



**The Port Authority of New York and New Jersey
Meetings of the Board of Commissioners and Board Committee
Meetings – Thursday, November 14, 2024**

The following is the revised agenda and related materials as of Thursday, November 14, for the November 14, 2024, meetings of the Board of Commissioners of The Port Authority of New York and New Jersey and its subsidiaries to be held at 4 World Trade Center, 150 Greenwich Street and live-streamed at <https://www.panynj.gov/corporate/en/board-meeting-info/videos.html>.

In-person meeting attendees are required to go through a security screening upon entering the building. Attendees are encouraged to arrive early. Security screening will begin at 12:00 noon.

For members of the public interested in viewing the proceedings virtually, a video broadcast will be live streamed from the Port Authority's website. The video broadcast may be accessed at <https://www.panynj.gov/corporate/en/board-meeting-info/videos.html>.

Executive Session Meetings – 9:30 a.m.

Executive Session - All Commissioners

The Board of Commissioners will meet in executive session prior to the public meetings to discuss matters related to security or public safety, matters related to the purchase, sale, or lease of real property, where disclosure would affect the value thereof or the public interest, matters related to personnel and personnel procedures, and matters involving ongoing negotiations or reviews of contracts or proposals.

Public Meetings – 1:00 p.m. (Board Room)

• Board Meeting – 1:00 p.m. (estimated) – Staff Recognition – Review of 2024 Accomplishments and Plans for 2025 – Proposed Port Authority 2025 Budget – Sources and Uses, Including Authorization of Public Hearings for Proposed Toll and Fare Adjustments – Newark Liberty International Airport – AirTrain Newark Replacement - Program Reauthorization and Award of Guideway and Stations Contract – Proposal to Revise Airport Minimum Wage and Street Pricing Policy – Report of Executive Director – Speakers Program* – Resolution Approvals	Derek Utter/ James Heitmann/ Libby McCarthy James Heitmann Sarah McKeon Richard Cotton
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For more information, contact the Office of the Secretary at (212) 435-6682 or (212) 435-7312.

Media Only: (212) 435-7777

SUBJECT TO CHANGE

* Members of the public wishing to address the Board on Port Authority-related matters may do so either in-person at the public board meeting, or by submitting a pre-recorded video statement or written statement if participating virtually.

Individuals planning to address the Board in-person at the public board meeting are encouraged to register by completing and submitting a [speakers registration form](#) online by 8:30 a.m. on the day of the board meeting.

Individuals may submit written statements up until 8:30 a.m. on the day of the board meeting to Speakersprogram@panynj.gov. Individuals wishing to submit a pre-recorded video statement as part of the speakers' program should do so by close of business the day prior to the board meeting. Pre-recorded video statements will be broadcast as part of the public board meeting.

All speakers are limited to three minutes each, and speaking time may not be transferred. The public comment period may be limited to 30 minutes. Appropriate photo identification is required.

Note: Prerecorded video statements must be smaller than 100 megabytes.

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The Port Authority of New York and New Jersey is a bi-state agency that builds, operates, and maintains many of the most important transportation and trade infrastructure assets in the country. For over a century, the agency's network of major airports; critical bridges, tunnels and bus terminals; a commuter rail line; and the busiest seaport on the East Coast has been among the most vital in the country – transporting hundreds of millions of people and moving essential goods into and out of the region. The Port Authority also owns and manages the 16-acre World Trade Center campus, which today welcomes tens of thousands of office workers and millions of annual visitors. The agency's historic \$37 billion 10-year capital plan includes unprecedented transformation of the region's three major airports – LaGuardia, Newark Liberty and JFK – as well as an array of other new and upgraded assets, including the \$2 billion renovation of the 90-year-old George Washington Bridge. The Port Authority's annual budget of \$8 billion includes no tax revenue from either the states of New York or New Jersey or from the City of New York. The agency raises the necessary funds for the improvement, construction or acquisition of its facilities primarily on its own credit. For more information, visit www.panynj.gov or check out the Now Arriving blog.

Form of Proposed Resolutions to be Considered by the Board at the November 14, 2024 Meeting

1. Proposed Changes in Tolls Schedule for Vehicular Interstate Crossings Published for Public Comment – Public Hearings to be Held
2. PATH - Proposed Fare Reduction for Qualifying Disabled Riders Published for Public Comment – Public Hearings to be Held
3. Newark Liberty International Airport - AirTrain Replacement Program Reauthorization and Guideway and Stations Award Authorization
4. John F. Kennedy International and LaGuardia Airports – Installation of Ground Based Augmentation Systems – Program Reauthorization and Authorization to Award Contract JFK-174.023A and Contract LGA-124.263B
5. Memorandum of Agreement with Local No. 15, Local No. 30, and Local No. 68, International Union of Operating Engineers
6. Approval to Post Revisions to Airport Minimum Wage Rule and Additional Street Pricing Requirement – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport

PROPOSED CHANGES IN TOLLS SCHEDULE FOR VEHICULAR INTERSTATE CROSSINGS PUBLISHED FOR PUBLIC COMMENT– PUBLIC HEARINGS TO BE HELD

It was recommended that the Executive Director be authorized to solicit public comment regarding proposed changes to the tolls for use of Port Authority vehicular interstate crossings (Tolls Proposal).

Briefly, the proposed 2025 changes are (i) a \$0.25 increase in tolls for automobiles, motorcycles and trucks (per axle) effective January 5, 2025 to repair the damage done to the agency's finances due to lost revenues during the COVID-19 pandemic and support ambitious capital spending for redevelopment and repair of Port Authority's interstate transportation network; (ii) two changes effective July 6, 2025 to incentivize bridge and tunnel users to enroll in the E-ZPass toll collection system and once enrolled, to properly use the E-ZPass transponder so that it can be successfully read; and (iii) elimination of a truck volume discount program effective July 6, 2025. The Tolls Proposal also includes \$0.25 increases in tolls for automobiles, motorcycles and trucks (per axle) in each of 2026, 2027 and 2028.

Details of the Tolls Proposal, which preserves lower rates and discounts for E-ZPass users including the Staten Island Bridges plan, will be more fully described at the public meeting of the Board of Commissioners and included in the materials therefor.

