three votes from each State shall not be cast therefor (or in case six Commissioners from either State are present, if four votes from such State shall not be cast therefor), the resolution or amendment shall be deemed lost. But a motion to adjourn, to lay on the table, to postpone consideration, or to refer a matter may be carried by a vote of a simple majority of Commissioners present.

F. Order of Business – The order of business at annual, regular, and special meetings of the Board of Commissioners shall be determined by the Chairman of the Port Authority; provided, however, that upon request of any two Commissioners, one from each State, received no less than two days prior to the meeting, a matter shall be placed on the calendar for any meeting as special business.

G. Open Meetings Policy

The Port Authority has an obligation to conduct its business and activities in the public interest and to solicit public participation and make its affairs known to members of the general public. In accordance with this obligation, the Port Authority shall follow an Open Meetings Policy, which shall require that: meetings of the Board of Commissioners and its Committees shall be open to the public consistent with the open meetings laws of the two States; sufficient advance notice shall be provided to members of the general public and representatives of the press of all meetings to be held in open public or closed executive session and, if in closed executive session, the reason(s) therefor; where meetings are held in open public session, anticipated agendas for such meetings shall be provided to members of the general public and representatives of the press sufficiently in advance of such meetings; representatives of all groups and constituencies who may wish to attend meetings held in open public session shall be accommodated; where meetings are held in open public session, members of the public shall have the opportunity to comment to the Board of Commissioners prior to action on those items; materials reflecting actions taken in open public and closed executive session, including minutes of meetings of the Board of Commissioners, shall be released to members of the general public. Meetings of the Board of Commissioners and its Committees (other than meetings held in closed, executive session) are to be publicly broadcast, to the extent technologically feasible.

The term “meeting” as used herein shall refer to any gathering, whether corporeal or by means of communications equipment, which is attended by, or open to, members of the Board of Commissioners, held with the intent, on the part of the Commissioners present, to discuss or act as a unit upon the specific public business of the Port Authority; provided, that the term “meeting” does not mean a gathering (1) attended by less than a quorum, or (2) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering. The term “public business” shall refer to matters that relate in any way, directly or indirectly, to the performance of the functions of the Port Authority or the conduct of its business.

H. Open Meetings Policy – Limited Exceptions

1. In certain limited circumstances, public consideration by the Board of Commissioners (or a Committee thereof) of matters relating to the business and affairs of the Port Authority would clearly endanger the public interest or constitute an unwarranted invasion of the personal privacy of individuals (including Port Authority employees). Accordingly, in such limited circumstances, the Board of Commissioners or Committee may determine to take action on or discuss only such subjects in closed, executive session. Consistent with the open meetings laws of the two States, the following matters may be considered in closed, executive session: (i) public safety or law enforcement; (ii) proposed, pending, or current litigation, judicial or administrative proceedings, and external or internal investigations or audits; (iii) ongoing bargaining or negotiations, reviews of contracts or proposals related to the purchase, sale, or lease of real property or

securities where disclosure could affect the public interest; (iv) the necessary consideration of facts that, if made public, would constitute an unwarranted invasion of an individual's personal privacy; (v) the necessary consideration of facts that are deemed confidential, privileged, or private pursuant to federal or state law, regulations, rules, or decisions of court; or (vi) information that, if made public, could impair the Port Authority's right to receive funds from the United States or other grantor.

2. From time to time, the Chairman of the Port Authority may, in the best interests of the Port Authority, permit discussion in public, open session of and action on any matter otherwise exempted under the Open Meetings Policy.

3. In exigent circumstances when required for action, the Chairman of the Port Authority may request that one or more absent Commissioners participate and attend any meeting of the Port Authority through the use of communications equipment.

I. Freedom of Information Policy

The Port Authority conducts its business and activities in the public interest and therefore the public should have access to records of the Port Authority. The Port Authority shall follow a Freedom of Information Policy consistent with the freedom of information laws of the two States.

The Port Authority shall, to the extent technologically feasible, provide access to the minutes of meetings of the Board of Commissioners and the Committees and to reports provided for in accordance with these By-Laws, by posting such documents on its Internet site.

VI. PUBLIC HEARINGS

Public hearings shall be held on matters requiring public consideration or public comment and information (such as toll or fare increases) and may be held upon the request of (i) the Chairman of the Port Authority or (ii) any two Commissioners, one from each State. As provided in Article X (1) of these By-Laws, the Executive Director shall have the power to arrange for the conduct of such hearings.

VII. NOMINATING COMMITTEE

The Nominating Committee shall consist of all of the Commissioners of the Port Authority except the Chairman of the Port Authority and the Vice-Chairman of the Port Authority.

The Nominating Committee shall meet at least once during the thirty days immediately preceding the annual meeting of the Port Authority to consider a slate of officers for nomination and shall present such slate to the Board of Commissioners. If

the office of Chairman of the Port Authority or Vice-Chairman of the Port Authority shall become vacant for any reason other than expiration of term, the Nominating Committee shall meet as soon as practical thereafter. The Nominating Committee may also meet to consider vacancies in any other office or offices.

Meetings of the Nominating Committee shall be held pursuant to notice given by the Secretary at the request of any member of the Committee.

At each meeting of the Nominating Committee, the members thereof shall elect a Chairman of the Committee whose duties shall be to preside at such meeting, and to submit or cause to be submitted to the Board of Commissioners any reports or recommendations adopted at such meeting.