Pursuant to the foregoing report, the following resolution was adopted:

RESOLVED, that the Executive Director be and he hereby is authorized and directed, for and on behalf of the Port Authority, to solicit public comments on the Port Authority's tolls proposal for its vehicular interstate crossings (Tolls Proposal) by (i) posting the Tolls Proposal for public comment, (2) advertising such hearings, (3) setting a schedule for such hearings; (4) conducting such hearings and arranging a transcripts of the proceedings, and (5) reporting on such hearings to the Board of Commissioners; and it is further

RESOLVED that, in light of information to be gained both during the public hearings and by means of written public comments, the Board will expect to consider approving the Tolls Proposal at its December 12, 2024 meeting.

**PATH - PROPOSED FARE REDUCTION FOR QUALIFYING DISABLED RIDERS
PUBLISHED FOR PUBLIC COMMENT– PUBLIC HEARINGS TO BE HELD**

It was recommended that the President be authorized to (i) solicit public comment regarding a proposed reduction in fares for qualifying disabled riders for use of the PATH rail system (Fares Proposal) by taking such action as required by the PATH by-laws, including publicly posting a description of the Fares Proposal, (ii) arrange for public hearings on the Fares Proposal to be attended by at least two Directors (one from each of the States of New York and New Jersey), notifying the public of such hearings and conducting such hearings, (iii) arrange for transcripts and reports of the hearings to be made available to the Directors, and (iv) subsequently report the results of such hearings and public comment to the Board.

Details of the Fares Proposal will be presented at the public meeting of the Board of Directors.

Pursuant to the foregoing report, the following resolution was adopted:

RESOLVED, that the President be and he hereby is authorized and directed, for and on behalf of the Port Authority Trans-Hudson Corporation (PATH), to solicit public comments on proposed changes to the fares for use of the PATH rail system (Fares Proposal) by (i) posting the Fares Proposal for public comment, (2) advertising such hearings, (3) setting a schedule for such hearings; (4) conducting such hearings and arranging a transcripts of the proceedings, and (5) reporting on such hearings to the Board --- all in the manner set forth in the foregoing report; and it is further

RESOLVED that, in light of information to be gained both during the public hearings and by means of written public comments, the Board will expect to consider enacting the Fares Proposal at its December 12, 2024 meeting.

NEWARK LIBERTY INTERNATIONAL AIRPORT – AIRTRAIN REPLACEMENT PROGRAM REAUTHORIZATION AND GUIDEWAY AND STATIONS AWARD AUTHORIZATION

At its meeting in April 2015, the Board authorized initial planning for the replacement of the AirTrain Newark System (AirTrain Newark) at Newark Liberty International Airport (EWR) which began operations in 1996 and engaged a transit vehicle and systems engineering advisor (Lea + Elliott, Inc.) to assist in that effort (AirTrain Replacement Program). In December 2017, in connection with the EWR Terminal A redevelopment project, the Board authorized funds from that project to be used for AirTrain Newark guideway foundations which were located in the right-of-way of the Terminal A work. In September 2019, the AirTrain Replacement Program was included in the 2017-2026 Port Authority capital plan at an estimated cost of \$2.05 billion and in October 2019, the Board authorized the AirTrain Replacement Program.

Following authorization of the AirTrain Replacement Program, staff developed a “design build, operate and maintain” procurement strategy which would have a contractor undertake a commitment for the new AirTrain Newark system for its useful life through a multi-party team. Proposals in response to an RFP reflecting that approach conducted in 2021-2022 came in extremely high -- up to 225% of the original authorization, indicating that a significant risk premium was added by proposers for a joint liability arrangement that included design of the system, including rolling stock technology (System Technology), civil construction of the guideways and stations (Guideways and Stations) and operation of the system for its useful life. As a result, the RFP did not result in an award. After consideration, it was determined that a multi-contract procurement strategy which sought first, to competitively award a contract for System Technology (including design and operation subsequent to construction) and only thereafter, to procure other contracts, including civil work to design and construct the Guideways and Stations would result in lower cost and more targeted proposals for both packages.

An RFP was reissued in March 2023 for a supplier of System Technology which would also procure rolling stock and operate and maintain the replacement AirTrain Newark and in December 2023, the Board authorized the award to DCCCA1, an affiliate of The Doppelmayr Group, manufacturers of automated people movers employing rope-propelled technology. While award of the System Technology contract proposals were being evaluated, the Port Authority began a parallel procurement process for design and construction of the Guideways and Stations under an RFP issued in October 2023.

At this time, proposals have been received and fully evaluated under this Guideway and Stations RFP. It is recommended that a contract be awarded to Tutor Perini/O&G, a joint venture of Tutor Perini Corporation and O&G Industries, Inc., the highest rated and lowest cost proposer to design and construct the Guideway and Stations, including (i) a 2.5 mile elevated guideway; (ii) three stations, including support space; (iii) design of a future station to serve a new Terminal B at EWR; (iv) restoration of all impacted roadways, parking lots, driveways, pedestrian conveyances and entrances; and (v) related site work and utility work for the AirTrain Newark Program at its price proposal of approximately \$1.184 billion. The proposers were evaluated by the Port Authority based on both a technical evaluation and a price analysis of the proposals. The recommended proposer was determined to provide best value to the Port Authority on both criteria.

It is also recommended that the Executive Director be authorized to take the following actions in furtherance of ancillary work on the AirTrain Replacement Program: (x) increase the Lea + Elliott contract by \$115 million, for a total since 2015 of \$205 million, to provide continuing professional and advisory services on an as-needed basis, (y) increase an existing early works master agreement to support implementation of the AirTrain Replacement Program (Contract EWR 154.94) by \$85 million for general construction services procured through competitive work order packages and to modify the contract to increase the maximum value of individual construction work order packages thereunder from \$20 million each to \$25 million each; and (z) award a contract for traffic rapid response via work orders valued at \$7 million to facilitate immediate and high priority needs as part of the integrated traffic management strategy in connection with the AirTrain Replacement Program (collectively, items (x), (y) and (z) are referred to as the Ancillary Construction Contracts).

Upon this award of the Guideways and Stations work and considering the System Technology contract awarded in December 2023 and the Ancillary Works Construction Contracts described above, contracts representing approximately 80% of the cost of the AirTrain Replacement Program will have been awarded, with major construction expected to begin in Q3 2025. Remaining smaller packages, to be awarded through Q2 2026, include construction of AirTrain Newark maintenance and control facility, construction of pedestrian connections and the demolition of the current system. AirTrain Newark is expected to be operational in Q1 2030.