VIII. COMMITTEES OF THE BOARD

A Chairman, a Vice-Chairman, and members of all Board Committees shall be appointed by the Chairman of the Port Authority, who shall be an *ex officio* member of each Committee of which the Chairman of the Port Authority is not a regular member, except the Audit Committee. If one or more regular members are absent from any Committee meeting, the Chairman of the Port Authority shall be counted towards a quorum and entitled to vote on Committee business. The Chairman of the Port Authority shall also be entitled to vote to decide a tie vote.

The Vice-Chairman of the Port Authority shall likewise be an *ex officio* member of each Committee of which the Vice-Chairman of the Port Authority is not a regular member, except the Audit Committee. The Vice-Chairman of the Port Authority shall be counted towards a quorum and entitled to vote on Committee business under the same circumstances as the Chairman of the Port Authority, but only in the absence of the Chairman of the Port Authority.

A quorum for the conduct of business at any meeting of any Committee shall consist of a number equal to the majority of the regular members, provided that at least one Commissioner from each State shall be present. If there is no quorum at any regular, special, or adjourned meeting of any Committee, then the Commissioner presiding at such Committee meeting may, in order to achieve a quorum, designate any Commissioner present who is not already a member of such Committee as a substitute member *pro tem* to act at such meeting in the place and stead of an absent Committee member. Any substitute Committee member *pro tem* shall be treated as a regular member for purposes of (i) determining whether a quorum is present; (ii) voting; and (iii) determining whether an *ex officio* member may vote. Action shall be taken by a majority vote of the Committee members present; provided that no action of a Committee shall be binding unless at least one Commissioner from each State shall vote in favor thereof.

In order to assure the right of approval or veto by the Governor of each State, any action by a Committee taken pursuant to the powers granted in this Article VIII shall be

considered part of the minutes of the Board of Commissioners.

Whenever a Committee purports to act pursuant to power vested under these By-Laws then all third persons are entitled to rely on the Committee's representation that it has power to act.

There shall be the following standing Board Committees, which shall meet as needed in connection with the conduct of Port Authority business. Each Committee shall consist of five regular members (including a Chairman and Vice-Chairman), in addition to *ex officio* members, except the Audit Committee, which shall have no *ex officio* members and shall consist of four regular members (including a Chairman and Vice-Chairman), two from each State, and at least one of whom shall be a "financial expert" as defined in Article VIII.F of these By-Laws). When two or more Committees have powers relating to the same subject matter, none shall be deemed to have exclusive authority, but such Committees shall confer and cooperate in regard thereto.

A. Committee on Capital Programs/Agency Planning

The Committee on Capital Programs/Agency Planning shall:

(1) have oversight of the Port Authority's Capital Plan and Strategic Plan;

(2) review the long-term planning for the development of new facilities, the initiation of new business and activities, and studies conducted in furtherance of such purposes;

(3) keep informed regarding the duties of the Port Authority, whether imposed by statutes or otherwise, and from time to time recommend to the Board of Commissioners such programs and policies as in its opinion may be desirable as will enable the Port Authority to perform its duties most effectively and in due relation to their order of importance;

(4) keep informed of the needs of the Port District with regard to marine, air, railroad, and motor vehicle terminals and other transportation and terminal facilities and facilities of commerce and economic development, and matters relating thereto, and, from time to time, make recommendations in reference thereto; and

(5) have general supervision over transportation, terminal and commerce and economic development studies and do all things necessary and convenient to advance such studies.

B. Committee on Finance

The Committee on Finance shall:

(1) have oversight of the financial affairs of the Port Authority, and, from time to time, make such recommendations to the Board of Commissioners in reference to the establishment of policies with respect thereto as in its opinion may be desirable;

(2) approve the selection of depositories for Port Authority funds and authorize and approve investments and reinvestments thereof; and

(3) approve insurance policies and surety bonds, and adopt or approve policies or practices followed in connection with insurance and surety bonds.

C. Committee on Construction

The Committee on Construction shall have oversight of:

(1) all construction by the Port Authority, including without limitation rehabilitation, repairs, demolition, and excavation, and shall, from time to time, make such recommendations to the Board of Commissioners in reference to the establishment of policies with respect thereto as in its opinion may be desirable;

(2) agreements and contracts for the acquisition, purchase, lease, and/or use by the Port Authority of real property and for the exercise of any rights and the performance of any obligations vested in or assumed by the Port Authority under such agreements or contracts; and

(3) agreements and contracts for the purchase or acquisition of materials for use by the Port Authority in connection with construction and for the exercise of any rights and the performance of any obligations vested in or assumed by the Port Authority under such agreements and contracts.

D. Committee on Operations

The Committee on Operations shall have oversight of:

(1) the operation and maintenance of all facilities and properties owned and/or operated by the Port Authority, and shall, from time to time, make such recommendations to the Board of Commissioners in reference to the establishment of policies with respect thereto as in its opinion may be desirable;

(2) agreements and contracts for the acquisition or purchase by the Port Authority of equipment, tools, materials, supplies, or other personal property for use in connection with the operation of any Port Authority facility or property, and for the exercise of any rights and the performance of any obligations vested in or assumed by the Port Authority under such agreements or contracts;

(3) the sale, consistent with legislation, of real or personal property owned

and/or operated by the Port Authority; and

(4) personnel matters, and shall approve all agreements with organizations representing Port Authority employee groups relating to wages, working conditions, and benefits.

E. Security Committee

The Security Committee shall:

(1) keep informed of the security needs of the facilities and properties owned and/or operated by the Port Authority; and

(2) keep informed of the needs of the Port District generally with regard to security matters, and, from time to time, make recommendations in reference thereto.

F. Audit Committee

The Audit Committee shall:

(1) have oversight of the quality and integrity of the Port Authority's framework of internal controls, compliance systems, and accounting, auditing, and financial reporting processes; select pursuant to a competitive process, determine the compensation for, and have oversight of the activities of all independent accountants retained for auditing purposes, who shall report directly to the Committee; arrange for the audit of the books and accounts of the Port Authority by the independent accountants no less than annually (which audit shall require a written certification by the Executive Director and Chief Financial Officer that the financial information provided to the auditor is accurate and fairly represents the financial condition and operational results of the Port Authority); and keep informed regarding the management of the Port Authority;

(2) establish formal guidelines in the form of a charter that it shall follow in connection with the satisfaction of its responsibilities, and review and reassess such charter from time to time;

(3) recommend, establish, maintain, and reassess procedures for processing complaints regarding accounting, internal controls, or auditing matters, as well as the confidential, anonymous submission of concerns about questionable accounting or auditing practices;

(4) review the annual financial statements of the Port Authority (including appropriate certifications by the Executive Director and the Chief Financial Officer) and recommend to the Board of Commissioners the inclusion of such financial statements in the Port Authority's annual report and other publications, as

appropriate; and

(5) receive from the Inspector General reports regarding concerns and complaints received by the Office of Inspector General involving wrongdoing, fraud, waste, and abuse by Commissioners, officers, and employees of the Port Authority, or third party individuals or organizations doing business with the Port Authority, including the progress of any investigation thereof, as well as referrals made or other matters pursued in connection therewith, and it shall be the duty of the Inspector General to report such information to the Audit Committee.

The (i) appointment of any person to the position of Director of the Audit Department or Inspector General shall not be made or terminated; (ii) salary or benefits of the Director of the Audit Department and the Inspector General shall not be increased or reduced; and (iii) responsibilities of the Director of the Audit Department and the Inspector General shall not be changed in any way, without the approval of the Chairman of the Audit Committee (or of the Board of Commissioners); provided, that any increase or reduction in salary or benefits that may be made with respect to Port Authority department heads generally and would be effective as to the Director of the Audit Department and the Inspector General in the absence of the foregoing requirement of approval shall not require such approval in order to be effective as to the Director of the Audit Department and the Inspector General.

The members of the Audit Committee which, for independence purposes, shall not include the Chairman or Vice-Chairman, shall include at least one “financial expert,” defined for the purposes of these By-Laws as a person having, through education and experience, an understanding of (i) generally accepted accounting principles and financial statements; (ii) the preparation or auditing of financial statements of entities comparable to the Port Authority; (iii) the application of such principles in connection with the accounting for estimates, accruals, and reserves; (iv) internal accounting controls; and (v) audit committee functions.

The Audit Committee shall assist the Board of Commissioners in fulfilling its oversight responsibility relating to the Port Authority’s compliance with legal or regulatory requirements relating to accounting, auditing, financial reporting, and/or internal controls, all subject to and consistent with the principle that compliance matters which are not primarily related to accounting, auditing, financial reporting, and/or internal controls shall be submitted to the Governance and Ethics Committee.

The Audit Committee shall report from time to time to the Board of Commissioners on the results of its oversight, auditing, and other activities, including any recommendations which in its opinion may be desirable regarding policies and procedures to govern the accounting, auditing, financial reporting, and internal controls of the Port Authority.

G. Governance and Ethics Committee

The Governance and Ethics Committee shall:

(1) have oversight of questions relating to the development of, and compliance with, governance and ethics principles of the Port Authority, and shall, from time to time, make such recommendations in reference thereto as in its opinion may be desirable;

(2) define and make recommendations to the Board of Commissioners with respect to the establishment of policies and practices that will (i) assist in identifying qualifications for prospective appointments to the Board of Commissioners; (ii) evaluate the ongoing performance of the Board of Commissioners and its members; (iii) lead the Board of Commissioners in an annual review and evaluation of the Board of Commissioners' performance, and the effectiveness of Committees; (iv) ensure that the Board of Commissioners is familiar with and committed to the ethics principles and programs that have been adopted by the Port Authority; (v) assist the Board of Commissioners in fulfilling its oversight responsibility relating to the Port Authority's compliance with legal and regulatory requirements; (vi) ensure that the Inspector General shall continue to be independent and free from interference in the conduct of his or her responsibilities; and (vii) require executive staff to annually review Port Authority operations with the specific goal of identifying waste and inefficiencies, and to take appropriate remedial steps that shall be publicly reported.

(3) recommend to the Chairman of the Port Authority changes in the size, composition, and organization of the Committees; policies and practices relating to Board operations; Commissioner policies and practices; and associated matters of corporate governance;

(4) lead the Board of Commissioners in an annual review and evaluation of the Executive Director's performance;

(5) recommend, develop, and maintain a Code of Ethics for the Board of Commissioners and review and approve such a Code for the staff, which Codes shall include (a) requirements for disclosures of outside business dealings of Commissioners and their employers, executive staff, or the immediate family members of Commissioners and executive staff; (b) restrictions on participation by Commissioners, officers, or employees in any contracting decision relating to a family member or firms in which a family member may have an interest; and (c) rules precluding contributions to the political campaigns of Port Authority Commissioners or officers;

(6) on an annual basis, reassess the adequacy of the Code of Ethics for staff and the Code of Ethics for the Board of Commissioners, and oversee compliance with such ethics policies;

(7) review the independence and objectivity of the members of the Board

of Commissioners and its Committees on a periodic basis (but in no event less than once per year), as well as any relationships such members may have with the Port Authority and/or its wholly owned corporate entities or subsidiaries or otherwise that may reasonably create the appearance of non-independence and/or non-objectivity; and

(8) review corporate trends and best practices generally with respect to governance procedures and ethics policies and requirements. In carrying out this responsibility, the Committee shall, on an annual basis, review ethical standards in the two States (and any other jurisdictions whose standards may be useful in determining best practices at the Port Authority) and make recommendations to the Board of Commissioners concerning appropriate practices, including adoption of the higher ethical standard when the two states apply different standards to the same conduct or situation.