In order to complete the AirTrain Replacement Program as described, it is also recommended that the Board reauthorize it at a total project cost of \$3.50 billion, an increase of \$1.45 billion from the total project cost anticipated when it was first authorized in 2019. Causes of the increase in cost include: extensive delays caused by the COVID-19 pandemic and implementing the re-procurement for the AirTrain Replacement Program; COVID-19 caused dislocations in the construction marketplace, which led to spikes in material costs; and high premiums from proposers related to uncertainties surrounding mega-projects.

Additionally, the increase in total project cost reflects the progressive change since 2020 in the economic environment and in the construction marketplace prevailing for large public infrastructure projects, with upward pressures on project costs, an economy-wide increase in inflation to very high levels, extraordinary increases in the cost of certain construction materials and fragility of the supply chain for delivery of those materials, together with a growing concern by proposers about over-exposure to single, large projects.

Economy-wide market factors were exacerbated by discovery of unanticipated site conditions and utility relocations, design modifications to address technology interfaces, higher than estimated design costs included in the submitted price proposals and increased Port Authority soft costs reflecting the foregoing increases.

Funding for the increased total project costs will be obtained primarily by utilizing funds previously designated in the 2017-2026 Capital Plan for the “PATH to Newark Project”, now deferred by the Board to a future capital plan.

The reauthorization for the increased total project cost includes authority to the Executive Director to increase the value of contracts authorized by the Board for extra work, net cost work and contingent expenditures so long as no such amounts increase the total project cost above the level reauthorized.

It is also recommended that the Executive Director be authorized, after concurrence of the Chairman, to submit an application for the collection and use of up to \$760 million in PFCs to recover eligible expenditures which have been and will be incurred in connection with the planning, design and construction of the Project (which when combined with PFC authority provided by the Board in 2015, would result in a total application amount of \$800 million).

Pursuant to the foregoing report, the following resolution was adopted.

RESOLVED, that the EWR AirTrain Replacement Program (AirTrain Replacement Program) be, and it hereby is, reauthorized at a total project cost of \$3.50 billion, an increase of approximately \$1.45 billion from the previously authorized amount; 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 a design/build contract to Tutor Perini/O&G, a joint venture of Tutor Perini Corporation and O&G Industries, Inc., the highest technically rated and lowest price proposer determined through the Port Authority's RFP process, for the design and construction of the guideway and stations contemplated as part of the AirTrain Replacement Program at a cost of approximately \$1.184 billion (adjusted as provided in that contract), which costs are included in the reauthorized AirTrain Replacement Program amount; 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 the following actions to permit ancillary work on the AirTrain Replacement Program to progress: (x) increase the Lea + Elliott contract by \$115 million, to provide continuing professional and advisory services on an as-needed basis, (y) increase an existing early works master agreement to support implementation of the AirTrain Replacement Program (Contract EWR 154.94) by \$85 million for general construction services procured through competitive work order packages and to modify the contract to increase the maximum value of individual construction work order packages thereunder from \$20 million each to \$25 million each; and (z) award a contract for traffic rapid response via work orders valued at \$7 million to facilitate immediate and high priority needs as part of the integrated traffic management strategy in connection with the AirTrain Replacement Program; and it is further

RESOLVED, that the Executive Director be, and he hereby is, authorized, after concurrence of the Chairman, to submit an application to the Federal Aviation Administration for permission to use up to \$760 million in Passenger Facility Charges to recover expenditures associate with the foregoing work; 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 the AirTrain Replacement Program for the award and modification of contracts and agreements (including construction and design contracts, service contracts, professional, technical and advisory services agreements and other similar contracts and agreements), as may be necessary or desirable to effectuate the foregoing work; and it is further

RESOLVED, that the form of all contracts, agreements and other documents in connection with the foregoing shall be subject to the approval of the General Counsel or her authorized representative and the terms of such contracts, agreements and other documents shall be subject to review by the General Counsel or her authorized representative.

**JOHN F. KENNEDY INTERNATIONAL AND LAGUARDIA AIRPORTS –
INSTALLATION OF GROUND BASED AUGMENTATION SYSTEMS –
PROGRAM REAUTHORIZATION AND AUTHORIZATION TO AWARD
CONTRACT JFK-174.023A AND CONTRACT LGA-124.263B**

A Ground-Based Augmentation System (GBAS) is an electronic system utilizing satellites and antennas to communicate with landing aircraft to provide more accurate Global Positioning System (GPS) location information. GBAS requires the outfitting of aircraft with the necessary equipment to enable navigation and precision approach service in the vicinity of the host airport, broadcasting its differential correction messages via a Very High Frequency radio data link from a ground-based transmitter/antenna. This system yields extremely accurate measurements required for precision landing approaches. GBAS has been operational at Newark Liberty International Airport (EWR) since 2012. Expanding it to John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA) would further support Port Authority delay reduction initiatives and provide for more efficient management of demand.

In furtherance of the Port Authority's plans to expand this technology to its other two major commercial airports, it was recommended that the Board reauthorize a program for the installation of GBAS and associated infrastructure for JFK and LGA, at an estimated total program cost of \$41.9 million (an increase of \$16.3 million from the previously authorized program amount.)

It was also recommended that the Executive Director be authorized to award: (1) Contract JFK-174.023A to T. Moriarty & Son, Inc., to install GBAS and associated infrastructure at JFK, the lowest-priced qualified bidder in response to a public advertisement, at an estimated total construction cost of \$10.2 million; and (2) Contract LGA-124.263B, to the lowest-priced qualified bidder pursuant to a publicly advertised bid process, to install GBAS and associated infrastructure at LGA, at an estimated total construction cost of \$4.7 million.

On November 15, 2018, the Board: (1) authorized a program to install GBAS at JFK and LGA, at an estimated total cost of \$25.6 million (inclusive of soft costs in the estimated amount of \$7.9 million); and (2) authorized the Executive Director to award contracts necessary to deliver the program, including (i) a contract for the purchase, installation, testing, commissioning, and maintenance of GBAS equipment for JFK and LGA, at an estimated total cost of \$8 million; (ii) a contract for the construction of infrastructure necessary for the installation of GBAS at JFK, including equipment shelter, site work, foundations, power, and communication, at an estimated cost of \$7.7 million; and (iii) a contract for the construction of infrastructure necessary for the installation of GBAS at LGA at an estimated cost of \$2.1 million.