The Governance and Ethics Committee's duties as described herein shall be subject to and consistent with the following:

- (a) compliance matters which are primarily related to accounting, auditing, financial reporting, and/or internal controls shall be subject to the jurisdiction and oversight of the Audit Committee; and
- (b) compliance matters which are not primarily related to accounting, auditing, financial reporting and/or internal controls shall be submitted to the Governance and Ethics Committee, which shall determine the proper handling thereof (including the involvement of other Board Committees, outside advisers and others) with such oversight by the Board of Commissioners as it determines is appropriate.

IX. RULES AND REGULATIONS

The Executive Director shall establish rules and regulations as required for the conduct of the Port Authority's business, consistent with policies established by the Board of Commissioners.

It is the policy of the Port Authority that the process for adoption of such rules and regulations shall be an open process with the opportunity for the general public to comment on such rules and regulations prior to adoption.

The Executive Director shall cause such rules and regulations to be filed with the Board of Commissioners at least 30 days prior to the effective date of such rules and regulations, and absent an objection by the Board of Commissioners such rules and regulations shall become effective upon the expiration of such 30-day period.

X. EXECUTIVE DIRECTOR POWERS AND RESPONSIBILITIES

The Executive Director shall have the following powers, unless otherwise provided by any resolution of the Board of Commissioners or a Committee thereof, subject to the limitations, if any, of the Budget adopted by the Board of Commissioners. These powers shall be in addition to any other powers conferred by any other provisions of these By-Laws, or by any resolution heretofore or hereafter adopted by the Board of Commissioners or a Committee thereof.

(a) The Executive Director is authorized to:

(i) fix and establish, and change from time to time, titles and pay ranges for the staff;

(ii) determine and prescribe the duties of new and existing staff positions and the qualifications for appointments made thereto;

(iii) make temporary and permanent appointments to the staff, except that appointments to senior management positions shall require consultation with the Chairman of the Committee on Operations;

(iv) make promotions and demotions within the staff;

(v) terminate appointments to the staff, except that terminations of senior management positions shall require consultation with the Chairman of the Committee on Operations; and

(vi) grant or authorize the granting of vacation, sick leave, other leaves of absence, establish or modify other employee benefits, and take other action affecting personnel.

(b) The Executive Director is authorized:

(i) to authorize or arrange for the printing and engraving of bonds, notes or other securities or obligations, the issuance whereof has been authorized by the Board of Commissioners;

(ii) to authorize and arrange for the payment of the interest upon and principal of such bonds, notes, or other securities or obligations, in accordance with the resolutions authorizing their issuance, out of any revenues directly pledged therefor, out of any sinking funds or special reserve funds especially established in connection therewith and, in case there are no other moneys available for the payment of such interest and principal, out of the General Reserve Fund if such fund has been pledged as security for such payments;

(iii) to authorize or arrange for the making of payments into such reserve

funds during the year for which such payments are to be made out of revenues directly pledged for such purposes, and to authorize or arrange for the making of payments into such sinking funds during the year for which such payments are to be made out of revenues directly pledged for such purposes, out of any special reserve funds especially established in connection with the particular issue of such bonds, notes, securities or other obligations for which such payments are to be made, out of any other special reserve funds available for such purposes, out of any other Port Authority funds available for such purposes, and, in case of all the preceding available sources are insufficient to make such payment, then out of the General Reserve Fund; and

(iv) whenever the resolutions of the Board of Commissioners establishing the issue of bonds and the various resolutions of the Board of Commissioners establishing the separate series of such bonds require the redemption of bonds for retirement for sinking fund purposes, to (a) arrange for or authorize the call of such bonds for redemption, within the limitations of said bond resolutions to select or arrange for the selection of the particular bonds to be redeemed, (b) publish or arrange for the publication of notice of redemption, (c) pay or arrange for the payment of such bonds upon the date set for their redemption, and (d) generally do all things necessary or incidental to the redemption and retirement of such bonds.

(c) The Executive Director is authorized to authorize, approve, or award agreements, contracts, or purchase orders for

(i) professional, technical, or advisory services, including but not limited to the services of consultants, engineers, architects, designers, artists, technicians, inspectors, appraisers, and experts of any kind;

(ii) maintenance, repair, rehabilitation, or other operating expenses;

(iii) capital improvements and additions (including major repairs or rehabilitation);

(iv) construction;

(v) materials, equipment or supplies (including the leasing of equipment);

(vi) utility or other services;

(vii) insurance or brokerage services; and

(viii) settlement of claims (not covered under paragraphs (e) or (o) of this Article X)

upon such terms as the Executive Director may deem proper and to enter into or execute the same on behalf of the Port Authority where the amount of any such agreement, contract, or purchase order (inclusive of any renewal or extension) is not in excess of \$2,500,000; provided, however, that the Executive Director may not take such action where the amount of any such agreement, contract, or purchase order (inclusive of any renewal or extension) under subparagraphs (c)(i) through (c)(vii), above, is in excess of

- (a) \$1,500,000 but not in excess of \$2,500,000, unless the agreement, contract, or purchase order is awarded to the lowest qualified bidder after public advertisement, or through cooperative governmental purchasing arrangements; or
- (b) \$500,000 but not in excess of \$1,500,000, unless the agreement, contract, or purchase order is awarded to the lowest qualified bidder, or the proposer best qualified by reason of cost, responsibility, and capacity to perform the work and whose bid price or proposal is deemed reasonable, after the receipt of competitive bids or proposals; and,

provided, further, in connection with authorizations under subparagraph (c)(viii), above, the Executive Director may settle such claims if the total settlement is not in excess of \$500,000. In addition, the Executive Director may take such actions under this paragraph (c) with respect to an extension, amendment, or modification of any existing agreement, contract, or purchase order either

- (a) on terms and conditions at least as favorable to the Port Authority and under which the Port Authority will incur no additional expenditures or obligations; or
- (b) where the amount of the extension, amendment, or modification is not in excess of 25 percent of the base amount of the original agreement, contract, or purchase order, provided however that such excess amount is not greater than \$2,500,000.

(d) In the exercise of authority under this paragraph (d), the Executive Director may take the following actions only upon providing prior notice to the Board of Commissioners. The Executive Director, pursuant to authority granted to the Executive Director in conjunction with the adoption of the Budget or other resolutions of the Board of Commissioners, may, as the Executive Director deems in the best interest of the Port Authority, in connection with agreements, contracts or purchase orders:

- (i) (a) award to the bidder or proposer who, in the opinion of the Executive Director, is best qualified by reason of cost, responsibility, experience, and capacity to perform the work and whose bid price or proposal the Executive Director deems reasonable, (b) reject all bids or proposals, (c) solicit new bids or proposals on revised or the same requirements, (d) negotiate with one or more

bidders, proposers, or other contractors; or (e) exercise any rights and the performance of any obligations vested in or assumed by the Port Authority under such agreement, contract, or purchase order;

(ii) execute agreements, contracts, or purchase orders and supplemental agreements, contracts or purchase orders with such bidders, proposers, or contractors;

(iii) order extra work and net cost work; and

(iv) authorize payments to contractors or vendors.

(e) The Executive Director may, in connection with any agreement, contract, or purchase order,

(i) require a bond securing the performance thereof and/or the payment of subcontractors, materialmen, workers, and other third persons;

(ii) settle claims arising under or in connection such agreements (including leases, permits, and licenses, for the use or occupancy of property), contracts, or purchase orders; provided, that the Executive Director may settle such claims if the total settlement is not in excess of \$500,000; and

(iii) authorize the payment to contractors and vendors of all or any portion of their compensation even though not yet payable under the terms of the agreement, contract, or purchase order, in each case whenever the Executive Director deems it advisable under the circumstances.

(f) The Executive Director may acquire temporary interests in real property necessary in connection with construction or operation of Port Authority facilities, provided that the term of any such interest shall not be in excess of five years.

(g) Consistent with the policies established by the Board of Commissioners, the Executive Director shall, from time to time, adopt appropriate procedural guidelines, consistent with those applied to state authorities in the two States, to ensure that procurement, based on competitive contract-award processes, of agreements and contracts for the purchase of goods and contract services, professional, technical and advisory services, real estate and construction is based on open competition and fairness, with the highest level of integrity, and to discourage attempts by others to influence the Port Authority to achieve preferential, unequal or favored consideration of proposals for procurement based on considerations other than on the merits of such proposals. Such procedural guidelines shall include: restrictions on contacts between Commissioners and staff regarding the procurement process and particular active procurement matters; restrictions on contacts between lobbyists representing contractors, vendors or service providers, and Commissioners and staff, regarding the procurement process and particular active procurement matters; rules controlling flow of procurement inquiries and

bids to responsible staff and pursuant to pre-set procedures; advertisement of procurement opportunities by the Port Authority through a broad range of media outlets, to increase vendors' awareness of and participation in the procurement process; and equal opportunity for minority-owned, women-owned and small business enterprises.

(h) Consistent with the policies established by the Board of Commissioners, the Executive Director shall have authority to adopt, rescind, amend, and modify rules and regulations

(i) for and in connection with facilities and properties owned, leased, or operated by the Port Authority and for the conduct of the users thereof and all other persons in or about such facilities or properties, including the officers, employees, or representatives of the Port Authority and of the users of its facilities and properties and people doing business with it or them; and

(ii) for the operation, management, and conduct of the business of the Port Authority and the staff.

(i) The Executive Director shall have authority to enter into any agreement including, but not limited to, leases, permits and licenses, for the use or occupancy of any property owned or operated by the Port Authority and for the use or occupancy of property by the Port Authority or for the exercise of privileges thereat; provided, that such agreement

(i) is for a total term, including any renewals and extensions, of not more than ten years, and the average annual rental (net present value) is not more than \$1,000,000;

(ii) is unconditionally revocable without cause by the Port Authority upon 30 days' notice or less and there is no fixed obligation on the Port Authority in excess of \$1,000,000; or

(iii) substitutes another for the contracting party to an existing agreement.

Any such agreement may contain such indemnity and other provisions as the Executive Director may deem appropriate.

(j) The Executive Director may authorize or arrange for contracts for the sale of personal property owned by the Port Authority upon such terms and conditions as the Executive Director may deem proper and execute the same on behalf of the Port Authority where the value of such personal property is not in excess of \$1,000,000; provided, however, that personal property valued at more than \$250,000 shall not be sold by authority of the Executive Director other than to the highest bidder after public advertisement.