In December 2019, the contract for the purchase, installation and maintenance of the GBAS equipment was awarded to Honeywell International Inc. (Honeywell), the Federal Aviation Administration's only approved vendor for GBAS, at a cost of \$7.3 million. Due to COVID-related budget constraints, the program was placed on hold and the bids received for the two construction contracts (one for work at JFK and one for work at LGA) were cancelled in 2020, prior to the contract awards and commencement of construction.

Program reauthorization is being sought to accommodate an increase of \$16.3 million in the cost to deliver the program, including: (i) inflation and post-COVID market conditions affecting material and labor costs; (ii) wholesale design updates to incorporate advancements in technology, which required the rewriting of both contracts to incorporate new design specifications; (iii) incremental agency allocations due to the approximate the delay in the delivery of the program; and (iv) an additional contingency to reflect an updated risk assessment.

The program cost is anticipated to be fully recoverable from the airlines operating at JFK and LGA through Airport Integrated Recovery Fees. The Port Authority will also submit an application for a federal Bipartisan Infrastructure Law – Airport Infrastructure Grant for potential recovery of up to 75 percent of eligible costs, which, if successful, would reduce the amount recovered from the airlines in a commensurate amount.

Pursuant to the foregoing report, the Board adopted the following resolution:

RESOLVED, that a program for the installation of Ground-Based Augmentation Systems (GBAS) and associated infrastructure at John F. Kennedy International (JFK) and LaGuardia (LGA) Airports, at an estimated total program cost of \$41.9 million (inclusive of allowances for planning and design, administrative costs, financial expense and a contingency), be and it hereby is reauthorized; 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 contracts to: (i) T. Moriarty & Son, Inc. to install GBAS and associated infrastructure at JFK, at an estimated total construction cost of \$10.2 million; and (ii) the lowest-priced qualified bidder in response to a publicly advertised bid process, to install GBAS and associated infrastructure at LGA, at an estimated total construction cost of \$4.7 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 other construction contracts, contracts for professional, technical, and advisory services, and such other contracts and agreements as may be necessary to effectuate the foregoing program, pursuant to authority granted in the By-Laws or other resolution adopted by the Board; and it is further

RESOLVED, that the form of all contracts, agreements and other documents in connection with the foregoing program shall be subject to the approval of General Counsel or his authorized representative; and the terms of such contracts, agreements and other documents shall be subject to review by General Counsel or his authorized representative.

**MEMORANDUM OF AGREEMENT WITH LOCAL NO. 15., LOCAL NO. 30, AND
LOCAL NO. 68, INTERNATIONAL UNION OF OPERATING ENGINEERS**

It was recommended that the Board approve a collective bargaining agreement between The Port Authority of New York and New Jersey (“Port Authority”) and Local No. 15, Local No. 30, and Local No. 68, International Union of Operating Engineers (“IUOE”).

The IUOE represents approximately 575 Port Authority employees performing various functions, including watch engineers, plumbers and general maintenance services. The IUOE and the Port Authority reached a tentative collective bargaining agreement on October 3, 2024. That agreement was ratified by the IUOE members on October 25, 2024.

The agreement spans 26 months, from a retroactive commencement date of April 4, 2023, to June 3, 2025. Terms of the agreement include annual wage increases that, over the covered period, total 6 percent.

Pursuant to the foregoing report, the following resolution was adopted:

RESOLVED, that the October 3, 2024 collective bargaining agreement between The Port Authority of New York and New Jersey and the International Union of Operating Engineers, ratified by the membership on October 25, 2024, be and it hereby is approved; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to exercise all discretion and take any and all action necessary or appropriate in his judgment to effectuate the foregoing, including, but not limited to, the execution of all relevant agreements, contracts, or analogous documents, together with amendments and supplements thereof, and to take action in accordance with the terms of such agreements, contracts, and other documents as may be necessary in connection therewith.

**APPROVAL TO POST REVISIONS TO AIRPORT MINIMUM WAGE RULE AND
ADDITIONAL STREET PRICING REQUIREMENT – LAGUARDIA AIRPORT,
JOHN F. KENNEDY INTERNATIONAL AIRPORT AND NEWARK LIBERTY
INTERNATIONAL AIRPORT**

Airport Minimum Wage

Since the initial establishment of its Minimum Wage Policy by the Board in April 2014 and its amendment in September 2018, the Port Authority has consistently recognized the contribution of employees of both public and private companies in maintaining LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport (collectively, Airports) as vibrant and well-operated environments that deliver the services the traveling public needs – and the Port Authority has also been clear that the employees of all employers make the difference in creating a safe, secure and reliable travel experience. Where workers have job choices, it is in the interest of all Airport users that the Airports are desirable workplaces with competitive minimum wages to offset the special requirements and rigors of aviation services jobs, including difficult and costly commutation, limited services, and extensive security requirements.

The Port Authority’s commitment to requiring a competitive minimum wage is currently embodied in its July 2022 Airport Rules and Regulations – Section XVIII (Amended Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts) which provide that persons (“Covered Persons”) employed to perform services at the Airports or to prepare, inspect or deliver airline meals for the Airports, will be paid no less than an hourly minimum amount, which grew from \$13.60/hour in November 2018 to \$19/hour in September 2023 (the “Minimum Wage Regulation”). The 2018–2023 minimum wage increases resulted in better trained and more experienced workers, who are consequently better able to discharge their duties and to add their watchful eyes to identify anything amiss, including potential security concerns, and better able to assist in case of emergencies.

It is now appropriate to consider whether the existing Minimum Wage Regulation should be revised further. The increases provided for in the existing Minimum Wage Regulation have reached their highest level and will not increase absent further amendment.

Airport sector minimum wages have now been mandated at levels above state and local rates in at least 25 large city airports¹, many of which incorporate automatic inflation indexing to ensure that airport workers will continue to be motivated to choose these careers over other available options and to remain employed at the Airports. As the Port Authority noted in 2018 in connection with the Board’s action at that time, a fairly compensated Airport work force leads to reduced turnover, resulting in a well-trained and experienced work force that can help to provide stable airport operations and an important supplemental security presence. Significant increases in customer satisfaction have occurred since the previous minimum wage increases were instituted beginning in 2018.

In addition, since 2018, both New York and New Jersey minimum wage regulations have been revised to increase minimum wages gradually for several years and then to escalate them in

¹ Ken Jacobs <https://laborcenter.berkeley.edu/sectoral-wage-ordinances/>

accordance with a consumer price inflation index (CPI). Were the Port Authority not to similarly amend its Minimum Wage Regulation, the minimum wages currently provided at the Airports will erode relative to the States' CPI-indexed minimum wage rate.