(k) The Executive Director may authorize intervention and participation on behalf

of the Port Authority in proceedings before any administrative tribunal of the United States or of the States of New York and New Jersey or their subdivisions affecting the trade, commerce, and economic development of the Port District or the terminal or transportation facilities or facilities of commerce and economic development therein; provided, however, that no statement as to the position of the Port Authority on the issues in the proceedings shall be submitted until the position has been authorized by the Board of Commissioners or the Committee on Capital Programs/Port Planning.

(l) Pursuant to direction by the Board of Commissioners, the Executive Director shall have authority to arrange for public hearings, as provided for in Article VI of these By-Laws, in connection with the budgeting, planning, and programming of the Port Authority, including proposals for instituting or changing tolls and fares imposed for use of the Port Authority's vehicular tunnels and bridges and passenger rail facilities, and in connection therewith

(i) to determine the times and locations in each of the two States for the conduct of such hearings;

(ii) to provide for appropriate notice to be given in advance of such hearings;

(iii) to designate hearing officers in connection therewith; and

(iv) to take such other action as will effectuate the Port Authority's policy, as established by the Board of Commissioners, for the conduct of public hearings.

(m) With respect to the operation, planning, and development of Port Authority facilities and to other projects, programs, and studies which have been authorized by the Port Authority, the Executive Director may apply for and accept on behalf of the Port Authority grants from federal, state, or other governmental entities. Expenditures in connection with such grants or projects and activities funded in whole or in part by such grants are, however, subject to consideration and authorization in accordance with the provisions of these By-Laws.

(n) The Executive Director may, in the best interests of the Port Authority, enter into or authorize execution of agreements with federal, state, or other governmental entities for the performance of services by Port Authority employees or the participation by such employees in programs or other activities sponsored in whole or in part by such entities.

(o) The Executive Director shall have authority to settle all claims of and all claims against the Port Authority (not covered under paragraphs (c) and (e) of this Article X) when the total payment or the amount of damages incurred by the Port Authority is not in excess of \$1,000,000. Claims of and against the Port Authority shall include claims against individuals for which the Port Authority would be responsible under Article XI of these By-Laws; provided, however, that in the case of claims against

individuals for which the Port Authority would be responsible under the said Article XI, which are covered by insurance purchased by or on behalf of such individuals, the Port Authority shall pay such claims only to the extent that they are in excess of the amount for which the insurance carriers are responsible.

(p) With respect to Port Authority property or to the operation, planning and development of Port Authority facilities the Executive Director may enter into such indemnity agreements as the Executive Director may deem appropriate.

(q) The Executive Director shall publish on a regular basis comprehensive reports on

(i) transactions of the Port Authority relating to the business and activities of the Port Authority, which reports shall identify vendors retained to perform services through the procurement process and the terms of their engagements; and

(ii) expenditures and operations of the Port Authority, identifying its programs and associated expenditures, which shall also be delivered to the Governors of New York and New Jersey;

provided, however, that the failure of the Executive Director to report the same shall not affect the validity of any action taken by the Executive Director with respect thereto.

(r) The Executive Director is authorized to delegate in whole or in part any power, authority, or discretion conferred upon the Executive Director by these By-Laws, or by any resolution heretofore or hereafter adopted by the Board of Commissioners to any other officer or member of the executive staff; provided, however, that the Executive Director shall file all delegations with the Secretary; and, provided further, that this power shall not apply to any case where the Executive Director is authorized to sign checks, drafts, or commercial paper, or deeds of conveyance of real property, or to have access to safe deposit boxes

(s) In exigent circumstances, the Executive Director, after consultation with the Chairman of the Port Authority (which requirement for consultation is waived if the Chairman of the Port Authority cannot be contacted through reasonable means and in a reasonable period of time), may take any action, whether or not otherwise authorized in these By-Laws, with respect to the property or facilities, projects, programs, and business of the Port Authority, or the rules and regulations or fees, fares, tolls, and other charges relating thereto. The Executive Director shall report such action to the Board of Commissioners. The Executive Director shall notify the Chairman of the Port Authority of any contract entered into pursuant exclusively to this provision.

(t) The Executive Director shall make arrangements for the publication of the annual report, which report shall include but not be limited to the following: (i) the Port Authority's annual financial statements, together with a report on internal financial controls; (ii) a certification by appropriate executive staff that the Port Authority has followed all standards, procedures, or internal controls; (iii) a list of the compensation,

educational background and professional experience of, the 20 highest-paid executive staff members.

Whenever the Executive Director purports to act pursuant to power vested under these By-Laws, then all third persons are entitled to rely on the Executive Director's representation that the Executive Director has the power to act.

The powers conferred upon the Executive Director under these By-Laws shall be discretionary and, unless otherwise expressly provided, shall not be construed to impose upon the Executive Director a requirement to execute any agreement, contract, or purchase order, or to take any other action authorized under these By-Laws. Except as otherwise provided in paragraph (d) of this Article X, the Executive Director may take action as authorized without providing prior notice to the Board of Commissioners.

XI. DEFENSE AND INDEMNIFICATION OF INDIVIDUALS

1. As used in this Article XI, the term "indemnified party" shall mean an individual who is a Commissioner, officer, or employee of the Port Authority. The terms "Commissioner," "officer," and "employee" shall include a former Commissioner, officer, and employee, and the estate or a judicially appointed personal representative of such present or former Commissioner, officer, or employee.

2. Upon compliance by an indemnified party with the provisions of paragraph 8 of this Article XI, the Port Authority shall provide for the defense of the indemnified party in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the individual was acting within the scope of Port Authority employment or duties; or which is brought pursuant to section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty two of the United States code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the individual was acting within the scope of Port Authority employment or duties. The Port Authority shall not provide for a defense where such civil action or proceeding is brought by or on behalf of the Port Authority or to recover Port Authority funds.