Finally, it is important for the Port Authority to address significant impediments faced by employers in conducting operations at our Airports – so that they will continue to choose to do so. Having access to an experienced, trained and motivated labor force is a critical factor in whether operations at the Airports will be successful. Setting minimum wage rates for Airport workers encourage that workforce to favorably consider these jobs over others.

Based on the foregoing, it is recommended that the Executive Director post for public comment an amendment to the Minimum Wage Regulation to provide that (i) there is an initial gradual minimum wage increase over the current minimum wage of \$19/hour in three increments during 2025-2026 to transition to indexing of minimum wage rates to the CPI and (ii) thereafter, the minimum wage will increase automatically on January 1 of each year in the period 2027-2032 in accordance with the moving three-year average in the Consumer Price Index for Urban Wage Earners and Clerical Workers, Northeast Region as reported by the U.S. Bureau of Labor Statistics using the 12-month periods ending each September (“CPI-W”).

EFFECTIVE DATE OF INCREASE	1/1/2025	7/1/2025	1/1/2026	1/1/2027 – 1/1/2032	9/1/2032
	\$19.75	\$20.50	\$21.25	Annual increase on January 1 of each year by CPI-W calculated as described above.	If hourly minimum wage rate remains below \$25 on January 1, 2032, it will be increased to \$25 effective September 1, 2032

The proposed amendment above includes all Covered Persons at each Airport.

Street Pricing.

As discussed by the Board in 2018, the Port Authority understands that amendment of the Minimum Wage Regulation is not without consequence to Airport concessionaires that are bound by the Airport “street pricing” regulations (“Street Price”), which are similar to those prevailing at most other large U.S. airports. The Port Authority’s Street Price requirements seek to prevent consumer businesses operating in Airport terminals from charging passengers excessive prices for the same items found in the market outside the Airports. Although the Street Price requirement can help to reduce Airport price-gouging, it also restricts the ability of Airport businesses to respond appropriately to market-driven pricing signals. The Street Price requirement is currently included in various agreements with the Port Authority for Airport operations it conducts and in the Port Authority’s agreements with terminal operators and concession managers for the terminals they operate. (the “Street Price Documents”).

In 2020, the Board approved a change to the Street Price requirement to permit concessionaires to price products at Street Price plus 10% in response to the amendment of the Minimum Wage Resolution in 2018 and recognized that (i) virtually all large city airports had a Street Price policy, with an “add” over the prevailing market price because of higher operating costs at airports, including both higher hourly wage rates and additional costs imposed by higher security requirements and processes at airports and (ii) it was not in the interest of the Port Authority or the traveling public to “squeeze” the concessionaires “between the higher wages mandated by the Port Authority [in the amended Airport Minimum Wage Regulation] and the limits on Airport prices imposed by the street pricing policy.” Including an additional percentage over street prices means that concessions which exceed the Street Price by not more than the additional percentage remain in compliance with the Street Price policy. At the same time, the Port Authority required concessionaires to also offer lower-priced food and beverage options as an alternative to the more expensive products.

The decision was made in light of the results of a survey of large U.S. airport practices prepared in 2020 by an independent consultant to the Port Authority, which indicated that 12 of the 25 largest airports had street pricing policies with adders of 10% or less, with 4 airports at or above a 15% adder and in 2020, amendments were made to each of the Street Price Documents to effectuate the modification.

Street Price + 10% has been in effect at the Airports since June 2020, but since that time, a combination of labor cost increases and general market conditions have once again put significant pressure on Airport concessions businesses to absorb these higher costs. The Port Authority has now re-engaged its 2020 consultant to provide an updated analysis of the practices of peer airports (based on industry information). The new survey indicated that half of the 30 large airports whose policies were reviewed had moved their Street Price adder up from 2020, with just over half of the airports now including an adder of more than 10%, including airports in 6 of the top 10 metropolitan areas (excluding New York), with several having an effective increment of approximately 18%, including Los Angeles International Airport which instituted the provision in 2010. Some of the peer airports have reached this higher incremental rate by also authorizing employers to charge a surcharge to mitigate the increased costs of airport operation in addition to the increment over Street Price. For example, since July 2024, Philadelphia International Airport (currently at street price +15%), has also permitted a surcharge of up to 3% to reflect the increased costs of operating at the airport, including the impact of a recent wage and benefit ordinance. In light of the additional labor cost from a variety of sources, including the proposed Minimum Wage Regulation revision described herein, it is recommended that the Executive Director post for 30 days’ of public comment, an amendment to the Street Price requirement to provide that the additional percentage adder is changed from 10% to 15% with concessionaires also able to add an additional surcharge of up to 3% on a customer’s pre-tax bill (“Employee Benefit and Retention Surcharge”) without violating the Street Price requirement. It is further recommended that for efficiency, the new Street Price requirement will be memorialized in a new rule to be incorporated in the Airport Rules and Regulations which will be equivalent to the requirement currently included in the Street Price Documents. Until such time as the covered counterparties agree, or their respective Street Price Documents expire or are terminated, the Street Price requirement in

their respective Street Price Document will apply. Thereafter, the Steet Price requirement in the Airport Rules and Regulations will apply.

Pursuant to the foregoing report, the Board adopted the following resolutions.

RESOLVED, that a revision to the “Amended Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport” (“Minimum Wage Regulation”) and a new regulation memorializing the Port Authority’s Amended Street Pricing regulation (“Street Pricing Regulation”) be and they hereby are, authorized for release for public comment for a period of thirty (30) days, following which such comments will be provided to the Board for consideration; and it is further

RESOLVED, that the form of all contracts, agreements and other documents in connection with the foregoing resolution shall be subject to the approval of General Counsel or her authorized representative, and the terms of such contracts, agreements and other documents shall be subject to review by General Counsel or her authorized representative.

**PROPOSED AMENDMENT TO PORT AUTHORITY
AIRPORT RULES AND REGULATIONS**

The Airport Rules and Regulations are proposed to be amended by revising Chapter XVIII (*Minimum Wage Policy for Non-Trade Labor Service Contracts*) as follows (deletions and marked with a “strikethrough” and additions appear in red):

XVIII. Amended Rules Effective January 1, 2025 for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport

1.0 Summary:

The Port Authority of New York and New Jersey first adopted a Minimum Wage Policy (“Policy”) in April 2014. By these Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts–LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport (“Rules”), the Policy was implemented with respect to LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (collectively, “Airports”), to enhance safety, security, and quality of service at the Airports. An initial amendment to this Policy was adopted in November 2018 providing for additional incremental wage rate requirements and applying to all employees who perform either “Covered Services” or “Port District Covered Services.” This Policy is now further amended as set forth below effective on January 1, 2025 (“Effective Date”).