3. Where an individual seeking indemnification delivers process and a request for a defense to General Counsel as required by paragraph 8 of this Article XI, General Counsel shall take the necessary steps on behalf of the individual in order to avoid entry of a default judgment pending resolution of any question pertaining to the determination to provide for a defense. General Counsel shall represent such individual; provided, however, that General Counsel shall, with the approval of the Executive Director (in accordance with policies adopted by the Board of Commissioners), assign outside counsel where General Counsel determines, based upon an investigation and review of the facts and circumstances of the case, that representation by General Counsel would be inappropriate; or whenever a court of competent jurisdiction determines that a conflict of interest exists and that the individual is entitled to be represented by outside counsel.

4. The Port Authority shall indemnify and save harmless an indemnified party in the amount of any judgment obtained against such indemnified party in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgment or settlement; provided, however, that the act or omission from which such judgment or settlement arose occurred while the indemnified party was acting within the scope of Port Authority employment or duties; and provided, further, that the Port Authority shall not indemnify and save harmless or pay under this Article XI where the injury or damage resulted from actual fraud, actual malice, willful misconduct or intentional wrongdoing on the part of the party seeking indemnification, or where the Port Authority has brought the action.

5. Any proposed settlement or final judgment which may be subject to indemnification or payment by the Port Authority in accordance with these By-Laws, if not inconsistent with the provisions of this Article XI, shall, as applicable, be authorized for payment in accordance with the provisions of these By-Laws; provided, however, that General Counsel has determined that such proposed settlement or final judgment is in the best interest of the Port Authority. Nothing in this Article XI shall be construed to authorize the Port Authority to indemnify and save harmless or pay an indemnified party with respect to a settlement not so reviewed and approved by General Counsel.

6. Nothing in this Article XI shall require the Port Authority to indemnify or save harmless an indemnified party with respect to fines or penalties; provided, however, that the Port Authority shall indemnify and save harmless an indemnified party in the amount of any costs, attorneys' fees, damages, fines, or penalties which may be imposed by reason of an adjudication that an indemnified party, acting within the scope of Port Authority employment or duties, has, without willfulness or intent, violated a prior order, judgment, consent decree, or stipulation of settlement entered in any court of the State of New York or New Jersey or of the United States.

7. The Port Authority may, consistent with applicable law, provide for a defense when punitive damages are sought or criminal charges are asserted, in connection with any alleged act or omission which occurred or is alleged in the complaint to have occurred while the individual was acting within the scope of Port Authority employment or duties, based upon an investigation and review of the facts and circumstances and a determination by General Counsel that provision of such defense would be in the best interest of the Port Authority; provided, however, that the Port Authority shall provide reimbursement of defense costs incurred by or on behalf of an indemnified party in defense of a criminal proceeding arising out of such an act or omission, upon acquittal or dismissal of the criminal charges. Furthermore, the Port Authority may, consistent with applicable law, indemnify or save harmless an indemnified party with respect to fines or penalties, based upon an investigation and review of the facts and circumstances of the case and a determination by General Counsel that to indemnify and save harmless such indemnified party would be in the best interest of the Port Authority.

8. The benefits of this Article XI shall be conditioned upon (i) delivery to General

Counsel of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after receipt or service of such document, such delivery being deemed a request by the party seeking indemnification that the Port Authority provide for defense pursuant to this Article XI; and (ii) the full cooperation of the indemnified party in the defense of such action or proceeding and in defense of any action or proceeding against the Port Authority based upon the same act or omission, and in the prosecution of any appeal. The Port Authority shall be entitled to withdraw such defense and demand reimbursement for costs incurred in connection with such defense in the event that, upon further discovery, indemnification is not required or otherwise warranted under this Article XI.

9. The benefits of this Article XI shall inure only to an indemnified party as defined herein and shall not enlarge or diminish the rights of any other party. This Article XI shall not in any way affect the obligation of any claimant to give any notice otherwise required by any provision of law. The provisions of this Article XI shall not be construed to impair, alter, limit, or modify the rights and obligations of any insurer under any policy of insurance.

10. Except as otherwise specifically provided herein, the provisions of this Article XI shall not be construed in any way to impair, alter, limit, modify, abrogate, or restrict any immunity available to or conferred upon any unit, entity, Commissioner, officer, or employee of the Port Authority, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

11. Consistent with policies established by the Board of Commissioners, the Executive Director is authorized to publish such rules and regulations as are necessary to effectuate the purposes of this Article XI.

XII. BUDGET

Whenever reference in these By-Laws is made to a Budget, it shall mean the Budget of the Port Authority, together with a Capital Plan and Strategic Plan, approved or authorized by the Board of Commissioners at a meeting held pursuant to the Open Meetings Policy. Whenever in these By-Laws an officer is vested with powers or discretion by reason of a budget item, such officer shall also have the same powers and discretion in any case where the Board of Commissioners approves or authorizes an expenditure of a specified amount (or of an approximate sum or of an amount not to exceed a specified sum) for a specified purpose, by resolution or otherwise.

XIII. RESERVATION OF POWERS

The powers not delegated by these By-laws are reserved to the Board of Commissioners. The powers vested by these By-Laws in the Committees shall not be

construed or deemed to limit the authority of the Board of Commissioners to act in any instance or the statutory veto power of the Governor of each State. If such authority is exercised by the Board of Commissioners, it shall not be construed or deemed to affect the power of the Committees to act in similar cases thereafter. The powers vested in the Executive Director shall not be construed or deemed to affect the power of the Board of Commissioners to act in any case, nor shall any power vested in the Executive Director be construed or deemed to affect the power of any Committee to act where such power is also vested in a Committee, but where either the Board of Commissioners or any Committee exercises a power in any such case, such action shall not be construed or deemed to affect the power of the Executive Director to act in similar cases in the future.

XIV. AMENDMENTS

These By-Laws may be amended by resolution duly adopted at any meeting, regular or special, provided that notice of intention to present such resolution shall be given at least two days in advance of the meeting at which the motion to adopt such resolution is made. Such notice may be given by any Commissioner or by any Committee (or by the Secretary at the request of any Commissioner or any Committee). Such notice shall be given to all Commissioners by mail, facsimile, telephone, or in person, at least two days before the meeting; in the alternate, such notice may be given orally at any meeting, in which event such notice shall be noted in the minutes of the meeting at which it is given. Advance notices of motions to amend motions to amend the By-Laws need not, however, be given.

SETTLEMENT OF CLAIM – ACCARDI, ET AL. v. THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

It was recommended that the Board authorize General Counsel to finalize the settlement of 263 individual Fair Labor Standards Act (FLSA) claims of Port Authority Police Sergeants and/or Detectives in the action entitled, “Accardi, *et al.* v. The Port Authority of New York and New Jersey,” on the basis set forth below in the amount of \$1 million, inclusive of retroactive FLSA overtime payments, attorneys’ fees, costs and disbursements. Plaintiffs would provide a General Release and Stipulation of Discontinuance with Prejudice.

In August 2003, the United States Department of Labor modified sections of the FLSA known as “white collar exemptions from overtime pay.” The modifications expressly provided, for the first time, that police sergeants and detectives were entitled to overtime payments calculated pursuant to the FLSA. The Port Authority began negotiating with both the Sergeants Benevolent Association (SBA) and the Detectives Endowment Association (DEA) regarding the correct methodology for calculating the FLSA overtime payments to which their members were entitled. The Port Authority and the plaintiffs, through their unions, disagreed regarding the calculation of a regular rate of pay for the purposes of FLSA overtime, as well as the application of a partial overtime exemption sought by the Port Authority. While in the 2004 successor bargaining agreements with the SBA and DEA it was acknowledged that the parties would continue to negotiate on this issue, those negotiations were not successful, and in August 2006 individual sergeants and detectives filed a lawsuit.

As part of the settlement, the Port Authority would pay the aggregate amount of \$1 million to the plaintiffs, generally, covering over three years of retroactive overtime. Additionally, the settlement would resolve the outstanding FLSA issues raised by both the individual plaintiffs and their unions, with an agreement both on the methodology for calculating a regular rate of pay for FLSA overtime purposes and on the application of the partial overtime exemption period, providing for a work period of seven days, consisting of 43 hours (rather than the plaintiffs’ claim for a work period of seven days, consisting of 40 hours). The settlement would provide that the SBA and DEA would withdraw their respective Improper Practice Charges regarding the implementation of the FLSA.

Pursuant to the foregoing report, the following resolution was adopted in executive session with Commissioners Bauer, Blakeman, Chasanoff, Coscia, Ferer, Genova, Mack, Pocino, Sartor, Silverman and Steiner voting in favor; none against:

RESOLVED, that General Counsel be and he hereby is authorized, for and on behalf of the Port Authority, to finalize the settlement of the action entitled, “Accardi, *et al.* v. The Port Authority of New York and New Jersey,” on the basis described above.

TRIBUTE TO JACK G. SINAGRA

The following resolution was unanimously adopted to express the appreciation of the members of the Board of Commissioners of The Port Authority of New York and New Jersey to Commissioner Jack G. Sinagra as he retires from the Board.

WHEREAS, since his appointment to the Board in October 2001 by Acting New Jersey Governor Donald DiFrancesco, the Honorable Jack G. Sinagra has given tirelessly of his time, talent and experience in the furtherance of the Port Authority's mission; and

WHEREAS, from December 13, 2001 to April 10, 2003, as Chairman, Jack G. Sinagra took the helm of the agency during one of the most difficult and challenging times in the agency's history following the tragic events of September 11, 2001 and led staff through a period of mourning, remembrance and rebuilding for the future; and

WHEREAS, Jack G. Sinagra was instrumental in the establishment of numerous agreements between the Port Authority and various entities concerning the economic revitalization and rebuilding of Lower Manhattan; and

WHEREAS, Jack G. Sinagra, played a significant role in the implementation of a number of security initiatives to ensure the safety and security of the agency's facilities, so that the public and commerce may be ensured dependable, trustworthy passage throughout the region; and

WHEREAS, during his tenure on the Board and as a former New Jersey State Senator, Jack G. Sinagra brought a wealth of experience and perspective on economic recovery and development to the agency; and

WHEREAS, as a Commissioner, Jack G. Sinagra served with great distinction as Chair of the Audit Committee and Vice-Chair of the Committee on Operations; and

NOW, therefore, be it

RESOLVED, that the Commissioners of The Port Authority of New York and New Jersey wish to express their most heartfelt appreciation and that of the entire staff to Jack G. Sinagra for his dedicated service on the Board of Commissioners; and it is further

RESOLVED, that the Board of Commissioners hereby directs that this resolution be suitably engraved and presented to the Honorable Jack G. Sinagra as a token of its gratitude and esteem.

Whereupon, the meeting was adjourned.

Secretary