2.0 Compensation

The minimum wage for workers performing Covered Services or Port District Covered Services on the Effective Date shall be increased in three increments as part of the transition from the 2018 rates to the current rate policy, as amended herein. Thereafter, the minimum wage will increase automatically on January 1 of each year in the period 2027-2032 in accordance with the moving three-year average in the Consumer Price Index for Urban Wage Earners and Clerical Workers, Northeast Region as reported by the U.S. Bureau of Labor Statistics using the 12-month periods ending each September (“CPI-W”).

EFFECTIVE DATE OF INCREASE	1/1/2025	7/1/2025	1/1/2026	1/1/2027 – 1/1/2032	9/1/2032
	\$19.75	\$20.50	\$21.25	Annual increase on January 1 of each year by CPI-W calculated as described above.	If hourly minimum wage rate remains below \$25 on January 1, 2032, it will be increased to \$25 effective September 1, 2032

Workers who perform “Covered Services” are workers who perform the “Covered Services” listed in the Addendum to these Rules, within the geographical boundaries of one of the Airports.

Workers who perform “Port District Covered Services” are workers who perform the “Port District Covered Services” listed in the Addendum to these Rules, within the geographical boundaries of the Port District.

3.0 Applicability:

These Rules shall apply only to lessees, permittees, and contractors, as well as the subcontractors and sublessees of those entities (collectively, “Contractors”) who provide Covered Services or Port District Covered Services.

In all events, Covered Services shall include services provided by non-trade employees whose work requires that they obtain access to the Airfield Operations Area (AOA) whether such AOA access is obtained by the issuance of a badge or an escort.

These Rules are issued by the Port Authority solely in its proprietary capacity, under the power granted by its governing Compact to operate transportation facilities and own and control real property. Acting in their governmental or regulatory capacities, agencies may have various powers — to initiate prosecutions, for example, or to gather evidence using criminal or administrative subpoenas. The Port Authority is not exercising any such powers with respect to enforcement of its minimum wage rules. Rather, the Port Authority is acting in a purely proprietary capacity. Accordingly, while the Port Authority will enforce its minimum wage rules very aggressively, it will do so only using the means that would be available to a similarly-situated private party. These means include initiating a breach of contract lawsuit, based on the theory that a given Airport employer's non-compliance with the minimum wage rules is a material breach of the employer's binding legal agreement or agreements with the Port Authority.

4.0 Exclusions:

The Policy implemented by these Rules will not apply in instances where other applicable laws or regulations provide higher minimum rates for employees falling within the Policy and Rules, as demonstrated by the employer.

5.0 Tipped Employees:

A Contractor seeking to demonstrate compliance for employees, who receive tips, shall have the burden of proving that the employee received compensation (including tips) in amounts equal to the minimum wage levels set forth in these rules.

The federal government and certain states allow an employer to count all or part of an employee's tips towards its minimum wage obligations and some states set a maximum “tip

credit” toward the minimum wage. For purposes of these rules, only if a Contractor/Employer takes advantage of the applicable “tip credit” for federal, state or local minimum wage compliance, will the Covered Service worker’s receipt of tips be considered in determining whether the Contractor/employer is compliant with the Port Authority Minimum Wage Policy.

Contractors/Employers who seek to take advantage of the payment of “tips” or a “tip credit” towards compliance with the Minimum Wage Policy and these Rules, will be required to certify that they are in compliance with the applicable (federal, state or local) minimum wage requirements governing the receipt of a credit for tips for their Covered Service workers.

“Tipped Employees” are those who engage in occupations in which tips are customarily and regularly received from patrons.

Contractors who employ Airport tipped workers and seek to benefit from a tip credit must maintain detailed, contemporaneous records that establish for each employee: (a) how many hours the employee worked in a given pay period, and what the employee was paid; (b) the tips the employee received during the pay period; and (c) supporting documentation to substantiate (a) and (b). With respect to (b), supporting documentation may come in a variety of forms. As to Airport workplaces that rely upon real-time logging of tips through an electronic POS system, supporting documentation may be in the form of the records generated by the POS system. As to all other Airport workplaces, such supporting documentation must include copies of written reports provided by an employee to his or her employer (“Employee Tip Report”). An Employee Tip Report must describe the tips the employee has received during a given shift, and should be prepared and submitted to the Contractor as the shift ends or as soon thereafter as is reasonably practicable.

In addition to any other record-keeping requirements imposed by federal, state, or local law, records described in the preceding paragraph must be retained by the Contractor for two years. Records related to an employee must be immediately made available by the Contractor to that employee upon the employee’s request.

Should a Contractor disagree with an Employee Tip Report, the Contractor must inform that employee in writing of the reasons for the disagreement within 48 hours of the Report being received by the employer. If the Contractor does not do so, the Employee Tip Report will be treated as valid.

If a Contractor determines that it must “top off” an employee’s pay for a given pay period because the employee has not received sufficient tips, the Contractor must make the required supplemental payment as promptly as is reasonably practicable. The supplemental payment should be made on the day the employee is paid for the pay period in question. If that is not reasonably practicable, the supplemental payment should be made no later than the employee’s next regularly-scheduled pay day.

Contractors who elect to take a tip credit must inform all tipped employees in writing of how the tip credit works, including an explicit statement that if the tips an employee receives are insufficient, the Contractor is obligated to “top off” the employee’s wages until the employee’s pay equals the minimum wage required by these Rules. Contractors must retain a record documenting that this communication was made. In addition to any record-keeping requirements imposed by federal or state law, these records must be retained by the Contractor for two years.

Contractors must fully and promptly cooperate with all Port Authority audits as to wage payments to Airport workers, including by complying with all reasonable requests for documents or interviews. In the context of such audits, employers must produce clear and convincing evidence that they have retained all required records and that they have in place effective systems for ensuring that all of their tipped employees are receiving the wages to which they are entitled. If this burden is not met, the Port Authority shall prepare an audit report, to be provided to the employer in question; any impacted employees; relevant state Department of Labor officials; and the Port Authority’s Director of Aviation, who shall determine what Port Authority remedies may be appropriate. These remedies may include a breach of contract lawsuit or, in the case of especially serious or persistent violations, denial of permission for the employer to continue operating at the Airports.

6.0 Martin Luther King, Jr. Day:

All Contractors subject to the Policy and these Rules shall provide its workers performing Covered Services or Port District Covered Services a paid holiday for Martin Luther King, Jr. Day.

7.0 Implementation:

These Rules are applicable to all current and future employees of Contractors providing Covered Services or Port District Covered Services. In addition, the Port Authority will take further appropriate steps, including, but not limited to, the inclusion of appropriate provisions in new or amended agreements, permits, contracts, and consents, as a condition for such Contractors doing business at the Airports. In the future, all agreements entered into between the Port Authority and those Contractors, including leases, permits, contracts, and consents, shall contain a clause which states that the Contractor has reviewed the Policy and Rules and that it will comply with the Policy and Rules, as amended by the Port Authority from time to time. Additionally, Contractors shall be required to include such a clause in their subleases and subcontracts.

To the extent that an Airport employer required to revise its minimum wages hereunder to be effective January 1, 2025 would suffer a significant administrative burden and expense, each such employer shall be entitled to defer its increased payments under this amendment until April 1, 2025. Each such employer who chooses this option must continue to pay its employees at their currently scheduled rates until April 1, 2025. Thereafter such employer must retroactively pay their employees the difference between (a) \$19.75 per hour and (b) the employees' currently scheduled pay rates, for each hour worked between the Effective Date and March 31, 2025. That retroactive payment must be made on the first regular pay-day after April 1, 2025. Any employer who wishes to elect this deferred payment option must inform the Port Authority of this decision by December 19, 2024.

The Port Authority acknowledges that there may be circumstances which warrant an exception to the Rules, which exception may be granted by the Port Authority, for good cause, at its sole and absolute discretion.

8.0 Certification:

Annually, a responsible officer of each Contractor providing Covered Services or Port District Covered Services shall deliver to the Port Authority a statement certifying, in a form to be approved by the Port Authority, that it is in compliance with the Policy and Rules. The Port Authority reserves the right to audit such compliance at any time.

9.0 Severability:

Should a court of competent jurisdiction determine that any part of the Policy and/or these Rules is invalid, illegal, or unenforceable, such determination shall in no way affect or impair the validity, legality, and enforceability of the remaining parts of the Policy and/or these Rules.

10.0 Amendments to Rules:

The Port Authority reserves the right to amend these Rules, from time to time.

11.0 ADDENDUM – COVERED SERVICES

11.1 Passenger Related Security Services

- Escorts
- Catering Security
- Passenger Aircraft Security
- Fireguards
- Terminal Security
- Traffic Security

11.2 Cargo Related and Ramp Services

- Cargo Screening (including Guards) and Warehouse Security
- Baggage and Cargo Handling
- Load Control and Ramp Communication
- Aircraft Mechanics and Fueling of Aircraft
- Provision of water, cooling/heating, power
- Equipment and toilet services to Aircraft
- Passenger Aircraft Servicing
- Cabin Equipment Maintenance
- Guiding Aircraft in and out of Gates
- Gateside Aircraft Maintenance
- Ramp area cleaning

11.3 In-Terminal and Passenger Handling Services

- Baggage handling
- Skycap
- Wheelchair attendant
- Ticketing agent
- Customer Service Representatives
- Queue Managers
- ID Checkers
- Porter Service for Baggage
- Passenger and Employee Shuttle Drivers

11.4 Cleaning Services

- Building Cleaning
- Aircraft and Cabin cleaning
- Plane washers

11.5 Concession Services

- Food Service (including, food and beverage service, wait service, busing, cashiers)
- Retail Service (including news/gifts and duty-free)

- Cleaning for concession services
- Security for concession services
- Airport Lounge Services (Food, Retail, Cleaning and Security Services)

11.6 Airport Catering Workers

With respect to food or beverages prepared and packaged for the specific purpose of in-flight consumption by Airport aircraft crew or Airport passengers in aircraft departing from the Airports (“In-Flight Meals”):

- Preparing and packaging In-Flight Meals
- Inspecting In-Flight Meals, to ensure food safety and to detect contraband
- Cleaning dishes, utensils, and glassware used for In-Flight Meals
- Cleaning and operating kitchens or other nearby facilities (such as warehouses) used for the preparation, packaging, and storage of In-Flight Meals
- Direct delivery of In-Flight Meals to Airport locations where they are needed, from kitchens where they are prepared or from nearby facilities (such as warehouses) where they are stored

12.0 ADDENDUM – PORT DISTRICT COVERED SERVICES

12/1 Airport Catering Workers

With respect to food or beverages prepared and packaged for the specific purpose of in-flight consumption by Airport aircraft crew or Airport passengers in aircraft departing from the Airports (“In-Flight Meals”):

- Preparing and packaging In-Flight Meals
- Inspecting In-Flight Meals, to ensure food safety and to detect contraband
- Cleaning dishes, utensils, and glassware used for In-Flight Meals
- Cleaning and operating kitchens or other nearby facilities (such as warehouses) used for the preparation, packaging, and storage of In-Flight Meals
- Direct delivery of In-Flight Meals to Airport locations where they are needed, from kitchens where they are prepared or from nearby facilities (such as warehouses) where they are stored

PROPOSED ADDITION TO PORT AUTHORITY
AIRPORT RULES AND REGULATIONS

The Airport Rules and Regulations are proposed to be amended by adding the following new Rule and Regulation as Chapter XV.A.8. (*Commercial and Non-Commercial Activity – Street Pricing*):

(1) (x) No concessionaire operating in a Port Authority Airport terminal operated by the Port Authority, shall charge prices to its customers in excess of 115% of “Street Price(s),” and (y) no party operating a Port Authority Airport terminal under agreement with the Port Authority (“Terminal Operator”) shall permit any concessionaire operating at a Port Authority Airport terminal operated by the Terminal Operator (whether or not through a concessions manager acting on behalf of the Terminal Operator) to charge prices to its customers in excess of 115% of “Street Price(s),” except, in each case, as set forth in subsection (6). For the purposes of this regulation, “Street Price(s)” shall mean:

(A) if the concessionaire conducts a similar business in off-airport location(s) in the Greater New York City-Northern New Jersey Metropolitan Area (the “Metro Area”), the price regularly charged by the concessionaire for the same or similar item in the Metro Area;

(B) if the concessionaire does not conduct a similar business in off-airport location(s) in the Metro Area, the average price regularly charged in the Metro Area by similar retailers for the same or similar item;

(C) if neither the concessionaire nor other similar retailers sell a particular item in the Metro Area, the price regularly charged by the concessionaire or similar retailers for the same or similar item in any other geographic area, with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area; and

(D) if a concessionaire is in the business of selling duty-free goods, the price regularly charged by the concessionaire or other similar concession operator for the same or similar duty-free item at other major airports serving large urban areas in the United States of America, not including the Port Authority airports.

(2) (x) Every concessionaire operating in an Airport terminal operated by the Port Authority which offers food & beverage products or travel essentials (VFM Concessionaire) shall comply with the Port Authority’s Value for Money Options Program (VFM) which seeks to ensure that lower priced items are available for purchase. Details of the VFM Program and manner of compliance are further specified by the Port Authority in Airport General Manager’s Bulletins issued from time to time and in a Customer Service Standards Manual, the then-current version of which will constitute an applicable standard for operation of a concession offering food and beverages or travel essentials at an Airport and (y) every Terminal Operator shall cause each VFM Concessionaire at the Port Authority Airport terminal operated by that Terminal Operator to comply with the Port Authority’s VFM Program.

(3) Every VFM Concessionaire operating in an Airport terminal operated by the Port Authority shall submit to the Port Authority, from time to time in accordance with the guidelines issued by the Port Authority, an annual (or other periodic) pricing report demonstrating compliance with this

Street Pricing regulation, as it may be amended from time to time. Every Terminal Operator shall cause each VFM Concessionaire at the Port Authority Airport terminal operated by that Terminal Operator to submit to the Port Authority, from time to time in accordance with the guidelines issued by the Port Authority, an annual (or other periodic) pricing report demonstrating compliance with this Street Pricing regulation, as it may be amended from time to time. In each case, for purposes of establishing the Street Price of an item, any difference in the size or quality of a product or service shall constitute a basis for a price differential.

(4) Every concessionaire operating in an Airport terminal operated by the Port Authority shall cooperate with the Port Authority and, in particular, its internal audit staff, to assess compliance by that concessionaire with this Street Pricing regulation. Every Terminal Operator shall cause each concessionaire at the Port Authority Airport terminal operated by that Terminal Operator to cooperate with the Port Authority and, in particular, its internal audit staff, to assess compliance by that concessionaire with this Street Pricing regulation.

(5) Street Pricing Violations. Each concessionaire may be subject to the following enforcement actions:

(A) Violation Notices.

(i) In Port Authority Airport terminals operated by a Terminal Operator, notice of a violation of this Street Pricing regulation may be provided in writing to the concessionaire (a “Notice of Street Pricing Violation”) by the Terminal Operator or its agent or representative if the Terminal Operator finds any areas of non-compliance with the Street Pricing regulation during periodic price reviews, which may include spot-checks.

(ii) The Port Authority may also provide written notice (a “Port Authority Notice of Street Pricing Violation”) to the concessionaire and the Terminal Operator, if applicable, if the Port Authority finds any areas of non-compliance with the Street Pricing regulation during periodic price reviews, which may include spot-checks by Port Authority staff or contractors.

(iii) For purposes hereof, non-compliance with the Street Pricing regulation may be in the form of failure to submit required forms and information for approval, failure to cooperate with compliance assessments and investigations, failure to maintain required signage, and charging prices that are not in compliance with this “Street Pricing” regulation or failure to comply with the VFM Program.

(B) (x) A concessionaire operating in an Airport terminal operated by the Port Authority shall correct any areas of non-compliance within forty-eight (48) hours of its receipt of any Port Authority Notice of Street Pricing Violation and provide written documentation of the resolution of such non-compliance to the Port Authority. Every Terminal Operator shall cause each concessionaire at the Port Authority Airport terminal operated by that Terminal Operator to correct any areas of non-compliance within forty-eight (48) hours of its receipt of any Notice of Street Pricing Violation and provide written documentation of the resolution of such non-

compliance to, the Terminal Operator and, if applicable, any concession manager to the Terminal Operator.

(C) A Terminal Operator that has issued a Notice of Street Pricing Violation shall provide Corrective Actions Forms to the Port Authority with respect to all Street Pricing regulation discrepancies, as noted in any Notice of Street Pricing Violation, as well as copies of the written documentation of the resolution of such discrepancies.

(D) In the absence of approved pricing consistent with the Street Pricing regulation:

(i) The Port Authority may (x) designate similar retailers consistent with the Street Pricing regulation, (y) calculate the average price for similar products or service consistent with the Street Pricing regulation and (z) direct the maximum pricing that the concessionaire charges for that product or service (and may direct the Terminal Operator to so direct a concessionaire in a Port Authority Airport terminal operated by such Terminal Operator).

(ii) The concessionaire may submit to the Port Authority for the Port Authority's consideration (or in the case of a concessionaire operating in Port Authority Airport terminal operated by a Terminal Operator may submit to the Terminal Operator for its consideration) a written justification of its price determination, however the concessionaire shall be required to and shall adopt the maximum prices established by the Port Authority (or the Terminal Operator) until the evaluation of such justification is completed and alternative pricing is approved by the Port Authority (or the Terminal Operator).

(E) If the concessionaire does not make appropriate adjustments to comply with the Street Pricing policy within three (3) days of its receipt of any Notice of Street Pricing Violation or Port Authority Notice of Street Pricing Violation (as the case may be), the products and services which are not in compliance with the Street Pricing regulation may be required to be removed from the relevant concession space and the Port Authority reserves the right to consider additional enforcement mechanisms for breaches of this regulation, as needed.

(F) The Street Pricing regulation is hereby promulgated to address the restricted concessions options for Airport users due to operational constraints at the Airport and is an essential element in providing a high-level customer experience at the Airport. As such, compliance with the Street Pricing regulation is a condition to operation by concessionaires (and Terminal Operators which manage concessionaires).

6. Notwithstanding the definition of "Street Price(s)" in subchapter (1), no concessionaire or Terminal Operator shall be in violation of this Street Pricing regulation if it includes on any customer bill or invoice a fee (referred to as an "Employee Benefit and Retention Surcharge") not to exceed 3% of the pre-tax total thereof on account of the particular costs of doing business at the Airport as compared to off-airport locations. The Employee Benefit and Retention Surcharge will not constitute "Gross Receipts" under any agreement with the Port Authority pursuant to which the Port Authority receives a portion of any concessionaire's or Terminal Operator's "Gross Receipts".